

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

* * * * *

In the matter of the application of Consumers)
Energy Company for reconciliation of its power)
supply cost recovery plan (Case No. U-21257))
for the 12 months ended December 31, 2023.)
_____)

Case No. U-21258

NOTICE OF PROPOSAL FOR DECISION

The attached Proposal for Decision is being issued and served on all parties of record in the above matter on June 17, 2025.

Exceptions, if any, must be filed with the Michigan Public Service Commission, 7109 West Saginaw Highway, Lansing, Michigan 48917, and served on all other parties of record on or before July 8, 2025, or within such further period as may be authorized for filing exceptions. If exceptions are filed, replies thereto may be filed on or before July 22, 2025.

At the expiration of the period for filing exceptions, an Order of the Commission will be issued in conformity with the attached Proposal for Decision and will become effective unless exceptions are filed seasonably or unless the Proposal for Decision is reviewed by action of the Commission. To be seasonably filed, exceptions must reach the Commission on or before the date they are due.

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

**Sally L.
Wallace**

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June 17, 2025
Lansing, Michigan

Sally L. Wallace
Administrative Law Judge

STATE OF MICHIGAN
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PROPOSAL FOR DECISION

I.

PROCEDURAL HISTORY

On March 29, 2024, Consumers Energy Company (Consumers or the Company) filed an application requesting authority to reconcile its power supply cost recovery (PSCR) costs and revenues for the 12 months ended December 31, 2023. In addition, Consumers requested updated surcharges for its financial compensation mechanism (FCM).

Pursuant to due notice, a prehearing conference was held on May 8, 2024, at which the Company and Commission Staff (Staff) appeared. Petitions to intervene filed by Cadillac Renewable Energy, LLC (Cadillac), Genesee Power Station Limited Partnership (Genesee), Grayling Generating Station Limited Partnership (Grayling), T.E.S. Filer City Station Limited Partnership (T.E.S. Filer), National Energy of Lincoln, LLC (Lincoln), and National Energy of McBain, LLC (McBain) (collectively, the biomass merchant plants or BMPs), the Association of Businesses Advocating Tariff Equity, and

the Residential Customer Group were granted. The Department of the Attorney General (Attorney General) filed a notice of intervention.

On August 23, 2024, the BMPs filed direct testimony and exhibits. On November 13, 2024, a protective order was entered and on December 18, 2024, Staff and the Attorney General filed testimony and exhibits. Consumers filed rebuttal testimony on January 27, 2025. An evidentiary hearing was held on March 20, 2025, at which all testimony was bound into the record and exhibits admitted, without the need for witnesses to appear.

On April 18, 2025, Consumers, Staff, the Attorney General, and the BMPs filed briefs, and the same parties filed reply briefs on May 16, 2025. The record in this case is comprised of 402 transcript pages and 80 exhibits admitted into evidence. Portions of testimony and certain exhibits are designated confidential under the protective order and are not available in the public record.

II.

OVERVIEW OF THE RECORD

This section provides a brief overview of the topics addressed by each witness. The testimony and exhibits relevant to the disputed issues are addressed in more detail in Section IV.

A. Consumers Energy

Consumers provided the direct testimony of nine witnesses.

Zachery S. Cole is a Renewables Engineer responsible for Renewable Resources in the Electric Supply Regulatory Strategies team at Consumers.¹ He testified regarding the Company's Renewable Energy Plan (REP) and Transfer price for renewable energy. He estimated that the 2023 Transfer Price was approximately \$86.28 per megawatt-hour (MWh) and a total of 2,315,681 MWh of Transfer Price-applicable renewable generation was booked in 2023.² Mr. Cole discussed how the various factors included in the transfer cost calculation were determined and addressed certain changes in their values. Mr. Cole also described the Company's Renewable Resource Program (RRP) and how the purchase of renewable energy for the program was treated for the purposes of the PSCR reconciliation.

Laura M. Connolly is the Company's Director of Cost and Pricing in the Rates and Regulation Department.³ She testified about the Company's plans to implement a new FCM surcharge. She presented the Company's actual and forecasted collections in 2023, and described the methods used to reconcile the FCM and develop the new FCM surcharge. Ms. Connolly stated that the Company is proposing to implement the new surcharge in 2026 to allow sufficient time for the Commission to issue an order and to simplify the reconciliation by keeping it to a calendar year.

Leanna E. Feazel is a Principal Accounting Analyst in the Revenue and Fuel Accounting section of the General Accounting Department at Consumers.⁴ She provided testimony regarding the calculation of the Company's under-recovery amount related to

¹ Mr. Cole's direct testimony is transcribed at 2 Tr 24-35. He sponsored Exhibit A-1.

² 2 Tr 27-28; Exhibit A-1

³ Ms. Connolly's direct testimony is transcribed at 2 Tr 37-43. She sponsored Exhibits A-2, A-3, and A-4.

⁴ Ms. Feazel's revised testimony is transcribed at 2 Tr 45-53. She sponsored Exhibits A5, revised and A-6, revised.

the operation of the PSCR clause during 2023. According to Ms. Feazel, Consumers calculated a total net under-recovery of \$258,979,967, including statutory interest and 2022 under-recovery (with agreed adjustments), and excluding \$927,907, which are the replacement power costs for the outages associated with Toshiba related defects at Ludington.⁵ As it has done in the past, Consumers proposes to roll the total under-recovered amount into its calculation of 2024 PSCR factors.

Joshua W. Hahn is a Principal Engineer in the Electric Supply Operations and PSCR Section of the Electric Supply Department at Consumers.⁶ He addressed the difference between the Company's projections in Case No. U-21257 and its actual costs and revenues for 2023. According to Mr. Hahn, the total amount of electric energy required to serve customers in 2023 was 2.60% lower than forecasted.⁷ He also presented the Company's calculations of the economic MWh loss for each outage event at Ludington during 2023.⁸

Nathan J. Hoffman is the Company's Executive Director of Fossil Generation.⁹ He testified in support of the reasonableness and prudence of certain outages at the Company's fossil-fueled electric generating units and river hydro plants. He described the outage events at the Ludington Units during 2023 and the treatment of the replacement power costs associated with Toshiba related work. Mr. Hoffman set forth the expenses associated with emission allowances for nitrogen oxide and sulfur dioxide, as well as the

⁵ 2 Tr 49-51; Exhibits A-5, revised and A-6, revised.

⁶ Mr. Hahn's revised testimony is transcribed at 2 Tr 55-63. He sponsored Exhibits A-7, revised; A-8; and A-9.

⁷ 2 Tr 59; Exhibit A-7, revised.

⁸ Exhibit A-9.

⁹ Mr. Hoffman's revised direct testimony and his rebuttal testimony are transcribed at 2 Tr 65-121. He sponsored Exhibits A-10 through A-18, Exhibit A-19, revised, and Exhibit A-33.

expense associated with the consumption of urea, aqueous ammonia, lime, and activated carbon. And he testified about the performance of the Company's owned wind assets. Mr. Hoffman also provided rebuttal testimony in response to Staff and the Attorney General.

Hannah L. Patton is an Accounting Manager in the Revenue and Fuel Accounting group of the General Accounting Department.¹⁰ She presented and testified regarding Exhibit A-20, a summary of the Company's FCM recovery in 2023; Exhibit A-21, the Company's earned FCM incentive revenue in 2023; and Exhibit A-22, the Company's FCM interest calculation.

Angela K. Rissman is the Company's Fuel Procurement Manager in Fossil Fuel Supply.¹¹ She presented the actual volumes and costs of coal, oil and natural gas used for electric generation for 2023. Ms. Rissman testified that during 2023, the Company burned 3,940,635 tons of coal, which was 32% less than the 5,833,555 tons that was projected.¹² As a result 1,471,928 fewer tons of coal were delivered than were projected.¹³

Raymond T. Scaife is the Manager of Wholesale Settlements of the Electric Supply Operations Contracts & Settlements section of the Electric Supply Department.¹⁴ He provided testimony pertaining to the purchased power supply costs incurred by Consumers in 2023, settlements of MISO market transactions and transmission

¹⁰ Ms. Patton's direct testimony is transcribed at 2 Tr 123-128. She sponsored Exhibits A-20 through A-22.

¹¹ Ms. Rissman's direct testimony is transcribed at 2 Tr 130-141. She sponsored Exhibits A-23 through A-25.

¹² 2 Tr 135; Exhibit A-24.

¹³ 2 Tr 134.

¹⁴ Mr. Scaife's revised direct testimony and rebuttal testimony are transcribed at 2 Tr 144-161. He sponsored Exhibit A-26, revised; A-27; A-28; A-29, revised; A-30; A-34; and A-35.

expenses, settlements with BMPs, third party purchases and sales, and the interchange delivered by counterparties to MISO. According to Mr. Scaife, the 2023 net MISO interchange amount—the result of the Company offering its generation into the Market and obtaining energy and capacity from the Market—was \$135,605,301.¹⁵ Mr. Scaife also provided rebuttal testimony in response to the Attorney General and the BMPs.

Beth A. Skowronski is the Manager of Supply Contracts in the Company's Contracts and Settlements Department.¹⁶ She addressed the Independent Administrator expense associated with the Company's annual integrated resource plan (IRP) competitive solicitations; the power purchase agreements (PPAs) executed, terminated, or otherwise modified in 2023; the Company's short-term capacity purchase expense; and the FCM forecast. Ms. Skowronski also provided rebuttal testimony in response to Staff.

B. Commission Staff

Staff presented the direct testimony of three witnesses.

Dolores A. Midkiff-Powell is the Manager of the Energy Cost Recovery Reconciliation Section of the Commission's Regulated Energy Division.¹⁷ She presented Staff's recommended adjustments to the Company's reconciliation. Ms. Midkiff-Powell testified that Staff made three changes to the Company's PSCR calculation: (1) the addition of expenses to the BMPs' expense for Purchased and Interchange Power Costs, which she explained results in an adjustment to the Company's filed figures but does not

¹⁵ 2 Tr 151; Exhibit A-26, revised.

¹⁶ Ms. Skowronski's direct and rebuttal testimony are transcribed at 2 Tr 163-176. She sponsored Exhibits A-31 and A-32.

¹⁷ Ms. Midkiff-Powell's revised testimony is transcribed at 2 Tr 365-373. She sponsored revised Exhibits S-1.0 and S-1.1.

affect the amount that the Company owes to the BMPs; (2) an adjustment of \$52,199 related to Mr. Bodiford's recommended disallowance of replacement costs for the outage at Ludington Unit 3; and (3) the flow-through effect that results from the two aforementioned adjustments that causes the monthly over/(under) recovery average balances to change. She recommended that the Commission accept Staff's three adjustments, including the change in the interest amount, and recalculate the Company's 2023 under recovery after an order has been issued in Case No. U-21049 with the beginning balance for this case.

Raushawn D. Bodiford is a Public Utilities Engineer Specialist in the Energy Operations Division.¹⁸ He testified regarding Staff's review of the Company's coal, gas and oil expenses; owned renewable resource costs and generation; purchased variable costs; and actual chemical costs, finding them all generally reasonable and prudent. Mr. Bodiford also presented Staff's analysis of the Company's outage events in 2023. He recommended the disallowance of the recovery of replacement power costs associated with an outage at Ludington Unit 3.

Robert F. Nichols II is the Manager of the Revenue Requirements Section of the Regulated Energy Division.¹⁹ He testified that the Company's FCM calculations are reasonable. However, he recommended that the Commission make any necessary changes to the calculations after the final order in Case No. U-21049 is issued. These potential changes, he said, include changes to the beginning balance and the removal of three energy-only BMP contracts.

¹⁸ Mr. Bodiford's direct testimony is transcribed at 2 Tr 375-393. He sponsored Exhibit S-2.0 and Confidential Exhibit S-2.1

¹⁹ Mr. Nichols's direct testimony is transcribed at 2 Tr 395-400.

C. Biomass Merchant Plants

The BMPs presented the direct testimony of five witnesses

Ryan Putvin testified on behalf of Cadillac Renewable Energy, a 38 MW BMP in Cadillac, Michigan, where he is the Plant Manager.²⁰ He described Cadillac's actual fuel and variable O&M costs for 2023 and the amount that Consumers paid to Cadillac under its PPA with the Company. He also provided support for Cadillac's request to recover additional capped and uncapped fuel and O&M costs exceeding those paid through the PPA as allowed under PA 286 of 2008.

Thomas A. Clift is the Plant Manager of the Genesee Power Station, a 40 MW BMP, which has a PPA with Consumers.²¹ He presented Genesee's actual fuel and variable operation and maintenance costs for 2023, and the amount Consumers paid through its PPA for the costs. Mr. Clift testified in support of Genesee's request, pursuant to PA 286 of 2008, to recover additional fuel and O&M costs, both capped and uncapped. In addition, he testified on behalf of all BMPs in support of their request for an inflation adjustment to the \$1 million monthly cap provided in MCL 460.6a(10) of PA 286 of 2008.

Edward A. Going, Sr. is the Plant Manager for Grayling Generating Station, a 38 MW BMP in Grayling, Michigan.²² He provided testimony regarding Grayling's actual fuel and maintenance costs in 2023, and the amount Grayling was paid by Consumers for the

²⁰ Mr. Putvin's direct testimony is transcribed at 2 Tr 179-197. He sponsored Exhibits BMP-3, BMP-17, BMP-23, and BMP-24 and co-sponsored Exhibits BMP-1 and BMP-2.

²¹ Mr. Clift's direct testimony is transcribed at 2 Tr 198-226. He sponsored Exhibits BMP-4, BMP-10 and BMP-18, and co-sponsored Exhibits BMP-1 and BMP-2.

²² Mr. Going's direct testimony is transcribed at 2 Tr 227-250. He sponsored Exhibits BMP-5 and BMP-19, and co-sponsored Exhibits BMP-1 and BMP-2.

expenses. He further testified regarding Grayling's request for recovery of additional capped and uncapped fuel and O&M costs as allowed under PA 286 of 2008.

Robert Joe Tondou, Owner and President of Tondou Corporation which is an owner and general partner of the T.E.S. Filer City Station Limited Partnership, provided testimony in this matter.²³ He described T.E.S. Filer as a merchant plant with a nameplate capacity rating of 72.54 MW. He testified regarding actual fuel and maintenance costs for 2023 and to the amount T.E.S. Filer was paid by Consumers for those expenses during that time period. Additionally, he described the U.S. EPA's Cross State Air Pollution Rule, 40 CFR 97 Subparts AAAAAA to FFFFFF (CSAPR), and Mercury and Air Toxics Standards (MATS), 40 CFR 63, Subpart UUUUUU. And Mr. Tondou testified that T.E.S. Filer's and other BMP's CSAPR and MATS compliance costs are additional recoverable uncapped costs under PA 286 of 2008.

Don Adams is the Director of two BMPs each with approximately 18 MW of capacity, National Energy of McBain and Lincoln Power Station.²⁴ He provided testimony regarding actual fuel and maintenance costs in 2023 and to the amount that Lincoln and McBain were paid by Consumers for those expenses. He further testified regarding Lincoln's and McBain's requests for additional capped and uncapped costs under PA 286 of 2008.

D. Attorney General

The Attorney General presented the direct testimony of one witness.

²³ Mr. Tondou's direct testimony is transcribed at 2 Tr 251-292. He sponsored Exhibits BMP-7, BMP-11 through BMP-16, and BMP-22 and co-sponsored Exhibits BMP-1, BMP-2.

²⁴ Mr. Adam's direct testimony is transcribed at 2 Tr 293-311. He sponsored Exhibits BMP-8, BMP-9, BMP-21 and co-sponsored Exhibits BMP-1 and BMP-2.

Sebastian Coppola is an independent business consultant in the field of energy and utility regulation.²⁵ He recommended the disallowance of replacement power costs related to certain power outages at the Campbell power plant Units 2 and 3 and the Zeeland power plant Units 3, 4, and 5. He testified that \$1,633,144 in PPA variable energy costs paid to the BMPs should be disallowed and that \$4,272,892 should be added to the Company's BMP related expenses, resulting in a necessary adjustment to BMP costs.²⁶ Mr. Coppola recommended that the Company's reported 2023 under-recovery balance be revised to include his recommended adjustments, as well as any disallowances and adjustments approved by the Commission in Case No. U-21049, including any interest adjustments.

III.

LEGAL REQUIREMENTS

This reconciliation is governed by the provisions of MCL 460.6j(12)-(16). MCL 460.6j(12) states:

Not less than once a year, and not later than 3 months after the end of the 12-month period covered by an electric utility's power supply cost recovery plan, the commission shall commence a proceeding, to be known as a power supply cost reconciliation, as a contested case pursuant to chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287. The commission shall permit reasonable discovery before and during the reconciliation proceeding in order to assist parties and interested persons in obtaining evidence concerning reconciliation issues including, but not limited to, the reasonableness and prudence of expenditures and the amounts collected pursuant to the clause. At the power supply cost reconciliation the commission shall reconcile the revenues recorded pursuant to the power supply cost recovery factors and the allowance for cost of power supply included in the base rates established in the latest commission order for the utility with the amounts actually expensed and

²⁵ Mr. Coppola's direct testimony and qualifications are transcribed at 2 Tr 314-362. He sponsored: Exhibits AG-1 through Exhibit AG-7.

²⁶ 2 Tr 320.

included in the cost of power supply by the utility. The commission shall consider any issue regarding the reasonableness and prudence of expenses for which customers were charged if the issue was not considered adequately at a previously conducted power supply and cost review. MCL 460.6j(12).

MCL 460.6j(15) states:

In its order in a power supply cost reconciliation, the commission shall authorize an electric utility to recover from customers any net amount by which the amount determined to have been recovered over the period covered was less than the amount determined to have been actually expensed by the utility for power supply, and to have been incurred through reasonable and prudent actions not precluded by the commission order in the power supply and cost review. For excess costs incurred through management actions contrary to the commission's power supply and cost review order, the commission shall authorize a utility to recover costs incurred for power supply in the reconciliation period in excess of the amount recovered over the period only if the utility demonstrates by clear and convincing evidence that the excess expenses were beyond the ability of the utility to control through reasonable and prudent actions. For excess costs incurred through management actions consistent with the commission's power supply and cost review order, the commission shall authorize a utility to recover costs incurred for power supply in the reconciliation period in excess of the amount recovered over the period only if the utility demonstrates that the level of those expenses resulted from reasonable and prudent management actions. . . .MCL 460.6j(15).

In addition, under MCL 460.6j(13)(c) the Commission shall:

Disallow net increased costs attributable to a generating plant outage of more than 90 days in duration unless the utility demonstrates by clear and satisfactory evidence that the outage, or any part of the outage, was not caused or prolonged by the utility's negligence or by unreasonable or imprudent management. MCL 460.6j(13)(c).

MCL 460.6j as a whole makes clear that, for the utility to recover certain costs via reconciliation, the utility has the burden to show that its actions associated with the higher costs were reasonable and prudent.²⁷

²⁷ *In re Consumers Energy Co for Reconciliation*, ___ Mich App ___, ___ NW3d ___ (2024) (Docket No. 362931) slip op at 5, *app den* 514 Mich 876 (2024).

As to recovery of BMP costs, MCL 460.6a(9) and (10) allow the BMPs petitioning in this case to receive additional fuel and variable O&M expenses, capped at \$1 million per month, adjusted for inflation. The \$1 million cap, however, does not apply to additional costs that are incurred due to changes in federal or state environmental laws or regulations implemented after October 6, 2008. MCL 460.6a(10).

IV.

DISCUSSION

A. Positions of the Parties

Consumers argues that its PSCR reconciliation should be approved as presented by the Company's witnesses and in its exhibits, noting that, except for one small adjustment—which the Company contests—Staff agrees that Consumers operated its system in a reasonable and prudent manner during the PSCR plan period addressed here.²⁸ As discussed in more detail below, Consumers also contests the disallowances proposed by the Attorney General, recommending that the adjustments be rejected on various grounds. Lastly, Consumers contends that the FCM should be applied to energy-only PPAs with Otsego Paper, Autocam Medical, and Prairie View Dairy, consistent with the Commission's determination in Case No. U-21049, and that the Company's proposed FCM reconciliation and surcharges should be approved.²⁹

Staff observed that most of the Company's PSCR costs were uncontested, but Staff recommends that \$55,301 in replacement power costs associated with an outage at Ludington Unit 3 be disallowed. According to Staff, the outage was the result of operator

²⁸ Consumers brief, 17.

²⁹ Consumers brief, 17, 34-35.

error, and the Commission has consistently found that additional costs resulting from unreasonable or imprudent actions by the Company or its contractors are not recoverable.³⁰

The Attorney General recommends a net adjustment totaling \$1,982.326, including a \$4.6 million disallowance for certain outages at the Campbell and Zeeland plants; a disallowance of \$1,633,144 based on a discrepancy between the amount the Company claims it paid to the BMPs and the amount the BMPs reported having been paid; and an increase in PSCR expense of \$4,272,892 to cover additional amounts owed to the BMPs.

The BMPs assert that the Commission should approve their request for payments as provided in MCL 460.6a(9)-(11), including total capped amounts of \$17,043,240, uncapped amounts totaling \$2,386,253, and total unpaid amounts of \$7,304,209. Further, the BMPs request that the Commission direct Consumers to release the remaining amounts owed within five business days of the final order in this case.³¹

B. Uncontested Matters

In its application, Consumers claimed a total net under-recovery of \$255,175,669, inclusive of interest. This amount was subsequently revised to \$258,979,967.³² Other than the disputed issues discussed below, the parties are in general agreement that the beginning balance should reflect the Commission's approved PSCR reconciliation balance for 2022 in Case No. U-21049. The Company also proposes to incorporate its

³⁰ Staff brief, 4-5.

³¹ BMP brief, 17-19.

³² 2 Tr 49-50; Exhibit A-5, revised.

calculated FCM over-recovery for 2023 of approximately \$2.5 million into the calculation of updated FCM surcharges that it proposes to implement beginning January 2026.³³

While the majority of the Company's PSCR reconciliation was not contested, there were disputed cost components that require resolution in this proceeding. Specifically, the Attorney General disputed the recovery of replacement power costs for certain outages, and she took issue with the discrepancy in the amount of BMP costs as reported by the Company and the BMPs. Lastly, Staff questioned an element of Consumers' FCM proposal. These issues are addressed below.

C. Contested Issues

1. Outages

Mr. Hoffman testified that there was a total of 424 outage events in 2023, which was 99 fewer than in 2022.³⁴ He defined an outage "event" as a one-line entry on the Event Summary Report where each line on the Report contains an outage event and events are classified into eight types, including, "Planned Outage," "Startup Failure," and "Outage-Immediate."³⁵ According to Mr. Hoffman, outage information sheets were prepared for generating units that had lower availability averages than those shown in Generating Availability Data System (GADS) data and for events lasting 28 days or more.³⁶

Mr. Hoffman testified that in addition to eight planned outages which lasted longer than 28 days, there were two additional outages, at Campbell Unit 2 and Karn Unit 3, for

³³ 2 Tr 41; Exhibit A-20.

³⁴ 2 Tr 68.

³⁵ 2 Tr 70.

³⁶ 2 Tr 70.

a total of ten outages that lasted 28 days or more.³⁷ Mr. Hoffman opined that all of these outages were carefully planned, prudently managed, and free of negligence on the part of Consumers as to either causation or extension of outage time.³⁸ Of the ten outages lasting 28 days or more, three exceeded 90 days. Those were at Zeeland Unit 1, Campbell Unit 2, and Karn Unit 3.³⁹

Mr. Bodiford, testified that Staff reviewed the Company's three longest outages, i.e., those at Zeeland Unit 1, Karn Unit 3, and Campbell Unit 2, and found the Company acted reasonably and prudently and did not cause or extend these outages.⁴⁰ He also stated that Staff reviewed all the outages outlined in the Company's filings, as well as all outages greater than seven days, and apart from one outage at Ludington Unit 3, which is discussed below, did not find that the Company acted imprudently or unreasonably either in causing or extending the outages.⁴¹ Mr. Bodiford stated that Staff does not take issue with the Company's removal of the associated costs of Toshiba-related outages at Ludington and recording them to the approved regulatory asset.⁴²

Mr. Coppola testified that the total potential amount of lost power from the 424 outages reported by Consumers was 13,676,568 MWh.⁴³ Mr. Coppola determined that in nine outage incidents occurring at Campbell Units 2 and 3 and Zeeland Units 3, 4, and 5, the Company or its contractors failed to exercise proper care and diligence, resulting in

³⁷ 2 Tr 72; Exhibit A-13.

³⁸ 2 Tr 73.

³⁹ 2 Tr 76.

⁴⁰ 2 Tr 389-391.

⁴¹ 2 Tr 391-392.

⁴² 2 Tr 388-389.

⁴³ 2 Tr 321.

higher power costs to PSCR customers during 2023, such that \$4,622,074 of incremental power costs should be removed.⁴⁴

In rebuttal, Mr. Hoffman agreed that while it is true that the Company's generating units had the theoretical capability of generating 13,676,568 MWh during the outages, it is not true that they could have or would have generated that amount of power had they been available to generate.⁴⁵ He also asserted that the Company cannot, as a practical matter, avoid outages. Mr. Hoffman stated that in his opinion the Company executed all 424 of its 2023 outages in a safe, efficient, and cost-effective manner and at no time failed to exercise proper management and diligence.⁴⁶

In total, Staff and the Attorney General disputed ten outage events. Staff disputed an outage at Ludington Unit 3 (Event #163), while the Attorney General disputed four outage events at Campbell Unit 2 (Events #108 - #111), two outage events at Campbell Unit 3 (Events #111 and #231), and three outage events at Zeeland Units 3, 4, and 5 (Events #21, #22, and #29). The disputed outage incidents are discussed below.

This PFD notes that in its reply brief, Consumers withdrew its request to recover replacement power costs for the Ludington Unit 3 outage contested by Staff.⁴⁷ In light of the Company's concession, this outage event is not discussed further, and replacement power costs of \$55,301 should be removed from the reconciliation.

⁴⁴ 2 Tr 320-321; Exhibit A-10.

⁴⁵ 2 Tr 100.

⁴⁶ 2 Tr 102.

⁴⁷ Consumers reply, 11.

a. Campbell Unit 2 Outage Events #108 - #111

Mr. Hoffman testified about an outage of more than 90 days at Campbell Unit 2 (Events #108 - #111), which ostensibly began on August 4, 2023, due to a tube leak in the hydraulic coupling circuit oil cooler. The tube leak, he explained, resulted in water intrusion into the oil system, thereby forcing the unit to be removed from service.⁴⁸ He explained that the tube leak was repaired; however, during post-maintenance testing on August 10, 2023, the start-up boiler feed pump (SUBFP) experienced a thrust event causing damage to the internal flow element, thrust bearing, and drive coupling. Mr. Hoffman testified that the root cause of the SUBFP failure was the thrust event, and the cause of the thrust event is still under investigation.⁴⁹

Mr. Hoffman further testified that the Company rebuilt the SUBFP to return the unit to service, however, the rebuilt pump did not function properly, and the Unit remains offline. He stated that the Company did not cause the failure of the SUBFP, nor did its actions extend the outage, rather it managed the SUBFP restoration activities in a reasonable, prudent, and responsible manner throughout the 2023 outage duration.⁵⁰

Staff largely agreed with Consumers, with Mr. Bodiford testifying that “the Company acted prudently in its efforts to restore the SUBFP to operational and did not take any actions which caused or extended the duration of this outage.”⁵¹ Mr. Bodiford noted that given the vintage of the plant, obtaining an exact replacement for one of the

⁴⁸ 2 Tr 73.

⁴⁹ 2 Tr 80.

⁵⁰ 2 Tr 80-82.

⁵¹ 2 Tr 391.

damaged parts would have taken over a year, thus, the Company's decision to rebuild the pump was reasonable.⁵²

Mr. Coppola, on the other hand, testified that Company error caused the outage.

Mr. Coppola quoted from a final root cause analysis report provided by Consumers:

During unit startup on 8/10/23 the startup boiler feed pump (SUBFP) was utilized as part of startup. This was the first start on this pump since it had been overhauled the month prior (reference issue ID 2127 for work scope). The pump failed PMT [Post-Maintenance Testing] in less than 3 minutes with extremely high vibrations and a significant thrust event. Upon discovery, significant damage was identified in the pump bearings, pump element/gearbox coupling, gearbox bearings and pump element.⁵³

According to Mr. Coppola, the root cause analysis attributes the cause of the pump failure to an error during reassembly of the pump following a July 2023 overhaul. Mr. Coppola went on to say that apparently, the pump was not completely vented, or an air bubble was trapped in the pump, and the Company had no set procedure to ensure complete purging of the pump, instead it relied on basic operator knowledge.⁵⁴ He testified that the failure of the SUBFP was the result of Company personnel or a contractor working on behalf of the Company failing to perform a basic task of purging the boiler feed pump of trapped gases.⁵⁵

As a result of the power outage, the Company had to purchase replacement power in 2023 at an incremental cost of \$2,355,042.⁵⁶ Mr. Coppola testified that the Company's customers should not be responsible for higher power costs that are the result of errors

⁵² 2 Tr 390-391.

⁵³ 2 Tr 322.

⁵⁴ 2 Tr 322; Exhibit AG-1.

⁵⁵ 2 Tr 323.

⁵⁶ 2 Tr 322-323.

by the Company.⁵⁷ Therefore, he recommended that the Commission disallow \$2,355,042 from the reconciliation.

In rebuttal, Mr. Hoffman testified that Mr. Coppola misinterpreted the Company-provided reports. He explained that contrary to Mr. Coppola's claim, there is no evidence to support an error occurring during the reassembly of the pump following the overhaul. Instead, the report notes that the pump was reinstalled with vendor oversight, and no issues were noted during disassembly of the pump (aside from the damage found from the thrust event).⁵⁸ He testified that the root cause analysis considers all reasonable factors that could have resulted in the thrust event. In doing so, the Company identified what had to be true for the factor to have led to the cause of the failure. Mr. Hoffman maintained that Mr. Coppola erroneously interpreted the Company's standard methodology as concluding fault.⁵⁹ But he explained that the analysis only determined that there were two possible causes of the SUBFP failure: (1) seal water injection was not sufficiently getting through to the pump seals and (2) the SUBFP had non-compressible gasses trapped in the pump.⁶⁰ Quoting from the report:

ROOT CAUSE

Undetermined. Evidence suggests (1) seal water injection was not sufficiently getting through the pump seals and (2) the SUBFP [Start-Up Boiler Feed Pump] had non-compressible gasses (air bubble) trapped in the pump.

Both of these could have caused the pump to seize.⁶¹

⁵⁷ 2 Tr 323-324.

⁵⁸ 2 Tr 103.

⁵⁹ 2 Tr 104.

⁶⁰ 2 103-104.

⁶¹ 2 Tr 104; Exhibit AG-1.

Mr. Hoffman testified that there is no evidence that either of these possibilities were caused by an error in the operation of the pump. And he emphasized that despite Mr. Coppola's claim, there was no determination that the thrust event was caused by gasses being trapped in the pump, it just wasn't ruled out.⁶² Further, Mr. Hoffman testified that, prior to the start-up, a pre-job briefing included pump purging and the operator who did the purging confirmed that it was completed both verbally and by checking a box on the prestart checksheet.⁶³ Additionally, he said, there have been other instances of SUBFP startup problems that occurred with more than sufficient venting of the pump.⁶⁴

Mr. Hoffman also explained that inadequate lubrication of pump seals, the other possible cause of the thrust event, had been observed in 2023, leading the Company to increase the seal water pressure setpoint during startup. After implementing this procedure, there have been no further problems. He asserted that it is unclear why the seal water issue appeared given that the SUBFP operated for many years with lower pressure during startup without any problems.⁶⁵ Mr. Hoffman concluded by stating that at no time were the Company's actions either unreasonable or imprudent and there is no evidence that the thrust event was a result of Company error.⁶⁶

In briefing, Consumers maintains that the Attorney General, "read too much" into the evidence contained in the root cause analysis. Citing Mr. Hoffman's testimony and exhibits, Consumers argues:

The evidence shows that there was no error when the pump was reassembled and that the Company's operators vented the pump. 2 TR 103;

⁶² 2 Tr 105.

⁶³ 2 Tr 105; Exhibit A-33.

⁶⁴ 2 Tr 105.

⁶⁵ 2 Tr 106.

⁶⁶ 2 Tr 107.

Exhibit A-33 (NJH-11). The root cause report discounted “errors in reassembly as a potential cause of the pump failure.” 2 TR 103; Exhibit AG-1, pages 6-7. Rather, according to the report, the pump failed for one of two possible reasons: (1) seal water did not reach the pump seals before the pump was restarted; or (2) non-compressible gases were trapped in the pump during startup. Exhibit AG-1, page 8. The Company ruled out operator error in both scenarios. 2 TR 107.⁶⁷

Consumers adds that while Mr. Coppola focused on gas trapped in the pump as the likely cause of the failure, “there was no conclusive evidence that the feed pump was not *adequately* vented[.]” pointing to the Company’s evidence that the operator completed the check list, which specifically required the drainage of any water that may have accumulated in the oil reservoir.⁶⁸

The Attorney General maintains that simply because the operator completed a check list of tasks does not necessarily demonstrate that the presence of an air bubble was not the cause of the outage. She adds that “it is not clear how the employees determined that the pump was fully purged” noting “the RCAs indicated that the Company had no set procedure to ensure the pump was completely purged[.]” and the root cause analysis “determined that the Company’s procedure does not provide descriptions of conditions required to satisfy complete venting of the pump.”⁶⁹

Because this outage exceeded 90 days, to recover its costs, the Company has the burden to demonstrate by clear and satisfactory evidence that the outage was not caused or prolonged by Company negligence or unreasonable or imprudent management.

This PFD finds that the Company has met its burden for the following reasons. First, the Company has sufficiently refuted the Attorney General’s claim that the pump

⁶⁷ Consumers brief, 20.

⁶⁸ Consumers brief, 21.

⁶⁹ Attorney General brief, 9.

failed due to operator error in pump venting. The Company's report clearly states that the root cause of the thrust event was, "[u]ndetermined," but that insufficient venting was one of two *possible* causes. And the Company provided evidence that the operator did purge the pump before startup. Further, there is evidence that a fully vented pump can still fail, which suggests that trapped gases alone would not cause such a pump failure. Additionally, while the Attorney General did not focus on inadequate seal lubrication as causing the pump failure, the Company's analysis suggested that it was a possible cause. Incidents with seal pressure occurred earlier in 2023 and the Company took actions to understand why and to implement the mitigating procedure of increasing the pressure setpoint during startup.

The preponderance of the evidence supports the conclusion that while the cause of the thrust event is still unknown, it was not caused or prolonged by unreasonable or imprudent management by the Company. Therefore, the Attorney General's recommended disallowance of \$2,355,042 is rejected.

b. Campbell Unit 3 Outage #111

Mr. Coppola contested the recovery of replacement power costs for an outage at Campbell Unit 3 (Event #111) that began on May 14, 2023, and lasted approximately 15 days. According to Mr. Coppola, the Company's periodic outage report indicates that the outage was caused by a failure of a section of a boiler tube. He testified that the report stated that incorrect material installed in the platen Superheater tube element cause the failure, explaining that the tube with the wrong material was installed in 2007.⁷⁰

⁷⁰ 2 Tr 324.
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Mr. Coppola testified that the Company elaborated on the incident in discovery and stated that laboratory analysis of the failed section of tubing showed the material used in manufacturing the tube did not conform to the required grade of pipe. Mr. Coppola said the Company further stated that the incorrect material could have been installed erroneously in the shop when the component was fabricated.⁷¹ He further testified that the Company's claim that visual inspection of the pipe did not identify the incorrect tubing is irrelevant. Mr. Coppola asserted that the outage was the result of Company error because Consumers should have taken appropriate precautions to ensure the correct material was used given the critical use of this tubing within a superheated boiler.⁷² He testified that customers should not pay the replacement costs of the outage, and he recommended that the Commission disallow \$565,977 of power costs.⁷³

Mr. Hoffman testified in rebuttal that the incorrect fabrication of the superheat platen tube was a supplier error that could only have been discovered if the Company had performed a material test on the tubing prior to installation.⁷⁴ He described the Company's actions related to the tubing and claimed they were reasonable and prudent. He explained that the tube was fabricated by an approved supplier according to Company specifications and would have been inspected prior to its shipment. He stated that the Company ordered the tubing to support its conversion from more expensive eastern coal to less expensive western coal and that the tubing was in service for 17 years and was nearing its end of life.⁷⁵ Mr. Hoffman added that the Company measures and monitors

⁷¹ 2 Tr 324; Exhibit AG-2.

⁷² 2 Tr 325.

⁷³ 2 Tr 325-326.

⁷⁴ 2 Tr 107-110.

⁷⁵ 2 Tr 107-109.

the tubing's temperatures and an alarm will issue if excessive temperatures occur.⁷⁶ Contrary to Mr. Coppola's assertion, Mr. Hoffman maintained that visual inspection of the tubing is relevant because if swelling was found it would have signaled a need to replace the tubing, and the Company would have done so.⁷⁷ Disallowing the replacement costs for this outage would mean that the Company would need to perform material testing on all tubing installed in its fleet to avoid potential tubing failure. This would entail extraordinary costs, he said.⁷⁸

In briefing, the Attorney General argues that "Representative sampling of critical materials is not unreasonable when the tubing was installed in 2007. [Consumers] had 17 years to sample the material for conformity to its specifications."⁷⁹ She adds that the timing of the closure of the plant is not relevant to this issue, and that the Commission has previously found that the Company is liable for errors by its contractors, quoting the October 13, 2021 order in Case No. U-20220, p. 31, wherein the Commission agreed with Staff that customers should not be responsible for replacement power costs for a defective part manufactured and installed by a contractor at the Ludington plant.

Consumers responds that the Company took all precautions that it could have, and Mr. Coppola, notably, did not indicate what additional measures the Company could have taken. Consumers adds that the Attorney General introduces for the first time in her brief the idea of representative sampling, a suggestion that is not in the record, and thus should not be given any weight. Consumers further explains:

⁷⁶ 2 Tr 108-109.

⁷⁷ 2 Tr 108.

⁷⁸ 2 Tr 110.

⁷⁹ Attorney General brief, 12.

Based on the evidence that is in the record, testing a representative sample likely would not have prevented this outage. The platen tubing that failed was described as a “tubing section” – singular. Exhibit A-12 (NJH-3), page 15.2 Campbell Unit 3 contains 22 loop assemblies, each with 26 tubes configured in a “U-loop” of approximately 90 linear feet, meaning there are over 100,000 feet of tubing. Exhibit A-36. A representative sampling likely would not have revealed a defect in a single section. The only sure way to have identified the defect was to inspect all the tubing, which, as the Company has explained, was not a viable option. See Company’s Initial Brief, pages 22–23.⁸⁰

Lastly, to the Attorney General’s point that the Commission has disallowed replacement power costs resulting from supplier error in the past, Consumers argues that “just because the Commission *can* hold the Company responsible for its suppliers’ actions does not mean that it always *should* or that it should in this instance.”⁸¹ Consumers maintains that the Commission should consider the circumstances here, reiterating that the section of tubing was approaching end-of-life, and that the Company acted reasonably in providing accurate specifications to the supplier and ensuring that the part was inspected before it was shipped and after installation.⁸²

This PFD agrees with the Attorney General’s recommendation to disallow \$565,977 of power costs associated with this outage. The PFD finds that although the failure of the tubing occurred after a longer time period than the failure at Ludington discussed in Case No. U-20220, the circumstances are otherwise the same. Namely, the Company installed a part that was incorrectly manufactured by the supplier, which in turn resulted in failure before the end of its service life, an outage, and additional power supply costs for customers. As discussed in the order in Case No. U-20220:

⁸⁰ Consumers reply, 6.

⁸¹ *Id.* at 6-7.

⁸² Consumers reply, 7.

Consumers provided evidence showing that the discharge ring was installed during the prior 2013-2015 upgrade, was inspected in the factory and in the field during installation, was inspected in 2019 and in 2020, and the defects in it were identified only after the upgraded unit had been in operation for 4.5 years. 2 Tr 69-70; Exhibit A-6, p. 115. However, the fact remains that the discharge ring failed after just 4.5 years, when the company expected it to last 40 years. More concerning, even when it learned of the defect, Consumers unreasonably failed to pursue any remedy from the original manufacturer of the discharge ring in a way that could potentially have reduced the costs to customers. Under these circumstances, the Commission agrees with the Staff that:

it is unreasonable to expect ratepayers to pay for the agreed upon upgrade as well as the additional costs that Consumers conceded were the result of a discharge ring defect that occurred, which was due to internal stresses attributed to the manufacturing process, and that the part failed requiring replacement long before its full-service life. Staff's initial brief, p.19.

The PFD notes that there is no evidence in this record that Consumers attempted to pursue a remedy from the tubing supplier to potentially reduce costs to customers. As such and as discussed above, this PFD recommends adopting the Attorney General's recommended disallowance.

c. Campbell Unit 3 Outage #231

The Attorney General contests the reasonableness and prudence of the Company's actions related to unplanned outage event #231 at Campbell Unit 3 that began on August 28, 2023 and lasted for nearly 7 days. Mr. Coppola testified that the Periodic Outage Report provided by the Company indicated that the generating unit experienced a protective relay trip due to a fault in the 33D1 motor control center (MCC).⁸³

Mr. Coppola explained that the outage report identified three related reasons for the MCC fault: (1) unidentified deteriorating insulating components within the MCC; (2)

⁸³ 2 Tr 326; Exhibit AG-3, p. 9.
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grommets and other wire chaffing points in Furnas MCCs have been observed during pre-fault and post-fault inspections; and (3) inadequate Preventive Maintenance Plan application for Furnas MCCs.⁸⁴ Mr. Coppola further testified that the Company's root cause analysis found that the standardized operational process was not followed, the process document was not clear and sufficient, and the team member was not sufficiently qualified or trained on the standardized process.⁸⁵ According to Mr. Coppola, this indicates that the Company failed to properly train its employees on the standardized process to maintain the MCC equipment and failed to perform preventive maintenance that could have avoided the outage.⁸⁶ He opined that this constituted negligence on the part of the Company and that customers should not have to cover replacement power costs. He recommended that the Commission disallow \$1,046,270 of replacement power costs for this outage.⁸⁷

In response, Mr. Hoffman testified that the Company's investigation of the event initially revealed concerns of a missing protective grommet through which the conductors pass into the breaker cubicle. This design, with protective grommets, is unique to MCC 33D1 and other MCCs, and missing or dislodged grommets had been the cause of two prior faults elsewhere in the plant. However, he stated that subsequent causal analysis determined that the reason for the MCC 33D1 fault was not a missing grommet, but the degradation of insulation, likely the result of the breaker cycling over time. He testified that seven out of the thirteen Furnas brand MCC's were inspected while Campbell Unit 3

⁸⁴ 2 Tr 326.

⁸⁵ 2 Tr 326-327; Exhibit AG-3, p. 7.

⁸⁶ 2 Tr 327.

⁸⁷ 2 Tr 327-328; Exhibit AG-3, p. 4.

was offline and there was only a 2% defect rate for missing or dislodged grommets. This led to the conclusion that the fault in this case was related to insulation degradation from cycling and vibration and not due to a missing or dislodged grommet.⁸⁸

Mr. Hoffman disagreed with Mr. Coppola's claims regarding the conclusions of the root cause analysis. Responding to the statement that the standardized operational process was not followed, Mr. Hoffman testified that the Company's standard operational process when the event occurred was to perform preventive maintenance (inspection and cleaning) on the MCCs during outages. But according to him, this would not have prevented the MCC failure because it would not have addressed the location of the fault.⁸⁹ Further, Mr. Hoffman explained that the Company performed rigorous meggering to validate the integrity of the insulation before the event, and the pending failure was not detected.⁹⁰ He testified that the Company did identify improvements to its MCC maintenance and has implemented them going forward, but that the Company acted reasonably and prudently at the time of the event.⁹¹

Mr. Hoffman testified that the root cause analysis did *not* find that the process document was not clear or that team members were not sufficiently qualified or trained.⁹² He explained that the Company performed post-maintenance testing to validate the integrity of the insulation, and the failure to perform more standard training would not have prevented the outage. Further, the Company took actions to abort the startup in order to

⁸⁸ 2 Tr 111.

⁸⁹ 2 Tr 112-113.

⁹⁰ 2 Tr 111-113. According to Mr. Hoffman, "Meggering consists of measuring the resistance of insulation using high voltage. Meggering is used to identify potential issues with insulation before it causes equipment failures or costly downtime." 2 Tr 111, fn 6.

⁹¹ 2 Tr 113.

⁹² 2 Tr 112-113.

evaluate similar equipment to ensure that other MCCs were not susceptible to the same failure. This was done to protect co-workers and equipment alike. Mr. Hoffman concluded that there is no evidence that the Company was unreasonable or imprudent when maintaining and operating the MCCs, let alone evidence that it was negligent.⁹³

In briefing, the Attorney General responded to Mr. Hoffman's rebuttal, opining that "[n]one of the Company's statements in rebuttal negate Mr. Coppola's analysis and recommendations which were supported by the fact that the Company's process document was not clear and sufficient[,]" further noting that the Company's rebuttal supports the Attorney General's position because the degradation of the insulation occurred over time and Consumers did not have a standard process to identify and address such issues. The Attorney General also disputes the Company's contention that this was the first time since Campbell began operation that this type of failure had occurred. According to her, the fact that previous failures of the MCC were the result of missing or dislodged grommets does not excuse Consumers' failure to maintain its equipment.⁹⁴

Consumers responds that the Attorney General mischaracterizes the evidence, citing Mr. Hoffman's rebuttal and Exhibit A-37, which states that preventative maintenance would not have averted the outage unless far more invasive inspection of the MCC had occurred, which was not recommended by the manufacturer.⁹⁵

This PFD observes that the root cause analysis contains a "Problem Solving Worksheet" wherein the Company checked "NO" in response to the following prompts:

⁹³ 2 Tr 114.

⁹⁴ Attorney General brief, 17.

⁹⁵ Consumers reply, 25.

Was the standardized process followed?
Is the document clear and sufficient to the process?
Is the team member qualified/trained on the standardized process?⁹⁶

In addition, the report found that the maintenance plan for MCCs was “inadequate” and that “the scope and method of cleaning is determined by outage schedule and resources rather than by manufacturer recommendations or good maintenance practices.”⁹⁷

The Company attempts to refute these findings by stating that preventative maintenance at the time would not have stopped the MCC fault and that the Company conducted rigorous testing that did not identify issues with the insulation. But these assertions do not mitigate the conclusions of the report, and the Company provides no evidence to show that its standardized process for preventative maintenance on MCCs was adequate or followed, that the process was clear and sufficient, or that the relevant team members were qualified or trained on the process. As a result, this PFD agrees with the Attorney General that the Company did not act reasonably and prudently and therefore recommends that the Commission disallow \$1,046,270 of replacement power costs for this outage.

d. Zeeland Units 3, 4, 5, Outages #21, #22, and #29

Mr. Coppola testified that the replacement power costs necessitated by outage events at Zeeland Unit 3 (Event #22), Unit 4 (Event #21), and Unit 5 (Event #29) on September 3, 2023 should not be included in the Company’s PSCR reconciliation. Mr. Coppola explained that according to the periodic outage report, a shared 10-foot section of pipe broke off the 28 HRH steam line shutting down all three units. He testified that the

⁹⁶ Exhibit AG-3.

⁹⁷ Exhibit AG-3, p. 9.

root cause analysis provided by the Company determined that the break was precipitated by weld fatigue due to lack of proper pipe support.⁹⁸ Mr. Coppola noted that Consumers stated that the original design of the Zeeland plant did not include proper pipe support, and during post-commissioning activities, the Company failed to either add the required pipe support or remove the temporary drain.⁹⁹ According to Mr. Coppola, it was apparent that the Company failed to identify the problem during the due-diligence phase of the plant acquisition and after more than 10 years of owning the plant.¹⁰⁰ He concluded that customers should not pay for the Company's failure to correct an inherent equipment design problem, recommending that the Commission disallow \$654,785 of replacement power costs for these outage events.¹⁰¹

In rebuttal, Mr. Hoffman agreed that the root cause analysis reflects that the design flaw of the pipe was the cause of the outage; however, he disagreed that responsibility for the failure lies with the Company.¹⁰² He explained that Consumers purchased the Zeeland Generating Station in 2007 with approval from the Commission in Case No. U-15245. In approving the purchase, the Commission found the terms were reasonable and prudent and that the Company shall be able to recover the reasonable and prudent costs associated with purchasing, owning, operating, and maintaining the plant.¹⁰³ Mr. Hoffman explained that the failed drain line was a part of the original construction of the plant, but it was not on any of the construction drawings and therefore was not part of the

⁹⁸ 2 Tr 328.

⁹⁹ 2 Tr 328; Exhibit AG-4.

¹⁰⁰ 2 Tr 330.

¹⁰¹ 2 Tr 329-331.

¹⁰² 2 Tr 115.

¹⁰³ 2 Tr 115-116.

Company's condition assessment or review when purchasing the plant.¹⁰⁴ He further testified that the Company reviews operating equipment on a regular basis but it is unrealistic to expect this level of review for a relatively static drain line. He commented that while the design of the drain line was inadequate, there was no indication of a problem for more than 20 years of operation.¹⁰⁵ Mr. Hoffman emphasized that it is unreasonable to hold the Company responsible for the actions of the prior plant owner that a condition assessment and review would not reveal.¹⁰⁶ He maintained that there were no problems identified with the drain line through its first 20 years of operation and expecting it to be found, given the circumstances, is unrealistic at best.¹⁰⁷

In briefing, the Attorney General maintains that "[i]t is unbelievable that in its 16-year period of ownership the Company has never evaluated the Company's structure or performed any studies or inspection to ensure that everything was or remains structurally sound, including a relatively static drain line."¹⁰⁸ Further, the Attorney General points out that although the Commission approved the Company's acquisition of the plant as reasonable and prudent, it does not follow that the Commission approved the technical and physical components of the plant. She reiterates that ratepayers should not be burdened with excessive costs resulting from Consumers' lack of due diligence at the time Zeeland was acquired and for 16 years after.

In response, Consumers reiterates that it does inspect its high energy piping "but until recently, its surveillance understandably would not have covered this static drainpipe

¹⁰⁴ 2 Tr 116.

¹⁰⁵ 2 Tr 117.

¹⁰⁶ 2 Tr 118.

¹⁰⁷ 2 Tr 118-119.

¹⁰⁸ Attorney General brief, 20-21.

that was not part of any plant drawings.”¹⁰⁹ The Company adds that, contrary to the Attorney General’s claim, Consumers does assess Zeeland’s operating plant, especially parts that rotate and tend to wear, on a regular basis. Consumers concludes that “given the Company’s due-diligence review when it purchased the plant, given the failed drain pipe was not part of the plant’s drawings, and given the pipe lasted more than 20 years before it failed, the costs stemming from the failure should be considered reasonable and prudent costs of maintaining the plant, which the Commission has already said are recoverable.”¹¹⁰

This PFD finds that the Company’s reports demonstrate that Consumers *should* have been aware of the lack of support for the pipe and remedied it before the pipe broke.¹¹¹ Despite Consumers’ many arguments as to why it is unreasonable to expect the Company to have been aware of the lack of pipe support since they didn’t design or construct the Zeeland plant, and the pipe was not included on construction drawings, the preponderance of the evidence shows that the Company should have recognized and fixed the problem during post-commissioning or over the course of 16 years of ownership. Consumers states that going forward, it has included this drain line in its high energy piping surveillances, but it does not explain why this was not the Company’s past practice.¹¹² That the pipe was intact for 20 years is irrelevant.

Further, the Commission approved the reasonable and prudent costs associated with Zeeland and this PFD finds that the replacement costs for these outage events could

¹⁰⁹ Consumers reply, 9-10.

¹¹⁰ Id. at 10.

¹¹¹ Exhibit AG-4.

¹¹² See, 2 Tr 116-117.

have been avoided if the Company had undertaken more thorough inspections and recognized the lack of pipe support. Therefore, the replacement costs were not reasonably or prudently incurred, and this PFD agrees with the Attorney General's recommendation to disallow \$654,785.

2. BMP Costs

The parties do not challenge the BMPs' request for recovery of fuel and variable O&M costs that exceeded the amount the BMPs were paid pursuant to their PPAs with Consumers, which includes capped costs under MCL 460.6a(9)-(10) and, with respect to four of the BMPs, uncapped environmental compliance costs under MCL 460.6a(10). Exhibit BMP-2 presents the BMPs' reconciliation of costs that are recoverable under statute and shows the BMPs are owed \$7,304,209. In addition, there is no dispute over the adjustment by Staff and the Attorney General to the Company's Purchased and Interchange Power costs to reflect the full amount that is due to the BMPs.¹¹³ The Company filed Revised Exhibit A-29 to reflect the adjusted BMP costs of \$19,429,494.¹¹⁴

The Attorney General raises additional issues regarding the BMP costs and the related reporting and reconciliation process. Mr. Coppola testified that he identified a discrepancy between the variable energy costs that the Company reported paying under its PPAs with the six BMPs and those same costs as reported by the BMPs.¹¹⁵ He presented Exhibit AG-5, in which he compared the reported costs and calculated that the Company recorded \$1,633,144 in additional energy costs above the amount reported by the BMPs. Mr. Coppola testified that the Company failed to provide a "pertinent response"

¹¹³ 2 Tr 334, 371; Revised Exhibit S-1.1.

¹¹⁴ See also Revised Exhibit A-5, Line 19 and Revised Exhibit A-26, Line 1.

¹¹⁵ 2 Tr 331-332.

when asked about the variance in discovery and that the additional energy costs “remain unexplained and unsupported.”¹¹⁶ He concluded that: “relying on the more detailed amounts provided in the BMP exhibits and to protect customers from excessive recorded costs, I recommend that the Commission disallow the excess amount of \$1,633,144 included in the Company’s Exhibit A-29.”¹¹⁷

Mr. Coppola next addressed what he described as a significant problem with the Company and the BMPs reporting financial information about their transactions that do not match.¹¹⁸ Mr. Coppola discussed the efforts he made through the discovery process to have the Company and the BMPs reconcile their reported expenses and payments, and he explained that the inconsistent information causes “confusion” and “considerable difficulty” when attempting to validate the costs that should be recorded to PSCR expense.¹¹⁹ As a result, Mr. Coppola recommended that the BMPs reconcile their reported revenue and costs with the Company before filing their testimony and exhibits; identify in a separate exhibit any items that were reconciled and provide an explanation; and address any disagreements with the Company in the BMPs’ filed testimony.¹²⁰ He further opined that the Company should file supplemental testimony shortly after the BMPs file their testimony “to reconcile or confirm the BMP costs recorded in Exhibit A-29, or similar exhibit, the additional expense amounts owed to the BMP[s], and the additional amount that the Company requests be added to the PSCR expense previously filed.”¹²¹

¹¹⁶ 2 Tr 332.

¹¹⁷ 2 Tr 332.

¹¹⁸ 2 Tr 334-335.

¹¹⁹ 2 Tr 333-335; see Exhibit AG-6.

¹²⁰ 2 Tr 335.

¹²¹ 2 Tr 335.

Mr. Coppola recommended that the Company file its supplemental testimony at least 30 days before the scheduled date of Staff and intervenor testimony in order to give those parties an opportunity to respond.¹²²

In rebuttal, Mr. Scaife defended the Company's reported BMP costs and disagreed with Mr. Coppola's recommended \$1.6 million disallowance:

Mr. Coppola fails to appreciate that the BMPs represent six separate and independent businesses, each of which may book the PPA payments they receive from Consumers Energy somewhat differently in their accounting records than Consumers Energy does in its accounting records. That difference does not support the conclusion that the Variable Energy Expenses as presented in my exhibit are incorrect. The values shown on Exhibit A-29 (RTS-4) match the invoices actually paid by Consumers Energy to the BMPs, and the invoices match the contract. There were no PPA billing disputes in 2023 between the Company and the BMPs.¹²³

Mr. Scaife testified that the Company has no authority to require the BMPs to book the payments they receive in any particular way, nor does the Company control how the BMPs present their data in exhibits.¹²⁴ He sponsored Exhibits A-34 and A-35 to illustrate that the Company is sometimes able to reconcile the difference between the BMPs' method of booking PPA payments and the Company's method, but on other occasions the Company lacks necessary information for a conclusive reconciliation.¹²⁵ Nevertheless, Mr. Scaife opined that Consumers "is entitled to recover the amounts that it paid to the BMPs regardless of how they book those amounts" and attested that the disputed \$1.6 million is a "valid expense" that the Company paid and properly recorded.¹²⁶ He further noted that, with respect to the capped expenses for which the BMPs seek

¹²² 2 Tr 335-336.

¹²³ 2 Tr 157.

¹²⁴ 2 Tr 158.

¹²⁵ 2 Tr 158-159.

¹²⁶ 2 Tr 157, 159-160.

recovery, different accounting methods for allocating those costs will have no impact on customers because the BMPs' actual costs exceed the cap and, therefore, total payments to the BMPs will equal the cap amount regardless of allocation method.¹²⁷

Responding to Mr. Coppola's proposed reconciliation procedure, Mr. Scaife testified that the Company and the BMPs were "working to implement a joint process to limit differences in future PSCR filings" and the Company agreed "that a coordination meeting prior to the filing of exhibits and the discovery process could simplify the process for all."¹²⁸

In its brief, Consumers relies on Mr. Scaife's testimony, reiterating that: (1) the amounts shown as paid to the BMPs in Exhibit A-29 revised match the invoices, which in turn match the contracts with the BMPs; (2) contrary to Mr. Coppola's claim that Consumers stated that the amounts in Exhibit A-29 "should match" the amounts reported in Exhibits BMP-3 through BMP-5 and BMP-7 through BMP-9, the Company actually stated that the amounts shown in the exhibits are related but "are not the same[;]"¹²⁹ (3) Consumers is under no obligation to reconcile its exhibits with those presented by the BMPs, but the Company was nevertheless able to do so as set forth in Mr. Scaife's rebuttal testimony; and (4) as long as the BMPs' costs exceed the statutory cap "it doesn't matter if the BMPs' accounting methodologies attribute less to the PPA payments and more to the statutory recovery (or vice versa)."¹³⁰ Consumers adds that the Company

¹²⁷ 2 Tr 159-160.

¹²⁸ 2 Tr 160-161.

¹²⁹ Consumers brief, 30, quoting Exhibit AG-6, p. 5.

¹³⁰ Consumers brief, 32, quoting 2 Tr 159-160.

and the BMPs have agreed to work together in the future to limit the differences in their presentations.

The BMPs likewise assert that Consumers and the BMPs are reporting different numbers:

2008 PA 286 only authorizes the BMPs to recover (i) their unpaid fuel and *variable* O & M expenses up to the CPI adjusted cap and (ii) their uncapped environmental costs incurred due to changes in state and federal environmental laws enacted after October 8, 2008. The BMPs' fuel and *variable* O & M expenses do not include either their capacity payments or their *fixed* O & M expenses. The Company, in contrast, is reporting its total payments to the BMPs, including both its capacity payments and their *fixed* O & M expenses.¹³¹

The Attorney General relies on Mr. Coppola's testimony, largely focusing on the need for more coordination in the future between the BMPs and Consumers to avoid confusion and allow other parties to validate the appropriate costs to be included in the reconciliation.¹³² The Attorney General still appears to recommend a \$1.6 million adjustment to PSCR costs based on the discrepancy between Consumers' Exhibit A-29 revised and the BMP exhibits, and she does not address this issue further in her reply brief.

This PFD finds that the Attorney General's disallowance should be rejected. The Company has provided substantial evidence that its numbers accurately reflect the amounts paid per the invoices and the contracts, and the Attorney General has not shown that the difference between Consumers' and the BMPs' numbers should be construed against the Company. In Exhibit AG-13, the Company states that it has reconciled the

¹³¹ BMP reply, 3.

¹³² Attorney General brief, 25.

\$1.9 million discrepancy with T.E.S. Filer (the largest discrepancy among all the BMPs) and again emphasizes that its numbers are correct. In Exhibit AG-15, the BMPs respond that they have no reason to dispute Consumers' numbers, and they attribute the discrepancies to different accounting practices (as does the Company).

This PFD does agree with the Attorney General that the Company and the BMPs should make efforts to proactively reconcile any differences in their recorded costs before filing testimony, and these parties should explain any differences in testimony and exhibits. Staff and intervenors should not be responsible for ferreting out this information through the discovery process. This PFD finds that for the purposes of Consumers' next PSCR reconciliation, the efforts Mr. Scaife described in his rebuttal, intended to establish a reconciliation process with the BMPs, is reasonable.

3. Financial Compensation Mechanism (FCM)

Ms. Hannah described the origin of the FCM. She explained that in Case No. U-20165, Consumers' 2018 IRP proceeding, the Commission granted the Company the authority to earn an FCM on all new PPAs approved by the Commission after January 1, 2019, and specified how the FCM was to be calculated. She testified that the FCM has been implemented in multiple prior cases.¹³³

According to Ms. Hannah, in 2023, the Company earned and recorded FCM incentive revenue in the amount of \$2,568,664 and the total amount of FCM surcharge billed was \$2,975,075.¹³⁴ She presented the total over-recovery amount of \$2,375,334, which she said was calculated by adding the beginning over-recovery balance

¹³³ 2 Tr 125-126.

¹³⁴ 2 Tr 127; Exhibits A-20 and A-21.

(\$1,968,924) to the total FCM surcharge billed, and then subtracting the earned FCM incentive revenue.¹³⁵ Ms. Hannah presented the total interest (expense) income of \$142,827 and the total over-recovery amount, including interest, of \$2,518,161.¹³⁶

Ms. Skowronski presented the annual FCM forecast associated with PPA payments from 2024 through 2026.¹³⁷ She testified that the annual FCM forecast supports the calculation to determine the amount that needs to be collected through the new FCM surcharge.¹³⁸

Mr. Nichols testified that Staff generally agrees with the Company's calculation, with a couple of exceptions. First, Staff recommends that the beginning balance of \$1,968,924 is updated to reflect final decisions made in the Company's 2022 reconciliation case, U-21049. And any change in the beginning balance will also require interest to be recalculated.¹³⁹ Second, he said, the Company's inclusion of three contracts (Autocam Medical, Otsego Paper, and Prairie View Dairy) in the FCM may need to be disallowed, depending on the Commission's decision on the eligibility of energy-only contracts in Case No. U-21049.¹⁴⁰ Other than these two issues, he said that Staff found the Company's FCM calculations reasonable.

In rebuttal, Ms. Skowronski explained that the Otsego, Autocam Medical, and Prairie View Dairy PPAs are eligible for the FCM, testifying that these PPAs were entered into in 2023. The PPAs are energy only agreements with PURPA Qualifying Facilities

¹³⁵ 2 Tr 127; Exhibit A-20.

¹³⁶ 2 Tr 128; Exhibits A-20 and A-22.

¹³⁷ 2 Tr 170; Exhibit A-32.

¹³⁸ 2 Tr 171; Exhibit A-2.

¹³⁹ 2 Tr 399.

¹⁴⁰ 2 Tr 400.

entered into in accordance with the Company's Commission-approved Rate Book for Electric Service and are eligible for the FCM construct approved in the Company's 2018 IRP.¹⁴¹ She testified that the costs of the Otsego PPA have been approved in each of the Company's PSCR reconciliation cases since Case No. U-20220 in 2019, and it was included in the Company's 2023 PSCR plan approved by the Commission in Case No. U-21257.¹⁴² She testified that the Otsego PPA meets all the requirements to be eligible for the FCM because: (1) it was executed on July 1, 2019; (2) it is with a PURPA Qualifying Facility; (3) it was entered into in accordance with the Company's Commission-approved Rate Book for Electric Service; and (4) its costs were approved by the Commission in the Company's 2023 PSCR Plan case.¹⁴³

This PFD finds that the April 10, 2025 order in Case No. U-21049, pp. 3-4, which adopted the PFD's recommendation to approve the FCM for Otsego, permits the application of the FCM to the other energy-only contracts (Autocam Medical and Prairie View Dairy) presented here. As discussed above, Staff reviewed Consumers' calculations, reconciliation, and updated surcharge for the FCM and found them reasonable. Therefore, this PFD recommends that the Commission adopt the Company's proposals related to the FCM.

V.

CONCLUSION

Based on the above findings of fact and conclusions of law, this PFD recommends that the Commission:

¹⁴¹ 2 Tr 175.

¹⁴² 2 Tr 175.

¹⁴³ 2 Tr 175-176.

1. Approve the portions of the reconciliation that are unopposed.
2. Adopt the adjustment for the Ludington Unit 3 outage recommended by Staff and accepted by Consumers.
3. Disallow the amounts recommended by the Attorney General for Outage #111 and #231 at Campbell Unit 3, and Outage #21, #22, and #29 at Zeeland Units 3, 4, and 5.
4. Find that the costs associated with the Otsego Paper, Autocam Medical, and Prairie View Dairy PPAs should be included in the calculation of the FCM.
5. Adjust the Company's beginning balance consistent with the findings and conclusions set forth above as well as the Commission's final order in Case No. U-21049.

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

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Sally L. Wallace
Administrative Law Judge

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