

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 authority to increase its rates for the )  
distribution of natural gas and for other relief. )  
\_\_\_\_\_ )

Case No. U-21806

**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 August 14, 2025.

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 **August 28, 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 **September 4, 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

**James M.  
Varchetti**

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August 14, 2025  
Lansing, Michigan

James M. Varchetti  
Administrative Law Judge

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Case No. U-21806

**PROPOSAL FOR DECISION**

**I.**

**PROCEDURAL HISTORY**

On December 16, 2024, Consumers Energy Company (Consumers or the company) filed a rate application requesting a \$248 million revenue increase and other relief.<sup>1</sup> The rates requested in the application are based on a 12-month projected test year ending on October 31, 2026. The company's application was accompanied by the testimony and exhibits of 24 witnesses. The most recent gas rate case order for the company was issued by the Commission on July 23, 2024, in Case No. U-21490.

On December 20, 2024, at the request of Consumers and the Commission's Staff (Staff), the undersigned administrative law judge entered the standard protective order included with the company's application per the Commission's rate case filing requirements.

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<sup>1</sup> The company's requested revenue increase has since been revised downward to approximately \$217 million. See Consumers brief, p. 2; Appendix A, line 8, column (e).



Consumers, Staff, and potential intervenors attended the January 13, 2025, prehearing conference. Intervention was granted to a total of 12 parties during the prehearing conference, some of whom participated collectively as noted: the Attorney General, The Retail Energy Supply Association (RESA), the Michigan Environmental Council (MEC), the Citizens Utility Board (CUB), Energy Michigan (EM), The Association of Businesses Advocating Tariff Equity (ABATE), The Ecology Center, Environmental Law and Policy Center, the Union of Concerned Scientists, and Vote Solar (collectively the clean energy organizations or CEO), Michigan State University (MSU), and the Lansing Board of Water and Light (LBWL). The parties agreed to a case schedule meeting the time limits of MCL 460.6a.

On January 16, 2025, Sierra Club (SC) filed a petition to intervene out of time requesting late intervention and stipulating that it would accept the pre-set case schedule and would coordinate its filings with related party MEC. No party filed timely objections to the petition, and on January 23, 2025, the undersigned administrative law judge issued a ruling granting SC's petition to intervene.

By the April 23, 2025, filing deadline, Staff and the following intervenors filed direct testimony and exhibits: the Attorney General, MEC/SC (filing joint testimony and exhibits), CUB, ABATE, and MSU/LBWL (filing joint testimony and exhibits). By the May 14, 2025, filing deadline, Consumers, Staff, ABATE, and MSU/LBWL filed rebuttal testimony.

At the three evidentiary hearings held on May 29, May 30, and June 2, 2025, five witnesses appeared for cross-examination, and the testimony of the remaining witnesses was bound into the record without the need for them to appear. On June 25, 2025, Consumers, Staff, the Attorney General, ABATE, and LWBL/MSU filed initial briefs;

MEC/SC and CUB opted to file a joint brief, and these parties will be collectively referred to as MSC. These same parties also filed timely reply briefs on July 11, 2025, in accordance with the established case schedule.

## II.

### **OVERVIEW OF THE RECORD**

The evidentiary record in this proceeding is contained in four public transcript volumes totaling 2,778 pages of testimony, plus a confidential transcript, as well as all the exhibits admitted at the evidentiary hearings which are delineated below, several of which also have a confidential version. The following discussion 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. Consumers Energy

The company presented the testimony of a total of 26 witnesses and Exhibits A-1 through A-158.

**Heidi J. Myers**, Executive Director of Revenue Requirements and Regulatory Affairs for Consumers, introduced the company's witnesses and provided an overview of the company's case, including key proposals such as the company's SAP S/4HANA implementation project and associated costs and deferrals.

**Mustafa A. Ahmed, AKA Mustafa Sherwani**,<sup>2</sup> a Senior Sales Forecasting Analyst in the company's Financial Planning and Analysis Department, supported the Company's gas revenues and deliveries in the test year.

**Stacy H. Baker**, Director of the company's Technology Portfolio Office, presented testimony related to IT projects, physical and cybersecurity projects, and associated capital and O&M costs.

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<sup>2</sup> In rebuttal testimony, Mr. Sherwani explained that his name appears differently than in his direct testimony (originally Mustafa Ahmed) because an error in immigration documents required him to temporarily use his middle name as his last name for official purposes; that error has since been corrected.

**Corey Ballinger**, Fleet Acquisition and Asset Disposition Manager for Consumers, described the needs of the Company's fleet services and supported the fleet capital investment and electrification strategy. Mr. Ballinger's testimony was later adopted by company witness Quentin Guinn.

**Marc R. Bleckman**, Executive Director of Financial Planning and Analysis for Consumers, testified regarding the Company's proposed capital structure and cost of capital to be used in computing the overall rate of return.

**Luther A. Bonner**, Senior Manager of Engineering Support for the company, provided rebuttal testimony to address claims made by MEC/SC witness Napoleon.

**Ann E. Bulkley**, a Principal at the consulting firm Brattle Group, testified regarding the company's proposed return on equity that should be used in computing the overall rate of return.

**Jessica Byrom**, Director of Customer Strategy for the company, provided an overview of the company's customer experience and operations organization, how it works to benefit the company's customers, and associated capital and O&M expenses.

**Amy M. Conrad**, Director of Compensation Operations for the company, testified regarding the company's compensation practices and provided support for the recovery of costs related to the employee incentive compensation program (EICP).

**Neal P. Dreisig**, Executive Director of Gas Strategy for the company, provided an overview of the Company's gas transmission, distribution, storage and compression systems along with an updated version of the Company's 10-year plan, also known as the Natural Gas Delivery Plan (NGDP).

**Matthew J. Foster**, a Principal Rate Analyst for the company, presented testimony regarding corporate O&M expenses such as uncollectible expense and injuries and damages as well as support for certain IT project capital spending and accounting approvals.

**Samuel M. Geller**, a Principal Rate Analyst in the company's Regulatory Policy and Research section, sponsored the company's gas cost of service study and provided a version of the study that incorporates company proposals addressing cost of service study issues raised in Case No. U-21490.

**Michael P. Griffin**, Senior Strategy Manager in the company's Gas Strategy Department, testified regarding gas transmission and distribution capital and O&M expenses related to the company's high-pressure distribution and transmission system.

**Kendra K. Grob**, Senior Manager of Benefits for the company, provided testimony relating to the company's costs related to retirement, health care, life insurance, long-

term disability plans, defined benefit (DB) pensions and the other post-employment benefits (OPEB) volatility mechanism.

**Quentin A. Guinn**, Principal Metrics & Analytics Specialist for the company, described the function and needs of the company's facilities and supported capital spending and O&M expenses related to the gas business portion of facility operations. Mr. Guinn also adopted the testimony of company witness Corey Ballinger related to the company's vehicle fleet and related spending.

**Kirkland D. Harrington**, a Tariff Analyst in the company's Rates and Regulation Department, presented the company's proposed tariff language and changes to its gas rate schedules.

**Timothy K. Joyce**, Senior Strategy Manager in the Gas Engineering and Supply Department, provided testimony on the company's Gas Compression and Storage Capital spending and O&M expense, as well as associated IT projects supporting Gas Compression and Gas Storage, cost of gas sold and underground, lost and unaccounted for gas, and company use gas.

**Ashley E. Meschke**, Director of Lean Strategy for the company, testified regarding operational performance goals included in the company's EICP and how such goals benefit customers.

**Kristine A. Pascarello**, Senior Strategy Manager in the company's Gas Strategy department, provided support for gas engineering and supply O&M expense as well as certain gas distribution capital investments.

**James P. Pnacek**, a Principal Strategy Analyst for the company, presented testimony on gas operation O&M expense and related IT projects in addition to certain gas distribution capital investments.

**Heather M. Prentice**, Director of Environmental Compliance, Risk Management & Governance in the company's Environmental Quality and Sustainability Department, testified regarding environmental remediation at former manufactured gas sites and the associated expenses.

**Heather L. Rayl**, Senior Rates Analyst in the Revenue Requirements Section, presented historic and test year revenue deficiency in addition to supporting a request for approval to follow Federal Energy Regulatory Commission accounting treatment for first-time and one-time maximum allowable operating pressure retesting costs.

**S. Austin Smith**, Senior Rate Analyst in the company's Cost and Pricing Section, presented the company's rate design proposals.

**Brian M. Snyder**, a Mechanical Engineer for the company, provided rebuttal testimony concerning the inclusion of risk modeling in the company's calculations.

**Brian J. VanBlarcum**, a Tax Director of the Company's Corporate Tax Department, supported the company's real estate and personal property taxes as well as the excess deferred income taxes being returned to gas customers because of the Tax Cuts and Jobs Act of 2017.

**Lincoln D. Warriner**, Senior Strategy Manager in the company's Gas Engineering and Supply Department, testified regarding distribution capital investments related to new business, asset relocation, regulatory compliance, and capacity programs.

B. Staff

Staff presented the testimony of a total of 20 witnesses and Exhibits S-1 through S-25.<sup>3</sup>

**Paul R. Ausum**, an Economic Analyst in the MPSC's Resource Adequacy & Forecasting Section of the Energy Resources Division, presented Staff's recommendation that the company be required to provide all input data used in building its sales forecasting models in future cases.

**Elaina M. Braunschweig**, a Departmental Analyst for the Rates and Tariff Section of the Regulated Energy Division of the MPSC, testified regarding Staff's residential income assistance (RIA) credit projection and revenue impact, and the company's RIA credit projection.

**Cynthia L. Creisher**, Manager of the Infrastructure Section of the Gas Safety and Operations Division of the MPSC, set forth Staff's position and recommendations regarding the current case, particularly proposed capital expenditures related to the Enhanced Infrastructure Replacement Program (EIRP), the Material Condition non-modeled program, Compliance and Controls, and the company's position regarding maximum allowable operating pressure (MAOP) retesting costs accounting treatment.

**Justin J. Hecht**, an auditor in the Revenue Requirements Section of the Regulated Energy Division, presented Staff's projected working capital for the projected test year, as well as Staff's Manufactured Gas Plant (MGP) Deferred Net Unamortized Balances and MGP Amortization expense for the projected test year.

**Brittney Klocke**, a Senior Analyst in the Data Access, Privacy and IT (DAPIT) Section of the Customer Assistance Division (CAD), testified on Staff's recommendations regarding the company's request for recovery of Customer Information Technology (IT) project expenditures, and Customer Experience and Operations Areas expenditures, particularly

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<sup>3</sup> This PFD notes that Staff has far more than 25 exhibits because Staff's exhibit numbering system includes decimals, i.e. Exhibit S-11.1, S-11.2, S-11.3, etc.).

relating to Click to Chat, Web Chat AI, and Self-Service Mobile Application enhancements in the Product Family Enhancement – Customer – Capital and the Low Moderate Income Customer Support Enhancement.

**Kevin S. Krause**, a Gas Cost of Service Specialist within the Regulated Energy Division, Rates and Tariff Section, presented Staff's gas cost of service (COS) and cost of service study (COSS).

**James E. LaPan**, a Public Utility Engineer for the MPSC, set forth the findings and support for Staff's recommendations regarding whether the company's request for recovery of expenditures actually incurred for environmental response activities at its former manufactured gas plant sites was reasonable and prudent.

**Jacob G. Martus**, a Public Utility Engineer in the Infrastructure Section of the Gas Safety and Operations Division, presented Staff's analysis of, and recommendations related to, the company's requested regulatory deferral mechanisms for the Leak Detection and Repair program, as well as for the Staking and Locating sub-program.

**Theresa McMillan-Sepkoski**, an Audit Specialist in the Revenue Requirements Section of the Regulated Energy Division, provided Staff's adjustments to the company's projected EICP costs included in O&M expense, and for the 15-year amortization of cloud implementation costs for Software as a Service (SaaS) for the projected test year.

**Kirk D. Megginson**, a Financial Specialist in the Revenue Requirements Section of the Regulated Energy Division, presented Staff's recommended capital structure, return on common equity (ROE), and the overall rate of return that Consumers Energy should be allowed to earn for gas utility investment in Michigan.

**Robert F. Nichols II**, the Manager of the Revenue Requirements Section of the Regulated Energy Division, set forth Staff's projected revenue deficiency; projected net operating income; position on the Riverside Storage; and position on the company's SAP S/4 HANA Implementation Project O&M Deferral request.

**Charles E. Putnam**, an Auditing Specialist with the MPSC, supported Staff's proposed general tax expense projection for the 12-month test period ending October 31, 2026.

**Nancy C. Rademacher**, a Departmental Analyst for the Rates and Tariff Section of the Regulated Energy Division, presented Staff's position on the company's proposed rate design.

**Nicholas M. Revere**, Manager of the Rates and Tariff Section of the Regulated Energy Division, testified regarding Staff's proposed allocation of FERC Account 378 and the calculation of the associated composite allocator.

**Shannon Rueckert**, an auditor in the Revenue Requirements section, presented Staff's recommendations for the company's Other Employee Benefits expense for the projected test year.

**Michelle L. Schreur**, Manager of the Income Analysis Unit in the Revenue Requirements section of the Regulated Energy Division, set forth Staff's overall O&M expense projection for the projected test year ending October 31, 2026.

**Kevin P. Spence**, a Public Utilities Engineering Specialist (PUES), specifically an Underground Natural Gas Storage (UNGS) Specialist, in the Gas Safety and Operations Division (GSOD), presented Staff's analysis and recommendations regarding the company's proposed capital expenditure projects, as well as some O&M expenses.

**Fawzon B. Tiwana**, an Economic Specialist in the Energy Optimization Section of the Energy Resources Division, provided rebuttal testimony regarding MEC/SC witness Napoleon's testimony related to EWR programs.

**Timothy G. Witt**, an auditor in the Revenue Requirements Section of the Regulated Energy Division, presented Staff's projected rate base for the test period ending October 31, 2026, and provided support for adjustments to the company's projected property tax expense and depreciation and amortization expense. He specifically testified regarding the Asset Relocation Program; the Freedom Upgrade Project; Compression; Storage; New Well; Well Rehabilitation; Storage Pipeline Replacement; Well Data acquisition; Riverside Field Retirement; and Safety Valve Installation.

**Emma Zichi**, an Analyst in the DAPIT section of the CAD at the MPSC, presented Staff's recommendations regarding the request for recovery of proposed IT capital expenditures for the bridge period and projected test year, investment O&M expenditures for the test year, and Staff's position regarding the company's requests for the SAP S/4 HANA upgrade project.

C. The Attorney General

The Attorney General presented the testimony of one witness and Exhibits AG-1 through AG-60, AG-63, and AG-65 through AG-85.

**Sebastian Coppola**, an independent business consultant, provided extensive and far-reaching testimony on most aspects of the rate case, and he recommended several adjustments to the company's requests.

D. Michigan Environmental Council and Sierra Club

MEC and SC presented the testimony of a total of two witnesses and Exhibits MEC-1 through MEC-15, MEC-51, MEC-53, MEC-55 through MEC-58, MEC-61, MEC-64, and MEC-67 through MEC-69.

**Sol deLeon**, a Principal Associate at Synapse Energy Economics, Inc., explained the approaching energy transition and evaluated the company's planned capital investments in light of the transition; recommended the company develop and implement long-term planning, including probabilistic risk modeling; and recommended implementation of risk mitigation effectiveness measures to select and prioritize capital investments, especially escalating leak-prone pipes for faster replacement.

**Alice Napoleon**, a Principal Associate at Synapse Energy Economics, Inc., commented on what she characterized as the company's demand-side investments during an energy transition; the allocation of new attachment costs to new customers, with the company covering most of the cost and passing that on to existing customers; and the company's flawed assumptions and methodology underlying its new connections forecast.

E. Citizens Utility Board

CUB presented the testimony of a total of four witnesses and Exhibits CUB-1 through CUB-29.

**Matthew Bandyk**, a Principal Associate at Synapse Energy Economics Inc., made recommendations regarding ROE, capital structure, and overall rate of return.

**Richard J. Bunch**, a Lead Consultant at 5 Lakes Energy, LLC, testified regarding the effect of increasing gas rates on residential customers; the increase in, and allocation of, uncollectible expenses; and the impacts of inflation, along with comparisons of the company's actual and proposed costs and rate increases to the rate of inflation.

**Joshua W. Denzler**, a Consultant at 5 Lakes Energy, recommended adjustments to the company's proposed investments and expenditures, and he questioned their reasonableness and prudence when viewing the investments against the backdrop of an uncertain future for gas usage. He also questioned the company's proposed rate design.

**Ram Veerapaneni**, a Senior Consultant at 5 Lakes Energy, discussed Consumers Energy's prior rate case filings, and recommended adjustments to several capital and O&M expenditures.



F. The Association of Businesses Advocating Tariff Equity

ABATE presented the testimony of a total of 3 witnesses and Exhibits AB-1 through AB-28.

**Colin T. Fitzhenry**, an Associate with Brubaker & Associates, Inc. (BAI), testified regarding the company's proposed capital and O&M expenditures.

**Christopher C. Walters**, a principal with BAI, presented his position on a fair overall rate of return, including what constitutes a reasonable capital structure and ROE.

**Jessica A. York**, a principal at BAI, summarized the testimony of all of ABATE's witnesses; she also critiqued the company's use of a projected test year, its class COSS, its proposed revenue allocation, and its proposed gas transportation rate design.

G. Michigan State University & Lansing Board of Water & Light

MSU and LBWL presented the testimony of one witness and Exhibits LBWL/MSU-1 through LBWL/MSU-4.

**Timothy S. Lyons**, a Partner at ScottMadden, Inc., recommended changes to Rate Schedule Extra Extremely Large Transport (Rate XXLT) charges; provided analysis of the company's COSS; and recommended adoption of a modified Version 2 of the company's COSS, including changes to the allocation of distribution plant to Rate XXLT.

In order to ensure compliance with the statutorily imposed timeframe for deciding this case, see MCL 460.6a(5), only the evidence and arguments necessary for a reasoned analysis of the disputed issues are expressly addressed in the following sections of this Proposal for Decision. However, all the evidence presented in this case was considered, along with the arguments made by the parties based upon the evidence.

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.<sup>4</sup> The Commission is required to set rates that are just and reasonable when exercising its ratemaking authority.<sup>5</sup>

The rate-making process necessarily “involves a balancing of the investor and the consumer interests.”<sup>6</sup> A public utility is constitutionally protected from being limited to rates that are so inadequate as to be confiscatory.<sup>7</sup> 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.<sup>8</sup> 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.”<sup>9</sup>

In considering whether rates are just and reasonable, it is the result reached, and not the methods employed, that is controlling.<sup>10</sup> 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[.]”<sup>11</sup> Additionally, ratemaking is

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<sup>4</sup> January 31, 2017, Order in 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).

<sup>5</sup> MCL 460.557(4).

<sup>6</sup> *Fed Power Comm v Hope Natural Gas Co*, 320 US 591, 603; 64 S Ct 281; 88 L Ed 333 (1944).

<sup>7</sup> *ABATE v Pub Serv Comm*, 208 Mich App 248, 269; 527 NW2d 533 (1994).

<sup>8</sup> *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).

<sup>9</sup> May 8, 2020, order, in Case No. U-20561, p. 7.

<sup>10</sup> *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).

<sup>11</sup> *City of Detroit v Michigan R Comm*, 209 Mich 395, 433; 177 NW 306 (1920).

a legislative function, and the Commission is not bound by any particular method or formula in the exercise of this legislative function.<sup>12</sup>

Given the Commission's broad discretion in the rate-making 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.

#### IV.

#### TEST YEAR

A test year is the starting point for establishing just and reasonable rates for both the regulated utility and its customers. MCL 460.6a(1) provides that a "utility may use projected costs and revenues for a future consecutive 12-month period in developing its requested rates and charges." 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.<sup>13</sup>

In rate cases where the utility bases its "filing on a fully projected test year, the utility bears the burden to substantiate its projections."<sup>14</sup> If, after discovery and audits by Staff and intervenors, the Commission finds that the utility has not provided sufficient support for a

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<sup>12</sup> *ABATE v Pub Serv Comm*, 208 Mich App 248, 258; 527 NW2d 533 (1994); see also *Hope Natural Gas Co*, 320 US at 602.

<sup>13</sup> January 11, 2010, order in Case No. U-15768, p. 9.

<sup>14</sup> *Id.*

particular revenue or expense item, particularly those deviating substantially from historical norms, the Commission may select other projection methods.<sup>15</sup>

A. Testimony

Consumers used the 12 month period ending October 31, 2026 as the projected test year, the 22 months ending October 31, 2025 as the bridge period,<sup>16</sup> and calendar year 2023 as the historical year to develop the rates for this proceeding.<sup>17</sup> Citing Exhibit A-1, Schedule A-1, Ms. Rayl testified that the historical year had a revenue sufficiency of \$9.4 million.<sup>18</sup> She otherwise presented the company's calculation of the historical year revenue requirement, the projected test year revenue requirement, and the reconciliation between the historical and projected test years.<sup>19</sup>

ABATE opposed the company's use of a projected test year in formulating its requested rate increase and protested the frequency of the company's rate case filings. Ms. York testified that the company had a revenue sufficiency in seven out of the eight most recent rate case filings, including in the historical year used in its current projections, contending that use of the projected test year resulted in "Consumers earning revenues in excess of its authorized amount."<sup>20</sup> Ms. York also testified that the company's past use of a projected test year resulted in: (1) faster rate increases; (2) eliminated the incentive for Consumers to minimize costs where the incentive would otherwise naturally exist due to regulatory lag; (3) allowed the company to collect revenue from customers for capital

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<sup>15</sup> January 11, 2010, order in Case No. U-15768, pp. 9-10.

<sup>16</sup> The bridge period is also divided by some witnesses into lesser periods of time. See e.g. 4 Tr 756, 758-759, 761, 1169; Exhibit A-22, p. 8 & Exhibit A-41, p. 2.

<sup>17</sup> 4 Tr 1416, 1752, 1757.

<sup>18</sup> 4 Tr 1756-1757.

<sup>19</sup> 4 Tr 1752-1772.

<sup>20</sup> 4 Tr 2071-2073 & 2076.

expenses that would not be incurred, or at least that would not be incurred during the test year; (4) potentially hid unrecoverable costs; and (5) hampered review efforts by Staff and intervenors.<sup>21</sup> She further stated that the projected expenses were largely speculative, not known and measurable, and not adequately supported.<sup>22</sup>

Because of these shortcomings, Ms. York recommended that “the Commission reject Consumers’ proposed use of a projected test year . . . and reject Consumers’ request for a rate increase in this proceeding.”<sup>23</sup> She believed that, due to the language of MCL 460.6a(1) and the Commission’s directives in Case No. U-15645, the Commission could choose an alternative projection method if the company failed to carry “the burden to substantiate its projections” using a test year.<sup>24</sup> If the Commission rejects the recommendation to abandon the projected test year, Ms. York alternatively recommended in the near term that the Commission: (1) be “more vigilant” to ensure that the expenses and investments claimed are “necessary to provide reliable service at the lowest reasonable cost;” (2) ensure that the company is “irrevocably committed” to making the promised expenditures; and (3) determine the investments and expenses are “precisely quantified with respect to both amount and the specific quarter” in which the investments and expenses would be incurred.<sup>25</sup>

Longer term, Ms. York repeated ABATE’s recommendations from Case No. U-18238, and its comments in Case No. U-21637, that the Commission should direct a collaborative work group to examine the use of projected test years and utility ROE

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<sup>21</sup> 4 Tr 2073-2074.

<sup>22</sup> 4 Tr 2074-2076.

<sup>23</sup> 4 Tr 2077-2078.

<sup>24</sup> 4 Tr 2077-2078, quoting the January 11, 2010, Order in Case No. U-15768, p. 9.

<sup>25</sup> 4 Tr 2078-2079.

requests resulting in a revenue surplus.<sup>26</sup> Specifically, Ms. York recommended that the Commission scrutinize: (1) customer benefits and detriments resulting from the use of projected test years; (2) conditions for rejecting use of a projected test year; (3) expenses and revenues that are inherently unpredictable to the extent they should be precluded from a projected test year; (4) criteria to determine that expenses will actually be incurred; (5) the appropriate length of time between the end of the historical test year and the start of the projected test year; (6) methods for tracking under or over projection of revenue sufficiency; and (7) “whether the use of a projected test year by a utility should factor into its authorized ROE.”<sup>27</sup>

CUB expressed concerns similar to ABATE’s, with Mr. Veerapaneni first outlining the size and frequency of Consumers’ annual rate case filings.<sup>28</sup> Mr. Veerapaneni stated that “Consumers’ use of the projected test year negates the use of complicated future forecasts of capital and O&M expenses and allows for cutting and pasting testimony and exhibits used in the previous rate case,” which did not support the company’s projected test year spending.<sup>29</sup> Mr. Veerapaneni believed that the company’s annual filing of rate cases would minimize any detrimental effects related to regulatory lag from using the historical test year.<sup>30</sup> He characterized Consumers’ requested rate increases as unverified because the projected test year from the prior rate case is not complete by the time the company files a new rate case only three months after receipt of the prior case’s

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<sup>26</sup> 4 Tr 2079-2080.

<sup>27</sup> 4 Tr 2079-2080.

<sup>28</sup> 4 Tr 2393-2396.

<sup>29</sup> 4 Tr 2396.

<sup>30</sup> 4 Tr 2396.

final order.<sup>31</sup> To avoid unjustified projected test year spending, Mr. Veerapaneni generally recommended the use of recent historical data to formulate disallowances for various proposed spending categories (which are discussed separately in other sections of this PFD, *infra*).<sup>32</sup>

In rebuttal, Ms. Myers noted the Commission has consistently approved the use of projected test years, including in the company's most recent electric rate case, Case No. U-21585, "despite being presented with the same arguments from intervening parties."<sup>33</sup> Ms. Myers asserted that Ms. York's recommendation should be rejected because Ms. York's own testimony was internally contradictory: Ms. York recommended that there be no rate increase based on the use of the historical test year, despite recommending changes based on known and measurable changes such as volatility, annualization of periodic and later year costs, as well as known imminent changes.<sup>34</sup>

Ms. Myers disagreed with Ms. York that the use of projected test years accelerates rate increases, eliminates cost containment, and handicaps Staff and intervenors in its review of rate filings. Ms. Myers countered that the projected test year is the most accurate and transparent way to set rates, providing intervenors with the opportunity to comment and providing the company with the "opportunity to earn a fair rate of return."<sup>35</sup> Ms. Myers contended that projected test years are superior to using historical test years and are more efficient; further, she stated that use of historical test years instead of a

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<sup>31</sup> 4 Tr 2395-2396.

<sup>32</sup> 4 Tr 2396.

<sup>33</sup> 4 Tr 1585.

<sup>34</sup> 4 Tr 1585-1586.

<sup>35</sup> 4 Tr 1587-1588.

projected test year would unfairly delay rate relief and would be inconsistent with Michigan law.<sup>36</sup>

In response to Mr. Veerapaneni, Ms. Myers pointed out that he “did not provide any critique of the proposed spending or rationale as to why the spending was not reasonable or prudent.”<sup>37</sup> Ms. Myers further asserted that the company has provided support for the capital and O&M spending included in this case and Mr. Veerapaneni has not asserted the costs were inadequately supported. In sum, Ms. Myers concluded that Mr. Veerapaneni did not provide evidence to support why historical spending should be used as the basis for the entirety of capital and O&M expenditures, and therefore Mr. Veerapaneni’s recommendation should be rejected.<sup>38</sup>

B. Briefing

In its initial brief, Consumers counters ABATE’s historic test year recommendation, stating that it has a right under MCL 460.6a(1) to use a projected test year. Consumers further contends that the Commission has recognized this for many years, repeatedly rejecting arguments favoring the use of a historical test year.<sup>39</sup> Consumers reiterates that use of the projected test year is “the most accurate way to set rates” because it is based on the necessities of the time period when the rates will be in effect, and because intervenors have the opportunity to review and comment on the planned spending.<sup>40</sup> The company further contends that it is “incentivized” to maintain spending levels because it must manage risks as well as normal operations within approved spending limits, and

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<sup>36</sup> 4 Tr 1588-1589.

<sup>37</sup> 4 Tr 1589-1590.

<sup>38</sup> 4 Tr 1589-1590.

<sup>39</sup> Consumers brief, 3-6.

<sup>40</sup> Consumers brief, 4, 6.



because testimony by the company's witnesses fully support the evaluation of projects and program spending.<sup>41</sup> In answer to both ABATE and CUB's testimony, Consumers states that the use of historical information alone does not address future financial trends or the need for write-offs if spending occurred outside of historical norms.<sup>42</sup>

ABATE reasserts that projected test years have resulted in "excessive over-recovery for Consumers" in seven of its eight most recent rate cases, noting that use of the historical test year "would eliminate the need for a revenue increase" because the historical look-back had a revenue sufficiency.<sup>43</sup> In making this argument, ABATE raises many of the same points raised in Ms. York's testimony, highlighting that the company bears the burden of proof, and adding that the projected test year is too unproven, flawed, and manipulated to meet the reasonable and prudent spending standard, with the company relying on the volume and frequency of filings to slip questionable and unproven expenditures into its rate cases.<sup>44</sup> ABATE repeats its recommendation that the Commission reject the company's proposed projected test year expenses.<sup>45</sup>

If a projected test year is permitted, ABATE's recommendations include: diligently enforcing the burden of proof for the accuracy and reasonableness and prudence of projections; ensuring that the projected expenses will be incurred if authorized; and ensuring that the timing and amount of projected investments and expenses are accurate to avoid over recovery by the company.<sup>46</sup> ABATE also recommends that the Commission

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<sup>41</sup> Consumers brief, 6-7.

<sup>42</sup> Consumers brief, 6-7.

<sup>43</sup> ABATE brief, 2, 5.

<sup>44</sup> ABATE brief, 3-7.

<sup>45</sup> ABATE brief, 7-8.

<sup>46</sup> ABATE brief, 8-9.

specifically examine: (1) the benefits and harms to customers from using projected test years; (2) the causes for Commission rejection of a projected test year; (3) expenses or revenues that cannot be predicted and that should be excluded from the projected test year; (4) the time between the end of the historical test year and the start of the projected test year; (5) a consistent method of tracking the accuracy of projections; and (6) “whether the use of a projected test year by a utility should factor into its authorized ROE.”<sup>47</sup>

CUB’s brief also urges vigilance regarding the accuracy of the company’s test year projections, and the company’s commitment to realizing projected spending,<sup>48</sup> first summarizing the testimony of Ms. York and Mr. Veerapaneni, as well as Ms. Myers’ rebuttal.<sup>49</sup> While recognizing Consumers’ statutory right to use a projected test year, and accepting that approved spending is likely to result in the company actually spending approved monies, CUB questions the company’s premise that a projected test year is more accurate than using established historic spending records. CUB adds that, while the projected test year might “incentivize cost containment,” it is equally likely to incentivize “inflated projections to provide a spending cushion.”<sup>50</sup> CUB recommends that, if the Commission is not willing to reject the company’s use of a projected test year and either “deny the requested rate increase or adopt the historic average,” the Commission should be “vigilant in ensuring Consumers’ projections” represent the lowest actual, reasonable, and necessary costs, and that approved spending matches the timing and amount of actual spending.<sup>51</sup>

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<sup>47</sup> ABATE brief, 9-10.

<sup>48</sup> MSC brief, 1.

<sup>49</sup> MSC brief, 7-12.

<sup>50</sup> MSC brief, 12-13.

<sup>51</sup> MSC brief, 13-14.

Consumers' reply brief reasserts that the company is allowed to utilize a projected test year under MCL 460.6a(1) and that ABATE is therefore "wrong on the law."<sup>52</sup> In addition to taking issue with ABATE's reading of the law, Consumers also notes that, while ABATE is correct that the company had a revenue sufficiency in seven of the last eight rate case filings, six of those were resolved by "settlement agreements where the parties agreed to a certain level of rate relief."<sup>53</sup> Consumers sums up by asserting that use of a historic average instead of the projected test year, as proposed by CUB, would result in critical underfunding, contrary to CUB's assertion that it would focus the company on providing safe and reliable service.<sup>54</sup>

While CUB's reply brief is silent on this issue, ABATE's reply brief reasserts that Consumers has repeatedly had revenue sufficiencies stemming from the company's over-forecasting of costs and expenses during the projected test years, belying the company's assertions that the use of projected test years is accurate.<sup>55</sup> ABATE asserts that, while the company has a right to use a projected test year, the Commission is not obligated to approve the requested rates based thereon, and should not do so because use of a projected test year has routinely resulted in Consumers' "inflated revenues."<sup>56</sup> ABATE repeats support for the use of a historic test year and recommends disallowance of Consumers' requested rate increase based on its use.<sup>57</sup>

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<sup>52</sup> Consumers reply, 6.

<sup>53</sup> Consumers reply, 7.

<sup>54</sup> Consumers reply, 7-8.

<sup>55</sup> ABATE reply, 3-4.

<sup>56</sup> ABATE reply, 2.

<sup>57</sup> ABATE reply, 3-4.

While it did not address this topic in testimony or in its initial brief, Staff's reply brief echoes the company's position that MCL 460.6a(1) gives the utility the right to propose a projected test year. But Staff adds that there is nothing in the law that requires the Commission to accept the projected test year or to adopt the rates proposed.<sup>58</sup> Staff does not advocate for outright rejection of the projected test year. Instead, Staff rejects Consumers' implication that the company's ability to use a projected test year is somehow equivalent to determining rate relief; instead, Staff explains that the company's application utilizing a projected test year is simply a request for rate relief that the Commission has the authority to determine.<sup>59</sup> This is underscored by Staff's response to CUB, that "the utility has the choice of whether to file using a projected test year; Staff, however, does not interpret any of the Commission's rulings or interpretations of law to state or imply the Commission lacks discretion in approving (or denying) a projected test year."<sup>60</sup>

C. Recommendation

In response to similar arguments of the parties in the company's last electric rate case, the Commission previously "acknowledge[d] that the use of projected test years by utilities in developing requested rates in rate cases is permissible per statute – subject, however, to the burden that the company prove the accuracy of each and every test year projection."<sup>61</sup> In that case, the Commission further agreed "with the ALJ that 'the burden of proof to substantiate projections lies with the utility, and absent sufficient support,

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<sup>58</sup> Staff reply, 13.

<sup>59</sup> Staff reply, 14.

<sup>60</sup> Staff reply, 14.

<sup>61</sup> March 21, 2025, Order in Case No. U-21585, p. 9.

historical data may be used to develop the revenue requirement.”<sup>62</sup> The Commission has consistently reached this conclusion in other cases.<sup>63</sup>

Consistent with prior Commission orders, this PFD recommends: (1) finding that it is permissible under MCL 460.6a(1) for Consumers to use the projected test year ending October 31, 2026, in calculating its requested rate increase subject to the requirement that the company must substantiate its test year projections; and (2) that ABATE’s request for a work group on the use of projected test years should be rejected absent a revision of MCL 460.6a(1) by the Legislature. Further, this PFD notes that the Commission has already solicited interested parties for ideas related to ameliorating issues with rate cases, including concerns regarding projected test years, in Docket No. U-21637.<sup>64</sup>

## **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 application, Consumers initially projected a total gas rate base of \$11.75 billion,<sup>65</sup> adjusted to \$11.567 billion in its brief.<sup>66</sup> Staff projected a rate base of \$11.518 billion.<sup>67</sup>

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<sup>62</sup> March 21, 2025, Order in Case No. U-21585, p. 9.

<sup>63</sup> See, e.g., December 1, 2023, Order in Case No. U-21297, p. 8; March 1, 2024, Order in Case No. U-21389, p. 6; November 7, 2024, Order in Case No. U-21291, pp. 12-13; and March 21, 2025, Order in Case No. U-21585, pp. 5-9.

<sup>64</sup> See July 10, 2025, Order in Case No. U-21637, p. 38.

<sup>65</sup> Exhibit A-12, Schedule B-1.

<sup>66</sup> Consumers brief, 132.

<sup>67</sup> See Appendix B attached to Staff’s brief.

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 (CWIP)) less the depreciation reserve, which includes accumulated depreciation, amortization, and depletion.

Various categories of capital expenditures relevant to rate base are broken out and discussed below. However, before discussing disputed issues regarding the components of rate base, it is appropriate to note the Commission's standards for decision making. A utility may use projected costs and revenues for a future test year when requesting an increase in rates, see MCL 460.6a(1), but the Commission has made clear that a utility must establish the credibility of its projections.<sup>68</sup> If a utility seeks approval for a projected cost, it should provide sufficient evidence to demonstrate that the specific project and its cost are reasonable and prudent, and it must also show by a preponderance of the evidence that the cost will actually be incurred before the end of the test period.<sup>69</sup> Further, if a utility fails to provide sufficient support for a particular item, then the Commission may choose an alternative method for determining the projection.<sup>70</sup> Additionally, the Commission has consistently rejected the use of contingency amounts in projections, as

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<sup>68</sup> See June 12, 2012, order in Case No. U-16794, p. 13 (Rejecting the argument that the Commission must necessarily accept a utility's projection and stating that a utility must supply the Commission with enough evidence to support a finding that the costs requested are just and reasonable).

<sup>69</sup> January 13, 2017, Order in Case No. U-18014, pp. 8-9 ("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.").

<sup>70</sup> January 11, 2010, Order in Case No. U-15768, pp. 9-10; see also September 8, 2016, Order in Case No. U-17895, p. 4.

well as the use of so-called “placeholders” through which the utility would fill in missing details or costs at some future point in the proceeding.<sup>71</sup>

Additionally, it should be emphasized that an adjustment to the utility’s projection for a particular item in this PFD is not necessarily the equivalent of a permanent disallowance of that expenditure. Rather, most adjustments made to capital expense items reflect a finding that the specific projected cost is currently not supported by sufficient evidence but could be recovered in a future case if adequately supported at that time.

A. Net Utility Plant

1. General Proposed Capital Expenditure Disallowances

*i. Testimony*

As discussed in the Test Year section of this PFD, *supra*, CUB witness Veerapaneni objected to what he called the company’s habit of filing rate cases every year based on projected spending, testifying that each year the company’s projections contain larger and larger capital expenditures.<sup>72</sup> Instead of projections, Mr. Veerapaneni proposed using the average of 2023 and 2024 historical spending adjusted for inflation (using a Productivity Adjusted Total Factor Inflation (PAI) of 3.29%) to determine the test year capital expenditures in the categories of: (1) Asset Relocation; (2) Regulatory Compliance; (3) Capacity/Deliverability; (4) Distribution Plant-Material Condition; (5) Gas Operations-Other; (6) Distribution Plant (aka Gas Distribution); and (7) Gas Compression

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<sup>71</sup> December 17, 2020, Order in Case No. U-20697, pp. 9, 19-20 (Listing several previous Commission orders rejecting contingency costs while denying a request for such costs, and also rejecting cost placeholders or the presentation of costs only later in rebuttal or in response to discovery).

<sup>72</sup> 4 Tr 2393-2397.

and Storage (GCS).<sup>73</sup> He testified that this would reduce the company's capital expenditures by \$84.186 million from \$1.106 billion to \$1.022 billion, and he recommended the Commission disallow \$84.186 million.<sup>74</sup>

In rebuttal, Mr. Griffin, Mr. Joyce, Ms. Pascarello, and Mr. Warriner deemed Mr. Veerapaneni's method to determine test year capital expenditures "unreasonable."<sup>75</sup> Mr. Warriner testified that Mr. Veerapaneni did not review the company's proposed test year projects for reasonableness or for the benefits they would provide to customers.<sup>76</sup> He asserted that Mr. Veerapaneni's approach is imprudent and he recommended that the Commission use the company's projected test year spending to determine the company's revenue requirement.<sup>77</sup>

*ii. Briefing*

In briefing, Consumers reiterates the testimony of its witnesses, maintaining that Mr. Veerapaneni did not review the reasonableness of individual programs and projects and therefore his recommended disallowances should be rejected. Consumers notes that compared to Mr. Veerapaneni's "unexplained" and "unreasonable" methodology for projecting costs, the company's GCS spending projections, for example, were supported with "more than 21 pages of testimony and numerous exhibits describing the needed investment, the engineering analysis required to develop the company's projections, and the benefits of those investments to customers."<sup>78</sup>

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<sup>73</sup> 4 Tr 2396-2397; Exhibit CUB-8.

<sup>74</sup> 4 Tr 2397; Exhibit CUB-10.

<sup>75</sup> 4 Tr 1324, 1541; 3 Tr 467; 2 Tr 120.

<sup>76</sup> 2 Tr 120.

<sup>77</sup> 2 Tr 121.

<sup>78</sup> Consumers brief, 89.



CUB asserts that Mr. Veerapaneni's use of the average of 2023 and 2024 historical spending to determine test year spending is a "corrective" to the company's filing of rate cases each year based on projected spending increases.<sup>79</sup> CUB argues that the company's rebuttal "is misguided" and that "there is no evidence that rates are 'more accurate' when established pre-spending versus post-spending."<sup>80</sup>

*iii. Recommendation*

While this PFD agrees with CUB's concerns about the company's significant projected increases in capital expenditures, CUB's recommended disallowances are based on the general proposition that historical amounts rather than projections should be used as a matter of course because the company requests substantial rate increases each year using projected amounts. CUB's proposal is not well aligned with the company's statutorily granted permission to present projected amounts as discussed in the Test Year section of this PFD, *supra*. But more importantly, the Commission has consistently rejected such broad approaches and has preferred to evaluate spending on a more detailed, program-by-program or project-by-project basis.<sup>81</sup> Since Mr. Veerapaneni failed to provide a detailed cost comparison or any evidence to show that his proposal is more just and reasonable regarding any specific projections offered by Consumers, this PFD declines to adopt his proposed disallowances.

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<sup>79</sup> MSC brief, 11-12.

<sup>80</sup> MSC brief, 12.

<sup>81</sup> See generally Section IV of this PFD, *supra*, which addresses the Test Year.

## 2. Transmission, Distribution, and Compliance Capital Expenditures

### a. Mains, Services, and Meter Stands

#### *i. Testimony*

Mr. Warriner explained that the new business program included costs associated with adding new customers to the company's system; new customers are asked to pay a share of the cost associated with adding the connection known as the cost in aid of construction (CIAC).<sup>82</sup> Mr. Warriner stated that the company projected 6,800 new connections in 2024 and 2025, with that number increasing to 7,000 new connections in 2026; he explained that these projections were revised downward from previous forecasts given a trend of declining new connections.<sup>83</sup>

Mr. Coppola testified that the company's projection of new service connections rebounding to 6,800 in 2025 and 7,000 in 2026 is unrealistic given uncertainty surrounding interest rates and new housing construction as well as the fact that the actual number of new connections in 2024 was only 5,950.<sup>84</sup> He explained that forecasts of housing permits are a less reliable predictor of new connections than actual housing starts.<sup>85</sup> Mr. Coppola opined that new service connections in 2025 and 2026 would probably be similar to the 5,950 number achieved in 2024. Based upon that lowered forecast, he recommended disallowances of \$5.71 million in the 2025 bridge period and \$8.01 million in the projected test year.<sup>86</sup> He also recommended that \$3.06 million should

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<sup>82</sup> 2 Tr 42.

<sup>83</sup> 2 Tr 43, 44.

<sup>84</sup> 4 Tr 1858.

<sup>85</sup> 4 Tr 1859-1860.

<sup>86</sup> 4 Tr 1859.

be removed from the capital expenditures because the company incurred fewer expenses in 2024 than predicted given the lower number of new connections.<sup>87</sup>

Ms. Napoleon testified that the company's assumptions regarding new connections ignores the historical trend of customer connections averaging a decline of about 6% per year.<sup>88</sup> She also opined that the company's assumption that interest and mortgage rate declines would spur new connections is not consistent with historical trends because new connections still decelerated even in the comparatively low interest rate environment of 2014-2020.<sup>89</sup> Ms. Napoleon also contended that housing starts were projected to be negative in the forecast period and that the company did not reflect recent trends on the electrification of home heating.<sup>90</sup> Accordingly, she recommended assuming that the growth in new connections would be zero or even less than zero.<sup>91</sup>

Ms. Napoleon also testified that the company's line extension policies incentivize new gas customers by providing a generous line extension allowance (through the CIAC) and by using outdated assumptions regarding household gas consumption and the length of time a customer will remain connected.<sup>92</sup> She explained that if new customers do not remain on the gas system for as long as the company projects (i.e. 20 years) or do not purchase gas in expected quantities, then other customers are left to cover the costs.<sup>93</sup> Worse, she testified that if a customer disconnects from the gas system sooner than expected—as could be anticipated by customers electrifying cooking and heating

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<sup>87</sup> 4 Tr 1860.

<sup>88</sup> 4 Tr 2301.

<sup>89</sup> 4 Tr 2301.

<sup>90</sup> 4 Tr 2301-2302.

<sup>91</sup> 4 Tr 2304.

<sup>92</sup> 4 Tr 2293.

<sup>93</sup> 4 Tr 2288, 2289.

systems—then the costs of the connection are sunk.<sup>94</sup> Ms. Napoleon testified that it was not reasonable to assume that new gas customers would remain on the gas system for a full 20 years or would use gas in expected quantities given the push for electric heating and cooking systems.<sup>95</sup>

Ms. Napoleon asserted that the Commission addressed this issue in a recent case for peer utility DTE Gas wherein it declined to order a change to the CIAC but expressed concern about the disconnect between CIAC calculation methodology and the energy transition toward electrification. However, she stated that the Commission directed DTE Gas to provide, in its next rate case, a justification of its CIAC and customer attachment program (CAP) methodology, whether it is appropriate to consider a decline in gas usage, and how it intends to avoid subsidization by existing customers.<sup>96</sup>

Ms. Napoleon recommended directing Consumers to reduce the allowance for new line extension costs to just 50% of total costs starting in the test year to better protect rate payers from the risk that new connections might not produce the revenue forecasted by the company.<sup>97</sup> She also testified that this recommendation would reduce New Business capital expenditures from \$66.64 million down to \$37.02 million in the test year.<sup>98</sup>

In rebuttal to Mr. Coppola, Mr. Warriner stated that he reviewed economic indicators such as the April 2025 NAHB/Wells Fargo Housing Market Index and consulted with the company's new business experts; he concluded that 2025 service connections were tracking closely with 2024 levels and showed no significant growth to support the

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<sup>94</sup> 4 Tr 2288, 2291-2292.

<sup>95</sup> 4 Tr 2291-2292.

<sup>96</sup> 4 Tr 2294, citing November 7, 2024, Order in Case No. U-21291.

<sup>97</sup> 4 Tr 2295.

<sup>98</sup> 4 Tr 2295.

original projections.<sup>99</sup> He stated that he recommended that the Commission accept Mr. Coppola's adjustments to the New Business Mains, Services, and Meter Stands (distribution) program in an amount totaling \$16.799 million.<sup>100</sup>

In response to Ms. Napoleon, Mr. Warriner testified that her claim of a contradiction between the company's service installation forecast and historical trends was inaccurate because she failed to account for a surge in propane conversion installations in 2014; he asserted that the company's forecast reasonably reflected modest long-term growth.<sup>101</sup> Mr. Warriner disagreed with Ms. Napoleon's interpretation of the American Community Survey data stating that it did not support her conclusions about trends in electric and gas space heating from 2014 to 2023. He asserted that much of the increase in electrically heated homes likely came from formerly vacant units becoming occupied, while most newly added housing units since 2014 were probably heated by gas.<sup>102</sup> Mr. Warriner reviewed additional data from MPSC Form P-522 reports and found that Michigan's residential gas utility customer growth from 2014 to 2023 exceeded the growth in both total and occupied housing units reported by the American Community Survey. He concluded that Ms. Napoleon's analysis was incomplete and that the data more logically supported the continued preference for natural gas as the primary residential heating fuel in Michigan.<sup>103</sup>

Mr. Warriner testified that the American Community Survey's data on the increasing median age of Michigan housing supported the fairness of using 20-year net

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<sup>99</sup> 2 Tr 125.

<sup>100</sup> 2 Tr 111, 126.

<sup>101</sup> 2 Tr 112-113.

<sup>102</sup> 2 Tr 113-115.

<sup>103</sup> 2 Tr 115-116.

present value projections in the company's Customer Attachment Program because older homes indicate a long-term need for infrastructure. He also pointed out that Ms. Napoleon's own testimony acknowledged the long useful life of gas appliances (i.e. 20+ years for a gas furnace) which aligned with the company's assumption that new gas customers would remain on the system for at least 20 years.<sup>104</sup>

Mr. Warriner disagreed with Ms. Napoleon's recommendation to set the growth rate in new connections to zero; he contended that it was vague and unnecessary given the company's internal forecasting processes, the company's adoption of the Attorney General's no-growth projections for 2025 and 2026, and ongoing review of long-term forecasts.<sup>105</sup> Mr. Warriner asserted that Ms. Napoleon proposed reduction of the company's New Business capital expenditures by \$17.861 million beyond the Attorney General's adjustment (which was already accepted by the company), based on assumptions including a 50% customer contribution and no growth in service installations. He argued that her proposal was unreasonable due to unsupported claims about customer preferences and subsidies, and he recommended the Commission reject her adjustments in favor of the company's revised capital expenditure projections.

In his rebuttal for the company, Mr. Bonner disagreed with Ms. Napoleon's claim that longer footage CIAC allowances increase ratepayer costs; he explained that the company significantly reduced allowances since 2003, which has increased upfront connection costs for new customers while reducing long-term system costs recovered from ratepayers.<sup>106</sup> He provided further testimony explaining the company's \$200

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<sup>104</sup> 2 Tr 116, 117.

<sup>105</sup> 2 Tr 117-118.

<sup>106</sup> 2 Tr 199-201.

connection fee, excess service charges, and the revenue deficiency charge for non-residential customers.<sup>107</sup> He testified that the company met the terms of the Case No. U-21148 settlement by developing and implementing a new, more transparent customer contribution model on March 1, 2023, after engaging with stakeholders during its development; he stated that while the model could not be accessed externally due to security limitations, it was capable of being shared through in-office demonstrations that showed inputs, outputs, and assumptions to stakeholders.<sup>108</sup> Mr. Bonner testified that its customer contribution model did not use outdated assumptions for household gas consumption because the model relied on a rolling three-year historical average updated annually for all residential units. He also rejected the claim that new customer connections were subsidized by existing customers because connection costs were offset by 20 years of projected revenue from new customers. He also suggested that any policy review, if the Commission believed one was necessary, should be handled through an industry-wide workgroup for consistency.<sup>109</sup>

*ii. Briefing*

In briefing, the company repeats much of the testimony of Mr. Warriner and reiterates its acceptance of the Attorney General's recommended adjustment to the Mains, Services, and Meter Stands program.<sup>110</sup> The company also repeated major points from the rebuttal testimony of Mr. Bonner and Mr. Warriner regarding line extension policy.<sup>111</sup> Consumers contends that the number of gas customers is growing, not

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<sup>107</sup> 2 Tr 202-204.

<sup>108</sup> 2 Tr 206-207.

<sup>109</sup> 2 Tr 208, 209.

<sup>110</sup> Consumers brief, 10-12.

<sup>111</sup> Consumers brief, 13-16.

declining, and that MES/SC's contention that electrification is or will cause customers to abandon gas service has not been supported on the record.<sup>112</sup> The company rejects MEC/SC's suggestion that it did not abide by the settlement agreement in Case No. U-21148 calling for the development of a line extension model that was capable of being shared with interested parties.<sup>113</sup> The company hails its new model's features and explains that, "[t]he model is shareable, but with certain limitations. The Company can bring external parties into its offices to demonstrate how the model works. However, since it is built on the internal network, it cannot provide external access due to security concerns as the model holds confidential customer data."<sup>114</sup> The company argues that the new model can share information that the old model did not have readily available and therefore complied with the settlement agreement.<sup>115</sup>

In its reply briefing, the company reiterates that it accepts the Attorney General's recommended adjustments while rejecting the recommendations proposed by MEC/SC and repeats points from the direct and rebuttal testimony of the relevant company witnesses.<sup>116</sup> The company argues that MEC/SC's claim of a shift away from gas heating lacks evidentiary support and misrepresents the data, noting that gas customer counts have continued to grow across major Michigan utilities. While acknowledging a decline in new service connections, Consumers attributes it to factors like the end of targeted propane conversion programs and post-COVID economic challenges.<sup>117</sup>

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<sup>112</sup> Consumers brief, 16-18.

<sup>113</sup> See July 7, 2022, Order Approving Settlement Agreement in Case No. U-21148, Exhibit A, p. 4. ¶ 13.

<sup>114</sup> Consumers brief, 19.

<sup>115</sup> Consumers brief, 20.

<sup>116</sup> See Consumers reply, 11-15.

<sup>117</sup> Consumers reply, 12.



The Attorney General's brief reiterates the testimony of Mr. Coppola and continues to recommend adopting his disallowance.<sup>118</sup>

MEC/SC provides extensive briefing on this issue and presents eight core reasons that the Commission should disallow a portion of the projected new business expenses and require the company to reevaluate its CIAC allowance policy. The eight core arguments are that: (1) the company's current policies shift risk from new customers to existing customers; (2) the assumption that new customers will stay on the gas system for 20 years is unsupported; (3) the assumption that new customer gas usage will remain at current levels for 20 years is unsupported; (4) Consumers does not track whether revenue projections for new customers used to set charges are accurate; (5) the model Consumers uses to set charges is not shareable with other parties as required by the settlement agreement set forth in Case No. U-21148; (6) the model imprudently incentivizes the connection of new gas customers; (7) The Commission recognized similar problems in the most recent DTE Gas rate case; and (8) other jurisdictions have reached similar conclusions about connection policies.<sup>119</sup>

MEC/SC argues that the company's interpretation of the settlement agreement in Case U-21148 regarding a shareable line extension model is inconsistent with the common meaning of the word "share" and ignores the context of the settlement agreement because the company's new model is no more shareable than its previous model.<sup>120</sup>

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<sup>118</sup> AG brief, 20-24.

<sup>119</sup> See generally MSC brief 19-29.

<sup>120</sup> MSC brief, 25-26.

MEC/SC recommends reducing new line extension costs to 50% of total costs in the projected test year and making a corresponding disallowance, but since the company accepted the Attorney General's disallowance, MEC/SC revised its disallowance to 50% of Mr. Warriner's revised projection, or \$26.832 million, in addition to the \$8 million conceded by Mr. Warriner.<sup>121</sup> MEC/SC further recommends issuing the same directive to reevaluate line attachment policies to Consumers that was issued to DTE Gas in its last rate case (Case No. U-21291) and to direct the creation of a model that can truly be shared with parties in the next rate case.

MEC/SC's reply brief also provides extensive argumentation. MEC/SC asserts that the company's justification for increasing line footage allowances in 2024 is unconvincing because it lacks transparency, contradicts a long-term trend of reductions, and unfairly shifts cost savings to new customers at the expense of existing ones.<sup>122</sup> MEC/SC contends that the company's assumption that new gas customers will remain on the system and maintain steady usage for 20 years is flawed because it ignores electrification trends, declining gas usage, and its own projections of reduced reliance on gas.<sup>123</sup> MEC/SC further argues that the company's projection of rising or steady new gas connections is undermined by a long-term downward trend in actual connection data, questionable removal of historical propane conversions, misinterpretation of service alteration requests, and reliance on housing data not specific to Michigan.<sup>124</sup> MEC/SC asserts that the company's claim that most new homes use natural gas for heating is

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<sup>121</sup> MSC brief, 30.

<sup>122</sup> MSC reply, 1-2.

<sup>123</sup> MSC reply, 3.

<sup>124</sup> MSC reply, 4-6.

unsupported by clear evidence, overlooks key data and alternative explanations, and does not refute the broader trend that households are increasingly choosing electric heating.<sup>125</sup> Finally, MEC/SC maintains that the company's claim that its line extension model complies with the Case No. U-21148 settlement agreement is incorrect because the model remains inaccessible to interested parties (unless they visit the company's office) and cannot be meaningfully reviewed or tested, contrary to the agreement's requirement that the model be both transparent and capable of being shared.

*iii. Recommendation*

The company accepted Mr. Coppola's recommendation to align new service growth with the figures achieved in 2024 and to disallow a corresponding \$16.79 million (\$5.714 million in the 2025 bridge period, \$8.01 million in the projected test year, and \$3.067 million from capital expenditures in 2024). This PFD agrees and recommends accepting the company's concession disallowing these amounts.

Regarding MEC/SC's arguments, this PFD recommends rejecting the suggestion to set customer growth rates to zero or less than zero. While the growth of natural gas customers could decelerate, potentially aided by increased electrification of home heating, there is insufficient data on the record to support this recommendation at this time.

Further, this PFD rejects MEC/SC's call to reduce the allowance for new line extension costs to just 50% of total costs starting in the test year. This recommendation is a significant alteration and there is insufficient evidence in the record to support it.

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<sup>125</sup> MSC reply, 7-8.  
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However, MEC/SC has valid concerns about the effect of electrification on natural gas use and its associated effect on CIAC policy and the potential for unfair subsidization or stranded costs if a significant number of customers switch heating sources in the coming years. The Commission recently addressed this issue in peer utility DTE Gas's rate case. There, the Commission declined to order a change to DTE's CIAC policy but expressed concern regarding the CIAC calculation methodology as it relates to electrification or the potential for declining natural gas use in future years.<sup>126</sup> In that case, the Commission directed DTE, in its next rate case, to "provide a thorough justification for its CIAC and CAP methodology, including whether it is appropriate to revise its assumptions to include declining gas demand, customer adoption rates for the CAPs based on historical experience when calculating new attachment surcharges, and how the company intends to avoid subsidization by existing customers."<sup>127</sup> This PFD recommends that the Commission issue a similar directive to Consumers to justify, in its next rate case, its CIAC methodology including whether it is appropriate to revise its assumptions to include declining natural gas demand and how to avoid unfair subsidization in that scenario.

Finally, this PFD largely agrees with MEC/SC's reasoning that the company's line extension model is not truly "capable of being shared" with interested parties in the sense that the parties likely contemplated in the settlement agreement in Case No. U-21148.<sup>128</sup> This PFD agrees with MEC/SC that the context is critical and that it is telling that the company's new model is no more capable of being shared than the company's old model,

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<sup>126</sup> November 7, 2024, Order in Case No. U-21291, p. 246.

<sup>127</sup> November 7, 2024, Order in Case No. U-21291, p. 247.

<sup>128</sup> See generally MSC brief, 25-26; See also July 7, 2022, Order Approving Settlement Agreement in Case No. U-21148, Exhibit A, p. 4. ¶ 13.

and is “shareable” only to the extent that the company can host in-person meetings at a company office to demonstrate the model. This PFD is unpersuaded by the company’s argument that it complied with the agreement because the company can share “information from the model that it previously could not.”<sup>129</sup> Sharing information from a model, whether inputs, outputs, or other data, is simply not the same as sharing the model itself. Accordingly, this PFD recommends directing the company to comply with the settlement agreement by developing a way to share the line extension model without requiring interested parties to attend an in-person demonstration. This PFD acknowledges the company’s security concerns but nevertheless believes that the company can likely develop a way to securely share the model. Additionally, this PFD notes that parties entering into settlement agreements with the company would be well advised to draft such agreements with a high degree of specificity to prevent disputes such as this one.

b. Large New Business Projects

*i. Testimony*

Mr. Warriner testified that the large new business sub-program pertains to new customer connections where the estimated infrastructure costs exceed \$500,000 or where special tracking or management is required.<sup>130</sup> He provided examples and details of projects that fall within this subprogram.<sup>131</sup>

Mr. Coppola testified that the company identified \$4.77 million for large projects that could arise during the projected test year but that are currently unknown and

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<sup>129</sup> Consumers brief, 19.

<sup>130</sup> 2 Tr 52.

<sup>131</sup> 2 Tr 52-54.

undetermined.<sup>132</sup> He recommended removing this \$4.77 million expense because it is an impermissible placeholder for unknown and uncertain projects. Mr. Coppola testified that of the seven specific projects the company could identify, two were still uncertain because they have not been finalized, and no contract has been signed. He specified that these projects were the Delta Energy Park and a project related to a Flint industrial site. He recommended disallowing costs for these two preliminary projects: \$2.05 million in the 2025 bridge period and \$124,000 in the projected test year.<sup>133</sup> Mr. Coppola also recommended removing \$1.948 million because the company forecasted capital expenditures of \$9.7 million in 2024 when it actually incurred only \$7.761 million such that the difference should be disallowed.<sup>134</sup>

In rebuttal, Mr. Warriner confirmed that the Flint industrial project was on hold, but he specified that the Lansing Delta Energy Park project had a signed contract and was expected to be completed by the end of 2025.<sup>135</sup> He recommended that the Commission accept Mr. Coppola's proposed adjustments, except for the one related to the Delta Energy park.<sup>136</sup>

## *ii. Briefing*

In briefing the company accepts the Attorney General's recommendations regarding Large New Business projects, with the exception related to the Delta Energy Park project. "This would modify the Company's requested expenditures to \$7.761 million

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<sup>132</sup> 4 Tr 1861-1862.

<sup>133</sup> 4 Tr 1862.

<sup>134</sup> 4 Tr 1863.

<sup>135</sup> 2 Tr 125-126.

<sup>136</sup> 2 Tr 111, 126.

in 2024, \$2.517 million for the 10 months ending October 31, 2025; and \$0.143 million for the 12 months ending October 31, 2026.”<sup>137</sup>

The Attorney General’s brief repeated Mr. Coppola’s testimony and continues to recommend the same disallowances described in his testimony.<sup>138</sup>

*iii. Recommendation*

The company accepted most of the Attorney General’s recommended disallowances, although it rejected a disallowance related to the Delta Energy Park because it now has a signed contract and is expected to be completed by the end of 2025. This PFD agrees with the company’s position and recommends accepting the company’s concession to disallow \$1.948 million in 2024, \$0.685 million in the 2025 bridge period, and \$4.820 million in the projected test year.<sup>139</sup>

c. Transmission & Distribution Asset Relocation

*i. Testimony*

Mr. Warriner provided information related to projects for the distribution-related asset relocation program for both civic improvements (relocation caused by municipal projects) and reimbursable (customer-requested replacements) expenses.<sup>140</sup> The company also provided forecasted capital expenditures for transmission-related asset relocation in Exhibit A-59 showing \$17.4 million in 2024, \$19.1 million in the 10 months ending October 2025, and \$24.7 million in the projected test year.<sup>141</sup>

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<sup>137</sup> Consumers reply, 15.

<sup>138</sup> AG brief, 24-26.

<sup>139</sup> See 2 Tr 126.

<sup>140</sup> 2 Tr 55-68.

<sup>141</sup> See Exhibit A-59.

Mr. Coppola testified that the company's costs for asset relocation related to civic improvements was overstated. He explained that expenses should be related to the level of activity as reflected in the number of planned projects, feet of main replaced, and number of services to be relocated. He testified that in 2025, the company planned more projects than its previous 3-year average, but also planned to replace 28% less feet of main and 5% fewer services.<sup>142</sup> Similarly, for 2026, the company also planned more projects than its 3-year average but planned on replacing 18% less mains and 3% less services.<sup>143</sup> Given this reduction in projected work, and after adjusting for inflation, Mr. Coppola recommended disallowing \$9.408 million in the 2025 bridge period and \$9.913 million in the projected test year.<sup>144</sup>

Mr. Coppola also provided a similar analysis for asset relocation reimbursable projects. He utilized the three-year average from 2022-2024, normalized results to account for unusually large projects, and adjusted for inflation of 2.4%.<sup>145</sup> Based upon these calculations, he recommended disallowances of \$203,000 in 2025 and \$1.91 million in 2026 for asset relocation reimbursable projects.<sup>146</sup>

Regarding transmission-related asset relocation, Mr. Coppola stated that in response to discovery, the company reported that three projects<sup>147</sup> are in the preliminary design phase such that no design has been fully completed and the projects are

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<sup>142</sup> 4 Tr 1865.

<sup>143</sup> 4 Tr 1865.

<sup>144</sup> 4 Tr 1867.

<sup>145</sup> 4 Tr 1868.

<sup>146</sup> 4 Tr 1868.

<sup>147</sup> These projects are GL-00990 KZO 1200A Wetland, GL-00991 KZO 1200A Townline Rd., and GL-02086 KZO 1200A Needham Rd.



premature to include in rate base. He recommended disallowing \$15.58 million associated with these projects.<sup>148</sup>

For ABATE, Mr. Fitzhenry objected to civic improvement asset relocation expense in the historical test year. He asserted that the three largest asset relocation projects in 2023 (Mound Road, Atlas Iron Belle Trail, and 9 Mile Road) had a combined upward cost variance of \$15.8 million or 132%.<sup>149</sup> He opined that the company's explanations for the cost variances (change in scope, initial estimate too low, and additional concrete work) do not justify the costs of such projects more than doubling.<sup>150</sup> He recommended disallowing the \$15.8 million cost variance because the company did not demonstrate that the excess costs incurred were not the result of its own poor management.<sup>151</sup>

In rebuttal, Mr. Warriner stated that he evaluated Mr. Coppola's adjusted projections for distribution-related asset relocation, consulted with the company's subject-matter experts, and confirmed that they are comparable to average expenditures from 2020 through 2024. Accordingly, he recommended that the Commission accept Mr. Coppola's projections for the purposes of this case (i.e. a reduction of \$19.321 million for civic improvements and \$2.113 million for reimbursables).<sup>152</sup>

Mr. Warriner responded to Mr. Fitzhenry's claims regarding asset improvement civic relocation expenditures in 2023. Mr. Warriner testified that Mr. Fitzhenry's claim about the company's limited response to cost variance explanation requests was inaccurate because the company provided detailed budget data, variance explanations,

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<sup>148</sup> 4 Tr 1903-1904.

<sup>149</sup> 4 Tr 2140.

<sup>150</sup> 4 Tr 2140.

<sup>151</sup> 4 Tr 2141.

<sup>152</sup> 2 Tr 128.

and project-specific information through the 2023 EIRP Annual Performance Report.<sup>153</sup> Mr. Warriner testified that he disagreed with Mr. Fitzhenry's claim that mismanagement caused cost variances; he explained that civic improvement projects are complex and difficult to estimate precisely, and he noted that the company's 2023 expenditures were consistent with historical averages indicating prudent project management.<sup>154</sup> Mr. Warriner recommended that the Commission reject Mr. Fitzhenry's proposal to reduce the 2023 civic improvement relocation capital expenditures because the disclosed variances did not justify the disallowance.

In rebuttal, Mr. Griffin disagreed with Mr. Coppola's assessment that the selected transmission asset relocation projects were too uncertain to include in rate base; he explained that the projects were progressing as expected and followed a standard engineering and planning cadence. He emphasized that pre-construction activities such as design, environmental reviews, and material ordering were already underway, and that the company's projections should be approved.<sup>155</sup> Further, he emphasized that the timing and cost of these projects was shown in Exhibit AG-17.

*ii. Briefing*

The company's brief restates the relevant testimony regarding distribution and transmission asset relocation.<sup>156</sup> The company opposes the Attorney General's transmission-related asset relocation disallowance because the challenged projects are already in the engineering stage and are progressing with activities that indicate they will

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<sup>153</sup> 2 Tr 122.

<sup>154</sup> 2 Tr 122-123.

<sup>155</sup> 4 Tr 1307.

<sup>156</sup> See Consumers brief, 23-30.

be constructed in 2026.<sup>157</sup> The company repeats that it accepts the Attorney General's projections for the distribution-related asset relocation categories.<sup>158</sup> The company reject's ABATE's proposed disallowance for 2023 projects that went over budget arguing that budget estimates are not intended to be precise, there can be significant variances depending on the project, and the company's 2023 civic improvement spend was only slightly higher than the 2019-2023 annual average, which indicates reasonable management practices.<sup>159</sup> The company's reply brief repeats these positions.<sup>160</sup>

The Attorney General's brief renews her call to disallow costs associated with three transmission-related asset relocation projects that are in the early stages of development.<sup>161</sup> The brief also repeats the pertinent aspects of Mr. Coppola's testimony requesting disallowances related to the distribution-related asset relocation programs based upon three-year averages adjusted for inflation.<sup>162</sup> The Attorney General's reply brief provided no further argument on this topic.

ABATE reiterates that the 2023 historical test year expenditures were 15.1% over budget, and ABATE reiterates that 3 major projects (Mound Road, Atlas Iron Belle Trail, and 9 Mile Road/Eastpointe) collectively went over budget by \$15.8 million or a 132% increase in cost.<sup>163</sup> ABATE argues that the company's explanations related to changes in scope and additional concrete restoration costs are inadequate for such cost overruns and that the company failed to prove that the overruns were not the result of poor

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<sup>157</sup> Consumers brief, 24.

<sup>158</sup> Consumers brief, 28.

<sup>159</sup> Consumers brief, 29-30.

<sup>160</sup> Consumers reply, 15-16.

<sup>161</sup> AG brief, 27.

<sup>162</sup> AG brief, 28-32.

<sup>163</sup> ABATE brief, 31.

management.<sup>164</sup> In its reply, ABATE asserts that the company erroneously claims that ABATE's position is that the challenged cost overruns were the result of poor project management, which could be the case, but ABATE clarifies that its position is that the cost variances for the challenged projects were not adequately justified or explained such that the company failed to meet its burden of proof for cost recovery.<sup>165</sup>

*iii. Recommendation*

The company accepted the Attorney General's disallowances in the distribution-related asset relocation category in an amount totaling \$19.321 million (\$9.408 million in the 2025 bridge period and \$9.913 million in projected test year) for civic improvements and \$2.113 million (\$203,000 in the 2025 bridge period and \$1.919 million in the projected test year) for reimbursables. This PFD agrees and recommends accepting the company's concession to disallow those amounts.

Regarding ABATE's proposed disallowances related to 2023 civic improvement expenditures and cost overruns, this PFD agrees with ABATE that some—but not all—of the cost overruns could be caused by the company's own poor management of the projects and insufficient estimates of expenses. However, the company explained that the Mound Road project cost overrun was caused, at least in part, by changes in scope instituted by the county responsible for road construction.<sup>166</sup> It would not be reasonable to hold the company responsible for cost overruns caused by changes in scope prompted by a third party, so this PFD rejects the \$5.319 million portion of the disallowance that is related to the Mound Road project.

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<sup>164</sup> ABATE brief, 31.

<sup>165</sup> ABATE reply, 9.

<sup>166</sup> Exhibit AB-5, p. 6.

However, the Atlas Iron Belle Trail and the 9 Mile Road projects have cost overrun explanations that are not justified or otherwise not satisfactory (initial estimate too low, and additional concrete restoration work, respectively), and the cost variances for those projects are very substantial (97.8% and 165.6% over budget, respectively) such that this PFD recommends adopting ABATE's disallowance with respect to the cost overruns on those two projects, which would total \$10.533 million in the calendar year of 2023.<sup>167</sup>

This PFD declines to adopt the Attorney General's recommended disallowance for transmission-related asset relocation costs. The three disputed projects already have a preliminary design in progress in addition to having work scheduled to begin during the projected test year.<sup>168</sup> Thus, while these projects may not be fully developed, they already have design work in progress such that they appear to be sufficiently developed to warrant inclusion in rate base.

d. Pipeline Integrity TOD (Transmission Operated by Distribution)

i. *Testimony*

Mr. Griffin provided testimony regarding the pipeline integrity program and its capital expenditures, including information about new requirements for internal corrosion direct assessments and ultrasonic thickness sensors to help assess corrosion rates.<sup>169</sup>

Mr. Coppola testified that the company included two new categories of costs, casings and risk mitigation, both of which had rapidly increasing costs.<sup>170</sup> He opined that that the projected expense for casing inspection "appear to be ballpark amounts with no

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<sup>167</sup> See Exhibit AB-5, p. 6.

<sup>168</sup> Exhibit AG-17, p. 3.

<sup>169</sup> 4 Tr 1269; See also Exhibit A-60.

<sup>170</sup> 4 Tr 1899.

specific quantification of the forecasted cost” and that the company confirmed in discovery that casing projects are still in the planning and scheduling phase.<sup>171</sup> He concluded that casings projects for 2026 are premature to include in rate base and that the \$2.0 million expense should be removed from the projected test year.<sup>172</sup>

Mr. Coppola also noted that “risk mitigation” work mileage doubled from 2024 to 2025, and then was projected to triple from 2025 to 2026, which he asserted was excessive and has not been justified.<sup>173</sup> Further, he asserted that risk mitigation work was also in the planning and scheduling phase, making costs uncertain and premature to include such that the Commission should permit only costs associated with doubling the work from 2025 to 2026 and disallow the excess expense of \$2.95 million.<sup>174</sup>

In rebuttal, Mr. Griffin disagreed with Mr. Coppola’s assessment that no details were provided to support the forecasted capital expenditures for the TOD program; he stated that the company included four detailed workpapers with its initial filing.<sup>175</sup> He also rejected the claim that the company had limited experience with casing assessments explaining that it was their third such assessment since 2004 and that Mr. Coppola had acknowledged the company never stated that it had limited experience.<sup>176</sup> Mr. Griffin disagreed with Mr. Coppola’s recommendation to eliminate the \$2.0 million for casing assessments in 2025 and 2026 because that amount was based on historical needs and planning; he further stated that the projects were on track.<sup>177</sup>

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<sup>171</sup> 4 Tr 1900.

<sup>172</sup> 4 Tr 1900.

<sup>173</sup> 4 Tr 1900.

<sup>174</sup> 4 Tr 1901.

<sup>175</sup> 4 Tr 1301; see also Exhibit A-135 (containing the referenced workpapers).

<sup>176</sup> 4 Tr 1301; see also Exhibit A-136.

<sup>177</sup> 4 Tr 1302.

Mr. Griffin disagreed with Mr. Coppola's recommendation to reduce the test year projection by \$2.953 million for risk mitigation because the increased costs reflected the company's efforts to expand the risk mitigation program and align non-HCA (high consequence area) assessments with HCA assessments. He stated that the stepped increases in 2024 and 2025 were necessary to secure resources, and that completing these assessments together would enhance pipeline safety and reduce the risk of external corrosion.<sup>178</sup>

*ii. Briefing*

The company's briefing repeats the general testimony regarding the nature of the pipeline integrity TOD program and points from Mr. Griffin's rebuttal testimony.<sup>179</sup>

Similarly, the Attorney General's briefing closely tracks Mr. Coppola's testimony arguing for disallowances related to casings expenditures in 2026 and scaling back risk mitigation expenses.<sup>180</sup>

*iii. Recommendation*

This PFD recommends adopting the Attorney General's proposed \$2.0 million disallowance related to two casings projects in the projected test year. The company acknowledges that these are only in the planning and scheduling phase and that the \$2.0 million figure is an estimate based upon each project costing roughly \$1.0 million.<sup>181</sup> This PFD suggests that such projects are premature for approval because they are too uncertain in their cost and their timeframe for completion.

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<sup>178</sup> 4 Tr 1303.

<sup>179</sup> Consumers brief, 31-33; Consumers reply, 17.

<sup>180</sup> AG brief, 57-59; AG reply, 9-11.

<sup>181</sup> See Exhibit AG-15, p. 3.

Regarding risk mitigation expenses, this PFD agrees with the Attorney General that tripling the number of miles remediated from 2025 to 2026, at a significant cost increase, appears excessive. Further, the risk mitigation work is also in the “planning and scheduling”<sup>182</sup> phase of its development making its cost and completion timeframe uncertain. Thus, this PFD similarly recommends adopting the Attorney General’s proposed disallowance of \$2.953 million for risk mitigation projects.

e. Transmission & Distribution MAOP

i. *Testimony*

Mr. Warriner stated that maximum allowable operating pressure (MAOP) distribution programs include expenditures for projects where reconfirmation of the MAOP is required because of regulations promulgated by the Pipeline and Hazardous Materials Safety Administration (PHMSA). The regulation calls for the company to have a plan to reconfirm MAOP and remediate line segments for which the company’s testing records do not meet standards for traceable, verifiable, and complete (TVC) documentation.<sup>183</sup> He explained that the company must use one of six possible remediation methods, but the fourth method, pipeline replacement, was preferable because other methods like pressure testing or pressure reduction were generally not feasible.<sup>184</sup> However, for one specific project, Line 1080, the company proposed to operate the line at a lower pressure and to construct a second, 6.7 mile parallel pipeline to ensure adequate supply for

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<sup>182</sup> See Exhibit AG-15, p. 3.

<sup>183</sup> 2 Tr 78.

<sup>184</sup> 2 Tr 79.



customers.<sup>185</sup> Mr. Warriner detailed 14 distribution projects that will incur expenditures from 2023-2026.<sup>186</sup>

Additionally, Mr. Griffin separately described MAOP-related transmission projects and expenses.<sup>187</sup>

Ms. Rayl requested that the company be allowed to capitalize, in accordance with FERC guidance, first-time and one-time MAOP retesting costs.<sup>188</sup> Mr. Griffin reiterated the request for capitalization of hydrotesting pipelines, but he specified that the company has no such projects in this case, although he anticipated that such projects could arise in the future.<sup>189</sup>

Ms. Creisher testified that Staff is supportive of company's request to capitalize MAOP retesting costs, but she recommended the company should be subject to reporting requirements since no projects related to that request are included in this proceeding. She stated that the Commission should direct the company to provide Staff with notification and the opportunity to review retesting that is planned to be capitalized prior to testing as well as provide an annual report of completed testing projects.<sup>190</sup>

Mr. Coppola testified that the reason for the need to replace pipelines under MAOP regulations "emanates from the fact that the Company did not maintain the necessary records to perform the required verification."<sup>191</sup> He opined that customers should not be required to pay for costly pipeline replacements due to the company's failure to keep

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<sup>185</sup> 2 Tr 80-82.

<sup>186</sup> 2 Tr 78- 90.

<sup>187</sup> 4 Tr 1271; See also Exhibit A-60.

<sup>188</sup> 4 Tr 1773.

<sup>189</sup> 4 Tr 1274-1275.

<sup>190</sup> 4 Tr 2740.

<sup>191</sup> 4 Tr 1871.

adequate records such that the resulting costs should be borne entirely by the company. However, he stated that given the age of the pipelines being replaced, it would be reasonable to allow the company to recover 50% of the cost of the replacement and split the burden 50/50 between the company and customers.<sup>192</sup> Regarding Line 1080, he opined that the reason a second parallel line is required is because the company lacked records necessary to verify the MAOP. Accordingly, he opined that the cost should be equally split as well because the need for a parallel line would not exist but for the company's inadequate recordkeeping.<sup>193</sup> He recommended disallowing 50% of capital expenditures related to MAOP distribution projects in 2023, 2024, the bridge period, and the projected test year (a disallowance of approximately \$93 million).<sup>194</sup>

Mr. Coppola also made three recommendations regarding MAOP-related transmission projects: (1) Disallow \$3,491 for project GL-03042 because the company indicated it is not required; (2) disallow \$2.564 million for unspecified MAOP transmission projects that are improper placeholders; and (3) disallow 50% of the remaining expenditures (approximately \$3.99 million from 2023 through the projected test year).<sup>195</sup> Mr. Coppola's MAOP-related O&M disallowances are addressed separately *infra* in the adjusted net operating income section of this PFD.

Mr. Coppola noted that in DTE Gas Company's 2024 rate case the Commission approved the Attorney General's proposal to disallow 50% of O&M expense pertaining to MAOP records review, but in DTE's 2021 rate case, the Commission declined to disallow

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<sup>192</sup> 4 Tr 1871.

<sup>193</sup> 4 Tr 1872.

<sup>194</sup> 4 Tr 1873.

<sup>195</sup> 4 Tr 1902-1903.

50% of capital expenditures for MAOP projects citing safety concerns.<sup>196</sup> Mr. Coppola argued that if it was appropriate to disallow 50% of O&M expense because of poor record keeping, then it should also be appropriate to disallow 50% of capital expenditures for the same reason.<sup>197</sup> He contended that a second reason to disallow capital expenditures was because the company rejected options other than pipeline replacement that are permitted under the applicable regulation, but it was unclear how thorough the company's review process was to reach that conclusion.<sup>198</sup>

In rebuttal, Mr. Warriner generally described the updated PHMSA federal pipeline safety regulations that required TVC records of pressure testing and that required reconfirmation of MAOP for certain pipelines, including some that were previously exempted.<sup>199</sup> He asserted that the new TVC requirements revise the minimum standard for MAOP records.<sup>200</sup> He disagreed with Mr. Coppola's contention that the new PHMSA rules simply require pipeline operators to do now what they should have been doing previously. Mr. Warriner explained that pipelines installed before 1970 had been operating under "grandfathered" MAOP provisions based on 1965-1970 operations and the new 2019 PHMSA rules introduced a new requirement for TVC MAOP records for pipelines operating above 30% specified minimum yield strength (SMYS).<sup>201</sup>

Mr. Warriner disagreed with Mr. Coppola's claims explaining that the lack of TVC records was not due to the company's negligence but rather because the TVC standard

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<sup>196</sup> 4 Tr 1873-1874 (citing November 7, 2024, Order in Case No. U-21291, p. 148; see also Case U-20940 (DTE Gas 2021 Rate Case)).

<sup>197</sup> 4 Tr 1875.

<sup>198</sup> 4 Tr 1876.

<sup>199</sup> 2 Tr 129-130.

<sup>200</sup> 2 Tr 133.

<sup>201</sup> 2 Tr 133.

was only established in 2019. He stated that the company had to review its records and reconfirm MAOP for certain pipelines due to the new PHMSA rules, and the company chose pipeline replacement as the most practical compliance approach that would maintain service while ensuring compliance.<sup>202</sup> He explained that other compliance methods were infeasible, and that pressure testing was not a desirable compliance approach because it could result in substantial costs, disruption of service, substantial methane emissions from pipe evacuation, and can occasionally be destructive.<sup>203</sup> Mr. Warriner rejected the proposed 50% disallowance for MAOP projects because “Mr. Coppola’s recommendations are based on assumptions regarding the Company’s historical pipeline records and PHMSA’s 2019 rule changes that are factually inaccurate.”<sup>204</sup>

Mr. Warriner disagreed with Mr. Coppola’s claim that the Line 1080 project was due to a lack of TVC records; he asserted that the line was built before 1970, operates below 30% SMYS, and is therefore not subject to the new TVC requirements.<sup>205</sup> He stated that the project was actually necessary because the line had been operating above its documented MAOP of 325 PSI, and reducing the pressure to comply with regulations could adversely impact gas service to customers requiring the company to enhance gas volume capacity to prevent outages.<sup>206</sup>

In his rebuttal, Mr. Griffin disputed Mr. Coppola’s transmission-related MAOP disallowances. Mr. Griffin disagreed with Mr. Coppola’s proposed \$3,491,000

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<sup>202</sup> 2 Tr 132.

<sup>203</sup> 2 Tr 135, 137; see also Exhibit AG-6 (cited by Mr. Warriner).

<sup>204</sup> 2 Tr 135-136.

<sup>205</sup> 2 Tr 134.

<sup>206</sup> 2 Tr 134.

disallowance for project GL-03042; he clarified that while the company agreed to remove the project costs, the correct reduction was \$3,491 in whole dollars (not thousands) as shown in Exhibit AG-16.<sup>207</sup> He deferred to Mr. Warriner's rebuttal regarding the MAOP programs in general. He further stated that the projects should be approved because several were required due to class location changes identified through engineering analysis, and pressure reduction was not a feasible alternative.<sup>208</sup>

Mr. Griffin disagreed with Mr. Coppola's contentions regarding capitalizing hydrotesting costs; he contended that the company's proposal to capitalize such costs aligns with FERC guidance and requires prior commission approval, which is more practical than seeking approval on a project-by-project basis.<sup>209</sup>

*ii. Briefing*

The company's brief repeats testimony regarding the transmission-related MAOP programs and their regulatory necessity, and the company reaffirms that it agrees to the removal of \$3,491 for costs related to project GL-03042.<sup>210</sup> However, the company opposed the remainder of the Attorney General's transmission-related disallowances as unreasonable because the MAOP projects are necessary for the purposes of compliance.<sup>211</sup> Similarly, the company reiterates Mr. Warriner's testimony regarding the distribution-related MAOP projects and their necessity. The company argues that the Attorney General is incorrect to state that the company should have had the required

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<sup>207</sup> 4 Tr 1304. Note that Mr. Coppola's originally filed testimony listed the disputed disallowance in millions of dollars while his revised testimony, which was ultimately bound into the record, corrected the figure to the thousands.

<sup>208</sup> 4 Tr 1305-1306.

<sup>209</sup> 4 Tr 1321.

<sup>210</sup> Consumers brief, 33-34.

<sup>211</sup> Consumers brief, 25.

records because before 1970 there was no pressure testing requirement and, even after 1970, pre-existing pipelines were permitted to continue operation.<sup>212</sup> Consumers explains that pipelines constructed after 1970 required pressure testing records, but not necessarily those that would meet the TVC standard that was only defined in 2020.<sup>213</sup> The company also contends that its Line 1080 project “continues to be ‘grandfathered’ under the new PHMSA regulations . . . so it is unnecessary for the Company to perform any work to make it compliant with the new ‘traceable, verifiable, and complete’ standards[.]”<sup>214</sup> However, the company asserts that Line 1080 is subject to a different PHMSA regulation, unrelated to TVC records, that will require the company to reduce operating pressure on the line and therefore necessitate construction of a second parallel line to ensure adequate service for customers.<sup>215</sup> Accordingly, the company contends that the Attorney General’s arguments related to Line 1080 lack merit because the need for a parallel line is unrelated to TVC records.

The company argues that allowed MAOP reconfirmation methods other than pipe replacement, such as pressure reduction and pressure testing, were not feasible or practical for various reasons.<sup>216</sup> The company rejects the Attorney General’s citation to Case No. U-21291 to support her request for a 50% disallowance. The company asserts that the order in that case is inapplicable because it addressed DTE Gas’s O&M expenses related to MAOP projects, not capital expenditures, and the Commission approved recovery of expenditures for a MAOP project because it was necessary to ensure safe

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<sup>212</sup> Consumers brief, 40.

<sup>213</sup> Consumers brief, 40.

<sup>214</sup> Consumers brief, 41.

<sup>215</sup> Consumers brief, 42.

<sup>216</sup> Consumers brief, 42-43.

operation.<sup>217</sup> The company's reply repeats the points raised in its initial brief and the relevant witness testimony.<sup>218</sup>

The Attorney General reiterates points from Mr. Coppola's testimony and rejects the notion that the company is absolved from responsibility because of PHMSA's newer TVC records requirement. The Attorney General argues that "[t]he PHMSA rules requires that the Company show that it has TVC records and ensure that it is operating the pipelines at the initially tested MOAP and only requires that those records be recreated if they don't exist."<sup>219</sup> The Attorney General maintains her request for the disallowances specified by Mr. Coppola and asserts that it is fair to remove 50% of proposed MAOP capital expenditure costs because the Commission previously removed 50% of MAOP-related O&M expenditures related to record review.<sup>220</sup> The Attorney General's reply briefing repeats these arguments.<sup>221</sup>

### *iii. Recommendation*

This PFD agrees with Staff and recommends allowing the company to capitalize first-time and one-time MAOP retesting in alignment with FERC guidelines. This PFD further agrees with Staff's recommendation that the Commission should direct the company to provide Staff with notification and the opportunity to review retesting that is planned to be capitalized prior to testing as well as provide an annual report of completed testing projects.

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<sup>217</sup> Consumers brief, 43-44.

<sup>218</sup> Consumers reply, 17, 18.

<sup>219</sup> AG brief, 35.

<sup>220</sup> AG brief, 35-36.

<sup>221</sup> AG brief, 7-8.

This PFD is not persuaded by the company's argument that the PHMSA regulation requiring TVC records is an entirely new record keeping requirement for the company because the Commission previously determined that the Michigan Gas Safety Standards already required the company to perform and document similar MAOP tests.<sup>222</sup> However, this PFD declines to accept the Attorney General's recommendation to disallow 50% of the company's MAOP distribution and transmission capital costs, including those related to Line 1080. This PFD would otherwise agree with the Attorney General's position and reasoning but for the Commission's decision in Case No. U-20940 in which the Commission addressed a similar issue and stated that it was "disinclined to disallow capital costs associated with [a MAOP project] as they are necessary to reestablish the MAOP of the pipeline and to ensure safe operation."<sup>223</sup> Thus, to remain consistent with past Commission decisions, this PFD declines to adopt the 50% disallowance for MAOP capital expenditures as they are required for safety purposes to reestablish the MAOP of the pipelines. However, MAOP-related O&M costs are addressed separately in the adjusted net operating income section of this PFD, *infra*.

The company agreed to remove costs of \$3,491 for project GL-03042 because the company indicated it is not required; further, the Attorney General corrected the amount of her proposed disallowance to account for the fact that the project cost was in whole dollars. This PFD recommends accepting this concession from the company.

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<sup>222</sup> November 7, 2024, Order in Case No. U-21291, p. 148.

<sup>223</sup> December 9, 2021, Order in Case No. U-21940, p. 33.



Finally, this PFD recommends accepting the Attorney General's recommendation to disallow \$2.564 million in capital expenditures for currently unknown MAOP transmission projects that are unspecified and are apparently improper placeholders.

f. Material Condition Non-Modeled (MCNM)

i. *Testimony*

Ms. Pascarello testified that the purpose of the MCNM program was to allow company-initiated replacements to address emergent issues that must be resolved to comply with regulations or to ensure safety and reliability.<sup>224</sup> She testified that increases in capital expenditures in the test year were primarily due to the wrought iron main replacement program, high pressure waterway crossing initiatives, and residential meter replacement.<sup>225</sup> She described the need to replace the remaining wrought iron piping and the need to replace 15 pipe segments that have become exposed to a flowing waterway.<sup>226</sup> She also described the company's plan to replace Line 1010, which was purchased from another utility and which lacks TVC records to document its MAOP.<sup>227</sup>

Ms. Creisher testified that Staff did not agree with the proposed level of spending because, in response to audit requests, the company indicated that its expenses to replace Line 1010 under this program would be lower than expected. Accordingly, she recommended that the expenditure be adjusted to reflect this lower spending by \$4.05 million in 2025 and \$3.5 million in the projected test year.<sup>228</sup>

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<sup>224</sup> 3 Tr 398.

<sup>225</sup> 3 Tr 399.

<sup>226</sup> 3 Tr 402, 406.

<sup>227</sup> 3 Tr 403.

<sup>228</sup> 4 Tr 2737; see also Exhibit S-22.0.

Mr. Coppola asserted that there are several issues stemming from the company's expansion of this program to address items beyond emergent problems. He opined that the company expanded the non-modeled program to supplement its enhanced infrastructure replacement program (EIRP) for work that should be done within the EIRP. He opined that replacement of wrought iron mains was one such item that should be in the EIRP such that associated expenses (\$5.66 million) should be removed.<sup>229</sup> He testified that 10 projects related to high pressure waterway crossings are in the early stages of development and are premature to be included in rate base such that a disallowance of \$5.50 million for these water crossing mains projects is proper.<sup>230</sup> Mr. Coppola identified "risk mitigation and obsolete meter replacement" as an unsupported category without any explanation of its necessity and recommended a disallowance of \$9.63 million.<sup>231</sup> He identified the Line 1010 as an MAOP project, and as such he recommended a 50% disallowance in accordance with his recommendation related to MAOP expenditures.<sup>232</sup>

Dr. deLeon testified that the company intended to increase spending in this program by 47% from 2024 to the projected test year.<sup>233</sup> She opined that this level of spending would lead to an increase in rate base at a time when future sales are likely to decline.<sup>234</sup> Dr. deLeon opined that the Commission should cap additions to plant in service in the projected test year at no more than the 2024 investment levels for this

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<sup>229</sup> 4 Tr 1884.

<sup>230</sup> 4 Tr 1885.

<sup>231</sup> 4 Tr 1885.

<sup>232</sup> 4 Tr 1886.

<sup>233</sup> 4 Tr 2336.

<sup>234</sup> 4 Tr 2336-2337.

program, i.e. no more than \$38 million, and require the company to implement probabilistic risk modelling before allowing spending to increase above the cap.<sup>235</sup>

In rebuttal, Ms. Pascarello testified that she supported Staff witness Creisher's proposed reduction (\$4.05 million in 2025 and \$3.5 million in the projected test year) which was based upon the company's own updated projections.<sup>236</sup>

Ms. Pascarello disagreed with Mr. Coppola's proposed \$5.66 million reduction to the Wrought Iron Mains project explaining that replacing these mains through the MCNM program is necessary for safety due to operational needs and limitations in weldability not captured by the EIRP risk model.<sup>237</sup> She similarly disagreed with Mr. Coppola's proposed \$5.5 million reduction for the HP Waterway Crossings project contending that the projects are on track for 2026 construction and should remain in the rate base as planned.<sup>238</sup> Ms. Pascarello disagreed with Mr. Coppola's proposed reductions related to leak reduction and meter replacement; she explained that her direct testimony and Exhibit AG-10 provided detailed support for these projects including explanations that planned leak replacements and obsolete meter exchanges were historically completed under the MCNM program.<sup>239</sup> She emphasized that the increased expenditures were driven by higher volumes and the need to proactively address leaks and outdated meters to maintain safety, reduce outages, and comply with meter exchange requirements.<sup>240</sup> Finally, she opposed Mr. Coppola's proposed 50% cost disallowance for the Line 1010

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<sup>235</sup> 4 Tr 2351.

<sup>236</sup> 4 Tr 439.

<sup>237</sup> 3 Tr 448.

<sup>238</sup> 3 Tr 448-449.

<sup>239</sup> 3 Tr 449, 450.

<sup>240</sup> 3 Tr 449, 450.

project because of the infeasibility of pressure testing Line 1010 without disrupting service such that full replacement was the most practical and beneficial solution.<sup>241</sup>

Ms. Pascarello rejected Dr. deLeon's proposed reduction to the program stating that the additional \$18 million was needed to fund four company-initiated projects: wrought iron main replacement, high-pressure waterway crossings, leak mitigation, and obsolete meter replacement. She urged the Commission to reject Dr. deLeon's recommendations to ensure these projects could be completed for the benefit of customers.<sup>242</sup>

*ii. Briefing*

The company's brief reaffirms its support for Staff's proposed disallowance related to updated projections for the Line 1010 project and continues to oppose the Attorney General's call for a 50% disallowance.<sup>243</sup> The company rejects calls to disallow costs for projects to replace wrought iron mains because they are small segments that may not be prioritized in the EIRP risk modelling.<sup>244</sup> The company repeats that its waterway projects are needed and will progress through the design phase in 2025 and are projected to begin construction in 2026.<sup>245</sup> Consumers specifies that, contrary to the Attorney General's suggestion, details relating to leak mitigation and meter replacement projects were detailed in direct testimony and in relation to the material conditions renewals program.<sup>246</sup> The company rejects MEC/SC's call to impose a spending cap and require probabilistic

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<sup>241</sup> 3 Tr 451-452.

<sup>242</sup> 3 Tr 472.

<sup>243</sup> Consumers brief, 46, 48.

<sup>244</sup> Consumers brief, 46-47.

<sup>245</sup> Consumers brief, 47.

<sup>246</sup> Consumers brief, 47-48.

modeling before any increase in expenditures because the increase in test year spending is related to the four projects discussed above: wrought iron replacement, high pressure water way crossing, leak mitigation, and obsolete meters.<sup>247</sup> The company's reply directs attention to the arguments presented in its initial brief.<sup>248</sup>

Staff's briefing highlights the company's acquiescence to Staff's proposed \$7.554 million adjustment related to Line 1010.<sup>249</sup> Staff's reply provided no further argument.

The Attorney General's brief closely tracks Mr. Coppola's testimony and reiterates requests for disallowances related to wrought iron main replacement, high pressure water way crossings, leak mitigation, obsolete meters, and Line 1010.<sup>250</sup> The Attorney General's reply provided no further argument.

MEC/SC's briefing recalls the testimony of Dr. deLeon and reiterates the increase in spending related to the MCNM program, a 47% increase from 2024 to the projected test year, and the need for a spending cap at 2024 levels (causing a \$17.9 million disallowance) until probabilistic modeling can be implemented.<sup>251</sup> MEC/SC's reply brief provided no further argument on this topic.

### *iii. Recommendation*

The company accepted Staff's proposed disallowance (\$4.054 million in the 2025 bridge period and \$3.5 million in the projected test year) which was based upon the company's updated figures showing reduced costs for the Line 1010 project. This PFD agrees and recommends accepting the company's concession. This PFD rejects the

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<sup>247</sup> Consumers brief, 49.

<sup>248</sup> Consumers reply, 18.

<sup>249</sup> Staff brief, 11.

<sup>250</sup> AG brief, 45-48.

<sup>251</sup> MSC brief, 45-46.

Attorney General's proposed 50% disallowance associated with Line 1010 as an MAOP project consistent with this PFD's treatment of other MAOP capital expenses *supra*.

This PFD declines to adopt the Attorney General's disallowance associated with the replacement of wrought iron mains, leak mitigation, and obsolete meter replacement because the company has adequately explained the need for these expenditures.<sup>252</sup>

However, this PFD recommends adopting the Attorney General's disallowance of \$5.5 million associated with high pressure waterway crossings. While this PFD does not object to the necessity of these projects, this PFD agrees that these projects are premature to include in rate base given that they are still in the "scoping" phase and have no design or engineering work started such that their timing and cost are currently too uncertain to include in rate base.<sup>253</sup>

This PFD declines to recommend the imposition of a spending cap for this specific program as suggested by MEC/SC because the program's expenditures do not appear to be so high as to cause extreme concern, and further issues related to probabilistic modeling are addressed in the "Other Issues" section of this PFD, *infra*.

g. Material Condition Renewals—Leak Detection and Repair (LDAR)

i. *Testimony*

Ms. Pascarello testified that the company is reviewing a notice of proposed rulemaking from the Pipeline Hazardous Materials Safety Administration (PHMSA) regarding a proposed Leak Detection and Repair (LDAR) rule. She stated that the rule would require advanced leak detection equipment and swifter detection and repair of

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<sup>252</sup> See 3 Tr 447-451; See generally Exhibit AG-10.

<sup>253</sup> See AG-CE-0787 attached to Exhibit AG-10.

pipeline leaks, and the rule was expected to be published in January of 2025 with full compliance to be achieved by January 2028.<sup>254</sup> She testified that the company plans to eliminate the backlog of known leaks at an accelerated rate regardless of when the LDAR rule is published and that an additional \$1.51 million was included in capital expenditures to address the backlog in the projected test year.<sup>255</sup> She also stated that the company requested authority to defer any test year revenue requirement of capital expenditures resulting from the final rule that exceed the funding requested in this case.<sup>256</sup>

Mr. Martus testified that Staff supports the repair of known leaks as reasonable in cost and prudent for safety regardless of whether the proposed LDAR rule comes into effect; accordingly, he supported the \$1.51 million capital expenditures for LDAR.<sup>257</sup> However, he did not support the company's proposed regulatory deferral mechanism for LDAR costs because the proposed LDAR rule is unlikely to come into effect given an executive order from the president pausing the implementation of new federal regulations.<sup>258</sup>

Mr. Coppola testified that the material condition – renewal program generally had reasonable expenses except for the additional \$1.51 million projected for additional expenditures that were expected because of the LDAR rule.<sup>259</sup> He explained that per the company, that new rule was placed on hold under a presidential executive order after the

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<sup>254</sup> 3 Tr 412-413.

<sup>255</sup> 3 Tr 413.

<sup>256</sup> 3 Tr 413.

<sup>257</sup> 4 Tr 2699.

<sup>258</sup> 4 Tr 2700.

<sup>259</sup> 4 Tr 1888.

change of administrations, so Mr. Coppola opined the rule was unlikely to be issued soon.<sup>260</sup> Accordingly, he recommended removing the extra \$1.51 million capital expense.

In rebuttal, Mr. Pnacek testified that due to a delay in the publication of the final LDAR rule, the company no longer seeks approval for a deferral mechanism for related O&M expenses in this rate case and agrees with Staff witness Martus that the deferral mechanism should not be approved in this case.<sup>261</sup> Similarly, Ms. Pascarello also emphasized that the company agreed with Staff witness Martus.<sup>262</sup> Ms. Pascarello disagreed with Mr. Coppola's recommendation to remove \$1.5 million from the test year capital expenditures because the funding was necessary to proactively eliminate the leak backlog and reduce system risks regardless of the timing of the pending LDAR rule.<sup>263</sup>

*ii. Briefing*

Consumers asserts in briefing that the additional \$1.5 million in funding is intended to address a leak backlog regardless of whether the LDAR rule is published, and the Commission should therefore disregard the Attorney General's argument based upon the uncertainty of the rule's implementation.<sup>264</sup>

Staff maintains that the proposed deferral mechanism should not be granted because the LDAR rule has not been published.<sup>265</sup>

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<sup>260</sup> 4 Tr 1888.

<sup>261</sup> 4 Tr 1700.

<sup>262</sup> 3 Tr 441.

<sup>263</sup> 3 Tr 453.

<sup>264</sup> Consumers brief, 50.

<sup>265</sup> Staff brief, 105.



The Attorney General maintains that the additional \$1.5 million is unnecessary because the LDAR rule is placed on hold and it is unknown when or whether it will be published.<sup>266</sup>

*iii. Recommendation*

This PFD agrees with Consumers and Staff that it is reasonable and prudent to address a backlog of known leaks regardless of when (or whether) the LDAR rule is eventually enacted. Accordingly, this PFD declines to adopt the Attorney General's proposed disallowance.

*h. Enhanced Infrastructure Replacement Program (EIRP)*

*i. Testimony*

Ms. Pascarello explained that the enhanced infrastructure replacement program (EIRP) began in 2012 with the goal of replacing, by 2035, gas mains composed of the highest risk materials, including cast and wrought iron, oxyacetylene welded, copper, and bare steel mains.<sup>267</sup> She testified that the company uses risk modeling to help prioritize projects to replace the riskiest pipe segments first.<sup>268</sup> Ms. Pascarello related that EIRP expense was \$181.92 million in 2023, and was projected to be \$195.58 million in 2024, \$207.32 million in the 10 months ending October 2025, and \$251.37 million in the projected test year.<sup>269</sup>

Ms. Creisher testified that Staff supports the company's EIRP spending and is generally supportive of the accelerated replacement of high-risk mains under the EIRP

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<sup>266</sup> AG brief, 40.

<sup>267</sup> 3 Tr 383.

<sup>268</sup> 3 Tr 384.

<sup>269</sup> 3 Tr 395.

program.<sup>270</sup> She urged the company to continue to implement measures to manage costs to minimize the impact of the EIRP to customers.<sup>271</sup>

Mr. Coppola recommended a disallowance of \$84.88 million for seven EIRP projects that either have no design work completed or less than 30% of design work completed.<sup>272</sup> He also criticized the company for proposing to increase EIRP spending by 38% over only three years, and he opined that the company is not meeting its commitment to restrain spending as made in the settlement agreement in Case No. U-21490 in which it committed to keep the EIRP spending level for the 12 months ending September 2025 at \$215.3 million.<sup>273</sup> To restrain what he characterized as the company's runaway EIRP cost increases, he proposed an EIRP spending cap of \$197 million (based upon actual spend in 2023 adjusted for inflation) for the projected test year that could be adjusted for the CPI rate of inflation in future cases.<sup>274</sup> He stated that, per the company, the spending cap would only result in a three-to-five year extension of the EIRP program (from its current end date of 2035 to 2038-2040) and that this extension was reasonable if it moderated the increase in spending.<sup>275</sup>

Mr. Fitzhenry raised concerns that the proposed EIRP spending of over \$250 million was a dramatic increase over the company's five-year historical average of \$143 million.<sup>276</sup> He opined that the company's safety and reliability metrics do not support a need to dramatically increase EIRP expenditures such that the company could continue

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<sup>270</sup> 4 Tr 2736.

<sup>271</sup> 4 Tr 2736.

<sup>272</sup> 4 Tr 1879.

<sup>273</sup> 4 Tr 1880.

<sup>274</sup> 4 Tr 1881.

<sup>275</sup> 4 Tr 1881-1882.

<sup>276</sup> 4 Tr 2136.

to replace mains at historical expenditure levels without overburdening customers.<sup>277</sup> Mr. Fitzhenry asserted that the company could selectively replace only the highest risk distribution mains while continuing to improve safety and reliability.<sup>278</sup> He recommended capping EIRP expenditures at the five-year historical average of \$143 million, which would result in a disallowance of \$171.1 million in the forecasted test periods.<sup>279</sup>

Dr. deLeon noted that the proposed EIRP spending of \$251 million in the projected test year was a 30% increase from the \$195.6 million expenditure in 2024.<sup>280</sup> Dr. deLeon also opined that the company failed to demonstrate the adequacy of risk ranking and cost effectiveness when selecting projects for the EIRP. She specified that “while the Company provides numerical risk ranking values for distribution projects, it is not possible to discern whether Consumers prioritized projects appropriately based on risk ranking, nor whether some projects are “high risk” based on Consumers risk model results.”<sup>281</sup> She contended that the selection of projects in the EIRP “is not transparent from a risk reduction and cost-effectiveness perspective, which makes it impossible to assess the prudence of these investments.”<sup>282</sup> She opined that EIRP reporting should include risk-ranking information and that the EIRP expenditures should be capped at the 2024 level (i.e. \$195.5 million) until the company develops probabilistic risk models for the EIRP to better evaluate the prudence of spending.<sup>283</sup>

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<sup>277</sup> 4 Tr 2138.

<sup>278</sup> 4 Tr 2137-2138.

<sup>279</sup> 4 Tr 2138.

<sup>280</sup> 4 Tr 2331.

<sup>281</sup> 4 Tr 2345.

<sup>282</sup> 4 Tr 2346.

<sup>283</sup> 4 Tr 2349, 2351.

In rebuttal, Ms. Pascarello testified that the company corrected a feet-to-miles conversion error in the 2025 EIRP forecast for the Northeast region, resulting in adjusted capital expenditure reductions totaling \$3,272,223 (\$2,710,546 for 10 months ending October 31, 2025, and \$561,759 in the projected test year).<sup>284</sup>

Ms. Pascarello also responded to Mr. Coppola's concerns by emphasizing that the company's EIRP spending is focused on safety and replacing aging, at-risk pipelines, with efforts already yielding reduced costs per mile and no projected cost increases for 2025 and 2026.<sup>285</sup> She also rejected Mr. Coppola's suggestion that most high-risk mains have been replaced by pointing out that over 1,400 miles of vintage mains remain, many installed before the 1950s, and continue to pose safety risks that justify continued investment.<sup>286</sup> Ms. Pascarello rejected Mr. Coppola's recommendation to disallow \$84.9 million in forecasted capital expenditures for seven EIRP projects because they are progressing through design and are scheduled for construction in the test year.<sup>287</sup> She explained that these projects follow a standard engineering process, and are on track to proceed as planned. She asserted that delaying or omitting these phases could disrupt larger project sequences, so she urged the Commission to approve the full projected funding.<sup>288</sup> Ms. Pascarello testified that imposing a spending cap on the EIRP would hinder the company's flexibility, reduce workforce and project efficiency, disincentivize process improvements, and ultimately jeopardize safety and reliability. She emphasized that the increased spending is driven by a planned 37% increase in pipeline replacement

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<sup>284</sup> 4 Tr 438-439.

<sup>285</sup> 3 Tr 443.

<sup>286</sup> 3 Tr 444.

<sup>287</sup> 3 Tr 444.

<sup>288</sup> 3 Tr 445-446.

miles, not higher unit costs, and urged the Commission to reject Mr. Coppola's recommended disallowances and spending cap.<sup>289</sup>

Ms. Pascarello disagreed with Mr. Fitzhenry's claim that the company had not demonstrated excessive safety risks because his analysis relied on only 25 out of 544,000 pipeline segments, an insufficient sample to draw broad conclusions.<sup>290</sup> She emphasized that these 25 segments accounted for approximately 18% of the system's total risk and argued that a comprehensive replacement strategy was necessary to address both high individual and cumulative risks.<sup>291</sup> Ms. Pascarello opposed Mr. Fitzhenry's recommended reduction in EIRP capital expenditures because his analysis relied on incomplete financial data and failed to account for updated and accurate figures showing higher actual and projected spending. She explained that the company's decision to extend the program timeline to 2035 resulted in phased project execution, and she emphasized that continued investment in replacing vintage mains is necessary for system reliability and safety.<sup>292</sup>

Ms. Pascarello also responded to Dr. deLeon's proposed reduction in EIRP expenditures; she explained that while the initial filing lacked a risk rank narrative, risk rankings for each EIRP project were included in WP-KAP-3 (Exhibit A-142) and complied with reporting requirements from the U-17643 Settlement Agreement.<sup>293</sup> She testified that EIRP projects were selected using a risk-based model under the Distribution Integrity Management Program (DIMP), with input from subject matter experts, and she clarified

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<sup>289</sup> 3 Tr 446-447.

<sup>290</sup> 3 Tr 462.

<sup>291</sup> 3 Tr 463.

<sup>292</sup> 3 Tr 463-465.

<sup>293</sup> 3 Tr 468.

that the 2025 project narrative was provided in discovery (Exhibit A-141), while Table 7 in Dr. deLeon's testimony mistakenly labeled transmission projects as EIRP projects.<sup>294</sup>

Ms. Pascarello opposed a requirement for additional EIRP risk-rank reporting because the company already provided risk rankings in both the EIRP Planning and Performance Reports.<sup>295</sup> She opposed implementing probabilistic risk modeling and cost-effectiveness analysis before increasing expenditures above 2024 levels; she asserted that such modeling is complex, potentially misleading, and not reflective of the EIRP's core purpose of replacing vintage materials for safety and reliability, not merely remediating leaks.<sup>296</sup> She emphasized that the proposed spending increase was justified by a 71% planned increase in steel pipe replacement and higher per-mile costs, and she warned that capping spending at the 2024 level of \$195.6 million would delay progress and prolong the use of outdated, leak-prone infrastructure.<sup>297</sup> She concluded that "[w]hile the Company is currently planning to begin implementing probabilistic risk modeling for distribution assets in 2027 to identify projects for 2030, the Commission should not cap EIRP spending at 2024 levels prior to this implementation."<sup>298</sup>

In response to Staff witness Creisher, Mr. Fitzhenry criticized her testimony stating that it included no assessment of the company's safety and reliability metrics, no consideration for the cause of leaks in the company's distribution system, no assessment of the main segments the company proposed to replace, and no assessment of whether the company supported the need for accelerated main replacement. Mr. Fitzhenry stated

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<sup>294</sup> 3 Tr 469.

<sup>295</sup> 3 Tr 469.

<sup>296</sup> 3 Tr 469-470.

<sup>297</sup> 3 Tr 470-471.

<sup>298</sup> 3 Tr 470.

that he was thus unpersuaded by Staff's position and continued to recommend a cap of EIRP expenditures at a historical five-year average and an associated disallowance of \$171.1 million.<sup>299</sup>

*ii. Briefing*

Consumers argues that the Attorney General wrongly states that there is a high degree of uncertainty surrounding the seven projects she challenges. The company asserts that these projects will progress through the design phase in 2025 and are slated to start construction in 2026; the company further asserts that they are phases of larger projects and will disrupt such projects if not approved.<sup>300</sup> The company argues that the Attorney General's proposed spending cap would slow the EIRP program, delay its completion date past 2035, and could lead to cuts in the company's workforce.<sup>301</sup>

The company disputes ABATE's contention that there is no need to increase EIRP expenditures and rejects ABATE's call to cap the program at a five-year average of \$143 million. The company disputes that the five-year average EIRP expenditure was \$143 million; instead, the company contends that the true average was \$171.5 million.<sup>302</sup> The company asserts that Mr. Fitzhenry's attempt to minimize safety risks associated with the company's main replacement projects is flawed because it ignores the fact that even the lowest-ranked segment of main in the top 25 is at significantly higher risk than the average segment.<sup>303</sup>

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<sup>299</sup> 4 Tr 2157-2158.

<sup>300</sup> Consumers brief, 52.

<sup>301</sup> Consumers brief, 53.

<sup>302</sup> Consumers brief, 54.

<sup>303</sup> Consumers brief, 53-54.

The company addresses MEC/SC stating that it plans to implement probabilistic risk modeling for distribution assets in 2027 to identify projects for 2030, and there is no need to cap EIRP spending before this implementation.<sup>304</sup> Consumers emphasizes that it already selects projects with a relative risk model and that the EIRP program has a defined scope, i.e. that it is replacing all of the highest risk materials by 2035.<sup>305</sup> The company rejects MEC/SC's request to include additional risk ranking information because the company already provides such information.<sup>306</sup> Consumers further criticizes Dr. deLeon for looking at leak remediation as a measure of cost effectiveness because it is a benefit of the EIRP program, but not its purpose, which is to enhance safety and reliability.<sup>307</sup>

Staff's briefing recounts the testimony offered by all parties and concludes that it "agrees with the Company that a proactive approach to address leak-prone vintage mains is necessary to improve the safety and reliability of the Company's distribution system" such that the company's revised expenditure level for the EIRP should be approved.<sup>308</sup> Staff argues that it is unclear why ABATE could believe that replacing only the top 10 riskiest line segments instead of the top 25 would be in the interest of public safety.<sup>309</sup>

The Attorney General's brief closely tracks the arguments presented by Mr. Coppola and worries that the EIRP "has evolved into a program with no end in sight at a projected cost of over \$251 million for the projected test year."<sup>310</sup> The Attorney General

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<sup>304</sup> Consumers brief, 55.

<sup>305</sup> Consumers brief, 55.

<sup>306</sup> Consumers brief, 56.

<sup>307</sup> Consumers brief, 55.

<sup>308</sup> Staff brief, 40.

<sup>309</sup> Staff brief, 38.

<sup>310</sup> AG brief, 42.



reiterates that seven projects have no or little engineering completed such that they should be disallowed and the company can seek recovery in its next rate case if the costs are incurred.<sup>311</sup> To control rising costs and improve accountability, the Attorney General recommends the Commission impose a \$197 million cap on EIRP spending, adjusted for inflation, which may extend the program's duration but would conserve resources, reduce price increases on ratepayers, and incentivize greater cost efficiency.<sup>312</sup>

The Attorney General argues that, regarding her proposed disallowance for seven projects, Ms. Pascarello confirmed the design status was as Mr. Coppola described, offered no specific evidence of negative impacts from delays, and failed to justify immediate rate base inclusion when costs could be recovered in future rate cases.<sup>313</sup> The Attorney General rejects arguments that a spending cap would lead to workforce cuts or other deleterious effects because the company would be aware of its budget and could avoid project cancellations or layoffs.<sup>314</sup>

ABATE's briefing repeats the points raised by Mr. Fitzhenry, including the contention that the company's justification for accelerating cast iron main replacement is questionable when it makes up less than 1% of the company's system and most 2024 leaks were due to factors unrelated to corrosion.<sup>315</sup> ABATE reiterates that there should be minimal safety concerns because the company's data shows that many of the proposed main replacements have low risk scores—some even outside the top 100—

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<sup>311</sup> AG brief, 42.

<sup>312</sup> AG brief, 43.

<sup>313</sup> AG brief, 44.

<sup>314</sup> AG brief, 45.

<sup>315</sup> ABATE brief, 28.

indicating there is no excessive safety risk and that Consumers could focus on selectively replacing only the highest-risk segments while maintaining safety and reliability.<sup>316</sup>

MEC/SC's brief summarizes the testimony of the parties, closely tracks the testimony of Dr. deLeon, and repeats the request to require probabilistic risk modeling to evaluate the level of risk reduction expected from alternative measures compared to their cost.<sup>317</sup> MEC/SC contends that the company should include risk rankings, cost effectiveness calculations, summaries of alternatives, inputs and assumptions, and also should include an analysis of how the prior year's expenditures have reduced risk.<sup>318</sup> MEC/SC criticizes the company's approach for projects, which it states is to "max out the number of projects that can be done each year up to the limits of contract and labor resources available to do the work."<sup>319</sup> Further, MEC/SC maintains that its EIRP spending should be capped at 2024 expenditures (\$195 million) and notes the support of other parties for spending caps, albeit at different levels.<sup>320</sup>

MEC/SC critiques the company's current EIRP risk rankings as unsuitable because they contain no cost-benefit estimates; MEC/SC further points out several material discrepancies in the company's ranking system that even the company's sponsoring witness could not explain.<sup>321</sup> MEC/SC responds to the company's claim that leak remediation is not a good measure of cost effectiveness for the EIRP by rejoining that it is "certainly better than nothing[.]" which is what the company currently offers

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<sup>316</sup> ABATE brief, 29-30.

<sup>317</sup> MSC brief, 33.

<sup>318</sup> MSC brief, 35.

<sup>319</sup> MSC brief, 35.

<sup>320</sup> MSC brief, 36.

<sup>321</sup> MSC brief, 39, 40-41.

because EIRP projects are not supported by a cost benefit analysis.<sup>322</sup> MEC/SC contends that absent a cost-benefit analysis the company can only justify the EIRP program with claims of safety benefits; however, MEC/SC asserts this claim fades under examination because in the past six years only 10 out of 237 safety incidents involved pipes made of vintage materials, only 7 of those 10 were caused by leaks, and none caused an injury or fatality.<sup>323</sup>

The company's reply brief places great emphasis on the point that the EIRP program is intended to replace all the company's highest risk mains made from vintage materials.<sup>324</sup> Consumers disputes that MEC/SC identified any material discrepancies in risk ranking of the company's EIRP projects because there are hundreds of thousands of distribution main segments and "[m]ost of the risk rankings MEC identified are ranked at around 300 or below and do not represent significant differences when considering the total number of main segments and grids."<sup>325</sup> The company also asserts that while witness Pascarello was unable to explain discrepancies during cross examination, she does not perform the risk ranking, and another witness, Mr. Snyder, was the proper witness to handle inquiries about risk ranking.<sup>326</sup> The company disagreed with MEC/SC that the EIRP does not provide safety benefits simply because only 10 of the company's reportable 237 safety incidents involved vintage pipe and none involved fatalities.<sup>327</sup> The company critiques MEC/SC's position as irresponsible stating that it apparently "would

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<sup>322</sup> MSC brief, 41.

<sup>323</sup> MSC brief, 41.

<sup>324</sup> Consumers reply, 18.

<sup>325</sup> Consumers reply, 20.

<sup>326</sup> Consumers reply, 20.

<sup>327</sup> Consumers reply, 21.

prefer to see data showing that the Company's vintage mains are causing fatalities and injuries before MEC would agree that EIRP provides a safety benefit."<sup>328</sup>

In its reply, ABATE contends that it demonstrated that the dramatic increase in EIRP spending was not justified given the company's current safety metrics. ABATE argues that the company should selectively replace only the mains with the highest risk, (i.e. a risk score above 5.0) which ensures safety while maintaining cost value for ratepayers.<sup>329</sup> ABATE criticizes Staff for its assertion that it was unclear why ABATE advocated replacing only the highest risk segments instead of the entire top 25 riskiest segments; ABATE asserts that several of the top 25 line segments did not have a particularly high risk score and "the Company has not sufficiently justified cost recovery for replacement of pipeline segments that pose little threat of leak or failure."<sup>330</sup>

No other party provided further reply briefing on this issue.

### *iii. Recommendation*

The company corrected its 2025 EIRP forecast for the Northeast region, resulting in capital expenditure reductions totaling \$3,272,223 (\$2,710,546 for 10 months ending October 31, 2025, and \$561,759 in the projected test year).<sup>331</sup> This PFD recommends accepting these reductions.

This PFD adopts the Attorney General's proposed disallowance of \$84.889 million for seven EIRP projects for which the company has not yet started any design work.<sup>332</sup> This PFD submits that such projects are premature for approval because they are too

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<sup>328</sup> Consumers reply, 21.

<sup>329</sup> ABATE reply, 8.

<sup>330</sup> ABATE reply, 8.

<sup>331</sup> 3 Tr 438-439.

<sup>332</sup> 4 Tr 1879; see also AG-CE-0430 attached to Exhibit AG-8.

uncertain in both their cost and their timeframe for completion when no design work has commenced. This disallowance conforms to the general approach taken in this PFD to disallow projected expenses when no design work has commenced, and the company can recover any costs actually expended in its next rate case.

This PFD shares the concerns of the Attorney General, ABATE, and MEC/SC regarding the sustainability of the significant increases in EIRP spending and its associated effect on rate increases and affordability. Indeed, the expense of the EIRP project in the projected test year alone has ballooned to roughly a quarter of a billion dollars. Accordingly, this PFD agrees with the intervenors that it would be appropriate to place a budget cap on the EIRP program to prevent spending from continuously increasing at an unsustainable level. Upon examining the caps proposed by the intervenors, this PFD recommends adopting the Attorney General's proposal to cap expenditures at 2023 levels (\$181.9 million) adjusted for inflation for a cap of \$197 million in the projected test year, which could be further adjusted in future years.<sup>333</sup> A spending cap implemented in this fashion appropriately balances affordability concerns with the need for the continued replacement of high-risk mains. Further, by the company's own estimation, this cap would only extend the estimated completion date for the EIRP program by three to five years,<sup>334</sup> which is a tradeoff that is acceptable if it moderates spending and helps to keep rates at a reasonable level. This PFD rejects the company's claim that a spending cap could trigger large workforce cuts or other deleterious effects because the proposed cap simply maintains 2023 spending levels and adjusts upward

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<sup>333</sup> See 4 Tr 1881.

<sup>334</sup> 4 Tr 1881 (citing Exhibit AG-9).

for inflation. Under these circumstances the company would recognize its budget and should be able to plan projects and expenses accordingly.

This PFD notes that if the Commission accepts the proposed disallowance of \$84.889 million for seven premature EIRP projects, then EIRP spending would decrease to approximately \$165.929 million, which is below the proposed budget cap of \$197 million. If the Commission rejects the proposed disallowance related to the seven challenged projects, then this PFD recommends enforcing the proposed budget cap.

This PFD agrees with MEC/SC that for EIRP reporting, the Commission should direct the company to include risk-ranking information and a narrative description regarding the use of risk-ranking when selecting remediation for a particular project. Such information may help intervenors better understand how and why the company prioritizes certain EIRP projects, which was not always clear in this case as evidenced by MEC/SC's complaints about the company's inability to explain apparent inconsistencies in the risk rankings of EIRP projects.

Further, additional analysis related to probabilistic modeling is discussed in the "Other Issues" section of this PFD, *infra*.

i. Vintage Service Replacement Program

*i. Testimony*

Ms. Pascarello testified that the vintage service replacement (VSR) program started in 2017 with the goal of replacing copper, bare steel, and other vintage pipe materials for all service types not already covered by the company's EIRP and other

replacement/renewal programs.<sup>335</sup> She explained the program's operations and stated that it had expenditures of \$11.35 million in 2023, projected expense of \$18.66 million in 2024, \$25.88 million in the 10 months ending October 31, 2025, and \$42.51 million in the projected test year.<sup>336</sup>

Mr. Coppola testified that the company's VSR forecast showed a 131% increase compared to the number completed in 2024 and was therefore excessive and counter to the declines observed in 2022 through 2024.<sup>337</sup> He recommended using the actual number of services replaced in 2024 (2,564) in the forecast for capital expenditures in 2025 and 2026 because the 2024 numbers reflect the company's most recent effort and commitment to the program.<sup>338</sup> Based upon his calculations, he recommended reductions of \$11.631 million for the 10 months ending October 2025 and \$23.875 million for the projected test year.<sup>339</sup>

Dr. deLeon also noted that the VSR project forecast increased dramatically from 2024 through the projected test year.<sup>340</sup> She recommended capping VSR costs at 2024 levels (\$18.66 million) and requiring probabilistic risk models to be used for VSR spending before allowing the program's spending levels to increase.<sup>341</sup>

In rebuttal Ms. Pascarello disagreed with Mr. Coppola's proposed reduction to the VSR Program; she explained that the forecasted increase was driven by a shift from large EIRP grid projects to smaller segments, which reduced the number of vintage services

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<sup>335</sup> 3 Tr 414.

<sup>336</sup> 3 Tr 419.

<sup>337</sup> 4 Tr 1889.

<sup>338</sup> 4 Tr 1890.

<sup>339</sup> 4 Tr 1890.

<sup>340</sup> 4 Tr 2333-2334.

<sup>341</sup> 4 Tr 2351.

replaced through the EIRP. She contended that this shift necessitated more proactive out-of-grid replacements under the VSR program, justifying the higher projected figures.<sup>342</sup> She also asserted that using replacement rates from years prior to 2022 (which had higher replacement rates) offered a more accurate comparison.<sup>343</sup>

Ms. Pascarello disagreed with Dr. deLeon's proposed reduction to the VSR program; she asserted that the current risk assessment methods, including the use of the company's distribution risk analysis model (DRAM) since 2025, have effectively prioritized high-risk areas and are essential for maintaining safety and reliability. She emphasized that capping spending at the 2024 level would delay the replacement of outdated, leak-prone services and undermine efforts to compensate for decreased replacements in the EIRP program.<sup>344</sup>

*ii. Briefing*

The company's briefing closely tracks Ms. Pascarello's direct and rebuttal testimony, and it recommends rejecting the proposed disallowances.<sup>345</sup> Specifically, the company rejects the need for a spending cap or the requirement for probabilistic modeling before lifting the cap because the company started using its DRAM relative risk model in 2025.<sup>346</sup>

MEC/SC's brief repeats the points of Dr. deLeon relating to a proposed spending cap, urges the Commission to adopt either its recommendation or that of the Attorney

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<sup>342</sup> 3 Tr 454.

<sup>343</sup> 3 Tr 454.

<sup>344</sup> 3 Tr 471-472.

<sup>345</sup> Consumers brief, 57.

<sup>346</sup> Consumers brief, 58.



General, and recommends directing the company to implement probabilistic risk modeling for the VSR in the next rate case.<sup>347</sup>

No party's reply briefing provided any further arguments on this issue.

*iii. Recommendation*

This PFD agrees with the Attorney General that setting the forecast of services replaced to actual levels achieved in 2024 is reasonable and that the company's projected 130% increase of services to be replaced appears somewhat ambitious. Accordingly, this PFD recommends adopting the Attorney General's proposed disallowance (\$11.631 million for the 10 months ending October 2025 and \$23.875 million for the projected test year). This PFD declines to recommend MEC/SC's proposal to place a spending cap on this program because expenditures do not appear to be so extreme as to warrant such a step, and this PFD addresses probabilistic modeling in the "Other Issues" section, *infra*.

*j. Deliverability Field Measurement Projects*

*i. Testimony*

Mr. Griffin testified that the company's measurability projects focused on ensuring accurate gas quality and measurement with Exhibit A-61 showing proposed capital expenditures.<sup>348</sup> Additionally, he stated that the company planned on constructing the Williamston Transmission Meter Proving Station to provide a testing laboratory for transmission measurement technology that is required by regulations.<sup>349</sup>

Mr. Coppola recommended a disallowance of \$8.36 million because of six proposed projects (B-GM-00042, B-GM-00043, and B-GM-00045 through B-GM-00048)

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<sup>347</sup> MSC brief, 45.

<sup>348</sup> 4 Tr 1286; see also Exhibit A-61.

<sup>349</sup> 4 Tr 1287.

that did not have design work completed, making them premature to include in rate base.<sup>350</sup> Mr. Coppola also identified two meter replacement projects, (GM-01047 JXN-Lainsburg and B-GM-00041 Rose Center) for which the company did not identify a specific problem, did not perform a cost/benefit analysis, or had not begun design work.<sup>351</sup> He recommended disallowing \$3.48 million (Lainsburg) and \$1.12 million (Rose Center).

Mr. Coppola also recommended disallowing \$8.21 million for the Williamston Transmission Meter Proving Station. He explained that the company proposed building this testing station to bring transmission testing in-house, but the company did not perform a cost/benefit analysis compared to continued use of third-party testing.<sup>352</sup> Further, Mr. Coppola opined that the company's responses when queried about potential cost savings were either incomplete, inconclusive, or demonstrated an added cost compared to current third-party testing.<sup>353</sup> In total, he recommended disallowing \$21.19 million from field measurability projects.

In rebuttal, Mr. Griffin disagreed with Mr. Coppola's proposed reductions to the six projects without engineering work completed because the projects were actively progressing with pre-engineering activities in accordance with the company's "normal cadence" for such projects.<sup>354</sup>

Mr. Griffin disagreed with Mr. Coppola's recommendation to disallow expenditures for project GM-01047 (Lainsburg), explaining that the project was at a "major interstage" where improved metering would enhance measurement accuracy and loss detection. He

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<sup>350</sup> 4 Tr 1908.

<sup>351</sup> 4 Tr 1905, 1907.

<sup>352</sup> 4 Tr 1906.

<sup>353</sup> 4 Tr 1906-1907.

<sup>354</sup> 4 Tr 1312-1313.

stated that the investment supported compliance with MPSC technical standards and should be approved.<sup>355</sup> Mr. Griffin also disagreed with Mr. Coppola's recommendation to disallow expenditures for project B-GM-00041 (Rose Center) because the asset reached the end of its useful life and failing to replace it could cause operational issues and measurement inaccuracies.<sup>356</sup>

Regarding the proposed Williamston facility, Mr. Griffin disagreed with Mr. Coppola's assessment clarifying that \$100,000 in projected annual savings came from using internal company resources to construct multiple gas analysis buildings, not from building the main facility, and that these savings resulted from avoiding higher third-party labor and project management costs.<sup>357</sup> Mr. Griffin disagreed with Mr. Coppola's conclusion that the cost savings analysis was incomplete; he explained that constructing a sampling station at the Williamston facility would eliminate the need for a third-party lab in Traverse City, save on gas analysis fees ranging from \$150 to \$200 per sample, reduce travel of over 400 miles round-trip for employees, cut associated fleet and labor costs, and improve turnaround time.<sup>358</sup> Mr. Griffin clarified that the projected \$750,000 in annual savings was not related to one-time tool and equipment purchases as suggested by Mr. Coppola, but rather reflected avoided recurring third-party construction costs by using the Williamston Transmission Meter Proving Station as a centralized site capable of significantly increasing gas analysis building production.<sup>359</sup> Mr. Griffin further disagreed with Mr. Coppola's assessment because another \$108,000 in annual savings would come

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<sup>355</sup> 4 Tr 1308.

<sup>356</sup> 4 Tr 1312.

<sup>357</sup> 4 Tr 1308-1309.

<sup>358</sup> 4 Tr 1309.

<sup>359</sup> 4 Tr 1310.

from eliminating out-of-state travel, hotel, and mileage expenses for factory acceptance testing by relocating the process to the Williamston Facility.<sup>360</sup> He claimed that as shown on Exhibit AG-18, the projected efficiency from this project would be over \$1 million.<sup>361</sup>

*ii. Briefing*

The company's brief repeats the testimony of its witness and the arguments of the Attorney General, and the company agrees to remove the costs associated with the Williamston Transmission Meter Proving Station.<sup>362</sup> However, the company disagrees with the remaining disallowances for the reasons stated in Mr. Griffin's testimony.<sup>363</sup> The company's reply repeats this position.<sup>364</sup>

The Attorney General's brief acknowledges the company's withdrawal of the Williamston Meter Proving Project and repeats her request for the other disallowances consistent with the reasoning and testimony of Mr. Coppola.<sup>365</sup>

Despite not addressing this issue in testimony or initial briefing, Staff's reply states that the Commission should adopt the disallowance related to the Williamston Transmission Meter Proving Station.<sup>366</sup>

*iii. Recommendation*

This PFD declines to adopt the Attorney General's disallowance relating to the Lainsburg meter installation because the company provided sufficient justification for the

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<sup>360</sup> 4 Tr 1311.

<sup>361</sup> 4 Tr 1312.

<sup>362</sup> Consumers brief, 60-61.

<sup>363</sup> Consumers brief, 61-62.

<sup>364</sup> Consumers reply, 22.

<sup>365</sup> AG brief, 51-55.

<sup>366</sup> Staff reply, 5.

project, and although in the preliminary stages, it already has design work in progress such that it is not premature.<sup>367</sup>

However, this PFD recommends adopting the Attorney General's disallowance for the Rose Center meter replacement (\$302,000 in 2025 bridge period and \$818,000 in the projected test year) because it is premature since no design work has started for the project and such work is not even scheduled to begin until later in 2025.<sup>368</sup> Similarly, this PFD recommends adopting the Attorney General's disallowance for six projects (B-GM-00042, B-GM-00043, and B-GM-00045 through B-GM-00048) totaling \$8.369 million in the projected test year because they are premature to include in rate base since they have no design work started and engineering and design work is not slated to start until the end of 2025 or sometime in 2026.<sup>369</sup>

The company accepted the Attorney General's recommendation to remove the Williamston Transmission Meter proving Station,<sup>370</sup> so this PFD recommends adopting the disallowance related to that project (\$226,000 in 2025 bridge period and \$7.994 million in the projected test year).

k. Deliverability Base Pipeline

i. *Testimony*

Mr. Griffin explained that deliverability base pipeline expenditures support maintaining operations in accordance with gas safety standards; capital expenditures for the program were included in Exhibit A-61.<sup>371</sup>

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<sup>367</sup> See Exhibit AG-18, p. 6.

<sup>368</sup> See Exhibit AG-18, p. 6.

<sup>369</sup> Exhibit AG-18, pp. 6-7.

<sup>370</sup> See Consumers brief, 60.

<sup>371</sup> 4 Tr 1288-1289.

Mr. Coppola testified that, through discovery, he identified 11 projects<sup>372</sup> where no design work has been initiated or completed such that the associated \$18.46 million in expenditures should be disallowed as uncertain and premature.<sup>373</sup> Similarly, he identified one project, B-GL-00251, that the company cancelled and replaced with another project for which there was insufficient information to make any determination as to reasonableness and prudence.<sup>374</sup> He recommended disallowing the \$1.79 million associated with that project, for a total disallowance of \$20.25 million in relation to the deliverability base pipeline expenditures.

In rebuttal regarding project B-GL-00251, Mr. Griffin stated that the project was canceled and replaced, and the company provided sufficient information about the replacement project (GL-03313) including phase, cost, and justification (an emergent inoperable valve) in Exhibit AG-19.<sup>375</sup> He stated that this information was consistent with what had been provided for other projects and that appropriate rate base reductions were already reflected in the revised exhibits (i.e. Exhibits A-12 and A-61).

Regarding the other 11 projects identified by Mr. Coppola, Mr. Griffin asserted that they were progressing with appropriate pre-engineering activities in line with the company's standard scheduling practices and should be approved.<sup>376</sup>

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<sup>372</sup> B-GL-00259 through B-GL-00267, B-GL-00280, and GL-03047.

<sup>373</sup> 4 Tr 1909-1910.

<sup>374</sup> 4 Tr 1909.

<sup>375</sup> 4 Tr 1314.

<sup>376</sup> 4 Tr 1314.

*ii. Briefing*

The company's initial and reply briefing repeats the points made in the direct and rebuttal testimony of Mr. Griffin.<sup>377</sup>

Similarly, the Attorney General's briefing recaps the testimony of Mr. Coppola; the Attorney General also contends that, contrary to the company's suggestion, disallowing the 11 challenged projects will not undermine compliance with Michigan Gas Safety Standards.<sup>378</sup>

*iii. Recommendation*

This PFD recommends adopting the Attorney General's proposed \$18.466 million disallowance in the projected test year related to the 11 identified projects for which no design work has yet been initiated. This PFD agrees with the Attorney General that these projects are premature for inclusion in rate base when no design work has been initiated such that the cost estimate and timeframe for completion is simply too uncertain at this point in time.<sup>379</sup>

Regarding project B-GL-00251, which was cancelled and replaced with project GL-03313, this PFD does not recommend any disallowance. The company provided sufficient information about the replacement project, and unlike other disallowed projects, it is in the engineering and design phase such that it is sufficiently developed to include in rate base.<sup>380</sup>

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<sup>377</sup> Consumers brief, 62, 63; Consumers reply, 22.

<sup>378</sup> AG brief, 57 (citing Exhibit AG-76, p. 4.).

<sup>379</sup> See Exhibit AG-19, pp. 4-7

<sup>380</sup> See Exhibit AG-19, p. 6.

I. T&S Gas City Gates

i. *Testimony*

Mr. Griffin described city gates as the delineation point between the transmission and distribution system, and he sponsored Exhibit A-61, which delineated capital expenditures for the company's programs to invest in and maintain its city gates.<sup>381</sup>

Mr. Coppola testified that the capital expenditures associated with the T&S City Gates in 2025 and 2026 are 19% and 21% above the inflation-adjusted costs for the three-year average of 2022-2024.<sup>382</sup> He testified that such increases should be moderated and that most of the 2025 and 2026 planned projects are either in the engineering/design stage or pre-engineering/design stage such that their costs and timing of construction are likely to change or slip into a future year.<sup>383</sup> He recommended removing \$4.196 million from the 10 months ending October 2025 but adding \$3.607 million to the projected test year to bring costs into alignment with historical averages and inflation.<sup>384</sup>

In rebuttal, Mr. Griffin disagreed with Mr. Coppola's proposed reductions to city gate projects because the wide variation in the scope and cost of such projects made using historical averages inappropriate for evaluating the current program; he provided examples of various city gate projects and the wide cost variance for each.<sup>385</sup> He also disputed Mr. Coppola's assertion that city gate projects could slip into a future year

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<sup>381</sup> 4 Tr 1292.

<sup>382</sup> 4 Tr 1911.

<sup>383</sup> 4 Tr 1911.

<sup>384</sup> 4 Tr 1911-1912.

<sup>385</sup> 4 Tr 1315-1317.



because there was no evidence that this would occur and the projects were “in line with the normal cadence for projects in this program.”<sup>386</sup>

*ii. Briefing*

The company’s brief objects to the Attorney General’s adjustments for the same reasons stated in Mr. Griffin’s rebuttal testimony.<sup>387</sup> The Attorney General’s brief did not further address this project. Neither party’s reply briefing provided further arguments on this issue.

*iii. Recommendation*

This PFD declines to adopt the adjustments recommended by the Attorney General. Several of the projects are already in the engineering and design phase and are therefore sufficiently developed to include in rate base under the approach generally applied within this PFD.<sup>388</sup> Further, this PFD is not persuaded by the Attorney General’s argument that a disallowance is warranted because costs have risen by more than the general rate of inflation because variations in project scope, complexity, and other factors can sometimes make comparisons with historical costs inapt at times, such as in the case of city gate projects.

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<sup>386</sup> 4 Tr 1318.

<sup>387</sup> Consumers brief, 64, 65.

<sup>388</sup> See Exhibit AG-20, p. 4.

m. TED-I Remote Control Valves (RCVs)

i. *Testimony*

Mr. Griffin explained that remote control valves (RCVs) are being installed on the company's pipelines, and they can reduce the amount of gas lost in the event of a pipeline failure; Exhibit A-62 identifies capital expenditures associated with RCVs.<sup>389</sup>

Mr. Coppola testified that seven of the company's planned RCV projects for 2026 are still in the planning and scoping phase such that they have no engineering or design yet started or completed.<sup>390</sup> He opined that it is premature to include these expenditures in rate base and recommended removing the \$14.145 million associated with them.<sup>391</sup>

In rebuttal, Mr. Griffin disagreed with Mr. Coppola's proposed reduction stating that the seven RCV projects were progressing according to the normal timeline for construction in the following year and were not premature for inclusion in the rate base.<sup>392</sup>

ii. *Briefing*

The company's initial and reply briefing maintains that the RCV projects are within the company's normal cadence for RCV projects and are thus not premature for inclusion in the company's rate base.<sup>393</sup>

The Attorney General maintains that the projects are in the planning and scoping phase such that costs are preliminary due to incomplete design work, and she argues that customers should not be charged for costs that may or may not occur during the

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<sup>389</sup> 4 Tr 1282.

<sup>390</sup> 4 Tr 1913.

<sup>391</sup> 4 Tr 1912-1913.

<sup>392</sup> 4 Tr 1318.

<sup>393</sup> Consumers brief, 66; Consumers reply, 23.

projected test year.<sup>394</sup> The Attorney General's reply emphasizes that even if the projects are progressing in the normal cadence as argued by the company, they are still in the early planning phase, no engineering or design work has been started, and costs can only be rough preliminary estimates that should not be included in rates.<sup>395</sup>

*iii. Recommendation*

This PFD recommends adopting the Attorney General's proposed disallowance of \$14.145 million in the projected test year for the seven RCV projects that are still in the planning and scoping phase such that they have no engineering or design work started.<sup>396</sup> Consistent with other portions of this PFD, this PFD holds that such projects without engineering or design work started are premature to include in rate base because their costs and timeframe for completion are currently too uncertain.

*n. Enterprise Corrective Action Program (ECAP)*

*i. Testimony*

Ms. Pascarello testified that the enterprise corrective action program (ECAP) was initiated in 2020 as a company-wide issue management and compliance program to support safe operations.<sup>397</sup> She stated that "[t]he structured platform and methodology allow for transparency in reporting issues, identifying trends, and closing compliance and safety gaps through corrective actions and controls, based upon associated risk thresholds."<sup>398</sup>

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<sup>394</sup> AG brief, 61.

<sup>395</sup> AG reply, 12.

<sup>396</sup> See Exhibit AG-21, p. 3; 4 Tr 1913.

<sup>397</sup> 3 Tr 428.

<sup>398</sup> 3 Tr 428.

Mr. Coppola testified that it is unclear what the capital expenditures for this program are used for and what benefits are or will be achieved.<sup>399</sup> He explained that in discovery, the company asserted that ECAP helps to collect information, identify issues, and resolve them across various departments. Mr. Coppola explained that it is not clear what problems exist that the company is trying to resolve by implementing this program, and that the company provided “jargon and general concepts” without identifying any problems to be resolved, potential solutions, or tangible benefits to this program.<sup>400</sup> He recommended disallowing all capital expenses for this program from 2023 through the projected test year (\$49,000 for 2023, \$204,000 in 2024, \$167,000 in the 10 months ending October 2025, and \$33,000 in the projected test year).<sup>401</sup>

In rebuttal Ms. Pascarello disagreed with the proposed reduction to ECAP funding because the program enhanced compliance, safety, and operational decision-making, and its 2025 expansion would deliver customer benefits and cost savings through improved performance and issue resolution.<sup>402</sup>

*ii. Briefing*

The company’s brief recaps the witness’s direct and rebuttal testimony stating that the ECAP is “an issue management and compliance program that supports safe and excellent operations by focusing risk reduction efforts, informing operational business decisions, and promoting the integrity and deliverability of the energy infrastructure.”<sup>403</sup>

The company asserts that ECAP supports “Gas operations, Engineering, and Regulatory

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<sup>399</sup> 4 Tr 1884.

<sup>400</sup> 4 Tr 1894-1895.

<sup>401</sup> 4 Tr 1895.

<sup>402</sup> 3 Tr 456-457.

<sup>403</sup> Consumers brief, 69.

in adhering to Gas Safety Management System standards” and that “Phase 4 expands the ECAP to Corporate Safety & Health and Environmental in 2025, which is expected to contribute to cost savings through a reduction in lost time and expense.”<sup>404</sup>

The Attorney General reiterates that the company failed to support its forecasted spending and asserts that, “[i]t is not clear from the Company’s description, what problems exist that the Company is trying to resolve by implementing a new system to gather information it should already have.”<sup>405</sup>

*iii. Recommendation*

This PFD recommends adopting the Attorney General’s proposed disallowances (\$49,000 for 2023, \$204,000 in 2024, \$167,000 in the 10 months ending October 2025, and \$33,000 in the projected test year). The company provided fleeting testimony of a general nature about the ostensible positive effects of this program, but it remains unclear what specifically this program does, how exactly it operates, or what specific problems it addresses. Even in rebuttal and briefing, the company largely repeated the same vague, generic descriptions that were presented in its direct testimony (i.e. that the program aids in managing processes, analyzing data, and informing operational decisions, etc.).<sup>406</sup> The program could indeed be beneficial, but on this record, the program has not been adequately explained or justified such that the Attorney General’s proposed disallowance is appropriate.

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<sup>404</sup> Consumers brief, 69.

<sup>405</sup> AG brief, 64-65.

<sup>406</sup> 3 Tr 456.

o. Advanced Methane Detection (AMD) Program

i. *Testimony*

Ms. Pascarello testified that AMD equipment can detect even the smallest methane leak, and AMD equipment vastly improves the company's ability to detect gas leaks.<sup>407</sup> She testified that AMD equipment offered several benefits including enhanced safety, risk-based prioritization, increased detection sensitivity, and support for environmental goals.<sup>408</sup> She explained that a proposed new rule from the PHMSA will require the use of AMD technology to detect gas leaks, and the company expects the rule to be issued within the projected test year.<sup>409</sup> But, she specified that regardless of the regulation, the company is "committed to its AMD program due to the clear public safety and emissions reduction benefits."<sup>410</sup>

Ms. Creisher testified that, per a discovery response from the company, the company no longer intended to spend \$265,000 on the AMD program in 2025, and that an appropriate adjustment should be made to reflect this spending reduction.<sup>411</sup>

Mr. Coppola acknowledged that, in testing, the AMD equipment detected more gas leaks than the company's existing equipment, but he stated that the company did not provide a grade for the leaks discovered. He opined that the AMD equipment likely discovered more grade 3 leaks (i.e. those of least concern) such that the cost of AMD equipment was not justified.<sup>412</sup> Mr. Coppola testified that AMD equipment was not

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<sup>407</sup> 3 Tr 422.

<sup>408</sup> 3 Tr 422-423.

<sup>409</sup> 3 Tr 427-428.

<sup>410</sup> 3 Tr 428.

<sup>411</sup> 4 Tr 2738-2739.

<sup>412</sup> 4 Tr 1892.

replacing existing leak detection equipment, and the company would still retain its traditional gas leak equipment, so AMD equipment was “at best of marginal benefit.”<sup>413</sup> He noted that the company has not identified any monetary benefits of the AMD system, and that while AMD could be required under a proposed rule from the PHMSA, the proposed leak detection and repair rule (LDAR) has been placed on hold with no indication of when or whether it will be issued.<sup>414</sup> Given the high cost and marginal benefit, he recommended disallowing \$4.65 million in 2024, \$221,000 for the 10 months ending October 2025, and \$3.18 million in the projected test year.<sup>415</sup>

In rebuttal, Ms. Pascarello agreed with Ms. Creisher’s proposed \$265,000 reduction because it was based upon the company’s updated adjustments.<sup>416</sup> Ms. Pascarello disagreed with Mr. Coppola’s proposed disallowance for AMD asserting that the technology provided highly sensitive methane detection, geospatial tracking, and emission rate measurement, which improved leak prioritization, public safety, and supported the Company’s net-zero methane emissions goal.

## *ii. Briefing*

In its brief, the company recounts the numerous features of AMD equipment and its superiority in detecting even the smallest leaks when compared to traditional leak detection equipment.<sup>417</sup> The company contends that with AMD, it will be able to identify and repair more leaks, which enhances safety and refutes Mr. Coppola’s suggestion that

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<sup>413</sup> 4 Tr 1892-1893.

<sup>414</sup> 4 Tr 1893.

<sup>415</sup> 4 Tr 1894.

<sup>416</sup> 3 Tr 440.

<sup>417</sup> Consumers brief, 70.

the equipment has marginal benefits.<sup>418</sup> The company's reply repeats these arguments.<sup>419</sup>

The Attorney General's briefing contends that there is no evidence that AMD would detect significant additional gas leaks of a serious or threatening nature that are currently missed by the company's existing equipment.<sup>420</sup> The Attorney General notes that AMD equipment will not replace the company's current equipment, and that the company was unable to provide quantifiable evidence of the value proposition of AMD equipment.<sup>421</sup> The Attorney General's reply provided no further arguments on this topic.

### *iii. Recommendation*

This PFD recommends adopting the Attorney General's proposal to disallow capital expenditures for AMD equipment in the amounts of \$4.65 million in 2024, \$221,000 for the 10 months ending October 2025, and \$3.181 million in the projected test year. As is discussed in the section of this PFD addressing the PHMSA's LDAR rule, *supra*, that proposed rule has been placed on hold by the new presidential administration, and it may or may not be enacted. Accordingly, it is not clear whether AMD equipment will be required to meet a legal or regulatory requirement. Absent a legal requirement to purchase and utilize this additional advanced equipment, which only supplements and does not replace existing leak detection equipment, this PFD agrees with the Attorney General's reasoning that AMD equipment does not truly offer additional significant value such that its costs should not be approved at this time.

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<sup>418</sup> Consumers brief, 70.

<sup>419</sup> Consumers reply, 23.

<sup>420</sup> AG brief, 63.

<sup>421</sup> AG brief, 63.



p. Geospatial Inventory - Utility Network Project

i. *Testimony*

Ms. Pascarello testified that the Utility Network Project would transform the company's current geographic information system (GIS) to the Esri Utility Network Model and establish a unified transmission, distribution, and station model.<sup>422</sup> She provided figures showing that from 2023 through the projected test year, the project would require \$3.10 million in O&M expense and \$18.72 million in capital expenditures.<sup>423</sup> She testified that the company's current GIS platform will no longer receive vendor support, and the Utility Network Project would add various features that would result in greater insight and efficiency.<sup>424</sup>

Mr. Coppola testified that in discovery, the company indicated that the project is slightly delayed, and that the company did not prepare a cost/benefit analysis and appears to base its decision to upgrade primarily on the impending obsolescence and lack of vendor support for the current system in future years.<sup>425</sup> He opined that the marginal improvement in functionality and lack of a cost/benefit analysis do not support undertaking the project at a total cost of \$22 million (when including O&M). He recommended removing \$2.88 million in 2024, \$10.25 million for the 10 months ending October 2025, and \$7.51 million in the projected test year.<sup>426</sup>

Ms. Pascarello disagreed with the proposed reduction; she explained that the Utility Network project was essential to replacing the company's outdated GIS platform

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<sup>422</sup> 3 Tr 432.

<sup>423</sup> 3 Tr 433.

<sup>424</sup> 3 Tr 433-434.

<sup>425</sup> 4 Tr 1897.

<sup>426</sup> 4 Tr 1897.

with the Esri Utility Network Model, which supported advanced analytics, regulatory compliance, and real-time asset management.<sup>427</sup> She testified that continuing with unsupported GIS technology would jeopardize numerous critical processes, and the company had already begun experiencing issues from unsupported systems, making the investment necessary to maintain safe and efficient operations.<sup>428</sup>

*ii. Briefing*

In its briefing, the company reiterates points from Ms. Pascarello's direct and rebuttal testimony emphasizing that GIS is foundational to core regulatory processes and that the company's current GIS platform will no longer receive vendor support.<sup>429</sup> The company's reply repeats these points.<sup>430</sup>

The Attorney General's brief echoes Mr. Coppola's testimony and protests that the company failed to perform a cost/benefit analysis while relying primarily on obsolescence and lack of vendor support to justify the project.<sup>431</sup> The Attorney General's reply provided no further arguments on this topic.

*iii. Recommendation*

This PFD declines to adopt the Attorney General's proposed disallowance. Instead, this PFD finds it reasonable for the company to upgrade its GIS system to avoid obsolescence and to ensure continuous vendor support of its system such that company processes relying on GIS technology are not disrupted.

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<sup>427</sup> 3 Tr 457-458.

<sup>428</sup> 3 Tr 458.

<sup>429</sup> Consumers brief, 71.

<sup>430</sup> Consumers reply, 23.

<sup>431</sup> AG brief, 65-67.

3. Gas Compression and Storage Capital Expenditures

a. Storage Pipeline Replacement - Hessen Storage Pipeline

*i. Testimony*

Mr. Joyce sponsored Exhibit A-12, Schedule B-5.7, which details capital expenditures for the Storage Pipeline Replacement Program.

Mr. Spence raised concerns regarding an expenditure related to an ongoing Act 9 application pending before the Commission. He explained that the company included capital expenditures related to Case No. U-21842 wherein the company seeks approval for the construction and operation of new and re-routed pipelines in the Hessen Storage Field.<sup>432</sup> He testified that because the Commission has not entered a final order in that case, there is no guarantee the project will be approved. Mr. Spence recommended allowing the application expenses related to that case but disallowing the post-application expenses. This came to disallowances of \$16.03 million from 2024 through the test year.<sup>433</sup>

Similarly, Mr. Coppola identified expenditures related to the Hessen Storage Field Pipeline as premature given a lack of any final order approving the project from the Commission and recommended disallowing \$15.45 million.<sup>434</sup>

In rebuttal, Mr. Joyce acknowledged that construction on the Hessen projects cannot commence until after Act 9 approval, but he stated that the company expects to receive the approval before the final order in this case, and it will incur expenses before

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<sup>432</sup> 4 Tr 2688.

<sup>433</sup> 4 Tr 2689.

<sup>434</sup> 4 Tr 1920-1921.

construction, including engineering and procurement activities.”<sup>435</sup> He maintained that given these circumstances, the Commission should approve the test year investments for the Hessen projects, “even if the Act 9 certificates have not been finalized when this order is released.”<sup>436</sup>

*ii. Briefing*

In briefing, the company repeats Mr. Joyce’s rebuttal testimony and further states: “[T]he Commission is in control of the timing of the Act 9 approvals. Unless the Commission intends to disapprove the Act 9 filings, it should reject the disallowances proposed by Staff and the Attorney General.”<sup>437</sup>

In its brief, Staff reiterates Mr. Spence’s testimony and maintains that since the Hessen project has not yet received Act 9 approval, post application costs should not be included in rates.<sup>438</sup> Staff recommends the removal of \$7.789 million in capital expenditures (reduction of rate base by \$7.034 million), which it asserts, represents post application costs.<sup>439</sup> Staff states that if Act 9 approval is received before the completion of this case, it may consider withdrawing its recommendation.<sup>440</sup>

In her brief, the Attorney General states that since the timing of the Act 9 approval is unknown, it is unknown when construction of the Hessen pipeline will occur and how much it will cost.<sup>441</sup> Therefore, she maintains, it is premature to include these costs in the

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<sup>435</sup> 4 Tr 1537.

<sup>436</sup> 4 Tr 1538.

<sup>437</sup> Consumers brief, 80.

<sup>438</sup> Staff brief, 15-16.

<sup>439</sup> Staff brief, 16.

<sup>440</sup> Staff brief, 16.

<sup>441</sup> AG brief, 74.

rate base and she reasserts Mr. Coppola's recommendation to remove \$13,450,000 for the 10 months ending October 2025 and \$2,003,000 for the projected test year.<sup>442</sup>

The parties' reply briefs did not address the issue further.

*iii. Recommendation*

On July 10, 2025, the Commission approved a settlement agreement in Case U-21842 and authorized construction of the Hessen storage pipeline.<sup>443</sup> Given that reply briefs in this case were due on July 11, 2025, the parties may not have had sufficient time to respond to the Commission order. However, Staff and the Attorney General's primary concern was whether the company would obtain Act 9 approval, and given that the Commission has granted this approval, this PFD rejects the disallowances proposed by Staff and the Attorney General.

*b. Lyon 29/34 (Northville Storage) Dehydration*

*i. Testimony*

Mr. Joyce testified that from 2018-2020 there were multiple occasions when gas withdrawn from the Northville Storage fields (Northville) had water content exceeding regulatory limits, and the dehydration upgrade project Consumers proposes is intended to improve gas purity, measurement accuracy, and pipeline reliability. He stated that in 2022, project expenditures were for engineering and design, in 2023 engineering and design concluded and the company sought long lead time materials, and the 2024 and 2025 expenditures are for securing remaining materials and performing construction.<sup>444</sup>

Mr. Joyce testified that gas blending was considered as an alternative, but the company

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<sup>442</sup> AG brief, 74.

<sup>443</sup> See July 10, 2025, Order in Case No. U-21842.

<sup>444</sup> 4 Tr 1512.

does not consider blending gas of different qualities to be “a competent means of ensuring gas quality.”<sup>445</sup>

Mr. Coppola testified that because the last several gas rate cases have settled, the Commission has not had the opportunity to review the reasonableness of this project, and further work on this project should be avoided.<sup>446</sup> He explained that the company was concerned about the moisture content of gas withdrawn from the Northville gas storage fields, but the company identified “only a few incidents of excessive moisture in the gas stream between 2019 and 2021,” has not tested since March of 2021, and has changed the utilization of the Northville storage fields to be a peaking storage facility used only during peak demand in the winter.<sup>447</sup> He testified that the company withdrew gas from the fields only once in 2021, maybe once in 2022, and not at all in 2023 and 2024.<sup>448</sup> He testified that the total cost of the dehydration facility was approximately \$37.4 million, and that “it does not seem cost effective to build a high-cost facility that will sit idle and not be utilized other than on rare occasions.”<sup>449</sup> Mr. Coppola asserted that the volume of gas withdrawn from the Northville fields at peak times in 2021 and 2022 represented 0.01-0.04% of the total system sendout on those days, and that such a minor volume should not pose a problem when the company mixes the gas withdrawn from Northville with other gas supply in the transmission lines.<sup>450</sup>

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<sup>445</sup> 4 Tr 1512.

<sup>446</sup> 4 Tr 1915-1916.

<sup>447</sup> 4 Tr 1916.

<sup>448</sup> 4 Tr 1916.

<sup>449</sup> 4 Tr 1916.

<sup>450</sup> 4 Tr 1916-1917.

Mr. Coppola inquired whether Consumers performed an analysis to determine if gas withdrawn from Northville could be blended with drier gas from other sources as an effective solution to the moisture content problem; the company stated that it did not because it did not consider gas blending a competent means of ensuring gas quality.<sup>451</sup> Mr. Coppola opined that, while such a position makes sense on a larger scale, the small and irregular withdrawals from Northville make blending an effective strategy, noting that peer utility DTE Gas utilizes blending to cure temporary moisture issues.<sup>452</sup> He concluded that the Northville dehydration project “is not a cost effective solution for an investment exceeding \$37.4 million on a project for a facility that would rarely be used” and recommended disallowing all capital expenditures from 2022 through the proposed test year, \$39.26 million.<sup>453</sup>

In rebuttal, Mr. Joyce countered that, “none of Mr. Coppola’s concerns are valid.”<sup>454</sup> He reiterated that Consumers does not consider blending a competent means of ensuring gas quality, as “various conditions can affect how and whether gases are mixed in a pipe” and it would be “inaccurate to assume mixing occurs.”<sup>455</sup> He stated that Mr. Coppola’s statement that the Northville storage fields became a peaking facility in 2021 is incorrect, as they, “have always been, and continue to be, operated as peaking fields.”<sup>456</sup> He testified that the Northville storage fields were used during the Ray Fire emergency in

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<sup>451</sup> 4 Tr 1917.

<sup>452</sup> 4 Tr 1917.

<sup>453</sup> 4 Tr 1918.

<sup>454</sup> 4 Tr 1533.

<sup>455</sup> 4 Tr 1535.

<sup>456</sup> 4 Tr 1534.

January 2019 and they were used again in mid-March of 2022, but the moisture content of the gas limited the facility's ability to meet peak demand.<sup>457</sup>

Mr. Joyce testified that the Northville Storage fields are a critical part of the company's natural gas system providing the ability to meet peak demand and the fields require upgrades to meet the regulatory requirements for gas quality, specifically the threshold for moisture content.<sup>458</sup> He asserted that Mr. Coppola's recommended removal of the total project costs in 2022, 2023, 2024, and the bridge and test year is unwarranted and should be rejected by the Commission.<sup>459</sup>

*ii. Briefing*

Consumers contends that the Commission should disregard Mr. Coppola's recommendation because he is a "non-expert" and his conclusions are "unqualified and incorrect."<sup>460</sup> As for Mr. Coppola's assertion that the company can use gas blending to ensure the Northville gas has a moisture content that meets gas quality standards, the company underscores Mr. Joyce's testimony that blending would not be a competent means of ensuring gas quality with respect to these storage fields "due to features of the company's system, including its integrated nature, variable operating conditions, and the fact that the system is not designed to ensure mixing."<sup>461</sup> Consumers emphasizes that even if the Northville storage fields are utilized infrequently—as peaking fields are—the company still needs them to send out gas that meets the Commission's gas quality

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<sup>457</sup> 4 Tr 1534.

<sup>458</sup> 4 Tr 1536.

<sup>459</sup> 4 Tr 1536.

<sup>460</sup> Consumers brief, 84.

<sup>461</sup> Consumers brief, 85.



requirements.<sup>462</sup> The company argues that the dehydration project will allow the Northville fields to be used more frequently and effectively.<sup>463</sup> Consumers stresses Mr. Joyce's testimony that the dehydration project is the "best evaluated option," which it asserts, indicates that it best optimizes affordability, reliability, safety, and all other considerations to address the moisture problem at the plant."<sup>464</sup>

Lastly, the company claims that Mr. Coppola's recommended disallowance double-counts dollars that were included in Mr. Coppola's recommendation to reduce the company's projected 2024 capital expenditures for GCS based on the company's actual 2024 spending, to which the company agreed.<sup>465</sup> Nonetheless, the company argues that it has already expended approximately \$8.5 million to complete the Northville project and the project will provide numerous benefits to customers.<sup>466</sup>

In her brief, the Attorney General reiterates Mr. Coppola's recommendation that future work on the dehydration project should be avoided because the infrequent occurrence of moisture issues does not justify the large costs of the project: "[I]t does not seem cost effective to build a high-cost facility that will sit idle and not be utilized other than on rare occasions."<sup>467</sup> The Attorney General elaborates on Mr. Coppola's suggestion that the company use gas blending, stating that the small volumes of gas withdrawn from the fields should not pose a problem when mixed with the other gas flowing through the

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<sup>462</sup> Consumers brief, 84-85.

<sup>463</sup> Consumers brief, 85.

<sup>464</sup> Consumers brief, 86.

<sup>465</sup> Consumers brief, 86. According to the company, Mr. Coppola recommended disallowance of the entire \$8.028 million originally projected for this project for 2024, despite his acknowledgement that the company reported actual 2024 expenditures of \$6.122 million. The difference was already included in the 2024 actual adjustment for underspend that the company agreed to accept.

<sup>466</sup> Consumers brief, 86.

<sup>467</sup> AG brief, 69-70.

company's system.<sup>468</sup> The Attorney General argues that Mr. Joyce's rebuttal testimony, which states that the utilization of the Northville storage fields is being limited due to the moisture content of the gas, is contradicted by the history of the fields and further that the company has never mentioned any issues with the moisture level of the storage field in its GCR testimony.<sup>469</sup> The Attorney General asserts that an investment of over \$37.4 million on a facility that would be rarely used is not a cost-effective, reasonable, or prudent use of ratepayer funds and recommends that the Commission remove the capital expenditures as recommended by Mr. Coppola.<sup>470</sup>

In reply, Consumers claims that the Attorney General fails to appreciate the significance of peaking fields:

It is dangerously flippant to trivialize the need to properly invest in these storage fields merely because the Attorney General perceives that they aren't often used. Following that reasoning, it would not make sense to have the peaking fields at all. However, prudent utilities plan for and keep assets to address anticipated risks and known and expected extreme operating conditions. And prudent utilities make the investments necessary to utilize that equipment properly and effectively when it is needed.<sup>471</sup>

The company reiterates that the very infrequent use of the Northville storage fields in recent years is because of the moisture problem and if the problem were fixed, the fields would be used more.<sup>472</sup> The company highlights a discovery response from Mr. Joyce stating that the "the significant value peaking storage facilities offer to the company's customers is not just their utilization in design cold weather conditions, regardless of the frequency, but the significant role they play in allowing the company to minimize monthly

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<sup>468</sup> AG brief, 70.

<sup>469</sup> AG brief, 70.

<sup>470</sup> AG brief, 71-72.

<sup>471</sup> Consumers reply, 25.

<sup>472</sup> Consumers reply, 26.

purchases and maximize utilization of all the company's storage assets per the company's filed GCR Plans."<sup>473</sup> As to the Attorney General's statement that the company has never mentioned the moisture problem in its GCR filings, the company responds that, "GCR cases are not a proper forum for seeking regulatory approval of investments needed to improve operating conditions. That is what general rate cases are for."<sup>474</sup>

Consumers elaborated on Mr. Joyce's testimony on why gas blending would not be a reasonable approach to address the moisture problem at Northville based on the company's system and variable operating conditions:

When Mr. Joyce refers to the "integrated nature of Consumers Energy's gas system," he is talking about the fact that the system is composed of a web of both high-pressure gas transmission pipelines and lower-pressure gas distribution mains that interconnect with one another at multiple points, allowing ingress and egress of gas at a wide variety of locations from the different segments of the system. When Mr. Joyce refers to "variable operating conditions," he is talking about the fact that gas could potentially be flowing at different rates of speed and under significantly different pressures on the various segments of the system at different times, and can even slow, stop, and change direction. It is not hard to understand that low pressure gas entering one part of a system and moving at slow speed over a short distance to enter mains that directly serve customers might seriously impede the blending of that gas with other gas present in the system. Mr. Coppola is not an engineer, so it is possible that he failed to appreciate what Mr. Joyce was trying to convey in this testimony.<sup>475</sup>

The company dismisses the Attorney General's claim that because DTE Gas can blend gas that Consumers should also be able to do so, as the companies have different systems.<sup>476</sup> The company urges the Commission to reject the Attorney General's recommendations to disallow the dehydration project's cost.<sup>477</sup>

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<sup>473</sup> Consumers reply, 26.

<sup>474</sup> Consumers reply, 27.

<sup>475</sup> Consumers reply, 27-28.

<sup>476</sup> Consumers reply, 29.

<sup>477</sup> Consumers reply, 30.

The Attorney General's reply brief argues that the company's "collateral attack" on Mr. Coppola's testimony because he is not an engineer is inappropriate at the briefing stage.<sup>478</sup> She contends that he has the experience necessary to review and evaluate the company's proposed expenditures and the company never tried to disqualify him as a witness.<sup>479</sup> In reply to this issue, the Attorney General relies on Mr. Coppola's testimony and its initial brief and urges the Commission to adopt the recommended disallowances.<sup>480</sup>

*iii. Recommendation*

This PFD agrees with the Attorney General's concerns that the costs of the dehydration project are very significant considering the infrequent use of Northville. This PFD recognizes that peaking fields are only used to supply gas a few times per year, and that even if used infrequently, peaking facilities are critical components of the company's gas infrastructure needed to ensure Consumers can meet demand and support a reliable gas system. But the evidence shows that the company was able to meet peak demand in 2023 and 2024 without the use of the Northville field and was able to meet peak demand in 2022 with limited use of Northville. And while the company states that it has done additional testing and monitoring of the moisture content of Northville, it does not provide any explanation when this testing occurred or the results. This PFD notes that the company stated it would use the fields more frequently if the dehydration project was installed, but the company does not assert that the field's use will be changed from peaking or does not explain how, as a peaking field, Northville would be used more.

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<sup>478</sup> AG reply, 12-13.

<sup>479</sup> AG reply, 12-13.

<sup>480</sup> AG reply, 13-14.

Moreover, although Consumers suggested that it evaluated other alternatives to the dehydration project, except for gas blending, those alternatives were not discussed in detail in the presented testimony. As a result, this PFD finds that the company has not yet demonstrated that the extensive costs of the dehydration project are reasonable or prudent. This PFD agrees with the company that the Attorney General's recommended disallowance of \$8.028 million for 2024 should be reduced by \$1.906 million to reflect the Attorney General's recommendation, as agreed to by the company, to reduce compression and storage costs for 2024 based on actual spending. Therefore, this PFD adopts the Attorney General's recommended disallowance of all capital expenditures from 2022 through the proposed test year, or \$37.35 million.

This PFD finds that should Consumers elect to continue with the dehydration project, the company should provide more robust support for cost recovery in a future rate case, which could include a more detailed explanation of alternative approaches considered and their suitability or lack thereof.

c. Storage - New Wells

i. *Testimony*

Mr. Joyce testified that Consumers plans on drilling four new wells per year in 2025 and 2026, with an additional reentry well in 2026.<sup>481</sup> As set forth in Mr. Joyce's Exhibit A-12, Schedule B-5.7, the capital expenditures for the company's new well program were \$11,403,000 in 2023, and were projected to be \$17,202,000 in 2024, \$28,004,000 for the 10 months ending October 31, 2025, and \$32,296,000 for the projected test year.

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<sup>481</sup> 4 Tr 1513-1514.  
U-21806  
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Mr. Spence raised two concerns regarding capital expenditures for the New Well program, both of which pertained to Act 9 applications pending before the Commission. He explained that the company included capital expenditures in the instant case related to Case Nos. U-21835 and U-21854.<sup>482</sup> He testified that, because the Commission had not entered final orders in those cases, there was no assurance the projects would be approved. Referring to Staff Exhibits S-16.1 and S-16.2, Mr. Spence recommended allowing the application expenses related to those cases.<sup>483</sup> However, in relation to Case No. U-21835, Staff recommended disallowing \$968,000 for 2024; “\$5,671,000 for the 10 Months Ending October 31, 2025; and \$1,150,000” for the test year.<sup>484</sup> In relation to Case No. U-21854, Staff recommended disallowance of \$1,699,000 for 2024; \$19,268,000 for the bridge period; and \$3,341,000 for the test year.<sup>485</sup> In total, Staff recommended post-application expense disallowances of \$7,798,000 for Case No. U-21835 and \$24,308,000 for Case No. U-21854.<sup>486</sup>

Mr. Coppola testified that Mr. Joyce’s data showed that the expenditures for the four new wells the company proposed to drill in 2025 were 30% higher than the company’s average cost of drilling wells in 2024 after adjusting for inflation. Similarly, he asserted that the expenditures for new wells in 2026 were 11% higher than the average cost of drilling wells in 2024 after adjusting for inflation. To correct these perceived excesses, he

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<sup>482</sup> 4 Tr 2685-2686.

<sup>483</sup> 4 Tr 2687.

<sup>484</sup> 4 Tr 2686.

<sup>485</sup> 4 Tr 2685-2687.

<sup>486</sup> 4 Tr 2685.

proposed disallowing \$4,647,000 for the 10 months ending October 2025 and \$3,916,000 for the projected test year.<sup>487</sup>

In rebuttal, Mr. Joyce answered Mr. Spence by positing that, while Act 9 approval was likely, final Act 9 orders are not necessary to accurately project post-order expenses. He asserted that the company will incur actual and necessary expenses in preparation for the new wells before final Act 9 orders are issued.<sup>488</sup> Mr. Joyce concluded that Mr. Coppola's recommendations should be rejected for the same reasons.<sup>489</sup>

*ii. Briefing*

In its brief, Consumers repeats Mr. Joyce's testimony that rate cases are forward-looking and reasserts that approval of funding is appropriate irrespective of whether the Commission has approved certificates of necessity for the projects under MCL 483.109.<sup>490</sup>

In addition, Consumers clarifies that applications for certificates of necessity are pending for Winterfield and Cranberry Storage Fields, Case Numbers U-21854 and U-21835, respectively.<sup>491</sup> Highlighting Mr. Joyce's testimony that the company's projections account for differences in "geologic formations, drill depths, pipeline lengths, and site preparation" in determining the varying costs for the 2025 and 2026 projects, the company rejects the Attorney General's assertions that there can be "typical" or average costs for drilling new storage wells upon which spending decisions can be reasonably made.<sup>492</sup>

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<sup>487</sup> 4 Tr 1918-1920.

<sup>488</sup> 4 Tr 1536-1538.

<sup>489</sup> 4 Tr 1538.

<sup>490</sup> Consumers brief, 79-80.

<sup>491</sup> Consumers brief, 80.

<sup>492</sup> Consumers brief, 81-82.

Staff recommends that the Commission disallow \$7.789 million in relation to the Cranberry Lake Well Line Act 9 Application, comprised of \$968,000 for 2024; \$5,671,000 for the bridge period; and \$1,150,000 for the projected test year.<sup>493</sup> Staff also recommends a disallowance of \$24.308 million in relation to the Winterfield Well Line Act 9 Application, comprised of \$1,699,000 for 2024; \$19,268,000 for the bridge period; and \$3,341,000 for the test year.<sup>494</sup> Staff agrees with Mr. Joyce’s testimony on behalf of the company that application filing expenses for both project applications may be included in this case.<sup>495</sup>

However, at the time of briefing, the Commission still had not granted Act 9 approval for the projects. As a result, Staff disagrees with the company’s rebuttal regarding inclusion of post-application costs in this rate case. Staff contends that the projects cannot proceed without Commission approval, and that allowing the costs now could result in costs to customers with no benefit.<sup>496</sup> Nevertheless, Staff indicates that it “may consider withdrawing” recommended disallowances if the Commission grants Act 9 approval.<sup>497</sup>

The Attorney General’s brief reiterates her request for a disallowance based upon 2023-2024 averages adjusted for inflation.<sup>498</sup>

No new evidence or argument was included in the parties’ reply briefs.<sup>499</sup>

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<sup>493</sup> Staff brief, 13.

<sup>494</sup> Staff brief, 16.

<sup>495</sup> Staff brief, 14.

<sup>496</sup> Staff brief, 13-14, 16-18.

<sup>497</sup> Staff brief, 14, 17.

<sup>498</sup> AG brief, 72-73.

<sup>499</sup> AG reply 13-14.



*iii. Recommendation*

This PFD notes that in Case No. U-21854, a settlement agreement between Staff and Consumers for the installation of new W-1004, W-1005, and W-1006 wells in the Winterfield Storage Field was signed, and the Commission entered an order approving the settlement agreement on July 10, 2025.<sup>500</sup>

Also on July 10, 2025, the Commission granted Act 9 approval for the C-1103 well and associated line for Consumers' Cranberry Storage Field in Case No. U-21835.<sup>501</sup>

This PFD declines to adopt Staff's proposed disallowances because Staff's concerns regarding Act 9 approval should now be satisfied given the outcomes of the above-mentioned cases. This PFD further declines to adopt the Attorney General's proposed disallowance for the reasons stated by the company.

*d. Gas Compression Projects*

*i. Testimony*

Mr. Joyce provided general testimony about gas compression and storage projects in his testimony, as well as the related capital expenditures in Exhibit A-12, Schedule B-5.7, which showed expenditures of \$62.3 million for 2024, \$44.6 million for the 10 months ending October 2025 and \$66.2 million for the projected test year.<sup>502</sup>

Mr. Coppola testified that he identified 13 compression-related projects valued at \$1 million or greater that have estimated completion dates of September 2026 or later.<sup>503</sup> He opined that these projects "are not likely to be in significant construction mode during

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<sup>500</sup> See July 10, 2025, Order in Case No. U-21854.

<sup>501</sup> See July 10, 2025, Order in Case No. U-21835.

<sup>502</sup> 4 Tr 1504; See also Exhibit A-12, Schedule B-5.7.

<sup>503</sup> 4 Tr 1921-1922, see also Exhibit AG-25.

2026 or to be completed by the end of the projected test year ending October 2026.”<sup>504</sup> Accordingly, he opined that these projects were premature for inclusion in rate base because of the uncertainty of their total costs or timely completion, and he recommended removal of their associated expenditures: \$786,000 in the 10 months ending October 2025 and \$29.29 million in the projected test year.<sup>505</sup>

In rebuttal, Mr. Joyce testified that Mr. Coppola’s recommended disallowances are “inappropriate” as the company will still incur material and equipment costs for the 13 compression-related projects during the engineering design phase.<sup>506</sup> He stated that, “the correct ratemaking treatment for projects that incur legitimate capital costs during the bridge period and test year but will not be in service before the end of the test year is to apply an AFUDC offset – not to disallow them.”<sup>507</sup> He urged the Commission to reject Mr. Coppola’s recommended disallowances.<sup>508</sup>

*ii. Briefing*

The company’s brief largely tracks Mr. Joyce’s testimony. The company highlights Mr. Joyce’s contention that an AFUDC offset should be applied to the 13 projects based on “longstanding ratemaking treatment,” and Mr. Coppola’s recommended disallowance should be rejected.<sup>509</sup>

In her brief, the Attorney General reiterates Mr. Coppola’s assertions and recommendation to disallow the 13 compression related projects and states that, “[g]iven

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<sup>504</sup> 4 Tr 1922.

<sup>505</sup> 4 Tr 1922.

<sup>506</sup> 4 Tr 1540.

<sup>507</sup> 4 Tr 1540.

<sup>508</sup> 4 Tr 1540.

<sup>509</sup> Consumers brief, 88.

the limited development of these projects and the uncertainty of the forecasted costs, it is premature to include them in this rate base in this case.”<sup>510</sup>

In reply, the company reiterates that the correct ratemaking procedure for the 13 projects is to apply an AFUDC offset, which means the projects will have no impact on revenue requirements.<sup>511</sup>

In reply, the Attorney General’s relies on Mr. Coppola’s testimony and her initial brief.

*iii. Recommendation*

This PFD notes that the Attorney General’s briefing did not address the company’s argument that an AFUDC offset is the appropriate treatment for projects that will incur capital expenses during the bridge period and test year but which may not be in service before the end of the test year. In Case No. U-21585, the Commission faced a similar situation and approved the costs of certain projects, even though they would not be used and useful in the test period, to be included in CWIP with an AFUDC offset.<sup>512</sup> Therefore, this PFD agrees with the company and rejects the Attorney General’s recommended disallowance.

e. 2024 Gas Compression & Storage Underspend

Mr. Coppola testified that he asked the company to provide the actual amount spent on all compression and storage programs in 2024, and Consumers identified that sum as \$167.77 million, which is less than the \$175.33 million it identified as being spent

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<sup>510</sup> AG brief, 76.

<sup>511</sup> Consumers reply, 32.

<sup>512</sup> March 21, 2025 order in Case No. U-21585, p. 162.

in 2024 when it filed the instant case.<sup>513</sup> Mr. Coppola testified that the difference is an underspend amount of \$7.56 million that should be removed from rate base in the instant case because the company did not incur those costs and it is not fair or reasonable for the company to earn a return on expense it did not occur.<sup>514</sup>

In rebuttal, Mr. Joyce testified that the company agrees with Mr. Coppola's recommended removal of \$7.563 million from the rate base based on its actual costs.<sup>515</sup>

This PFD adopts the Attorney General's recommendation, as agreed to by the company, and recommends that the Commission remove \$7.563 million from the rate base.

f. Riverside Storage Field Sale

i. *Testimony*

Mr. Joyce testified that the company decided to end operation of the Riverside storage field and an agreement to sell the field was pending when the company filed this rate case.<sup>516</sup> Based upon the expected sale, the company removed the historical net book value of the field from rate base, adjusted working capital to reflect the regulatory asset balance, and proposed a three-year amortization of the regulatory asset reflecting the loss from the sale.<sup>517</sup> However, after this case was filed, the buyer withdrew from the purchase agreement.

Mr. Nichols proposed to restore the historical net book value for Riverside back into rate base, reverse the adjustments to working capital, remove the amortization, and

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<sup>513</sup> 4 Tr 1922; citing Exhibit A-12, Schedule B-5.7.

<sup>514</sup> 4 Tr 1923.

<sup>515</sup> 4 Tr 1541.

<sup>516</sup> 4 Tr 1509-1510.

<sup>517</sup> 4 Tr 1772.

make all related adjustments to depreciation and property tax related to those changes.<sup>518</sup> He added that, in response to a discovery question, the company proposed that if Riverside is sold before or during the projected test year, then any amount collected in rates related to Riverside could be used to reduce the established regulatory asset already in place until rates are reset to remove the Riverside storage assets from rates.<sup>519</sup> He supported this proposal.<sup>520</sup>

Mr. Coppola proposed removing \$7.398 million associated with Riverside from the forecasted working capital and removing amortization expense of \$2.959 million given the uncertainty of any proposed sale of the Riverside asset.<sup>521</sup>

In rebuttal, Ms. Myers testified that the company accepted Mr. Nichol's recommendations.<sup>522</sup> She added that the company agreed with Mr. Coppola's adjustments, but unlike Mr. Nichol's adjustments, they were incomplete because they neglected to add plant assets back into the case.<sup>523</sup>

*ii. Briefing*

Consumers largely repeats that it supports the adjustments related to Riverside that are proposed by Staff while asserting that the Attorney General's proposed adjustments were correct but not complete.<sup>524</sup>

Staff's briefing reiterates Staff's position, to which the company assented, and details the adjustments that should be made to various financial aspects of this case in

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<sup>518</sup> 4 Tr 2494.

<sup>519</sup> Exhibit S-10, p. 4.

<sup>520</sup> 4 Tr 2494.

<sup>521</sup> 4 Tr 1946, 2012.

<sup>522</sup> 4 Tr 1599.

<sup>523</sup> 4 Tr 1599.

<sup>524</sup> Consumers brief, 83, 84.

order to address the cancellation of the Riverside sale agreement. Staff repeats that, if sold, any amounts collected in rates related to Riverside should be used to reduce the established regulatory asset until rates are reset to remove the Riverside Storage Field from rates.<sup>525</sup>

The Attorney General's briefing continues to advocate for adjustments to working capital and amortization expense related to the cancellation of the agreement to sell the Riverside Storage Field.<sup>526</sup>

*iii. Recommendation*

This PFD agrees with Consumers and Staff, and this PFD recommends making several financial adjustments to address the cancellation of the Riverside Storage Field sale agreement. These adjustments, which affect various aspects of this case, were helpfully listed by Staff as follows:<sup>527</sup>

Plant in Service:	\$11,349,000 increase
Depreciation Reserve:	\$2,293,000 increase
Depreciation Expense:	\$237,000 increase
Property Tax Expense:	\$159,000 increase
Working Capital:	\$7,398,000 decrease
Amortization Expense:	\$2,959,000 decrease

This PFD adopts the above financial adjustments and adopts Staff's recommendation to direct that, if the Riverside Storage Field is sold, then any amounts collected in rates related to the inclusion of Riverside should be used as a reduction to the established regulatory asset until rates can be reset to remove Riverside from rates.

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<sup>525</sup> Staff brief, 11.

<sup>526</sup> AG brief, 101, 171.

<sup>527</sup> See Staff brief, 11.

4. Operations Support

a. Lansing, Hastings, and Kalamazoo Service Centers

i. *Testimony*

Consumers initially requested approval of \$22,136,000 of capital expenditures (\$14,937,000 in the bridge period and \$7,199,000 in the test year) for relocation of the Lansing Service Center; \$114,000 of bridge-period capital expenditures for construction of a new Hastings Service Center at the same location; and \$14,029,000 of capital expenditures (\$10,949,000 in the bridge period and \$3,080,000 in the test year) for renovation of the Kalamazoo Service Center. Mr. Guinn provided detailed descriptions of the three projects as well as status updates.<sup>528</sup>

Mr. Denzler recommended full disallowances of all capital expenditures for the Lansing and Hastings projects. He expressed concern about delays with the projects and testified that in Consumers' recent electric rate case, Case No. U-21585, the Commission disallowed all projected costs based on the company's lack of progress and failure to spend its previously allocated funds.<sup>529</sup> Regarding the Kalamazoo project, Mr. Denzler proposed a 40% disallowance of projected costs, testifying that the renovation would result in the facility being overbuilt by 40% compared to current needs.<sup>530</sup>

In rebuttal, Mr. Guinn did not oppose removal of forecasted capital expenditures for the Lansing and Hasting projects based on the Commission's determination in Case No. U-21585, but he argued for approval of the company's actual expenses in 2024, which

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<sup>528</sup> 4 Tr 1391-1402, 1404-1408.

<sup>529</sup> 4 Tr 2477-2479, citing March 21, 2025, order in Case No. U-21585, pp. 173, 176.

<sup>530</sup> 4 Tr 2479-2480.

were bridge-period expenditures of \$1,817,000 for Lansing and \$95,000 for Hastings.<sup>531</sup> In addition, Mr. Guinn refuted Mr. Denzler's contention that the Kalamazoo project was being overbuilt by 40%, referencing his direct testimony that the renovation would not add space to the existing facility and explaining that it would be costly to reduce the size of the facility during renovation.<sup>532</sup>

*ii. Briefing*

Consumers' initial brief closely tracks Mr. Guinn's testimony in arguing that 2024 expenses for the Lansing and Hastings projects should be approved, along with all expenditures for the Kalamazoo project.<sup>533</sup>

In its initial brief, CUB argues that the Commission should disallow all expenditures for the Lansing and Hastings Service Centers to "ensure consistency" with Case No. U-21585, where the Commission disallowed 2024 expenses for Consumers' electric share of those projects.<sup>534</sup> CUB opines that Consumers has not shown the 2024 expenditures were reasonable to support a different outcome here and that those expenses should be reviewed as part of the full project in a future proceeding.<sup>535</sup> As for the Kalamazoo project, CUB concedes Mr. Denzler's proposition for a 40% disallowance, acknowledging that it makes more sense to maintain the existing size of the facility.<sup>536</sup> However, CUB argues that the Commission should wait to address costs for the Kalamazoo Service Center until

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<sup>531</sup> 4 Tr 1468-1469; see also Exhibit A-149, lines 11-12. Mr. Guinn testified that the company would present post-2024 expenditures in a future rate case. *Id.*

<sup>532</sup> 4 Tr 1470.

<sup>533</sup> Consumers brief, 90-92.

<sup>534</sup> MSC brief, 3, 68-69.

<sup>535</sup> MSC brief, 69.

<sup>536</sup> MSC brief, 69.



the project as a whole can be reviewed in the future.<sup>537</sup> CUB does not address this issue in reply briefing.

In its reply, Consumers notes that in Case No. U-21585 the record closed prior to the end of 2024 and before 2024 actual spending was complete. The company argues that in this case, it has provided 2024 actual spending, there is no uncertainty with respect to those costs, and the Commission should therefore approve them.<sup>538</sup> As for the Kalamazoo project, Consumers notes that CUB's recommendation for a full disallowance was made for the first time in CUB's brief, and the company argues that the recommendation must be rejected because it is not based on record evidence and "raises serious due process concerns because the Company did not have the opportunity to present evidence to address or challenge this recommendation."<sup>539</sup> As an alternative, Consumers proposes that the Commission should at least approve the 2024 projected expenditures for Kalamazoo of \$3.358 million.<sup>540</sup>

### *iii. Recommendation*

This PFD recommends full disallowances of all bridge-period and test-year expenses associated with the three service centers, consistent with the Commission's concerns expressed in the March 21, 2025 order in Consumers' recent electric rate case, Case No. U-21585, over lack of progress and underspend of capital projections that were initially approved in December 2021.<sup>541</sup> This PFD does not find that Consumers was

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<sup>537</sup> MSC brief, 69.

<sup>538</sup> Consumers reply, 32-33.

<sup>539</sup> Consumers reply, 33-34.

<sup>540</sup> Consumers reply, 34, citing Exhibit A-69.

<sup>541</sup> See March 21, 2025 order in Case No. U-21585, pp. 170-179; see also December 22, 2021 order in Case No. U-20963, pp. 160-162.

prejudiced because CUB first recommended a full disallowance of the Kalamazoo Service Center expenditures in briefing. That recommendation relies upon the Commission's order in Case No. U-21585 and is based on an identical rationale used for the two other service center projects. Notably, the company has agreed to withdraw from consideration unspent costs for the Lansing and Hastings projects based on the Commission's previous disallowances. Consumers' request for actual 2024 costs relating to the Lansing and Hastings projects should be rejected because the company fails to adequately support those actual 2024 costs and instead relies on a discovery response that does not appear to have been admitted into evidence.<sup>542</sup> Likewise, this PFD finds it would be premature to approve Consumers' *projected* 2024 costs for the Kalamazoo project. The company should be required to establish reasonableness and prudence of the 2024 costs during review of the full projects and expenditures in a future rate case.

As a result, the Commission should disallow capital expenditures totaling \$12,861,000 in the bridge period (\$1,817,000 for Lansing after Consumers' adjustment; \$95,000 for Hastings after Consumers' adjustment; and \$10,949,000 for Kalamazoo) and \$3,080,000 in the test year (Kalamazoo).

## 5. Fleet Capital Expenditures

### a. Testimony

Mr. Ballinger described the company's Fleet Services capital spending and planning process. He stated that the company's fleet includes approximately 7,207 owned, leased, and rented units including light-, medium-, and heavy-duty vehicles and

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<sup>542</sup> See 4 Tr 1468-1469 (referencing discovery response U21806-AG-CE-0652).

various types of equipment.<sup>543</sup> He asserted that 50% of the vehicles are used in the company's gas business, 40% in its electric business and 10% are shared, or common.<sup>544</sup>

Mr. Ballinger presented the company's three-phase Fleet Replacement Planning Process which he explained is used to develop the company's Fleet Vehicle Capital Replacement Plan. In the first phase, vehicles that are at or near the end of their expected life are identified using a tool called the Blended Factor.<sup>545</sup> According to Mr. Ballinger, the Blended Factor is a data-based algorithm that incorporates unit age, utilization data, and expected life.<sup>546</sup> A Blended Factor result greater than 0.00% indicates that a vehicle is at or past its expected life and can be considered for replacement.<sup>547</sup> Mr. Ballinger testified that approximately 2,794 out of the 7,207 units currently in the fleet have a result greater than 0.00% and are eligible for replacement.<sup>548</sup>

Mr. Ballinger testified that in the second phase several analytical tools are used to narrow the pool of vehicles identified for replacement by the Blended Factor. He described the tools used to include cost, crewing, and fleet utilization tools.<sup>549</sup> According to Mr. Ballinger, the third and final phase involves finalizing the list of vehicles for replacement and beginning the ordering process for new vehicles.<sup>550</sup>

Mr. Ballinger stated that the company's Fleet Vehicle Capital Replacement Plan provides multiple benefits to customers. He testified that, it "allows the company to retire

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<sup>543</sup> 4 Tr 1418.

<sup>544</sup> 4 Tr 1419.

<sup>545</sup> 4 Tr 1420.

<sup>546</sup> 4 Tr 1424.

<sup>547</sup> 4 Tr 1423.

<sup>548</sup> 4 Tr 1425.

<sup>549</sup> 4 Tr 1425-1433.

<sup>550</sup> 4 Tr 1421.

and replace vehicles in a cost-effective way by using qualitative and quantitative inputs to identify units for replacement, particularly by identifying those units with high maintenance costs and exhausted expected useful lifespans.”<sup>551</sup>

Mr. Ballinger testified about the company’s plan to increase the number of electric vehicles (EVs) in its fleet. Mr. Ballinger asserted that the benefits of EVs include lower fuel, maintenance, and operating costs and reduced greenhouse gas (GHG) emissions.<sup>552</sup> He testified that the company’s electrification goals include increasing the number of EVs in its fleet from 5% to 30%, which would be approximately 1,700 EVs, by the year 2030.<sup>553</sup> According to Mr. Ballinger, an assessment by the national non-profit CALSTART concluded that the company has the potential to lower the fleet’s overall fuel and maintenance costs by approximately 70% combined over the lifetime of the EVs (excluding vehicle purchase price) and potentially reduce tailpipe emissions by approximately 90,000 metric tons.<sup>554</sup>

Mr. Ballinger presented the company’s historical and projected Fleet Services capital expenditures in Exhibit A-12, with detailed information for 2023-2026 provided in Exhibit A-28. The company’s projected test year spending for Fleet Services is comprised of \$12.923 million for Fleet Vehicle Capital Replacement, \$360,000 for Fleet Vehicle Electrification, and \$249,000 for Fleet Tools-Garage.<sup>555</sup>

Mr. Coppola testified that the company’s forecasted capital costs for vehicle replacement are unsupported and excessive. He explained that he obtained additional

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<sup>551</sup> 4 Tr 1436-1437.

<sup>552</sup> 4 Tr 1438, 1442.

<sup>553</sup> 4 Tr 1439.

<sup>554</sup> 4 Tr 1445.

<sup>555</sup> Exhibit A-12.

information, including actual data, from the company and he calculated an average purchased cost per vehicle (unit cost) of \$61,293 for 2022, \$66,406 for 2023, and \$76,892 for 2024.<sup>556</sup> Based on this, he asserted, the company's forecasted cost per vehicle of \$118,128 for 2025 and \$126,505 for the 2026 test year are unreasonable.<sup>557</sup> He developed what he called reasonable forecasts for 2025 and 2026 based on the 2024 average cost adjusted for inflation (2.4% for 2025 and 2.5% for 2026), which resulted in an average vehicle cost of \$78,737 for 2025 and \$80,705 for the test year.<sup>558</sup> He testified further that based on the number of vehicles the company is planning to purchase in 2025 and 2026, this leads to a forecasted capital expenditure of \$5,643,000 for the 10 months ending October 2025 and \$8,474,000 for the projected test year.<sup>559</sup> Mr. Coppola recommended that the Commission remove \$1,202,000 for the 10 months ending October 2025 and \$4,809,000 for the projected test year "to moderate the company's excessive forecasted cost increases and capital expenditures."<sup>560</sup>

CUB witness Denzler took issue with the company's Blended Factor tool. He testified that Consumers admitted that it has not evaluated the effectiveness or accuracy of the tool and "has known examples where that tool has failed to predict failures in its Fleet assets."<sup>561</sup> Mr. Denzler maintained that this is problematic as the Blended Factor tool is the main filter for determining which vehicles are candidates for replacement. Consequently, he opined, the company's replacement plans are "not sufficiently justified"

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<sup>556</sup> 4 Tr 1936.

<sup>557</sup> 4 Tr 1937.

<sup>558</sup> 4 Tr 1937.

<sup>559</sup> 4 Tr 1937.

<sup>560</sup> 4 Tr 1937.

<sup>561</sup> 4 Tr 2466.

and should “be considered preliminary, at best.”<sup>562</sup> He recommended that the Commission disallow 20% of the company’s proposed Fleet Vehicle Capital Replacement spend in the bridge period and projected test year, which would be disallowances of \$3.39 million and \$2.58 million, respectively.<sup>563</sup>

In rebuttal, Mr. Guinn testified that Mr. Coppola’s recommendation to use historical average vehicle costs to determine test year spending is not appropriate as the company does not purchase the same combination of vehicles each year and the company’s projected unit costs are based on current manufacturer pricing.<sup>564</sup> He stated that the company’s total Fleet Vehicle Capital Replacement Cost is the relevant metric for gauging year-over-year growth in capital spend.<sup>565</sup> And he offered that for the gas Fleet Vehicle Capital Replacement expenditures, the 2024 projected spend is \$9.687 million and the 2025 projected spend is \$9.919 million, which he maintained, is a 2.4% increase.<sup>566</sup>

Mr. Guinn disagreed with Mr. Denzler’s comments regarding the reliability of the Blended Factor tool and his recommendation to reduce Fleet Services capital spending by 20%. He testified that the effectiveness of the company’s replacement plan decision making process does not rest solely on the Blended Factor, because it is just one of many factors considered.<sup>567</sup> He dismissed the significance of Mr. Denzler’s assertion that the Blended Factor failed to accurately predict a few vehicle failures, noting that the company’s fleet contains 7,200 assets.<sup>568</sup> He observed that Mr. Denzler did not provide

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<sup>562</sup> 4 Tr 2467.

<sup>563</sup> 4 Tr 2467.

<sup>564</sup> 4 Tr 1464.

<sup>565</sup> 4 Tr 1464.

<sup>566</sup> 4 Tr 1464.

<sup>567</sup> 4 Tr 1464-1465.

<sup>568</sup> 4 Tr 1465.

any calculation or explanation to support his recommended 20% disallowance and he added that Consumers has expressly referenced the Blended Factor model in both electric and gas rate case testimony since 2021 and the Commission has not questioned the reliability of the model.<sup>569</sup>

b. Briefing

The company's brief largely tracks Mr. Ballinger's direct testimony and Mr. Guinn's rebuttal testimony. Consumers contends that using the current manufacturer price of the exact vehicles that will be purchased in the bridge and test periods represents a better projection of expected vehicle costs than using historical average costs, as Mr. Coppola recommended.<sup>570</sup> The company also argues that Mr. Denzler's proposed 20% reduction of Fleet Services' capital spending based on the Blended Factor tool failing to predict a few vehicle failures is unsupported and should be rejected.<sup>571</sup>

In briefing, the Attorney General reiterates Mr. Coppola's assertion that the company's vehicle fleet costs are unsupported and excessive and reasserts his recommendation to remove \$1,202,000 for the 10 months ending October 2025 and \$4,809,000 for the projected test year for fleet vehicle purchases.<sup>572</sup>

In briefing, CUB contends that none of the responses to Mr. Denzler's concerns about the Blended Factor tool undermine the fact that the accuracy of the tool should be evaluated and that disallowing 20% of projected spending because the company has not established the reliability of the tool is reasonable.<sup>573</sup> CUB urges the Commission to

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<sup>569</sup> 4 Tr 1465.

<sup>570</sup> Consumers brief, 93.

<sup>571</sup> Consumers brief, 93-95.

<sup>572</sup> AG brief, 77-78.

<sup>573</sup> MSC brief, 60.

require Consumers to evaluate the Blended Factor's accuracy and to disallow the full level of spending requested until the company has presented such an evaluation.<sup>574</sup>

The company's reply points out that Mr. Denzler only recommended a 20% reduction to vehicle replacement plan expenditures and did not recommend requiring an evaluation of the Blended Factor tool and therefore the request "to perform such an analysis" should be rejected.<sup>575</sup>

The Attorney General's and CUB's reply briefs did not address fleet services capital expenditures.

c. Recommendation

This PFD is not persuaded of the reasonableness or accuracy of the Attorney General's unit cost approach to determine projected vehicle fleet spending. This PFD agrees with the company that basing projected spending on the combination of vehicles planned to be purchased and their current manufacturer price is more accurate. And, as the company notes, the total projected spend on vehicle replacement for 2025 is only 2.4% more than for 2024. Therefore, this PFD rejects the Attorney General's recommended disallowances.

This PFD disagrees with CUB's recommendation to disallow 20% of vehicle replacement spending, finding that the company has supported the reasonableness of its vehicle replacement planning process, including the use of the Blended Factor tool. As noted by the company, the tool is just one of several factors used to select vehicles for replacement and has been used by the company for several years and discussed in

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<sup>574</sup> MSC brief, 61.

<sup>575</sup> Consumers reply, 35.



previous gas and electric rate cases. Further, CUB fails to elucidate the basis for its 20% reduction, other than saying the Blended Factor tool has not been evaluated. As to the recommendation to require an evaluation of the Blended Factor tool, this PFD declines to adopt it.

6. Information Technology (IT) & Security Capital Expenditures

a. SAP S/4 HANA Implementation Project

*i. Testimony*

Ms. Baker testified that the company intended to modernize its enterprise resource planning (ERP) software from SAP through the SAP S/4HANA Implementation project. She explained that the company's current ERP system from SAP reaches end of mainstream maintenance on December 31, 2027, and operating beyond the end of support creates cybersecurity, reliability, and compliance risks.<sup>576</sup> Specifically, after mainstream maintenance ends, there will no longer be standard patches for customer-specific maintenance leaving the company vulnerable to threats from bad actors exploiting known vulnerabilities.<sup>577</sup> She described the company's strategy for migrating to the new system explaining that it will take approximately three years to complete, and the company will purchase extended support for its current system in 2028 while the new implementation project comes to a conclusion.<sup>578</sup> Ms. Baker stated the company requested to amortize the cost of cloud software service implementation associated with the project over its 15-year asset life in order to minimize the impact on rates.<sup>579</sup> Similarly,

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<sup>576</sup> 4 Tr 727.

<sup>577</sup> 4 Tr 731-732.

<sup>578</sup> 4 Tr 730-731.

<sup>579</sup> 4 Tr 734.

the company sought to defer investment O&M expense associated with the SAP S/4HANA implementation project over the 15-year life of the asset.<sup>580</sup> Amounts related to the cost of this project and proposed deferrals and adjustments can be found in confidential Exhibits A-26 and A-79.

Ms. Zichi recommended that the Commission direct the company to meet with Staff quarterly to inform them of progress on the SAP S/4HANA implementation project and to discuss updates on implementation, budget adherence, changes to timeline or scope, and any other developments.<sup>581</sup> She also opined that the company should record any over or under recovery of projected expense compared to the 80% rough order of magnitude base, to be included in future rate cases until implementation is complete.<sup>582</sup> Ms. McMillan-Sepkoski recommended approving the company's request to amortize the cost of cloud implementation associated with the SAP project over 15 years.<sup>583</sup> Mr. Nichols testified that Staff supported the request for deferred accounting treatment and recalculated a revenue deficiency reduction associated with deferred treatment.<sup>584</sup>

Mr. Coppola testified that although Ms. Baker indicated that the current SAP system will reach end of mainstream support at the end of 2027, the new system would simply replace all the same functions as the old system and is "clearly a case of forced obsolescence by the vendor in order to sell new software, services, and technology."<sup>585</sup> Mr. Coppola noted that the company would pay to extend system support into 2028, and

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<sup>580</sup> 4 Tr 735; 4 Tr 1581.

<sup>581</sup> 4 Tr 2718.

<sup>582</sup> 4 Tr 2718.

<sup>583</sup> 4 Tr 2610.

<sup>584</sup> 4 Tr 2495.

<sup>585</sup> 4 Tr 1926.

that such extended support was available until 2030 per the company.<sup>586</sup> He opined that the fee charged for extended support, which the company disclosed in confidential testimony, was likely similar to what the company currently pays for system support such that operating the current SAP system into or after 2030 “is a viable solution given that the system is still functioning well and is meeting all the operating requirements of the Company.”<sup>587</sup> Mr. Coppola asserted that the company has not identified any cost savings or financial benefits associated with the project such that it is not financially justified.<sup>588</sup> He also noted that the company was only in the initial investment planning stages and was preparing a request for proposal such that it was premature to include any capital expenditures in this case.<sup>589</sup> Accordingly, he recommended rejecting the capital expenditures associated with the project and rejecting the proposal to defer O&M costs into a regulatory asset account.<sup>590</sup>

In rebuttal, Ms. Baker stated that the company agreed with the recommendations proposed by Staff witness Zichi.<sup>591</sup> Ms. Baker disagreed with Mr. Coppola’s assertion that the system could operate through 2030; she explained that the implementation project would take three years and that SAP’s extended support would end in 2030, increasing cybersecurity risks without timely implementation because standard patches will no longer be available.<sup>592</sup> Ms. Baker also countered assertions that the project was premature by stating that the investment planning phase only reflected pending funding

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<sup>586</sup> 4 Tr 1926.

<sup>587</sup> 4 Tr 1927.

<sup>588</sup> 4 Tr 1927.

<sup>589</sup> 4 Tr 1927-1928.

<sup>590</sup> 4 Tr 1928.

<sup>591</sup> 4 Tr 762.

<sup>592</sup> 4 Tr 771.

approval, not project immaturity, and she stated that a complete and approved business case supported the project's inclusion and projected spending.<sup>593</sup>

In further rebuttal, Ms. Myers emphasized that accounting requests for deferral of SAP S4/HANA project O&M expense and amortization of cloud computing expenses will reduce the burden on customers and avoid spikes in IT O&M expense.<sup>594</sup>

*ii. Briefing*

The company's briefing rejects the Attorney General's argument that the current SAP system could be operated to 2030 or potentially past that date because extended support is only available until 2030 and it will take the company several years to complete its implementation project.<sup>595</sup> The company also rejects the notion that the project is premature because a business case has been completed and approved, and the project will only remain in the investment planning phase until approved in the rate case and budget disposition.<sup>596</sup>

Staff's brief notes that the company agreed with Staff's recommendation to regularly meet with Staff and track project expenses, and Staff asserts the Commission should adopt these recommendations.<sup>597</sup> Staff also reiterates support for deferring the project's O&M expenses and that the company's revenue deficiency should be recalculated if the Commission accepts the deferral with Staff providing its own calculations on Confidential Exhibit S-13.<sup>598</sup>

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<sup>593</sup> 4 Tr 771-772.

<sup>594</sup> 4 Tr 1598.

<sup>595</sup> Consumers brief, 114.

<sup>596</sup> Consumers brief, 114.

<sup>597</sup> Staff brief, 108-109.

<sup>598</sup> Staff brief, 108.

The Attorney General's brief closely tracks the testimony of Mr. Coppola and encourages the Commission to disallow expenditures associated with this project and reject the proposal to defer its associated O&M expenses.<sup>599</sup>

The parties' reply briefs did not provide further meaningful argument on this topic.

### *iii. Recommendation*

This PFD recommends approving the SAP S/4 HANA implementation project and the associated requests for deferral of O&M expenses and amortization of associated cloud computing costs.<sup>600</sup> The company has already stated that it would agree to the quarterly meeting request and other proposed requirements recommended by Staff witness Zichi, and this PFD recommends adopting and enforcing those proposals suggested by Staff.

This PFD declines to disallow the project as recommended by the Attorney General. While purchasing extended support for critical software could potentially be a viable solution, this PFD does not believe it would be a reasonable and prudent solution given the scope of this project, the multi-year timeframe to complete it, and the importance of maintaining supported and patched software. Further, purchasing extended support for several additional years would only temporarily delay the inevitable need to transition to a supported system once extended support is no longer offered. Accordingly, while this PFD appreciates the Attorney General's recommendation focused on cost savings, it does not appear to be appropriate in this instance.

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<sup>599</sup> AG brief, 80-83.

<sup>600</sup> This recommendation is further detailed in the adjusted net operating income section of this PFD, *infra*. Further, the revenue deficiency impact of the SAP S/4 HANA O&M deferral can be found in Confidential Exhibit S-13.

b. Application Currency-Corporate-Capital Project

i. *Testimony*

Ms. Baker testified that Application Currency projects will utilize capital and O&M funding to keep applications current for security and reliability, and she provided more detailed testimony regarding the scope and objectives of this program.<sup>601</sup>

Ms. Zichi testified that Staff recommended a partial capital expenditures disallowance of \$15,010 in the bridge period and \$18,013 in the projected test year, and \$1,991 in associated O&M, to correct an error regarding the costs of this project that was found during the discovery process.<sup>602</sup>

In rebuttal, Ms. Baker agreed with Staff's proposed disallowances in order to correct the error.<sup>603</sup>

ii. *Briefing*

The company's brief reaffirms its agreement with Staff's proposed disallowance for this project.<sup>604</sup> Staff's brief recognizes the company's agreement and recommends that the Commission adopt its proposed disallowance.<sup>605</sup>

iii. *Recommendation*

This PFD recommends adopting the disallowance proposed by Staff to which the company assented (\$15,010 in the bridge period, \$18,013 in the projected test year, and \$1,991 in associated O&M).

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<sup>601</sup> 4 Tr 712-713.

<sup>602</sup> 4 Tr 2707.

<sup>603</sup> 4 Tr 751.

<sup>604</sup> Consumers brief, 95.

<sup>605</sup> Staff brief, 8.

c. Application Currency-Electric & Gas Shared Capital

i. *Testimony*

Ms. Baker testified that Electric & Gas shared projects enable the company's NGDP by supporting various management, automation, control, and security functions.<sup>606</sup>

Ms. Zichi recommended disallowing \$19,146 in capital expenditures for the 10-month bridge period, \$22,975 for the projected test year, and \$7,962 in O&M expenses associated with these projects. She explained this adjustment was to correct for an error in the company's figures found during the discovery process.<sup>607</sup>

In rebuttal, Ms. Baker agreed with Staff's proposed disallowances in order to correct the error.<sup>608</sup>

ii. *Briefing*

The company's brief reaffirms its agreement with Staff's proposed disallowance for this project.<sup>609</sup> Staff's brief recognizes the company's agreement and recommends that the Commission adopt its proposed disallowance.<sup>610</sup>

iii. *Recommendation*

This PFD recommends adopting the disallowance proposed by Staff to which the company assented (\$19,146 in the bridge period, \$22,975 for the projected test year, and \$7,962 O&M).

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<sup>606</sup> 4 Tr 671.

<sup>607</sup> 4 Tr 2710.

<sup>608</sup> 4 Tr 753.

<sup>609</sup> Consumers brief, 95.

<sup>610</sup> Staff brief, 8.

d. Next Generation Electronic Shift Operations Management System (eSOMS) Replacement Project

i. *Testimony*

Ms. Baker testified that the Next Generation Electronic Shift Operations Management System (eSOMS) Replacement Project is intended to update clearance lockout/tagout management software for certain facilities and enhance narrative logs and mobile rounds functionality for both electric generation and gas compression facilities. The project requires \$157,182 in capital and \$8,243 in O&M for the test year.<sup>611</sup>

Ms. Zichi recommended a partial disallowance of \$125,746 in capital and \$8,243 in O&M expenses for the eSOMS Replacement project in the projected test year. She stated that this adjustment is based on audit findings revealing that the company's need for the project changed because the existing system can remain in use and no longer requires migration.<sup>612</sup>

In rebuttal, Ms. Baker agreed with Staff's proposed disallowances regarding this project.<sup>613</sup>

ii. *Briefing*

The company's brief reaffirms its agreement with Staff's proposed disallowance for this project.<sup>614</sup> Staff's brief recognizes the company's agreement and recommends that the Commission adopt its proposed disallowance.<sup>615</sup>

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<sup>611</sup> 4 Tr 705.

<sup>612</sup> 4 Tr 2711.

<sup>613</sup> 4 Tr 754.

<sup>614</sup> Consumers brief, 96.

<sup>615</sup> Staff brief, 10.



*iii. Recommendation*

This PFD recommends adopting the disallowance proposed by Staff to which the company assented (\$125,746 in the projected test year and \$8,243 O&M).

e. Gas Facilities Tracking & Traceability Project

*i. Testimony*

Mr. Warriner stated that the Tracking and Traceability project is designed to help the Company comply with PHMSA's proposed Plastic Pipe Rule (PHMSA-2014-0098), which would require utilities to track and maintain detailed data on plastic pipes, fittings, and fusions for the lifetime of the asset. He explained that the company currently does not have a system that meets these requirements and plans to develop a new program to collect and manage this information. For the projected test year, the project includes \$5,295,411 in capital expenditures and \$508,607 in O&M costs.<sup>616</sup>

Mr. Coppola testified that this project remains in an early development phase (i.e. "Origination") and lacks clear financial benefit with a cost/benefit analysis showing only costs and no benefits. Due to the project's preliminary status and absence of economic justification, he recommended disallowing the full \$2,218,000 in bridge period capital expenditures, \$5,295,000 in test period capital expenditures, and \$509,000 in O&M expenditures.<sup>617</sup>

In rebuttal, Mr. Warriner stated that the company still expects to incur the amounts provided in this case because the project is required to meet a PHMSA regulatory requirements.<sup>618</sup> In her rebuttal, Ms. Baker testified that this project was not intended to

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<sup>616</sup> 2 Tr 106.

<sup>617</sup> 4 Tr 1924-1925.

<sup>618</sup> 2 Tr 137.

deliver cost savings but instead was required to comply with proposed PHMSA regulatory requirements. She disagreed with the argument that the project should be disallowed due to its status in the investment planning phase; she explained that this phase simply indicates the project is awaiting funding approval. She stated that a complete and approved business case had already been developed, and the company fully intended to proceed with the project according to the proposed timeline.<sup>619</sup>

*ii. Briefing*

The company's briefing argues that the Attorney General's position "fails to understand that this project is not being pursued for principally economic reasons" but rather is required to comply with PHMSA regulations.<sup>620</sup> The company's reply reiterates the points from witness testimony and initial briefing.<sup>621</sup>

In turn, the Attorney General's brief emphasizes that the project is in the early stages of development and is not economically justified given that its cost/benefit analysis shows only costs and no financial benefits.<sup>622</sup> The Attorney General's reply provided no further arguments on this topic.

*iii. Recommendation*

This PFD declines to adopt the Attorney General's proposed disallowance. This PFD does not view the lack of financial benefits to be a concern when the project is required to meet a legal or regulatory obligation. For similar reasons, this PFD has

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<sup>619</sup> 4 Tr 768-769.

<sup>620</sup> Consumers brief, 101.

<sup>621</sup> Consumers reply, 37.

<sup>622</sup> AG brief, 80.

minimal concerns about the project's timeline because it must be developed and implemented to comply with legal or regulatory guidelines.

f. GAS SCADA Software Solutions Project

i. *Testimony*

Ms. Baker testified that the gas supervisory control and data acquisition (SCADA) software solution project aims to replace the company's outdated early 2000s-era system with a standardized platform to better meet regulatory requirements and support the expanded needs of the company's gas system.<sup>623</sup> Ms. Baker testified that the projected costs for the Gas SCADA Software Solution project increased by \$6.6 million compared to the estimates from Case No. U-21490 due to higher-than-anticipated contractor, software, and material expenses. These cost increases were primarily driven by underestimated vendor service expenses, the need for third-party testing support, a longer-than-expected software licensing period, and a shift from physical servers to more flexible and efficient virtual servers.<sup>624</sup>

Mr. Denzler testified in opposition to the company's request for increased capital recovery for the Gas SCADA Software Solutions Project; he recommended a disallowance of \$6,524,840, i.e. capping recovery at the amount previously approved in Case No. U-21490 (\$11,491,200).<sup>625</sup> He noted that the project cost had increased from \$11.49 million to \$18.02 million, but the Company failed to adequately explain why key factors, such as additional contractor support and a longer licensing period, were not

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<sup>623</sup> 4 Tr 673.

<sup>624</sup> 4 Tr 677-678.

<sup>625</sup> 4 Tr 2460.

anticipated during earlier planning.<sup>626</sup> Mr. Denzler highlighted several planning deficiencies, including inaccurate 2024 cost projections, unanticipated design changes like the shift to virtual servers, and schedule delays without sufficient justification. He also pointed out that the company did not seek competitive bids for \$770,000 of contracted work, raising concerns about cost effectiveness.<sup>627</sup> In evaluating the project's merit, Mr. Denzler asserted that the company did not demonstrate an urgent need for system replacement because the existing SCADA system had experienced only limited incidents and no pending end-of-support concerns.<sup>628</sup> He concluded that both the original scope and the additional costs were insufficiently justified to be considered reasonable or prudent for rate recovery.

In rebuttal Ms. Baker testified that the company's estimates for the Gas SCADA Software Solution project were subject to change over time, consistent with industry-standard ROM (Rough Order of Magnitude) estimates, which allow for a variance of -25% to +75% from the initial projection.<sup>629</sup> She emphasized that the current system, implemented in 2000, has significant limitations, including capability gaps and the need for custom interim fixes, which increased complexity and operational costs. Ms. Baker opposed Mr. Denzler's recommendation to cap allowed capital at \$11,491,200 noting that the company already accepted Mr. Coppola's proposed disallowance of \$5,558,000 for 2024 IT underspend (detailed later in this PFD), which ostensibly included a \$4,623,400

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<sup>626</sup> 4 Tr 2456-2457.

<sup>627</sup> 4 Tr 2458.

<sup>628</sup> 4 Tr 2459.

<sup>629</sup> 4 Tr 781.

reduction to the Gas SCADA Software Solution, lowering its projected cost from \$8,027,542 to the actual amount of \$3,404,142.<sup>630</sup>

*ii. Briefing*

The company's briefing reiterates the problems with the company's current SCADA system, the virtues of the new SCADA system, and the points raised in Ms. Baker's direct and rebuttal testimony related to cost increases.<sup>631</sup> The company rejects the proposed disallowance and argues that, even if implemented, it would be partially duplicative of the \$5.558 million<sup>632</sup> IT underspend disallowance proposed by the Attorney General that the company agreed to accept (this IT underspend disallowances is addressed separately *infra*). Accordingly, the company argues that if adopted, CUB's disallowance should be reduced by \$4,623,400, i.e. should only be \$1.901 million.<sup>633</sup>

CUB argues that the \$6.6 million cost increase for the software upgrade stems from poor planning and that there is a lack of supporting evidence for both the necessity and updated costs of the project.<sup>634</sup> CUB asserts that the company's rebuttal failed to address these concerns and offered unsupported claims about the project's importance without refuting Mr. Denzler's reasoning regarding cost overruns. CUB challenges the notion that its disallowance is partially included in the Attorney General's 2024 IT underspend disallowance that the company agreed to accept. CUB argues that while the company acknowledged a \$4.6 million reduction in 2024 spending for the Gas SCADA

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<sup>630</sup> 4 Tr 783.

<sup>631</sup> See generally Consumers brief, 101-103.

<sup>632</sup> As was later pointed out by MSC, this number appears to be a typographical error because the company agreed to a \$5.668 million reduction 2024 IT capital expenditures.

<sup>633</sup> Consumers brief, 103.

<sup>634</sup> MSC brief, 50.

Software Solution (ostensibly included in the Attorney General's 2024 IT underspend disallowance), this concession is unsupported by documentation and does not address core concerns about deficient planning and lack of justification for the project's rising costs.<sup>635</sup> CUB argues that despite claiming lower actual spending, the company failed to update its cost projections to show any reduction in spending, and any alleged 2024 savings may simply shift into 2025 as cost increases.<sup>636</sup> CUB maintains that the project has not been shown to warrant the full \$18 million investment and recommends capping its expenditures at \$11.491 million.

*iii. Recommendation*

This PFD does not agree with CUB's assessment that the new SCADA system is not justified, but it does adopt CUB's proposal to cap allowable recovery at the \$11.49 million as approved in U-21490 and to disallow \$6,524,840 in higher capital expenditures. The company has not adequately refuted the concerns about inadequate planning and unjustified or reasonably foreseeable cost increases (for example, the need for longer licensing requirements and the company's decision to switch to virtual servers) raised by CUB such that this disallowance is reasonable. This PFD is not inclined to partially offset this disallowance with the 2024 IT underspend disallowance given questions surrounding whether the ostensible SCADA 2024 underspend was appropriately documented by the company.

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<sup>635</sup> MSC brief, 50-51.

<sup>636</sup> MSC brief, 51.

g. Forward Web Proxy Services

*i. Testimony*

Ms. Baker testified that The Forward Web Proxy Services project requires \$1,173,788 in capital (\$939,030 ROM-adjusted) and \$149,967 in O&M for the test year to replace the current web proxy platform. She contended that the new system would act as an intermediary between clients and the internet, providing benefits such as advanced request filtering, improved security, and enhanced traffic management.<sup>637</sup>

Mr. Coppola recommended disallowing \$939,000 in capital and \$180,000 in O&M for this project. His disallowance is based on evidence that service issues with the company's current third-party web proxy vendor have significantly declined in 2024, with no recent operational impacts and acknowledged service improvements. Additionally, he asserted that the project has a negative cost/benefit ratio, indicating no financial justification for replacing the existing system.<sup>638</sup>

In rebuttal, Ms. Baker disagreed with Mr. Coppola's proposed disallowance stating that the project was necessary for mitigating cyber threats and ensuring business continuity. She rejected the notion that this security improvement had to provide cost savings, and she explained that the company no longer used some of the current product's functionality such that additional controls were required to reduce risk and improve stability. Ms. Baker also noted that the company identified necessary adjustments and emphasized that the projected gas allocation O&M expense for the

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<sup>637</sup> 4 Tr 738.

<sup>638</sup> 4 Tr 1931-1932.

project was \$149,967, which should be the correct disallowance amount if the project were to be disallowed.<sup>639</sup>

*ii. Briefing*

The company's briefing reiterates that while the number of incidents with the current system has dropped in 2024, the company no longer uses some functions of the current platform for stability reasons.<sup>640</sup> The company rejects the notion that this project should have financial benefits because it is a security project intended to bolster the filtering of internet content and to provide protection from cyberattacks.<sup>641</sup>

The Attorney General's brief closely tracks Mr. Coppola's testimony and emphasizes that this is not a priority project because the company's current third-party vendor has largely resolved most issues the company was previously experiencing.<sup>642</sup>

*iii. Recommendation*

This PFD adopts the Attorney General's proposed disallowance of \$939,000 in capital expenditures and the company's corrected O&M disallowance of \$149,967. This PFD is not persuaded that the company's rationale for this project is fully supported by the underlying facts as the company acknowledges that its current vendor has resolved many issues with the current proxy service and the number of incidents relating to the proxy system has declined dramatically from 2022 through 2024.<sup>643</sup>

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<sup>639</sup> 4 Tr 776-777.

<sup>640</sup> Consumers brief, 103.

<sup>641</sup> Consumers brief, 104.

<sup>642</sup> AG brief, 87.

<sup>643</sup> See Exhibit AG-31, p. 4.



h. IT Enhancements

i. *Testimony*

Ms. Baker testified that Enhancements are short-cycle technology investments aimed at quickly implementing new or improved functionality in response to evolving business needs, compliance requirements, customer feedback, and efficiency initiatives.<sup>644</sup> Ms. Baker stated that the company tracks enhancements through a detailed, auditable process from idea to completion, including cost-benefit analysis and cross-functional approval.<sup>645</sup> She contends that demand for enhancements has grown by an average of 49% over the past three years, with a current worklist of 639 requests demonstrating the company's ongoing need to enhance its various systems.<sup>646</sup> Ms. Baker testified that although the projected test year spend is \$7,416,712, it still falls short of the \$7,577,721 in projected demand.<sup>647</sup> To validate the reasonableness of projected expenditures, the company used both a three-year historical spending average and total cumulative demand analysis, concluding that the forecasted spend is aligned with past trends and known workload.

Mr. Denzler testified that the company has not provided sufficient evidence to justify the reasonableness and prudence of its requested \$7.4 million in IT Enhancements spending for the test year, an increase of 53%. He noted that while Enhancements are described as small, short-cycle projects, the company's worklist includes many high-cost items—many exceeding \$100,000 and one reaching \$2.1 million—without clear

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<sup>644</sup> 4 Tr 715; see also Exhibit A-24 and A-25 (Enhancements Related Exhibits).

<sup>645</sup> 4 Tr 717.

<sup>646</sup> 4 Tr 717.

<sup>647</sup> 4 Tr 718.

prioritization or detailed benefit justification.<sup>648</sup> He asserted that larger-cost projects should be treated as standalone initiatives with proper governance, not grouped under the Enhancements category. As a result, he recommended limiting the company's Enhancement spending to a three-year average adjusted for inflation, resulting in a disallowance of \$2,651,057 in 2025 and \$2,062,093 in 2026.<sup>649</sup>

In rebuttal, Ms. Baker explained that the Enhancement Worklist Detail Report was not a prioritized list but a summary of queued requests, and that prioritization was an ongoing process handled by cross-functional teams.<sup>650</sup> She stated that the company used both a three-year historical average and total cumulative demand to ensure that projected expenditures were reasonable and aligned with actual and anticipated needs.<sup>651</sup> Ms. Baker also clarified that the company did not agree with the proposed gas allocation adjustments and, if they were adopted, the correct adjustment amounts for the proper time periods would be \$2,209,214 for the 10 months ending October 31, 2025, and \$2,160,254 for the projected test year.<sup>652</sup>

*ii. Briefing*

The company's briefing repeats points derived from the testimony of Ms. Baker and emphasizes that, if the Commission adopts the disallowances, then the correct amounts would be those described in Ms. Baker's rebuttal testimony.<sup>653</sup>

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<sup>648</sup> 4 Tr 2465.

<sup>649</sup> 4 Tr 2465.

<sup>650</sup> 4 Tr 793.

<sup>651</sup> 4 Tr 793.

<sup>652</sup> 4 Tr 794.

<sup>653</sup> Consumers brief, 106-107.

CUB asserts that the company's assertion that it prioritizes the order in which to undertake enhancement projects is non-responsive to CUB's argument that there "does not appear to be a whittling down of projects to be funded based on prioritization of needs and requirements."<sup>654</sup> CUB similarly criticized the company's contentions that its cost projections for Enhancement spending were reasonable because it does not respond to whether the underlying projects are reasonable.<sup>655</sup>

*iii. Recommendation*

This PFD agrees with CUB that for spending categories like IT Enhancements, which encompass various relatively small projects, using a three-year average adjusted for inflation can be appropriate to moderate expenses that otherwise appear to be increasing at an unacceptably high rate. This PFD therefore adopts CUB's disallowance, but as adjusted by the company to ensure that the gas allocation is correct (i.e. \$2,209,214 for the 10 months ending October 31, 2025, and \$2,160,254 for the projected test year).

*i. Asset Refresh Program (ARP) Expenditures, Generally*

*i. Testimony*

Mr. Denzler recommended a 20% disallowance for the Asset Refresh Program (ARP) spending across several categories—amounting to \$1.41 million in 2025 and \$1.58 million in 2026—due to concerns that the company overestimated costs for specific ARP items like Collaboration Devices and LAN Switches (which are issues discussed separately *infra*). Mr. Denzler asserted that these overestimations raise doubts about the

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<sup>654</sup> MSC brief, 59.

<sup>655</sup> MSC brief, 59.

reliability of cost projections for other devices lacking strong historical cost data, and he opined that his recommendation aligns with treatment for Class III AACE<sup>656</sup> estimates, which are considered to have a high degree of uncertainty.<sup>657</sup>

In rebuttal, Ms. Baker disagreed with Mr. Denzler's recommendation to disallow 20% of ARP projected expenditures stating that the company refreshed hardware based on industry-standard cycles to reduce risk, avoid costs, and maintain vendor support. She asserted that projected capital expenditures were supported by detailed documentation, including project summaries, cost bases from historical data, quotes, or vendor agreements, and variance explanations.<sup>658</sup> She also rejected Mr. Denzler's rationale that the company had overestimated costs for ARP-Collaboration devices and ARP-LAN switches (which are issues discussed separately, *infra*). While Mr. Denzler proposed disallowances of \$1,413,753 for 2025 and \$1,579,067 for 2026, Ms. Baker clarified that, if accepted, the correct gas allocation adjustments should be \$1,178,128 for the 10-month bridge period ending October 31, 2025, and \$1,551,515 for the projected test year.<sup>659</sup>

## *ii. Briefing*

The company's briefing tracks closely with Ms. Baker's rebuttal testimony and recounts many of the same points, including her proposed update to the disallowance amount.<sup>660</sup> The company's reply provided no further argument.

In its brief, CUB observes that the company asserts that asset refreshes have value, but Mr. Denzler did not dispute their value, only their associated cost projections.

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<sup>656</sup> Association for the Advancement of Cost Engineering

<sup>657</sup> 4 Tr 2463.

<sup>658</sup> 4 Tr 790.

<sup>659</sup> 4 Tr 791.

<sup>660</sup> Consumers brief, 112.

CUB contends that absent concrete evidence supporting device cost projections, a 20% across-the-board disallowance is reasonable.<sup>661</sup> CUB's reply brief provided no further argument.

*iii. Recommendation*

This PFD declines to adopt CUB's proposed across-the-board disallowance for the various ARP subprograms. This PFD is unwilling to assume that the company's cost estimates are universally too high based upon ostensible overestimations in only one or two specific categories of expense. Such a broad and sweeping extrapolation would generally be inappropriate, and this PFD declines to adopt that methodology as the basis for a disallowance in this instance.

*j. ARP-Collaboration*

*i. Testimony*

Ms. Baker testified that the ARP–Collaboration project includes \$521,622 in capital and \$82,999 in O&M for the test year and is intended to replace outdated audio, visual, telephony, and other collaborative communication tools.<sup>662</sup>

Ms. Zichi recommended a partial disallowance of \$6,015 for the bridge period and \$7,219 for the projected test year. She contended that this adjustment corrects an overestimation discovered during an audit wherein the company provided an updated, lower-cost quote for the auditorium refresh than what was originally used in the capital expenditure projections.<sup>663</sup>

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<sup>661</sup> MSC brief, 56.

<sup>662</sup> 4 Tr 681.

<sup>663</sup> 4 Tr 2712.

Mr. Denzler stated that the Company's projected costs for this program were significantly higher than historical costs for the same communication devices, even after adjusting for inflation, with no explanation provided for the increases. As a result, he recommended adjusting the projections using a productivity-adjusted-inflation (PAI) factor, leading to disallowances of \$57,599 in 2025 and \$88,718 in 2026.<sup>664</sup>

In rebuttal, Ms. Baker agreed with Staff's proposed disallowances.<sup>665</sup> In response to Mr. Denzler, Ms. Baker explained that the costs for the ARP-Collaboration project varied by location due to factors like room size and wiring requirements, and she provided specific cost differences between installations in company facilities located in Jackson and Grand Rapids.<sup>666</sup> She pointed out inaccuracies in Mr. Denzler's cost analysis, explaining that he failed to account for all relevant historical unit costs which led to incorrect average cost calculations.<sup>667</sup> She rejected his proposal to base projected unit costs solely on historical costs plus inflation, and disagreed with his recommended gas allocation adjustments of \$57,599 for 2025 and \$88,718 for 2026. However, she noted that if the Commission accepted his proposal, the appropriate adjusted disallowances would be \$47,999 and \$83,532 to account for the proper bridge and projected test year periods, and she reiterated that the company had already agreed to Staff's separate reductions of \$6,015 and \$7,219 for the respective periods.<sup>668</sup>

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<sup>664</sup> 4 Tr 2462; see also Exhibit CUB-22.

<sup>665</sup> 4 Tr 755.

<sup>666</sup> 4 Tr 785.

<sup>667</sup> 4 Tr 786.

<sup>668</sup> 4 Tr 787.

*ii. Briefing*

The company's brief reaffirms its agreement with Staff's proposed disallowance for this project.<sup>669</sup> The company's brief also closely tracks Ms. Baker's rebuttal testimony and repeats points questioning the accuracy of Mr. Denzler's historical unit cost analysis and highlighting how the location where equipment is installed can affect its price.<sup>670</sup> The company's reply provided no further briefing on this topic.

Staff's brief recognizes the company's agreement with its disallowance and recommends that the Commission adopt its proposed disallowance.<sup>671</sup> Staff provided no further reply briefing on this topic.

CUB objects that the company is requesting equipment that costs significantly more than either of the specific Grand Rapids or Jackson conference room examples given by company witness Baker. Further, CUB asserts that "[n]oting that one room costs more than another does not support the reasonableness of projected unit costs not tied to any room nor tied even to any vendor quote."<sup>672</sup> CUB argues that while the company asserted that Mr. Denzler's average historical unit pricing contained inaccuracies, it failed to quantify them and neglected to provide any vendor quotes to substantiate cost estimates.<sup>673</sup> CUB's brief asserts that its proposed disallowance (addressing conference room refresh expenditures) is distinct from Staff's disallowance (addressing auditorium refresh expenditures) such that they can and should both be adopted.<sup>674</sup>

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<sup>669</sup> Consumers brief, 96.

<sup>670</sup> Consumers brief, 110.

<sup>671</sup> Staff brief, 9.

<sup>672</sup> MSC brief, 54.

<sup>673</sup> MSC brief, 54.

<sup>674</sup> MSC brief, 54

*iii. Recommendation*

This PFD agrees with the company that CUB's cost analysis appears to contain errors in the calculation of historical unit averages caused by neglecting to include all historical costs for certain types of purchases.<sup>675</sup> Therefore, this PFD declines to adopt CUB's disallowance, but does adopt Staff's proposed disallowance to which the company assented (i.e. \$6,015 for the bridge period and \$7,219 for the projected test year).

k. ARP-Local Area Network (LAN)

*i. Testimony*

Ms. Baker testified that the ARP–Local Area Network (LAN) project includes \$231,181 in capital and \$18,280 in O&M for the test year and is intended to upgrade the Company's LAN and a significant portion of its WLAN infrastructure.<sup>676</sup>

Mr. Denzler testified that similar estimation issues were found in the Local Area Network (LAN) category as were found in the ARP-Collaboration program. He stated that the company projected LAN switch unit costs of over \$5,000 for 2025 and 2026—nearly double the historical cost of \$2,560 per switch from 2023–2024. With no justification provided for this significant increase, he recommended using historical unit costs adjusted for productivity-adjusted inflation (PAI) resulting in proposed disallowances of \$55,911 in 2025 and \$86,881 in 2026, as detailed in Exhibit CUB-23.<sup>677</sup>

In rebuttal, Ms. Baker disagreed with Mr. Denzler's arguments explaining that unit costs varied radically depending on the specific LAN switch model being replaced, such

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<sup>675</sup> 4 Tr 786; See also Exhibit A-22 p. 1 and Exhibit CUB-22.

<sup>676</sup> 4 Tr 683.

<sup>677</sup> 4 Tr 2462-2463.



as the Juniper EX4100 at \$8,132 and the EX4400 at \$20,512.<sup>678</sup> She stated that using a simple average of historical costs to project future costs was not appropriate due to yearly variations in specific switch models and associated pricing. She also rejected the approach of basing projected costs on historical costs plus inflation adjusted by PAI. While Mr. Denzler proposed adjustments of \$55,911 for 2025 and \$86,881 for 2026, Ms. Baker asserted that the correct disallowance amounts for the specific bridge period and test year (if the Commission accepted the disallowances) should be \$46,593 for the 10-month bridge period ending October 31, 2025, and \$81,719 for the projected test year.

*ii. Briefing*

The company's brief repeats the salient points from Ms. Baker's direct and rebuttal testimony including corrected disallowance amounts if the Commission decided that one was appropriate.<sup>679</sup> The company's reply provided no further argument.

CUB's briefing challenges the company's explanation of rising costs related to the differing costs of LAN switch models. CUB asserts that the company's "explanation does not explain why projected costs are orders of magnitude more costly from 2023 or 2024 to 2025 or 2026."<sup>680</sup> CUB further faults the company for failing to provide documentation to support its average unit price increases and notes the lack of bids sought or vendor quotes.<sup>681</sup>

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<sup>678</sup> 4 Tr 788.

<sup>679</sup> Consumers brief, 111-112.

<sup>680</sup> MSC brief, 55.

<sup>681</sup> MSC brief, 55.

### *iii. Recommendation*

This PFD adopts CUB's disallowance as modified by the company to account for proper gas allocation (\$46,593 for the 10-month bridge period ending October 31, 2025, and \$81,719 for the projected test year).

This PFD acknowledges the company's argument that different LAN switches can vary considerably in price. However, the company's naming convention for LAN switches seemingly makes it impossible to adequately compare its proposed LAN switch purchases with its historical costs. The company's naming convention labels LAN switches with letters (A, B, C etc.), and the average cost for LAN switches with the same letter designation appear to vary wildly from 2023-2024 to 2025-2026.<sup>682</sup> The company explained that the naming convention is solely to differentiate models within a given calendar year, and the actual switch models associated with these designations may change from year to year resulting in variations in unit pricing.<sup>683</sup> Accordingly, the company's naming convention and practice of switching designations across different years obscures unit-level cost increases and makes it impossible to compare LAN switch costs on an apples-to-apples basis. Under these circumstances, it is impossible to tell if the company is replacing the same model of LAN switches as in previous years, or if it is purchasing entirely different types of switches. Accordingly, this PFD is not fully satisfied with the company's evidentiary support for greatly increased costs given that it highlighted no specific documentation to support the higher costs in the projected test year.

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<sup>682</sup> Compare the average cost of "LAN Switch A" in 2023-2024 (\$6,415) with its average cost in 2025-2026 (\$20,512). See Exhibit A-22, p. 6., lines 1 and 14. Similar wide variations in price occur for most LAN switches with the same designation listed in that exhibit.

<sup>683</sup> 4 Tr 788; see also Exhibit A-112, p. 1.

I. ARP-Field Device Asset Management (FDAM)

i. *Testimony*

Ms. Baker stated that the ARP–Field Device Asset Management (FDAM) project is expected to require \$2,192,211 in capital and \$1,860 in O&M during the test year to replace field devices on a four-year refresh cycle, aligning with industry standards and addressing issues like hardware failure and software compatibility.<sup>684</sup>

Ms. Zichi recommended a full disallowance of the new device purchase costs for the ARP-FDAM project, totaling \$831,046 for the 10-month bridge period and \$999,543 for the projected test year.<sup>685</sup> She explained that recommendation is based on the company's failure to provide clear, consistent, and supported justification for the projected number and cost of new devices. Due to conflicting explanations in testimony and audit responses, specifically regarding whether hiring estimates or historical data informed the projections, she concluded that the expenditures are not reasonably supported and should be disallowed.<sup>686</sup>

In rebuttal, Ms. Baker testified that the Company projected new field device purchase costs for 2025 and 2026 based on historical spending and provided supporting citations to exhibits and audit responses.<sup>687</sup> She asserted that a lack of field devices would negatively affect worker productivity, safety, communication, and training, thereby impacting customer service. She also clarified that the company did not use hiring estimates to project new purchases and that the historical average spending exceeded

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<sup>684</sup> 4 Tr 687.

<sup>685</sup> 4 Tr 2712.

<sup>686</sup> 4 Tr 2714.

<sup>687</sup> 4 Tr 757 (citing Exhibit S-19.1, p. 12).

the requested amounts. If Staff's proposed disallowance for the ARP-FDAM project were adopted, she stated the correct gas-allocated capital expenditure disallowance should be \$261,198 for the bridge period and \$314,156 for the test year.<sup>688</sup>

*ii. Briefing*

The company's brief reasserts that the company mistakenly stated in direct testimony that People and Culture hiring estimates were used to project new FDAM purchases for 2025 and 2026 when the company actually used historical spending.<sup>689</sup> The company asserts that its estimated spend is less than the historical average and should be approved to support the ability of field workers to perform their work effectively.<sup>690</sup> The company also repeats that if the Commission adopts Staff's disallowance, the amount should be adjusted as stated in Ms. Baker's rebuttal testimony.<sup>691</sup>

Staff maintains that a disallowance is proper, but corrects its figures as suggested by the company, i.e. \$261,198 for the bridge period and \$314,156 for the projected test year.<sup>692</sup> Staff reiterates that the company has not explained why the number of new field devices is the same in 2025 and 2026. Staff acknowledges that the company's rebuttal claimed that historical costs were used to project new purchase spending and that "People and Culture" hiring estimates were not used for the ARP-FDAM project referencing an audit response (Exhibit S-19.1). However, Staff asserts that this exhibit and related audit responses pertain to the ARP-WAM project, not ARP-FDAM, and the

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<sup>688</sup> 4 Tr 757-759.

<sup>689</sup> Consumers brief, 108.

<sup>690</sup> Consumers brief, 109.

<sup>691</sup> Consumers brief, 109.

<sup>692</sup> Staff brief, 29.

company has not clarified whether "People and Culture" hiring estimates were used to project new device purchases for ARP-FDAM.<sup>693</sup> Staff argues that the company's costs are based upon the number of new devices, yet the company failed to explain how those numbers were determined and why the same number of new device purchases were applied across both 2025 and 2026.<sup>694</sup> Indeed, Staff explains that, "[w]ithout support for how the projected number of new device purchases was determined, the accuracy of the total projected costs is also unsupported, as it directly depends on that quantity."<sup>695</sup> Staff's reply provided no further briefing on this issue.

The company's reply asserts that for new purchases, "the Company's projection is an annual amount informed by total Company spend over the last four years, with the total annual amount informing the number of new purchases that will be expected in these areas (and not the other way around)."<sup>696</sup> Accordingly, the company asserts that Staff's assumption that its projections started with the estimated number of new purchases is incorrect.<sup>697</sup>

### *iii. Recommendation*

This PFD declines to adopt the disallowance recommended by Staff because the company has now confirmed that its projection was based upon historical data with that historical data informing the number of estimated new purchases. This clarification appears to obviate the basis for Staff's proposed disallowance.

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<sup>693</sup> Staff brief, 31.

<sup>694</sup> Staff brief, 32.

<sup>695</sup> Staff brief, 32.

<sup>696</sup> Consumers reply, 39.

<sup>697</sup> Consumers reply, 39.

m. ARP- Workstation Asset Management (WAM)

i. *Testimony*

Ms. Baker testified that the ARP–Workstation Asset Management (WAM) project plans to invest \$2,060,439 in capital and \$24,426 in O&M during the test year to replace and install new desktops, laptops, and tablets on a four-year refresh cycle, with monitors replaced every eight years based on historical failure data.<sup>698</sup>

Ms. Zichi recommended a full disallowance of the ARP-WAM project's new device purchases, totaling \$831,077 for the 10-month bridge year and \$997,292 for the projected test year.<sup>699</sup> She based her recommendation on conflicting and unsupported evidence from the company regarding how the projections were developed—specifically, inconsistent explanations about the use of People and Culture Hiring estimates and a failure to justify why projected new purchases are identical across years. Ms. Zichi contended that the number of projected new devices, which directly determines costs, lacked clear rationale and validation, leading to the conclusion that these expenditures are not reasonably supported.<sup>700</sup>

In rebuttal, Ms. Baker testified that the Company projected \$1 million in workstation purchases for both 2025 and 2026 based on historical spending and confirmed this method in its audit response. She noted that the historical average for workstation purchases from 2020–2023 exceeded the amounts requested for 2025 and 2026, and clarified that hiring estimates were not used in the projections. She explained that lacking individual workstations would reduce employee productivity, increase safety and

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<sup>698</sup> 4 Tr 693.

<sup>699</sup> 4 Tr 2715.

<sup>700</sup> 4 Tr 2715-2717.

compliance risks, and hinder communication and training. If the Commission adopted Staff's proposed disallowance for the ARP-WAM project, she stated the correct gas allocation disallowance should be \$261,197 for the bridge period and \$314,300 for the test year.<sup>701</sup>

*ii. Briefing*

The company's brief asserts that the company used historical spending to make its projections for 2025 and 2026, its estimated spend is less than the historical average, and spending should be approved to support the ability of workers to perform their jobs effectively.<sup>702</sup> The company repeats that if the Commission adopts Staff's disallowance, the amount should be adjusted as stated in Ms. Baker's rebuttal testimony.<sup>703</sup>

Staff maintains that a disallowance is proper, but corrects its figures as suggested by the company, i.e. \$261,197 for the bridge period and \$314,300 for the projected test year.<sup>704</sup> Staff asserts that the company failed to explain why the projected number of new devices needed was the same in 2025 and 2026. Staff explains that the company initially stated that "People and Culture" hiring estimates were used to project these numbers, but later retracted that assertion and claimed that historical actuals were used to validate the estimates rather than hiring estimates.<sup>705</sup> Staff argues that the company failed to provide new information on how it determined the number of new devices, why the number of

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<sup>701</sup> 4 Tr 759-761.

<sup>702</sup> Consumers brief, 109.

<sup>703</sup> Consumers brief, 110.

<sup>704</sup> Staff brief, 33.

<sup>705</sup> Staff brief, 35.

new devices was the same in 2025 and 2026, and what specific data was used to arrive at those projections.<sup>706</sup> Staff's reply provided no further briefing on this issue.

The company's reply asserts that for new purchases, "the Company's projection is an annual amount informed by total Company spend over the last four years, with the total annual amount informing the number of new purchases that will be expected in these areas (and not the other way around)."<sup>707</sup> Accordingly, the company asserts that Staff's assumption that its projections started with the projected number of new purchases is incorrect.<sup>708</sup>

*iii. Recommendation*

Just as with the ARP-FDAM subcategory, which was subject to a similar dispute, this PFD declines to adopt the disallowance recommended by Staff. The company has now confirmed that its projection was based upon historical data with that historical data informing the number of estimated new purchases. This clarification appears to negate the basis for Staff's proposed disallowance.

*n. ARP-OT Support Gas*

*i. Testimony*

Ms. Baker testified that the ARP-OT Support Gas project includes \$2,468,066 in capital expenditures and \$398,568 in O&M for the test year to replace outdated servers on a five-year refresh cycle.<sup>709</sup>

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<sup>706</sup> Staff brief, 36.

<sup>707</sup> Consumers reply, 39.

<sup>708</sup> Consumers reply, 39.

<sup>709</sup> 4 Tr 684.



Mr. Coppola testified that the ARP–OT Gas Support project involves the replacement of servers and related equipment on a five-year cycle, but he found significant and unexplained variability in the company’s forecasted capital expenditures compared to historical spending. He asserted that the company’s projected test year spending of \$2.468 million is nearly five times the historical average of \$496,000, prompting concerns about overestimation.<sup>710</sup> He recommended adjusting the 2025 and 2026 forecasts to inflation-adjusted three-year historical levels, resulting in disallowances of \$393,000 for the 10-month bridge period and \$1.949 million for the projected test year.<sup>711</sup>

In rebuttal, Ms. Baker disagreed with Mr. Coppola’s proposed reduction to capital expenditures stating that his projections were based on a three-year average with inflation and did not account for the timing and risk-based replacement of specific hardware. She explained that the increased costs in the projected test year were due to the need to refresh assets from the Pipeline SCADA project, which were essential for maintaining a reliable and safe gas control system.<sup>712</sup>

*ii. Briefing*

The company’s brief reiterates the points stated in Ms. Baker’s rebuttal testimony.<sup>713</sup> Similarly, the Attorney General’s brief echoes the salient arguments raised in Mr. Coppola’s testimony.<sup>714</sup>

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<sup>710</sup> 4 Tr 1929.

<sup>711</sup> 4 Tr 1930.

<sup>712</sup> 4 Tr 775.

<sup>713</sup> Consumers brief, 107.

<sup>714</sup> Attorney General brief, 84.

*iii. Recommendation*

This PFD declines to adopt the Attorney General's recommended disallowance based upon a three-year historical average because the company specifically explained its five-year refresh cycle and that the increase in projected costs was for specific hardware assets associated with a supervisory control and data acquisition (SCADA) project.

*o. ARP- Physical Security*

*i. Testimony*

Ms. Baker testified that the ARP-Physical Security project plans to invest \$747,487 in capital and \$4,698 in O&M in the test year to upgrade or replace physical security assets such as cameras, motion detectors, and access systems; the company's goal is to enhance visibility and improve incident resolution.<sup>715</sup>

Ms. Zichi recommended a partial disallowance of \$72,640 in capital expenditures for the bridge period and \$108,960 for the test year for the ARP–Physical Security project. She stated that these adjustments correct an error discovered during audit, wherein the company admitted that AFUDC and employee benefits were mistakenly applied to the 2025 and 2026 security projections.<sup>716</sup>

Mr. Coppola recommended a full disallowance of the \$747,000 in forecasted capital expenditures for this project in the test year. He argued that the company has not demonstrated an urgent need for the upgrades, noting that issues cited, such as malfunctioning cameras, appear to be routine maintenance items suitable for individual

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<sup>715</sup> 4 Tr 685.

<sup>716</sup> 4 Tr 2717.

repair or replacement rather than justification for large-scale investment in all new equipment.<sup>717</sup>

In rebuttal, Ms. Baker agreed with Staff's proposed adjustment.<sup>718</sup> She disagreed with Mr. Coppola's proposal to reduce capital expenditures stating it would lead to running critical hardware to failure and overlooked the need for timely, risk-based replacement. She emphasized that the projected costs were necessary to prevent physical security vulnerabilities and to comply with state, federal, and FERC requirements for facility security.<sup>719</sup>

*ii. Briefing*

The company's brief reaffirms its agreement with Staff's proposed disallowance for this project.<sup>720</sup> The company also replicates points derived from the rebuttal testimony of Ms. Baker.<sup>721</sup>

Staff's brief recognizes the company's agreement with its disallowance and recommends that the Commission adopt its proposed disallowance.<sup>722</sup>

The Attorney General's briefing echoes Mr. Coppola's sentiment that this project is not a priority and should not be undertaken given the more pressing need for infrastructure upgrades.<sup>723</sup>

The parties provided no further argument on this topic in their reply briefs.

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<sup>717</sup> 4 Tr 1930-1931.

<sup>718</sup> 4 Tr 756.

<sup>719</sup> 4 Tr 775.

<sup>720</sup> Consumers brief, 96.

<sup>721</sup> Consumers brief, 107.

<sup>722</sup> Staff brief, 9.

<sup>723</sup> AG brief, 85-86.

*iii. Recommendation*

This PFD recommends adopting the disallowance proposed by Staff to which the company has assented (\$72,640 in capital expenditures for the bridge period and \$108,960 for the projected test year). This PFD declines to adopt the Attorney General's proposed disallowance because this PFD is not convinced that delaying the refresh of security assets is reasonable and prudent.

p. Data Center Migration & Access Management Project

*i. Testimony*

Ms. Baker testified that The OT Datacenter Migration project proposes \$1.44 million in capital expenditures and \$716,000 in O&M expenses for the test year to relocate critical control systems for electric and gas operations to a more secure and modern facility; she explained that current datacenter at the Parnall building is unsuitable due to the building's proximity to a railway line, aging climate control equipment, and past incidents of water infiltration.<sup>724</sup>

She stated that the Physical Access Management and Alarm Response project requires \$677,559 in capital expenditures and \$101,685 in O&M for the test year to implement a centralized, modernized security system that manages user access and enhances protection of sensitive facilities. She stated that the current system is outdated and causes operational issues such as automation failures and database-related disruptions at the company's Security Fusion Center.<sup>725</sup>

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<sup>724</sup> 4 Tr 723.

<sup>725</sup> 4 Tr 740.

Mr. Coppola recommended disallowing \$2,119,000 in capital expenditures and \$818,000 in O&M expenses related to the OT Data Center Migration and the Physical Access Management and Alarm Response projects. He argued that the company has not demonstrated that issues with the current systems (like climate control and water infiltration for the data center migration) cannot be addressed at lower cost, nor provided sufficient justification for the total \$18 million combined project costs. Mr. Coppola explained that both projects are in early development stages, have no finalized vendors, and have uncertain cost estimates. Due to these uncertainties and lack of detailed cost-benefit analysis, he opined that the proposed expenditures are premature for inclusion in the rate case.<sup>726</sup>

In rebuttal, Ms. Baker testified that the OT Datacenter Migration project addressed more than just water infiltration and aging climate equipment; it also aimed to eliminate risks to critical control systems located near a railway and a main water pipe. She explained that the project was in the investment planning phase, which is standard for projects awaiting funding approval; she emphasized that this phase does not indicate the project is incomplete or lacking necessary information. Ms. Baker stated that the project had a completed and approved business case and should be included in the rate base because the company intended to proceed with the projected expenditures.<sup>727</sup>

Ms. Baker testified that the Physical Access Management and Alarm Response project addressed critical risks, such as potential system failure and unauthorized physical access, which justified the need for updated technology. She stated that the

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<sup>726</sup> 4 Tr 1933-1935.

<sup>727</sup> 4 Tr 778.

project was in the Investment Planning phase, which was standard for projects awaiting funding and did not indicate it was premature or incomplete. The project had a completed and approved IT business case, developed through the Company's established business case process.<sup>728</sup>

*ii. Briefing*

Regarding the physical access management program, the company asserts that the new system will enhance monitoring, automate remediation, and improve access control and mobile badge integration. The company argues the project is necessary and well-planned, with a completed IT business case, and that it should be approved despite being in the investment planning phase, contrary to claims that it is premature or uncertain.<sup>729</sup>

Regarding the data center migration, the company reiterates that its current datacenter in the basement of the Parnall building is not a preferred location to house servers because of the building's location near a railway line, past instances of water infiltration, and the building's own water pipes also pose a risk.<sup>730</sup> The company also asserts that its climate conditioners are aging and have had faults resulting in unplanned shutdowns.<sup>731</sup> Consumers argues that moving the datacenter to a new, co-located facility will mitigate risks and result in an environment with redundant climate control and power supply arrangements.<sup>732</sup> The company also rejects the notion that the project is premature because a business case has been completed and approved, and it only remains in

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<sup>728</sup> 4 Tr 779-780.

<sup>729</sup> Consumers brief, 105.

<sup>730</sup> Consumers brief, 114-115.

<sup>731</sup> Consumers brief, 115.

<sup>732</sup> Consumers brief, 115.

investment planning until funding is approved through the rate case and budget disposition.<sup>733</sup>

The Attorney General's briefing closely tracks the points and arguments contained in Mr. Coppola's testimony reiterating that the two projects are both premature and are not fully justified.<sup>734</sup>

*iii. Recommendation*

This PFD recommends adopting the Attorney General's proposed disallowances for these two projects, i.e. \$2,119,000 in capital expenditures and \$818,000 in O&M expenses.

Regarding the physical access management project, this PFD is not yet fully persuaded that the problems identified by the company justify the expense of an entirely new system. In discovery, the company identified only 14 operational issues within the last two years.<sup>735</sup> It is unclear from the descriptions provided whether some of the issues were system-wide or related only to individual employees, but some of the descriptions seem to suggest that certain incidents affected only individuals. In any event, while this PFD understands the frustration that can be caused by the technical issues identified by the company, it is not clear that a wholesale replacement of the company's system is the best or only solution.<sup>736</sup>

Regarding the data center migration project, this PFD agrees with the Attorney General that it is not clear whether certain issues with the current Parnall building, like

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<sup>733</sup> Consumers brief, 115.

<sup>734</sup> AG brief, 87-90.

<sup>735</sup> See AG-31, p. 10.

<sup>736</sup> See Exhibit A-21, p. 98.

past instances of water infiltration and aging climate control equipment, cannot be remediated at a lower cost than the wholesale relocation of the data center itself. While the company indicated that it considered alternatives like remaining in the current building, it is not clear if the costs of remediating or preventing water leakage and repairing or replacing climate control equipment was compared with the very substantial cost of migrating the entire data center to a new facility.<sup>737</sup> Further, the company did not adequately explain why the presence of a railway line in the vicinity of the Parnall building makes it an inappropriate site to house the company's servers. In any event, this PFD agrees with the company that relocating the datacenter to a facility specifically designed for that purpose is likely superior to the company's current datacenter configuration, but it is not clear whether relocating the current data center is a cost-effective and reasonable option in comparison to simply remediating the problems present in the company's own building.

This PFD holds that these projects could be shown to be reasonable and prudent but are not yet adequately justified on this record. Should Consumers elect to continue with these projects, the company should provide more robust support for cost recovery in a future rate case, which should include a more detailed explanation of alternative approaches and their suitability or lack thereof.

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<sup>737</sup> See Exhibit A-21, p. 96.



q. 2024 IT Underspend & Rough Order of Magnitude (ROM) Adjustments

i. *Testimony*

Mr. Coppola testified that through discovery, the company reported actual 2024 IT capital spending of \$26,378,000, which is \$5,668,000 less than the \$32,046,000 it included in this rate case. He contended that it is neither fair nor reasonable for the company to earn a return or recover depreciation on costs it did not actually incur. As a result, he recommended that the Commission remove the \$5,668,000 underspend amount from the rate base.<sup>738</sup>

On a related note, Mr. Denzler testified that the company applies a 20% reduction to its Rough Order of Magnitude (ROM) capital estimates in line with prior Commission decisions, requesting recovery of only \$0.80 for every \$1.00 estimated. However, he raised concerns that this approach may incentivize the company to inflate estimates knowing a 20% reduction will be applied.<sup>739</sup> More significantly, he found that the company has historically underspent ROM estimates by more than 20%, with actual costs often falling well below projections.<sup>740</sup> As a result, he recommended the Commission apply a total 40% disallowance to ROM estimates for 2025 and 2026, leading to disallowances of \$8.21 million and \$11.59 million, respectively.

In rebuttal, Ms. Baker stated that the company did not oppose Mr. Coppola's recommendation to remove \$5,668,000 in capital expenditures based upon actual 2024 expenditures.<sup>741</sup> However, Ms. Baker disagreed with Mr. Denzler's proposal to impose an

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<sup>738</sup> 4 Tr 1935.

<sup>739</sup> 4 Tr 2460.

<sup>740</sup> 4 Tr 2461, see also Table 2 at 4 Tr 2461.

<sup>741</sup> 4 Tr 780.

additional 20% disallowance over the Company's existing 20% ROM adjustment, stating that it would create a funding shortfall that could jeopardize project outcomes and disrupt other planned and approved initiatives.<sup>742</sup> She explained that IT and Security projects operate on budgets informed by ROM estimates, and that such a reduction could force the company to shift capital funding between projects. However, if the Commission were to adopt Mr. Denzler's proposal, she stated that the appropriate disallowance amounts based upon allocation for the gas utility would be \$2,261,501 for the 10-month bridge period ending October 31, 2025, and \$7,209,940 for the projected test year ending October 31, 2026.<sup>743</sup>

*ii. Briefing*

The company's brief reiterates that it does not oppose the Attorney General's proposal to reduce 2024 capital expenditures by \$5.668 million based upon actual 2024 capital expenditures.<sup>744</sup> The company maintains that the Commission should reject the additional reduction to ROM project estimates because they are intended to cover the full cost of the project, are built to address specific project scope, and additional reductions could cause shortfalls that could hinder the company's ability to complete projects by requiring delays or capital reallocations among several projects.<sup>745</sup>

The Attorney General's brief repeats its request for the 2024 IT underspend disallowance.<sup>746</sup>

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<sup>742</sup> 4 Tr 784.

<sup>743</sup> 4 Tr 785.

<sup>744</sup> Consumers brief, 96.

<sup>745</sup> Consumers brief, 96-97.

<sup>746</sup> AG brief, 90.

CUB argues that the company's concern about potential capital shortfalls "is unconvincing because it only addresses the situation where ROM estimates are too low, which has not been the case historically."<sup>747</sup> CUB contends that the company failed to rebut its claim that estimates have historically been too high, not too low, and that when estimates are too high it unfairly inflates the company's rate base.<sup>748</sup> CUB points to the Attorney General's discovery of the 2024 IT underspend as support for its argument. Further, CUB asserts that its proposed additional 20% reduction applied not just to capital expenditures but to O&M components for all projects where costs derive from a ROM estimate.

In addition to repeating arguments from rebuttal testimony, the company's reply challenges CUB's assertion in its initial brief that the ROM disallowance can or should apply to O&M expenses as well. The company explains that CUB misrepresents the record because Mr. Denzler's testimony was specific that his ROM adjustment related to capital expenditures only, and expanding the disallowance to O&M expense would be inappropriate.<sup>749</sup>

### *iii. Recommendation*

This PFD adopts the Attorney General's 2024 IT underspend-related disallowance in the amount of \$5,668,000, to which the company has assented.

This PFD declines to recommend CUB's proposal to impose an additional 20% disallowance over the Company's existing 20% ROM adjustments. This PFD does not

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<sup>747</sup> MSC brief, 48.

<sup>748</sup> MSC brief, 48.

<sup>749</sup> Consumers reply, 36.

believe that it is appropriate to impose a general, blanket disallowance of this type based upon the premise that the company generally underspends its ROM adjustments.

7. Customer Experience IT Capital Expenditures

a. Click-to-Chat Project

*i. Testimony*

The Click to Chat platform allows customers to engage with a customer-service representative through a chat feature on the Company's website.<sup>750</sup>

Ms. Klocke presented Staff's recommendation for a full disallowance of capital expenditures, equaling \$45,683 in the 2023 historical year and \$2,958 in the bridge period.<sup>751</sup> She testified that Consumers acknowledged there are no projected cost savings from implementing the project, noted there would be no reduction in calls to the call center, and opined that the platform is redundant because all of its functions are available through the company's website.<sup>752</sup> Ms. Klocke noted that, over three years after it was implemented, Click to Chat had been used just 314 times.<sup>753</sup> And she took issue with the company's failure to track the number of times a customer-service agent was able to fully resolve an issue via the platform.<sup>754</sup>

In rebuttal, Ms. Byrom testified that the company's customer-related IT enhancement projects, including Click to Chat (as well as the Web Chat Artificial Intelligence and Self-Service Mobile App projects, discussed below), are based on

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<sup>750</sup> 4 Tr 2619; see Exhibit A-20, line 20.

<sup>751</sup> 4 Tr 2618; see Exhibit A-20, line 20 and line 140.

<sup>752</sup> 4 Tr 2619-2621, citing Exhibits S-11.2 and S-11.3.

<sup>753</sup> 4 Tr 2620, citing Exhibit S-11.1.

<sup>754</sup> 4 Tr 2620, quoting Exhibit S-11.1.

industry research that support customer desire for chat-based applications.<sup>755</sup> She stated that Consumers’ “peer institutions” offer similar tools and that the company is “implementing best practices by providing customers with channels of choice.”<sup>756</sup> According to Ms. Byrom, it is the company’s obligation to update and maintain the tools that customers prefer to use.<sup>757</sup>

Ms. Byrom further testified that Staff is focused on cost savings from Click to Chat while disregarding that “both customer preference and accessibility have value of their own.”<sup>758</sup> She stated that Click to Chat was never intended to solve urgent customer inquiries and that “both time and costs savings might be realized” if an issue can be resolved without involvement of a customer service representative.<sup>759</sup> Ms. Byrom noted that the Commission approved recovery of the project’s historical costs in the company’s recent electric rate case.<sup>760</sup> And she opined that Staff “has understated the number of customer interactions with the tool and underestimated the potential of a relatively new channel” because Staff failed to consider that the project’s implementation had been delayed and that it was initially only available as a “non-market soft launch” to business customers.<sup>761</sup>

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<sup>755</sup> 4 Tr 1121.

<sup>756</sup> 4 Tr 1121.

<sup>757</sup> 4 Tr 1121.

<sup>758</sup> 4 Tr 1122.

<sup>759</sup> 4 Tr 1122-1123.

<sup>760</sup> 4 Tr 1123, citing March 21, 2025 order in Case No. U-21585, p. 185. Company witness Baker provided brief testimony supporting the Click to Chat project, echoing Ms. Byrom’s testimony on this point while also stating that the project was included in Case No. U-21308 (gas rate case) and Case No. U-21389 (electric rate case) with no recommended disallowance of costs. 4 Tr 763.

<sup>761</sup> 4 Tr 1123.

*ii. Briefing*

Consumers' brief reiterates Ms. Byrom's justifications for supporting the project. The company also argues that Click to Chat has been unopposed in past rate cases, and it again notes that the Commission approved the historical investment for the project in Case No. U-21585. It concludes that Click to Chat has "inherent value" and the historical and bridge-period expenditures should be approved.<sup>762</sup>

In briefing, Staff argues that the Click to Chat project offers no cost savings or innovative technology and opines that the tool is not useful "beyond the most basic of inquiries and requests."<sup>763</sup> Responding to Ms. Byrom's rebuttal testimony, Staff calculated that over the 18 months Click to Chat has been available, it has only been used about 17 times per month.<sup>764</sup> Staff also argues that Consumers failed to respond to some of Staff's "fundamental issues" with the project, including the fact that Click to Chat is only available during business hours because customer service representatives monitor the platform.<sup>765</sup>

Neither party addresses this issue in reply briefing.

*iii. Recommendation*

In alignment with Staff's argument that the costs of this project are not justified by its limited benefits, this PFD recommends that future expenditures for the Click to Chat program be disallowed.<sup>766</sup> This PFD finds unconvincing Consumers' claim that the

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<sup>762</sup> Consumers brief, 97-98.

<sup>763</sup> Staff brief, 18-19.

<sup>764</sup> Staff brief, 19.

<sup>765</sup> Staff brief, 20.

<sup>766</sup> It should be noted that while \$48,641 is in dispute here, Consumers estimates total costs for the Click to Chat program of \$911,602, which is an increase of more than \$100,000 from the company's estimate in its recent electric rate case. See Exhibit A-20, line 20, column i and Exhibit A-21, p. 42; see also March 21, 2025, Order in Case No. U-21585, p. 185.

Commission's approval of historical costs in the company's electric rate case supports approval of both the historical and bridge-period expenditures here. While the Commission found those historical costs to be reasonable and prudent in its March 2025 order, it made a contrary determination with respect to the projected bridge-period expenditures:

The Commission agrees with the Staff that the Click to Chat function would not reduce costs, reduce calls to the call center, or reduce the number of customer service employees at the call center. In addition, the Commission notes that, to the extent that Click to Chat were to offer some additional value, the option has been available only to commercial customers, resulting in just 100 completed interactions in two and a half years. Should the company seek any future recovery connected to the Click to Chat function, it will need to be accompanied by a much more compelling business case and also demonstrate value to customers that justifies the need for any additional investment.<sup>767</sup>

With the exception of updated usage data, the company provides essentially the same evidence in support of its investments in Click to Chat as was presented in Case No. U-21585. This PFD finds that updated data—indicating the tool has been used 314 times over 18 months (an average of about 17 times each month)—does not demonstrate adequate value to customers, especially given the lack of data showing how often issues can be fully resolved using the platform.<sup>768</sup> Therefore, consistent with the Commission's findings in U-21585, this PFD recommends approval of historical spending for Click to Chat, with a bridge-period disallowance of \$2,958.

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<sup>767</sup> March 21, 2025, Order in Case No. U-21585, p. 186, internal citations omitted.

<sup>768</sup> See 4 Tr 1120, 2620; Staff brief, 19.

b. Product Family Enhancements, Web Chat Artificial Intelligence (AI) Project

i. *Testimony*

The Web Chat AI project allows customers to use an AI-based chatbot to communicate with a computer and find answers to more routine questions.<sup>769</sup>

Ms. Klocke presented Staff's recommendation for a full disallowance of the project, consisting of \$180,565 in capital expenditures and \$14,929 in O&M expenses during the test year.<sup>770</sup> She criticized the project for "offer[ing] technology that is redundant and not worth the cost," explaining that the platform will simply utilize information that is already available or could easily be made available on the company's website.<sup>771</sup> Ms. Klocke stated that the project will not reduce costs and opined that it would be a better use of money to update the company's website to be more user friendly and easier to navigate.<sup>772</sup> She testified the company planned to redesign its website and funding was approved for that purpose in settled Case No. U-21224.<sup>773</sup> Ms. Klocke stated that Staff is "troubled" that the website redesign has been "put on hold yet again" with "no current timeline for it."<sup>774</sup>

Ms. Byrom defended Consumers' customer-related IT enhancement projects as being based on customer preference and consistent with what other utilities offer.<sup>775</sup> While Web Chat AI is "in the early stages of enhancement and consequently cost savings are

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<sup>769</sup> 4 Tr 2622; see Exhibit S-11.10.

<sup>770</sup> 4 Tr 2621, citing Exhibit S-11.19, line 26.

<sup>771</sup> 4 Tr 2622-2623.

<sup>772</sup> 4 Tr 2623-2624.

<sup>773</sup> 4 Tr 2622.

<sup>774</sup> 4 Tr 2622, citing Exhibit S-11.5.

<sup>775</sup> 4 Tr 1121-1122.



unquantified at this time,” Ms. Byrom stated that the company is committed to the platform as an alternative “customer channel of choice.”<sup>776</sup> She testified, “Not every customer has an issue or question that rises to the level of calling a service center and the Web Chat AI tool will provide relevant information in an instant and the customer may interact according to their situation.”<sup>777</sup>

Ms. Byrom further testified that the company is working through “IT solutions” to achieve its goal of updating its website, but she stressed that IT tools designed to give customers alternative channels of communication are not intended to have all the functionality of the website or replace the website.<sup>778</sup> Company witness Baker likewise testified that a website redesign would not negate the need for investments in the customer-related IT enhancements challenged by Staff.<sup>779</sup> She explained the redesign process was put on hold because the company plans to complete implementation of the SAP S/4HANA system beforehand and because the company now has more flexibility in migrating to the SaaS version of the Sitecore web content management system.<sup>780</sup> Ms. Baker also testified that Consumers continually makes improvements and updates to its website despite the status of the redesign project.<sup>781</sup>

*ii. Briefing*

Consumers reiterates the value of providing alternative channels of communication consistent with customer preference and to promote accessibility. The

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<sup>776</sup> 4 Tr 1123-1124.

<sup>777</sup> 4 Tr 1124.

<sup>778</sup> 4 Tr 1126-1127.

<sup>779</sup> 4 Tr 767.

<sup>780</sup> 4 Tr 766-767.

<sup>781</sup> 4 Tr 767.

company takes issue with Ms. Klocke's claim that there is no anticipated reduction in overall costs, citing the company's discovery response stating that costs are "undetermined at this time."<sup>782</sup>

Staff relies on the project's shortcomings identified by Ms. Klocke, particularly the company's ability to facilitate information through its website or other established channels, to argue that customer benefits of the Web Chat AI project are not "commensurate with the program cost."<sup>783</sup> Staff states that the already approved redesign of the company's website would offer user-friendly accessibility and ensure that navigation is intuitive. In turn, it proposes that, short of a full redesign, the company could make relevant information more accessible "at a substantially lower price" via a comprehensive frequently asked questions page.<sup>784</sup> Staff further argues that Consumers has not demonstrated customer interest in the project.<sup>785</sup>

Neither party addresses this issue in their reply brief.

### *iii. Recommendation*

This PFD agrees with Staff that the Web Chat AI tool is redundant as it is designed to provide basic information that is or should be readily available through the company's website. Consumers' proposed investment in this project is not reasonable or prudent given the company's delay in implementing its previously approved website redesign—a project that could potentially render the expenditures associated with Web Chat AI unnecessary. And, as Staff argues, the company could make relevant information more

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<sup>782</sup> Consumers brief, 98.

<sup>783</sup> Staff brief, 20-22.

<sup>784</sup> Staff brief, 21.

<sup>785</sup> Staff brief, 21.

accessible through its existing website at a lower cost. Furthermore, given the limited functionality of this tool and the lack of evidence showing customer interest, Consumers has not shown that customers will receive adequate value to justify the expense. This PFD therefore recommends a disallowance of \$180,565 in capital expenditures for the test year and disallowance of \$14,929 in O&M expense.

c. Product Family Enhancements, Customer Self-Service Mobile App

i. *Testimony*

Ms. Byrom testified that Consumers continues to invest in digital methods that allow customers to complete a variety of activities on their smartphone or computer.<sup>786</sup> She stated that online payment transactions through the company's website or Customer Self-Service Mobile Application (Mobile App) cost approximately \$0.11 per transaction compared to \$9.22 per live agent call, making these digital channels "cost-effective alternative[s] to expanding the call center service hours."<sup>787</sup> She also testified that Consumers maintains multiple channels of communication to serve a diverse customer base with a variety of needs.<sup>788</sup> The company requests approval of costs for various enhancements of the Mobile App.<sup>789</sup>

Staff recommends a full disallowance of all expenditures relating to the Mobile App, including \$61,562 of capital costs in the 2023 historical year; \$274,116 of capital costs for the year ended 12/31/2024; \$598,472 of capital costs for the year ending 12/31/2025;

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<sup>786</sup> 4 Tr 1087.

<sup>787</sup> 4 Tr 1087.

<sup>788</sup> 4 Tr 1088.

<sup>789</sup> See Consumers' audit response in Exhibit S-11.19.

and \$550,025 of capital costs and \$6,510 of O&M costs for the test year.<sup>790</sup> Ms. Klocke testified that Staff has, over multiple cases, consistently challenged the Mobile App as unnecessary because it is “duplicative of the Company’s website” while offering less functionality.<sup>791</sup> She testified that Consumers has never shown a need for, or customer interest in, an application that will cost more than \$10 million.<sup>792</sup> She also opined that the company should instead focus resources on the redesign of its website, noting that Staff was “surprised to learn” that project has been put on hold.<sup>793</sup>

As an alternative to a full disallowance, Ms. Klocke recommended disallowing unspecified costs that Consumers classified as “emergent,” comparing them to contingency expenses that prevent a full evaluation of their reasonableness and prudence.<sup>794</sup> She likewise identified two enhancements (App Support Center and App Login Enhancements) with incomplete cost estimates that Staff believes should be disallowed for the same reason.<sup>795</sup> According to Ms. Klocke, these emergent and unknown costs represent \$598,472 of capital expenses in 2025 and \$550,025 of capital expenses and \$6,510 of O&M expenses in 2026.<sup>796</sup>

Ms. Byrom testified in support of the company’s investments in updating and maintaining the digital tools that provide customers with different channels of communication.<sup>797</sup> She testified that the Commission expressly approved the Mobile App

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<sup>790</sup> 4 Tr 2624; Exhibit S-11.19. Per Consumers’ analysis, Staff’s proposed capital disallowances equal \$61,562 in the historical year ended 12/31/2023, \$772,843 in the 22-month bridge period ending 10/31/2025, and \$649,770 in the projected test year ending 10/31/2026. See 4 Tr 764-765.

<sup>791</sup> 4 Tr 2624-2625.

<sup>792</sup> 4 Tr 2625, citing Exhibit A-20, line 22 in Case No. U-21490.

<sup>793</sup> 4 Tr 2625, citing Exhibit S-11.5.

<sup>794</sup> 4 Tr 2626, citing Exhibits S-11.19 and S-11.8.

<sup>795</sup> 4 Tr 2626, citing Exhibit S-11.9.

<sup>796</sup> 4 Tr 2626.

<sup>797</sup> 4 Tr 1120-1121.

project in Case No. U-21389.<sup>798</sup> Additionally, she stated that the Mobile App has been downloaded almost 1.5 million times; it has seen a continual increase in popularity, handling over 28% of digital traffic; and it now exceeds the desktop web with 5.3 million year-to-date sessions compared to 4.6 million sessions.<sup>799</sup> Ms. Byrom explained that the Mobile App has “separate functionality” from the website and was developed “to provide a streamlined experience for customers, allowing them to complete common interactions quickly and efficiently on their phones, with features like simple login and direct access.”<sup>800</sup> Further, the Mobile App allows customers to complete routine transactions during potential website downtimes.<sup>801</sup> Ms. Byrom testified that customers prefer to use the Mobile App for more complex interactions, and the platform’s functionality should therefore be expanded.<sup>802</sup> Both Ms. Byrom and Ms. Baker testified that although the website redesign project has been delayed, completion of that project would not negate the need to invest in alternate communication channels, such as the Mobile App.<sup>803</sup>

*ii. Briefing*

Consumers relies on the data presented by Ms. Byrom to argue that the Mobile App has continued to grow in popularity since being approved by the Commission in Case No. U-21389. The company also responds to Staff’s proposed alternative disallowance:

Staff additionally cites concerns about emergent work but uses that to justify a recommendation for a full bridge year and test year disallowance. It makes no sense to recommend a full test year disallowance based on the Company referring to some costs but not all arising from emergent needs.<sup>804</sup>

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<sup>798</sup> 4 Tr 1125, citing March 1, 2024 order in Case No. U-21389, p. 83.

<sup>799</sup> 4 Tr 1125.

<sup>800</sup> 4 Tr 1125-1127.

<sup>801</sup> 4 Tr 1125.

<sup>802</sup> 4 Tr 1125.

<sup>803</sup> 4 Tr 766-767, 1126-1127.

<sup>804</sup> Consumers brief, 99, internal citation omitted.

Staff's initial brief closely tracks Ms. Klocke's testimony in advocating for a full disallowance of costs associated with the Mobile App or, alternatively, a disallowance of the emergent and unknown costs identified by Ms. Klocke.<sup>805</sup> Responding to Ms. Byrom's rebuttal testimony, Staff argues that the Mobile App's 28% share of digital traffic is relatively low considering that the App has now been available for several years.<sup>806</sup>

Neither Staff nor Consumers addresses this issue in reply briefing.

*iii. Recommendation*

This PFD finds that Consumers has established the overall continuing value of the Mobile App as a popular tool that allows customers to complete interactions on their phones, including a cost-effective way of making bill payments, and provides an important communication channel during website downtimes. However, this PFD recommends adoption of Staff's alternative disallowance of projected costs in 2025 and 2026 related to "emergent needs" because those costs are equivalent to contingency expenses and prevent a full analysis of their reasonableness and prudence. In addition, two enhancements have cost estimates that are not complete. The company provides no substantive response to Staff's proposal and instead argues that the disallowance is excessive "based on the Company referring to some costs but not all arising from emergent needs."<sup>807</sup> But Staff's disallowance is based on the company's audit responses, which provide inadequate information to distinguish between costs based on emergent

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<sup>805</sup> Staff brief, 22-25.

<sup>806</sup> Staff brief, 24.

<sup>807</sup> Consumers brief, 99.

needs and all other costs.<sup>808</sup> Therefore, the Commission should disallow \$498,727 of capital expenditures in the bridge period and \$649,770 of capital expenditures in the test year, as well as \$6,510 of O&M expenses.<sup>809</sup> The company may seek approval of actual capital costs in a future rate case.

d. LMI Customer Support Enhancement

i. *Testimony*

Ms. Byrom explained that the LMI Customer Support Enhancement project is designed to support low- and moderate-income customers in reducing their utility bills through a “streamlined, self-attestation workflow” that allows them to find and enroll in available income-qualified assistance programs. The project also facilitates reaching customers earlier by proactively identifying and reaching out to customers who are showing early signs of crisis to educate them about assistance options.<sup>810</sup> Ms. Byrom testified that funding for the project is important because more than one out of every three customers are low income (meaning they are in crisis and unable to pay their energy bill) or moderate income (they are one crisis away from being able to pay their energy bill), while only one in six of those customers engage in assistance programs, “with the majority of these interactions driven by immediate crises that limit ability to introduce solutions and programs given the urgent customer need.”<sup>811</sup> She further testified that

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<sup>808</sup> See Exhibit S-11.19, lines 17, 24 (“The enhancement backlog is dynamic and driven by customer feedback, planned features, and emergent needs.”); see also Exhibit S-11.9 (“The Company will adjust scope based on customer feedback for specific functionality and features, funding sources, and prioritized opportunities based on timing and value.”).

<sup>809</sup> 4 Tr 2626. Staff’s alternative proposal is for a disallowance of \$598,472 of capital expenses in 2025 and \$550,025 of capital expenses in 2026. This equates to \$498,727 for the 10 months ending 10/31/2025 ( $\$598,472/12 \times 10$ ) and \$649,770 for the projected test year ending 10/31/2026 ( $\$598,472/12 \times 2 + \$550,025$ ). See Consumers’ analysis at 4 Tr 765.

<sup>810</sup> 4 Tr 1095.

<sup>811</sup> 4 Tr 1096.

[A]pproval of this project delivers on the priorities of the MPSC's Energy Affordability and Accessibility Collaborative (EAAC) and Low-Income Energy Policy Board that highlight the importance of streamlining energy assistance and program enrollment processes to support increased awareness, participation, and customer benefit. This need for attention to simplified and effective processes is also highlighted in Public Act 229 of 2023, which instructs utility EWR programs to minimize barriers to participation in low-income EWR programs and reduce overly burdensome verification processes.<sup>812</sup>

Ms. Byrom explained that the project was developed using customer-centered research.<sup>813</sup> And while the primary focus is to support LMI households, she testified the project will benefit all customers by enhancing energy equity; reducing administrative costs and lost revenue by preventing service cuts; building trust with LMI customers; reducing the energy burden on low-income families; and promoting environmental sustainability by engaging LMI households in clean energy solutions.<sup>814</sup>

The company's capital investments in this project, totaling \$2,140,754 over the bridge period and projected test year, are divided between the IT-related Product Family Enhancements-Customer-Capital project (\$200,628 in the bridge period and \$40,126 in the test year) and the Customer Experience & Operations organization (\$1.9 million in the test year).<sup>815</sup>

Mr. Bunch testified, "The LMI Customer Support investments that witness Byrom proposes to increase engagement are crucial and I support them."<sup>816</sup>

On behalf of Staff, Ms. Klocke recommended a full disallowance of all capital investments for the LMI Customer Support Enhancement, stating that after "numerous

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<sup>812</sup> 4 Tr 1096.

<sup>813</sup> 4 Tr 1097.

<sup>814</sup> 4 Tr 1098.

<sup>815</sup> 4 Tr 764-765, 1082, 1095.

<sup>816</sup> 4 Tr 2369.



rounds of audit questions” Staff still does not have a clear understanding of what the project will offer customers.<sup>817</sup> She stated there are no projected cost savings associated with the project and opined that the identified benefits are “nebulous and do not justify their high costs.”<sup>818</sup> She likewise testified that “the cost requests and the overall LMI project itself is too premature to be deemed reasonable and prudent.”<sup>819</sup>

Ms. Klocke critiqued the projected spending associated with each of the four core functions of the project.<sup>820</sup> She questioned the prudence of investing in simplifying the enrollment process because enrollment information for assistance programs should already be available to customers.<sup>821</sup> She testified that residential customers, regardless of income, are already given information via mail and email about relevant programs.<sup>822</sup> Ms. Klocke disagreed with Consumers’ plan to focus its outreach on customers showing early signs of crisis, stating, “In an uncertain economic climate, virtually anyone could be in crisis with the loss of a job, unexpected bill, medical emergency, etc., and Staff believes this information should therefore be available to all customers . . . .”<sup>823</sup> She also stated that the company is already planning expensive “improvements” to the LMI project despite the fact that it is new, and she expressed concern that costs for anticipated maintenance and annual updates could “snowball out of control.”<sup>824</sup> Ms. Klocke took further issue with Consumers’ planned spending on “Continuous Improvement and Feedback”—which

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<sup>817</sup> 4 Tr 2626-2627.

<sup>818</sup> 4 Tr 2633.

<sup>819</sup> 4 Tr 2632.

<sup>820</sup> 4 Tr 2627-2632; Ms. Klocke cites audit responses contained in Exhibits S-11.20, S-11.22, S-11.23, S-11.28, S-11.31 through S-11.34, S-11.36, and S-11.42.

<sup>821</sup> 4 Tr 2628.

<sup>822</sup> 4 Tr 2629.

<sup>823</sup> 4 Tr 2629.

<sup>824</sup> 4 Tr 2630-2631.

includes \$50,000 on “Customer Satisfaction,” \$50,000 on “Responsive Adjustments,” and \$100,000 on “Data-Driven Enhancements”—because the categories “all show overlap and do not justify their disparate cost requests.”<sup>825</sup>

Ms. Klocke opined that the LMI project will not reduce customers’ energy burden and that it instead offers solutions that “are mere band aids to the larger root problem of energy unaffordability.”<sup>826</sup> In addition, Ms. Klocke was unconvinced that the LMI project will help fulfill the priorities of the Commission’s EAAC and Low-Income Energy Policy Board.<sup>827</sup> She stressed multiple times throughout her testimony that the information this project proposes to distribute to customers already exists on the company’s website and Consumers should simply make that information easier to access by redesigning its website with money already allocated for that purpose.<sup>828</sup>

In rebuttal, Ms. Byrom testified that the LMI project was designed to align with the goals of the EAAC and EWR Low-Income Workgroup, which is important because “it ensures that this project reflects the needs of the most vulnerable customers and is grounded in best practices developed through statewide collaboration.”<sup>829</sup> She stated that in the four months after the project was launched in December 2024, 22% of the over 55,000 customers who interacted with the tool enrolled in an offering (compared to .05% who enroll after being reached by email), and of those who enrolled, nearly 20% enrolled in more than one offering.<sup>830</sup> She noted that since Green Giving was added to the platform

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<sup>825</sup> 4 Tr 2631.

<sup>826</sup> 4 Tr 2632.

<sup>827</sup> 4 Tr 2633-2634.

<sup>828</sup> 4 Tr 2628, 2630, 2632-2634.

<sup>829</sup> 4 Tr 1108.

<sup>830</sup> 4 Tr 1109-1110.

in April 2025, more than 500 customers were digitally enrolled in that program while agencies enrolled only 10.<sup>831</sup> In addition, the tool captured over 3,000 leads for EWR programs, and it reduced the need to send approximately 300,000 emails.<sup>832</sup> Ms. Byrom opined, “These results affirm that the tool is immediately delivering on its intended purpose: reducing enrollment barriers, increasing program visibility, and helping LMI customers more easily access the support they need.”<sup>833</sup>

While Ms. Byrom acknowledged that enrollment information for assistance programs is available on the company’s website, she stated “it is not presented in a way that is easily navigable or actionable for a specific subset of customers: those in need of assistance.”<sup>834</sup> She presented research data in support of her contention that the enrollment experience through the website is “burdensome, fragmented, and often overwhelming.”<sup>835</sup> She further expounded:

The project’s simplified enrollment goal is not to duplicate content—it is to deliver a centralized, web and mobile-friendly tool that provides step-by-step guidance based on a customer’s individual circumstances. It matches customers only with programs for which they are eligible, explains what is required for enrollment, and allows them to share their information once, rather than repeatedly. The Company has supported and acted on simplifying assistance enrollment in direct response to the complexity of government bill assistance approval flows. With various levels of assistance, programming options, and requirements/eligibility, customers can find themselves lost in the details. Within the LMI project, the focus is on individual opportunity and not a one-size-fits-all information download. This level of customization, guided by real customer insights, goes far beyond a standard web feature or program list. The tool ensures that customers are not just informed—but effectively guided—through the enrollment process with clarity and ease.<sup>836</sup>

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<sup>831</sup> 4 Tr 1111.

<sup>832</sup> 4 Tr 1111.

<sup>833</sup> 4 Tr 1111.

<sup>834</sup> 4 Tr 1112.

<sup>835</sup> 4 Tr 1113.

<sup>836</sup> 4 Tr 1114.

Both Ms. Byrom and Ms. Baker provided testimony about the status of Consumers' website redesign project, which has been put on hold.<sup>837</sup> Ms. Baker further testified that the company continues to make improvements to its website and, "[i]n fact, much of the investment in [the LMI Customer Support Enhancement] is being achieved through updates to website design, content, features, and navigation, without the full re-architecture associated with the eventual website redesign project."<sup>838</sup>

Ms. Byrom noted that the LMI tool is available to all customers, not just those who fall within LMI eligibility parameters, and asserted that the project is designed to expand customer support to include moderate-income customers.<sup>839</sup> She defended the tool's ability to provide more effective, targeted communication with those who are most in need.<sup>840</sup> Ms. Byrom also testified that the project is not a "one-time deployment" but rather an "evolving solution," and the company is monitoring usage patterns and collecting feedback to enhance the tool's performance and expand its capabilities.<sup>841</sup> She explained that the initial costs for the project are "concentrated at the front end," but maintained that "the return on investment is realized over time" through lower bills for those in need and by reducing uncollectible expenses (which benefits all customers).<sup>842</sup> She further opined, "Disallowing the project unnecessarily extends hardship for low-income customers and undermines the Company's commitment to equitable access and affordability."<sup>843</sup>

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<sup>837</sup> 4 Tr 766-767, 1126-1127.

<sup>838</sup> 4 Tr 767.

<sup>839</sup> 4 Tr 1112-1113, 1115.

<sup>840</sup> 4 Tr 1116.

<sup>841</sup> 4 Tr 1117.

<sup>842</sup> 4 Tr 1119.

<sup>843</sup> 4 Tr 1120.

*ii. Briefing*

Consumers relies on Ms. Byrom's testimony to highlight the importance of the LMI project, defend the associated costs, and show that the platform already has "tangible results" in the short time it has been operational. It disagrees that the project's goals could be accomplished by simply updating the company's website, arguing that "having a single interactive experience that actively guides customers through eligibility and enrollment to the programs that best fit their needs is significantly more useful than providing a list of programs."<sup>844</sup> Consumers states the LMI tool is a "unique application" that utilizes a customer's individual circumstances to save time by determining eligibility for multiple programs at once.<sup>845</sup> Likewise, while general outreach by mail or email is helpful, this project is more effective by using a "planned methodology" to proactively identify and reach out to LMI customers in need of assistance.<sup>846</sup> Consumers also notes the tool is available to all customers.<sup>847</sup>

The company further addresses Ms. Klocke's concern about costs for improvements to a new project by quoting Ms. Byrom's testimony regarding the upfront investment needed to create the infrastructure, which includes "assessing how current programs fit together, what gaps exist between current and potential services, and how to tie everything together for the most efficiency for the overall customer experience."<sup>848</sup> In addition, through continuous improvement and feedback, the company ensures that

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<sup>844</sup> Consumers brief, 118.

<sup>845</sup> Consumers brief, 118-119.

<sup>846</sup> Consumers brief, 118-119.

<sup>847</sup> Consumers brief, 119.

<sup>848</sup> Consumers brief, 120.

the program stays relevant and becomes more effective over time.<sup>849</sup> Consumers also opines that Staff takes an inconsistent position by acknowledging that the LMI project can disseminate useful information to customers in crisis, yet arguing the project will do nothing to fix or prevent the root causes of the crisis.<sup>850</sup>

Staff's brief tracks Ms. Klocke's testimony in presenting its "many concerns" with the LMI Enhancement project, including its skepticism that the project will achieve meaningful results.<sup>851</sup> Staff states that it supports informing LMI customers about available programs and facilitating the enrollment process but disputes the need to spend over \$2 million to do so.<sup>852</sup> It questions "why an entirely separate project was needed to accomplish what seems to amount to updates to the Company's website."<sup>853</sup> Staff is also concerned with future, unknown costs that will be required for maintenance and annual updates.<sup>854</sup> It argues that Consumers failed to address why it is necessary to spend \$200,000 on "Continuous Improvement" when the program "is new and should not be predetermined to need improvements at its outset."<sup>855</sup> Staff further submits that the LMI project is not the best way to accomplish the goals of the EAAC and EWR Low-Income Workgroup, and it disputes that a disallowance will have negative consequences because the project offers no new information not already available on the company's website.<sup>856</sup> Staff's reply brief contains no further arguments on this topic.

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<sup>849</sup> Consumers brief, 120.

<sup>850</sup> Consumers brief, 120.

<sup>851</sup> Staff brief, 25-27.

<sup>852</sup> Staff brief, 27.

<sup>853</sup> Staff brief, 26.

<sup>854</sup> Staff brief, 27.

<sup>855</sup> Staff brief, 27-28.

<sup>856</sup> Staff brief, 28.

In reply, Consumers addresses Staff's statement that the project will not fix or prevent the root causes of energy unaffordability, arguing that Staff imposes an "untenable standard for project approval" and that the project will increase access to programs that can provide financial assistance to customers.<sup>857</sup> The company also takes issue with Staff's claim that the project provides no information beyond what is already contained in the company's website. Consumers argues that the LMI application goes beyond "static information" by allowing customers to enter information, have their information evaluated, and be enrolled into programs at a single point of entry.<sup>858</sup> "The LMI project functions as a virtual concierge to connect customers to a large catalogue of programs with ease, and it should be approved."<sup>859</sup>

*iii. Recommendation*

This PFD finds the LMI project will serve an important role in removing barriers to identifying and enrolling in assistance programs. Consumers has provided convincing data showing that since its launch in December 2024, the project has already demonstrated value by helping LMI customers more easily access needed support.<sup>860</sup> In addition, the project should not only provide a valuable tool for vulnerable customer groups but also benefit the broader customer base by reducing uncollectible expenses. This PFD therefore disagrees with Staff's full \$1.9 million disallowance of the costs for this project.

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<sup>857</sup> Consumers reply, 41.

<sup>858</sup> Consumers reply, 41.

<sup>859</sup> Consumers reply, 42.

<sup>860</sup> See 4 Tr 1109-1111.

However, while Consumers has rebutted Staff's claim that this project consists of little more than mere updates to the company's website, this PFD does find that some costs could be avoided if this project were coordinated with the website redesign project that was previously approved by the Commission but has since been delayed. Indeed, Ms. Baker, testifying in support of the IT expenditures for this project, stated that much of the investment is being achieved through updates to the existing website. It is reasonable to conclude that those updates could also be implemented through the website redesign project at little to no additional cost. Therefore, this PFD recommends disallowance of the IT capital expenses for the LMI project, consisting of \$200,628 in the bridge period and \$40,126 in the projected test year.<sup>861</sup>

8. Accumulated Provision for Depreciation (Depreciation Reserve)

In its initial filing in this case, the Company calculated a Depreciation Reserve amount of \$4,665,713,000,<sup>862</sup> and, after the filing of rebuttal testimony and in briefing, the Company made adjustments which decreased the Depreciation Reserve by \$21,854,000 and resulted in a total amount of \$4,643,859,000.<sup>863</sup>

Through the testimony of Mr. Witt, Staff originally recommended a depreciation reserve of \$4,645,483,000 which was a \$20,230,000 reduction from the company's original projected amount of \$4,665,713,000.<sup>864</sup> However, in briefing, Staff recommends adopting a depreciation reserve of \$4.642 billion, which is a reduction of \$1.640 million from the company's new projection.<sup>865</sup> Staff asserts that the entire difference between the

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<sup>861</sup> See 4 Tr 2627.

<sup>862</sup> See Exhibit A-12, Schedule B-1, Line 2.

<sup>863</sup> See Consumers brief, 112 (citing Appendix B1, line 2, column e).

<sup>864</sup> 4 Tr 2513.

<sup>865</sup> Staff brief, 5.



company's projection and Staff's projection is related to differences in projected capital expenditures.<sup>866</sup>

This PFD recommends that the depreciation reserve should be recalculated based upon the Commission's determinations in the final order because the differences in depreciation reserve arise from differing capital expenditure amounts.

#### 9. Construction Work in Progress (CWIP)

In its filing in this case, the Company calculated a Construction Work in Progress ("CWIP") amount of \$322.877 million, See Exhibit A-12, Schedule B-2, page 1, line 24. No party opposed the company's proposed CWIP amount. Therefore, the Commission should approve the company's proposed CWIP amount for the test year in this case.

#### B. Working Capital

##### *i. Testimony*

Ms. Rayl provided the company's projected working capital in the test year: \$1,508,381,000.<sup>867</sup> This total included an upward cash adjustment of approximately \$21 million supported by Mr. Bleckman to increase the company's cash balance from \$7.3 million to \$28.4 million such that the cash balance was equal to approximately 1% of the projected test year gas revenues.<sup>868</sup>

Staff proposed a working capital balance of \$1,367,682,000, a decrease of \$140,699,000 from the company's \$1,508,381,000.<sup>869</sup> Mr. Hecht testified that the \$140,699,000 decrease was due to four adjustments: (1) a \$233,000 reduction to

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<sup>866</sup> Staff brief, 5.

<sup>867</sup> Exhibit A-12, Schedule B-4, line 18.

<sup>868</sup> 4 Tr 835.

<sup>869</sup> 4 Tr 2501; Exhibit S-2, Schedule B-1, Line 7, Column (e).

deferred debits for a non-utility account inadvertently included in the test year; (2) a \$5,263,000 reduction to cash due to incorrect data used in the company's initial filing; (3) a \$7,398,000 reduction to deferred debits related to the Riverside Regulatory Asset, and (4) a \$127,805,000 increase to accrued taxes, correcting a significant understatement identified in discovery.<sup>870</sup>

Mr. Coppola recommended reducing the company's proposed working capital by \$154 million, from \$1.468 billion down to \$1.314 billion, based on five adjustments, including a \$16.1 million reduction to the forecasted cash balance.<sup>871</sup> He contended that the company's use of a 1% cash-to-revenue ratio is flawed, unsupported by actual cash needs, and inconsistent with Commission guidance. Instead, he proposed using a three-year average of actual cash balances, which he calculated as \$12.3 million, and he urged the Commission to adopt this figure for determining the test year cash balance.<sup>872</sup> Mr. Coppola proposed other adjustments including correcting ostensible errors in deferred cloud computing costs for the SAP S/4HANA project. He also proposed correcting a separate cloud computing expense, which lowers working capital by approximately \$1 million, and he proposed removing \$7.4 million related to deferred costs from the anticipated sale of the Riverside Storage field assets. Finally, he identified an error in the calculation of accrued taxes, resulting in a \$127.8 million adjustment to working capital.<sup>873</sup>

In rebuttal, Ms. Baker testified that the company agreed with Mr. Coppola's proposed adjustment to working capital for the SAP S/4HANA Implementation project and

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<sup>870</sup> 4 Tr 2502-2503.

<sup>871</sup> 4 Tr 1944.

<sup>872</sup> 4 Tr 1944.

<sup>873</sup> See generally 4 Tr 1940-1947.

Prepaid Cloud Computing costs (totaling \$2.7 million).<sup>874</sup> She stated that the company acknowledged the SAP costs were mistakenly provided as total company amounts instead of gas allocation, and that the cloud computing balances had inadvertently included some non-cloud computing prepayments and expenses.<sup>875</sup> Mr. Bleckman also agreed with part of Staff witness Hecht's adjustment to reduce working capital by \$5,263,000 because of an error in calculating the cash balance, reducing the cash balance to \$23.13 million rather than \$28.393 million.<sup>876</sup> However, Mr. Bleckman disagreed with Mr. Coppola's adjustment to working capital cash balance stating that using current revenues to project the test year cash balance is inappropriate because the company employs a forward-looking test year and that the 1% of test year revenues benchmark is a practical method for estimating a reasonable cash balance.<sup>877</sup> Mr. Bleckman rejected Mr. Coppola's proposal to base the cash balance on the 2022–2024 average arguing that it reflects abnormally low figures due to temporary events, is not representative of the company's typical or projected needs, and could force the company to rely on more volatile short-term borrowing facilities.<sup>878</sup>

Ms. Myers provided rebuttal agreeing with Mr. Coppola's recommendation to remove the Riverside Storage Field regulatory asset and amortization if the sale does not occur, but she emphasized that the associated plant assets must be added back into the case.<sup>879</sup> She explained that this includes restoring plant in service, depreciation reserve,

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<sup>874</sup> Witness Rayl also confirmed that the company agreed with these reductions. See 4 Tr 1777.

<sup>875</sup> 4 Tr 774.

<sup>876</sup> 4 Tr 860.

<sup>877</sup> 4 Tr 876.

<sup>878</sup> 4 Tr 879-880.

<sup>879</sup> 4 Tr 1599. Notably, witness Rayl also confirmed the company's stance on this issue. See 4 Tr 1778.

depreciation expense, and property tax, consistent with Staff witness Nichols' recommendation. Additionally, she supported using any rates collected for the Riverside assets to reduce the regulatory asset if the sale eventually happens, aligning with Staff's position.<sup>880</sup>

Ms. Rayl also provided rebuttal specifying that the company "inadvertently made an error in its calculation of accrued taxes and agrees with the Attorney General witness Coppola's and Staff witness Hecht's \$127.8 million decrease in working capital."<sup>881</sup> She also specified that the company agreed with Staff witness Hecht's \$0.2 million reduction of working capital deferred debits and the removal of a non-utility account from working capital.<sup>882</sup>

*ii. Briefing*

The company's brief summarizes that it accepts most of the adjustments proposed by Staff and the Attorney General, including: (1) reductions of \$1.7 million and \$1.0 million for correction of SAP S/4 HANA cloud implementation and prepaid cloud computing expenses; (2) \$7.4 million and \$3.0 million for capital deferred debits and amortization expense related to the Riverside Storage field; (3) a \$127.8 million adjustment related to accrued taxes; and (4) a \$0.2 million adjustment for removal of a non-utility account.<sup>883</sup>

The company accepts Staff's reduction to the projected cash balance which corrects an error in its calculations, and that \$5,263,000 reduction lowers the cash balance to \$23,130,000.<sup>884</sup> However, the company adamantly rejects the Attorney

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<sup>880</sup> 4 Tr 1599-1600.

<sup>881</sup> 4 Tr 1778.

<sup>882</sup> 4 Tr 1779.

<sup>883</sup> Consumers brief, 123.

<sup>884</sup> Consumers brief, 130.

General's proposal to the lower cash balance to \$12.3 million based upon the average actual balances in 2022-2024.<sup>885</sup> The company rebutted Mr. Coppola's critique of its 1% benchmark by explaining that it projects an average cash balance over the test year while also factoring in seasonal fluctuations through the use of short-term debt.<sup>886</sup> Consumers emphasizes that the 1% benchmark is grounded in its own liquidity strategy, is not meant to mirror other utilities, and is consistent with historical cash balances.<sup>887</sup> Consumers argued that the Attorney General's three-year average (using 2022-2024) was affected by abnormal events, such as a gas price spike in 2022 and severe storms in 2023, making them unrepresentative of normal cash needs.<sup>888</sup> The company further noted the inconsistency in Mr. Coppola's testimony, as he dismisses these same events as "temporary" when assessing credit metrics, yet relies on them when advocating for a lower projected cash balance<sup>889</sup>

In its brief, Staff recommends that the Commission adopt the adjustments it proposed, which the company has already accepted, and Staff notes its agreement with the company's projected working capital balance of \$1.364 billion.<sup>890</sup>

The Attorney General repeats requests for adjustments that the company accepted, including SAP S/4HANA, prepaid cloud computing expense, Riverside-related adjustments, and accrued taxes.<sup>891</sup> However, she rejects the company's cash balance based upon 1% of projected revenues. First, the Attorney General argues that that the

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<sup>885</sup> Consumers brief, 125.

<sup>886</sup> Consumers brief, 125, 126.

<sup>887</sup> Consumers brief, 127.

<sup>888</sup> Consumers brief, 128-129.

<sup>889</sup> Consumers brief, 129.

<sup>890</sup> See Staff brief, 44-46.

<sup>891</sup> AG brief, 98-102.

company's proposed cash balance is inflated because it was initially based on incorrect revenue figures, and even after adjustment, using 1% of projected revenues remains inappropriate given the uncertainty of the full rate increase being approved.<sup>892</sup> Second, she argues that linking cash on hand to revenues is illogical because cash on hand is used to pay operating expenses, capital expenditures, and dividends to CMS energy, not to pay for revenues.<sup>893</sup> Third, the Attorney General argues that the company's projected cash balance is overstated because it fails to adequately account for seasonal fluctuations in cash needs and historical averages from 2023 and 2024 show much lower actual cash balances.<sup>894</sup> Fourth, relying on a flat 1% revenue benchmark for cash on hand is unnecessary and costly to ratepayers because it ignores the company's ability to use lower-cost short-term borrowing to meet seasonal cash needs.<sup>895</sup> Fifth, the Attorney General argues that the company's 1% cash benchmark is flawed because it is based on peer utilities' GAAP financials that include short-term investments, which the Commission excludes from working capital. She asserts that the company's rebuttal fails to justify the relevance of its 2016 analysis and indirectly admits the benchmark's inaccuracy by acknowledging that peer data may include ineligible cash investments, making the 1% ratio inappropriate for ratemaking in this case.<sup>896</sup> Finally, the Attorney General notes that while the Commission accepted the company's proposed 1% cash balance in Case No.

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<sup>892</sup> AG brief, 92.

<sup>893</sup> AG brief, 92-93.

<sup>894</sup> AG brief, 93-94.

<sup>895</sup> AG brief, 94.

<sup>896</sup> AG brief, 94-96.

U-21585, it explicitly signaled that continued use of the 1% ratio would require further justification, which the company has not provided here.<sup>897</sup>

The company's reply maintains that its proposal to maintain 1% of revenues as cash-on-hand is reasonable while the Attorney General's proposed cash balance based upon a three-year average including outlier years like 2022 and 2023 would be inadequate.<sup>898</sup>

Staff's reply clarifies that it takes no position as to whether the Commission should accept the 1% benchmark proposed by Consumers and that Staff's proposed adjustment (accepted by the company) was merely meant to correct an error in calculations related to deriving the proper figure for the cash balance.<sup>899</sup>

The Attorney General's reply asserts that "there is no cause and effect between revenue and cash needs" such that the company's methodology for setting a cash balance is illogical.<sup>900</sup> The Attorney General responds to the contention that the 1% benchmark is based upon the company's financial strategy by arguing that "[t]his is nothing more than a rationalization because . . . the Company explains that it uses the 1% guidepost to determine its cash balance because it is simple, efficient, and easy to calculate."<sup>901</sup> The Attorney General rejects the notion that she fails to understand the importance of adequate liquidity and emphasizes that the company already uses short-term debt and there is no need for such a large cash balance upon which the company

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<sup>897</sup> AG brief, 97-98.

<sup>898</sup> See Consumers reply, 42-44.

<sup>899</sup> Staff reply, 6.

<sup>900</sup> AG reply, 15.

<sup>901</sup> AG reply, 16.

earns a return to the detriment of ratepayers.<sup>902</sup> The Attorney General also rejects claims that her arguments related to cash balance are inconsistent with arguments related to credit metrics because the company is “comparing apples to oranges” given the differences in these topics.<sup>903</sup>

### *iii. Recommendation*

This PFD notes that since Consumers accepted almost all the adjustments proposed by Staff and the Attorney General, the only disputed issue is the appropriate cash balance. This PFD adopts the adjusted cash balance of \$23,130,000 proposed by Staff and accepted by Consumers, which is based upon the benchmark of 1% of projected revenues, and which results in a total working capital balance of \$1.364 billion.

In the company’s most recent electric rate case the Commission stated that “there is no rule of thumb or prior finding by the Commission as to a sacrosanct methodology in determining the appropriate cash balance for a utility in a rate case[.]”<sup>904</sup> Further, in that case, the Commission tentatively accepted the company’s 1% benchmark stating that it was unpersuaded that the company’s approach was “necessarily wrong in this case[.]” but the Commission nevertheless directed the company to “provide further and a more specific explanation in its next electric rate case as to why the company’s approach to determining its cash balance remains appropriate and should continue to be approved.”<sup>905</sup>

While this PFD adopts the company’s cash balance methodology in this case, it also recommends that the Commission similarly direct the company to better justify its

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<sup>902</sup> AG reply, 16.

<sup>903</sup> AG reply, 18.

<sup>904</sup> March 21, 2025, Order in Case No. U-21585, p. 213.

<sup>905</sup> March 21, 2025, Order in Case No. U-21585, p. 213.



1% benchmark in its next gas rate case. This PFD agrees with the Attorney General that the goal in setting a cash balance should be to determine an amount reasonably necessary to cover the company's cash needs, and as such the Commission should direct that the company substantively justify why the 1% benchmark is reasonable for achieving that goal beyond the mere fact that it is "reflective of normal levels of cash balance[.]"<sup>906</sup> which appears to be based upon the company's interpretation of its average actual cash balance from 2016-2024 if certain outlier years (2020, 2022, and 2023) are excluded.<sup>907</sup> While the company's methodology is not necessarily wrong, this PFD could easily conclude that the Attorney General's proposed cash balance based upon a three-year average could also be appropriate, particularly when the company has not pointed to any serious negative consequences that it suffered from having a lower than average cash balance in 2022 and 2023. Accordingly, the company should provide further substantive justification of its 1% benchmark in its next rate case.

C. Unamortized Manufactured Gas Plant Balance

Mr. Foster testified that the company requested the inclusion of the deferred net unamortized manufactured gas plant (MGP) balance of approximately \$19.96 million in rate base.<sup>908</sup>

Mr. LaPan testified that Staff recommended the Commission approve \$1,539,724 as reasonably and prudently incurred costs for the company's environmental response activities at former MGP sites from January to December 2024. Staff's recommended amount was \$543,199 more than the company's original request of \$996,525, as the initial

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<sup>906</sup> 4 Tr 835.

<sup>907</sup> See 4 Tr 883.

<sup>908</sup> 4 Tr 1204; see also Exhibit A-47.

filing included estimated costs for activities that had not yet occurred. After reviewing updated actual expenditures provided by the company, Mr. LaPan concluded that the full \$1,539,724 reflected appropriate and justified spending.<sup>909</sup> Mr. Hecht testified that Staff presented a net unamortized MGP balance of \$20.438 million, an increase of from the company's estimate which was attributable to incorporating witness LaPan's adjustment.<sup>910</sup> In rebuttal, Mr. Foster stated that the company accepted the adjustment proposed by Staff.<sup>911</sup>

In their briefs, both Consumers and Staff agreed to the net unamortized MGP plant balance of \$20,438,000.<sup>912</sup>

This PFD recommends adopting Staff's adjustment, to which the company assented, to set the net unamortized MGP balance at \$20.438 million.

#### D. Rate Base Summary

This PFD estimates that the recommendations discussed and adopted above result in a projected rate base for the company of \$11,395,299,000 as shown in Appendix B to this PFD.

### VI.

#### COST OF CAPITAL

The rate of return component of the revenue requirements 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

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<sup>909</sup> 4 Tr 2600.

<sup>910</sup> 4 Tr 2504.

<sup>911</sup> 4 Tr 1221.

<sup>912</sup> Consumers brief, 131; Staff brief, 46-47.

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 rates of debt is discussed in subsection B, and the cost of equity capital is discussed in subsection C.

The company's debt-to-equity ratio and return on equity (ROE) are disputed issues, as are certain aspects of the cost rates for the company's long-term and short-term debt. However, Staff and other parties do not appear to dispute the company's long-term debt balance, short-term debt balance, deferred federal income tax balance, preferred stock balance, or other relevant capital structure balances. Accordingly, uncontested balances should be adopted except as affected or modified by the recommendations below.

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 structure 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.<sup>913</sup>

## 1. Testimony

Mr. Bleckman testified that the company proposed an overall after-tax rate of return of 6.22%, with a permanent capital structure of 50.75% equity when measured as a percentage of permanent capital.<sup>914</sup>

First, Mr. Bleckman stated that this equity ratio was appropriate because peer authorized equity ratios are higher and are trending upward. He testified that the company's peers (i.e. the company's ROE proxy group from case U-21490 excluding DTE Energy) had an average equity ratio of 54.05%, which is 330 basis points higher than the company's requested 50.75%.<sup>915</sup> He explained that the data used to calculate this average was proper because it was based upon commission-authorized regulatory data (rather than reported financial data) and reflected data at the regulated subsidiary level rather than at the parent company level.<sup>916</sup> Mr. Bleckman also cited a Wells Fargo report showing an increase in the median approved equity ratios from 2019-2023 while the company's authorized equity ratio decreased in the same timeframe.<sup>917</sup>

Second, Mr. Bleckman testified that a 50.75% equity ratio is needed to support one of the company's critical credit metrics, i.e. its funds from operation (FFO)-to-debt ratio.<sup>918</sup> He asserted that the company's FFO-to-debt ratio as calculated by ratings

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<sup>913</sup> See February 28, 2017, order in Case No. U-17999, p. 63.

<sup>914</sup> 4 Tr 801, 802; See Also Exhibit A-14, Schedule D-1.

<sup>915</sup> 4 Tr 806-807; See also Exhibit A-32 (listing peer equity ratios).

<sup>916</sup> 4 Tr 807.

<sup>917</sup> 4 Tr 808-809; See also Exhibit A-34 (Wells Fargo Approved Equity Report).

<sup>918</sup> 4 Tr 809, 810.

agencies S&P and Moody's have been trending lower towards downgrade thresholds.<sup>919</sup> Mr. Bleckman also suggested that political developments related to the new administration of President Donald Trump, such as the potential of new corporate tax legislation, a possible repeal of the Inflation Reduction Act, and new tariffs on international trade, could affect the company's financial metrics and disrupt supply chains upon which the company relies.<sup>920</sup>

Third, he opined that an increased equity ratio would improve the assessment of ratings agencies concerning the state's regulatory environment. He testified that, in August of 2024, S&P lowered its ranking of Michigan's regulatory environment from "above average" to "average."<sup>921</sup> He also asserted that in 2023 financial firm UBS had already downgraded Michigan from a Tier 1 to a Tier 2 regulatory environment because of unfavorable regulatory outcomes.<sup>922</sup> Mr. Bleckman opined that "Michigan's above average regulatory standing needs to be protected and bolstered[.]"<sup>923</sup>

Fourth, Mr. Bleckman opined that a higher equity ratio would be needed to assist the company with credit metrics given the overall challenges for utilities in the credit market. He testified that in 2024 S&P updated its outlook for regulated utilities to "negative" citing headwinds such as upcoming debt maturities amid higher interest rates, a narrowing spread between U.S. Treasuries and authorized ROEs, and elevated

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<sup>919</sup> 4 Tr 811-812.

<sup>920</sup> 4 Tr 812, 813.

<sup>921</sup> 4 Tr 815; See also Exhibit A-36 (S&P Global State Regulatory Evaluations with an extensive section on Michigan).

<sup>922</sup> 4 Tr 816-817; See also Exhibit A-106 (UBS Pricing Power Analysis and Regulatory Rankings).

<sup>923</sup> 4 Tr 817.

inflation.<sup>924</sup> He added that in December of 2023, ratings agency Fitch likewise described a deteriorating outlook for regulated utilities due to credit challenges.<sup>925</sup> Mr. Bleckman stated that “there has been a sharp decline in the Company’s authorized weighted rate of return following several years of consistent results.”<sup>926</sup> He opined that it was important for the company to have a supportive equity ratio to help maintain a financial cushion to protect against credit downgrades or unforeseen volatility from world events like the global pandemic in 2020 or the banking crisis in 2023.<sup>927</sup>

For Staff, Mr. Megginson recommended a capital structure that was equally balanced between debt and equity. Accordingly, he recommended adding to the company’s long-term debt balance and subtracting from its equity balance to reach a balanced capital structure.<sup>928</sup> He recounted the history of recent Commission orders expressing a desire for the company to reach a balanced capital structure and opined that Staff’s recommendation aligned with the Commission’s longstanding objective for the company.<sup>929</sup> Mr. Megginson also emphasized that the company’s cost of equity (12.5 cents per dollar) was over three times the average cost of its long-term debt (4.0 cents per dollar) such that a balanced capital structure lessens the cost burden imposed on ratepayers.<sup>930</sup>

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<sup>924</sup> 4 Tr 817, 818; See also Exhibit A-107 (S&P Report titled “Rising Risks: Outlook for North American Investor-Owned Regulated utilities Weakens).

<sup>925</sup> 4 Tr 818.

<sup>926</sup> 4 Tr 818.

<sup>927</sup> 4 Tr 818.

<sup>928</sup> 4 Tr 2536-2537.

<sup>929</sup> 4 Tr 809-810.

<sup>930</sup> 4 Tr 2539-2540.

Mr. Megginson testified that the company's credit rating has been stable for the past several years, and that ratings agencies like S&P, Moody's, and Fitch had commented positively on the regulatory environment in Michigan.<sup>931</sup> He acknowledged that S&P's Regulatory Research Associates (RRA) downgraded the state's regulatory environment from "Above Average/3" to "Average/1" in 2024, but he noted that RRA still concluded that the state's regulatory environment was more constructive than average.

Mr. Megginson also reviewed commentary from ratings agencies regarding the company's FFO-to-debt ratio and noted that the agencies did not foresee any impending decline in that credit quality metric.<sup>932</sup> He provided data showing that Consumers has grown its net income in 13 of the last 15 years, and the company was able to issue hundreds of millions of dollars in unsecured debt in 2023 and 2024 at favorable rates.<sup>933</sup> Mr. Megginson also highlighted credit-supportive features of Michigan's regulatory environment including a revenue decoupling mechanism, and infrastructure improvement programs with surcharge mechanisms.<sup>934</sup>

For the Attorney General, Mr. Coppola also recommended a 50/50 capital structure balanced between debt and equity; he achieved this by adjusting long-term debt upward by \$194 million and decreasing common equity by the same amount.<sup>935</sup> He stated that several factors supported this balance including: (1) The Commission's consistent directive that a balanced capital structure is desirable; (2) the company's strong credit rating and cash flow to debt coverage ratio; (3) the company's common equity capital

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<sup>931</sup> 4 Tr 2530-2531.

<sup>932</sup> 4 Tr 2535.

<sup>933</sup> 4 Tr 2533.

<sup>934</sup> 4 Tr 2534.

<sup>935</sup> 4 Tr 1948; See also Exhibit AG-41.

contributions made by its parent company; (4) Michigan's favorable regulatory environment; and (5) the fact that common equity ratio of the company's peer group is approximately 47%.<sup>936</sup> He contended that the company provided no new arguments as to why the Commission should alter its stated goal of a balanced capital structure as set in the company's last rate case, i.e. Case No. U-21585.<sup>937</sup> Further, Mr. Coppola contended that reports about the company from both Moody's and S&P were positive and did not suggest that the company's credit rating was at risk.<sup>938</sup> He also rejected Mr. Bleckman's contentions regarding a report from S&P noting negative credit trends in the utility industry and pointed out that many of the risks highlighted in that report did not significantly affect the company.<sup>939</sup>

Mr. Coppola testified that CMS Energy, the parent company of Consumers, can and does borrow money and inject it at will into the company as common equity, a practice that constitutes a form of double leverage that preponderated against the company receiving an equity capital structure above 50%.<sup>940</sup> Further, he claimed that Mr. Bleckman's contention that peer companies had an average equity ratio of 54% as demonstrated in Exhibit A-32 was achieved by selecting a non-representative group of companies that artificially inflated the average equity ratio.<sup>941</sup> He claimed that average equity ratio of peers for 2024 was 47.3% as shown in Exhibit AG-44, and that the

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<sup>936</sup> 4 Tr 1949.

<sup>937</sup> 4 Tr 1950.

<sup>938</sup> 4 Tr 1950-1956.

<sup>939</sup> 4 Tr 1956-1957.

<sup>940</sup> 4 Tr 1959-1961.

<sup>941</sup> 4 Tr 1963.



company's Exhibit A-32 was not accurate or comprehensive and should be disregarded.<sup>942</sup>

For ABATE, Mr. Walters testified that the company's requested 50.75% equity layer was an increase from the most recently awarded equity ratio of 50%, and it diverged from the Commission's stated preference for a balanced capital structure. Mr. Walters testified that the company's proxy group used for estimating the cost of equity had an average equity ratio of only 46.3% (including short-term debt) and 50.4% (excluding short-term debt).<sup>943</sup> He recommended that the Commission reject the proposed increase and maintain the currently authorized 50% equity ratio.<sup>944</sup>

Mr. Bleckman presented far-reaching rebuttal to the positions taken by intervenors. First, he asserted that Staff incorrectly interpreted the company's credit ratings and regulatory environment. Mr. Bleckman disagreed with Mr. Megginson's characterization of Moody's previous 2021 credit rating downgrade as insignificant arguing that the downgrade had real financial consequences for the company and its customers.<sup>945</sup> He testified that Mr. Megginson's assessment of the company's regulatory environment was incomplete because it overlooked the recent decline in the company's authorized rate of return, which contributed to the Moody's credit rating downgrade.<sup>946</sup> Mr. Bleckman testified that analysts and rating agencies, including S&P and UBS, recognized a decline in Michigan's regulatory environment by lowering the state's rankings in 2023 and 2024

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<sup>942</sup> 4 Tr 1962-1965.

<sup>943</sup> 4 Tr 2185.

<sup>944</sup> 4 Tr 2186.

<sup>945</sup> 4 Tr 840.

<sup>946</sup> 4 Tr 841.

due to less favorable rate case outcomes.<sup>947</sup> He testified that in early 2024 and 2025, S&P issued reports warning of a negative outlook for the regulated utility industry due to increasing debt levels and weak equity positions, and they specifically highlighted Michigan as a jurisdiction under close watch.<sup>948</sup> Mr. Bleckman contended that Mr. Megginson's interpretation of the company's rising net income was flawed because it failed to consider that the company's credit quality is evaluated based on cash flow metrics and equity ratios rather than net income.<sup>949</sup> Mr. Bleckman disagreed with Mr. Megginson's conclusion that rating agencies did not foresee any major deterioration in the company's FFO-to-Debt ratio; he explained that such assumptions by agencies are not guarantees and pointed to Moody's 2021 downgrade as evidence that reduced authorized returns could still weaken credit metrics and jeopardize credit quality.<sup>950</sup>

Second, Mr. Bleckman contended that Staff did not consider new circumstances that justify a deviation from a balanced capital structure. He stated that Mr. Megginson's proposal for a 50% equity ratio was not justified solely by prior Commission orders particularly when past orders emphasized flexibility and the need to consider the specific facts and circumstances of each rate case.<sup>951</sup> Mr. Bleckman testified that new circumstances, such as heightened economic volatility, inflationary pressures stoked by the Trump administration's unpredictable trade policies, and geopolitical tensions, had emerged and justified the company's need for an equity ratio of 50.75% to maintain good

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<sup>947</sup> 4 Tr 842.

<sup>948</sup> 4 Tr 843-844.

<sup>949</sup> 4 Tr 844.

<sup>950</sup> 4 Tr 847-848.

<sup>951</sup> 4 Tr 850.

credit quality and liquidity.<sup>952</sup> He stated that these conditions, along with an increased risk environment, made the proposed capital structure critical for the company to withstand potential market impacts and secure necessary investments.

Third, he opined that Staff ignored the potential negative impact of a lower equity ratio. Mr. Bleckman stated that Staff failed to analyze the increased costs to the company and customers from any potential credit downgrades and that Mr. Megginson's proposed equity ratio of 50% was an outcome-based conclusion that lacked quantifiable justification.<sup>953</sup> Mr. Bleckman opined that Mr. Megginson's rationale for a lower equity ratio, based on the higher cost of equity compared to debt, was flawed because it could lead to an excessively debt-financed capital structure.<sup>954</sup> Mr. Bleckman explained that a lower equity ratio increases long-term debt and puts credit quality at risk, potentially leading to higher financing costs that will ultimately be borne by customers.<sup>955</sup>

Fourth, Mr. Bleckman contended that Staff failed to consider the average equity ratios of peer companies. He stated that his research, as shown on Exhibit A-32, showed that the average authorized equity ratio for peer companies from 2020 through September of 2024 was 54.05%, which was significantly higher than the current 50.0%, and higher than the company's proposed 50.75%.<sup>956</sup> He also noted that Mr. Megginson calculated an average authorized equity ratio of peer companies, 53.62% as shown on Exhibit S-4 Schedule D-5, which was significantly higher than both Staff and the company's

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<sup>952</sup> 4 Tr 851.

<sup>953</sup> 4 Tr 852.

<sup>954</sup> 4 Tr 853.

<sup>955</sup> 4 Tr 853-854.

<sup>956</sup> 4 Tr 855.

recommendations.<sup>957</sup> However, Mr. Bleckman testified that Mr. Megginson's peer equity ratio analysis lacked validity because it relied on total capitalization data which understates equity ratios compared to the company's method based on permanent capital, making meaningful comparisons difficult.<sup>958</sup> Accordingly, he opined that Mr. Megginson's recommendation was "inconsistent even with his own substandard peer equity ratio analysis."<sup>959</sup> Finally, Mr. Bleckman contended that it was proper to consider peer averages for the equity ratio because the Commission and ALJs have relied on peer average ROEs as datapoints when considering appropriate ROEs.<sup>960</sup>

Mr. Bleckman also offered rebuttal to Mr. Coppola's testimony. Mr. Bleckman testified that Mr. Coppola's recommendation to adopt a balanced equity ratio based on prior Commission orders was inappropriate because the equity ratio should be determined based on the specific facts and circumstances of the current case.<sup>961</sup> He testified that Mr. Coppola's claim that there is little concern of a credit downgrade was unfounded because the company's FFO-to-Debt ratio had declined significantly in recent years and was previously supported by higher equity ratios than what Mr. Coppola proposed.<sup>962</sup> Mr. Bleckman disagreed with Mr. Coppola's dismissal of the company's declining FFO-to-Debt ratio as temporary; he opined that the decline was driven by reduced rates of return from recent rate cases.<sup>963</sup> Further, he disagreed with Mr. Coppola's calculation of the company's 2023 FFO-to-Debt ratio stating that Mr. Coppola

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<sup>957</sup> 4 Tr 856.

<sup>958</sup> 4 Tr 856.

<sup>959</sup> 4 Tr 857.

<sup>960</sup> 4 Tr 857.

<sup>961</sup> 4 Tr 861.

<sup>962</sup> 4 Tr 862-863.

<sup>963</sup> 4 Tr 864.

incorrectly mixed authorized and earned ROE figures leading to an illogical and overstated pro forma result that should be rejected.<sup>964</sup>

Mr. Bleckman testified that Mr. Coppola's conclusion about higher net income improving credit metrics was incorrect because rating agencies focus on cash flow metrics, equity ratio, and regulatory environment when assessing credit quality.<sup>965</sup> Regarding stable ratings from S&P and Moody's, Mr. Bleckman testified that a stable outlook does not guarantee the company is free from downgrade risk especially given recent declines in authorized returns and Michigan's downgraded regulatory rankings.<sup>966</sup> Mr. Bleckman disagreed with Mr. Coppola's dismissal of the S&P report (Exhibit A-107) citing headwinds to regulated utilities; he contended that while some aspects were generic, key findings were directly relevant to the company's credit quality and appropriate equity ratio. He emphasized that concerns cited in the report such as increased debt-funded deficits, declining FFO-to-Debt ratios, and industry credit headwinds applied to the company and supported the need for a stronger equity ratio.<sup>967</sup> Mr. Bleckman responded to Mr. Coppola's claim that potential new tax legislation should not factor into the ROE and equity ratio determination emphasizing that such legislation could significantly weaken the company's cash flow and financial metrics. He pointed to a January 2025 S&P report warning of credit risks from tax changes and argued that a supportive ROE and equity ratio were necessary to maintain the company's credit quality.<sup>968</sup> Mr. Bleckman disagreed with Mr. Coppola's claim that equity infusions into

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<sup>964</sup> 4 Tr 865.

<sup>965</sup> 4 Tr 863.

<sup>966</sup> 4 Tr 866.

<sup>967</sup> 4 Tr 867.

<sup>968</sup> 4 Tr 868.

Consumers Energy were funded by CMS Energy's long-term debt; he explained that equity infusions were based on Consumers Energy's capital needs and reflected its parent company's commitment to maintaining a financially strong utility.<sup>969</sup>

Regarding peer equity comparisons and Exhibit AG-44, Mr. Bleckman testified that Mr. Coppola's use of parent holding company equity ratios based on GAAP financial statements was misleading due to distortions from non-regulated activities and accounting differences. He also stated that Mr. Coppola's analysis failed to align with the Commission's stated expectations from Case No. U-20963 because it relied on financial rather than regulatory data and should therefore be rejected.<sup>970</sup> Mr. Bleckman testified that Mr. Coppola's criticisms of the company's equity ratio comparisons in Exhibit A-32 were unfounded because the company followed established criteria and used regulatory data in accordance with Commission orders.<sup>971</sup> Mr. Bleckman maintained that the company's peer authorized equity ratio analysis in Exhibit A-32 remained valid despite three proxy group companies not being included in the data.<sup>972</sup> He testified that Mr. Coppola's claim about overstated peer equity ratios was invalid because the company's analysis excluded short-term debt to ensure a consistent and comparable methodology. He further explained that Mr. Coppola incorrectly relied on parent holding company data rather than regulated subsidiary data, rendering his argument inappropriate.<sup>973</sup> Finally, Mr. Bleckman testified that Mr. Coppola's claim that smaller companies inflated the

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<sup>969</sup> 4 Tr 869.

<sup>970</sup> 4 Tr 870-871.

<sup>971</sup> 4 Tr 872.

<sup>972</sup> 4 Tr 872-873.

<sup>973</sup> 4 Tr 873-874.

company's peer average equity ratio lacked supporting evidence and was based solely on Mr. Coppola's personal experience rather than any data.<sup>974</sup>

Mr. Bleckman also presented rebuttal regarding the testimony of ABATE witness Mr. Walters. Mr. Bleckman testified that Mr. Walters' own data in Table CCW-2 shows a clear upward trend in average equity ratios from 2015 to 2024 and that the company's proposed equity ratio of 50.75% is below the industry average. He further stated that Mr. Walters understated average equity ratios by using figures based on total capitalization, which includes short-term debt and customer deposits, rather than permanent capital, making his comparisons inaccurate and unreliable.<sup>975</sup> Mr. Bleckman testified that Mr. Walters' proxy group equity ratios from Exhibit AB-7 are not relevant or comparable to the company's proposed 50.75% equity ratio because they are based on parent holding company data and not regulatory-authorized figures making them inappropriate comparators.<sup>976</sup>

## 2. Briefing

Consumers presents extensive briefing on issues relating to capital structure;<sup>977</sup> however, the briefing generally tracks and reiterates the direct and rebuttal testimony of Mr. Bleckman. The company recites the history of past Commission orders seeking a balanced capital structure and emphasizes that the Commission's previous target is not an inflexible mandate but is subject to review in each case.<sup>978</sup> Consumers contends that a material change in the company's risk environment has developed because of the high

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<sup>974</sup> 4 Tr 875.

<sup>975</sup> 4 Tr 884-885.

<sup>976</sup> 4 Tr 888.

<sup>977</sup> See Consumers brief, 134-181.

<sup>978</sup> Consumers brief, 140, 143.

degree of volatility and uncertainty has emerged in recent months with respect to trade policy and inflation, stock volatility, and the fear of a recession such that a small upward departure from an evenly balanced capital structure is needed.<sup>979</sup> Consumers rebukes the intervening parties for seeking a balanced capital structure without reviewing the reasonableness of the proposed capital structure based upon evidence in the case at hand. The company also stresses the importance of maintaining a high FFO-to-debt ratio to avoid a credit downgrade, and the company criticizes intervenors for failing to consider the possibility of a credit downgrade if the company does not have an adequate equity ratio.<sup>980</sup> Consumers also worries that decreased rankings of Michigan's regulatory environment will present a risk to the company's credit quality.<sup>981</sup> The company also repeats portions of Mr. Bleckman's rebuttal testimony individually addressing the arguments presented by Staff, the Attorney General, and ABATE.<sup>982</sup>

Staff reiterates its request for a balanced capital structure that aligns with the Commission's preference and with the company's previous settlement in Case No. U-21490.<sup>983</sup> Staff also argues that the Commission should reject the company's "pessimistic view" of the ratings agencies' assessment of the company's credit quality and regulatory environment because they have generally had positive or steady ratings for the company and the regulatory environment.<sup>984</sup> Staff rejects the company's argument that new circumstances require a larger equity layer because market uncertainty "does not call for

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<sup>979</sup> Consumers brief, 141-142.

<sup>980</sup> See e.g. Consumers brief, 146-149.

<sup>981</sup> Consumers brief, 150-152.

<sup>982</sup> Consumers brief, 153-181.

<sup>983</sup> Staff brief, 49.

<sup>984</sup> Staff brief, 59-60.



more financial burden to be placed on ratepayers but less.”<sup>985</sup> Staff pushes back on the company’s contention that Staff did not consider its own peer group’s average equity ratio when making a recommendation. Staff argues that the company’s equity ratio peer group was not the same as the company’s proxy group, the Attorney General exposed several flaws in the company’s peer group selection in Exhibit A-32, and that Staff did not include its own proxy group’s ROE or equity ratio in its own analysis.<sup>986</sup>

The Attorney General’s brief closely tracks the testimony of Mr. Coppola and challenges the notion that the company’s credit rating is in jeopardy or that the FFO-to-debt ratio should be a cause of concern.<sup>987</sup> The Attorney General contends that the company has not proven any deterioration in the fundamentals of its financial condition, its earnings have not suffered, and that the greatest threats to its economic condition and creditworthiness are still factors that are within its own control.<sup>988</sup> The Attorney General also emphasizes CMS Energy’s ability to alter the company’s equity layer at will, and Michigan’s positive regulatory environment as stated by various ratings agencies.<sup>989</sup> The Attorney General repeats Mr. Coppola’s numerous criticisms of the company’s Exhibit A-32 and the ostensible average peer equity ratio of 54.05% derived from it.<sup>990</sup>

ABATE asserts that the company’s proposed equity ratio exceeds that of the average of the company’s own proxy group, even when excluding short-term debt.<sup>991</sup>

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<sup>985</sup> Staff brief, 60.

<sup>986</sup> Staff brief, 61-62.

<sup>987</sup> AG brief, 108-111.

<sup>988</sup> AG brief, 112-113.

<sup>989</sup> AG brief, 114-120.

<sup>990</sup> AG brief, 121-123.

<sup>991</sup> ABATE brief, 16.

ABATE also emphasizes that the company's recommendation is counter to the Commission's past directive to achieve a balanced capital structure.<sup>992</sup>

Consumers provides extensive argumentation in its reply brief relating to economic conditions, credit quality, regulatory environment and other relevant factors. The company argues that the intervenors downplayed the downward trend in the company's FFO-to-Debt ratio and ignored key warnings from credit rating agencies, whose assessments reveal that the company's credit stability is at risk and dependent on favorable regulatory outcomes, thereby supporting the company's argument that a higher equity ratio is necessary to maintain financial soundness and prevent further credit deterioration.<sup>993</sup> The company argues that intervenors ignored market conditions—such as elevated interest rates, inflation, market volatility, and geopolitical uncertainty—that increase the company's risk profile; they also claim that intervenors ignored the long-term financial harm and higher customer costs that could result from a credit downgrade.<sup>994</sup> Consumers argues that the intervenors downplayed negative trends in the utility industry and that other parties understated equity ratios of peer companies by comparing equity ratios calculated as a percentage of total capitalization rather than as a percentage of permanent capital.<sup>995</sup> The company also addresses regulatory environment asserting that Staff failed to explain why it is reasonable to conclude that the state's regulatory environment remains positive and constructive despite regulatory environment downgrades from ratings agencies.<sup>996</sup>

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<sup>992</sup> ABATE brief, 16.

<sup>993</sup> See Consumers reply, 46-49.

<sup>994</sup> See Consumers reply 49-55.

<sup>995</sup> Consumers reply, 55.

<sup>996</sup> Consumers reply, 59-60.

Regarding capital structure specifically, the company argues that intervenors wrongly focus on maintaining an exactly balanced capital structure in accordance with past rate orders rather than examining the present evidence.<sup>997</sup> The company acknowledges that Staff did not consider an equity ratio peer group for the purposes of comparison, but Staff nevertheless offered and entered into the record a 53.62% average equity ratio for its ROE proxy group, which supports the company's recommendation even if the company contends that the calculation of that equity ratio was flawed.<sup>998</sup> The company also repeats refutations to the Attorney General's equity ratio arguments that were presented in the company's initial brief and rebuttal testimony.<sup>999</sup> Consumers also asserts that although ABATE argued that the company's proposed 50.75% equity ratio exceeds its proxy group's average, its own flawed comparison actually supports an increase above the strictly balanced ratios proposed by intervenors including ABATE.<sup>1000</sup>

In its reply, Staff argues that the Commission has made clear through its orders that it expects the company to recalibrate its capital structure toward equilibrium unless there is a compelling reason not to do so, and the company has not done so in this case.<sup>1001</sup> Staff argues that the company's warnings about a potential credit downgrade are exaggerated and overblown noting that major credit rating agencies have maintained stable ratings for years and even indicated possible improvements with regulatory enhancements.<sup>1002</sup> Contrary to the company's pessimistic claims, Staff highlights that

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<sup>997</sup> Consumers reply, 61.

<sup>998</sup> Consumers reply, 62.

<sup>999</sup> See Consumers reply, 63, 64.

<sup>1000</sup> Consumers reply, 63-64.

<sup>1001</sup> Staff reply, 7-8.

<sup>1002</sup> Staff reply, 8-9.

Consumers' credit rating is firmly within investment grade and the company's current and projected credit metrics, such as the FFO-to-Debt ratio, remain solidly above downgrade thresholds.<sup>1003</sup>

The Attorney General's reply argues that the Commission did more than voice a mere desire for the company to move toward a balanced capital structure, and it resolutely directed the company to do so.<sup>1004</sup> Further, the Attorney General notes that as far back as the 1980s when Consumers adopted a holding company structure, the Commission treated Consumers as a standalone company for ratemaking purposes but predicated that treatment on the company maintaining a capital structure roughly balanced between debt and equity.<sup>1005</sup> The Attorney General dismisses claims that the company needs a higher equity ratio to access equity and credit markets because it already has a high credit score, does not issue stock, and its parent company is already planning equity infusions into the company.<sup>1006</sup> The Attorney General contends that any alleged savings from a higher equity ratio would be more than offset by higher costs as equity is more expensive than debt, and she calculates the effect of the company's proposed 50.75% equity layer as an additional \$8.0 million compared to a balanced equity ratio.<sup>1007</sup>

In response to the company's claim that she improperly used equity ratios at the parent company level for the purposes of comparison, the Attorney General asserts it is necessary to use indirect or proxy approaches in the analysis of an appropriate cost of

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<sup>1003</sup> Consumers reply, 10.

<sup>1004</sup> AG reply, 23.

<sup>1005</sup> AG reply, 24 (citing June 7, 2012, Order in Case No. U-16794).

<sup>1006</sup> AG brief, 27.

<sup>1007</sup> AG brief, 29.

equity.<sup>1008</sup> The Attorney General also asserts that the company incorrectly combines ROE and equity ratio analyses without properly accounting for the risk profiles and capital structures of the peer companies it references, making its comparisons flawed; further, she urges the Commission to reconsider its prior rejection of using equity ratios from publicly traded holding companies, as such data can still offer relevant insights.<sup>1009</sup>

The Attorney General rejects claims that she ignores the risk of a credit downgrade and its potential impact, because the record shows that key financial ratios like FFO-to-debt remain above the downgrade thresholds identified by S&P and Moody's.<sup>1010</sup> Contrary to the company's assertion, the Attorney General does not assume continued credit stability; rather, she simply relies on the ratings agencies' own recent assessments and outlooks, which describe the company's credit as stable.<sup>1011</sup>

In its reply, ABATE argues that the Commission has made it clear that utilities should strive for a 50/50 capital structure unless significant changes in economic circumstances support a deviation.<sup>1012</sup> ABATE objects that the company downplays the Commission's position noting that it should be flexible and not predetermined; however, ABATE asserts that while there is flexibility, Consumers has not shown that its financial position is in jeopardy such that any flexibility is needed.<sup>1013</sup>

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<sup>1008</sup> AG reply, 31.

<sup>1009</sup> AG reply, 31-32.

<sup>1010</sup> AG reply, 32.

<sup>1011</sup> AG reply, 33.

<sup>1012</sup> ABATE reply, 4.

<sup>1013</sup> ABATE reply, 4-5.

### 3. Conclusions and Recommendation

The Commission has stressed the importance of Consumers moving toward a balanced ratio of equity and debt for several years. As far back as 2017, the Commission directed Consumers to achieve a balanced capital structure within five years.<sup>1014</sup> In numerous successive rate cases, the Commission reiterated the objective of reaching a balanced capital structure.<sup>1015</sup> The company's most recent rate cases achieved that multi-year objective by setting balanced equity ratios.<sup>1016</sup> Now that this goal has been reached, the company seeks to increase its equity ratio contending, at least in part, that: (1) Staff and other intervenors place too much emphasis on past Commission orders that favored a balanced capital structure; and (2) new circumstances justify moving away from a balanced capital structure.

Neither contention is persuasive. First, the parties are correct to seek guidance from past Commission orders that have incrementally directed the company toward a balanced capital structure. Indeed, the Commission has rejected arguments that it is improper to look to prior Commission orders for context and guidance on this specific

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<sup>1014</sup> February 28, 2017, Order in Case No. U-17990, pp. 63-64; July 31, 2017, Order in Case No. U-18124, pp. 45-46.

<sup>1015</sup> See March 29, 2018 Order in Case No. U-18322, p. 35 ("[T]he Commission finds that Consumers is on track to rebalance its capital structure over the five-year timeframe the Commission set out in the February 28 order [Case No. U-17990]."); September 26, 2019, Order in Case No. U-20322, p. 62 ("The Commission continues to find that Consumers' treatment as a stand-alone company for ratemaking purposes requires it to maintain a capital structure that is evenly balanced between debt and equity."); December 17, 2020, Order in Case No. U-20697, p. 156 ("[T]he Commission finds that the Staff's recommendation keeps Consumers on track to rebalance its capital structure as the Commission previously ordered."); December 22, 2021, Order in Case No. U-20963, p. 200 ("[T]he Commission maintains its goal of a capital structure evenly balanced between debt and equity.")

<sup>1016</sup> See July 23, 2024, Order in Case No. U-21490; see also March 21, 2025, Order in Case No. U-21585, p. 233.

issue.<sup>1017</sup> The Commission has also rightly and repeatedly acknowledged that there is flexibility when setting a capital structure for ratemaking purposes, that the Commission must look to the evidence in each case, and that aspirational goals for the company's capital structure are not permanently binding and can change if circumstances warrant such a change.<sup>1018</sup> Accordingly, this PFD does not view a balanced capital structure as a fixed mandate but merely as the Commission's stated preference, which can change depending on the facts and circumstances present in each case.

Second, and more importantly, this PFD is not persuaded that there are significant changes in the company's economic circumstances since the Commission's last rate case order that would warrant increasing the company's equity layer. Indeed, many aspects of the company's argument and evidentiary presentation on this topic are substantially similar to those presented in previous rate cases. The company cites financial market volatility, inflationary pressures fueled by the Trump administration's trade policies, the potential threat of an impending recession, and geopolitical tensions as new circumstances that warrant a higher equity ratio.<sup>1019</sup> However, market volatility, the possibility of a recession, and geopolitical tensions are not truly new circumstances and have largely been continuously present considerations both in the economy generally and in past rate cases. To the company's credit, the Trump administration's mercurial trade policies are indeed a genuinely new development in 2025, but the inflationary pressures they may or may not exert are not a new factor because elevated inflation and

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<sup>1017</sup> See March 21, 2025, Order in Case No. U-21585, pp. 231-232 (rejecting the company's contention that the ALJ improperly placed too much emphasis on previous Commission orders relating to the company's capital structure).

<sup>1018</sup> March 21, 2025, Order in Case No. U-21585, p. 232.

<sup>1019</sup> 4 Tr 851.

its potential effect on the economy has been a prominent consideration in recent rate cases as well. Simply put, this PFD is not persuaded that the ostensibly new circumstances cited by the company are truly new, nor do they provide a persuasive reason to justify departing from the current balanced capital structure.

The company also presented several arguments related to the state's regulatory environment, but this PFD finds that the company's concerns in this vein are overstated. For example, the company cites RRA's August 2024 downgrade of Michigan's regulatory environment from "Above Average/3" to "Average/1" as evidence that financial agencies and investors have taken note of a less supportive regulatory environment.<sup>1020</sup> However, the report stated that Michigan "remains more constructive than average from an investor viewpoint[,]" and the report largely voiced displeasure with recent rate case outcomes and increased scrutiny following storm-related outages.<sup>1021</sup> The report stated that "While approved ROEs for [utilities regulated by the Commission] remain above the prevailing industry averages, they compare less favorably to these averages, which have risen, albeit modestly, in recent periods."<sup>1022</sup> This assessment of Michigan's regulatory environment is not alarming as the company suggests. In fact, a rating of "average" should not be seen as a negative in the context of the state's regulatory environment regarding utilities. Such a rating seems to be indicative of a regulatory environment that strikes a balance between consideration of the needs of a utility's investors and its customers, which is in accordance with the Commission's statutory mandate to set just and reasonable rates. If anything, ratings that are significantly above or below average could

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<sup>1020</sup> See Exhibit A-36, pp. 6-7.

<sup>1021</sup> Exhibit A-36, p. 6, 7.

<sup>1022</sup> Exhibit A-36, p. 7.



be cause for concern because they could potentially indicate that regulators are too hostile or too accommodating to a particular competing interest. In sum, this PFD does not find the ostensible “downgrade” of Michigan’s regulatory environment to “average” by RRA (or other analysts) to be a cause for concern or a justification for a capital structure with a higher equity ratio.

Similarly, this PFD finds that the company’s concerns about credit quality and credit metrics, while not invalid, also appear overstated. Consumers referenced a 2024 ratings report from S&P, but that report presented a positive picture of the company’s financial condition. S&P indicated a stable outlook for the company and praised Michigan’s regulatory environment.<sup>1023</sup> While the report acknowledged that the company’s credit metrics were “weak in 2023[,]” it blamed mild weather conditions for dampening winter sales and costs associated with strong summer storms rather than any regulatory issues.<sup>1024</sup> The report maintained a stable outlook for the company and stated that it expected the company to maintain an FFO-to-debt of 17%-19% with a downgrade likely if that metric weakened to be consistently below 15%.<sup>1025</sup> Further, S&P reaffirmed its rating on the company’s senior secured debt within investment grade at an “A” rating.<sup>1026</sup>

A May 2024 credit opinion from Moody’s was similarly sanguine. Moody’s projected a stable outlook for the company and maintained an “A1” rating on the

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<sup>1023</sup> See Exhibit A-116, p. 1.

<sup>1024</sup> Exhibit A-116, p. 3.

<sup>1025</sup> Exhibit A-116, p. 3.

<sup>1026</sup> Exhibit A-116, p. 14. This PFD acknowledges that ratings agencies maintain different ratings for different types of debt issued by the company, as well as a different overall credit rating for the company.

company's senior secured debt.<sup>1027</sup> The Moody's report stated that it expected the company's financial metrics to remain stable and that the company "will continue to benefit from a consistent and generally credit supportive regulatory environment."<sup>1028</sup> In sum, the referenced exhibits show that S&P and Moody's view the company's financial outlook as stable and view Michigan as a credit-supportive environment. This PFD concludes that there is no apparent need to move away from a balanced capital structure given the company's stable credit outlook.

The company's concern about the possibility of a credit rating downgrade is not invalid, but this PFD does find that concern to be overstated both regarding its likelihood and the severity of its consequences. This PFD acknowledges the company's argument that S&P showed the company's FFO-to-debt ratio declining from 21.7% in 2021 to 17.6% in 2023. But the same report also projected that ratio would increase to around 18.3% in future years, and S&P indicated that a downgrade was likely if the FFO-to-debt metric "weakens to consistently below 15%."<sup>1029</sup> Thus, the S&P report does not suggest that a credit downgrade is forthcoming.

The report from Moody's states that it could consider a credit downgrade if the company's cash flow from operations before changes in working capital (CFO pre-WC) to debt ratio "declines below 18% on a sustained basis."<sup>1030</sup> However, that report also stated that it expected the company to maintain a stable financial profile with that metric projected to be "averaging around 20-21%, including an adjustment to exclude

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<sup>1027</sup> Exhibit A-117, p 10. Again, this PFD acknowledges that the ratings agencies maintain different ratings for different types of debt issued by the company, as well as a different overall credit rating for the company.

<sup>1028</sup> Exhibit A-117, p 2.

<sup>1029</sup> Exhibit A-116, pp. 3, 5.

<sup>1030</sup> Exhibit A-117, p. 3.

securitization debt, over the next 2-3 years.”<sup>1031</sup> The company argues that the Moody’s report shows a decline to just 18.7% in the 12 month period that ended March of 2024, which is far below the expected 20-21% and just 70 basis points away from the 18% downgrade threshold. However, the Moody’s report stated that the 20-21% expectation included an adjustment to exclude securitization debt, and the caption underneath the graph referenced by the company states that the metric would be 20.0% in the 12 months ending in March of 2024 if adjusted to exclude securitization debt.<sup>1032</sup> Thus, the relevant value appears to be aligned with Moody’s expectations and is meaningfully above the level that could serve as a potential downgrade threshold. In sum, there was no indication from S&P or Moody’s suggesting that a credit downgrade was likely to occur; instead, both ratings agencies suggested that the company’s outlook was stable.

Further, any credit downgrade, if one was to occur, would likely not be as harmful as the company suggests. To be clear, this PFD views any credit downgrade as an undesirable development that should be avoided if possible, but Consumers offers no convincing evidence that Moody’s previous downgrade of the company in 2021 had any momentous adverse effect on the company’s ability to attract capital or access credit. Further, the company’s current credit ratings with S&P and Moody’s are firmly within the middle tier of the investment grade range of credit ratings.<sup>1033</sup> Investment grade ratings indicate a low default risk, and companies with investment grade ratings can issue debt and borrow at lower interest rates than other companies with non-investment or so-called

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<sup>1031</sup> Exhibit A-117, p. 1.

<sup>1032</sup> See Exhibit A-117, p. 2. (Note that the graph’s caption is in fine print).

<sup>1033</sup> See Exhibit S-4, Schedule D-5, p. 3; see also Exhibits A-116 and A-117.

“junk” grade credit.<sup>1034</sup> The Commission previously recognized that a credit rating in the middle tier of investment grade is a desirable and healthy credit rating.<sup>1035</sup> Thus, even if the company’s credit rating was to be downgraded by one notch (an event that is not suggested by the record in this case) then the company would still enjoy an investment grade credit rating that ensures access to credit at favorable rates.

The company also argues that its equity ratio should be higher based upon comparisons to its peers. The company cited a Wells Fargo report (Exhibit A-34) showing the median approved equity ratios for electric utilities from 2005 to 2023; the company asserted that the median equity ratio increased 130 basis points from 2019 to 2023 while the company’s ratio decreased during that period.<sup>1036</sup> However, the report shows that the median approved equity ratio in almost every year from 2005 to 2023 was close to or below 50%. Indeed, from 2013 to 2021 the median approved ratio remained very close to 50% with only minor deviations up or down. Only in three years, 2012, 2022, and 2023, did the median approved equity ratio meet or exceed 51%.<sup>1037</sup> While this might demonstrate a recent upward trend in approved ratios for utilities in 2022 and 2023, it does not demonstrate that a balanced equity ratio is unreasonable, let alone an outlier. Accordingly, the Wells Fargo report provides only slight support for the company’s request to increase its equity ratio.

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<sup>1034</sup> See *Bankinter Financial Dictionary*, Investment Grade.

<sup>1035</sup> See, December 9, 2021, Order in Case No. U-20940, p. 78 (“The Commission finds that the new Moody’s rating [for DTE] places the company six notches above the lowest investment grade rating, which is still a healthy credit rating.”).

<sup>1036</sup> 4 Tr 808; Exhibit A-34 (Wells Fargo Report).

<sup>1037</sup> See Exhibit A-34, p. 1.

The company also presented its analysis of the equity ratios of its selected peer group (subsidiaries of the company's ROE proxy group from case U-21490 excluding DTE Energy) in Exhibit A-32 asserting that its peers have an average equity ratio of 54.05%.<sup>1038</sup> That average is indeed far higher than either the company's proposed 50.75% or the a balanced ratio of 50% as proposed by intervenors; nevertheless, ten percent of the peer group, or three of the company's 30 listed peers in that exhibit, have balanced or nearly balanced equity ratios.<sup>1039</sup>

Further, this PFD is concerned by the Attorney General's criticisms of Exhibit A-32 regarding its accuracy and completeness. Mr. Coppola noticed that 16 of the 30 companies listed in the exhibit (units of Black Hills, WEC Energy, and CenterPoint Energy) were not included in the company's ROE peer group in this case, raising concerns about selectivity bias.<sup>1040</sup> Mr. Bleckman's rebuttal was not entirely effective at countering the suggestion of selection bias because it essentially stated that the company's selection was appropriate because it adhered to the established selection criteria that the company itself selected.<sup>1041</sup>

Mr. Coppola also testified that several companies had their equity ratios calculated using only long-term debt and common equity, despite also employing short-term debt as a permanent part of their capital structure. He opined that this practice led to overstated equity ratios (such as recomputing Spire Missouri's ratio to 54.28% instead of 49.66%) and failed to reflect the broader industry use of short-term debt as a permanent financing

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<sup>1038</sup> 4 Tr 806. See also Exhibit A-32.

<sup>1039</sup> See Exhibit A-32, lines 7, 8, and 22.

<sup>1040</sup> 4 Tr 1963.

<sup>1041</sup> See 4 Tr 872-873.

tool, even if Consumers may not engage in that practice.<sup>1042</sup> Mr. Bleckman's rebuttal on this point was marginally more persuasive, but it also highlighted the difficulty of presenting apples-to-apples comparisons depending upon the practices of the utility in question and whether it employed short-term debt as a form of permanent financing.<sup>1043</sup>

Mr. Coppola also identified several of the peer utilities as being relatively small compared to Consumers such that they are poor comparators and are often awarded higher equity ratios to sustain them during potential volatility in their business, which large utilities like Consumers can more easily endure.<sup>1044</sup> Mr. Bleckman correctly pointed out that Mr. Coppola provided no data to support his contention and instead relied on his own "knowledge and experience" stemming from his years in the utility industry.<sup>1045</sup> This lack of supporting data reduces the weight of Mr. Coppola's argument, but it does not dispel the concern that several of the company's ostensible peers listed in Exhibit A-32 may not be appropriate comparators to a much larger utility like Consumers. In sum, the Attorney General's arguments do not merit entirely disregarding Exhibit A-32, but they do warrant viewing this exhibit with great caution when considering a proper capital structure for the company.

After reviewing the record and the arguments presented by the parties, this PFD concludes that the company failed to establish that its request for a capital structure with an equity layer of 50.75%—an increase of 75 basis points from its most recent authorized equity ratio—is required or reasonable, nor is it consistent with previous orders issued by

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<sup>1042</sup> See 4 Tr 1963-1964.

<sup>1043</sup> 4 Tr 873.

<sup>1044</sup> 4 Tr 1964.

<sup>1045</sup> 4 Tr 875; see also Exhibit A-118.

the Commission that reiterated the importance of a balanced capital structure. Instead, this PFD agrees with the intervening parties that the most reasonable course of action supported by the evidence presented in this case is to maintain a 50/50 capital structure that equally balances equity with debt. Such a result appropriately balances the interests of the utility's investors and its customers. Indeed, as Staff pointed out, the cost of equity is significantly more than the cost of long-term debt<sup>1046</sup> such that a balanced capital structure lessens the cost burden on ratepayers while still allowing the company to have a significant equity layer. This PFD rejects the company's argument that Staff's focus on the cost of debt compared to equity is flawed because it could lead to an excessively debt-financed capital structure. Indeed, no party to this case has suggested a lopsided capital structure; instead, all intervenors have advocated for a balanced capital structure. The company's various arguments related to credit metrics, the state's regulatory environment, and peer equity ratios were substantially similar to arguments presented in previous rate cases, but the company did not demonstrate, based upon the evidence presented in this case, that any change in the company's capital structure was necessary or appropriate.

B. Cost Rates

1. Long-Term Debt Cost Rate

Mr. Bleckman projected a long-term debt cost rate of 4.35% as shown in Exhibit A-14, Schedule D-2.<sup>1047</sup> He derived this rate based upon debt issuances outstanding in

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<sup>1046</sup> 4 Tr 2539-2540.

<sup>1047</sup> 4 Tr 828; Exhibit A-14, Schedule D-2.

December of 2023, new debt issuances in 2024, and planned debt issuances in 2025; he used projected 30-year treasury rates and added a 136 basis point credit spread.<sup>1048</sup>

Mr. Megginson recommended a long-term debt rate of 4.33% and explained that the difference from the company's rate stemmed primarily from his lower cost rates estimated for new debt issuances in 2025 and 2026.<sup>1049</sup>

Neither Mr. Coppola nor Mr. Walters disputed the company's 4.35% proposed long-term debt rate.<sup>1050</sup>

In rebuttal, Mr. Bleckman disagreed with Staff's recommended long-term debt cost of 4.33% because Mr. Megginson's assumed 100 basis point credit spread was unreasonably low and based on recent issuances that did not match the 30-year maturities assumed in the test year.<sup>1051</sup> He explained that credit spreads are highly volatile and influenced by factors such as the company's credit rating and market conditions at the time of issuance. Mr. Bleckman contended that 15-year historical average credit spread of 136 basis points for 30-year investment-grade utility debt was a more rational estimate.<sup>1052</sup>

In briefing, the company repeats the points from Mr. Bleckman's testimony<sup>1053</sup> while Staff's brief maintains its recommendation for a 4.33% cost rate and defends its choice of a credit spread of 1.00% stating that it relied on credit spreads in Exhibit A-31

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<sup>1048</sup> 4 Tr 829.

<sup>1049</sup> 4 Tr 2540, 2541; Exhibit S-4, Schedule D-2.

<sup>1050</sup> 4 Tr 1966; 4 Tr 2187.

<sup>1051</sup> 4 Tr 859.

<sup>1052</sup> 4 Tr 859.

<sup>1053</sup> Consumers brief, 137-138.



and that the company's credit spread was unreasonable.<sup>1054</sup> The Attorney General's brief asserts agreement with the company's 4.35% cost rate.<sup>1055</sup>

The company's reply emphasizes that Staff utilized credit spread information for debt with maturities between 5-10 years, which is not the same term as most of the company's long-term debt. Consumers emphasizes that its 136-basis point credit spread was derived from long-term data and is more accurate than the lower spread adopted by Staff.<sup>1056</sup>

This PFD agrees with the arguments presented by Consumers and therefore recommends adopting a long-term debt cost rate of 4.35%.

## 2. Short-Term Debt Cost Rate

Mr. Bleckman described the company's short-term debt facilities and projected a short-term debt cost rate of 4.52% as shown in Exhibit A-14, Schedule D-3.<sup>1057</sup> He projected the cost of short-term debt to be \$9.1 million.<sup>1058</sup>

Mr. Megginson did not dispute the company's short-term debt rate.<sup>1059</sup> However, he took issue with the size of the company's \$1 billion short-term debt facilities describing them as "inefficiently used and costly to ratepayers" when combined with the company's 1% of gas revenue cash-on-hand request.<sup>1060</sup> He suggested that the company reduce the

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<sup>1054</sup> Staff brief, 63.

<sup>1055</sup> AG brief, 146.

<sup>1056</sup> Consumers reply, 65-66.

<sup>1057</sup> 4 Tr 831.

<sup>1058</sup> 4 Tr 831.

<sup>1059</sup> 4 Tr 2540.

<sup>1060</sup> 4 Tr 2541.

size of revolver accounts or reduce its cash-on-hand request to be less extensive in order to lessen the burden on ratepayers.<sup>1061</sup>

Mr. Coppola utilized the same short-term debt rate as utilized by the company and did not dispute that cost rate.<sup>1062</sup>

In briefing, the parties provide no further substantive argument regarding this issue.<sup>1063</sup>

This PFD recommends adopting the company's 4.52% short-term debt cost rate given that it is undisputed. This PFD offers no further recommendation related to Staff's suggestion that the company reduce the size of its short-term credit facilities; instead, this PFD merely notes that, in its last electric rate case, the company was directed to justify the size and expense of its revolver accounts in its next electric rate case.<sup>1064</sup>

### 3. Deferred Federal Income Tax & Other Rates and Balances

Mr. Megginson testified that aside from long-term debt and common equity, Staff did not dispute the other cost rates estimated by the company including those for deferred federal income tax and preferred stock.<sup>1065</sup> Similarly, Mr. Coppola utilized and did not dispute the other cost rates estimated by the company, including those for deferred federal income tax and preferred stock.<sup>1066</sup> The parties' briefs similarly did not raise any disputes regarding these other capital structure balances.<sup>1067</sup>

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<sup>1061</sup> 4 Tr 2542.

<sup>1062</sup> 4 Tr 1967.

<sup>1063</sup> Consumers brief, 139; Staff brief, 51.

<sup>1064</sup> March 21, 2025, Order in Case No. U-21585, p. 236.

<sup>1065</sup> 4 Tr 2540.

<sup>1066</sup> 4 Tr 1966-1967.

<sup>1067</sup> See Consumers brief, 139; Staff brief, 52.

Given that these various other cost rates related to the company's capital structure are not disputed, this PFD recommends that they be adopted.

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.

The criteria for establishing a fair rate of return for public utilities is rooted in the language of the seminal 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.<sup>1068</sup>

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

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<sup>1068</sup> *Bluefield*, 262 US at 692-693.

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.<sup>1069</sup>

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 unnecessary burden on ratepayers, yet should be high enough to ensure investor confidence in the financial soundness of the enterprise.”<sup>1070</sup> 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.”<sup>1071</sup>

The parties made several differing proposals regarding the appropriate ROE for the company. For Consumers, Ms. Bulkley testified that she utilized a capital asset pricing model (CAPM), an empirical capital asset pricing model (ECAPM), a bond yield risk premium (BYRP) analysis, and a constant growth form of the discounted cash flow model (DCF) to develop her recommendation.<sup>1072</sup> Ms. Bulkley stated that these models

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<sup>1069</sup> *Hope Natural Gas Co*, 320 US at 603 (quotation marks and citations omitted).

<sup>1070</sup> April 12, 2018, order in Case No. U-18370, p. 30.

<sup>1071</sup> 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)).

<sup>1072</sup> 4 Tr 893.

supported a ROE range of 10.25% to 11.25%, and she recommended a ROE of 10.25%.<sup>1073</sup> In formulating her models and associated data inputs, Ms. Bulkley explained that she took into account various capital market conditions such as inflation, the Federal Reserve's monetary policy, and government bond yields.<sup>1074</sup>

For Staff, Mr. Megginson recommended a ROE of 9.75%, which is fifteen basis points lower than the company's current authorized ROE of 9.90%.<sup>1075</sup> He reached this recommendation using a group of eight proxy companies and applying the DCF, historical and projected CAPM models, the BYRP model, and a comparison of recent ROE determinations from other jurisdictions.

Mr. Coppola used three methods to determine an appropriate ROE: the DCF, CAPM, and BYRP approaches.<sup>1076</sup> He explained that Exhibit AG-1.17 showed a weighted average<sup>1077</sup> ROE of 9.52% from these methodologies, although he ultimately recommended a ROE of 9.75% by including a 23 basis point adjustment due to the uncertainty in the timing of a decline in interest rates and the potential increase in the 4.0% risk-free rates used in his calculations.<sup>1078</sup>

Mr. Walters explained that he used several different methodologies to estimate an appropriate ROE; these methods included various DCF models, the BYRP model, and

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<sup>1073</sup> 4 Tr 896.

<sup>1074</sup> 4 Tr 901-907.

<sup>1075</sup> 4 Tr 2561.

<sup>1076</sup> 4 Tr 1968.

<sup>1077</sup> Mr. Coppola specified that he weighs the DCF model at 50% with the other two models receiving 25% weighting each.

<sup>1078</sup> 4 Tr 1968, 1991.

the CAPM model.<sup>1079</sup> Mr. Walter contended that the company's ROE could reasonably range from 9.00% to 9.90%, and he recommended the midpoint, 9.45%.<sup>1080</sup>

Mr. Bandyk calculated a CAPM ROE of 7.95% and a DCF ROE of 9.22% resulting in an average of 8.58%.<sup>1081</sup> However, for the sake of gradualism, he recommended setting the company's ROE at 9.24%, i.e. the halfway point between 8.58% and the company's current currently set ROE of 9.90%.<sup>1082</sup>

The parties used several different analytical models and approaches to develop the above recommendations. These models, the associated proxy groups used by the parties, and other related issues and disputes are discussed below.

a. Proxy Groups

i. *Testimony*

Ms. Bulkley described the criteria used to select a proxy group of companies for use in her quantitative analyses. She began with nine utilities that Value Line classifies as natural gas distribution utilities and applied the following screening criteria: (1) pays cash dividends quarterly; (2) has investment grade long-term issuer ratings from S&P or Moody's; (3) has positive long-term earnings growth estimates from at least two industry equity analysts; (4) derives more than 70% of total operating income from regulated operations; (5) derives more than 60% of regulated operating income from gas distribution operations; and (6) was not a party to a merger or transformative transaction during the

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<sup>1079</sup> 4 Tr 2188.

<sup>1080</sup> 4 Tr 2221.

<sup>1081</sup> 4 Tr 2423.

<sup>1082</sup> 4 Tr 2423.

analytical period.<sup>1083</sup> She testified that the application of these screening criteria yielded a proxy group of six companies listed in Exhibit A-14, Schedule D-5.<sup>1084</sup>

Mr. Megginson utilized six criteria to develop Staff's proxy group: (1) each utility had to have net plant greater than \$3.0 billion but less than \$26.0 billion; (2) each company had to derive no less than 50% or more of its revenues from regulated natural gas service; (3) each utility had to have an investment grade rating within three or four notches from that of Consumers; (4) each company had to currently pay dividends; (5) each utility had to be followed by 2 or more International Business Estimating System (I/B/E/S) analysts; and (6) each company was not currently involved in a merger or major corporate buyout or sell-off that could significantly impact the company's stock price. These criteria yielded the same six companies identified by Ms. Bulkley.<sup>1085</sup> Mr. Megginson then added two additional companies: (1) DTE Energy because it is the primary comparison utility for Consumers in the State of Michigan, and (2) New Jersey Resources (NJR) because the fact that it was rated by only two instead of all three major ratings agencies should not exclude it from the proxy group.<sup>1086</sup>

Mr. Coppola explained that his selected proxy group started with the nine utilities followed by the Value Line Investment Survey as natural gas utilities. He excluded two companies: (1) NJR because it earned less than 50% of its income from the utility business, and (2) UGI Corporation because of its foreign investments and reliance on

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<sup>1083</sup> 4 Tr 908-909.

<sup>1084</sup> 4 Tr 909; Exhibit A-14, Schedule D-5. The proxy companies are: (1) Atmos Energy Corporation; (2) NiSource Inc.; (3) Northwest Natural Gas Company; (4) ONE Gas, Inc.; (5) Southwest Gas Corporation; and (6) Spire, Inc.

<sup>1085</sup> 4 Tr 2544; See also Exhibit S-4, Schedule D-5, Page 2.

<sup>1086</sup> 4 Tr 2544.

propane sales. Mr. Coppola then added one company, Black Hills Corporation, because it earns approximately 50% of its income from natural gas distribution despite being classified primarily as an electric utility.<sup>1087</sup> The Attorney General's Proxy Group can be found in Exhibit AG-46; the group is identical to the company's but adds Chesapeake Utilities and Black Hills Corp.

Mr. Walters initially utilized the same proxy group of six companies as Consumers, but upon examination, he found that one proxy, NiSource, Inc. was party to a transformative transaction that divested it of a significant portion of electric utility holdings.<sup>1088</sup> Mr. Walters opined that NiSource Inc. should not be used as a proxy given its recent transformative transaction, and he did not believe that using only the five remaining companies would be an adequate sample to constitute a proxy group, so he added six additional water distribution utilities to create a proxy group of 11 companies.<sup>1089</sup>

For his part, Mr. Bandyk relied on the same group of proxy utility companies as Ms. Bulkley.

In rebuttal, Ms. Bulkley criticized Mr. Megginson for including NJR and DTE in his proxy group noting that NJR had significant unregulated operations and that DTE, primarily an electric utility with only 22.49% of operating income from gas operations, did not meet his own screening criteria and was not comparable to Consumers Energy's gas business.<sup>1090</sup>

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<sup>1087</sup> 4 Tr 1969.

<sup>1088</sup> 4 Tr 2192.

<sup>1089</sup> 4 Tr 2192; See also Exhibit AB-7.

<sup>1090</sup> 4 Tr 994-996.



Ms. Bulkley faulted Mr. Coppola for including Chesapeake in his proxy group due to misclassification of transmission-related income as utility income, which overstated Chesapeake's regulated operations to 86% when the true figure was only 44.03%, and she noted his inconsistent exclusion of NJR despite similar characteristics.<sup>1091</sup> Additionally, she disagreed with his inclusion of Black Hills emphasizing its substantial electric operations and Value Line classification as an electric utility, making it an unsuitable proxy.<sup>1092</sup>

Ms. Bulkley challenged Mr. Walters's exclusion of NiSource from his proxy group stating that the sale of a 19.9% noncontrolling interest in a subsidiary was not transformative, did not meaningfully affect stock prices, and occurred in June 2023, i.e. before the analytical period used in the case, thus offering no valid basis for exclusion.<sup>1093</sup>

*ii. Briefing*

In its brief, Consumers maintains its criticisms of the proxy groups selected by the intervening parties. The company emphasizes that Staff's proxy group inaptly includes NJR because it only derived 50.02% of operating income from regulated natural gas distribution; further, DTE did not meet Staff's screening criteria and was merely included as an in-state comparator.<sup>1094</sup> Similarly, the company asserts that the Attorney General erroneously include Chesapeake in her proxy group by misclassifying its transmission assets as part of its utility business; the company also reasserts that Black Hills is primarily an electric utility rather than a natural gas utility.<sup>1095</sup> The company repeats that

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<sup>1091</sup> 4 Tr 996-997.

<sup>1092</sup> 4 Tr 997-998.

<sup>1093</sup> 4 Tr 998-1000.

<sup>1094</sup> Consumers brief, 223-225.

<sup>1095</sup> Consumers brief, 235-236.

NiSource should not have been excluded from ABATE's proxy group because the transaction it was involved in occurred in 2023, was small enough that it was not transformative, and did not affect that company's stock price.<sup>1096</sup>

Staff's briefing simply reiterates the rationale and criteria for its proxy group without addressing the company's critiques.<sup>1097</sup>

The Attorney General's brief addresses the company's critique of her proxy group stating that Consumers excluded Chesapeake Utilities presumably because it did not have a bond rating in 2024, but it has since been given a rating of "A-" by ratings agency Fitch.<sup>1098</sup> The Attorney General rejects the notion that Chesapeake is an inapt comparator because it has transmission assets, and she argues that Atmos Energy in the company's proxy group also has significant transmission assets.<sup>1099</sup> The Attorney General also contends that Black Hills is an appropriate proxy because it gets 54% of sales from gas customers even if it is otherwise classified as an electric utility.<sup>1100</sup>

ABATE simply reiterates the rationale for its proxy group which excluded NiSource as a party to a transformative transaction and included six water utilities.<sup>1101</sup>

### *iii. Analysis*

This PFD will generally not disturb the parties' choice of proxy groups or their constituent companies because there can be value in a diversity of proxy group components even if each constituent company within a proxy group does not necessarily

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<sup>1096</sup> Consumers brief, 238-239.

<sup>1097</sup> Staff brief, 54.

<sup>1098</sup> AG brief, 130.

<sup>1099</sup> AG brief, 130.

<sup>1100</sup> AG brief, 130.

<sup>1101</sup> ABATE, 17.

meet all desirable screening criteria or is otherwise flawed as a comparator in some particular respect. Further, while the parties selected different proxy groups, there is meaningful overlap in the core components of each party's proxy group that alleviates concerns that the groups may be too divergent from each other.

The exception to this observation is the proxy group selected by ABATE, which shares many constituent companies with other parties' proxy groups but also added six water utilities because Mr. Walters opined that the five gas utilities he selected were insufficient in number to serve as an adequate proxy group. While no party objected to the inclusion of these six water utilities, water and gas utilities simply do not face the same risks and structural challenges and may not be suitable comparators for each other. Further, the Commission has previously agreed that water utilities should generally not be included as proxies for a gas utility.<sup>1102</sup> While this PFD adopts leniency for a small number of proxy group components that may not be excellent comparators, the inclusion of six questionable proxy companies—more than half of ABATE's proxy group—is simply untenable. Accordingly, when analyzing the parties' results, this PFD will either adjust ABATE's figures to exclude the six water utilities (if such figures are granular and can be excluded) or will still grant them consideration, but with reduced weight.

b. Capital Asset Pricing Model (CAPM)

i. *Testimony*

Ms. Bulkley explained that CAPM is a risk premium approach that estimates the cost of equity as a function of a risk-free return (usually represented by U.S. Treasuries)

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<sup>1102</sup> See December 9, 2021, Order in Case No. U-21940, p. 91; November 7, 2024, Order in Case No. U-21291, p. 105.

plus a risk premium to compensate investors for the non-diversifiable or systematic risk of holding a security.<sup>1103</sup> The systemic risk is measured by the beta coefficient, which is a measure of the volatility of a security compared to the market as a whole.<sup>1104</sup>

Ms. Bulkley used three sources for her estimate of a risk-free rate: (1) the current 30-day average yield of U.S. Treasury bonds (4.07%); (2) the average projected 30-year U.S. Treasury bond yield for Q1 of 2025 through Q1 of 2026 (4.02%); and (3) the average projected U.S. Treasury bond yield for 2026 through 2030 (4.30%).<sup>1105</sup> She used beta coefficients for the proxy companies as reported by Value Line and Bloomberg, each of which calculated beta coefficients in different ways, and she also considered an additional analysis relying on a long-term average utility beta coefficient for proxy companies from 2013-2023.<sup>1106</sup> Ms. Bulkley specified that the market risk premium (MRP) was the difference between the risk-free rate and the expected equity market return; she used her constant growth DCF model (discussed *infra*) as applied to companies in the S&P 500 index to estimate a market return of 12.04% (based upon a long-term growth rate of 10.45% and a weighted dividend yield of 1.52%).<sup>1107</sup> The results of her nine CAPM analyses using different combinations of beta values and estimated treasury yields range from a low of 10.06% to a high of 11.07%.<sup>1108</sup> The average of her nine CAPM results is 10.43%.<sup>1109</sup>

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<sup>1103</sup> 4 Tr 916.

<sup>1104</sup> 4 Tr 917.

<sup>1105</sup> 4 Tr 917-918.

<sup>1106</sup> 4 Tr 918; Exhibit A-14, Schedule D-5, p. 6-15.

<sup>1107</sup> 4 Tr 918; see also Exhibit A-14, Schedule D-5, pp. 16-21 (projecting the overall return of the S&P 500 based upon projections for its components).

<sup>1108</sup> 4 Tr 921, Figure 8; See also Exhibit A-14, Schedule D-5, p 6-14.

<sup>1109</sup> See 4 Tr 921, Figure 8 (while not explicitly listed in Figure 8, the sum of the nine CAPM figures listed divided by nine is 10.43).

Mr. Megginson testified that he used a historical MRP of 6.94% and a weighted average of projected treasury yields of 4.25% along with a beta coefficient derived from Value Line to compute an average historical CAPM result of 10.63%.<sup>1110</sup> Mr. Megginson stated that to account for the forward-looking nature of the CAPM analysis he also calculated two forward-looking CAPM estimates utilizing forward-looking MRP estimates provided by noted NYU finance professor Aswath Damodaran.<sup>1111</sup> These methods utilized an implied MRP of 4.35% and a 10-year cash-yield smoothed MRP of 6.18%, and they yielded ROE estimates of 8.25% and 9.93%.<sup>1112</sup>

Mr. Megginson took issue with the company's CAPM analysis noting that Ms. Bulkley's estimated 12.04% return of the S&P 500 "appears on the high-end of reasonableness."<sup>1113</sup> He explained that this high projected return resulted in MRPs in the company's calculations that ranged from 7.74% to 8.02%, which are substantially higher than the historical MRP of around 7.0% and far higher than professor Damodaran's projected future MRP estimates of 4.2%-6.2%.<sup>1114</sup> He asserted that the Commission should give limited weight to the company's inflated MRP and the company's resulting inflated CAPM analysis.<sup>1115</sup> However, Mr. Megginson praised the company's use of average Value Line long-term betas from 2013-2023 because this "smoothed the current beta values that consider the unreasonably high beta period during the Covid years of 2020-2021."<sup>1116</sup> He explained that if Staff used the company's historical Value Line betas

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<sup>1110</sup> 4 Tr 2551-2552.

<sup>1111</sup> 4 Tr 2552.

<sup>1112</sup> 4 Tr 2552-2553.

<sup>1113</sup> 4 Tr 2554.

<sup>1114</sup> 4 Tr 2554.

<sup>1115</sup> 4 Tr 2555.

<sup>1116</sup> 4 Tr 2555.

in its historical CAPM analysis, then the average ROE estimate would have been 9.60% rather than 10.63%.<sup>1117</sup>

Mr. Coppola described the CAPM approach and his supporting calculations. He testified that he utilized a risk-free rate of 4.00%, a beta value of 0.91, and the 7.30% historical MRP from 1926-2023, and he provided his reasoning for using these figures.<sup>1118</sup> He testified that his model resulted in an average ROE estimate of 10.66% for his proxy group.<sup>1119</sup> Mr. Coppola opined that the CAPM approach should be given less weight than the DCF approach because it assumes that the risk of a stock can be measure by the beta component (representing a comparison to general market fluctuations) whereas investors actually take company-specific risks.<sup>1120</sup>

Mr. Coppola critiqued the company's use of three different risk-free rates as "a hunt for an approach that will result in a higher ROE rate."<sup>1121</sup> He specifically rejected the company's use of a 4.30% risk-free rate as flawed because it was a forecast of treasury rates from 2026 through 2030, which includes a large period outside of the test year.<sup>1122</sup> He also criticized Ms. Bulkley for shunning a proven, historical MRP in favor of developing her own MRP based upon her own projections of future returns of the S&P 500 index in the next 3-5 years. Mr. Coppola stated that there are several problems with this approach, including that it is held hostage by short-term fluctuations in expectations of returns which can cause the forecasted MRP to vary significantly.<sup>1123</sup> Additionally, he contended that

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<sup>1117</sup> 4 Tr 2555.

<sup>1118</sup> 4 Tr 1973.

<sup>1119</sup> 4 Tr 1974; see also Exhibit AG-44.

<sup>1120</sup> 4 Tr 1974.

<sup>1121</sup> 4 Tr 1978.

<sup>1122</sup> 4 Tr 1978.

<sup>1123</sup> 4 Tr 1979.

Ms. Bulkley omitted approximately 125 companies from the S&P 500 index in her estimate but retained several large, high-growth technology companies with above-average weightings.<sup>1124</sup> Mr. Coppola also asserted that using a 3-5 year period to measure stock market performance is inapt because it does not capture a complete cycle of economic expansion and contraction.<sup>1125</sup> He opined that the company's MRP was seriously flawed and should be rejected.<sup>1126</sup>

Mr. Walters explained the CAPM model and his inputs, including a treasury bond yield of 4.60% as the risk-free rate and three different market risk premiums, one based upon the risk premium approach (7.10%), one based upon the average of two DCF approaches (7.80%), and one based upon a normalized MRP recommended by Kroll (5.00%).<sup>1127</sup> Mr. Walter used four different beta values including current and historical betas listed by Value Line (0.88 and 0.76), the current S&P listed beta (0.68), and a three-year beta (0.79). He testified that these differing values produced 12 CAPM-based ROE estimates that ranged from 8.19% to 11.44%.<sup>1128</sup>

Mr. Walters testified that Ms. Bulkley's CAPM model was flawed because it solely used her DCF-derived market return to estimate the MRP, which inflated the result. He opined that Ms. Bulkley's sustainable market growth rate of 10.45% is far too high to be a rational outlook for long-term market growth.<sup>1129</sup> He also critiqued the company's CAPM

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<sup>1124</sup> 4 Tr 1979.

<sup>1125</sup> 4 Tr 1979.

<sup>1126</sup> 4 Tr 1980.

<sup>1127</sup> 4 Tr 2215-2219.

<sup>1128</sup> 4 Tr 2219-2220.

<sup>1129</sup> 4 Tr 2228.

model for using only one method to estimate market return and argued that the inclusion of NiSource in the proxy group inflated the results.<sup>1130</sup>

Mr. Bandyk provided CUB's CAPM analysis in Exhibit CUB-15 (7.95%), and he explained that he used different inputs compared to Ms. Bulkley. Mr. Bandyk discussed his CAPM calculations, and he contended that historical estimates for the MRP are deeply flawed because they are extremely sensitive to the historical period selected and to survivorship bias because some stocks drop out of the market.<sup>1131</sup> To correct this deficiency, he relied on a forward-looking "implied equity risk premium" approach advocated by NYU professor Aswath Damodaran; he explained that this approach does not rely on historical data and instead values stocks at the present value of dividends growing at a constant rate.<sup>1132</sup> Mr. Bandyk asserted that by comparison, Ms. Bulkley's approach to the CAPM model inflates growth rate used to estimate market return, setting it at 10.45%, and results in an artificially higher ROE.<sup>1133</sup> Mr. Bandyk used the average of two beta coefficients in his calculation, the averages from Value Line and Bloomberg for the company's proxy group.<sup>1134</sup> However, he testified that he made the beta coefficients more accurate by removing the Blume adjustment made to those values to leave a "raw beta," which he opined was appropriate for utility stocks because they tend to be countercyclical and therefore do not need to be adjusted.<sup>1135</sup>

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<sup>1130</sup> 4 Tr 2229.

<sup>1131</sup> 4 Tr 2425.

<sup>1132</sup> 4 Tr 2425-2426.

<sup>1133</sup> 4 Tr 2428-2429.

<sup>1134</sup> 4 Tr 2430.

<sup>1135</sup> 4 Tr 2431.



In rebuttal, Ms. Bulkley explained that she updated her analysis based on market data used through April 25, 2025, to rebut the “outdated” analyses of the intervening parties. Her analytical methodology was the same with one exception: she now used three-to-five-year EPS growth estimates from S&P Capital IQ Pro instead of Yahoo! Finance (for the constant growth DCF model, which was in turn used to develop a MRP for the CAPM estimate) because the latter no longer provided that data.<sup>1136</sup> Her nine updated CAPM analyses had results ranging from 10.02% to 11.25% with an average of 10.49%.<sup>1137</sup>

Ms. Bulkley also took issue with the risk-free rates, market risk premiums, and beta coefficients used by the intervenors. Regarding risk-free rates, Ms. Bulkley testified that Mr. Coppola’s use of a 4.00% risk-free rate was outdated even at the time of his testimony. She noted that the current consensus estimate for the 30-year Treasury bond yield for the first quarter of 2026, according to the latest Blue Chip Financial Forecasts, was actually 4.50%.<sup>1138</sup> She also testified that Mr. Megginson’s risk-free rate was understated because updated data would yield a rate of 4.38% compared to his assumed 4.25%.<sup>1139</sup>

Regarding MRPs, Ms. Bulkley testified that intervenors incorrectly developed MRPs independently from risk-free rates and ignored the well-established inverse relationship between the two, which led to understated cost of equity estimates.<sup>1140</sup> She

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<sup>1136</sup> 4 Tr 970.

<sup>1137</sup> 4 Tr 971, Table 2; See also Ex A-127 (while the average of the values is not explicitly listed at 4 Tr 971, the sum of the nine CAPM results divided by nine is 10.49).

<sup>1138</sup> 4 Tr 1018-1019.

<sup>1139</sup> 4 Tr 1019.

<sup>1140</sup> 4 Tr 1020.

opined that using historical MRPs is inappropriate for estimating forward-looking costs of equity because those averages do not reflect expected market conditions.<sup>1141</sup> She criticized Mr. Megginson and Mr. Coppola for pairing historical MRPs with low projected risk-free rates which distorted their CAPM results.<sup>1142</sup> Ms. Bulkley asserted that even the data source Kroll discouraged the use of historical averages in forward-looking models because it can produce implausible results like negative premiums during crises.<sup>1143</sup> She testified that Mr. Megginson further understated the MRP by using a shorter dataset starting in 1928 instead of Kroll's full dataset beginning in 1926, which showed a higher premium of 7.31%.<sup>1144</sup> She also rejected Mr. Megginson's projected MRP as inconsistent with his own prior methodology in past rate cases which would have yielded a higher figure.<sup>1145</sup> Ms. Bulkley criticized Mr. Walters and Mr. Bandyk for using outdated or mismatched MRP data and generating CAPM results that were unreasonably low compared to historical ROEs for utilities.<sup>1146</sup> Finally, she stated that Mr. Bandyk's reliance on a survey from the IESE Business School to estimate the MRP was misplaced because the survey's authors caution against using it as a reliable estimate of the MRP.<sup>1147</sup>

Regarding beta coefficients, Ms. Bulkley disagreed with Mr. Bandyk's use of raw betas and Mr. Walters's use of S&P Market Intelligence betas that applied a Vasicek adjustment which assumed betas trend toward the industry average instead of the market

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<sup>1141</sup> 4 Tr 1021-1022.

<sup>1142</sup> 4 Tr 1022-1023.

<sup>1143</sup> 4 Tr 1024-1025.

<sup>1144</sup> 4 Tr 1027.

<sup>1145</sup> 4 Tr 1028.

<sup>1146</sup> 4 Tr 1030.

<sup>1147</sup> 4 Tr 1034.

average.<sup>1148</sup> She testified that both raw and Vasicek-adjusted betas understated the true risk of utility stocks because they ignored sensitivity to interest rates, unlike the Blume adjustment used by Value Line and Bloomberg, which trended betas toward the market value (1.0) and better captured that risk.<sup>1149</sup>

Regarding criticisms from the intervenors, Ms. Bulkley denied Mr. Coppola's claim that she intentionally used three different risk-free rates to inflate the CAPM result; she explained that her use of current, near-term, and long-term projected rates was meant to produce a forward-looking cost of equity.<sup>1150</sup> Ms. Bulkley testified that there was no basis to the claims by intervenors stating that her MRP was inflated; she contended that her expected market return of 12.04% was historically supported, used in other regulatory jurisdictions, and had even declined slightly to 11.92% at the time of rebuttal.<sup>1151</sup> She cited support from regulatory bodies in California, Illinois, Pennsylvania, and Maine, all of which accepted the constant growth DCF model she employed to estimate market return.<sup>1152</sup> Additionally, she referenced a 2015 Federal Reserve Bank of New York study showing that equity risk premiums often exceeded 10% during inflationary periods, reinforcing the reasonableness of her estimated MRP range of 7.24% to 7.62%.<sup>1153</sup> She stated that Mr. Coppola's claim that her market return excluded certain companies and misrepresented the S&P 500 components was unfounded; she stated that she only excluded companies with projected EPS growth rates below 0% or above 20%.<sup>1154</sup> She

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<sup>1148</sup> 4 Tr 1034.

<sup>1149</sup> 4 Tr 1035.

<sup>1150</sup> 4 Tr 1036.

<sup>1151</sup> 4 Tr 1037.

<sup>1152</sup> 4 Tr 1038.

<sup>1153</sup> 4 Tr 1039-1040.

<sup>1154</sup> 4 Tr 1042.

maintained that while ideally all S&P 500 companies would be included, the exclusions made her analysis more reasonable and consistent with accepted regulatory practice.

Ms. Bulkley testified that she recalculated the CAPM analyses of Mr. Megginson, Mr. Coppola, Mr. Walters, and Mr. Bandyk to address concerns with their reliance on historical MRPs. She found that adjusting Mr. Megginson's inputs increased his cost of equity to between 11.41% and 11.53%, depending on the approach used.<sup>1155</sup> She also adjusted Mr. Coppola's MRP and updated his risk-free rate which resulted in a revised cost of equity of 11.50%.<sup>1156</sup> For Mr. Walters, she excluded four CAPM scenarios that relied on a "normalized" MRP and determined that the average result of the remaining scenarios was 10.38%.<sup>1157</sup> Her adjustment to Mr. Bandyk's analysis—which used her projected market return of 12.04% but did not use different beta values—yielded a cost of equity of 9.99%.<sup>1158</sup>

*ii. Briefing*

The company's briefing expansively repeats Ms. Bulkley's rebuttal to Staff's criticisms of its CAPM analysis, as well as the critiques of the Attorney General.<sup>1159</sup> The company also repeats its contention that Staff's CAPM analyses are flawed because they use a risk-free rate that is too low and a historical MRP rather than a forward-looking MRP (at least for one CAPM analysis).<sup>1160</sup> Even when Staff utilized a forward-looking implied MRP, the company asserts that it is inconsistent with the inverse relationship between

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<sup>1155</sup> 4 Tr 1043; see also Exhibit A-127, pp. 37-38.

<sup>1156</sup> 4 Tr 1043; see also Exhibit A-127, p. 40.

<sup>1157</sup> 4 Tr 1043.

<sup>1158</sup> 4 Tr 1044; Ex. A-127, p. 42.

<sup>1159</sup> Consumers brief, 210-216.

<sup>1160</sup> Consumers brief, 226-230.

risk-free rate and the MRP which understates the cost of equity.<sup>1161</sup> The company repeats that, if adjusted in the ways supported by Ms. Bulkley, Staff's results would be significantly higher ranging from 10.94% to 11.41%.<sup>1162</sup> The company repeats similar criticisms of the Attorney General's CAPM methodology but stress that her CAPM result of 10.66% supports the company's lower request of 10.25%.<sup>1163</sup> Consumers repeats points from Ms. Bulkley's rebuttal stating that certain CAPM results from ABATE are unreasonable because they are at or below the low end of any authorized ROE in a comparable jurisdiction awarded in nearly half a century.<sup>1164</sup> Similarly, the company repeats that ABATE's CAPM values do not use a truly forward-looking analysis and use inappropriate beta values.<sup>1165</sup> Consumers asserts that CUB's 7.95% CAPM result is "so low as to be questionable on its face[,]" and the company reiterates issues with CUB's CAPM methodology stated by Ms. Bulkley.<sup>1166</sup>

Staff repeats the results of its three CAPM models.<sup>1167</sup> Staff also reiterates that the company's MRP values, ranging from 7.74% to 8.02% are inflated from the historical MRP of around 7.0% such that the company's CAPM results are "unacceptable for consideration."<sup>1168</sup>

The Attorney General emphasizes that the CAPM approach should be given less weight than the DCF approach because investors take company-specific factors into

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<sup>1161</sup> Consumers brief, 230.

<sup>1162</sup> Consumers brief, 234.

<sup>1163</sup> Consumers brief, 237.

<sup>1164</sup> Consumers brief, 244.

<sup>1165</sup> Consumers brief, 245.

<sup>1166</sup> See Consumers brief, 247-249.

<sup>1167</sup> Staff brief, 55-56.

<sup>1168</sup> Staff brief, 64.

account when assessing risk.<sup>1169</sup> The Attorney General's brief also repeats Mr. Coppola's criticism of the company's CAPM approach including a "hunt" for higher risk-free rates and the use of an inflated MRP based upon Ms. Bulkley's projections of stock market returns.<sup>1170</sup> The Attorney General asserts that the Commission should not give any weight to the calculations relying on the company's MRP methodology.<sup>1171</sup>

ABATE's briefing recaps its rationale for the CAPM approach and repeats its results ranging from 9.17% to 11.44%.<sup>1172</sup> ABATE asserts that the company's CAPM result is inflated because it uses a DCF-derived market growth rate of 12.04%, which includes a 10.45% market growth rate that is nearly three times the expected growth rate of U.S. GDP.<sup>1173</sup>

CUB rejects the company's criticism that the MRP utilized was not adjusted upward when a low risk-free rate is used; instead CUB counters that long-term historical averages like the 7.31% historical MRP are flawed because of survivorship bias and sensitivity to the historical period selected.<sup>1174</sup> CUB also notes that the company claims Mr. Bandyk's CAPM assumptions conflict with his DCF results, but this comparison is flawed because it contrasts different methodologies, and differing outcomes between CAPM and DCF are normal and expected in ROE analysis.<sup>1175</sup> CUB rejects the criticism of its use of IESE survey data because it was only one input and it actually moderated the gap between CUB's results and those of the company. Finally, CUB notes that while the company

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<sup>1169</sup> AG brief, 135.

<sup>1170</sup> See AG brief, 138-140.

<sup>1171</sup> AG brief, 141.

<sup>1172</sup> ABATE, 22-23.

<sup>1173</sup> ABATE, 26.

<sup>1174</sup> MSC brief, 90-91.

<sup>1175</sup> MSC brief, 91.

disputes the use of raw betas, it does not address Mr. Bandyk's explanation for why adjusted betas can be inappropriate for utility stocks.<sup>1176</sup>

In its reply, the company defended its forward-looking MRP as reasonable based upon its projections of market return and inflation, and it also contended that it was reasonable in light of historical market returns.<sup>1177</sup> Consumers also repeated its critiques of the CAPM analyses of other parties primarily focusing on its contention that intervenors did not account for the inverse relationship between interest rates and the MRP.<sup>1178</sup>

Replies from Staff and the Attorney General both assert that they generally rest on their initial briefs with regard to the company's application of the quantitative ROE estimation methods.<sup>1179</sup> Replies from ABATE and CUB did not specifically address the CAPM methodology.

### *iii. Analysis*

Regarding the CAPM estimates, the parties use a variety of different inputs for this model, with the most significant disagreements being over the risk-free rate (i.e. estimates for U.S. Treasury yields) and the most appropriate MRP. This PFD finds value in having a multitude of different inputs and methods being presented and examined such that there should be minimal interference with the parties' inputs so long as they are justified and reasonable.

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<sup>1176</sup> MSC brief, 92.

<sup>1177</sup> Consumers reply, 72.

<sup>1178</sup> See Consumers reply, 72-74.

<sup>1179</sup> Staff reply, 12; AG reply, 47-48.

This PFD finds that the parties' various risk-free rates are supported on the record and are reasonable even if they diverge from each other; such variation should be expected given varying estimates of treasury yields.

This PFD also finds that the parties' different MRP inputs are generally reasonable and supported on the record even if they vary significantly from each other. This PFD is inclined to agree with Staff and the Attorney General that the company's MRP, derived from Ms. Bulkley's DCF modeling of expected future S&P 500 returns, is on the high end of what could be considered a reasonable result. However, this PFD declines to exclude the company's result for that reason alone.

The parties dispute whether CAPM should use historical MRPs or forward-looking MRPs, but this PFD notes that FERC appears to recognize the use of both historical and forward-looking CAPM analyses.<sup>1180</sup> This ALJ is also unaware of any Commission order excluding forward-looking or historical CAPM analyses from consideration. Accordingly, the parties' CAPM analyses should be considered regardless of whether they use a forward-looking implied MRP or a MRP derived from historical data.

As discussed *infra* in the subsection addressing other authorized rates of return for utilities nationwide, this PFD adopts the adjusted range of the dataset in Exhibit AG-48 as a representative (albeit not complete) sample of reported ROEs recently approved by regulatory bodies nationwide. That adjusted range is 9.15%-10.25%, and this PFD will utilize it as a general comparative benchmark range to determine whether the results of

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<sup>1180</sup> FERC Opinion 569, 169 FERC 61129 (2019), par. 239 ("[I]n the CAPM model . . . [t]he expected market return can be estimated either using a backward-looking approach based upon realized market returns during a historical period, a forward-looking approach applying the DCF model to a representative market index, such as the S&P 500, or a survey of academics and investment professionals.")



the parties' financial models are roughly in alignment with the ROEs awarded to other gas utilities. This PFD will adjust the parties' datasets (if applicable) to give full weight to values that fall within that range, and will still consider, but give reduced weight, to values falling outside that range.

The result of this adjustment is that this PFD will give full weight to the following CAPM estimates:

Company: 10.12% (adjusted average)<sup>1181</sup>

Staff: 9.93% (Implied MRP)<sup>1182</sup>

The remaining CAPM estimates all fell above or below the adjusted range, so this PFD will consider, but give reduced weight, to the following values: The remainder of Consumer's CAPM results (11.25%, 11.23%, and 11.22%),<sup>1183</sup> the remainder of Staff's results (10.63%<sup>1184</sup> and 8.25%<sup>1185</sup>), the Attorney General's result (10.66%),<sup>1186</sup> and CUB's result (7.95%).<sup>1187</sup>

ABATE's nine CAPM results had an average of 9.80% (i.e. within the adjusted range) but will nevertheless be accorded reduced weight because of the inclusion of an extensive number of water utilities in its proxy group<sup>1188</sup> which could not, with ease, be

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<sup>1181</sup> Arithmetic average of the following CAPM results from Table 2 at 4 Tr 971: 10.02%, 10.05%, 10.11%, 10.14%, 10.18%, 10.23%.

<sup>1182</sup> Exhibit S-4, Schedule D-5, p. 9.

<sup>1183</sup> Table 2 at 4 Tr 971.

<sup>1184</sup> Exhibit S-4, Schedule D-5, p. 7 (historical MRP).

<sup>1185</sup> Exhibit S-4, Schedule D-5, p. 8 (implied MRP).

<sup>1186</sup> 4 Tr 1974; see also Exhibit AG-44.

<sup>1187</sup> Exhibit CUB-15.

<sup>1188</sup> For further explanation, see the analysis section of this PFD addressing the parties' proxy groups, *supra*.

readily excluded from the results presented in ABATE's relevant CAPM-related exhibit.<sup>1189</sup>

c. Empirical Capital Asset Pricing Model (ECAPM)

i. *Testimony*

Ms. Bulkley described the ECAPM model as calculating the product of an adjusted beta coefficient and the market risk premium and applying a weight of 75% to that result while applying a 25% weight to the market risk premium without the effect of the beta coefficient.<sup>1190</sup> She testified that the traditional CAPM model underestimates the cost of equity for companies with low beta coefficients like utilities such that the ECAPM result corrects that deficiency.<sup>1191</sup> Her nine ECAPM results ranged from 10.56% to 11.32%.<sup>1192</sup> The average of her nine ECAPM results was 10.84%.<sup>1193</sup>

Mr. Megginson disagreed with the company's use of the ECAPM approach explaining that the use of Value Line and Bloomberg beta values, which are already adjusted, renders the need for the ECAPM adjustment unnecessary.<sup>1194</sup> Worse, he asserted that using adjusted betas in the ECPAM analysis "is tantamount to double counting the beta and improperly inflating the ROE estimate."<sup>1195</sup> He stated the Commission has not considered the merits of the ECAPM approach in the past and opined that it should not consider it to be a meritorious approach in this proceeding.<sup>1196</sup>

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<sup>1189</sup> See Exhibit AB-20 (which does not break out the calculations for individual proxy companies such that water utilities could be readily excluded from the results).

<sup>1190</sup> 4 Tr 920.

<sup>1191</sup> 4 Tr 920.

<sup>1192</sup> 4 Tr 921, Figure 8; See also Exhibit A-14, Schedule D-5, pp 6-14.

<sup>1193</sup> See 4 Tr 931 Figure 8 (while not explicitly listed in that figure, the sum of the nine ECAPM results divided by nine is 10.837..., which this PFD rounded to 10.84).

<sup>1194</sup> 4 Tr 2555.

<sup>1195</sup> 4 Tr 2556.

<sup>1196</sup> 4 Tr 2557.

Mr. Coppola echoed the same points about ECAPM as stated by Mr. Megginson, and he urged the Commission to “continue to disregard” the ECAPM model proposed by Ms. Bulkley because it “produces a faulty cost of equity rate with bias toward overstating and inflating the true cost of equity capital.”<sup>1197</sup> In general, he contended that ECAPM is a controversial model that is not widely accepted by other state regulatory commissions and should be disregarded.<sup>1198</sup>

Mr. Walters asserted that the company’s use of an adjusted beta in an ECAPM analysis inflates the result, and he opined that the use of adjusted betas in an ECAPM analysis is not widely accepted in the field of utility regulation.<sup>1199</sup>

Mr. Bandyk declined to use the ECAPM method because the Commission has never recognized it as a valid methodology for estimating ROE.<sup>1200</sup>

In rebuttal, Ms. Bulkley explained that she updated her analysis based on market data used through April 25, 2025. Her nine updated ECAPM analyses had results ranging from 10.49% to 11.42% with an average of 10.84%.<sup>1201</sup>

Ms. Bulkley explained that using adjusted betas and applying the ECAPM were two distinct modifications supported by academic literature and empirical studies. She emphasized that Dr. Morin’s New Regulatory Finance explicitly supported using both adjustments, contradicting Mr. Coppola’s interpretation that they were redundant.<sup>1202</sup> Furthermore, she addressed criticisms of using long-term interest rates in the ECAPM by

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<sup>1197</sup> 4 Tr 1981.

<sup>1198</sup> 4 Tr 1981.

<sup>1199</sup> 4 Tr 2230-2233.

<sup>1200</sup> 4 Tr 2432.

<sup>1201</sup> 4 Tr 971, Table 2; See also Exhibit A-127. Again, while the average is not explicitly listed at 4 Tr 971, the sum of the nine ECAPM results divided by nine is 10.84.

<sup>1202</sup> 4 Tr 1046.

clarifying that Dr. Morin used a conservative alpha precisely to account for long-term rate impacts and did not view it as a substitute for the ECAPM.<sup>1203</sup> Finally, she asserted that several state commissions, including those in New York, Montana, and North Carolina, have accepted ECAPM analyses using adjusted betas when determining authorized ROEs.<sup>1204</sup>

*ii. Briefing*

The company's briefing provides an overview of Ms. Bulkley's rebuttal to Staff's criticisms of its ECAPM analysis.<sup>1205</sup> The company argues that the ECAPM approach is not duplicative of adjusted beta values but instead is intended to account for the fact that the risk-return relationship is flatter than what is estimated by the CAPM even when using adjusted beta values.<sup>1206</sup>

Staff's brief reiterates Staff's disagreement with the ECAPM methodology in general and maintains that the inputs in the traditional CAPM analysis already account for most of the shortcomings that the ECAPM approach purports to remedy.<sup>1207</sup>

The Attorney General states that the Commission should give no weight to the company's ECAPM approach. She asserts that there is academic disagreement about the validity of original studies that led to the use of the ECAPM approach and that other regulatory commissions have not widely embraced the ECAPM approach.<sup>1208</sup>

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<sup>1203</sup> 4 Tr 1050-1051.

<sup>1204</sup> 4 Tr 1052.

<sup>1205</sup> Consumers brief, 213-215.

<sup>1206</sup> Consumers brief, 213.

<sup>1207</sup> Staff brief, 64.

<sup>1208</sup> AG brief, 141.

ABATE argues that the Commission should reject the company's ECAPM analysis because the ECAPM approach was originally designed to use unadjusted regression betas, but the company uses adjusted betas and thereby inflates the results.<sup>1209</sup>

CUB states that while the company defends ECAPM as consistent with some academic literature, the company has not contended with the fact that the Commission has consistently rejected the approach.<sup>1210</sup>

In its reply, the company asserts that Staff's outright rejection of the ECAPM approach is unwarranted for the reasons stated in Ms. Bulkley's rebuttal testimony.<sup>1211</sup> In response to the Attorney General and ABATE, Consumers contends that ECAPM is not duplicative of the CAPM approach and that it does not necessarily have the effect of increasing a CAPM ROE result.<sup>1212</sup> In response to CUB's assertion that the Commission has rejected the ECAPM approach, the company asserts that it is not aware of the Commission ever explicitly rejecting a party's ECAPM analysis or holding that it is an inappropriate model.<sup>1213</sup>

Replies from Staff and the Attorney General both assert that they generally rest on their initial briefs regarding the company's application of the quantitative ROE estimation methods.<sup>1214</sup> Replies from ABATE and CUB did not specifically address the ECAPM methodology.

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<sup>1209</sup> ABATE, 26.

<sup>1210</sup> MSC brief, 92.

<sup>1211</sup> Consumers reply, 70.

<sup>1212</sup> Consumers reply, 70.

<sup>1213</sup> Consumers reply, 41.

<sup>1214</sup> Staff reply, 12; AG reply, 47-48.

*iii. Analysis*

This PFD declines to consider the results of the company's ECAPM approach for the reasons already thoroughly articulated by Staff and the other intervening parties. The company also failed to identify any order in which the Commission has ever explicitly recognized this approach, and for the reasons identified by Staff and the other intervenors, this PFD is concerned that the ECAPM approach can have the effect of simply inflating the company's CAPM estimates (which is what it appears to do in this instance).<sup>1215</sup>

This PFD acknowledges Ms. Bulkley's contention that the use of adjusted betas and the use of the ECAPM approach are distinct and not duplicative, but even if this PFD were to credit that argument, it would still find that that ECAPM approach provides little additional value beyond that already offered by the traditional CAPM approach.

*d. Discounted Cash Flow (DCF)*

*i. Testimony*

Ms. Bulkley explained that the constant growth form of the DCF model that she used is based upon the premise that a stock's current price represents the present value of expected future cash flows.<sup>1216</sup> Such a model requires four assumptions: (1) a constant growth rate for earnings and dividends; (2) a stable dividend payout ratio; (3) a constant price-to-earnings ratio; and (4) a discount rate greater than the expected growth rate.<sup>1217</sup> She testified that the dividend yield in her constant growth model was based upon the proxy companies' current annual dividend and averaged closing stock prices over the 30,

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<sup>1215</sup> See the company's updated CAPM and ECAPM values at 4 Tr 971.

<sup>1216</sup> 4 Tr 911.

<sup>1217</sup> 4 Tr 912.

90, and 180 trading days ending September 30, 2024.<sup>1218</sup> Ms. Bulkley also explained that she made adjustments to the dividend yields to account for periodic dividend growth and incorporated earnings per share (EPS) growth rates into her model because dividend growth can only be sustained by earnings growth.<sup>1219</sup> She derived projected EPS growth rates for proxy companies from three sources (Zacks, Yahoo! Finance, and Value Line), and calculated results using the minimum, average, and maximum growth rate derived from the three sources.<sup>1220</sup> Ms. Bulkley provided 18 DCF results reflecting average and median values using different combinations of growth rates (i.e., minimum, average, and maximum) and stock prices (i.e. 30-, 90-, and 180-day averages). Her 18 DCF results ranged from a low of 8.48% to a high of 11.71%.<sup>1221</sup> The average of her 18 DCF results was 10.09%.<sup>1222</sup>

Mr. Megginson also used a constant DCF model with his proxy group. He used averaged stock closing prices from January 1, 2025, through March 1, 2025, employed a semi-annual compounding method for the dividend yield, and utilized the 3-5 year growth rates derived from Zacks and Value Line.<sup>1223</sup> He testified that his constant DCF model yielded an average estimate of 9.40%.<sup>1224</sup> Mr. Megginson also added that he agreed, “for the most part” with the company’s DCF analysis explaining that the company’s

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<sup>1218</sup> 4 Tr 912.

<sup>1219</sup> 4 Tr 912, 913.

<sup>1220</sup> 4 Tr 914.

<sup>1221</sup> 4 Tr 914, Figure 6; See also Exhibit A-14, Schedule D-5, p. 3-5.

<sup>1222</sup> 4 Tr 914, Figure 6 (while not explicitly stated in that figure, the sum of the 18 results divided by 18 yields 10.0927..., which this PFD truncated to 10.09.).

<sup>1223</sup> 4 Tr 2547, 2548.

<sup>1224</sup> 4 Tr 2548; see also Exhibit S-4, Schedule D-5, p. 5.

approximate 10.0% average ROE estimate was “not out of bounds and the growth rate data appears reasonable.”<sup>1225</sup>

Mr. Coppola used average stock closing prices from February 3, 2025, through March 17, 2025, employed the forecasted dividend levels for 2025 and 2026 as projected in the Value Line Investment Survey, and utilized earnings growth estimates through 2029 from Value Line and Zacks.<sup>1226</sup> He testified that this method, applied to his proxy group, yielded an average ROE of 9.11%.<sup>1227</sup> He opined that the 76 basis-point difference between his 9.11% result and that of the company’s 30-day average stock price DCF result (9.87%) was primarily because of proxy group differences and because the company utilized meaningfully higher dividend and growth rates.<sup>1228</sup>

Mr. Walters testified that his constant growth DCF model utilized stock prices of his proxy group over a 13-week period ending March 21, 2025, and the most recent dividends reported in Value Line (annualized and adjusted).<sup>1229</sup> For growth rates, he utilized an average of analyst estimates from three sources: Zacks, S&P Capital IQ Market Intelligence, and Institutional Brokers’ Estimate System.<sup>1230</sup> Mr. Walters testified that the average and median results for his constant growth DCF model were 13.54% and 10.74%.<sup>1231</sup>

Mr. Walters explained that his sustainable growth DCF model is determined by the proportion of the utility’s earnings that are retained and reinvested in its plant and

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<sup>1225</sup> 4 Tr 2549.

<sup>1226</sup> 4 Tr 1970-1971; see also Exhibit AG-43.

<sup>1227</sup> 4 Tr 1971.

<sup>1228</sup> 4 Tr 1972.

<sup>1229</sup> 4 Tr 2194.

<sup>1230</sup> 4 Tr 2195; see also Exhibit AB-8.

<sup>1231</sup> 4 Tr 2196.



equipment to drive internal growth. Using Value Line data, he calculated such internal growth rates for the proxy group and arrived at sustainable growth DCF results of 8.70% (average) and 8.38% (median).<sup>1232</sup>

Mr. Walters explained that his multi-stage DCF model reflected the possibility of different stages of growth over a short initial period, a transition period, and a long-term period extending into perpetuity. Mr. Walters developed short, intermediate, and long-term growth rates using U.S. GDP nominal growth (4.14%) as a proxy for the highest sustainable long-term growth rate of a utility.<sup>1233</sup> This multi-stage approach yielded average and median ROEs of 9.26% and 8.47% respectively.<sup>1234</sup> Mr. Walters opined that more weight should be given to his sustainable growth and multi-stage growth DCF models because they do not assume perpetual, non-sustainable growth like the constant growth model.<sup>1235</sup>

Mr. Walters opined that Ms. Bulkley's constant growth model produced overstated results because the growth rates used (4.80%, 6.05%, and 7.46%) exceeded the long-term expected growth of the U.S. economy (4.14%) and were therefore unsustainable.<sup>1236</sup>

For his DCF calculations, Mr. Bandyk explained that his average ROE for the proxy group, 9.22%, was lower than the company's because he used a lower estimate for the growth rate.<sup>1237</sup> He criticized Ms. Bulkley for using only a short-term growth rate to inflate

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<sup>1232</sup> 4 Tr 2198.

<sup>1233</sup> 4 Tr 2199-2200.

<sup>1234</sup> 4 Tr 2204.

<sup>1235</sup> 4 Tr 2204.

<sup>1236</sup> 4 Tr 2227-2228.

<sup>1237</sup> 4 Tr 2432.

the result; Mr. Bandyk explained that he instead used a FERC-endorsed two-stage DCF model with both short and long-term growth projections.<sup>1238</sup>

In rebuttal, Ms. Bulkley explained that she updated her analysis based on market data through April 25, 2025, to rebut the “outdated” analyses of the intervening parties. Her analytical methodology was the same with one exception: she now used three-to-five-year EPS growth estimates from S&P Capital IQ Pro instead of Yahoo! Finance for the constant growth DCF model because the latter no longer provided that data.<sup>1239</sup> Her 18 updated mean and median DCF analyses had results ranging from 9.78% to 12.47% with an average of 11.02%.<sup>1240</sup>

Ms. Bulkley disagreed with Mr. Megginson’s constant growth DCF analysis primarily because he included DTE and NJR in his proxy group and because his reported projected EPS growth rates did not align with those published by Zacks, raising questions as to the source of his data.<sup>1241</sup> She adjusted his analysis by removing DTE and NJR and using Zacks data as of March 31, 2025, which raised the DCF result from 9.40% to 10.34%; she further updated the model with market data through April 30, 2025, yielding a mean result of 10.58%.<sup>1242</sup>

Ms. Bulkley disagreed with Mr. Coppola’s constant growth DCF analysis because he relied on outdated Zacks projected EPS growth rates from September 30, 2024, despite using share prices as of March 17, 2025.<sup>1243</sup> She adjusted his analysis by

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<sup>1238</sup> 4 Tr 2434.

<sup>1239</sup> 4 Tr 970.

<sup>1240</sup> 4 Tr 971, Table 2; See also Ex A-127. Again, while not explicitly listed, the sum of the 18 DCF values divided by 18 is 11.0194, which this PFD rounded up to 11.02.

<sup>1241</sup> 4 Tr 1001-1003.

<sup>1242</sup> 4 Tr 1003.

<sup>1243</sup> 4 Tr 1003-1004.

removing Chesapeake and Black Hills from the proxy group and updating market data through April 30, 2025, which increased the mean ROE result from 9.11% to 9.79%.<sup>1244</sup>

Ms. Bulkley noted that Mr. Walters shifted over time from primarily weighing a constant growth DCF using projected EPS growth to emphasizing sustainable growth rates and a multi-stage DCF model.<sup>1245</sup> Ms. Bulkley rejected Mr. Walters's rationale for de-emphasizing EPS-based DCF results—namely that projected EPS growth exceeded GDP growth—by pointing out he had used similar assumptions in prior cases without concern.<sup>1246</sup> She found the results of Mr. Walters's constant growth DCF model using sustainable growth (8.38%–8.70%) unreasonably low and opined that they were inconsistent with regulatory standards under *Hope* and *Bluefield*.<sup>1247</sup> She contended that sustainable growth rates are unreliable due to their dependence on managerial discretion and cited academic research showing a negative relationship between retention ratios and future earnings growth.<sup>1248</sup> Ms. Bulkley also highlighted internal inconsistency between Mr. Walters' assumed long-term growth rates in his constant growth (5.32%) and multi-stage (4.14%) models.<sup>1249</sup> Finally, Bulkley opposed Walters's and Mr. Bandyk's use of multi-stage DCF models stating that the stable nature of the utility industry favors the simpler and more objective constant growth DCF model. She warned that multi-stage models introduce more subjective inputs and thus more potential bias.<sup>1250</sup>

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<sup>1244</sup> 4 Tr 1004.

<sup>1245</sup> 4 Tr 1004.

<sup>1246</sup> 4 Tr 1005.

<sup>1247</sup> 4 Tr 1005.

<sup>1248</sup> 4 Tr 1006-1007.

<sup>1249</sup> 4 Tr 1008.

<sup>1250</sup> 4 Tr 1009.

Ms. Bulkley rejected the claim that using projected EPS growth rates in a DCF model is inconsistent with its time horizon. She asserted the comparison of EPS to GDP growth depended entirely on their subjective GDP growth estimates and cited an empirical study showing utility total factor productivity growth exceeded that of the U.S. economy from 1972–2009 demonstrating utility growth can outpace GDP over time.<sup>1251</sup> Ms. Bulkley criticized the GDP growth rates used by Mr. Bandyk (3.80% from the CBO) and Mr. Walters (4.14% from Blue Chip), asserting they were based on short-term projections and thus not appropriate for models assuming growth into perpetuity.<sup>1252</sup> She also contended that Mr. Walters misapplied the Ibbotson methodology by omitting key context that supports a higher long-term nominal GDP growth rate of 5.45% based on combining historical real GDP and inflation.<sup>1253</sup>

Ms. Bulkley recalculated Mr. Walters's constant growth DCF model using updated data and including NiSource in the proxy group, resulting in a median cost of equity of 11.05%.<sup>1254</sup> She also revised Mr. Bandyk's DCF by using a constant growth model and current market data, increasing his mean ROE result from 9.22% to 10.99%.<sup>1255</sup>

*ii. Briefing*

The company questioned Staff's DCF model asserting that, contrary to Mr. Megginson's representations, he apparently did not actually use EPS growth rates reported by Zacks, which would have resulted in a higher estimate when paired with using

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<sup>1251</sup> 4 Tr 1011.

<sup>1252</sup> 4 Tr 1013.

<sup>1253</sup> 4 Tr 1014-1015.

<sup>1254</sup> 4 Tr 1016.

<sup>1255</sup> 4 Tr 1017.

the company's proxy group (i.e. excluding DTE and NJR as proxies).<sup>1256</sup> The company similarly contends that if the Attorney General utilized the company's proxy group (i.e. removed Chesapeake and Black Hills) and used updated market data through April 30, 2025, then the AG's model would have resulted in a DCF estimate of 9.79% instead of 9.11%.<sup>1257</sup> The company's brief acknowledges that ABATE and CUB argue that using projected EPS growth rates in the DCF model is inconsistent with its infinite time horizon, but the company contends that their claims are undermined by their reliance on short-term GDP growth estimates that are not representative of the true long-term outlook.<sup>1258</sup> The company repeats Ms. Bulkley's assertion that studies and academic literature support the idea that utility earnings growth can exceed GDP growth in the long term and that earnings growth forecasts are the proper input for DCF models.<sup>1259</sup> The company's briefing extensively addresses the reasons that it believes that ABATE's constant growth and multi-stage DCF models are unreasonable; the arguments in this vein closely track the rebuttal testimony of Ms. Bulkley.<sup>1260</sup> Consumers also harshly critiques ABATE witness Walters for changing the weightings he gives to the various DCF models.<sup>1261</sup> Consumers contends that CUB's two-stage DCF analysis does not reflect the long-term stability typical of mature utility companies and relies on subjective assumptions that introduce bias. Specifically, the company asserts that using a seven-year CBO projection

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<sup>1256</sup> Consumers brief, 233.

<sup>1257</sup> Consumers brief, 238.

<sup>1258</sup> Consumers brief, 208.

<sup>1259</sup> Consumers brief, 209.

<sup>1260</sup> See Consumers brief, 240-243.

<sup>1261</sup> Consumers brief 242.

to model perpetual growth is unreliable and makes CUB's analysis prone to the same shortcomings as those of ABATE.<sup>1262</sup>

For its part, Staff's brief simply reiterates the results of Staff's DCF model i.e., 9.40%.<sup>1263</sup>

The Attorney General addresses the DCF results stating that the company's dividend yield and earnings growth rates were compiled in the fourth quarter of 2024 and are stale compared to the more up-to-date information used in the Attorney General's DCF model.<sup>1264</sup>

ABATE's briefing criticizes the company's DCF model for using growth rates that exceed projected GDP growth of the U.S. economy arguing that such growth for a utility is not sustainable.<sup>1265</sup> ABATE argues that using a multi-stage DCF model allows for a more realistic growth rate, which would yield an ROE estimate close to 9.0% and would align with ABATE's multi-stage DCF result.<sup>1266</sup>

CUB rejects the company's argument that a multi-stage DCF model is more prone to an analyst's subjective bias than a single-stage model. CUB asserts that selecting a constant growth model is itself a subjective choice and is more sensitive to bias from any single assumption whereas a multi-stage model dilutes such bias through multiple inputs and stages. CUB also rejects Ms. Bulkley's claim that total factor productivity (TFP) growth for U.S. utilities exceeded that of the U.S. economy for 37 years from 1972-2009 because the cited source for that proposition, an Alberta Utilities Commission report, did

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<sup>1262</sup> Consumers brief, 250.

<sup>1263</sup> Staff brief, 55.

<sup>1264</sup> AG brief, 133.

<sup>1265</sup> ABATE brief, 24.

<sup>1266</sup> ABATE brief, 25.

not actually contain data to support that claim.<sup>1267</sup> CUB asserts that even if the company had cited real data to support that claim, a 37-year period is not the perpetuity assumed in a constant growth model and that survivorship bias can skew results as less productive utilities are acquired or replaced by more productive ones.<sup>1268</sup> CUB agrees with the company that earnings growth rates are appropriate DCF inputs, but just not as the sole input for long-term projections. CUB also refutes Ms. Bulkley's reliance on Dr. Morin by citing NYU professor Dr. Damodaran, who supports the view that a domestic company's long-term growth is ultimately constrained by the growth of the domestic economy.<sup>1269</sup>

In its reply, Consumers asserts that it rebutted ABATE and CUB's claims that a utility's growth rate cannot exceed the growth rate of the economy. The company cited Dr. Roger Morin's assertion that he was not aware of financial literature supporting the notion that utility earnings per share are expected to grow at the average growth of the U.S. economy.<sup>1270</sup> Consumers also dismisses CUB's concerns about the effect of potential bias in DCF models with fewer inputs and notes that CUB did not quantify the effect of this supposed bias.<sup>1271</sup>

Replies from Staff and the Attorney General both assert that they generally rest on their initial briefs regarding the company's application of the quantitative ROE estimation methods.<sup>1272</sup> CUB's reply does not provide further briefing on this specific issue.

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<sup>1267</sup> MSC brief, 89; see also Exhibit CUB 29.

<sup>1268</sup> MSC brief, 89.

<sup>1269</sup> MSC brief, 89-90.

<sup>1270</sup> Consumers reply, 75.

<sup>1271</sup> Consumers reply, 75.

<sup>1272</sup> Staff reply, 12; AG reply, 47-48.

ABATE's reply repeats its assertions from testimony and initial briefing, including the argument that the company's long-term growth rate is inappropriately untethered from the projected growth of the overall economy.<sup>1273</sup>

*iii. Analysis*

The parties raise several disputes about which type of DCF model (i.e. constant growth or multi-stage) to utilize as well as the proper growth rates to input into the models. However, this PFD finds that all parties provided adequate justification or reasoning for their model choices and inputs such that all DCF calculations will be considered. Again, this PFD values a diversity of models and inputs so that each can be evaluated and considered according to their own individual strengths and weaknesses.

As discussed *infra* in the subsection addressing other authorized rates of return for utilities nationwide, this PFD adopts the adjusted range of the dataset in Exhibit AG-48 as a representative (albeit not complete) sample of reported ROEs recently approved by regulatory bodies nationwide. That adjusted range is 9.15%-10.25%, and this PFD will adjust the parties' datasets (if applicable) to give full weight to all values that fall within that range, and will still consider, but give reduced weight, to values falling outside that range.

After making these adjustments, the following DCF values calculated by the parties are given full weight:

Company: 10.08%<sup>1274</sup>

Staff: 9.40%<sup>1275</sup>

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<sup>1273</sup> ABATE reply, 7.

<sup>1274</sup> Average of minimum growth rate results; see Figure 2 at 4 Tr 971; Ex A-127.

<sup>1275</sup> 4 Tr 2548; see also Exhibit S-4, Schedule D-5, p. 5.



CUB: 9.22%<sup>1276</sup>

This PFD will consider but will accord reduced weight to the following results: The mean of the company's average growth rate DCF results (10.96%),<sup>1277</sup> the Attorney General's 9.11% result,<sup>1278</sup> ABATE's constant growth result of 10.59%,<sup>1279</sup> ABATE's sustainable growth result of 8.81%,<sup>1280</sup> and ABATE's multi-stage result of 8.68%<sup>1281</sup> all of which have been adjusted to excluded water utilities from ABATE's proxy group.<sup>1282</sup>

This PFD declines to give any weight to the company's maximum growth rate DCF results because the average value of those results (11.77%)<sup>1283</sup> is so large that it approaches the company's own estimate of a market-based return (11.92%) such that it simply cannot be considered reasonable under any circumstances.<sup>1284</sup>

Finally, while it is not determinative to the outcome above, this PFD is troubled by CUB's assertion that Ms. Bulkley provided an inaccurate citation to support her claim that a research study proved that TFP growth for utilities exceeded TFP growth of the U.S. economy for nearly 40 years.<sup>1285</sup> CUB appears to be correct that while the study reports TFP growth for U.S. utilities (0.96%), the page of the study Ms. Bulkley cited as the source of the comparatively smaller TFP growth rate for the U.S. economy (0.91%) does not

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<sup>1276</sup> See Exhibit CUB-18.

<sup>1277</sup> See Figure 2 at 4 Tr 971.

<sup>1278</sup> 4 Tr 1971; Ex AG-43.

<sup>1279</sup> This is arithmetic average of ABATE's constant growth DCF results based upon analysts' growth estimates with water utilities excluded from the calculations. See Exhibit AB-9.

<sup>1280</sup> This is the arithmetic average of ABATE's sustainable growth results with water utilities excluded from the calculations. See Exhibit AB-12.

<sup>1281</sup> This is the arithmetic average of ABATE's multi-stage growth DCF results with water utilities excluded. See Exhibit AB-13.

<sup>1282</sup> See the proxy group section of this PFD, *supra*, for further reasoning regarding the exclusion of water utilities from ABATE's proxy group.

<sup>1283</sup> 4 Tr 971.

<sup>1284</sup> See Exhibit A-127, p. 5 (listing an estimated market return of 11.92% for the purposes of the company's CAPM model).

<sup>1285</sup> 4 Tr 1011.

appear to contain that figure.<sup>1286</sup> Further, CUB appears to be correct that, upon an admittedly cursory search, the 0.91% figure cited by Ms. Bulkley does not seem to exist in the searchable body of the report.<sup>1287</sup> The company oddly neglected to provide any explanation for this discrepancy in its reply briefing. This PFD is inclined to give parties the benefit of the doubt; however, it is troubling that this aspect of the company's argument is seemingly without evidentiary support, and it raises concerns about the accuracy of the company's evidentiary presentation.

e. Bond Yield Risk Premium (BYRP)

i. *Testimony*

Ms. Bulkley explained that equity investors bear additional risk, and therefore demand an additional premium, compared to the return they would have earned as bondholders.<sup>1288</sup> She stated that the BYRP model estimates the required ROE by adding the estimated risk premium to the yield on a particular class of bonds.<sup>1289</sup> She also testified that the risk premium is inversely related to interest rates, and that any BYRP analysis should recognize that inverse relationship and rely upon recent and expected market conditions.<sup>1290</sup> Ms. Bulkley asserted that her analysis used 30-year Treasury Bond yields as the relevant measure of interest rates and authorized ROEs as reported by

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<sup>1286</sup> Compare 4 Tr 1011 n 89 (Wherein Ms. Bulkley cites page 19 of an Alberta Utilities Commission study for TFP growth data to show the 0.91% TFP growth of the U.S. economy) with Exhibit CUB-29, p. 20 (which is page 19 of the Alberta report according to its original pagination and which does not provide any figure related to TFP growth of the U.S. economy).

<sup>1287</sup> The exhibit is a searchable PDF, and a search query for the "0.91" figure cited by Ms. Bulkley as the TFP growth rate of the U.S. economy does not return any results. By contrast, a search query for the "0.96" figure Ms. Bulkley cited as the TFP growth of U.S. utilities does return results, which confirms that the search function works properly. This PFD acknowledges that the 0.91 figure could potentially exist somewhere in the report and may not have been discovered by the search function.

<sup>1288</sup> 4 Tr 921.

<sup>1289</sup> 4 Tr 921.

<sup>1290</sup> 4 Tr 922.

Regulatory Research Associates (RRA) as the measure of required equity return with the risk premium being the difference between those two points.<sup>1291</sup> She performed three BYRP analyses based upon treasury bond yield projections, with results of 10.22% for the current 30-day average, 10.19% for near-term projected rates, and 10.35% for longer-term projected rates.<sup>1292</sup>

Mr. Megginson used a historical spread between utility bond yields and utility market returns of 3.80% and the projected 2025-2026 average of A-rated utility bonds of 5.76% to calculate a BYRP of 9.56%.<sup>1293</sup> He also provided a historical treasury bond analysis using a historical spread of 5.21% and projected 30-year T-bond yield of 4.25% to produce a BYRP ROE estimate of 9.46%.<sup>1294</sup> Mr. Megginson disagreed in part with the company's analysis. He explained that the company used average authorized natural gas ROEs as the overall market return, but he asserted that "using historical authorized ROEs as a market return source in a cost of equity model is somewhat circular as ROEs consider numerous factors when rendered by that state's commission, not just interest rates prevalent at the time."<sup>1295</sup> He contended that using authorized ROEs as an input into the BYRP model is "somewhat circular and the Commission should give limited weight to the Company's bond yield + risk premium analysis."<sup>1296</sup>

Mr. Coppola used projected average rates for "A" and "BBB" rated utility bonds of 5.40% and a spread of 3.80% between 30-year utility bonds and 30-year treasury bonds

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<sup>1291</sup> 4 Tr 922, 923.

<sup>1292</sup> 4 Tr 924, Figure 10; See also Exhibit A-14, Schedule D-5, p. 22.

<sup>1293</sup> 4 Tr 2558. See also Exhibit S-4, Schedule D-5, p. 12.

<sup>1294</sup> 4 Tr 2558.

<sup>1295</sup> 4 Tr 2559.

<sup>1296</sup> 4 Tr 2559.

to arrive at a BYRP result of 9.20%.<sup>1297</sup> Mr. Coppola criticized Mr. Bulkley's approach as unorthodox and asserted that it had three major flaws. First, it lacked any comparison of actual utility returns to bond yields because it used authorized ROEs as a substitute. Second, it was biased in that it covered a period when interest rates were declining from 1980-2024. Third, it improperly assumed a direct relationship between declining interest rates and ROE decisions when regulators consider a multitude of factors.<sup>1298</sup> Mr. Coppola opined that Ms. Bulkley's "analysis has no validity as a tool to determine an appropriate ROE rate in rate case proceedings."<sup>1299</sup>

Mr. Walters calculated an average risk premium over treasury yields of 5.63%, which he added to a projected treasury yield of 4.60% to produce a ROE of 10.23%.<sup>1300</sup> He also calculated the equity risk premiums for utility bonds with A or Baa ratings over periods of 3 and 6 months, and he arrived at ROE estimates that ranged from a low of 9.73% to a high of 9.94%.<sup>1301</sup> Mr. Walters asserted that Ms. Bulkley's BYRP results exceeded any authorized ROE actually awarded in the current year, and he also opined that the risk premiums she utilized were 54-87 basis points higher than 2023 and 2024 equity risk premiums.<sup>1302</sup>

Mr. Bandyk declined to use the BYRP method and opined that it should be disregarded because it directly relies upon ROEs authorized by other commissions rather than empirical or objective financial data.<sup>1303</sup> He explained that the company's risk

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<sup>1297</sup> 4 Tr 1975; see also AG-45.

<sup>1298</sup> 4 Tr 1976.

<sup>1299</sup> 4 Tr 1976.

<sup>1300</sup> 4 Tr 2208.

<sup>1301</sup> 4 Tr 2208-2209.

<sup>1302</sup> 4 Tr 2234, 2235.

<sup>1303</sup> 4 Tr 2435.

premium using this methodology “is as large as it is only in relation to the degree that regulatory commissions set ROEs at a premium to what the ROEs would be using only objective financial methods.”<sup>1304</sup> He also asserted that FERC has rejected the risk premium model because it relies on past commission ROE decisions and is largely redundant with the CAPM methodology.<sup>1305</sup>

In rebuttal, Ms. Bulkley updated her analysis based on market data used through April 25, 2025, to rebut the “outdated” analyses of the intervening parties.<sup>1306</sup> Her three updated BYRP results based upon current, near-term projections, and long-term projections were 10.55%, 10.41%, and 10.33% respectively.<sup>1307</sup> The average of these values is 10.43%.

Ms. Bulkley disagreed with the analyses of the intervenors explaining that their use of historical risk premiums combined with projected interest rates created a mismatch that ignored the inverse relationship between interest rates and risk premiums, which resulted in understated ROE estimates.<sup>1308</sup> For example, she highlighted that Mr. Megginson’s use of a 4.25% projected Treasury yield with a historical risk premium of 5.21% led to a 9.46% ROE, whereas using the historical Treasury yield of 5.73% would yield a higher ROE of 10.94%.<sup>1309</sup> Ms. Bulkley’s Figure 14 showed that adjusting this mismatch increased the intervenor’s ROE estimates by an average of 115 basis points.<sup>1310</sup>

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<sup>1304</sup> 4 Tr 2436.

<sup>1305</sup> 4 Tr 2436.

<sup>1306</sup> 4 Tr 970.

<sup>1307</sup> 4 Tr 971, Table 2; See also Ex A-127.

<sup>1308</sup> 4 Tr 1054-1055.

<sup>1309</sup> 4 Tr 1056.

<sup>1310</sup> 4 Tr 1055.

Ms. Bulkley testified that intervenors criticized her BYRP analysis for allegedly oversimplifying the inverse relationship between interest rates and equity risk premiums, relying on regulatory rather than market behavior, and using outdated or excessive inputs. But she rejected these claims contending that authorized ROEs are relevant to investors and supported by recent market reactions and commentary from analysts and rating agencies.<sup>1311</sup> Ms. Bulkley defended her methodology by emphasizing that her regression-based approach properly captured the inverse relationship between interest rates and risk premiums, unlike the historical averages used by Mr. Megginson and Mr. Coppola.<sup>1312</sup> She also cited a range of academic authorities, including Berry (1998), and Morin (2006, 2021), that ostensibly supported her position and demonstrated that equity risk premiums have varied inversely with interest rates since the 1980s.<sup>1313</sup>

Ms. Bulkley rejected claims that authorized ROEs only reflect regulatory behavior; she asserted that both investors and credit rating agencies respond to authorized ROEs, and she pointed out that both Mr. Megginson and Mr. Coppola used the same data in their own ROE recommendations.<sup>1314</sup> In response to Mr. Walters, she defended her use of current market data and natural gas authorized ROEs by asserting that her higher equity risk premium was appropriate given the lower current interest rates and the inverse relationship between rates and the equity risk premium.<sup>1315</sup> Ms. Bulkley testified that Mr. Bandyk claimed her BYRP analyses should be disregarded because they rely on authorized ROEs, which he contended reflect historically excessive regulatory

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<sup>1311</sup> 4 Tr 1058.

<sup>1312</sup> 4 Tr 1059.

<sup>1313</sup> 4 Tr 1059, 1060.

<sup>1314</sup> 4 Tr 1062.

<sup>1315</sup> 4 Tr 1063.

commission decisions; however, she rejected this claim because there was no evidence that regulators consistently authorized excessive ROEs.<sup>1316</sup>

*ii. Briefing*

The company's briefing repeated Ms. Bulkley's direct testimony relating to the rationale for her BYRP approach.<sup>1317</sup> The company rejects arguments that authorized ROEs are not market data and are inappropriate inputs; instead, the company contends that market data and commentary from equities analysts confirm that analysts evaluated authorized ROEs.<sup>1318</sup> The company repeats Ms. Bulkley's contention that none of the intervenors appropriately accounted for the inverse relationship between the equity risk premium and interest rates.<sup>1319</sup> Consumers also cites work from Dr. Roger Morin to support the contention regarding the inverse relationship between the risk premium and interest rates.<sup>1320</sup> The company faults Staff and the Attorney General for inconsistency using authorized ROE data to support their recommended ROEs while criticizing the company for using the same data in the company's BYRP approach.<sup>1321</sup> The company also rejects CUB's argument that regulatory commissions have historically authorized excessive ROEs by asserting that the claim is unsupported and that CUB's concerns largely mirror the refuted concerns of Staff and the Attorney General.<sup>1322</sup>

Staff's briefing closely tracks Mr. Megginson's testimony and argues that authorized ROEs are reasonable to use in a comparative fashion but are inappropriate to

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<sup>1316</sup> 4 Tr 1064.

<sup>1317</sup> Consumers brief, 204, 205.

<sup>1318</sup> Consumers brief, 216, 219.

<sup>1319</sup> Consumers brief, 217.

<sup>1320</sup> Consumers brief, 217-218.

<sup>1321</sup> Consumers brief, 219.

<sup>1322</sup> Consumers brief, 220-221.

use as a direct input into a cost of equity model because of circularity issues.<sup>1323</sup> Staff recommends giving limited weight to the company's BYRP approach.<sup>1324</sup>

The Attorney General's briefing tracks Mr. Coppola's testimony and contends that the company's BYRP approach: (1) lacks any comparison to actual utility returns because it uses authorized ROEs as a substitute; (2) is biased because it covers a period of declining interest rates; and (3) assumes a direct relationship between interest rates and ROE decisions when such decisions are made based upon a myriad of factors.<sup>1325</sup>

ABATE's brief tracks Mr. Walter's testimony and contends that the company bases its BYRP analysis on authorized ROEs of electric utilities, and that these results exceed the highest ROE awarded to any electric utility this year.<sup>1326</sup> ABATE also contends that the company overstates the average equity risk premium by using a range of 6.05% to 6.17%, which is a 54 to 87 basis point increase relative to 2023 and 2024 average treasury yields of 4.09% and 4.41%.<sup>1327</sup>

CUB reiterates points from the testimony of Mr. Bandyk and contends that the Commission should reject the company's BYRP approach because it is circular and heavily influenced by ROEs set by other regulators, and FERC has questioned the approach and found it redundant with the CAPM approach.<sup>1328</sup>

In its reply, Consumers contends that it addressed concerns raised by Staff and the Attorney General in its initial brief and rebuttal testimony.<sup>1329</sup> The company asserts

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<sup>1323</sup> Staff brief, 64.

<sup>1324</sup> Staff brief, 64.

<sup>1325</sup> AG brief, 136-137.

<sup>1326</sup> ABATE brief, 27.

<sup>1327</sup> ABATE brief, 27.

<sup>1328</sup> MSC brief, 78-79.

<sup>1329</sup> Consumers reply, 76.



that ABATE incorrectly argues that the company's BYRP analysis utilized ROEs for electric utilities when it actually relied on ROEs for gas utilities.<sup>1330</sup> The company also asserts that ABATE's concerns about the risk premium were invalid because the long-term risk premium should reflect current market conditions and bond yields as proven by Ms. Bulkley's regression analysis.<sup>1331</sup> Consumers acknowledges CUB's assertion that FERC previously found the BYRP approach redundant to the CAPM approach and also found it problematic because of its reliance on historical ROEs, but the company dismisses that argument stating, "[t]hat is hardly a solid rebuke."<sup>1332</sup> The company declined to "relitigate that particular FERC case" and asserted that there is no way of directly comparing the models presented to FERC with those presented by the company.<sup>1333</sup>

Replies from Staff and the Attorney General both assert that they generally rest on their initial briefs regarding the company's application of the quantitative ROE estimation methods.<sup>1334</sup> Replies from ABATE and CUB provide no further argument on this issue.

### *iii. Analysis*

This PFD shares the concerns expressed by Staff and the intervenors about the company's use of the BYRP methodology particularly when authorized ROEs are used as part of the input data. This PFD agrees with Staff that it is appropriate to use other authorized ROEs as a basis for comparison, but it is problematic to use them as a direct input into a financial model. Further, unlike the CAPM and DCF methodologies, which are

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<sup>1330</sup> Consumers reply, 76.

<sup>1331</sup> Consumers reply, 76-77.

<sup>1332</sup> Consumers reply, 77.

<sup>1333</sup> Consumers reply, 77.

<sup>1334</sup> Staff reply, 12; AG reply, 47-48.

widely known and accepted in the field of finance, it is not clear if the particular BYRP methodology utilizing authorized ROEs can be used anywhere other than in utility regulatory proceedings because most other businesses do not have regulatory-awarded ROEs. Accordingly, this particular BYRP approach using authorized ROEs as an input is likely a peculiar island unto itself.

Further, CUB is correct that FERC previously rejected this type of risk premium model listing a myriad of defects with it, including, among others, its potential redundancy with the CAPM model, its lack of a market-based approach, its direct and acute circularity because of reliance on past regulatory ROE decisions, and a lack of evidence that investors rely on historical ROEs when making investment decisions.<sup>1335</sup> FERC subsequently backtracked and reinstated the risk premium approach upon a rehearing,<sup>1336</sup> but on appeal the U.S. Court of Appeals for the District of Columbia Circuit vacated the order holding that FERC acted arbitrarily and capriciously by reinstating the risk premium approach without refuting its own withering criticisms of the model's deficiencies.<sup>1337</sup>

After being made aware of FERC's previous stance on the risk premium approach, the Commission recently suggested that it would generally not endorse or discourage any model to maximize flexibility and to review models and data on a case-by-case basis.<sup>1338</sup> Further, while FERC's approval or disapproval may be persuasive, the Commission is not limited to considering only methodologies approved by FERC. However, given the

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<sup>1335</sup> FERC Opinion 569, 169 FERC 61129 (2019) ¶¶ 340, 341, 343, 345.

<sup>1336</sup> FERC Opinion 569-A, 171 FERC 61154 (2020) ¶ 104.

<sup>1337</sup> *MISO Transmission Owners v FERC*, 458 US App DC 489, 505; 45 F2d 248, 263-264 (2022).

<sup>1338</sup> November 7, 2024, Order in Case No. U-21291, p. 106.

deficiencies identified by the intervening parties and by FERC, this PFD will view with great caution the company's BYRP results that utilized authorized ROEs as an input.

As discussed *infra* in the subsection addressing other authorized rates of return for utilities nationwide, this PFD adopted the adjusted range of the dataset in Exhibit AG-48 as a representative (but not necessarily complete) sample of reported ROEs recently approved by regulatory bodies nationwide. That adjusted range is 9.15%-10.25%, and this PFD will adjust the parties' datasets (if applicable) to give full weight to values that fall within that range, and will still consider but give reduced weight to values falling outside that range.

After making these adjustments, the following BYRP values calculated by the parties are given full weight:

Staff: 9.56%<sup>1339</sup> and 9.46%<sup>1340</sup>

AG: 9.20%<sup>1341</sup>

ABATE: 9.75%,<sup>1342</sup> 9.96%,<sup>1343</sup> and 10.23%<sup>1344</sup>

This PFD will grant reduced weight to the company's results (10.55%, 10.41%, and 10.33%)<sup>1345</sup> both for the reasons described above relating to the questionable methodology used, and because the values exceed the upper bound of the adjusted range of ROEs recently awarded nationwide.

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<sup>1339</sup> Exhibit S-4, Schedule D-5, p. 12 (utility bond approach).

<sup>1340</sup> Exhibit S-4, Schedule D-5, p. 12 (treasury bond approach).

<sup>1341</sup> Exhibit AG-45.

<sup>1342</sup> Table CCW-9 at 4 Tr 2209 (average of 3-month and 6-month A-Rated utility bonds).

<sup>1343</sup> Table CCW-9 at 4 Tr 2209 (average of 3-month and 6-month Baa-rated utility bonds).

<sup>1344</sup> Table CCW-9 at 4 Tr 2209 (treasury bond approach).

<sup>1345</sup> Figure 2 at 4 Tr 971.

f. Other Factors and Concerns

Ms. Bulkley stated that there are other considerations that affect her recommended 10.25% ROE, even though these factors may not be reflected in quantitative modeling. These considerations include but are not limited to floatation costs of common stock, the company's proposed capital expenditures, and regulatory environment and risk factors.

i. *Floatation Costs*

Ms. Bulkley explained that floatation costs are the costs associated with the issuance of common stock, including filing and underwriting costs; she asserted that actual returns fall short of expected returns if a company is not able to recover floatation costs.<sup>1346</sup> She asserted that the date of the last issuance of common stock (March of 2005 for Consumers Energy's parent company, CMS Energy Corporation) is "not particularly important because the investor suffers a shortfall in every year that she should have a reasonable opportunity to earn a return on the full amount of capital that she has contributed."<sup>1347</sup> Ms. Bulkley opined that it was proper to consider floatation costs notwithstanding the fact that Consumers Energy is a subsidiary of its publicly-traded parent company, CMS Energy. She stated that wholly owned subsidiaries receive equity capital from their parent company and provide returns on capital to the parent, which is designed to raise capital based upon the return of the subsidiary such that denying floatation costs ultimately penalizes investors.<sup>1348</sup>

Ms. Bulkley used the costs of issuing equity incurred by CMS in its two most recent common equity issuances and applied that to the proxy group to estimate the effect of

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<sup>1346</sup> 4 Tr 925.

<sup>1347</sup> 4 Tr 926.

<sup>1348</sup> 4 Tr 927.

floatation costs. She asserted that the average impact of floatation costs on the proxy group was 0.14%,<sup>1349</sup> but she did not incorporate an explicit adjustment for floatation costs into her recommendation and merely considered the effect of floatation costs when making a recommendation.<sup>1350</sup>

Mr. Megginson testified that floatation costs should not be considered in the ROE estimates and should be rejected. He asserted that it would be improper to include floatation costs in the cost of equity because Consumers Energy, as a subsidiary of its parent CMS Energy, does not issue its own stock and therefore does not incur floatation costs.<sup>1351</sup>

In rebuttal, Ms. Bulkley disagreed with Mr. Megginson's position that floatation costs for equity issued at the parent level should not be recovered by the utility. She stated that "The cost of equity capital that is raised on behalf of the operating company results in a permanent reduction in the overall capital that is received through an issuance and is properly reflected in the cost of equity for the operating company that is in receipt of the equity capital."<sup>1352</sup>

This PFD agrees with Staff that floatation costs should not be included or considered when setting the ROE because CMS Energy, not the company, incurred floatation costs; further, per Ms. Bulkley it has been approximately two decades since CMS Energy last issued stock and it would be unfitting to attempt to recover floatation costs decades later. Further, Ms. Bulkley did not make a specific adjustment for floatation

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<sup>1349</sup> See Exhibit A-14, Schedule D-5, p 26.

<sup>1350</sup> 4 Tr 928.

<sup>1351</sup> 4 Tr 2549.

<sup>1352</sup> 4 Tr 1075.

costs and merely stated that she considered it when making a recommendation; such a vague stance makes the dispute one of limited significance. Indeed, it is not even clear how Ms. Bulkley “considered the effect of flotation costs . . . within the range of analytical results”<sup>1353</sup> because she asserted that a range of 10.25% to 11.25% was appropriate but recommended a ROE of 10.25%, i.e. the lowest possible value within her range. Under these circumstances it is not clear if her consideration of flotation costs had any measurable effect, or whether her recommended range itself would have been different had flotation costs not been considered.

*ii. Capital Expenditures*

Ms. Bulkley testified that the company’s projected capital expenses through 2029 are approximately \$6.0 billion, which represents 62% of its net utility plant.<sup>1354</sup> She explained that this ratio of capital expenditures to net plant was lower than the median for the proxy group but was nevertheless “an extensive capital project relative to the total net plant utility.”<sup>1355</sup> Given the extent of capital expenditures, she opined that the company’s risk profile was affected by the risk of under-recovery or delayed recovery of invested capital and the risk that inadequate return would put downward pressure on credit metrics.<sup>1356</sup> Ms. Bulkley also asserted that, unlike most of its proxy group peers, the company does not have a capital tracking mechanism to recover costs between rate cases and relies entirely on rate cases for gas capital cost recovery.<sup>1357</sup> Accordingly, she

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<sup>1353</sup> 4 Tr 928.

<sup>1354</sup> 4 Tr 928-929.

<sup>1355</sup> 4 Tr 929.

<sup>1356</sup> 4 Tr 929.

<sup>1357</sup> 4 Tr 931-932; Exhibit A-14, Schedule D-5, p 29.

opined that there was “greater risk for the Company than the proxy group, all else being equal.”<sup>1358</sup>

Mr. Bandyk challenged Ms. Bulkley’s conclusions, and he stated that the company’s level of capital expenditures has “the overall effect of lowering the Company’s risk relative to the proxy group.”<sup>1359</sup> He opined that Ms. Bulkley meaningfully overstated the weight of other proxies that utilize capital tracking mechanisms, and that her conclusion that the company is more risky than its proxy group is not clear and unsupported by the fact that its capital expenditures will actually be lesser compared to proxies.<sup>1360</sup>

In rebuttal, Ms. Bulkley disagreed with Mr. Bandyk’s assessment that Consumers does not face additional risk explaining that her analysis showed the company had slightly higher risk due to a significant capital spending plan without comparable recovery mechanisms, and that even Mr. Bandyk’s alternative weighting confirmed that most proxy group companies have capital investment recovery mechanisms that Consumers Energy does not.<sup>1361</sup>

In briefing, CUB repeats Mr. Bandyk’s criticisms of the company’s arguments concluding that the company falls short of demonstrating that it has greater risk relative to the proxy group.<sup>1362</sup> CUB asserts that the company offers no justification for its assumption that the absence of a capital tracking mechanism increases risk to a larger

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<sup>1358</sup> 4 Tr 932.

<sup>1359</sup> 4 Tr 2438.

<sup>1360</sup> 4 Tr 2440-2441.

<sup>1361</sup> 4 Tr 1074.

<sup>1362</sup> MSC brief, 79-80.

degree than the company's relatively smaller capital expenditure plan (when compared to peers) reduces it.<sup>1363</sup>

The company's reply states that CUB misinterprets Ms. Bulkley's testimony, and that she testified that the company's capital expenditures are "still" high such that the company faces increased risk due to potential under recovery or delayed recovery.<sup>1364</sup> Consumers also contends that CUB's calculation that only 64% of peers have capital recovery mechanisms, instead of Ms. Bulkley's 71%, "is not a meaningful difference."<sup>1365</sup>

This PFD finds that the company's capital expenditure plans (which Ms. Bulkley stated were *lower* than the median for her proxy group), or its lack of certain capital tracking mechanisms relative to some peers, do not justify any adjustment when considering a proper ROE. The company files regular rate cases and can generally recover expenditures within the statutory timeframe for rate cases. In any event, Ms. Bulkley herself stated that she made no specific adjustment to ROE recommendations for these factors and merely considered them in aggregate when determining where her recommended ROE should fall within the range of her results.<sup>1366</sup> Accordingly, this PFD views this dispute as being one of limited significance.

### *iii. Regulatory Environment and Macroeconomic Considerations*

Ms. Bulkley testified that a utility's regulatory environment is an important factor in considering investment risk and that ratings agencies S&P and Moody's consider a state's regulatory framework when assessing the creditworthiness of utilities.<sup>1367</sup> Ms. Bulkley

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<sup>1363</sup> MSC brief, 92-93.

<sup>1364</sup> Consumers reply, 68.

<sup>1365</sup> Consumers reply, 68.

<sup>1366</sup> 4 Tr 893.

<sup>1367</sup> See 4 Tr 932-934.



testified that she compared the company to its proxy group based upon three regulatory factors: (1) test year convention (forecasted vs. historical); (2) rate design mechanisms to mitigate volumetric risk; and (3) prevalence of capital cost recovery between rate cases. She explained that like most of its peers, the company benefited from using a forecasted test year, but unlike most of its peers the company lacked protection from volumetric risk and did not have a capital tracking mechanism to recover capital costs between rate cases.<sup>1368</sup>

Ms. Bulkley also testified that in 2024 RRA lowered its regulatory ranking of Michigan from “above average” to “average” noting, in part, that the outcomes of proceedings indicated a tightening regulatory environment and that approved ROEs, while still above industry averages, now compare less favorably.<sup>1369</sup> Ms. Bulkley opined that many of the proxy companies have “slightly more timely cost recovery between rate proceedings than Consumers Energy has in Michigan.”<sup>1370</sup>

Mr. Megginson provided testimony regarding the company’s stable credit rating and the state’s regulatory environment, most of which is described more fully in the capital structure section of this PFD, *supra*. He also testified that the Commission’s approval of the company’s gas infrastructure improvement programs, along with a surcharge mechanism to fund them, and the company’s regular rate cases all but ensures recovery of costs and reduces the company’s financial risk.<sup>1371</sup>

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<sup>1368</sup> 4 Tr 935-936.

<sup>1369</sup> 4 Tr 936-937 (citing RRA’s profile of the Michigan Public Service Commission).

<sup>1370</sup> 4 Tr 938.

<sup>1371</sup> 4 Tr 2561.

Mr. Walters emphasized that the company has a “stable” credit outlook from both S&P and Moody’s, and that these agencies rate the company’s debt at A- and A3, respectively.<sup>1372</sup> He notes that an August 2024 report from S&P indicated that Michigan’s regulatory environment was constructive and above average, while a February note from Barclay’s highlighted that the company’s parent, CMS Energy, demonstrated strong financial performance with a 13% ROE over the previous twelve months and estimated that it could over-earn the allowed ROE by 50 basis points on the gas side of the business.<sup>1373</sup> He contended that the company’s ability to over-earn its ROE means that the authorized ROE is set higher than necessary to attract capital.<sup>1374</sup> He also stated that in Case No. U-21585 the Commission indicated that increased certainty of recovery for the company could impact future decisions to lower ROE with lower risk, and that this “provides a clear framework for revisiting the company’s authorized return when the risk profile diminishes.”<sup>1375</sup>

Mr. Bandyk testified that the Commission should not take rankings of “regulatory environment” into account when deciding the ROE, and he opined that such rankings “appear to be judgments for how generous utility commissions tend to be with ROEs” and have nothing to do with the just and reasonable standard from *Bluefield* and *Hope*.<sup>1376</sup>

In rebuttal, Mr. Bleckman testified that Consumers Energy did not currently have a revenue decoupling mechanism or gas infrastructure improvement programs with surcharge recovery mechanisms, and he noted that in discovery Staff was unable to

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<sup>1372</sup> 4 Tr 2189.

<sup>1373</sup> 4 Tr 2190.

<sup>1374</sup> 4 Tr 2190.

<sup>1375</sup> 4 Tr 2222.

<sup>1376</sup> 4 Tr 2420.

identify any active proceedings authorizing such mechanisms.<sup>1377</sup> He emphasized that Staff's own discovery responses failed to substantiate Mr. Megginson's claims, undermining the argument that these apparently nonexistent mechanisms reduce the company's risk or justify a lower ROE.

Ms. Bulkley added that Mr. Megginson did not conduct any analysis to support his claim that the company has less risk due to rate mechanisms; she noted that the mechanisms he referenced are not implemented by Consumers Energy and that assessing risk mitigation requires reviewing the proxy group's actual mechanisms, which Mr. Megginson failed to do.<sup>1378</sup> She disputed the idea that regular rate case filings ensured nearly risk free investments for the company because, if true, investors would bid its bond yields down to risk-free treasury levels.<sup>1379</sup> Ms. Bulkley rejected Mr. Bandyk's claims that regulatory rankings are irrelevant; she asserted that statements from S&P indicated that they evaluate cashflow that utilities are allowed to generate rather than how generous commissions are when awarding ROEs.<sup>1380</sup>

In briefing, the company repeats many of the points raised in the testimony of Ms. Bulkley regarding the state's regulatory environment, the relation of authorized ROEs to the perception of the state's regulatory environment, and changes in macroeconomic conditions.<sup>1381</sup>

ABATE's brief recites several points from Mr. Walter's testimony that addressed the state of the economy, interest rates, credit ratings, access to capital, and various other

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<sup>1377</sup> 4 Tr 846.

<sup>1378</sup> 4 Tr 1071.

<sup>1379</sup> 4 Tr 1072.

<sup>1380</sup> 4 Tr 1073-1074.

<sup>1381</sup> See Consumers brief, 191-196.

economic factors that affect the company and are relevant for consideration when determining an adequate ROE.<sup>1382</sup>

This PFD notes that it undertook a significant discussion of the company's regulatory environment and credit outlook in the section regarding capital structure, *supra*. Accordingly, this PFD will not repeat those findings here and merely reiterates that the company's credit outlook is stable and that ratings agencies view Michigan's regulatory environment in a generally positive light. As in the section regarding capital structure, *supra*, this PFD does not believe that arguments regarding the state's regulatory environment justify any significant adjustment when considering a proper ROE.

*iv. Other Authorized Returns*

Mr. Megginson stated that he reviewed the authorized rates of return decisions for gas utilities rendered by other state commissions across the country from 2022-2024 using data derived from the RRA database. He testified that "[t]he average authorized ROE decision for 2022 was 9.53%, 9.64% for 2023, and 9.72% for 2024. That equates to a 3-year average of 9.63%, which is well below Staff's ROE recommendation of 9.75% in this case."<sup>1383</sup> Mr. Megginson noted that the company has complained in the past that the RRA database is not comprehensive and does not represent the full spectrum of ROEs that should be considered, but he opined that using the RRA database as a comparable basis for the ROE recommendation is both reasonable and appropriate and should be given full weight.<sup>1384</sup>

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<sup>1382</sup> See generally ABATE brief, 10-16.

<sup>1383</sup> 4 Tr 2559. See also Exhibit S-4, Schedule D-5, p. 13.

<sup>1384</sup> 4 Tr 2560.

Mr. Coppola testified that his Exhibit AG-48 listed authorized ROEs granted by state regulatory commissions for gas utilities in 2023 and 2024, and that most authorized ROEs were below the company's current 9.90% ROE.<sup>1385</sup> He contended that most authorized rates of 9.90% or higher were in California (for utilities challenged by earthquakes and wildfire risk), Florida (for utilities challenged by regular hurricane damage), Michigan, or were for smaller utilities or those with unique geographical challenges such as one situated in Alaska.<sup>1386</sup> He asserted that ROEs for utilities with business and financial risks comparable to Consumers averaged around 9.50%, and that his selected peer group had an average ROE of 9.61%.<sup>1387</sup> Mr. Coppola challenged Mr. Bleckman's comparison of the company's ROE to that of other utilities in Exhibit A-33. Mr. Coppola opined that "[m]uch of the information in Exhibit A-33 is incorrect, misleading, and does not provide a proper context for the metrics noted in the exhibit."<sup>1388</sup> He explained that many of the utilities featured in Exhibit A-33 with ROEs set higher than that of the company were subject to unique circumstances (e.g. multi-year rate agreements, unique climate challenges, nuclear plant construction cost overruns) or were otherwise not apt comparators for the company.<sup>1389</sup>

This PFD holds that it is both appropriate and necessary to examine and consider ROEs authorized for other gas utilities because doing so is consistent with the Commission's precedent,<sup>1390</sup> and even more importantly, consistent with Supreme Court

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<sup>1385</sup> 4 Tr 1983.

<sup>1386</sup> 4 Tr 1983-1984.

<sup>1387</sup> 4 Tr 1984; see also Exhibits AG-48 and AG-50.

<sup>1388</sup> 4 Tr 1984.

<sup>1389</sup> 4 Tr 1985-1987.

<sup>1390</sup> See e.g. December 9, 2021, Order in Case No. U-20940, pp. 89-91.

precedent in *Hope* which expressly provides that the equity returns for a utility “should be commensurate with returns on investments in other enterprises having corresponding risks.”<sup>1391</sup> Other regulated utilities are the business enterprises that generally have corresponding risks that most closely correlate to those of the company.

This PFD finds that the information provided by the Attorney General in Exhibit AG-48, which lists approved ROEs for gas utilities nationwide in 2023 and 2024, to be valuable when undertaking a comparison of authorized ROEs. Accordingly, this PFD adopts the dataset in Exhibit AG-48 as an illustrative, but not necessarily complete, sample of reported ROEs authorized by regulators nationwide from 2023-2024 as collected by Regulatory Research Associates. Per that exhibit, the average approved ROE in 2023 was 9.57% and the average approved ROE in 2024 was 9.71%.<sup>1392</sup> This PFD further notes that the range of ROEs reported in Exhibit AG-48 extended from a low of 8.86% to a high of 11.88%.<sup>1393</sup> However, the range is deceptively wide because it is necessarily determined by the highest and lowest values which, upon evaluation of the dataset, are clearly outliers relative to the rest of the set. If those outliers were excluded, then the adjusted dataset would range from 9.15% to 10.25%.<sup>1394</sup>

This PFD adopts that adjusted range of 9.15%-10.25% as a general comparative range that can be referenced to determine whether the results of the various financial models proposed by the parties are generally aligned with *Hope*'s directive that utility

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<sup>1391</sup> *Hope*, 320 US at 603.

<sup>1392</sup> Exhibit AG-48, p. 3.

<sup>1393</sup> See Exhibit AG-48, p. 2 line 16 and p. 3 line 7.

<sup>1394</sup> See Exhibit AG-48, p. 2 lines 22 & 23 and p. 3 line 9.

returns should be “commensurate with returns on investments in other enterprises having corresponding risks.”<sup>1395</sup>

Based upon the data from Exhibit AG-48, this PFD concludes that the 10.25% ROE requested by the company, while within the range, is at its very upper limit and is not particularly well aligned with returns received by other utilities having corresponding risks. Even the company’s most recently authorized 9.90% ROE is positioned toward the higher end of recently awarded ROEs and is significantly higher than the average ROE awarded to other utilities in recent years.

This PFD notes that the ROE recommendations of the other parties are all within the range, with the recommendations of Staff and the Attorney General (9.75%) being particularly close to the 9.71% 2024 average awarded ROE for gas utilities. The recommendation of ABATE (9.45%) is meaningfully below the 2024 average while the recommendation of CUB (9.24%) is close to the low end of the range and far from the 2024 average.

g. Conclusions & Recommendations

This PFD first acknowledges that the parties provided extensive testimony and briefing regarding economic conditions, regulatory concerns, financial models, and all manner of issues related to the topic of an appropriate ROE. All the parties’ testimony and briefing addressing ROE has been reviewed and considered even if not expressly summarized in the sections above. The parties took issue with various aspects of the models used by other parties, disputed the most suitable inputs to be used, and even

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<sup>1395</sup> *Hope*, 320 US at 603.  
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proposed adjustments to the models of other parties. However, many of these disputes do not appear to affect the results as significantly as the differences discussed in the subsections *supra*, or they may be moot or rendered less significant because of the model or the results being rejected or given reduced weight. In any event, this PFD notes that it has been held that a determination of a fair and reasonable rate “is not subject to mathematical computation with scientific exactitude but depends upon a comprehensive examination of all factors involved.”<sup>1396</sup> In other words, there is value in a diversity of different modeling assumptions and inputs, and this PFD concludes that the multitude of individual differences regarding the most suitable modeling assumptions and input values need not be definitively resolved in this case.

To summarize the model results that have been given full weight in the sections above, they are as follows:

10.12%	Consumers CAPM (adjusted average) <sup>1397</sup>
10.08%	Consumers DCF (adjusted average) <sup>1398</sup>
9.93%	Staff CAPM (using implied MRP) <sup>1399</sup>
9.40%	Staff DCF <sup>1400</sup>
9.46%	Staff BYRP (treasury bonds) <sup>1401</sup>
9.56%	Staff BYRP (utility bonds) <sup>1402</sup>

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<sup>1396</sup> Case No. U-18370, Order, April 12, 2018, p. 30 (citing *Meridian Twp v City of East Lansing*, 342 Mich 734, 749; 71 NW2d 234 (1955)).

<sup>1397</sup> Arithmetic average of the following CAPM results from Table 2 at 4 Tr 971: 10.02%, 10.05%, 10.11%, 10.14%, 10.18%, 10.23%.

<sup>1398</sup> Average of minimum growth rate results; see Figure 2 at 4 Tr 971; Ex A-127.

<sup>1399</sup> Exhibit S-4, Schedule D-5, p. 9.

<sup>1400</sup> 4 Tr 2548; see also Exhibit S-4, Schedule D-5, p. 5.

<sup>1401</sup> Exhibit S-4, Schedule D-5, p. 12 (treasury bond approach).

<sup>1402</sup> Exhibit S-4, Schedule D-5, p. 12 (utility bond approach).



9.20%	Attorney General BYRP <sup>1403</sup>
9.75%	ABATE BYRP (average A-rated bonds) <sup>1404</sup>
9.96%	ABATE BYRP (average Baa-rated bonds) <sup>1405</sup>
10.23%	ABATE BYRP (treasury bonds) <sup>1406</sup>
9.22%	CUB DCF <sup>1407</sup>

The average of these eleven accepted model results given full weight is 9.72%,<sup>1408</sup> with a range that extends from 9.20% to 10.23%.

The 9.72% average of the accepted models is only one basis point above the average of approved ROEs in 2024 (9.71%) and is 15 basis points above the average approved ROE in 2023 (9.57%) as was discussed above.<sup>1409</sup> Both the average of the model results given full weight and the average of other authorized ROEs will be considered when evaluating an appropriate ROE for the company under the Supreme Court's standards in *Hope* and *Bluefield*.

In *Bluefield*, the Supreme Court stated that a public utility is entitled to earn a return equal to that being made by businesses with “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.”<sup>1410</sup> The Supreme Court reiterated this standard in *Hope*.<sup>1411</sup> Indeed, in *Willcox v Consolidated Gas Co*, 212 US 19, 48; 29 S Ct

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<sup>1403</sup> Exhibit AG-45.

<sup>1404</sup> Table CCW-9 at 4 Tr 2209 (average of 3-month and 6-month A-Rated utility bonds)

<sup>1405</sup> Table CCW-9 at 4 Tr 2209 (average of 3-month and 6-month Baa-rated utility bonds)

<sup>1406</sup> Table CCW-9 at 4 Tr 2209 (treasury bond approach).

<sup>1407</sup> See Exhibit CUB-18.

<sup>1408</sup> The average of the 11 values is 9.719, which this PFD rounds up to 9.72.

<sup>1409</sup> See Exhibit AG-48, p. 3.

<sup>1410</sup> *Bluefield*, 362 US at 692-693.

<sup>1411</sup> *Hope*, 320 US at 603 (making a similar statement that regulated utilities are entitled to a ROE “commensurate with returns on investments in other enterprises having corresponding risks.”).

192; 53 L Ed 382 (1909), a precursor to both *Bluefield* and *Hope*, the Supreme Court succinctly explained this principle stating:

The less risk, the less right to any unusual returns upon the investments. One who invests his money in a business of a somewhat hazardous character is very properly held to have the right to a larger return, without legislative interference, than can be obtained from an investment in government bonds or other perfectly safe security.<sup>1412</sup>

In considering a utility's return on equity, the Supreme Court has acknowledged that "the amount of risk in the business is a most important factor[.]"<sup>1413</sup> Indeed, in *Willcox*, which was cited with approval in *Bluefield*,<sup>1414</sup> the Supreme Court examined the business risk associated with New York City's gas utility at the time:

In an investment in a gas company, such as complainant's, the risk is reduced almost to a minimum. It is a corporation which . . . monopolizes the gas service of the largest city in America, and is secure against competition under the circumstances in which it is placed[.] . . . An interest in such a business is as near a safe and secure investment as can be imagined with regard to any private manufacturing business, although it is recognized at the same time that there is a possible element of risk, even in such a business.<sup>1415</sup>

Here, Consumers is analogous to the gas utility in *Willcox* because it provides an essential service to approximately 1.8 million customers while largely operating as a monopoly that is insulated from competition in its service territory.<sup>1416</sup> In other words, when considering the business risk associated with an enterprise, Consumers, like the gas utility in *Willcox*, "is as near a safe and secure investment as can be imagined[.]"<sup>1417</sup> Indeed, the market

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<sup>1412</sup> *Willcox*, 212 US at 49.

<sup>1413</sup> *Willcox*, 212 US at 48.

<sup>1414</sup> See *Bluefield*, 362 US at 693 (citing and summarizing the Court's previous holding in *Willcox*).

<sup>1415</sup> *Willcox v Consolidated Gas Co*, 212 US 19, 49; 29 S Ct 192; 53 L Ed 382 (1909).

<sup>1416</sup> See December 16, 2024, Application in Case No. U-21806, p. 1 (stating that Consumers operates as a natural gas utility with 1.8 million customers).

<sup>1417</sup> See *Willcox*, 212 US at 49.

recognizes the reduced risk of regulated utilities like Consumers because utility stocks are considerably less volatile than the general market as evidenced by beta coefficients that are significantly less than one.<sup>1418</sup>

This PFD derives three principles for evaluating the authorized rate of return from the Supreme Court's precedent discussed above. These principles are that a regulated utility's authorized return: (1) should be commensurate with the returns earned by similar businesses with corresponding risks, such as other utilities; (2) should be more than the return earned by safe investments like government bonds, but less than returns earned by riskier investments, like the general stock market; and (3) should be sufficient to maintain the utility's access to credit and allow it to attract capital.<sup>1419</sup>

However, this PFD concludes that these principles are not necessarily harmonious when applied, particularly the first and second principles listed above. The future return of the stock market is not predictable with certainty, but estimates offered by the parties in this proceeding vary drastically depending on the forecasting methodology or the historical period used to calculate the average return. By way of example, ABATE cited third party financial firms (JP Morgan Chase and BlackRock Capital Management) for the proposition that the estimated long-term return of large cap equities in future years would be around 7.00%,<sup>1420</sup> and ABATE contended that Morningstar calculated the historical average real-market return from 1926-2023 to be 9.02%.<sup>1421</sup> ABATE itself projected a

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<sup>1418</sup> See e.g. the average historical beta coefficient values for the company's proxy group listed in Exhibit A-14, Schedule D-5, p. 15, column 12.

<sup>1419</sup> See *Bluefield*, 362 US at 692-693; *Hope*, 320 US at 603. See also *Willcox*, 212 US at 49.

<sup>1420</sup> 4 Tr 2217.

<sup>1421</sup> See 4 Tr 2215.

larger market return of 11.31%.<sup>1422</sup> Similarly, the company projected an even higher market return of 11.92% for use in its models.<sup>1423</sup> By comparison, the company's last authorized ROE was 9.90%, and the average authorized ROE for gas utilities was 9.71% in 2024.<sup>1424</sup> In other words, the company's current authorized ROE is not far below the high end of expected market returns, and it is above the historical average return level and at least some estimates of future returns for the market. This situation presents a dilemma because the Supreme Court's precedent directs that a utility's return should be commensurate with the returns earned by other utilities but also less than the return earned by riskier investments like the general stock market.

This PFD finds that it may not be possible to set a ROE that reasonably complies with both directives given the varied expectations for market returns and the current range of authorized ROEs for other gas utilities. To best honor these divergent directives, this PFD recommends generally targeting a ROE for the company that is within the range of ROEs awarded to other utilities but that tends toward the average or lower end of that range.

This PFD also recognizes that the Commission has explicitly stated its preference for gradualism and its belief that, in the absence of radical changes in circumstance, gradual changes in financial measures like ROE are appropriate and consistent with *Hope* and its direction to assure confidence in a utility's ability to maintain credit and attract capital.<sup>1425</sup>

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<sup>1422</sup> 4 Tr 2217.

<sup>1423</sup> Exhibit AB-127, p. 5 (listing an estimated market return of 11.92% for the purposes of the company's CAPM model).

<sup>1424</sup> See Exhibit AG-48, p. 3.

<sup>1425</sup> See November 7, 2024, Order in Case No. U-21291, p. 107-108.

Mindful of these considerations, the precedent of *Bluefield* and *Hope*, and the arguments and financial models presented by the parties,<sup>1426</sup> this PFD recommends setting the company's ROE at 9.75% as recommended by Staff and the Attorney General. This recommendation would move the company's ROE downward, but it is an adjustment of only 15 basis points from the company's current ROE such that it is meaningful, but not a radical adjustment. Further, the 9.75% recommendation is well-supported by the average of the accepted results of the parties' models as determined in this PFD (9.72%) and is close to, but just a few basis points above the national average awarded ROE in 2024 (9.71%). Thus, this proposal takes a gradual step toward the objective, described above, of attempting to balance the divergence between the goals of setting a ROE that is commensurate with those of other utilities while also moving in the direction of a return that is below the expected return of the riskier general stock market.

Further, this recommended ROE is also aligned with the standards announced in *Hope* and *Bluefield* directing that an authorized return should be sufficient to maintain credit and attract access to capital. Indeed, the company's ability to maintain credit and attract capital is largely a function of its minimal business risk as a regulated utility, and this PFD has discussed at length the record evidence relating to ratings agencies and their stable outlook for the company. Given the company's current stable outlook and the fact that a 9.75% ROE would be slightly above the national average, this PFD concludes that there is no question that the company could maintain access to credit and attract capital with an authorized ROE of 9.75%. Accordingly, this PFD adopts the

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<sup>1426</sup> This PFD notes that in making its recommendation, it considers both the model results given full weight and those given reduced weight.

recommendation of Staff and the Attorney General to set the company's authorized ROE at 9.75% because it is well supported by the record evidence and aligned with the principles announced in *Hope* and *Bluefield*.

D. Overall Rate of Return

Based upon the foregoing discussion, this PFD recommends that the Commission adopt a balanced capital structure of 50% debt and 50% equity, along with a long-term debt cost of 4.35%, a short-term debt cost of 4.52%, and a return on equity of 9.75% resulting in an estimated overall weighted after-tax cost of capital of 5.97% as shown in Appendix D to this PFD.

**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. The company's initial filing projected an ANOI of \$545.49 million later adjusted to \$556.86 million in briefing, while Staff projected a ANOI of \$558.06 million.<sup>1427</sup>

Disputes regarding ANOI-related items are broken out by category and discussed below.

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<sup>1427</sup> See Exhibit A-13; Appendix C1, line 19, attached to Consumer's brief; and Exhibit S-3 Schedule C-1, line 19.

A. Operating Revenue

1. Throughput and Sales, Transport, and Miscellaneous Revenue

*i. Testimony*

Mr. Sherwani<sup>1428</sup> presented the company's forecasted gas delivery and customer counts for the projected test year. According to Mr. Sherwani, total deliveries are projected to be 307,736 MMcf in the test year, with customer counts projected to increase 1.5% from the 2023 historical year to the end of the projected test year.<sup>1429</sup> The company forecasts total revenue for the projected test year of approximately \$2.3 billion<sup>1430</sup> with sales revenue of \$2.183 billion,<sup>1431</sup> transportation revenue of \$102.396 million,<sup>1432</sup> and other revenue of \$28.666 million.<sup>1433</sup>

Mr. Ausum recommended that, in all future gas rate case filings, the Commission should direct the company to include all data and inputs used to construct the deliveries and customer count forecast models, which includes the information contained in Exhibit S-23.<sup>1434</sup> He explained that it was crucial for Staff to have access to this data in order to better understand the company's modeling, and if the company includes this data, then Staff will not have to obtain it through audit requests as was done in this case.<sup>1435</sup>

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<sup>1428</sup> In rebuttal testimony, Mr. Mustafa Sherwani explained that his name appears differently than in his direct testimony (originally filed as Mustafa Ahmed) because an error in immigration documents required him to temporarily use his middle name as his last name for official purposes; that error has since been corrected, and he is referred to as Mr. Sherwani in this PFD.

<sup>1429</sup> 2 Tr 273; See also Exhibit A-15, Schedule E-2, line 13.

<sup>1430</sup> Exhibit A-15, Schedule E-10, line 11.

<sup>1431</sup> See Consumers brief, 263 (citing Appendix C1, column 4).

<sup>1432</sup> See Exhibit A-13, Schedule C-3.

<sup>1433</sup> See Exhibit A-13, Schedule C-3.

<sup>1434</sup> 4 Tr 2746.

<sup>1435</sup> 4 Tr 2747.

Ms. Braunschweig disputed Mr. Sherwani's forecast of residential income assistance (RIA) credit projections. She explained that the company included 75,000 monthly RIA recipients in its forecast based on a 12-month average, but it did not specify the 12-month period it referenced.<sup>1436</sup> She attempted to discern the source of the company's projection by examining its exhibits but "found no source nor explanation for the projected 75,000 RIA disbursements."<sup>1437</sup> Further, she stated that Staff encountered this same problem in the company's last rate case, Case No. U-21490, and that the Commission should order the Company to work with Staff to improve its exhibits and testimony relating to this issue.<sup>1438</sup> She further testified that the company's responses to audit requests related to the RIA credit "call[ed] into question the accuracy of all related data" which she suggested was an issue that should be examined outside of the rate case to ensure that the company's responses were not a misunderstanding.<sup>1439</sup> Ms. Braunschweig described a myriad of factors that can affect RIA enrollment, and she proposed using a 3-year historical average credit disbursement of 68,782, consistent with the last approved Commission order, as well as allowing a regulatory asset or liability to account for any difference in enrollment projections.<sup>1440</sup> She testified that this adjustment would add \$1.119 million to present revenue.<sup>1441</sup>

Mr. Coppola determined that the company captured trends in gas sales relatively well; however, he opined that the company underestimated commercial transport

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<sup>1436</sup> 4 Tr 2651-2652.

<sup>1437</sup> 4 Tr 2653.

<sup>1438</sup> 4 Tr 2654.

<sup>1439</sup> 4 Tr 2655.

<sup>1440</sup> 4 Tr 2664-2665.

<sup>1441</sup> 4 Tr 2666; see also Exhibit S-15.1.



volumes and related revenue by a significant margin. Mr. Coppola testified that commercial gas transportation deliveries are understated because the Company's forecast shows an abrupt and unsupported 5.9% decline from 2024 to the projected test year, which contrasts sharply with historical trends showing only a 0.5% annual decline. He stated that the company failed to provide a valid explanation for this discrepancy, and the evidence suggests the forecasting model is inaccurate.<sup>1442</sup> Mr. Coppola recalculated commercial transportation gas volumes using historical usage trends from 2021 to 2024, resulting in a revised forecast of 26,373 MMcf (1,325 MMcf higher than the company's projection); this adjustment leads to an estimated additional revenue of \$1,822,000 for the projected test year.<sup>1443</sup>

Ms. Napoleon testified that the company's sales and delivery regression models do not incorporate out-of-sample data, which limits the ability to test the predictive accuracy of the model on independent data sets; she stated that without holding back some historical data for validation, the company's claim of accuracy is reduced because the model is being judged using the same data that it was trained on. Additionally, Ms. Napoleon noted that the company failed to account for the impacts of Senate Bill 273 in its modeling, which could further affect forecast reliability.<sup>1444</sup> Ms. Napoleon also questioned the apparent disconnect between the forecast for new connections and forecast for total customer count.<sup>1445</sup>

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<sup>1442</sup> 4 Tr 1994-1995.

<sup>1443</sup> 4 Tr 1996.

<sup>1444</sup> 4 Tr 2298, 2299.

<sup>1445</sup> 4 Tr 2299-2300.

In rebuttal regarding Staff, Mr. Sherwani testified that the company agreed to provide the raw data specified by Mr. Ausum as part of workpapers in future filings.<sup>1446</sup> He also acknowledged that there are opportunities to improve RIA credit projections, stated the company agreed to work with Staff on this issue, and agreed to base RIA count projections on three-year historical averages.<sup>1447</sup>

In response to Ms. Napoleon, Mr. Sherwani testified that it was not appropriate to directly compare the new service connections forecast with the customer load forecast because they represented different measures of business activity. He explained that new connections reflect installation work, while the load forecast is based on billed customers using a regression model, and discrepancies in timing and usage patterns can cause the two forecasts to grow at different rates.<sup>1448</sup> He further rejected her concerns surrounding Act 229 specifying that Act 229 did not mandate electrification programs and at the time of the rate case filing the company had no evidence that the act had impacted customer behavior or would affect the projected test year.<sup>1449</sup> Mr. Sherwani acknowledged that customers could theoretically reduce natural gas usage by electrifying appliances, but Act 229 did not require customers to do so or mandate utilities to implement electrification programs.<sup>1450</sup>

Mr. Sherwani also rejected Ms. Napoleon's concern about the failure to test the forecast with out-of-sample data. He explained that he used the most recent 11 years of data in the regression model and that incorporating out-of-sample data from over a

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<sup>1446</sup> 2 Tr 277.

<sup>1447</sup> 2 Tr 277.

<sup>1448</sup> 2 Tr 278.

<sup>1449</sup> 2 Tr 279.

<sup>1450</sup> 2 Tr 280.

decade ago would not improve the model's ability to forecast future outcomes.<sup>1451</sup> He rejected the notion that his regression model did not demonstrate good performance relative to actual historical data; he stated that the regression model is constructed with historical data and has proven itself effective.<sup>1452</sup>

In response to Mr. Coppola, Mr. Sherwani rejected the proposed increase in commercial transport deliveries and sales. He stated that Mr. Coppola "used a very simplistic approach that takes one data point and applies a historical compound average growth rate ("CAGR") to forecast the future."<sup>1453</sup> He explained that Mr. Coppola's approach was "unsound" and assumes that future behavior will be the same as in the past and does not incorporate econometric data like the company's regression model.<sup>1454</sup> Mr. Sherwani testified that Mr. Coppola's approach deviated from historically approved MPSC methodology and rejects the validity of regression modeling used by most utilities, including the company.<sup>1455</sup> Mr. Sherwani contended that the gas forecast had been highly accurate over the past eight years, with a 0.6% Mean Absolute Percentage Error and a 2.6 Bcf standard deviation; he rejected Mr. Coppola's proposed 1.3 Bcf increase to the commercial transportation forecast calling it an overly simplistic approach.<sup>1456</sup>

In her rebuttal for Staff, Ms. Rademacher disagreed with Mr. Coppola's calculation of adjustments to gas sales in Exhibit AG-54. She specified that Staff did not take a position on Mr. Coppola's sales/delivery volume adjustment, but she stated the

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<sup>1451</sup> 2 Tr 280-281.

<sup>1452</sup> 2 Tr 281.

<sup>1453</sup> 2 Tr 281.

<sup>1454</sup> 2 Tr 282.

<sup>1455</sup> 2 Tr 283.

<sup>1456</sup> 2 Tr 286.

calculation of associated revenue should not be directly adopted if the Commission accepted Mr. Coppola's sales adjustment.<sup>1457</sup> She explained her reasoning as follows:

AG witness Coppola's calculation of the sales revenue adjustment is based on the multiplication of proposed incremental gas deliveries for commercial customers as allocated to the rate schedules by the current distribution charges for each rate schedule. While this method accurately determines the present distribution revenue impact of the sales forecast adjustment, it fails to appropriately adjust inputs to the Cost-of-Service Study (COSS) or incorporate changes to revenue and expenses associated with gas supply. If the Commission agrees with the sales volume adjustments proposed by AG witness Coppola, those adjustments should also be included in all COSS and rate calculations to determine the appropriate revenue, expense, rate design, and COSS adjustments.<sup>1458</sup>

*ii. Briefing*

In its brief, Consumers states that it agrees with Staff that it will include the requested raw data and inputs used to construct models in its future case filings.<sup>1459</sup> The company rejects the Attorney General's adjustment to commercial transportation forecast for the same reasons stated in the rebuttal testimony of Mr. Sherwani.<sup>1460</sup> Similarly, the company rejects MEC/SC witness Napoleon's concerns for the same reasons stated in Mr. Sherwani's rebuttal testimony.<sup>1461</sup> The company emphasizes that the cross-examination of Mr. Sherwani pointed out that the company "essentially included a one-year-at-a-time out-of-sample model test for many years, and that test supports the predictive accuracy of the model."<sup>1462</sup>

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<sup>1457</sup> 4 Tr 2590.

<sup>1458</sup> 4 Tr 2590-2591.

<sup>1459</sup> Consumers brief, 254.

<sup>1460</sup> Consumers brief, 255-260.

<sup>1461</sup> Consumers brief, 260-264.

<sup>1462</sup> Consumers brief, 261; see also 2 Tr 272.

Staff's brief notes that the company adopted its \$1.119 million increase to revenue for the RIA credit and recommends adopting a sales revenue figure of \$2.183 billion.<sup>1463</sup> Staff also contends that out-of-sample data is useful in testing regression models and that the Commission should order the company to utilize more out-of-sample data to test the predictions made by its models.<sup>1464</sup>

The Attorney General's brief recounts the reasoning for the commercial transport volume adjustment stated in Mr. Coppola's testimony. The Attorney General also responds to the company's contention that the adjustment does not conform to MPSC-approved methodology by stating that the company could not identify Commission-approved methodology for sales and transportation forecasting.<sup>1465</sup> The Attorney General also rejoins that while the company dismissed her adjustment as simplistic, a simple approach can nevertheless provide accurate results, and the company's complex regression model may yield inaccurate results because its dataset contains information impacted by the declines in usage during the Covid-19 pandemic.<sup>1466</sup>

MEC/SC argues that the company's load forecasting does not fit with historical trends showing a decline in gas usage, most likely due to electrification and EWR measures.<sup>1467</sup> MEC/SC further argues that the chart<sup>1468</sup> touted by witness Sherwani as showcasing the accuracy of the company's regression model is misleading and instead "simply shows what a regression line fit looks like based on a few points of data."<sup>1469</sup>

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<sup>1463</sup> Staff brief, 66, 67.

<sup>1464</sup> Staff brief, 111.

<sup>1465</sup> AG brief, 151.

<sup>1466</sup> AG brief, 152.

<sup>1467</sup> MSC brief, 93-97.

<sup>1468</sup> See chart at 2 Tr 272.

<sup>1469</sup> MSC brief, 97.

Citing forecasts from several past rate cases, MEC/SC argues that the chart presented by the company is “completely unrelated to forecasts from previous cases” because the actual past forecasts do not correspond to information on the chart and the chart “says nothing about the accuracy of the company’s forecast going forward nor anything about the Company forecast’s performance in the past.”<sup>1470</sup> MEC/SC states that it is “concerning” that Mr. Sherwani incorrectly asserted that the blue line on the chart represented prior forecasts, and “doubly concerning that the Company is passing off a simple regression fit chart as an indicator of past forecast accuracy.”<sup>1471</sup>

MEC/SC recommends that the Commission should reject the company’s load forecast and require the company to contract with an independent third party to create an accurate load forecast that incorporates historical data and prospective assumptions on electrification and efficiency measures.<sup>1472</sup> In the alternative, MEC/SC recommends requiring the company to re-do its load forecast with input from interested parties to help incorporate the effects of electrification “along the lines of the Commission’s Order in the recently concluded DTE Gas Rate Case[.]” i.e. Case No. U-21291.<sup>1473</sup>

In its brief, Staff references the chart produced by Mr. Sherwani related to forecast accuracy and expressed that it was only through cross-examination that it was revealed that the weather-adjusted actuals used to assess model accuracy occurred outside of the regression model data.<sup>1474</sup> Staff asserts that in future cases a similar level of analysis

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<sup>1470</sup> MSC brief, 98-99.

<sup>1471</sup> MSC brief, 99.

<sup>1472</sup> MSC brief, 100.

<sup>1473</sup> MSC brief, 100.

<sup>1474</sup> Staff brief, 110 (citing 2 Tr 272, 2 Tr 322).

should be performed for each of the class level forecasts sponsored by the company.<sup>1475</sup>

Staff contends that out-of-sample testing would be useful to determine the reasonableness of the forecasts offered by the company or intervenors, and recommends that the Commission should direct the company to utilize more out-of-sample data to test the predictions made by its models.<sup>1476</sup>

In its reply, Consumers asserts that MEC/SC's recommendation to reject the company's load forecast and require the company to hire an independent third party to generate a better forecast is "patently unlawful and unreasonable[.]"<sup>1477</sup> Consumers notes that Staff agreed with the load forecast as modified in rebuttal testimony, and MEC/SC provided no explanation about what the Commission is supposed to do if it rejects the load forecast as one is needed to evaluate the revenue expected in the test year and as a basis for designing rates.<sup>1478</sup>

The company also provides an extensive response to MEC/SC's contention that there is a steady historical trend of declining gas load. The company asserts that MEC/SC cited January peak usage in only 4 years (2001, 2010, 2019, and 2024) to illustrate an ostensible declining usage trend.<sup>1479</sup> Consumers asserts that MEC/SC ignored the fact that January and February generally reflect peak demand, and that February was the actual peak demand month 42% of the time from 2001 to 2024.<sup>1480</sup> Consumers also

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<sup>1475</sup> Staff brief, 110.

<sup>1476</sup> Staff brief, 111.

<sup>1477</sup> Consumers reply, 78, 98 (citing *Union Carbide Corp v Pub Serv Comm'n*, 431 Mich 135, 159; 428 NW2d 322 (1988) for the proposition that the Commission does not have legal authority to require a utility to enter into a contract).

<sup>1478</sup> Consumers reply, 78.

<sup>1479</sup> Consumers reply, 79.

<sup>1480</sup> Consumers reply, 80.

asserts that when all of the January usage data in Exhibit MEC-34 is graphed from 2001-2024, it “paints a very different picture” and shows volatile fluctuations from year to year rather than a downward trend.<sup>1481</sup> The company made similar contentions when only February usage data was graphed, as well as when January and February data was combined together.<sup>1482</sup> Consumers also contends that the data presented in Exhibit MEC-34, which MEC/SC relied upon, was not weather-normalized or controlled for economics.<sup>1483</sup> The company highlighted Exhibit MEC-29, which included the company’s weather-normalized data extending back to 2010. Consumers asserts that when graphed, that weather normalized data shows far less volatility and that the company’s historical residential gas sales have trended slightly upward since 2010.<sup>1484</sup> Consumers notes that MEC/SC used Exhibit MEC-37 to support an ostensible decline in gas usage in January months from 2019-2024, but omitted data from January 2023 that contradicted the trend; further, the company contends that February rather than January was the peak residential usage month in each of those years except 2023.<sup>1485</sup> The company contends that the complete data on Exhibit MEC-37 “demonstrates that there is no historical declining trend in residential use per customer over the last five years.”<sup>1486</sup>

The company also contends that MEC/SC’s assertion that it failed to account for the impacts of electrification is invalid. Consumers explains that MEC/SC provided no evidence that existing customers are switching from gas to electric, nor any data showing

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<sup>1481</sup> Consumers reply, 81.

<sup>1482</sup> See Consumers reply, 82.

<sup>1483</sup> Consumers reply, 83.

<sup>1484</sup> Consumers reply, 84.

<sup>1485</sup> Consumers reply, 85, 86.

<sup>1486</sup> Consumers reply, 86.



such a shift will occur before the end of the test year. The company contends that the data MEC/SC cites from the American Community Survey could primarily reflect growth in electric heating in new homes, not conversions from gas, offering no basis for claiming that electrification is already reducing gas demand.<sup>1487</sup> Consumers acknowledges MEC/SC's claim that Public Act 229 of 2023 will trigger widespread electrification, but the company argues that there is no evidence that any Michigan utility has implemented or even applied for an electrification program under the Act. The company maintains that there is no indication Act 229 has had or will have any measurable impact on customer behavior during the test year.<sup>1488</sup>

Consumers provides an extensive response to MEC/SC's claim that its regression model has not been adequately tested. The company asserts that: (1) MEC/SC's own witness did not state that using out-of-sample data was the only means of validating accuracy; (2) MEC/SC improperly assumes that a regression model will produce inaccurate results without testing; (3) Consumers performed a version of out-of-sample testing even though it was incidental to the company's use of a different method to evaluate the model's accuracy; (4) Consumers evaluated its regression model based upon the adjusted coefficient of multiple determination and the mean absolute percentage error to validate accuracy.<sup>1489</sup>

Consumers also provides an extensive response to MEC/SC's claim that the graph championed by Mr. Sherwani as demonstrating the accuracy of the company's model was misleading, simply showed a regression line fit, and did not correspond to the

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<sup>1487</sup> Consumers reply, 87.

<sup>1488</sup> Consumers reply, 88.

<sup>1489</sup> See Consumers reply, 80-91; 97.

company's actual projections from past rate cases. Consumers first contends that MEC/SC cited data from three past rate cases that is not admitted into evidence in this case. Notwithstanding that evidentiary issue,<sup>1490</sup> Consumers asserts that MEC/SC's contention is "provably incorrect" because MEC/SC simply used the wrong data from the prior rate cases as a basis for comparison.<sup>1491</sup> The company asserts that MEC/SC improperly used Market Outlook Exhibits from earlier rate cases to derive forecasted load values for years beyond the test periods those exhibits were intended to support.<sup>1492</sup> The company asserts it never used these older projections for setting rates in later years because the forecasts become less reliable over time and are updated annually. As a result, the company asserts that MEC/SC's comparisons were based on outdated data, leading to inaccurate conclusions.<sup>1493</sup> The company also asserts that there were other problems with the comparison, including the differences in billing basis (calendar-basis versus cycle-billed basis) such that an adjustment would be needed for values before 2019 when the company began to make adjustments that would eliminate that discrepancy.<sup>1494</sup> Consumers further states that MEC/SC improperly used the "sendout" volume, which includes lost and unaccounted for gas.<sup>1495</sup> Consumers explains that:

Using the Market Outlook Exhibits from the correctly synchronized rate cases (instead of the misaligned cases chosen by MEC), it becomes clear that the values in the "Forecast" line of Mr. Sherwani's graph correspond very closely with those rate case exhibits in the first three years, with the small deviation attributable to the net unbilled volumes that are included in

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<sup>1490</sup> See Consumers reply, 95 n 18 (Contending that if the Commission considers MEC/SC's arguments based upon non-record evidence from past cases, then the Commission should in fairness consider exhibits that the company attaches to its reply to refute that evidence).

<sup>1491</sup> Consumers reply, 93.

<sup>1492</sup> Consumers reply, 93-94.

<sup>1493</sup> Consumers reply, 94.

<sup>1494</sup> Consumers reply, 94.

<sup>1495</sup> Consumers reply, 94-95.

the calendar-basis data versus the cycle-billed data. In every year after 2019, they correspond exactly.<sup>1496</sup>

The company asserts that it is “outrageous” that MEC/SC accused Mr. Sherwani of misdirection and that the data derived from the proper market outlook exhibits unequivocally proves that Mr. Sherwani’s graph was a fair representation of the accuracy of the company’s regression model.<sup>1497</sup>

Consumers asserts that it relies on its initial brief for its refutation of the Attorney General’s proposed commercial transportation adjustment and only responds to a handful of arguments made in the Attorney General’s initial brief.<sup>1498</sup> The company primarily argues that the Attorney General’s initial briefing, which criticized the company’s regression model for incorporating data from years affected by the Covid-19 pandemic, demonstrated that the Attorney General did not understand regression modeling or how it works to uncover the existence, directionality, and magnitude of a relationship between variables.<sup>1499</sup> Consumers asserted that extreme data points do not necessarily make regression modeling inaccurate and can actually enhance confidence in the model, which makes the Attorney General’s criticisms puzzling.<sup>1500</sup> Similarly, the company found puzzling the Attorney General’s argument that the company used stale data in its regression model when the age of the data in regression modeling is not particularly important “as long as the mathematical relationship between the independent and dependent variables continues to hold true for both the older and newer data.”<sup>1501</sup>

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<sup>1496</sup> Consumers reply, 95.

<sup>1497</sup> Consumers reply, 96.

<sup>1498</sup> See generally Consumers reply, 99-103.

<sup>1499</sup> Consumers reply, 100.

<sup>1500</sup> Consumers reply, 101.

<sup>1501</sup> Consumers reply, 102.

In its reply, Staff states that it agrees with MEC/SC that in future filings the Commission should order the company to include forecasted sales and peak gas demand for each of the ten years of a gas delivery plan.<sup>1502</sup> Staff also agrees with MEC/SC that impact on gas demand attributable to increasing electrification or efficiency should be considered in future cases that require long-term forecasts. Staff asserts that electrification and efficiency inputs into the load forecast should stem from a consistent source of data, whether from other types of Commission cases or independent sources.<sup>1503</sup>

MEC/SC's reply argues that the company's reasoning as to why it could not hold historical data out-of-sample to test the accuracy of its regression model (i.e. because it would have to pull out older data) does not withstand scrutiny and ignores Ms. Napoleon's solution to hold data in the middle of 11-year time frame out of the model to determine if the best fit line still holds up.<sup>1504</sup> MEC/SC faults the company for originally suggesting that the graph included in Mr. Sherwani's testimony contained a trendline and now claiming that it represents historical load predictions.<sup>1505</sup> MEC/SC continues to assert that "it is simply false that the blue line [in Mr. Sherwani's graph] represents historical sales predictions: none of the annual predictions from prior rate cases line up with the 'forecast.'"<sup>1506</sup> MEC/SC asserts that "[w]hether this misrepresentation is intentional or a misunderstanding, the fact that the Company is relying on it to justify its load forecast

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<sup>1502</sup> Staff reply, 18.

<sup>1503</sup> Staff reply, 19.

<sup>1504</sup> MSC reply, 15.

<sup>1505</sup> MSC reply, 16.

<sup>1506</sup> MSC reply, 16.

should be enough to reject the forecast entirely.”<sup>1507</sup> MEC/SC stands by its recommendation to reject the load forecast and replace it with one that incorporates historical data showing declining gas demand and prospective assumptions regarding energy efficiency and electrification.<sup>1508</sup>

*iii. Recommendation*

This PFD notes that the company agreed to accept the recommendation of Staff witness Ausum to include additional data and inputs in future cases. The company also accepted Staff witness Braunschweig's recommendation to work with Staff to improve future RIA-related filings and to base RIA count projections on three-year historical averages. This PFD recommends accepting Staff's recommendations and the company's assent thereto; per Staff this would add \$1.119 million to present revenue. Accordingly, this PFD adopts a sales revenue figure of \$2.183 billion, which both Consumers and Staff agree is the appropriate figure.<sup>1509</sup>

This PFD is not persuaded by the Attorney General's argument that commercial transport volumes should be revised upward. Instead, this PFD is largely persuaded by the company's arguments that it is better to adhere to the company's regression model rather than making a one-off adjustment based upon historical growth rates. This PFD also notes that if the Commission instead adopts the adjustment proposed by the Attorney General, then the associated revenue calculation should not be directly adopted and requires additional calculations described by Staff.<sup>1510</sup>

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<sup>1507</sup> MSC reply, 16.

<sup>1508</sup> MSC reply, 18.

<sup>1509</sup> See Consumers brief, 263 (citing Appendix C1, column 4); Staff brief, 66 (citing Appendix C, column b; and Exhibit A-151, line 1, column d).

<sup>1510</sup> See 4 Tr 2590-2591.

This PFD declines to adopt MEC/SC's recommendation to reject the company's load forecast. While MEC/SC argues that the company's forecast fails to reflect a long-term trend of declining gas usage, this PFD finds that the existence of such a trend is highly dependent on the datapoints selected to support it. This PFD credits the company's argument that, when considering a larger array of historical data, including weather normalized data, it is open for debate whether there is currently a clear, long-term trend of declining gas usage.

The parties provide lengthy arguments disputing the accuracy of the chart produced by Mr. Sherwani to showcase the performance of the company's regression model.<sup>1511</sup> While MEC/SC argues that the chart misrepresents historical sales predictions, this PFD believes that the company provided an adequate explanation as to why that does not appear to be the case.<sup>1512</sup> This PFD generally credits the company's arguments on this issue and notes that the dispute possibly stems from a misunderstanding or confusion between the parties which likely could have been resolved with better communication and clearer initial explanations as to the source of the data shown on Mr. Sherwani's chart.<sup>1513</sup>

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<sup>1511</sup> See chart at 2 Tr 272.

<sup>1512</sup> See generally Consumers reply, 92-96.

<sup>1513</sup> Further, Consumers took issue with MEC/SC's brief, which referenced data from previous cases which was not specifically entered into evidence in this case, and to remedy that situation, Consumers itself presented non-record evidence in its reply brief under the presumption that it would be fair to consider non-record evidence presented by the company if the Commission first considered non-record evidence presented by MEC/SC. This PFD frowns upon the presentation of non-record evidence by either party in their respective briefs; however, such data was derived from previous cases, and both parties have now presented such evidence which partially ameliorates basic concerns regarding fairness. In any event, this PFD notes that the dispute regarding Mr. Sherwani's chart was not outcome determinative to the other recommendations in this section of the PFD.

This PFD acknowledges MEC/SC's concern that the company did not use out-of-sample data to test its regression model. However, as the company pointed out, the cross examination of Mr. Sherwani revealed that the company did, in a way, include one-year-at-a-time out-of-sample testing, which largely supported the accuracy of the company's model.<sup>1514</sup> While the company did explain that it validated its regression model in other ways, this PFD agrees with Staff and MEC/SC that using out-of-sample data is a valuable way of confirming the predictive power of a regression model. Accordingly, this PFD agrees with Staff and MEC/SC and recommends directing the company to utilize out-of-sample data to test its regression model. This PFD notes that while the company asserts that it is "unclear" that there is added value in such testing, it has already stated that it "will consider it."<sup>1515</sup>

This PFD is also not persuaded by MEC/SC that the company's current modeling or forecast is faulty for failing to account for the effects of Act 229 because MEC/SC did not demonstrate that such legislation would have a material effect on forecasted sales in the projected test year. However, this PFD does not believe that it is premature to begin to consider the effects that increasing electrification may have on demand for gas in the long term. Accordingly, this PFD agrees with Staff and MEC/SC that the Commission should direct that, in future cases requiring long-term forecasts, the company should find a way to incorporate the impact on gas demand attributable to increasing electrification measures. This PFD also agrees with Staff that the energy efficiency or electrification inputs into such a load forecast should stem from a consistent set of data whether from

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<sup>1514</sup> See 2 Tr 272; 2 Tr 322-324.

<sup>1515</sup> Consumers reply, 90 n 17.

other cases before the Commission (i.e. EWR cases) or a reliable third-party source of data. This PFD further agrees with MEC/SC and Staff that the Commission should, as it did with peer utility DTE Gas, direct Consumers to explicitly include the forecasted yearly sales for each major customer class for the 10-year gas delivery planning horizon and include for each year a list of the amount of throughput expected on a peak demand day.<sup>1516</sup>

Further, this PFD recommends adopting the company's projected transportation and miscellaneous revenue amounts of \$102.396 million and \$28.666 million respectively.

**B. Cost of Gas Sold**

Mr. Joyce testified that the company projected an average cost of gas sold of \$3.296 per Mcf.<sup>1517</sup> Accordingly, the company calculated a cost-of-gas sold expense in the test year of \$737.588 million.<sup>1518</sup> Neither Staff nor any other party disputed these figures, so this PFD recommends that the Commission adopt these figures.

**C. Lost, Unaccounted For, and Company Use Gas**

Mr. Joyce testified that lost and unaccounted for (LAUF) gas was related to the loss of gas from leaks, billing issues, theft, meter inaccuracy, and other sources. He sponsored related Exhibits A-73 through A-75, and he estimated that LAUF expense would be \$12.709 million in the projected test year.<sup>1519</sup> He also testified that company use

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<sup>1516</sup> See November 7, 2024, Order in Case No. U-21291, p. 121.

<sup>1517</sup> 4 Tr 1499.

<sup>1518</sup> See Appendix C1, line 5, column (d) of the company's initial brief.

<sup>1519</sup> 4 Tr 1501.



gas was gas used by the company for its own purposes, and testified that this expense was projected to be \$5.502 million in the projected test year.<sup>1520</sup>

Mr. Coppola proposed a \$728,000 reduction in LAUF gas expense based on the company's commitment to reduce methane emissions by 80% by 2030, as outlined in its Gas System Decarbonization plan.<sup>1521</sup> Given the company's plans and investments to meet this goal, he opined that it is reasonable to expect measurable reductions during the test year period, and that the Company should be held accountable for achieving them.

In rebuttal, Mr. Joyce disagreed with Mr. Coppola's recommendation to reduce the LAUF volume by 221 MMcf (and disallow \$728,000) based on the company's emission reduction goals. He asserted that LAUF includes factors beyond methane emissions, such as theft and metering inaccuracies, and that the existing five-year average methodology already accounts for future methane reductions.<sup>1522</sup> Mr. Joyce also responded to other arguments associated with LAUF and company use gas made in Mr. Coppola's originally filed direct testimony; however, Mr. Coppola's revised testimony retracted these arguments and they are not addressed further.<sup>1523</sup>

In briefing, the company repeats Mr. Joyce's rebuttal testimony and also argues that its emission reduction goals do not mean zero emissions, and that emissions can be offset with "other carbon-positive activities."<sup>1524</sup> The company also emphasizes that the Attorney General's argument wrongly assumes that reduced emissions and reduced LAUF gas are synonymous, but they are different because LAUF can include customer

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<sup>1520</sup> 4 Tr 1503.

<sup>1521</sup> 4 Tr 2017.

<sup>1522</sup> 4 Tr 1528-1529.

<sup>1523</sup> Compare 4 Tr 2015-2016 with 4 Tr 1529-1530.

<sup>1524</sup> Consumers brief, 266.

theft, meter inaccuracies, metering and storage adjustments, and other factors.<sup>1525</sup> The company's reply responds to miscellaneous points raised in the Attorney General's brief.<sup>1526</sup>

The Attorney General's briefing argues that the company's "election to use a projected test year should also include future events that affect the amount of LAUF gas that is likely to occur in the projected test year."<sup>1527</sup> The Attorney General's reply provides no additional argument.

This PFD agrees with the company and declines to adopt the Attorney General's proposed disallowance because LAUF gas can encompass gas lost through means other than leaks or emissions such that it would not be entirely appropriate to adopt the proposed disallowance.

#### D. Other O&M Expenses

This PFD will first address the general recommendations related to overall O&M expenditures proposed by CUB witness Ram Veerapaneni before moving on to O&M expenses for specific categories and projects.

##### 1. General Proposed O&M Disallowances

###### *i. Testimony*

Mr. Veerapaneni testified that the company's projected O&M expenses in the categories of: (1) Gas Operations; (2) Gas Engineering and Supply; (3) Field Operations Services; (4) Gas Operations-Other; (5) Regulatory Compliance; (6) Gas Compression;

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<sup>1525</sup> Consumers brief, 266.

<sup>1526</sup> Consumers reply, 103-105.

<sup>1527</sup> AG brief, 156.

and (7) Gas Storage should be adjusted downward.<sup>1528</sup> His testimony on the company's O&M expenses mirrored his testimony on capital expenditures wherein he criticized the company's practice of filing rate increases every year based on projected spending.<sup>1529</sup> Mr. Veerapaneni proposed that test year expenses for the seven O&M categories listed above should be based on the average of 2023 and 2024 historical spending adjusted for inflation (using a Productivity Adjusted Total Factor Inflation (PAI) of 3.29%).<sup>1530</sup> Based on his proposal, he recommended adopting \$205,134,000 in total O&M expense for the test year instead of the company's projected spending, which would result in a decrease of \$23,119,000 for test year O&M expense.<sup>1531</sup>

In rebuttal, company witnesses Pascarello and Pnacek testified that Mr. Veerapaneni's proposal to use a two-year average to determine certain O&M expenses is "unreasonable."<sup>1532</sup> Mr. Pnacek asserted that Mr. Veerapaneni did not consider the reasonableness or customer benefits of the proposed test year projects and the Commission should reject his recommendation.<sup>1533</sup>

*ii. Briefing*

The company echoes its witnesses' testimony and states that Mr. Veerapaneni's method "is not reasonably calculated to reflect the actual costs that Consumers Energy expects to incur during the test year for this case. Therefore, his methodology should be

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<sup>1528</sup> 4 Tr 2407; Exhibit CUB-11.

<sup>1529</sup> 4 Tr 2393-2397.

<sup>1530</sup> 4 Tr 2403; Exhibit CUB-9.

<sup>1531</sup> 4 Tr 2407; Exhibit CUB-11.

<sup>1532</sup> 3 Tr 467; 4 Tr 1703, 1716-1717.

<sup>1533</sup> 4 Tr 1703, 1716-1717.

rejected across the board.”<sup>1534</sup> CUB’s briefing repeats the points raised by Mr. Veerapaneni.<sup>1535</sup>

*iii. Recommendation*

As discussed above in the Test Year and Rate Base sections of this PFD, *supra*, this PFD agrees with CUB’s concerns about the company’s yearly requests for increased spending. However, as noted there, the Commission has consistently rejected broad approaches to setting rates and prefers to evaluate spending on a more detailed basis. This PFD declines to adopt CUB’s broad O&M disallowance because CUB failed to provide specific cost comparisons or any evidence to show that this proposal is more just or reasonable than any specific projections offered by the company.

2. Engineering, Supply, Operations, and Compliance O&M Expense

a. Quality Lean Office

*i. Testimony*

Ms. Pascarello provided projected O&M expenses for the Gas Project Management and Quality Lean Office, which is one of the major departments within Gas Engineering and Supply (GE&S).<sup>1536</sup> Regarding the Quality Lean Office, she testified that its, “[k]ey responsibilities include developing and implementing standards, processes, procedures, and policies, supporting overall business efficiency by reducing waste and errors, and enhancing customer satisfaction by addressing potential or identified non-conformances.”<sup>1537</sup> Ms. Pascarello testified that the projected test year O&M expense for

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<sup>1534</sup> Consumers brief, 289-290.

<sup>1535</sup> MSC brief, 13-14.

<sup>1536</sup> Exhibit A-81.

<sup>1537</sup> 3 Tr 360.

Gas Project Management is \$1,132,000 and the Quality Lean Office is \$2,020,000, totaling \$3,152,000 for both programs.<sup>1538</sup>

Mr. Coppola was skeptical of the need for the Quality Lean Office. He contended that there is no evidence that the cost paid by customers is having a significant beneficial impact, reducing costs or achieving other financial benefits.<sup>1539</sup> He highlighted the company's inability to produce, in discovery, specific cost savings or accomplishments; he noted that the company merely explained that the Quality Lean Office provides support to other personnel.<sup>1540</sup> He recommended that the Commission disallow \$1,259,000 of O&M expense, because, he maintained, the company cannot demonstrate the value of the Quality Lean Office or justify its costs.<sup>1541</sup>

In rebuttal, Ms. Pascarello contested Mr. Coppola's recommended disallowance. She testified that the purpose of the Quality Lean Office is to "accelerate value delivery by building lean capabilities in the organization – specifically leveraging the CE Way lean operating system to effectively manage and improve performance."<sup>1542</sup> She maintained that the company's testimony includes examples of the value of CE Way, such as that it had been leveraged to achieve \$3,600,000 in benefits from the Employee Incentive Compensation Plan operational performance measures and it achieved a \$216,500 reduction in Enhanced Infrastructure Replacement Distribution Program (EIRP) plastic pipeline costs per mile compared to 2023 actual cost per mile.<sup>1543</sup> She testified that the

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<sup>1538</sup> 3 Tr 361.

<sup>1539</sup> 4 Tr 2003.

<sup>1540</sup> 4 Tr 2003.

<sup>1541</sup> 4 Tr 2003.

<sup>1542</sup> 3 Tr 461.

<sup>1543</sup> 3 Tr 461.

Commission should approve the company's projected funding for the Quality Lean Office to "continue to support overall business efficiency and continuous performance improvement."<sup>1544</sup>

*ii. Briefing*

In its initial brief, the company relies on the testimony of Ms. Pascarello, contending that funding for the Quality Lean Office supports overall business efficiency and continuous performance improvement.<sup>1545</sup>

In her initial brief, the Attorney General reiterates Mr. Coppola's testimony and recommends that the commission remove \$1,259,000 of O&M expense because the company has not justified the expense for the Quality Lean Office.<sup>1546</sup>

Neither party addressed the Quality Lean Office in its reply brief.

*iii. Recommendation*

This PFD agrees with the Attorney General that the company has not adequately demonstrated that the costs for the Quality Lean Office are justified. This PFD finds that the company's rebuttal testimony providing two CE Way examples is encouraging, but is also insufficient to meet the company's burden to show that the Quality Lean Office expenses are reasonable and prudent. Therefore, this PFD adopts the Attorney General's recommendation to remove \$1,259,000 of O&M expense for the projected test year. The project may be approved in a future rate case if Consumers provides a more robust explanation of the program and a more systematic and quantifiable demonstration of the benefits of the Quality Lean Office compared to its costs.

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<sup>1544</sup> 3 Tr 462.

<sup>1545</sup> Consumers brief, 267-268.

<sup>1546</sup> AG brief, 160-161.

b. System Integrity Expense

i. *Testimony*

Ms. Pascarello explained that the System Integrity department oversees key integrity management programs to ensure the safety and reliability of the company's assets. For the 12 months ending October 31, 2026, the department's projected O&M expense is \$3.789 million, covering salaries and support for engineers and staff involved in inspections, risk modeling, and regulatory compliance, with the increase from 2023 due to a reassessment that identified more integrity-related work.<sup>1547</sup>

Mr. Coppola recommended disallowing \$1,513,000 from the company's forecasted O&M expense for this category explaining that this amount was labeled as a reclassification of existing salaries and expenses, not a result of increased workload. However, he asserted that the company failed to identify where these costs were reclassified from or show any corresponding decrease in the originating departments. Mr. Coppola asserted the increase is unsupported and should be disallowed because the company did not provide sufficient historical or comparative information to validate the change.<sup>1548</sup>

In rebuttal, Ms. Pascarello stated that the shift in O&M expense was unrelated to any departmental reorganization or additional job duties and was instead a reclassification of existing salaries and expenses as O&M related rather than related to capital expenses.<sup>1549</sup> She asserted that disallowing this amount would result in a reduction in the necessary workforce tasked with integrity management work.

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<sup>1547</sup> 3 Tr 366-367.

<sup>1548</sup> 4 Tr 2000-2001.

<sup>1549</sup> 3 Tr 460, see also Exhibit AG-57 cited by Ms. Pascarello.

*ii. Briefing*

In briefing, the company repeats its contention that the O&M expense was unrelated to a reorganization and reflects a reclassification of existing salaries as O&M and therefore does not offset or remove costs in other areas but shifts costs from capital to O&M.<sup>1550</sup>

The Attorney General argues that the company failed to provide comparable historical information to explain and show cost changes resulting from departmental reorganizations such that the expense should be disallowed.<sup>1551</sup>

The company's reply states that while there was a reorganization in certain Gas Engineering and Supply department, that is unrelated to the system integrity expense at issue and the Attorney General mistakenly assumes that the increased expense was due to a "reorganization" when that was not the case.<sup>1552</sup> The Attorney General's reply provided no additional argument on this topic.

*iii. Recommendation*

This PFD is satisfied by the company's explanation that the reclassification was not related to departmental reorganization but was a shift of salaries from capital expenditures to O&M. Accordingly, this PFD declines to adopt the Attorney General's recommended disallowance and notes that the Attorney General never responded to the company's assertion that the expense was not related to a departmental reorganization.

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<sup>1550</sup> Consumers brief, 268.

<sup>1551</sup> Consumers brief, 159.

<sup>1552</sup> Consumers reply, 106.



c. AMD O&M Expense

*i. Testimony*

Mr. Coppola recommended that, consistent with his proposal to remove the related capital expenditures, the Commission should disallow the projected \$1,969,000 in O&M expense for the AMD program.

*ii. Briefing*

Consumers asserts that the Attorney General's O&M disallowance for the AMD program should be rejected for the same reasons already discussed in relation to the capital expenditure disallowances.<sup>1553</sup>

The Attorney General similarly asserts that her AMD O&M disallowance should be adopted for the same reasons discussed in relation to her proposed capital expenditures disallowance for this program.<sup>1554</sup>

*iii. Recommendation*

Because this PFD recommends disallowing all capital expenditures associated with the AMD program, it also recommends disallowing the \$1.969 million in associated O&M expense.

d. Utility Network Expense

*i. Testimony*

Mr. Coppola testified that, consistent with the capital expenditures section of his testimony regarding this project, its associated O&M expense in the amount of \$517,000 should also be disallowed.<sup>1555</sup>

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<sup>1553</sup> Consumers brief, 269.

<sup>1554</sup> AG brief, 161.

<sup>1555</sup> 4 Tr 2019.

Similarly, Ms. Pascarello opposed the disallowance for the same reasons stated in capital expenditures portion of this PFD.<sup>1556</sup>

*ii. Briefing*

The company's brief asserts that the Attorney General's disallowance for the Utility Network O&M expense should be rejected for the same reasons already discussed in relation to the proposed capital expenditure disallowance.<sup>1557</sup>

*iii. Recommendation*

Consistent with this PFD's approval of the capital expenditures for this program, this PFD declines to adopt the O&M disallowance proposed by the Attorney General.

e. Leak Repair/LDAR Rule Expense

*i. Testimony*

Mr. Pnacek testified that the company included an additional \$1.3 million to reduce the company's backlog of leaks in need of repair in compliance with the proposed LDAR rule, regardless of its timing.<sup>1558</sup>

Mr. Martus explained that Staff supported the repair of known leaks regardless of the proposed LDAR rule's passing, but he opposed granting a deferral mechanism since the LDAR rule was on hold.<sup>1559</sup>

Mr. Coppola testified consistently with his testimony on LDAR capital expenditures, and he recommended that the Commission disallow \$1.3 million from the projected test

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<sup>1556</sup> 3 Tr 459.

<sup>1557</sup> Consumers brief, 269.

<sup>1558</sup> 4 Tr 1642.

<sup>1559</sup> 4 Tr 2699, 2700.

year O&M expense because the cost was premature and not justified since the LDAR rule was on hold.<sup>1560</sup>

Mr. Fitzhenry testified that the Company's proposed \$1.3 million increase in O&M expenses for leak repair was not reasonable because the final LDAR rule had not been published and the assumed compliance dates were no longer applicable. He also presented data showing that the number of known system leaks scheduled for repair in 2023 was 27% below the five-year average, indicating no growing backlog.<sup>1561</sup> Based on this evidence, he recommended that the Commission deny both the proposed \$1.3 million increase and the Company's request to defer any test year O&M expenses related to the LDAR rule.<sup>1562</sup>

In rebuttal, Mr. Pnacek testified that due to a delay in the publication of the final LDAR rule and a new compliance date of January 1, 2028, the company no longer seeks approval for a deferral mechanism for related O&M expenses in this rate case.<sup>1563</sup> Mr. Pnacek disagreed with recommendations to disallow the \$1.3 million for Leak Survey and Repair explaining that the spending is intended to accelerate the reduction of known leak backlogs for safety and emissions reasons regardless of the LDAR rule. He supported Staff's approach to deny the deferral mechanism but maintain the funding to address the backlog.<sup>1564</sup>

Mr. Pnacek also disagreed with Mr. Fitzhenry's claim that the company has no leak backlog because the data in Mr. Fitzhenry's Table CTF-7 only reflects the number of leaks

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<sup>1560</sup> 4 Tr 2004.

<sup>1561</sup> 4 Tr 2145, Table CTF-7.

<sup>1562</sup> 4 Tr 2146.

<sup>1563</sup> 4 Tr 1700.

<sup>1564</sup> 4 Tr 1701.

repaired, not the number of outstanding or newly identified leaks. He clarified that the company did have a leak backlog, ending 2023 with 5,618 leaks and 2024 with 5,480 leaks.<sup>1565</sup>

*ii. Briefing*

The company emphasizes in its briefing that it formally withdraws its request for a deferred accounting mechanism for LDAR costs but maintains its request for \$1.3 million in O&M expenses to eliminate the leak backlog.<sup>1566</sup> Consumers asserts that its plan to eliminate its backlog of leaks is not contingent upon the promulgation of the LDAR rule such that its delay is no reason to disallow costs.<sup>1567</sup> The company contends that ABATE is incorrect and that company does indeed have a backlog of leaks in need of repair.<sup>1568</sup>

The Attorney General argues that statements in Mr. Pnacek's direct testimony suggested that the challenged \$1.3 million was associated with the passage of the LDAR rule.<sup>1569</sup> Further, the Attorney General asserts that, based upon information from the company, the existing leak backlog occurred because of the company's inattention to the issue of leak repair and its inconsistent spending to resolve that issue.<sup>1570</sup>

ABATE repeats its arguments that the LDAR rule is delayed, the number of leaks scheduled for repair in 2023 was below the company's five-year average indicating a declining number of leaks, and most of the backlog leaks are Grade 3, i.e. the least hazardous.<sup>1571</sup>

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<sup>1565</sup> 4 Tr 1702.

<sup>1566</sup> Consumers brief, 274.

<sup>1567</sup> Consumers brief, 274.

<sup>1568</sup> Consumers brief, 275 (citing Exhibit AG-69, p. 2, 3).

<sup>1569</sup> AG brief, 168.

<sup>1570</sup> AG brief, 168.

<sup>1571</sup> ABATE brief, 34.

The company's reply provides refutations of ABATE's insinuations that leaks need not be eliminated if they are the least hazardous type and that there may not be as many leaks as the company suggests due to false positives. Consumers asserts that ABATE's own exhibit (AB-26) shows that 31% of leaks in the company's backlog as of 2024 were classified as Grade 2 (i.e. more serious) such that ABATE's argument is inapt.<sup>1572</sup> The company acknowledges that there can sometimes be some false positives as ABATE suggests, but the company argues that there are far more "true positives" that require remediation.<sup>1573</sup> The company also contends that there is no record evidence to support the Attorney General's conclusion that a leak backlog is the result of the company's inattention to the issue. The company explains that "[t]he Attorney General's argument appears to be punitive in nature, implying that underfunding needed leak repairs is somehow meant to punish the utility for not completing the work sooner, despite the fact that the Company did not have sufficient funds to complete both the new leaks and the full leak backlog in any single recent year."<sup>1574</sup>

*iii. Recommendation*

This PFD declines to adopt the \$1.3 million disallowance recommended by the Attorney General and ABATE. Consistent with this PFD's treatment of LDAR capital expenditures, this PFD agrees with Staff and believes that it is reasonable and prudent to address leaks regardless of when or whether the federal LDAR rule goes into effect.

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<sup>1572</sup> Consumers reply, 107, 108.

<sup>1573</sup> Consumers reply, 108-109.

<sup>1574</sup> Consumers reply, 111.

f. Staking & Locating Expense

i. *Testimony*

Mr. Pnacek testified that Consumers completes staking and locating in compliance with the MISS DIG 811 Underground Facility Damage Prevention and Safety Act. The expenses for this include outside services that are contracted with a third party for staking and locating for the company along with other utilities, third-party contractor services to stake and locate solely for the company under the Dedicated Contractor staking program, and company “labor to support standby inspections, and abnormal operating and condition efforts.”<sup>1575</sup> In total, Consumers is requesting approval of \$24,457,485 for the staking and locating sub-program for the test year, a notable increase over the \$12,407,045 in O&M expenses for the sub-program in 2023.<sup>1576</sup>

Mr. Pnacek listed the component parts of the increase, providing Table 29 in his revised direct testimony.<sup>1577</sup> He also indicated that \$1,712,991 of the increase is based on an anticipated 66,379 contractor request volume increase; \$401,181 in increased labor rate change and increased hours; \$465,029 in increased MISS DIG membership fees; and \$9,470,757 for dedicated model expansion and contractor rate increases.<sup>1578</sup> Mr. Pnacek further separated the dedicated model expansion and contractor rate increases into expanding the dedicated staking in Oakland and Kent Counties for \$2,179,247, and \$7,291,510 to expand the dedicated model to the remainder of the company’s service area.<sup>1579</sup> The expansion amount was determined by RFP results, and a determination

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<sup>1575</sup> 4 Tr 1645.

<sup>1576</sup> 4 Tr 1646.

<sup>1577</sup> 4 Tr 1646.

<sup>1578</sup> 4 Tr 1646.

<sup>1579</sup> 4 Tr 1646.

from the requested bids that the dedicated contractor approach would be less costly than continuing to use a shared contractor program.<sup>1580</sup>

Mr. Pnacek presented total staking and locating expenses from 2016 onwards and indicated that the “test year expense projection is based on a weighted average of the 2025 (12%) and 2026 (88%) forecast amounts, which reflect the Company’s historical experience of program expense timing.”<sup>1581</sup> Mr. Pnacek added that the company anticipates an increase of 7% “relative to 2024 contractor services” based on both historical data and staking forecasts, with these set forth in Table 31 of his testimony.<sup>1582</sup> According to Mr. Pnacek, Michigan’s MISS DIG annual ticket requests also show consistent increases, with the exception of 2020 at the height of the COVID-19 pandemic.<sup>1583</sup> This leads to increased labor hour projections at standard hourly labor rates, which themselves are projected to increase.<sup>1584</sup>

Mr. Pnacek testified that “Consumers Energy and the State of Michigan are in the fourth quartile for third-party gas distribution damages per 1,000 tickets.”<sup>1585</sup> To this end, he testified that the proposed staking strategy, where a contractor is dedicated to staking only Consumers’ gas and electric assets, was implemented in a limited portion of the company’s service area to “improve timeliness and accuracy of staking.”<sup>1586</sup> Per Mr. Pnacek, in addition to these improvements, dedicated contractor staking is also intended to improve excavator communications, including providing additional information and

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<sup>1580</sup> 4 Tr 1646-1647.

<sup>1581</sup> 4 Tr 1647.

<sup>1582</sup> 4 Tr 1647-1648.

<sup>1583</sup> 4 Tr 1648-1649.

<sup>1584</sup> 4 Tr 1649-1650.

<sup>1585</sup> 4 Tr 1650-1651.

<sup>1586</sup> 4 Tr 1650-1651.

pictures to excavators, with public safety as the goal.<sup>1587</sup> He indicated that, in 2023, the dedicated contractor resource model in Oakland County improved accuracy related to at-fault damage reduction of 87.3%, and timeliness of 98.7%, compared to shared contractor timeliness of 97.3%.<sup>1588</sup> For 2024, Mr. Pnacek testified that the dedicated contractor model for Oakland and Kent Counties, compared to shared contractor modeling, reduced at-fault damage by 78.6% from 2022, and field timeliness “averaged 99.5% (including 24 hour re-transmits) compared to 95.2% for the Shared Contractor Resource model.”<sup>1589</sup>

According to Mr. Pnacek, the test year costs for the dedicated contractor locating program are solely for locating gas facilities for Consumers Energy, “compared to the [then] existing method of vendors locating several other additional external facilities.”<sup>1590</sup> Because it costs less and provides greater benefits, he testified that Consumers intends to expand the program to its statewide gas service territory in 2025.<sup>1591</sup> This is an expansion from the dedicated contractor staking program covering two-thirds of Oakland County, which already accounts for 20% of total staking volume, to 31% of total staking for 2024 and 100% of total staking for 2025.<sup>1592</sup>

Mr. Pnacek further testified that the contract for the shared contractor program expired in the first quarter of 2025, and, following the solicitation of bids for both shared and dedicated services, the dedicated contractor bids produced a lower unit cost. This, coupled with improved timeliness and accuracy, led to the company’s decision to expand

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<sup>1587</sup> 4 Tr 1650-1651.

<sup>1588</sup> 4 Tr 1653.

<sup>1589</sup> 4 Tr 1653.

<sup>1590</sup> 4 Tr 1651-1652.

<sup>1591</sup> 4 Tr 1652.

<sup>1592</sup> 4 Tr 1652.



dedicated contractor staking statewide.<sup>1593</sup> Mr. Pnacek added that, subject to “redline and performance incentive adjustments made to provide an accurate comparison,” the dedicated contractor model resulted in an average of \$10.90 less per unit compared to the shared contractor model.<sup>1594</sup> The company calculated that failing to switch from the shared contractor model to the dedicated contractor model would increase estimated costs by \$3,667,000 for the test year.<sup>1595</sup>

On behalf of the company, Mr. Pnacek and Ms. Myers requested a deferral mechanism for the staking and locating sub-program because staking volumes are driven by external factors beyond Consumers’ control.<sup>1596</sup> Mr. Pnacek stated that, due to “fiber optic and other infrastructure work,” staking demand for the 2026 test year could exceed the company’s predictions.<sup>1597</sup> To address this level of uncertainty, Mr. Pnacek requested that the Company be permitted to defer expenses for the staking and locating sub-program that are less than, or exceed, forecasted amounts.<sup>1598</sup>

Mr. Martus testified that Staff had no concerns about the \$24,457,485 requested for the Staking and Locating O&M sub-program expense.<sup>1599</sup> Staff also did not express any opinions on the proposed base ticket volume of 482,380 for the 2026 projected test year.<sup>1600</sup> Mr. Martus indicated Staff’s support for a regulatory deferral mechanism for the Staking and Locating sub-program to address the “significant fluctuations in staking

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<sup>1593</sup> 4 Tr 1652-1653.

<sup>1594</sup> 4 Tr 1654.

<sup>1595</sup> 4 Tr 1654.

<sup>1596</sup> 4 Tr 1577 & 1649.

<sup>1597</sup> 4 Tr 1649.

<sup>1598</sup> 4 Tr 1649.

<sup>1599</sup> 4 Tr 2701.

<sup>1600</sup> 4 Tr 2701.

volume” for the Realizing Opportunities with Broadband Infrastructure Networks (ROBIN) and Broadband Equity, Access, and Deployment (BEAD) programs.<sup>1601</sup> However, he also indicated that Staff support was limited to addressing “only fluctuations stemming from the variability in staking volume.”<sup>1602</sup> As a result, Staff recommended a regulatory deferral mechanism that would recover up to the base unit ticket volume with a refund to customers if the projected 482,380 ticket volume was not met for the test year, expressed by the equation  $(X - 482,380) \times \$45.67$  where “X” is the base unit ticket volume. This is shown in Exhibit S-17.3, with the recovery under the deferral mechanism capped at \$2,297,630, and the refund capped at \$726,724.<sup>1603</sup>

Mr. Coppola recommended removal of the incremental O&M expense of \$11,184,000 for the projected test year.<sup>1604</sup> He acknowledged that the company pursued its own dedicated staking and locating program in Oakland and Kent counties since 2023, with gas, electric, water, and cable companies sharing the cost of locating underground facilities at the request of MISS DIG outside of these two counties.<sup>1605</sup>

By Mr. Coppola’s estimate, Consumers is proposing an increase in its total staking expense from \$12.4 million in 2023 to \$24.4 million for the projected test year, with \$15.1 million of the increase set for the purpose of increasing the company-only dedicated staking and locating program outside Oakland and Kent Counties, \$4 million of the increase for the existing Oakland and Kent County programs, and \$1 million going

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<sup>1601</sup> 4 Tr 2701-2702.

<sup>1602</sup> 4 Tr 2702.

<sup>1603</sup> 4 Tr 2702.

<sup>1604</sup> 4 Tr 2005-2008.

<sup>1605</sup> 4 Tr 2005-2006.

towards “other areas of the program.”<sup>1606</sup> Mr. Coppola added that approximately \$7.9 million of the increases would be offset by the termination of contracts for staking and locating that were traditionally shared with other utilities.<sup>1607</sup> However, he also testified it was not prudent to increase costs by \$12 million “without providing any evidence that a serious problem with staking and locating exists” that could not be “resolved in other ways.”<sup>1608</sup>

Mr. Coppola explained that the company’s evaluation of its experimental company-only dedicated staking and locating program has never been “thoroughly presented” to justify the benefits of the program.<sup>1609</sup> He noted that Mr. Pnacek testified that the company-only staking and locating had demonstrated “better statistics,” but it was unclear whether the improvements justified the greatly increased costs, particularly where no evidence was presented regarding what efforts were made to resolve issues with contractors, and what resolution of those issues might have cost.<sup>1610</sup>

According to Mr. Coppola, Mr. Pnacek’s testimony that company-only contractor bids are lower cost than for the shared model, “is counter to the [company’s own] historical evidence.”<sup>1611</sup> Additionally, per Mr. Coppola, because contractors can increase their own revenue with the designated model, and because the company expressed a preference for the designated model, the 2024 RFP bidding was not a reliable indicator of

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<sup>1606</sup> 4 Tr 2005.

<sup>1607</sup> 4 Tr 2005 & 2007.

<sup>1608</sup> 4 Tr 2006.

<sup>1609</sup> 4 Tr 2006.

<sup>1610</sup> 4 Tr 2006.

<sup>1611</sup> 4 Tr 2006-2007.

comparative costs between dedicated and shared staking and locating.<sup>1612</sup> As a result, Mr. Coppola recommended the removal of \$11,184,000 from the projected test year.<sup>1613</sup>

Mr. Coppola also recommended rejection of the deferred accounting treatment proposal. He took the position that the company had not provided “compelling evidence” that staking and locating requests have been “highly volatile” or significantly expensive.<sup>1614</sup> According to Mr. Coppola, the marked increase in cost was caused only by the change from a shared contractor model to a dedicated model.<sup>1615</sup>

In rebuttal, Mr. Pnacek testified that, combined, the ROBIN and BEAD programs have “the potential to significantly increase staking volumes above forecasted levels.”<sup>1616</sup> In support, he cited that the State of Michigan’s Labor and Economic Opportunities website indicating that \$250.6 million is to be expended no later than the end of the 2026 calendar year to expand high speed internet service to approximately 500,000 unserved or underserved households.<sup>1617</sup> Mr. Pnacek rejected the Attorney General’s position; instead, the company accepted Staff’s recommendation regarding the modified staking and locating deferral mechanism to address the unknown costs of increased staking and locating volume “without building the unknown cost into rates.”<sup>1618</sup>

More broadly, Mr. Pnacek took issue with most of Mr. Coppola’s characterization of the proposed staking and locating expenses.<sup>1619</sup> He started by clarifying that

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<sup>1612</sup> 4 Tr 2006-2007.

<sup>1613</sup> 4 Tr 2008.

<sup>1614</sup> 4 Tr 2033.

<sup>1615</sup> 4 Tr 2033.

<sup>1616</sup> 4 Tr 1713.

<sup>1617</sup> 4 Tr 1712-1713.

<sup>1618</sup> 4 Tr 1713.

<sup>1619</sup> 4 Tr 1704-1713.

Consumers is “the only gas utility in Michigan that attempts to use contractors for initially marking of gas distribution facilities,”<sup>1620</sup> adding that DTE Gas, SEMCO, and MGU all use the dedicated asset staking model when company technicians are not used.<sup>1621</sup> He went on to clarify that the dedicated staking approach in Oakland and Kent Counties was not experimental, and was not intended to be used solely to “evaluate the incremental benefits against incremental cost” to compare it with the shared resource model; the dedicated staking model was introduced to increase timeliness, staking accuracy, and improve excavator communication at the lowest cost possible for achieving those goals.<sup>1622</sup> Mr. Pnacek reiterated that dedicated staking had the lowest average unit cost, and that remaining with a shared resource model for staking would increase program costs by \$3,667,000 in the test year.<sup>1623</sup>

Mr. Pnacek similarly rejected Mr. Coppola’s contention that Consumers did not work with its shared resource contractor to resolve issues at minimal cost; he stated that the company conducted quarterly performance reviews with the contractor throughout the three-year agreement, but performance issues remained unresolved.<sup>1624</sup> Mr. Pnacek restated the benefits of switching to a dedicated contractor and stressed that the shared resource contract expired in March 2025.<sup>1625</sup> As a result, Consumers sent out its RFP in the third quarter of 2024 for a shared resource model or a dedicated resource model bid.

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<sup>1620</sup> 4 Tr 1704, quoting David Chislea in Case No. U-21148.

<sup>1621</sup> 4 Tr 1704.

<sup>1622</sup> 4 Tr 1705-1706.

<sup>1623</sup> 4 Tr 1706 & 1708.

<sup>1624</sup> 4 Tr 1706-1707.

<sup>1625</sup> 4 Tr 1706-1707.

Out of five bids, only one bid was for shared resource staking, and this was significantly higher than the lowest dedicated resource model contractor.<sup>1626</sup>

Mr. Pnacek repeated that the dedicated contractor model is saving an average of \$10.90 per unit in comparison to the shared contractor bid, and that the expansion of the dedicated resource model to the entirety of the company's "service territory was based on the improved performance and lower unit cost of the Dedicated Resource Model compared to the Shared Resource Model."<sup>1627</sup> He asserted that the "historical evidence" erroneously relied upon by Mr. Coppola regarding the cost of shared resource staking was the contract that expired earlier this year, and that the price quoted was no longer available, citing confidential Exhibits A-143 and A-144.<sup>1628</sup> Mr. Pnacek testified that the new contract was competitively bid. He indicated that the company had to disclose the possibility of dedicated resource staking for the sake of soliciting bids, but that the company did not show bias towards dedicated resource staking, adding that the choice to transition to a dedicated resource model was not made until after bid review.<sup>1629</sup>

*ii. Briefing Regarding Contractor Expense*

The company's briefing is dedicated to refuting Mr. Coppola's recommended disallowance from the staking and locating subprogram.<sup>1630</sup> The company again explains the dedicated and shared staking models, and notes that its peers all use some version of a dedicated staking model.<sup>1631</sup> Consumers expands upon Mr. Pnacek's testimony that

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<sup>1626</sup> 4 Tr 1707-1708 & 1710.

<sup>1627</sup> 4 Tr 1708-1709.

<sup>1628</sup> 4 Tr 1709.

<sup>1629</sup> 4 Tr 1710-1711. Conf 4 Tr 3021-3022. Conf. Exhibits A-143 & A-144.

<sup>1630</sup> Consumers brief, 276-277, 284.

<sup>1631</sup> Consumers brief, 277, 281.

Consumers used a dedicated staking contractor, rather than its shared staking contractor, in Oakland County starting in 2023, and Kent County in 2024, to address serious issues that resulted in a July 7, 2019 show cause order in Case No. U-20569, with the contracted shared staking vendor committing another 62 staking-related violations thereafter. Despite this, Consumers indicates that it continued to work with the shared staking vendor to address issues through quarterly reviews until the March 2025 expiration of that contract.<sup>1632</sup>

Consumers' brief further addresses Mr. Coppola's criticisms of the RFP process, stating that the company only definitively planned to expand dedicated staking to Ingham and Kalamazoo Counties. There was no plan or preference for dedicated staking for the entire service area that could have been telegraphed to bidders.<sup>1633</sup> Nevertheless, as demonstrated by Confidential Exhibit A-143, only one shared staking bid was received, and it would have increased test year "program cost by \$3,667,000" in comparison to the winning dedicated staking bid.<sup>1634</sup>

According to Consumers, Mr. Coppola's concerns that there was a communicated preference for dedicated staking that skewed bidding, or that the shared staking model is inherently more economical than the dedicated staking model, were not borne out by the RFP process, where the company selected the lowest bidder out of several bids. Mr. Coppola's claims to the contrary are based on a contract that expired and that no longer exists.<sup>1635</sup> Consumers also takes the position that using its own personnel would have

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<sup>1632</sup> Consumers brief, 277-278, 281-282.

<sup>1633</sup> Consumers brief, 279-280.

<sup>1634</sup> Consumers brief, 278, 281.

<sup>1635</sup> Consumers brief, 278-283.

been “approximately double the price of the dedicated contractor,” referencing Exhibit AG-69, page 5, which indicates that the company’s own informal evaluation came to this conclusion.<sup>1636</sup> The company attributes overall demand increases in staking requests as the logical source of the increased contract costs for staking and locating.<sup>1637</sup>

The Attorney General maintains her recommended disallowance of \$11,184,000 from the company’s requested \$24.4 million for the projected test year, asserting that the experimental staking and locating program in Oakland County has never been “thoroughly presented” in order to justify the program’s expansion.<sup>1638</sup> The Attorney General contends that Consumers’ two years of accumulated data on dedicated staking is “misleading,” because, while the dedicated staking program led to better statistics, Consumers did not establish that it worked with its existing contractor to develop an “optimal” approach to address backlogs and other issues.<sup>1639</sup> The Attorney General contends that Consumers has not established that expanding the “expensive” dedicated staking program, a \$15.1 million expansion while eliminating \$7.9 million in shared staking and locating costs, is reasonable or prudent because the company has not provided evidence of problems with the existing shared staking program outside of Oakland and Kent Counties.<sup>1640</sup>

The Attorney General also maintains that Consumers has not performed comparative cost analyses between the dedicated staking and locating program versus using outside contractors for a shared staking program or using the company’s own

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<sup>1636</sup> Consumers brief, 279.

<sup>1637</sup> Consumers brief, 280.

<sup>1638</sup> AG brief, 162-163, 166.

<sup>1639</sup> AG brief, 163.

<sup>1640</sup> AG brief, 164, 165-166.



technicians for a dedicated staking program.<sup>1641</sup> According to the Attorney General, Consumers has not established that public safety improvements and damage reduction could not have been improved under the existing shared services contract.<sup>1642</sup> Moreover, the Attorney General alleges that the bidding process for a new contract was skewed based on the company's communicated preference for the dedicated service model. She reasserts that the company's historical information belies Mr. Pnacek's testimony that the dedicated service model produced lower per unit costs during bidding than the shared services model.<sup>1643</sup>

The company's reply brief adopts the arguments set forth in its initial brief, but the company further expands on certain points.<sup>1644</sup> Citing Exhibit AG-19, the company highlights that the dedicated staking service that was implemented in Oakland and Kent Counties was not an experiment or a test case, but was implemented to address immediate safety issues and staking problems in light of the Commission's show cause order and the 62 additional staking-related violations that occurred after its entry.<sup>1645</sup> Consumers clarifies that, due to safety concerns, it would have found a different contractor to serve its highest volume counties irrespective of whether the company being replaced was a shared or dedicated staking contractor.<sup>1646</sup>

Consumers adds that it put "considerable effort into working with the problematic contractor," but that this is irrelevant, because that contract expired in early 2025.<sup>1647</sup> The

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<sup>1641</sup> AG brief, 164-165.

<sup>1642</sup> AG brief, 165.

<sup>1643</sup> AG brief, 165-166.

<sup>1644</sup> Consumers reply, 112.

<sup>1645</sup> Consumers reply, 112-113.

<sup>1646</sup> Consumers reply, 113.

<sup>1647</sup> Consumers reply, 113-115.

reason for the RFP and the new staking and locating contract was due to the expiration of the old contract, and not because of the problems with the shared contracting vendor.<sup>1648</sup> Consumers repeats that the dedicated contractor was the lowest cost bidder, adding that the company also performed an informal evaluation of whether the staking work could be done in-house, but that, “based on its own union contracts, labor rates, overheads, and other cost rates,” this was not economical.<sup>1649</sup> Consumers also stresses that the “historical information” upon which the Attorney General relies for her position that dedicated staking is more expensive appears to be based on 2023 actual costs, which, in turn, is based on the prices under the expired contract.<sup>1650</sup> Consumers reiterates, citing Confidential Exhibit A-143, that the dedicated resource model contractor submitted the lowest replacement bid.<sup>1651</sup>

The Attorney General’s reply brief simply adopts the arguments set forth in her initial brief with no further arguments.

*iii. Briefing Regarding the Deferred Accounting Mechanism*

In its initial brief, Consumers explicitly adopts Staff’s recommendation that the proposed regulatory deferral mechanism have a range of \$(0.7) million to a \$2.3 million cap.<sup>1652</sup> The company emphasizes Mr. Pnacek’s testimony that the ROBIN and BEAD programs are likely to increase staking and locating requests, contrary to Mr. Coppola’s claims that there is no reason to expect growth or volatility in requests.<sup>1653</sup> Consumers

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<sup>1648</sup> Consumers reply, 113-115.

<sup>1649</sup> Consumers reply, 115-116.

<sup>1650</sup> Consumers reply, 116-117.

<sup>1651</sup> Consumers reply, 117.

<sup>1652</sup> Consumers brief, 276-277, 284.

<sup>1653</sup> Consumers brief, 283-284.

reiterates “that the deferral mechanism benefits both the Company and customers as it allows for refund and recovery without building the unknown cost into rates.”<sup>1654</sup>

Staff’s brief renews its support for the use of a deferral mechanism for the staking and locating subprogram, agreeing with the company that fiber optic projects may “introduce large variance in staking volume.”<sup>1655</sup> However, Staff recommends that, as set forth in Exhibit S-17.3, and repeated as a table in Staff’s brief, “the experienced 2026-year staking volume [should] be used to interpolate the corresponding cost change from the table,” with that amount applied as the regulatory deferral mechanism’s recovery or refund amount.<sup>1656</sup>

The Attorney General maintains that deferred accounting should be rejected because there is no evidence that staking and locating requests have been particularly volatile or variable. The Attorney General asserts that the company is not responsible for staking and locating optic cable, and the only variation in staking and locating expenses are related to the proposed expansion of the company’s dedicated staking program.<sup>1657</sup> The Attorney General’s reply brief refers the Commission to her initial brief.<sup>1658</sup>

In its reply, Staff clarifies that its recommendation regarding the regulatory deferral mechanism is based on the equation presented by Mr. Martus with Exhibit S-17.3 showing the “calculated deferral mechanism amount based on fluctuations of annual staking volumes.”<sup>1659</sup> “Staff clarifies that the capped equation accepted by the Company

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<sup>1654</sup> Consumers brief, 284.

<sup>1655</sup> Staff brief, 107-108.

<sup>1656</sup> Staff brief, 106-108.

<sup>1657</sup> AG brief, 166-167, 196.

<sup>1658</sup> AG reply, 48.

<sup>1659</sup> Staff reply, 17.

is a linear interpolation of the presented data table where \$2.3 million and (\$0.7 million) caps are defined bounds of the table,” with Staff recommending approval of the regulatory deferral mechanism subject to the equation and actual staking volume.<sup>1660</sup>

Like the Attorney General, Consumers relies upon its initial brief in reply.<sup>1661</sup> However, it also responds to the Attorney General by pointing out that it is not a matter of Consumers staking and locating fiber optic cable itself, as her brief seems to contend. The company explains that it must stake and locate its own gas infrastructure so that those installing fiber optic cable do not rupture natural gas infrastructure.<sup>1662</sup>

*iv. Recommendation*

In this case, the Attorney General takes issue with both the increased cost of the company’s new staking and locating contract, and with the proposed deferred accounting mechanism. However, Staff supports the modified deferred accounting mechanism based on the likely increase in staking and locating activity created by the ROBIN and BEAD programs, and Staff does not oppose the new staking and locating contract. Particularly in light of the information conveyed in Confidential Exhibits A-143 and 144, as well as Mr. Pnacek’s confidential rebuttal testimony,<sup>1663</sup> there are no obvious irregularities in the company’s selection of a dedicated staking contractor for its service area that would warrant the Attorney General’s recommended disallowance. Accordingly, this PFD rejects the Attorney General’s proposed disallowance for staking and locating expense.

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<sup>1660</sup> Staff reply, 18.

<sup>1661</sup> Consumers reply, 112.

<sup>1662</sup> Consumers reply, 118-119.

<sup>1663</sup> 4 Tr 1710-1711. CONF 4 Tr 3021-3022.

The Attorney General's arguments against the deferred accounting mechanism are similarly not compelling. To the extent that the Attorney General is concerned that Consumers has overestimated the growth of staking and locating for its test year, Staff's proposed change to the deferral mechanism, which was agreed to by Consumers, ties the company's recovery to actual costs and requires a refund to customers if there is underspending. This modification appears to address the perceived problem. Therefore, this PFD recommends that the staking and locating deferred accounting mechanism be approved, subject to the conditions outlined by Staff.

g. EIRP Training Expense

i. *Testimony*

Mr. Pnacek testified that the EIRP sub-program's O&M expenses included costs for training, supervision, tools, and facilities to support a properly staffed and equipped gas construction workforce. He stated that 75–80% of the projected \$5,047,949 in test year expenses was dedicated to technical training for both new and existing employees, including initial, advanced, and refresher training. He attributed the increase in costs compared to 2023 to workforce turnover, hiring needs, and the added complexity of EIRP work.<sup>1664</sup>

Mr. Coppola proposed a \$1,656,000 reduction to the Company's forecasted O&M expense for EIRP training.<sup>1665</sup> He noted that training expenses had declined by about \$900,000 from 2022 to 2023 and by another \$300,000 in 2024, contradicting the company's claim that increased training costs were due to workforce growth. Mr. Coppola

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<sup>1664</sup> 4 Tr 1687-1688.

<sup>1665</sup> 4 Tr 2009.

also emphasized that EIRP is a mature program with experienced staff and no demonstrated high turnover, and he further suggested that the program should be scaled back (consistent with his recommendations regarding EIRP in rate base), reducing the need for additional training expenses.<sup>1666</sup>

In rebuttal, Mr. Pnacek disagreed with Mr. Coppola's claim that the company failed to explain the increase in EIRP training expenses because he detailed that employee transfers within the company require ongoing hiring and training. He added that the maturity of the EIRP program is irrelevant because employee turnover still necessitates training new personnel to maintain proper staffing levels.<sup>1667</sup> Mr. Pnacek further stated that Mr. Coppola's direct testimony mischaracterized one of the company's discovery responses clarifying that the EIRP workforce has been declining and the increased training expenses are due to workforce movement, not growth.<sup>1668</sup> He testified that the EIRP program experienced a 76% employee turnover rate from 2020 to 2024, requiring the company to hire 216 new employees to maintain staffing levels.<sup>1669</sup>

*ii. Briefing*

The company's brief repeats the points raised by Mr. Pnacek in his rebuttal testimony.<sup>1670</sup>

The Attorney General repeats points raised in Mr. Coppola's testimony and accuses the company of manipulating the number of employees hired and departed to

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<sup>1666</sup> 4 Tr 2008-2009.

<sup>1667</sup> 4 Tr 1714.

<sup>1668</sup> 4 Tr 1714.

<sup>1669</sup> 4 Tr 1715.

<sup>1670</sup> Consumers brief, 284-286.

justify the increase in expense training.<sup>1671</sup> She concludes that the company did not credibly justify the expense increase given that training costs rose in 2024 even though fewer employees were hired and the work volume did not significantly grow.<sup>1672</sup>

The company replies that there is no basis for the claim that it “manipulated” hiring data and that headcount data provided in Exhibit A-145 is drawn from the company’s EIRP performance report filed with the Commission.<sup>1673</sup> The company asserts that while Mr. Pnacek did not specify the source of mid-year employees lost and hired, there is no basis for the claim that he manufactured the numbers because “[t]hey were undoubtedly drawn from Company records.”<sup>1674</sup> Consumers states, “[w]hen you consider the significant employee turnover and then add to that the fact that the Company *does* plan to expand the EIRP workforce *in the test year*, the modest increase in training expense in this case is easily explained.”<sup>1675</sup> The Attorney General provided no further argument in her reply brief.

### *iii. Recommendation*

This PFD declines to adopt the Attorney General’s proposed disallowance; this PFD accepts the company’s explanation that employee transfers and turnover can necessitate increased training costs even in a mature program.

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<sup>1671</sup> AG brief, 170.

<sup>1672</sup> AG brief, 170.

<sup>1673</sup> Consumers reply, 119.

<sup>1674</sup> Consumers reply, 119.

<sup>1675</sup> Consumers reply, 120.

h. MAOP Transmission O&M Expense

i. *Testimony*

Mr. Coppola testified that, through discovery, the company confirmed a forecast of \$1,122,000 in O&M expenses for the projected test year to review records needed to reestablish the MAOP of its pipelines.<sup>1676</sup> He referenced prior Commission decisions that allowed recovery of only 50% of such costs due to insufficient justification, which were also referenced in his testimony regarding MAOP capital expenditures. Based on that precedent, Mr. Coppola recommended disallowing \$561,000 from the Company's forecasted O&M expenses for MAOP projects.<sup>1677</sup>

In rebuttal, Mr. Griffin disagreed with Mr. Coppola's proposed 50% reduction to the MAOP Transmission O&M expenses explaining that the costs were necessary to comply with enhanced federal safety standards introduced by PHMSA in 2019, which ostensibly went beyond previous recordkeeping requirements. He emphasized that the new "traceable, verifiable, and complete" (TVC) standard required additional work to ensure compliance and improve pipeline safety, making the expenses appropriate and necessary.<sup>1678</sup>

ii. *Briefing*

Consumers maintains its opposition to the Attorney General's proposed disallowance and contends that the PHMSA requirement for TVC records is a new

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<sup>1676</sup> 4 Tr 2010; See also Exhibit AG-59, which includes DR AG-CE-0380 and 0778.

<sup>1677</sup> 4 Tr 2010.

<sup>1678</sup> 4 Tr 1319-1320.



standard that the company is required to meet such that a disallowance is inappropriate.<sup>1679</sup>

The Attorney General argues that, as discussed in relation to MAOP capital expenditures, the Commission has previously disallowed 50% of expenses associated with MAOP record review such that cost sharing of those O&M expenses should be required in this case as well.<sup>1680</sup>

Both Consumers and the Attorney General rested on their initial briefing and provide no further argument in their reply briefs.

### *iii. Recommendation*

This PFD recommends adopting the Attorney General's proposed disallowance of \$561,000. This amount represents a 50% disallowance, i.e. a cost-sharing measure, which is appropriate for the reasons stated by the Attorney General and is consistent with Commission precedent in Case No. U-21291 which disallowed half of MAOP-related O&M record review costs that stem from the company's own failure to keep adequate records.<sup>1681</sup> Notably, in Case No. U-21291, the Commission stated that, as far back as Case No. U-20940, the Commission determined that the 2019 revisions to federal pipeline safety regulations and the 2011 advisory bulletin are not new record keeping requirements and that utilities were required previously by the Michigan Gas Safety Standards to perform strength tests, including MAOP tests, and to maintain those records for the life of the pipeline.<sup>1682</sup> Accordingly, this PFD is not persuaded by the company's

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<sup>1679</sup> Consumers brief, 291.

<sup>1680</sup> AG brief, 172.

<sup>1681</sup> See November 7, 2024, Order in Case No. U-21291, p. 148 (holding that 50% cost sharing is appropriate for MAOP-related record review and directing a 50% disallowance of O&M costs).

<sup>1682</sup> November 7, 2024, Order in Case No. U-21291, p. 148.

argument that the PHMSA regulation imposed an entirely new record keeping requirement on the company.

i. Corrosion Control Expense - Transmission

*i. Testimony*

The Corrosion Control-Transmission Program O&M expense is projected to be \$1,505,000 in 2024, \$1,955,000 in 2025, and 2,210,000 for the test year.<sup>1683</sup>

Mr. Coppola testified that the company forecasted a \$1,263,000 increase in transmission O&M expense for corrosion control compared to 2023, and he stated that in discovery the company attributed the increase to changes in PHMSA regulations requiring repainting of pipelines and facilities but failed to provide supporting data such as work units or activity quantities.<sup>1684</sup> He contended that such painting work was not new and that the regulatory requirements also applied in prior years when expenses were lower. Based on this lack of justification, Mr. Coppola applied inflation adjustments to the 2023 expense and recommended disallowing \$1,186,000 from the company's projected O&M expense.<sup>1685</sup>

In rebuttal, Mr. Griffin disagreed with Mr. Coppola's proposed reduction to the Corrosion Control Transmission O&M expenses. He stated that the discovery responses referred to in Mr. Coppola's testimony were responsive to the questions asked, and the questions did not request specific work units or activities. He explained that while detailed project and cost information was provided in a discovery request (See Exhibit A-137), the

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<sup>1683</sup> Exhibit A-58, line 2.

<sup>1684</sup> 4 Tr 2010-2011.

<sup>1685</sup> 4 Tr 2011.

nature of the work, such as atmospheric corrosion and recoat projects, varies significantly in scope and cost depending on factors like pipe diameter, project length, and location. He asserted projecting costs based strictly on work units is unreliable because of the wide variability in scope, and the budgeted expenses are necessary to ensure the company can complete the required corrosion control work, including compliance with recent regulatory changes.<sup>1686</sup>

*ii. Briefing*

The company's brief repeats and directly quotes Mr. Griffin's rebuttal testimony describing the variability of costs for this program.<sup>1687</sup>

The Attorney General's brief explains that "Mr. Griffin claims that work units and associated costs were provided in discovery when the Company provided the number of projects and average cost for each category in the program. However, it is not clear that average program costs equate to unit costs."<sup>1688</sup> The Attorney General argues that the level of detail necessary to support the increased spending was not provided and that a disallowance based upon 2023 expense adjusted for inflation should instead be adopted.<sup>1689</sup>

Both Consumers and the Attorney General rest on their initial briefing and provide no further argument in their reply briefs.

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<sup>1686</sup> 4 Tr 1321.

<sup>1687</sup> Consumers brief, 292.

<sup>1688</sup> Consumers brief, 173.

<sup>1689</sup> AG brief, 173, 174.

*iii. Recommendation*

This PFD declines to adopt the Attorney General's proposed disallowance. This PFD is not persuaded that a disallowance based upon historical expenses is warranted in this specific instance where, as the company has explained, the various corrosion control projects can vary significantly in scope and scale based upon factors unique to the projects.<sup>1690</sup>

3. Fleet O&M Expense

*i. Testimony*

Mr. Ballinger testified that the company does not have specific fleet O&M expenses, as these costs are reported in responsibility dollars as shown in Exhibit A-27.<sup>1691</sup> He stated that responsibility costs are allocated to both capital and O&M expenses using a multi-step process based on the work assignment performed.<sup>1692</sup>

Mr. Denzler opined that there are unaccounted-for savings on fuel and maintenance costs due to the company's fleet electrification strategy. He suggested applying estimated EV savings data obtained from the PowerMIFleet initiative to the company's fleet as an appropriate offset.<sup>1693</sup> Consequently, he recommended a disallowance to Fleet O&M costs (responsibility costs) of \$72,720.<sup>1694</sup> He also recommended that the Commission order the company to conduct a more specific study as to the expected savings of electrifying its fleet assets, by asset type (light duty car,

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<sup>1690</sup> See generally Exhibit A-137, p. 1 (describing the projects and average project cost for various corrosion control projects).

<sup>1691</sup> 4 Tr 1419.

<sup>1692</sup> 4 Tr 1419-1420.

<sup>1693</sup> 4 Tr 2468.

<sup>1694</sup> 4 Tr 2469.

pickup, van, heavy-duty, etc.), to be provided in the next rate case and the results incorporated into future requested cost recovery.<sup>1695</sup>

Mr. Denzler also expressed general concerns about the inability to delineate responsibility costs between capital and O&M spending. He asserted that he is unable “to understand specifically what value the fleet responsibility work is adding and how that tracks for projected years to historical” and consequently, he asserted, the company “has not demonstrated the reasonableness and prudence of these costs.”<sup>1696</sup> He opined that all fleet responsibility costs should be disallowed.<sup>1697</sup> However, he stated, “recognizing the impact that course of action would have on fleet operations,” he instead recommended a 20% disallowance, or \$15.008 million in both 2025 and 2026.<sup>1698</sup> For future rate cases, he recommended that the Commission direct the company to provide historical and projected fleet responsibility costs by capital and O&M, with more detailed information on the types of work these dollars support and the value received for these expenditures, by cost category and business unit.<sup>1699</sup>

Mr. Denzler claimed that the company can reduce fuel costs and lower tailpipe emissions by decreasing vehicle idling. Using data from the company, fuel waste data from the Argonne National Labs IdleBox initiative, and fuel prices from AAA, he approximated wasted fuel costs from idling in the company’s largest categories of fleet vehicles over an unknown period of time (the Company did not provide the time horizon

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<sup>1695</sup> 4 Tr 2469.

<sup>1696</sup> 4 Tr 2470-2471.

<sup>1697</sup> 4 Tr 2471.

<sup>1698</sup> 4 Tr 2471

<sup>1699</sup> 4 Tr 2471

for when the idling occurred).<sup>1700</sup> He calculated what he called a conservative estimate that the company wasted over 1.3 million gallons of fuel at a cost of more than \$2 million.<sup>1701</sup> He recommended that the Commission order Consumers to prepare a detailed analysis of vehicle idling, including: (1) an assessment, based on research and best practice, of waste versus necessary idling by vehicle type; (2) an estimate of the fuel costs for waste and necessary idling by vehicle type based on the company's annual average cost of fuel; (3) an estimate of the wear-and-tear from waste and necessary idling, in terms of equivalent miles driven, based on research and best practice, by vehicle type; and (4) an estimate of the tons of carbon dioxide released during waste and necessary idling, by vehicle type, based on research and best practice.<sup>1702</sup>

In rebuttal, Mr. Guinn testified that Mr. Denzler's recommendation to reduce Fleet Services O&M expenses for the test year based on fuel and maintenance savings from EVs is premature. He asserted that the company will obtain empirical data after the test year, which can be used to provide accurate assumptions about fuel and maintenance savings, but it is too early to include these estimated savings in this case.<sup>1703</sup> He also asserted that it would be incorrect to assume that these types of savings would be entirely O&M, as fleet responsibility costs include both O&M and capital components.<sup>1704</sup> As to Mr. Denzler's recommendation that the company conduct a more specific study of the expected savings of electrifying its fleet assets, Mr. Guinn testified that the company

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<sup>1700</sup> 4 Tr 2473-2474.

<sup>1701</sup> 4 Tr 2474.

<sup>1702</sup> 4 Tr 2474-2475.

<sup>1703</sup> 4 Tr 1466.

<sup>1704</sup> 4 Tr 1466.

agrees and will provide more specific information regarding these expected savings in future cases.<sup>1705</sup>

Mr. Guinn objected to Mr. Denzler's recommendation that the Commission remove 20% of forecasted fleet responsibility costs. He noted that fleet responsibility costs are needed to maintain the company's vehicles. He referred to historical annual fleet responsibility costs from 2016 through 2023, and maintained that the Commission has never determined that these expenses are unreasonable or imprudent.<sup>1706</sup> He also asserted that fleet responsibility costs were \$86.7 million in 2022 and \$80 million in 2023, which he explained are more than the approximately \$75 million in fleet responsibility costs the company is forecasting for 2025 and 2026.<sup>1707</sup> Consequently, he stated, it would not be reasonable to reduce these expected costs by 20%.<sup>1708</sup> However, he offered, if the Commission does not agree with the company, the disallowance should be 67% capital and 33% O&M. He stated that the company agrees to provide more details regarding fleet responsibility costs in future rate cases.<sup>1709</sup>

As to Mr. Denzler's comments and recommendation on vehicle idling, Mr. Guinn testified that the company agrees to work on the preparation of a more detailed analysis of its vehicle idling.<sup>1710</sup>

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<sup>1705</sup> 4 Tr 1466.

<sup>1706</sup> 4 Tr 1466-1467.

<sup>1707</sup> 4 Tr 1467.

<sup>1708</sup> 4 Tr 1467.

<sup>1709</sup> 4 Tr 1467.

<sup>1710</sup> 4 Tr 1467.

*ii. Briefing*

In its initial brief, the company addresses Mr. Denzler's concerns and reiterates Mr. Guinn's rebuttal testimony. The company stresses that it would be unreasonable and punitive to reduce fleet responsibility costs by 20% (to \$60 million) as Mr. Denzler recommended, particularly given that recent historical costs have been well above that amount.<sup>1711</sup>

In briefing, CUB elaborates on Mr. Denzler's testimony and responds to Mr. Guinn's rebuttal testimony. CUB asserts that Mr. Denzler's recommendation to reduce Fleet Services O&M expenses for the test year based on expected fuel and maintenance savings from EVs is not premature and points to Case No. U-21461, where CUB claims that the Commission held that Indiana Michigan Power company (I&M) should have tracked and offset savings projected in a benefit-cost analysis for advanced metering infrastructure.<sup>1712</sup> Based on this, CUB states it is fair and equitable to apply Consumers' analysis to Consumer's fleet to reduce ratepayers' costs in the test year.<sup>1713</sup>

CUB opines that Mr. Denzler's recommendation to reduce the unsupported test year fleet responsibility costs by only 20%, "is relatively generous."<sup>1714</sup> While it does not oppose the company's proposal to allocate 67% of this disallowance to capital fleet responsibility costs and 33% to O&M if the recommended disallowance is accepted, CUB maintains that these costs should be supported in future proceedings and allocated in all cost categories between capital and O&M.<sup>1715</sup>

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<sup>1711</sup> Consumers brief, 294-295; Exhibit A-27.

<sup>1712</sup> MSC brief, 62-63; July 2, 2024, order in Case No. U-21461, 55.

<sup>1713</sup> MSC brief, 63.

<sup>1714</sup> MSC brief, 65.

<sup>1715</sup> MSC brief, 65.



As to vehicle idling, CUB states that it appreciates the company's willingness to further analyze the issue and develop opportunities for cost and emissions savings associated with a more comprehensive approach to idling-mitigation. CUB requests that the Commission include a directive for the company to immediately undertake such a study, including the factors identified by Mr. Denzler, and produce it as a stand-alone filing in this docket, as well as to evaluate opportunities for additional idle reductions in the next rate case.<sup>1716</sup>

In its reply, the company asserts that actual data shows a clear pattern of increasing fleet responsibility costs since 2016 and that the last time these costs were less than CUB's recommended level of \$60 million was in 2017.<sup>1717</sup> Therefore, the company argues, CUB's recommendation to reduce fleet responsibility "is not supported by the record, is unreasonable, and should be rejected."<sup>1718</sup> The company also claims that CUB made additional requests in its brief for the first time, such as adding that the company undertake an [idling] study immediately, produce it as a stand-alone filing in this case, and evaluate opportunities for additional idle reductions in the next rate case, which should also be rejected.<sup>1719</sup> The company states that it does not object to making the analysis available in an appropriate docket and manner once the company is able to complete the analysis.<sup>1720</sup>

CUB's reply brief did not address fleet services O&M expenses.

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<sup>1716</sup> MSC brief, 66-67.

<sup>1717</sup> Consumers reply, 121.

<sup>1718</sup> Consumers reply, 121.

<sup>1719</sup> Consumers reply, 122.

<sup>1720</sup> Consumers reply, 122.

### *iii. Recommendation*

This PFD agrees with CUB's concerns that there are EV-related savings that should be accounted for and reflected in rates. However, this PFD finds that Case No. 21461, cited by CUB, does not provide precedent to reduce fleet responsibility O&M costs based on estimated EV savings.<sup>1721</sup> The case does support, however, that the company should track and quantify EV-related savings going forward and incorporate the savings in rates.<sup>1722</sup> Based on the foregoing this PFD rejects CUB's proposed disallowance and recommends instead that the Commission order the company to immediately track and quantify EV-related savings and incorporate the savings into its projected spending in rate cases going forward.

Regarding CUB's recommendation to reduce fleet responsibility costs by 20%, or \$15.008 million in both 2025 and 2026, this PFD finds that CUB has failed to demonstrate the reasonableness of its recommendation, while the company has adequately supported its projected \$75 million expenditure. CUB's recommended disallowance is not based on a specific project or line item and appears arbitrary. On the other hand, the company provided its fleet responsibility costs from 2016-2023 broken down into seven line-items, including licensing, parts, and fuel.<sup>1723</sup> And the company indicated that 67% of fleet responsibility costs are O&M and 33% are capital expenditures. This PFD does find,

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<sup>1721</sup> In that case, the commission approved certain I&M expenditures for Advanced Metering Infrastructure over the objections of Staff and the Attorney General, who argued that the company was unable to quantify the benefits of the program. July 2, 2024 order in Case No. U-21461, 55.

<sup>1722</sup> The commission stated, "[s]hould the company seek recovery in the future for any 2023 or 2024 expenditures, or to include future expenditures in prospective rates, the Commission expects to see quantified benefits to Michigan customers supported by persuasive evidence on the record that allows the parties to discern what the actual expenditures are in each year, as opposed to conflicting amounts in discovery that are not responsive to the clarity requested. July 2, 2024 order in Case No. U-21461, 55.

<sup>1723</sup> See Exhibit A-27.

however, that CUB's recommendation that the company break down its specific fleet responsibility costs into O&M and capital would better enable their evaluation and facilitate a more precise determination of capital and O&M costs. Therefore, this PFD recommends that the Commission order that Consumers provide historical and projected fleet responsibility costs by capital and O&M and by cost category and business unit in all rate cases going forward.

As to vehicle idling, this PFD finds that CUB's recommendation as initially described by Mr. Denzler, which was generally agreed to by the company, should be adopted. Therefore, this PFD recommends that the commission order Consumers to prepare a detailed analysis of vehicle idling, including: (1) an assessment, based on research and best practice, of waste versus necessary idling by vehicle type; (2) an estimate of the fuel costs for waste and necessary idling by vehicle type based on the company's annual average cost of fuel; (3) an estimate of the wear-and-tear from waste and necessary idling, in terms of equivalent miles driven, based on research and best practice, by vehicle type; and (4) an estimate of the tons of carbon dioxide released during waste and necessary idling, by vehicle type, based on research and best practice. This PFD rejects CUB's additional recommendations provided in briefing for the first time and recommends that as soon as the study is completed, its findings should be used by the company in its efforts to mitigate idling with results provided in subsequent rate cases.

4. IT O&M Expense

a. SAP S/4HANA Project Expense

i. *Testimony*

Ms. Baker testified that the company sought to defer investment O&M expense associated with the SAP S/4HANA implementation project over the 15-year life of the asset.<sup>1724</sup> Similarly, she stated the company requested to amortize the cost of cloud software service implementation associated with the project over its 15-year asset life in order to minimize the impact on rates.<sup>1725</sup>

Ms. McMillan-Sepkoski recommended approving the company's request to amortize the cost of cloud implementation associated with the SAP project over 15 years.<sup>1726</sup> Mr. Nichols testified that Staff supported the request for deferred accounting treatment and recalculated a revenue deficiency reduction associated with deferred treatment.<sup>1727</sup>

Mr. Coppola testified that, consistent with his testimony about the SAP S/4HANA project's capital expenditures, its associated O&M Expenses should also be disallowed as premature. He likewise recommended that the company's request to establish a deferred regulatory asset account for the SAP project and associated cloud computing projects should be denied.<sup>1728</sup>

In rebuttal, Ms. Baker rejected the contention that the project was premature for the same reasons stated in her testimony regarding capital expenditures for the

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<sup>1724</sup> 4 Tr 735; 4 Tr 1581.

<sup>1725</sup> 4 Tr 734.

<sup>1726</sup> 4 Tr 2610.

<sup>1727</sup> 4 Tr 2495.

<sup>1728</sup> 4 Tr 2018.

project.<sup>1729</sup> In further rebuttal, Ms. Myers emphasized that accounting requests for deferral of SAP S4/HANA project O&M expense and amortization of cloud computing expenses will reduce the burden on customers and avoid spikes in IT O&M expense.<sup>1730</sup>

*ii. Briefing*

The parties' briefs on this issue are summarized in the rate base section of this PFD, *supra*, addressing this project's capital costs.

*iii. Recommendation*

Consistent with the treatment of capital expenditures for this project, this PFD agrees with Consumers and Staff and recommends approving the SAP S/4 HANA implementation project's associated requests for deferral of O&M expenses and amortization of associated cloud computing costs. This PFD believes that such requests are appropriate for the reasons stated by the company. Additionally, this PFD notes that that the effect of the SAP S/4 HANA O&M deferral recommendation is decremental to the PFD's projected revenue deficiency.<sup>1731</sup>

b. Asset Accounting Tax Upgrade Project

*i. Testimony*

Ms. Baker testified that the Asset Accounting Tax Upgrade project requires \$126,165 in O&M for the test year to transition the Company's asset management tax software to a vendor-supported software-as-a-service (SaaS) version or suitable replacement. She explained that the upgrade is necessary to avoid security and

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<sup>1729</sup> 4 Tr 773.

<sup>1730</sup> 4 Tr 1598.

<sup>1731</sup> The impact of the SAP S/4 HANA O&M deferral on the company's revenue deficiency can be found in Confidential Exhibit S-13.

performance risks once support for the current PowerTax software ends in 2025, and it will also enhance financial reporting capabilities and compliance.<sup>1732</sup>

CUB witness Denzler testified that the project lacks adequate planning because it failed to evaluate alternative software options before committing to upgrade to the vendor's SaaS version. He emphasized that with vendor support for the current system ending in 2025, the company allowed insufficient time for a proper cost-benefit analysis. As a result, he recommended disallowing the full \$126,165 in O&M for the test year, or alternatively, a 20% disallowance totaling \$25,233 (consistent with AACE Class III estimates) if the Commission chooses not to disallow the entire amount.<sup>1733</sup>

In rebuttal, Ms. Baker testified that the company planned to evaluate its current solution against market leaders and that transitioning to a SaaS version would reduce hardware and server support costs. She also emphasized that the project was necessary due to the end of vendor support in 2025 and was critical for compliance, noting that the proposed O&M disallowance of \$126,165 could not be recovered in future years.<sup>1734</sup>

*ii. Briefing*

The initial briefs for the company and CUB rely on the testimony of their respective witnesses. The company emphasizes that the scope of the project includes reasonable and prudent evaluation of alternative solutions to ensure it has identified the best option. It also reiterates that it will not have the opportunity to include this O&M expense in rates in future years once spent in the test year.<sup>1735</sup> CUB restates its opposition to the

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<sup>1732</sup> 4 Tr 699.

<sup>1733</sup> 4 Tr 2464.

<sup>1734</sup> 4 Tr 792.

<sup>1735</sup> Consumers brief, 296-297.

investment based on its conclusions that the company failed to plan ahead and evaluate alternative options.<sup>1736</sup>

Neither Consumers nor CUB provided further arguments in reply briefing.

*iii. Recommendation*

This PFD agrees with CUB's recommendation to disallow \$25,233 in O&M expense for the Asset Accounting Tax Upgrade project and notes that while the company says that it will conduct an evaluation of alternative solutions, it has not yet done so or otherwise shown that its proposal for the Asset Accounting Tax Upgrade is the best option. For this reason, this PFD recommends the Commission allow for an expense consistent with AACE Class III cost estimates.

*c. Cloud Computing Expense*

*i. Testimony*

Mr. Coppola testified that, as discussed in his testimony regarding working capital, the company made an error in calculating the amortization expense for cloud computing costs that have been deferred; instead of \$17,351,545 of expense, the correct number should have been \$11,874,017. He recommended that the difference, \$5,478,000, should be removed from the O&M expense forecast in the projected test year.<sup>1737</sup>

In rebuttal, Ms. Baker rejected the proposed disallowance. She explained the situation as follows:

The Company did not make an error in calculating the amortization expense for cloud computing fees. In response to Discovery request No. U21806-AG-CE-0852, Attachment 2 (Exhibit A-158 (SHB-17)), the Company provided an updated Exhibit A-18 (SHB-2) excluding some non-cloud

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<sup>1736</sup> CUB brief, 57.

<sup>1737</sup> 4 Tr 2018.

computing pre-payments and expenses that were included inadvertently in that exhibit. The update to Exhibit A-18 (SHB-2) did not result in an error in the calculation of the amortization expense for cloud computing fees and costs included in the case for either IT Investments O&M or IT Operations O&M. Attorney General witness Coppola's conclusion is inaccurate and unvalidated. The Company provides a detailed list of projects in Exhibit A-20 (SHB-5) that supports the IT Investments O&M amounts in Exhibit A-19 (SHB-3), and the detailed exhibit does not include any line items for the amortization expense for cloud computing fees and costs. In addition, the original Exhibit A-18 (SHB-2) was not used to project the amortization expense in IT Operations O&M expense; therefore, an update to Exhibit A-18 (SHB-2) would not result in a change to IT Operations O&M expense either.<sup>1738</sup>

She contended that Mr. Coppola's conclusion was inaccurate and that the \$5,478,000 disallowance should be rejected.<sup>1739</sup>

*ii. Briefing*

The company's briefing repeats Ms. Baker's contention that while there was a mistake in Exhibit A-18 that was later corrected, that exhibit was not used in calculating actual amortization costs in IT Operations O&M, which were based on separate, accurate data.<sup>1740</sup> Accordingly, Consumers asserts that the Attorney General's disallowance is unwarranted.

The Attorney General contends that the company confirmed that the correct amortization expense is \$11.874 million requiring a disallowance of \$5.478 million.<sup>1741</sup>

The company replies again that the cloud computing amortization expense included in the company's original filing was the correct amount of \$11.874 million and that the error, originally corrected in Exhibit A-18 by the filing of a corrected exhibit,

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<sup>1738</sup> 4 Tr 773-774.

<sup>1739</sup> 4 Tr 774.

<sup>1740</sup> Consumers brief, 297.

<sup>1741</sup> AG brief, 176 (citing Exhibit AG-68, p. 4-5).



affected working capital calculations but did not change the correct expense amount that was included in the test year in the company's filing.<sup>1742</sup> Accordingly, the company contends that the Attorney General's disallowance is inappropriate. The Attorney General's reply brief provided no further argument on this issue.

*iii. Recommendation*

This PFD declines to adopt the Attorney General's proposed disallowance and notes that the Attorney General failed to refute or even acknowledge the company's detailed explanation that the ostensible error was corrected and did not affect IT O&M expenses.<sup>1743</sup>

d. HR Support Pack & Software Upgrade for 2025-2026

*i. Testimony*

Ms. Baker testified that the HR Support Pack and Business Software Upgrades will update the company's SAP system with support packs that are released annually by SAP to comply with HR and tax changes.<sup>1744</sup>

Ms. Zichi recommended partial disallowances of \$20,119 and \$40,454 for the company's projected O&M expenses related to the HR Support Pack and Business Software Upgrade projects for 2025 and 2026, respectively. These adjustments are based on errors identified during Staff's audit wherein the company acknowledged that projected O&M costs were inadvertently overstated due to unoptimized contractor cost estimates.<sup>1745</sup>

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<sup>1742</sup> Consumers reply, 123.

<sup>1743</sup> See 4 Tr 773-774; Consumers reply, 123.

<sup>1744</sup> 4 Tr 703.

<sup>1745</sup> 4 Tr 2708-2709.

In rebuttal, Ms. Baker agreed with Staff's proposed disallowances in order to correct the errors.<sup>1746</sup>

*ii. Briefing*

The company reaffirms its support for Staff's adjustment.<sup>1747</sup> Staff, in turns, notes the company's support and continues to recommend the adjustment.<sup>1748</sup>

*iii. Recommendation*

This PFD recommends adopting the disallowance proposed by Staff to which the company assented (\$20,119 in 2025 and \$40,454 in 2026).

e. Standard Work Plan Project

*i. Testimony*

Mr. Pnacek testified that the Standard Work Plan project aims to replace the current spreadsheet-based, manual planning process with a centralized, automated platform integrated with existing systems.<sup>1749</sup> This change is expected to reduce errors, improve planning efficiency, enable real-time scenario analysis, and decrease unnecessary overtime and contractor costs caused by unplanned work. The project requires \$137,388 in O&M for the test year.<sup>1750</sup>

Ms. Zichi recommended a partial disallowance of \$70,665 in O&M expenses for the Standard Work Plan project, as shown in Staff Exhibit S-19.0. She explained that this

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<sup>1746</sup> 4 Tr 751-752.

<sup>1747</sup> Consumers brief, 295.

<sup>1748</sup> Staff brief, 80.

<sup>1749</sup> 4 Tr 1695.

<sup>1750</sup> 4 Tr 1695.

adjustment corrects an error discovered during an audit wherein the company acknowledged it had inadvertently included ongoing support costs.<sup>1751</sup>

In rebuttal, Ms. Baker agreed with Staff's proposed disallowances in order to correct the error.<sup>1752</sup>

*ii. Briefing*

The company reaffirms its support for Staff's adjustment.<sup>1753</sup> Staff notes the company's support and continues to recommend the proposed adjustment.<sup>1754</sup>

*iii. Recommendation*

This PFD recommends adopting the disallowance proposed by Staff to which the company assented (\$70,665 in O&M).

5. Pension and Benefits Expense

a. Healthcare, Life Insurance, Long-Term Disability Expense, and the Leave It Better Award (LIBA)

*i. Testimony*

Ms. Grob testified that expenses for active employee healthcare, life insurance and long-term disability were projected to be \$19.76 million in the test year.<sup>1755</sup> She stated that the company used inflation factors, national healthcare cost trends from Willis Towers Watson, and the age of its workforce in estimating future healthcare expense.<sup>1756</sup> She also summarized various steps the company has taken to manage these costs from 2002 through 2024, with special emphasis on steps to manage costs during and after the

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<sup>1751</sup> 4 Tr 2710.

<sup>1752</sup> 4 Tr 753.

<sup>1753</sup> Consumers brief, 296.

<sup>1754</sup> Staff brief, 81.

<sup>1755</sup> 4 Tr 1348.

<sup>1756</sup> 4 Tr 1349-1350.

COVID 19 pandemic.<sup>1757</sup> Other employee benefit expenses, including the absence management program, educational assistance program, employee assistance program, and the “Leave it Better Award” (LIBA) program to award employees for furthering operational goals were projected to cost \$3.2 million in the projected test year.<sup>1758</sup>

Ms. Rueckert testified that Staff did not support the Company’s ratepayer-funded LIBA program because it did not provide a benefit to ratepayers to justify its costs. She explained that employee incentives were already addressed through promotions, salaries, and the existing Employee Incentive Compensation Program (EICP), and that furthering the company’s corporate reputation through an award program should be funded by shareholders. Staff recommended disallowing \$550,000 in O&M expenses and \$2,387,500 in capital costs (\$824,000 in 2024, \$702,500 in the 2025 bridge period, and \$ 861,000 in the projected test year) associated with the LIBA program.<sup>1759</sup>

Mr. Coppola testified that the company projected \$19.7 million in health care, life insurance, and long-term disability expenses for the test year, reflecting a \$1.4 million (10.6%) increase over 2023. He noted that while the projection was based on inflation rates, the company expected to achieve \$6.5 million in cost savings from ongoing initiatives, which was \$2.75 million more than the savings realized in 2023. Therefore, he recommended that the Commission reduce the projected health care expense by \$2,754,000 to reflect those expected savings.<sup>1760</sup>

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<sup>1757</sup> 4 Tr 1353-1358.

<sup>1758</sup> 4 Tr 1363; Exhibit A-64.

<sup>1759</sup> 4 Tr 2725-2726.

<sup>1760</sup> 4 Tr 2022-2023.

In her rebuttal, Ms. Grob asserted that LIBA is another tool, in addition to promotions and salary increases, that can encourage excellence by instantly rewarding employees for outstanding performance.<sup>1761</sup> She asserted that academic studies have confirmed that awards differ from direct compensation increases like promotions and can provide further incentives for employees to excel.<sup>1762</sup> She asserted that LIBA was fundamentally different from the company's employee incentive compensation program (EICP) which was based upon pre-determined performance criteria while LIBA gave the company discretion to instantly recognize employees for outstanding performance.<sup>1763</sup> Ms. Grob corrected Staff's misapprehension that LIBA was given to employees as a \$4,000 lump sum explaining that awards vary from \$250 to \$4,000 depending on the nature of the work meriting the award.<sup>1764</sup> Ms. Grob declared that LIBA was previously funded as part of individual department labor costs in budgets prior to 2024.<sup>1765</sup> Ms. Grob also took issue with the amount of Staff's disallowance stating that \$590,000 was the actual booked amount in 2024, though the remaining figures were correct.<sup>1766</sup>

Ms. Grob also rejected Mr. Coppola's adjustment to healthcare expense explaining that: (1) the amounts provide to the Attorney General in discovery were gross savings amounts for electric and gas, and the gas O&M allocation would only be \$483,000; and (2) these savings were already included in the company's projections but were still offset by increasing in healthcare costs.<sup>1767</sup>

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<sup>1761</sup> 4 Tr 1368.

<sup>1762</sup> 4 Tr 1368.

<sup>1763</sup> 4 Tr 1368.

<sup>1764</sup> 4 Tr 1369.

<sup>1765</sup> 4 Tr 1369.

<sup>1766</sup> 4 Tr 1369.

<sup>1767</sup> 4 Tr 1370.

*ii. Briefing*

Regarding LIBA, the company repeats the points raised in Ms. Grob's rebuttal testimony and contends that it satisfied Staff's concerns about LIBA. The company asserts that it satisfied the Commission's directive from its previous electric rate case to justify the program's costs.<sup>1768</sup> Regarding healthcare expense, the company repeats Ms. Grob's rebuttal testimony.<sup>1769</sup>

Staff maintains its request to disallow capital and O&M expenses for LIBA stating that it does not provide additional benefit to the rate payer and that the company's EICP already provides short-term incentive compensation for operational goals.<sup>1770</sup>

The Attorney General's brief asserts that the company provided revised cumulative cost savings from 2023 to 2026, and the Attorney General recalculated the proposed disallowance as \$1.993 million instead of \$2.754 million.<sup>1771</sup>

In its reply, Consumers asserts that the Attorney General has now adjusted her disallowance to be limited to savings from the company's gas business, but it still does not recognize that the company accounted for these savings, and they were more than offset by healthcare cost increases.<sup>1772</sup>

Neither Staff nor the Attorney General provided further argument on these issues in their respective reply briefs.

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<sup>1768</sup> Consumers brief, 302 (citing March 21, 2025, Order in Case No. U-21585, p. 342).

<sup>1769</sup> Consumers brief, 304.

<sup>1770</sup> Staff brief, 76.

<sup>1771</sup> AG brief, 181.

<sup>1772</sup> Consumers reply, 123-124.

### *iii. Recommendation*

This PFD declines to adopt the Attorney General's proposed healthcare disallowance and instead credits the company's argument that properly allocated savings were already incorporated into the company's projections but were more than offset by rising healthcare costs.

This PFD agrees with Staff that expenses for the LIBA program should be disallowed because employee incentives, including for the short-term, are already provided through the employee incentive compensation program (EICP) and the company's ability to promote or increase the salaries of outstanding employees. The company argues that LIBA is fundamentally different from preset incentives or merit-based raises because it allows the company to award employees for outstanding performance after the fact. This PFD is not persuaded that this is sufficient justification because the company can also promote or award a raise after the fact to recognize an outstanding employee. This PFD agrees with Staff that this type of supplementary award program should be paid for by the company's shareholders instead of ratepayers. Accordingly, this PFD adopts Staff's disallowance as modified by the company's correction for 2024 amounts: (\$590,000 in 2024, \$702,500 in the 2025 bridge period, \$861,000 in the projected test year, and \$550,000 in O&M).

#### **b. Pension, Defined Contribution, 401(k)/Employee Savings Plan**

Ms. Grob testified that the pension plan expense, defined company contribution plan (DCCP) expense, and employee savings plan (ESP) expense are allocated between the gas and electric portions of the company based upon employee labor dollars charged

for each division.<sup>1773</sup> Ms. Grob testified that no cash contributions were required for the pension plan in 2023 or 2024.<sup>1774</sup>

Regarding the DCCP, Ms. Grob defined its parameters and testified that the company has made no changes to the program since 2021.<sup>1775</sup> She testified that the program had a projected expense of \$8.1 million for the test year using various inflation factors for 2024, 2025, and 2026.<sup>1776</sup>

Regarding the Employee Savings Plan (ESP), Ms. Grob testified that it is a defined contribution retirement savings program wherein the company matches employee contributions within certain limits.<sup>1777</sup> She testified that the program had a projected expense of \$6.6 million for the test year, using various inflation factors for 2024, 2025, and 2026.<sup>1778</sup>

This PFD recommends accepting the company's proposed pension, defined contribution, and 401(k)/ESP expense because no party disputed any aspects of these programs.

c. Volatility Mechanisms for Pension and Other Post-Employment Benefits (OPEB) Expense

Ms. Grob testified that the company requested the ability to continue implementation of defined benefit (DB) pension and OPEB volatility mechanisms (VM) first authorized in Case Nos. U-21490 and U-21308.<sup>1779</sup> She stated that the company and

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<sup>1773</sup> 4 Tr 1333.

<sup>1774</sup> 4 Tr 1337-1338.

<sup>1775</sup> 4 Tr 1343.

<sup>1776</sup> 4 Tr 1344.

<sup>1777</sup> 4 Tr 1345.

<sup>1778</sup> 4 Tr 1345.

<sup>1779</sup> 4 Tr 1339.



its customers would be at risk of volatile changes in such expenses, and “the proposed mechanism, which mirrors the mechanism that has existed since October 2023, would protect customers from this volatility by allowing the Company to defer annually the difference between the DB Pension/OPEB expense included in rates versus the actual annual DB Pension/OPEB expense recorded by the Company[.]”<sup>1780</sup>

Ms. Grob stated that in 2023, the DB pension VM recorded a regulatory asset of \$266,000 for deferral and projected amortization of \$(791,000) for the test year.<sup>1781</sup> She stated that the company recorded an OPEB VM regulatory liability of \$655,000 for 2023 and projected amortization of \$(1,423,000) for the test year.<sup>1782</sup>

Mr. Foster requested that the company receive accounting approvals to continue recognizing regulatory assets or liabilities as needed to record deferred amounts under the pension and OPEB VMs.<sup>1783</sup>

This PFD recommends continuing accounting approvals for the pension and OPEB VMs as no party raised any objection to continuing these mechanisms.

## 6. Voluntary Separation Program Savings

### *i. Testimony*

Mr. Coppola testified that Consumers provided information in discovery indicating that \$7,989,000 of Voluntary Separation Program (VSP) savings were incorporated into the test year. However, he asserted this amount cannot be validated because the company did not provide the underlying calculations, workpapers, or supporting

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<sup>1780</sup> 4 Tr 1339.

<sup>1781</sup> 4 Tr 1340, See also Exhibit A-64.

<sup>1782</sup> 4 Tr 1341; See also Exhibit A-64.

<sup>1783</sup> 4 Tr 1212.

schedules to show how the savings were incorporated into the affected departments. He recommended that the Commission remove the entire \$7,989,000 of VSP cost savings from the company's O&M expense for the test year to ensure that the cost savings are appropriately reflected in rates.<sup>1784</sup>

In rebuttal, Ms. Myers testified that the reason the company did not provide calculations of the VSP savings is because the savings are actual amounts.<sup>1785</sup> She indicated that the company was not able to provide specific workpapers that identified the savings in each witness exhibit for "good reason." According to her:

With the exception of company witness Matthew J. Foster who sponsors corporate O&M expense, O&M witnesses include total projected O&M expense based on the forecasted needs in their business area. When considering those needs for the projected period of this case, each witness had knowledge and used the knowledge of the VSP savings when developing their O&M expense for the case. company witness Foster does forecast corporate O&M by inflating historical O&M expense. However, he also removed VSP savings from the historical year prior to inflating the historical O&M expense.<sup>1786</sup>

She asserted that all of the VSP savings were considered in the development of this case and have been properly incorporated, and it would be inappropriate to remove the VSP savings as recommended by Mr. Coppola.<sup>1787</sup>

*ii. Briefing*

The company's brief reiterates Ms. Myers' testimony and argues that it would be inappropriate to adopt Mr. Coppola's recommendation as all VSP savings were considered and incorporated in the O&M expense for the test year.<sup>1788</sup> On the other hand,

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<sup>1784</sup> 4 Tr 2020.

<sup>1785</sup> 4 Tr 1597.

<sup>1786</sup> 4 Tr 1597.

<sup>1787</sup> 4 Tr 1597-1598.

<sup>1788</sup> Consumers brief, 333-334.

the Attorney General repeats Mr. Coppola's testimony and recommends that the Commission remove the entire \$7,989,000 of VSP cost savings from the company's forecasted O&M expense for the projected test year.<sup>1789</sup> Neither party addressed VSP savings in their reply briefs.

*iii. Recommendation*

This PFD agrees with the Attorney General that the company has not demonstrated that the VSP savings were specifically incorporated into the O&M expenses for the test year and consequently has not sustained its burden to show that \$7,989,000 of its O&M expenses are reasonable and prudent. Therefore, this PFD adopts the Attorney General's recommendation to remove \$7,989,000 of O&M expense for the projected test year. In the future, Consumers should provide clear evidence that demonstrates how the VSP cost savings are accounted for or reflected in rates.

7. Employee Incentive Compensation Plan (EICP) Expense

*i. Testimony*

Ms. Conrad testified that the EICP is a form of short-term incentive pay designed to reward performance over the course of one year or less.<sup>1790</sup> She stated that, using multiple market data surveys to determine a competitive market wage, the company structures its total, non-officer compensation between base wage and incentive compensation.<sup>1791</sup> Ms. Conrad explained that only by paying short-term incentive

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<sup>1789</sup> AG brief, 181-182.

<sup>1790</sup> 4 Tr 1143.

<sup>1791</sup> 4 Tr 1145-1147, 1149, & 1152-1154.

compensation does the total compensation meet the competitive levels needed to retain employees.<sup>1792</sup>

According to Ms. Conrad, for officers, the Compensation Committees of the Boards of Directors of Consumers Energy and CMS Energy, with advice from an independent third-party consultant, determine the compensation levels at the 50<sup>th</sup> percentile of the competitive market. Then this compensation is split between base salary, annual incentive compensation, and long-term incentive compensation.<sup>1793</sup> Ms. Conrad stated that incentive compensation is part of the overall reasonable level of market-based compensation, not in addition to it, such that customers receive qualitative and quantitative benefits at no additional cost above market-based compensation.<sup>1794</sup>

Ms. Conrad further stated that 50% of non-officer employee compensation is based on operational performance, and 50% is based on financial measures; for officers this shifts to 30% based on operational measures, and 70% on financial measures.<sup>1795</sup> Ms. Conrad explained that, while the company uses both financial and non-financial/operational goals in its short-term incentive compensation plan, Consumers is not requesting recovery of the \$7.6 million related to financial goals.<sup>1796</sup> Instead, Ms. Conrad testified that the company is seeking recovery of approximately \$1.5 million for the gas portion of EICP, as set forth in Exhibit A-41.<sup>1797</sup> Via Ms. Conrad, the company

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<sup>1792</sup> 4 Tr 1147-1148, 1150-1151, & 1153-1160.

<sup>1793</sup> 4 Tr 1146, 1150, 1160-1163, & 1168.

<sup>1794</sup> 4 Tr 1171.

<sup>1795</sup> 4 Tr 1149 & 1164-1166.

<sup>1796</sup> 4 Tr 1146-1147.

<sup>1797</sup> 4 Tr 1169-1170. *See also* Rayl, 4 Tr 1770-1771, & Exhibit A-13, Schedule C-5.1.

also requested recovery of the “30% of officer pay directly linked to operational measures,” including the compensation for the top five officers.<sup>1798</sup>

Ms. Meschke elaborated that the EICP operational goals are tied to employee safety (reduction of injuries), company culture (employee retention through engagement, empowerment, and DEI), customer experience (the results of customer surveys), electric reliability, and methane emission reduction.<sup>1799</sup>

Ms. Meschke explained that targets for all of the EICP metrics were developed by subject matter experts in conjunction with the company’s leadership team and approved by the board of directors, with direct quantitative benefits assessable for employee safety, electric reliability, and culture.<sup>1800</sup> Because Consumers’ electric and natural gas operations act as one organization, both areas are included in the quantification of benefits, with 40% of avoided costs allocated for natural gas customers. Ms. Meschke asserted that, if the employee safety goal is met for 2024, it will reduce incidents by 29% from the four-year historical average and reduce lost workday and medical expenses by approximately \$968,000, with additional indirect savings of \$656,000.

Ms. Meschke testified that the EICP design incentivizes employees to focus on improving safety, reliability and employee culture, thus resulting in customer benefits.<sup>1801</sup> In turn, Ms. Conrad explained that the risk of non-officer EICP payout is the same for all eligible employees, except for under-performing employees, with either all or no employees receiving incentive compensation.<sup>1802</sup> In total, according to Ms. Meschke, the

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<sup>1798</sup> 4 Tr 1147.

<sup>1799</sup> 2 Tr 1545, citing Exhibit A-95.

<sup>1800</sup> 4 Tr 1551.

<sup>1801</sup> 4 Tr 1553-1555.

<sup>1802</sup> 4 Tr 1148 & 1157.

projected indirect and direct savings for the employee safety index are \$1.6 million, and meeting the electric distribution reliability metric is similarly anticipated to save customers approximately \$15.4 million.<sup>1803</sup> Ms. Meschke also stated that meeting the culture index goals would save the company \$7.4 million.<sup>1804</sup> Allocating 40% of the savings for natural gas customers, the safety and culture savings are projected to be \$3.6 million if the indexes are met.<sup>1805</sup>

Ms. Conrad explained that the company is seeking recovery of gas O&M expense related to EICP incentive compensation plans at 100% of target levels, approximately \$1.5 million.<sup>1806</sup> She indicated that threshold payout levels for incentive pay are set so that these are typically reached 80% to 90% of the time in a 10-year period, with the maximum payout for exceptional performance achieved only 10% to 20% of the time in the same period.<sup>1807</sup> According to Ms. Conrad, this would result in the company absorbing the incentive compensation costs in years when actual payouts are greater than target level.<sup>1808</sup> She asserted that the benefits of the EICP program with respect to the company's gas utility, calculated at \$3.6 million, outweigh the program cost of \$1.5 million in the test year.<sup>1809</sup>

Staff witness Ms. McMillan-Sepkoski clarified that the company was claiming a \$1,546,000 EICP expense, and that Consumers' employees earn EICP by "achieving target levels in each performance measure," with Exhibit A-41 setting forth the amounts,

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<sup>1803</sup> 4 Tr 1552-1553, citing Exhibits A-96 & A-97.

<sup>1804</sup> 4 Tr 1553, citing Exhibit A-98.

<sup>1805</sup> 4 Tr 1554.

<sup>1806</sup> 4 Tr 1169-1170. See also Exhibits A-40 and A-41.

<sup>1807</sup> 4 Tr 1165 & 1167.

<sup>1808</sup> 4 Tr 1172-1173.

<sup>1809</sup> 4 Tr 1175-1176.

and Exhibit A-39 setting forth the outline of the six employee operational performance measures.<sup>1810</sup> She noted that target levels were no longer subject to absolute achievement levels. Instead, the company was using “individual banded goals that provide each measure with its own threshold, target, and maximum performance goal for achieving a certain level of payout.”<sup>1811</sup>

Staff noted that the company made other changes from its past EICP expense requests, as well. According to Ms. McMillan-Sepkoski, EICP now excludes short-term incentive compensation linked to financial measures, and, starting with Case No. U-21224, the company included short term incentive compensation for the top five officers in its rate request.<sup>1812</sup> Staff supported the \$1,546,000 operational measures EICP expense for non-union employees, but, citing Exhibit S-8.1, recommended that the Commission reject the \$276,300 in EICP for the top five officers.<sup>1813</sup> Per Ms. McMillan-Sepkoski, Staff was not recommending the EICP for the top five officers because, unlike other employees where the incentive compensation was intended to make salaries comparable to market median, the limited Pay Governance Report extracts that the company permitted Staff to review lacked officer names linked to the compensation, and “only presented how Pay Governance calculates the market data. There was no financial presentation of the compensation data that Staff needed” to be able to determine how officer compensation compared to market median.<sup>1814</sup>

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<sup>1810</sup> 4 Tr 2607-2608.

<sup>1811</sup> 4 Tr 2608.

<sup>1812</sup> 4 Tr 2608-2609.

<sup>1813</sup> 4 Tr 2608-2609.

<sup>1814</sup> 4 2609-2610.

Mr. Coppola testified that, starting in 2022, Consumers made it easier for employees to receive incentive compensation. He noted that, in 2010 and 2011, non-officer EICP was based on stricter “accomplishment” in 9 out of 11 performance measures to receive full EICP payout.<sup>1815</sup> Mr. Coppola’s review indicated that the non-officer EICP is no longer “based on achieving superior performance, but it simply supplements base pay,” where an EICP payout was made in 13 of the past 14 years.<sup>1816</sup> In Mr. Coppola’s opinion, the current EICP structure no longer “connect[s] to achieving superior customer benefits.”<sup>1817</sup> He found this problematic, because now “even mediocre performance will be rewarded if only a single metric is achieved.”<sup>1818</sup> He also expressed concern about this because the company is increasing base salaries by approximately 3.5%.<sup>1819</sup> To Mr. Coppola, performance measures commingling electric and gas were problematic because they could result in gas customers subsidizing other CMS Energy businesses, “particularly [the 5% that are] non-utility operations.”<sup>1820</sup>

For officers, Mr. Coppola testified that EICP has been based 70% on earnings per share and operating cash flow, and only 30% on operating performance measures. Mr. Coppola opined that this did not provide a direct benefit to customers.<sup>1821</sup> He also discounted the company’s explanations regarding the importance of attracting investors where Consumers had not issued “any significant common stock in more than five

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<sup>1815</sup> 4 Tr 2024-2025.

<sup>1816</sup> 4 Tr 2024-2025.

<sup>1817</sup> 4 Tr 2026.

<sup>1818</sup> 4 Tr 2026.

<sup>1819</sup> 4 Tr 2027.

<sup>1820</sup> 4 Tr 2026.

<sup>1821</sup> 4 Tr 2024-2026.



years.”<sup>1822</sup> For both management and other employees, the large annual merit salary increases have not created customer benefit, but, according to Mr. Coppola, they have disproportionately favored shareholder interests, particularly where “EICP tend[s] to reward mediocre performance and diminish any real customer benefits.”<sup>1823</sup> Achievement of “basic goals and efficient operations” might have created shareholder value, but they had not provided customer benefits beyond what should be paid for in base salaries.<sup>1824</sup> Because shareholders received the greater benefit from the retention of talented management, if not general employees, Mr. Coppola testified that shareholders should pay for the incentive compensation.<sup>1825</sup>

Quantitatively, Mr. Coppola questioned Ms. Meschke’s assumptions that EICP based on operating performance would reduce costs, citing that there were more safety incidents in 2023 than in 2020, and asserting that there was no consistent pattern of cost savings.<sup>1826</sup> Mr. Coppola also questioned EICP based on employee satisfaction where Exhibit A-98 indicated that employee turnover increased from 1.1% in 2020 to 2.7% in 2023.<sup>1827</sup> He expressed skepticism towards the company’s use of SAIDI results, noting that the company used a 2020 to 2023 four-year average to compare to the 2024 SAIDI target, which, to him, did not show actual savings.<sup>1828</sup> Mr. Coppola also testified that the company’s “average achievement rate for the past four years was 66%.”<sup>1829</sup> To Mr.

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<sup>1822</sup> 4 Tr 2025-2026.

<sup>1823</sup> 4 Tr 2029-2030.

<sup>1824</sup> 4 Tr 2029-2030.

<sup>1825</sup> 4 Tr 2030.

<sup>1826</sup> 4 Tr 2027-2028.

<sup>1827</sup> 4 Tr 2028.

<sup>1828</sup> 4 Tr 2027-2028.

<sup>1829</sup> 4 Tr 2028-2029, citing Exhibit AG-66.

Coppola, this did not justify the company's recovery of \$1.5 million in incentive compensation.<sup>1830</sup> The company assumed 100% of operating measures in calculating \$1,546,000 for officer and non-officer EICP.

As a result, Mr. Coppola testified that \$526,000, or 44%, should be disallowed, based on the likelihood that only 66% of the performance achievement was likely.<sup>1831</sup> Mr. Coppola opined that the company had not "made a compelling case to justify recovery of any amount of incentive compensation," recommending total disallowance of the \$1,546,000 for EICP for the projected test year.<sup>1832</sup> However, recognizing that the Commission has traditionally approved incentive compensation related to operating measures he recommended approval of no more than \$1,020,000, or 66% of the operating performance measures based on the EICP that was likely to be disbursed.<sup>1833</sup>

In rebuttal, Ms. Meschke testified that the company is not seeking recovery of full projected cost savings from EICP for the test year, but is seeking to recover \$1,546,000, which is less than the \$3,600,000 in projected savings.<sup>1834</sup> She also asserted that over a longer period of time than that cited by Mr. Coppola the company's recordable safety incidents have decreased, with 558 incidents in 2007, 335 incidents in 2008, and incidents at or below 150 per year since 2012, exceeding the average performance of "peer utilities nine of the last ten years."<sup>1835</sup> Referencing Exhibit A-39, Ms. Meschke noted that recordable incidents count for 30% of the employee safety EICP, high risk injuries count

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<sup>1830</sup> 4 Tr 2028.

<sup>1831</sup> 4 Tr 2029-2031.

<sup>1832</sup> 4 Tr 2030.

<sup>1833</sup> 4 Tr 2031.

<sup>1834</sup> 4 1557-1558.

<sup>1835</sup> 4 Tr 1558.

for 70%, and any fatalities result in a 0% payout for the employee safety operational goal.<sup>1836</sup> The Company's last fatality, however, was in 2018, and Ms. Meschke testified that safety performance improved markedly in 2022 when the EICP metrics first included employee safety.<sup>1837</sup>

Ms. Meschke reiterated that the metrics were designed to be "challenging, yet achievable," repeating that the employee safety metric's addition to "EICP has led to positive performance trends" that keep costs from safety incidents low.<sup>1838</sup> Nevertheless, Ms. Meschke stated that the expected savings in the test year are not necessarily representative of historical costs savings, but that "expected savings are meaningfully higher than the costs to achieve them."<sup>1839</sup> She characterized Mr. Coppola's assertion that safety incident costs have increased, or at least been erratic, over time as insufficiently analyzed because there has been a negative trend in costs from lost days, and, while medical expenses and other actual costs per incident have increased due to increased costs in inflation and healthcare, the costs are within "statistical control limits."<sup>1840</sup>

Ms. Meschke also disagreed with Mr. Coppola's criticism of projected versus actual savings in relation to the SAIDI metric, noting that the leveraged EICP target SAIDI of 170 customer minutes to estimate projected cost savings is conservative, because the impact from averaged leveraged actuals from 2020-2024 would have been 155 customer minutes in 2024. As demonstrated by Exhibit A-97, the company's "approach to calculate

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<sup>1836</sup> 4 Tr 1558-1559.

<sup>1837</sup> 4 Tr 1559.

<sup>1838</sup> 4 Tr 1560.

<sup>1839</sup> 4 Tr 1560-1561.

<sup>1840</sup> 4 Tr 1561.

projected savings are conservative and understated by three [SAIDI] minutes and \$9,687,366.”<sup>1841</sup> Ms. Meschke took the position that leveraged historical averages were a “best practice in data analytics” due to their stability and reliability.<sup>1842</sup> A longer-term trend in SAIDI performance demonstrates “the Company’s commitment to continuous improvement to deliver customer value through EICP operating performance measures.”<sup>1843</sup>

Ms. Meschke also characterized the employee turnover in 2020 cited by Mr. Coppola as an “extreme outlier,” and stated that Consumers’ turnover was “lower than average across peer utilities.”<sup>1844</sup> Ms. Meschke further stated that “the Company has consistently exceeded benchmark performance in employee turnover – illustrating that by including the Culture Index in the Company’s EICP operational metrics it is achieving a cost savings compared to peer utilities.”<sup>1845</sup> In addition to Ms. Meschke, Ms. Conrad restated that incentive compensation benefits customers, and that incentive compensation is part of an overall reasonable compensation level.<sup>1846</sup> She also restated her direct testimony regarding operational targets for payout levels, and indicated that average EICP operational payouts averaged 105% for 2020 through 2024, exceeding the 66% achievement rate asserted by Mr. Coppola.<sup>1847</sup>

In response to Mr. Coppola, Ms. Conrad reiterated that the company is not requesting any EICP recovery for financial metrics, but only for EICP incentives designed

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<sup>1841</sup> 4 Tr 1562.

<sup>1842</sup> 4 Tr 1562.

<sup>1843</sup> 4 Tr 1562-1563.

<sup>1844</sup> 4 Tr 1563.

<sup>1845</sup> 4 Tr 1564.

<sup>1846</sup> 4 Tr 1183.

<sup>1847</sup> 4 Tr 1184.

to improve critical operational performance.<sup>1848</sup> She stated that the incentives must be earned each year, maintaining employee motivation, with payout structured on the performance of each EICP goal so that failure to achieve one goal would not cause employees to abandon the pursuit of attaining all others.<sup>1849</sup> Instead of the goals recognizing mediocre performance, as alleged by Mr. Coppola, Ms. Conrad characterized the incentive structure as being attainable while incentivizing improvement in a number of areas, including safety and cost.<sup>1850</sup> She noted that, if payouts exceeded target level, shareholders would bear that additional cost.<sup>1851</sup> Ms. Conrad also disputed Mr. Coppola's assertion that the company pays annual salary increases of approximately 3.5%, stating that Consumers "uses the same inflation factor to adjust both labor and non-labor expenses," but that EICP is intended to address labor market competition and not inflation.<sup>1852</sup>

In response to Ms. McMillan-Sepkoski, Ms. Conrad testified that the company's officer compensation package is "targeted at the 50<sup>th</sup> percentile of the market," elaborating on her direct testimony regarding the determination process.<sup>1853</sup> She added that the entity conducting compensation surveys is "prohibited from using or reproducing the database and survey reports" relied upon by third-party consultant Willis Towers Watson, which is why the information regarding market median compensation information was not provided to Staff.<sup>1854</sup> However, Ms. Conrad contended that the non-proprietary

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<sup>1848</sup> 4 Tr 1180.

<sup>1849</sup> 4 Tr 1181.

<sup>1850</sup> 4 Tr 1181-1182.

<sup>1851</sup> 4 Tr 1182.

<sup>1852</sup> 4 Tr 1183.

<sup>1853</sup> 4 Tr 1184-1186.

<sup>1854</sup> 4 Tr 1185.

information that was provided to Staff, including non-proprietary market data, demonstrated the reasonableness of the officer compensation.<sup>1855</sup> Ms. Conrad stated that Staff was shown individual charts for the officers, albeit with the officer names redacted, but bearing market data position titles that allowed for review of peer, investor-owned utility, and general industry market data references.<sup>1856</sup> From this, Ms. Conrad opposed Staff's recommendation to exclude the top five officer operational goal incentive expense, repeating that the amount sought for approval was "directly linked to operational measures" benefiting operational outcomes and customers.<sup>1857</sup>

*ii. Briefing*

Citing Exhibits A-39 through A-41, Consumers' initial brief largely summarizes the company's testimony regarding the nature and advantages of its EICP programs.<sup>1858</sup> Quantitatively, the company maintains that the EICP metric of employee safety reduces lost days and medical expenses by \$968,000 and results in \$656,000 of additional indirect savings, for total savings of \$1.6 million accruing annually to customers. Consumers also highlights its position that, based on four-year historical baseline results, outage minutes have been reduced by 5 minutes, resulting in \$15.4 million in annual customer economic benefits,<sup>1859</sup> and reduced methane emissions also provide customer savings.<sup>1860</sup> The culture index, too, helps to reduce employee turnover, with Consumers asserting that by "reducing employee turnover for employees with four or less years of service by just 2%,

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<sup>1855</sup> 4 Tr 1185-1187. Exhibit A-132.

<sup>1856</sup> 4 Tr 1187.

<sup>1857</sup> 4 Tr 1188.

<sup>1858</sup> Consumers brief, 304-313.

<sup>1859</sup> Consumers brief, 311.

<sup>1860</sup> Consumers brief, 312-313.

the Company calculates that it would avoid associated costs of \$7.4 million,” not including the qualitative benefits of this metric and others.<sup>1861</sup>

Staff recommends approval of \$1,269,700 in EICP for non-officer employees, a correction from testimony, and it continues to recommend disallowance of \$276,300 for the EICP for the top five officers.<sup>1862</sup> Staff states that the documentation the company provided in support of officer EICP was anonymous to each executive, and, while including “how Pay Governance calculates market data,” it lacked “presentation of compensation data.”<sup>1863</sup> As a result, Staff recommended the disallowance of EICP O&M expense for the top five officers because it could not be deemed either reasonable or justifiably borne by ratepayers.<sup>1864</sup>

In contrast, the Attorney General recommends disallowance of the entire \$1,546,000 EICP expense.<sup>1865</sup> The Attorney General’s brief highlights Mr. Coppola’s testimony regarding the reduction in non-officer EICP operational metrics since 2022, which has resulted in Consumers moving away from “customer related goals,” while rewarding “even mediocre performance.”<sup>1866</sup> Further, the Attorney General decries the commingled use of CMS Energy financial information, with both electric and gas included, as possibly leaving gas customers to subsidize other CMS Energy businesses. And, per the Attorney General, the payment of annual 3.5% merit salary increases undermines Consumers’ claims that EICP is a necessary part of a competitive market payment

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<sup>1861</sup> Consumers brief, 311-313.

<sup>1862</sup> Staff brief, 78.

<sup>1863</sup> Staff brief, 77.

<sup>1864</sup> Staff brief, 77-78.

<sup>1865</sup> AG brief, 183, 191-192.

<sup>1866</sup> AG brief, 184-185.

offer.<sup>1867</sup> In relation to officer EICP, the Attorney General maintains that officers receive the bulk of their incentive pay if only financial incentives are met.<sup>1868</sup>

In relation to both non-officer and officer EICP, the Attorney General notes that the Commission has established that Consumers must demonstrate the benefits to ratepayers resulting from the EICP and that the benefits are at least equal to the costs.<sup>1869</sup> The Attorney General takes the position that the EICP program metrics are generally related to improving the company's financial performance, and the "direct correlation between the performance metrics, incentive compensation, and benefits to Consumers' gas customers" has not been established.<sup>1870</sup>

The Attorney General maintains her recommendation to disallow EICP program spending.<sup>1871</sup> In the alternative, because the Commission has approved incentive pay relating to operating measures in recent cases, the Attorney General recommends that incentive pay recovery be based on the average 66% achievement of EICP metrics. The Attorney General's brief recommends that incentive pay be limited to both "no more than \$1,020,000," and "be limited to \$754,000" as an alternative to complete disallowance of EICP.<sup>1872</sup>

In response to Mr. Coppola's recommendation that \$526,000 of the EICP request be disallowed,<sup>1873</sup> Consumers explains its savings calculation methodology<sup>1874</sup> and

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<sup>1867</sup> AG brief, 185-186.

<sup>1868</sup> AG brief, 184-186.

<sup>1869</sup> AG brief, 187.

<sup>1870</sup> AG brief, 188-189.

<sup>1871</sup> AG brief, 191-192.

<sup>1872</sup> AG brief, 192.

<sup>1873</sup> Consumers brief, 318.

<sup>1874</sup> Consumers brief, 321-323.



clarifies that the cost savings originally presented by Ms. Meschke are akin to a cost-benefit analysis; they do not represent historical cost savings based on SAIDI, but are, instead, representative of the projected cost savings going forward.<sup>1875</sup> Consumers reiterates that the EICP compensation is not additional compensation, but is part of a package paying reasonable, market level compensation.<sup>1876</sup> Safety metrics, and EICP compensation, function independently, encouraging employees to continue striving for excellence and incentive compensation in other metrics if one appears unlikely to be met.<sup>1877</sup> This contrasts with the company's "old" compensation structure that paid out at least 100% of incentive compensation if approximately 60% of overall goals were achieved. This, according to the company, is more likely to reward failure than the current system.<sup>1878</sup>

Continuing its response to the Attorney General, Consumers reasserts that its culture index survey is clearly indicative of the risk of employee turnover, which is costly for Consumers and, in turn, its customers. Gas customers are only being asked to pay the gas portion of combined electric and gas operations and metrics.<sup>1879</sup> And Consumers is also only requesting approval for operational, and not financial, measures.<sup>1880</sup>

In response to Ms. McMillan-Sepkoski's recommendation that the \$276,300 portion of the EICP expense attributable to the company's top five officers be disallowed because it is not properly supported, Consumers makes several assertions. The company

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<sup>1875</sup> Consumers brief, 318-320.

<sup>1876</sup> Consumers brief, 318, 327.

<sup>1877</sup> Consumers brief, 324-325.

<sup>1878</sup> Consumers brief, 325-327.

<sup>1879</sup> Consumers brief, 324-325.

<sup>1880</sup> Consumers brief, 325-326.

indicates that it does not have direct possession of the market information underlying the compensation committee's determination of compensation for the top five officers. Consumers further asserts that the information is confidential and proprietary to the third parties who assist with the compensation process; it could not be obtained at a reasonable cost through additional contract negotiations, and the company could violate antitrust laws if it had direct access to information regarding the compensation of competitors.<sup>1881</sup> Consumers notes that it provided Staff an opportunity to review the data that the company's compensation committee receives, which should be sufficient.<sup>1882</sup>

Furthermore, in response to Staff's assertion that the information "was anonymous to each executive and did not include a sufficient financial presentation to make a valid comparison," Consumers highlights Ms. Conrad's testimony about the summaries and charts that were provided. The company notes this information was only outdated by a year because it was based on compensation as publicly reported in Securities and Exchange Commission filings.<sup>1883</sup> While Consumers concedes this is not perfect, it asserts the information provided to Staff is still sufficient to demonstrate that the portion of the EICP compensation to be paid by Consumers' gas customers meets the target of being in the 50<sup>th</sup> percentile of named officer compensation amidst Consumers' peer group.<sup>1884</sup>

Consumers' reply brief relies on the points raised in its initial brief in response to Staff's and the Attorney General's proposed disallowances, but separately addresses

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<sup>1881</sup> Consumers brief, 313-316.

<sup>1882</sup> Consumers brief, 316.

<sup>1883</sup> Consumers brief, 316-317.

<sup>1884</sup> Consumers brief, 316-318.

three points raised by the Attorney General.<sup>1885</sup> First, in response to the Attorney General's assertions that the company includes 3.5% merit increases in its salary increases for test year rates, rendering the EICP expense redundant, Consumers notes that increase is the CPI inflation amount. The CPI inflation amount is the amount for which the Commission permits rate case recovery, but Consumers actually incurs additional unrecovered expenses above this that are not included in the rate case, pointing to independent labor inflation indexes supporting higher rates of inflation.<sup>1886</sup>

Second, Consumers addresses the Attorney General's assertion that the EICP remains focused on company financial performance without benefit to ratepayers, which Consumers argues is incorrect because the portion of the EICP relating strictly to financial measures is not being sought as part of its rate case.<sup>1887</sup>

Third, in response to the Attorney General's claim that the EICP structure incentivizes ordinary performance instead of exceptional performance, Consumers responds that, even if this were true, its base salary does not fully compensate employees for ordinary performance, and only through the combination of base salaries and EICP do Consumers employees receive market level pay. According to the company, the Attorney General's proposed disallowance would leave the company's employees undercompensated for ordinary employment.<sup>1888</sup>

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<sup>1885</sup> Consumers reply, 124.

<sup>1886</sup> Consumers reply, 125.

<sup>1887</sup> Consumers reply, 126.

<sup>1888</sup> Consumers reply, 126-127.

### *iii. Recommendation*

This PFD adopts Staff's recommendation for approval of \$1,269,700 for EICP for non-officer employees, and disallowance of \$276,300 for the EICP for the company's top five officers. The parties recently made similar arguments in relation to the same EICP program in Consumers' 2024 electric rate case, Case No. U-21585.<sup>1889</sup> There, the Commission agreed with Staff's and the PFD's recommended disallowance of the EICP for the top five officers, although in that case the company apparently provided no documentation of the officer expense, rather than providing the limited review afforded in this case.<sup>1890</sup> And, over that PFD's recommendation that 50% of the non-officer EICP be disallowed, the Commission permitted full recovery, discrediting only the methane emission EICP metric based on insufficient support for its inclusion in an electric rate case.<sup>1891</sup>

The same EICP program for non-officers at issue here was considered in U-21585, and there is, at present, no compelling reason to deviate from the Commission's previous order, subject to two forward-looking caveats. First, the Commission "request[ed] more support and explanation from the company regarding how it coordinates operations between its gas and electric businesses to justify how it can expect electric business employees to achieve the methane emission reduction goals."<sup>1892</sup> This PFD recommends that, going forward, Consumers endeavor to find some way to separate electric-specific and gas-specific metrics into their respective rate cases. While conceptually all part of the

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<sup>1889</sup> March 21, 2025, order in Case No. U-21585, pp. 343-354.

<sup>1890</sup> March 21, 2025 order in Case No. U-21585, pp. 349-350 & 353-354.

<sup>1891</sup> March 21, 2025 order in Case No. U-21585, pp. 353-354.

<sup>1892</sup> March 21, 2025 order in Case No. U-21585, p. 354.

same overarching compensation program, the Attorney General's concern that gas rate payers may ultimately be subsidizing other parts of the company is well taken where metrics clearly stemming from a different, independent area of the company are included in gas case EICP consideration. At a minimum, this PFD recommends that the company comply with the Commission's prior order and provide additional information. Second, while the Commission was satisfied in Case No. U-21585 that a reduction in non-officer EICP to match achieved metrics was unnecessary, if a pattern of underspending based on unmet metrics unfolds going forward, concomitant reductions in approved EICP cost should be considered.

Staff's recommendation, adopted here, in favor of allowing \$1,269,700 for non-officers largely rests on a conclusion that EICP is part of a reasonable level of overall employee compensation. This PFD adopts Staff's recommended disallowance of EICP for the top five officers for much the same reason. While the company's attempts to provide additional information to Staff should be encouraged, the inability to share key data and the redaction of employee names from even the limited viewing of the information on the company's premises clearly hampered Staff's ability to independently compare the limited information provided with market data. Additionally, this PFD credits the Attorney General's point that there is no clear tie between officer EICP and commensurate benefit to ratepayers. For these reasons, this PFD recommends disallowance of \$276,300 for officer EICP.

8. Customer Experience O&M Expense

a. Analytics & Outreach Expense

i. *Testimony*

Exhibit A-37 shows that Consumers forecasted \$2,325,000 of O&M expense for Analytics and Outreach during the test year.<sup>1893</sup>

Mr. Coppola testified that Ms. Byrom's direct testimony is "devoid" of any information regarding this expense.<sup>1894</sup> Through discovery, Mr. Coppola learned that in 2024, a total of 72 people worked in this area (58 employees and 14 contractors), which the company planned to increase to 74 during the test year. According to Mr. Coppola, the company identified 17 customer interactions in 2022, seven customer interactions in 2024, and it projected seven interactions during the test year.<sup>1895</sup> He testified "it is not clear what customer interactions entail, why there are so few, and why they decline from 2022 and stay the same between 2024 and the projected test year when the number of employees and contractors in this function increases."<sup>1896</sup> When asked about tasks performed and accomplishments achieved, Mr. Coppola stated that Consumers provided very general information about improving the customer experience. He opined the company failed to show it is generating value for the expense and recommended a full disallowance of \$2,325,000 from test-year O&M expense.<sup>1897</sup>

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<sup>1893</sup> While the Analytics and Outreach O&M expense in Exhibit A-37 is included within the Customer Interactions department of the Customer Experience & Operations organization, Ms. Baker testified that beginning with this rate case Consumers has integrated the Analytics and Outreach function into the IT Department and those expenditures will be represented in the IT business category for Operations O&M expense. 4 Tr 631-632.

<sup>1894</sup> 4 Tr 2012.

<sup>1895</sup> 4 Tr 2013; see discovery response contained in Exhibit AG-60.

<sup>1896</sup> 4 Tr 2013.

<sup>1897</sup> 4 Tr 2013.

Ms. Byrom testified in rebuttal that the Analytics and Outreach group serves a vital function for incorporating feedback and data into the company's operations, which contributes to improving customer experience.<sup>1898</sup> According to Ms. Byrom, the work performed by this group allows the company to use its resources more efficiently, target communications to precise customer segments, and select programs that are most likely to provide customer value. She identified the following "program priorities":

- All MPSC reporting – providing reporting metrics and data as required or requested by internal stakeholders
- Estimated Time of Restoration ("ETR" – utilizing Machine Learning in real time, to provide an ETR when a customer loses power, on blue sky days through catastrophic storms)
- Customer Experience Index – supporting the Company's top level goal of consolidation of all live and automated phone calls, app and web traffic, and customer experience surveys across all channels
- Data Automation – centralizing all data outputs from the dozens of source systems and properly storing and maintaining in a centralized resource
- Data Quality – ensuring accurate Customer information for address, email, phone numbers, etc. - improving communication accuracy
- Data Visualization – the execution of all metrics tracked by both Customer Operations and Customer Experience
- Problem Solving – deep dive analysis into the most granular data to support the improvement of customer impacting metrics[.]<sup>1899</sup>

*ii. Briefing*

Consumers states that Mr. Coppola misinterpreted the company's discovery response and explains that "customer interactions" in Exhibit AG-60 is the row label

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<sup>1898</sup> 4 Tr 1128.

<sup>1899</sup> 4 Tr 1128.

identifying Customer Interactions as the larger group under which the Analytics and Outreach function is organized. The 17 and seven customer interactions Mr. Coppola referenced are work units or items and not customer interactions.<sup>1900</sup> The company further argues the O&M expenses are well supported by Ms. Byrom's rebuttal testimony.

In her initial brief, the Attorney General advocates for a full disallowance based on Mr. Coppola's testimony.<sup>1901</sup> Responding to Ms. Byrom's rebuttal testimony that the Analytics and Outreach group serves a vital function, the Attorney General argues, "the systems that process the millions of customer interactions are already in place and the functions are in maintenance mode" and it is therefore unnecessary to "continue the current level of resources."<sup>1902</sup>

In its reply brief, the company argues that the Attorney General relies on irrelevant information about Digital Customer Operations (DCO) to support her argument that the current level of funding for Analytics and Outreach is unnecessary because its functions are in "maintenance mode."<sup>1903</sup> The company asserts that the Attorney General "ignores the actual functions of the Analytics and Outreach team" and further claims, "It would be inappropriate to disallow the recovery of operating costs based on an argument that does not even attempt to address what kind of work the group performs."<sup>1904</sup>

The Attorney General does not address this issue further in reply briefing.

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<sup>1900</sup> Consumers brief, 328-329.

<sup>1901</sup> AG brief, 177-178.

<sup>1902</sup> AG brief, 178.

<sup>1903</sup> Consumers reply, 127-128.

<sup>1904</sup> Consumers reply, 128.



*iii. Recommendation*

This PFD rejects the Attorney General's proposed disallowance. While the company failed to address this expense in its initial testimony, Ms. Byrom did provide rebuttal testimony that adequately explains the work this group performs to support various functions across the company. Further, the Attorney General's argument relies in part on a misunderstanding of the company's discovery response and a conflation of the separate functions of the Analytics and Outreach and DCO groups. In the end, it has not been shown that the expenses are unnecessary or somehow unreasonable. However, in future rate cases, the company should be expected to provide as part of its initial filing more detailed information about any similar expenditures.

*b. Digital Customer Operations Experience*

*i. Testimony*

Ms. Byrom testified that the company projected \$1.1 million of DCO O&M expense for the test year, which is a decrease of \$800,000 from 2023.<sup>1905</sup> She explained that DCO is responsible for the operation and improvement of Consumers' customer-facing digital applications, including its website and mobile app. She discussed the role of the website and mobile app in allowing customers to complete transactions online and the need for investments in these tools.<sup>1906</sup> In addition, Ms. Byrom testified in support of \$156,343 in O&M costs for the Customer Order Service Tracker and the Genesys Cloud Migration (both IT projects sponsored by witness Baker).<sup>1907</sup>

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<sup>1905</sup> 4 Tr 1086.

<sup>1906</sup> 4 Tr 1086-1088.

<sup>1907</sup> 4 Tr 1082, 1084-1085, 1088-1091; see also 4 Tr 678.

Mr. Coppola recommended a disallowance of “at least” \$536,000 (50% of the company’s projected expense), testifying that Ms. Byrom failed to address this expense in her direct testimony.<sup>1908</sup> Mr. Coppola learned through discovery that in 2024, a total of 28 people worked in this area (23 employees and five contractors), which the company planned to increase to 29 people during the test year. According to Mr. Coppola, the company identified four customer interactions in 2022, three customer interactions in 2024, and it projected three interactions during the test year.<sup>1909</sup> He asserted “it is again not clear what customer interactions entail, why there are so few, and why they decline from 2022 to the projected test year.”<sup>1910</sup> He stated that the information Consumers provided about the major tasks performed by this group does not make it clear why most of the system functions would require repeat work using the same number of employees and contractors every year. He also testified that the company provided a “general description of accomplishments” that “does not make a compelling case that significant value is being generated.”<sup>1911</sup> Mr. Coppola concluded that Consumers failed to justify the resources assigned to this function.<sup>1912</sup>

In rebuttal, Ms. Byrom testified that in keeping the website and mobile app running, the DCO team is critical to the company’s objective of digitizing more transactions to better and more cost effectively serve customers.<sup>1913</sup> She testified that the website and mobile app get more than 45 million customer interactions annually; in 2024, those

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<sup>1908</sup> 4 Tr 2014-2015.

<sup>1909</sup> 4 Tr 2014; see discovery response contained in Exhibit AG-60.

<sup>1910</sup> 4 Tr 2014.

<sup>1911</sup> 4 Tr 2015.

<sup>1912</sup> 4 Tr 2015.

<sup>1913</sup> 4 Tr 1129.

channels were used 15.7 million times to check billing status, 13.8 million times related to payments, and 4.5 million times to view outage status.<sup>1914</sup> Ms. Byrom also stressed that the overall O&M expenses for DCO have decreased historically as the group finds efficiencies in the technologies it supports.<sup>1915</sup>

*ii. Briefing*

The Attorney General's brief closely tracks Mr. Coppola's testimony in arguing that the Commission should disallow at least 50% of the company's requested expenses. Regarding Ms. Byrom's rebuttal testimony, the Attorney General responds, "the systems that process millions of customer interactions are already in place and the functions are in maintenance mode. The current level of resources is not necessary."<sup>1916</sup>

In its initial brief, Staff agrees with the Attorney General's proposed disallowance, relying on Mr. Coppola's testimony to support its argument that the company failed to justify the number of staff in this area as well as the company's overall proposed expenses.<sup>1917</sup>

Consumers argues that Mr. Coppola was wrong when he testified that the company failed to support this O&M expense with testimony, quoting Ms. Byrom's direct testimony discussing the function of DCO. It again notes that Mr. Coppola misinterpreted its discovery response; in Exhibit AG-60, "customer interactions" is the row label for the group DCO belongs to, and the numbers are referring to work units, not actual customer

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<sup>1914</sup> 4 Tr 1129.

<sup>1915</sup> 4 Tr 1130.

<sup>1916</sup> AG brief, 179.

<sup>1917</sup> Staff brief, 73-74.

interactions.<sup>1918</sup> The company further argues it has provided substantial evidence of the value DCO provides in maintaining its website.<sup>1919</sup>

Neither the Attorney General nor Staff presents further argument on this topic in reply briefing.

The company argues in reply that the Attorney General misunderstands the nature of the work DCO performs and does not appear to understand the difference between the Analytics and Outreach group and the DCO group.<sup>1920</sup> It asserts that the Attorney General is unclear when she argues that the systems for which DCO is responsible are already in place and its functions are in “maintenance mode.” Consumers further responds: “DCO does not simply maintain the website, the team ensures that the website stays up to date and implements projects that add new functions and features to the website, and it collects customer feedback to make improvements.”<sup>1921</sup>

### *iii. Recommendation*

This PFD disagrees with the Attorney General and Staff that Consumers failed to adequately support the DCO expenses. The company explained the responsibilities of the DCO group; it effectively rebutted the Attorney General’s claim that costs were unjustified because functions of the group were in “maintenance mode[;]” and it noted that the Attorney General relied on a misunderstanding of the company’s discovery response. Additionally, the expenses are reasonable when analyzed in the context of historical expenditures.

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<sup>1918</sup> Consumers brief, 330.

<sup>1919</sup> Consumers brief, 330-331.

<sup>1920</sup> Consumers reply, 129.

<sup>1921</sup> Consumers reply, 129.

c. Customer Order Service Tracker (COST) Expense

i. *Testimony*

Ms. Byrom testified that the company sought \$438,172 in test-year capital expenditures and \$150,951 in O&M costs related to the company's Customer Order Service Tracker (COST), an IT project sponsored by Ms. Baker.<sup>1922</sup> Ms. Byrom explained the project will implement a tracker that will allow both customers and employees to access updated information about the status of service orders and the location of service crews. According to her, the project will add value through increased customer transparency, a reduction in contact center call volume, and decreased wasted truck rolls.<sup>1923</sup>

Mr. Denzler noted that Consumers had not incorporated the anticipated savings from the COST project into its budget projections because, according to the company, the savings were estimated.<sup>1924</sup> He disagreed with this reasoning and testified that when using a projected test year based on estimated costs "it is not fair to its customers for it to pick and choose which estimates get passed through to their revenue requirements."<sup>1925</sup> Mr. Denzler continued, "As it stands, the Company's customers will pay for this project and the Company will retain all of the benefits, over-recovering from its customers for the avoided truck rolls and contact center calls."<sup>1926</sup> He therefore opined that the projected savings should be disallowed and proposed disallowances of \$528,342 in Contact Center O&M and \$3,824,456 in Gas Operations O&M, calculated as follows:

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<sup>1922</sup> 4 Tr 1084-1085, 1088; see also 4 Tr 678.

<sup>1923</sup> 4 Tr 1088-1090.

<sup>1924</sup> 4 Tr 2476.

<sup>1925</sup> 4 Tr 2476.

<sup>1926</sup> 4 Tr 2476.

From the Company's logic, there are 346,000 short-cycle-related calls with an expected adoption rate of 10%-20%, resulting in an expected avoidance of 34,600-69,200 calls. At \$10.18 per call, this would be an annual savings of \$352,228 to \$704,456. I recommend a disallowance to Customer Service Contact Center O&M of the midpoint of this range which is \$528,342. For the savings related to truck rolls, the Company should reduce 12%-15% of the 62,954 service-order-related annual truck rolls. At a cost of \$450 per roll, that results in a savings of \$3,399,516 to \$4,249,395. I recommend a disallowance to Gas Operations O&M of the midpoint of these numbers, which is \$3,824,456.<sup>1927</sup>

Ms. Byrom acknowledged the project will result in "significant savings" but testified that those savings have been estimated as part of the cost/benefit analysis and will not yet be realized. She explained the project will be completed during the test year and opined it is unreasonable for CUB "to assume immediate realization of savings upon project completion."<sup>1928</sup> She further testified that O&M savings will be "evident" in subsequent rate cases and stressed that the project's benefits extend beyond cost savings.<sup>1929</sup>

*ii. Briefing*

Consumers echoes Ms. Byrom's testimony in arguing that benefits of the project will not be realized during the test year and savings will instead become evident in future rate cases; the project provides benefits beyond cost savings; and a disallowance is unreasonable given that savings are estimated based on a cost-benefit analysis and "have not been accounted for operationally."<sup>1930</sup>

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<sup>1927</sup> 4 Tr 2476-2477; see also Exhibit A-21.

<sup>1928</sup> 4 Tr 1137.

<sup>1929</sup> 4 Tr 1137.

<sup>1930</sup> Consumers brief, 331-332.

In its initial brief, CUB relies on Mr. Denzler's testimony to argue "[i]t is patently unfair to stick ratepayers with program costs but not savings."<sup>1931</sup> CUB states that Consumers should immediately experience reduced calls and truck rolls upon implementation of the project and "[t]here is no basis to provide \$0 offset to ratepayer costs resulting from likely project savings."<sup>1932</sup> In addition, "While the COST tool may also lead to fewer contact center calls and happier customers, those benefits do not justify withholding economic savings from ratepayers."<sup>1933</sup> CUB argues that Mr. Denzler's methodology adopts the midpoint in the range of projected savings and that his disallowance is reasonable and should be adopted by the Commission.<sup>1934</sup>

The parties provide no further arguments in their reply briefs.

### *iii. Recommendation*

This PFD agrees with CUB that it is reasonable to expect the COST project will begin generating O&M savings for the company immediately upon roll-out, and it is unreasonable to withhold those savings from ratepayers. However, in estimating the amount of savings that can be expected during the test year (which is when the project is expected to be completed), this PFD disagrees with Mr. Denzler's methodology of adopting the midpoint of the range of projected annual savings. Instead, a more measured and cautious approach should be taken for cost savings estimates for a new program. Accordingly, this PFD believes that it is reasonable to expect that 25% of the maximum projected savings will be realized during the test year. As a result, the Commission should

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<sup>1931</sup> MSC brief, 68.

<sup>1932</sup> MSC brief, 68.

<sup>1933</sup> MSC brief, 68.

<sup>1934</sup> MSC brief, 67-68.

disallow \$176,114 in Contact Center O&M (25% of \$704,456) and \$1,062,349 in Gas Operations O&M (25% of \$4,249,395).

In the alternative, if the Commission does not agree that it is appropriate to incorporate estimated cost savings in the present rate case, then it should direct the company to track and quantify the realized O&M savings from this project in its next rate case so that it can be used to offset other O&M expenses. This would be appropriate as witness Byrom contended that the “O&M savings will be evident in the Company’s subsequent rate case.”<sup>1935</sup>

#### 9. MGP Direct Project Management Costs

Mr. Foster testified that the company requested approval of \$930,000 in test year MGP direct project management costs as shown in Exhibit A-47.<sup>1936</sup> In briefing the company requests approval of this amount as it has not been challenged by any party.

This PFD agrees and recommends approving MGP project management expense of \$930,000.

#### 10. Gas Uncollectible Expense

Mr. Foster projected the company’s uncollectible accounts expense to be \$15.327 million in the test year based upon a three-year average bad debt loss ratio of uncollectible expense to gas service revenue for the years 2021 through 2023.<sup>1937</sup> He asserted that his calculation accounts for changing natural gas prices by using test year revenues in the calculation that account for the latest commodity cost projections.<sup>1938</sup>

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<sup>1935</sup> 4 Tr 1137.

<sup>1936</sup> 4 Tr 1204.

<sup>1937</sup> 4 Tr 1199; See also Exhibit A-45, page 1, column (e).

<sup>1938</sup> 4 Tr 2000.



No party challenged the company's forecast of uncollectible expense, so this PFD recommends adopting the company's forecast for this category.

#### 11. Injuries and Damages Expense

Mr. Foster testified that injuries and damages expense included the cost of compensation for items damaged during the company's business activities, the cost of lawsuits or accidents that are below insurance deductible levels, as well as workers' compensation claims along with their associated legal costs.<sup>1939</sup> He asserted that the company projected \$2.279 million in injuries and damages expense in the test year based upon a five-year average of actual expense from 2019 through 2023.<sup>1940</sup>

No party challenged the company's forecast for this expense, so this PFD recommends adopting the company's forecast for this category.

#### 12. Inflation Rate and Labor Rates

##### *i. Testimony*

Ms. Rayl testified that the company utilized inflation factors published by S&P Global in its June 2024 U.S. Economic Outlook publication; these inflation factors were 3.2% in 2024, 2.4% in 2025, and 2.5% in 2026.<sup>1941</sup>

Mr. Coppola testified that the company applied inflation and merit adjustments totaling \$3.7 million based on consumer price index (CPI) forecasted rates, but used higher inflation rates of 3.5% or more for certain O&M expenses without clearly disclosing the justification. He found some of these cost increases to be excessive and unsupported, and he proposed specific adjustments to those expenses in his various analyses of

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<sup>1939</sup> 4 Tr 2001.

<sup>1940</sup> 4 Tr 2001-2002; See also Exhibit A-46, line 4, column (i).

<sup>1941</sup> 4 Tr 1761.

expenses. Mr. Coppola recommended that the Commission require the company to clearly disclose, by operating unit and cost function, any forecasted inflationary increases that differ from the CPI rates.<sup>1942</sup>

Mr. Fitzhenry expressed concern with the company's reliance on the CPI for its inflation factors asserting that it was less accurate for utility costs due to its fixed basket of goods and heavy weighting of medical expenses that are unrelated to utility costs.<sup>1943</sup> He compared the CPI to the Blue Chip GDP Chained Price Index, which he opined was more responsive to actual consumer behavior and better aligned with utility cost trends. His analysis showed that the GDP Price Index had a stronger correlation with actual gas meter costs from 2020 to 2023 than the CPI, making it a more reliable predictor of future costs.<sup>1944</sup> Therefore, he recommended the company adopt the GDP Chained Price Index for forecasting O&M inflation, which would reduce projected O&M expenses by \$355,100.<sup>1945</sup>

Mr. Bunch expressed concern that the company's proposed rate increases—such as a 12% increase for residential customers—far exceeded the expected inflation rates of 2.4% for 2025 and 2.5% for 2026.<sup>1946</sup> He asserted that while the company's total O&M expenses appeared to decline due to accounting items like pension and benefit costs, core operating costs were actually projected to rise 17.2% from 2023 to 2026, compared to just 8.32% inflation over the same period.<sup>1947</sup> Mr. Bunch pointed out that inflation was

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<sup>1942</sup> 4 Tr 1999-2000.

<sup>1943</sup> 4 Tr 2147.

<sup>1944</sup> 4 Tr 2148.

<sup>1945</sup> 4 Tr 2148.

<sup>1946</sup> 4 Tr 2371.

<sup>1947</sup> 4 Tr 2372.

inconsistently applied across the company's cost projections with many line items embedding inflation through indirect assumptions or negotiated labor rates.<sup>1948</sup> He opined that labor costs, in particular, were projected to increase by 28.7%, while productivity-adjusted inflation supported only a 4.96% increase.<sup>1949</sup> Mr. Bunch criticized the lack of evidence supporting productivity claims made by company witnesses; he noted significant labor cost increases in departments that otherwise claimed to be improving efficiency.<sup>1950</sup>

Mr. Bunch recommended that the Commission apply productivity offsets using U.S. Bureau of Labor Statistics (BLS) data (0.79% for Michigan labor and 0.83% nationally for non-labor costs) to adjust cost projections.<sup>1951</sup> He proposed capping O&M and capitalized labor growth to historical 2023-2024 averages plus productivity-adjusted inflation of 3.37% for labor and 3.29% for non-labor.<sup>1952</sup> He also urged the Commission to adopt a policy, similar to that adopted in the Consumers Electric Case No. U-21585, requiring the company to provide evidence that it is offsetting inflation with actual productivity improvements in future rate cases.<sup>1953</sup>

In rebuttal, Ms. Myers disagreed with Mr. Bunch's proposal to apply a productivity-adjusted inflation factors to historical costs to estimate test year expenses because it was overly simplistic and inconsistent with the company's actual cost experience. She emphasized that the company's projections reflect continuous improvement efforts, are supported by evidence, and should be evaluated based on their reasonableness and

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<sup>1948</sup> 4 Tr 2373-2374.

<sup>1949</sup> 4 Tr 2374.

<sup>1950</sup> 4 Tr 2376.

<sup>1951</sup> 4 Tr 2378.

<sup>1952</sup> 4 Tr 2379, 2381.

<sup>1953</sup> 4 Tr 2381.

prudence.<sup>1954</sup> She testified that Mr. Bunch did not provide evidence or explanation to support the appropriate application of his suggested productivity factors, and she stated it was overly broad and failed to consider the company's limited control over certain costs.<sup>1955</sup> Ms. Myers disagreed with Mr. Bunch's claim about utilities lacking competitive cost pressures; she stated that even if such a comparison were appropriate, the company demonstrated productivity gains by keeping customer bill increases below inflation over the past decade.<sup>1956</sup> Ms. Myers disagreed with Mr. Bunch's recommendation that the Commission require more detailed evidence of productivity gains in the next gas rate case (similar to the Commission's Order in Case No. U-21585) because the company already demonstrates its costs are reasonable and incorporate known savings. She asserted that isolating all productivity impacts would be burdensome and that targeted requests for specific cost information would be more constructive.<sup>1957</sup>

Ms. Myers rejected Mr. Fitzhenry's claim that the CPI is inferior to the Chained Price Index, asserting that the CPI is periodically updated to reflect consumer spending patterns and should continue to be used in rate cases per the Commission's longstanding practice.<sup>1958</sup> She also opined that it was inappropriate for Mr. Fitzhenry to conclude that the chained price index was more appropriate based upon the correlation between the review of a single expense item like gas meters.<sup>1959</sup>

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<sup>1954</sup> 4 Tr 1591.

<sup>1955</sup> 4 Tr 1592-1593.

<sup>1956</sup> 4 Tr 1592.

<sup>1957</sup> 4 Tr 1593.

<sup>1958</sup> 4 Tr 1595, 1596.

<sup>1959</sup> 4 Tr 1595.

*ii. Briefing*

Consumers argues that the Commission has already recently rejected ABATE's request to switch to the chained price index given ABATE's failure to show that it is a superior measure compared to the longstanding use of the standard CPI.<sup>1960</sup> The company also asserts that both the standard CPI and the chained price index are regularly updated and provide a measure of inflation based upon a basket of goods such that ABATE's analysis based upon correlation to a single item is inappropriate.

Consumers responds to CUB's proposal regarding productivity factors by repeating the points raised in the rebuttal testimony of Ms. Myers.<sup>1961</sup> The company urges the Commission not to replicate its order in Case No. U-21585 by directing the company to present more detailed evidence to demonstrate that it offsets inflation with productivity increases because doing so would be burdensome.<sup>1962</sup>

The Attorney General repeats her request to direct the company to clearly disclose by operating unit and cost function the forecast inflationary increases it includes if they are different from CPI forecasted inflation.<sup>1963</sup>

ABATE continues to recommend adopting the GDP chained price index for the reasons stated by Mr. Fitzhenry.<sup>1964</sup>

CUB asserts that the company's reasons for opposing an evaluation of productivity offsets are "internally contradictory."<sup>1965</sup> CUB points out that Consumers asserts that

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<sup>1960</sup> Consumers brief, 335 (citing January 23, 2025, Order in Case No. U-21534, p. 76).

<sup>1961</sup> Consumers brief, 337-338.

<sup>1962</sup> Consumers brief, 338.

<sup>1963</sup> AG brief, 193.

<sup>1964</sup> ABATE, 33.

<sup>1965</sup> MSC brief, 109.

CUB's approach is too simplistic while also stating that it is too difficult to evaluate productivity on a programmatic basis.<sup>1966</sup> CUB asserts that the company's preferred approach, i.e. to do nothing, is untenable and unfair to ratepayers who bear the burden of investments without the benefit of productivity gains. CUB asserts that its productivity adjusted inflation approach is not individualized and its simplicity is an intended feature.<sup>1967</sup>

The company replies that it is unnecessary to adopt the Attorney General's recommendation because, except for Corporate Expenses, the company projects its O&M expenses and explains the development and reasonableness of its projections in individual witnesses' testimonies.<sup>1968</sup> The company also asserts that the Commission should reject MEC's recommendation because it does not project all expenses by applying an inflation factor and thus there is no need for the company to demonstrate how it is offsetting inflation for such expenses.<sup>1969</sup> Further, the company asserts that it already reflects productivity gains in the test year expenses where applicable.<sup>1970</sup>

In response to the company's briefing and testimony, ABATE replies that the Commission is not bound to follow a particular methodology and is free to select the GDP chained price index.<sup>1971</sup> ABATE asserts that the chained price index is superior because it is more sensitive to the substitution of goods and services, including the price of gas meters.<sup>1972</sup> Finally, ABATE contends that the chained price index is based on the opinion

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<sup>1966</sup> MSC brief, 109.

<sup>1967</sup> MSC brief, 109.

<sup>1968</sup> Consumers reply, 130.

<sup>1969</sup> Consumers reply, 130.

<sup>1970</sup> Consumers reply, 130.

<sup>1971</sup> ABATE reply, 10.

<sup>1972</sup> ABATE reply, 10.

of multiple industry experts whereas the standard CPI is developed from a singular government entity, the Bureau of Labor and Statistics.<sup>1973</sup>

The Attorney General and CUB provided no further argument on this issue in their reply briefs.

*iii. Recommendation*

This PFD adopts the recommendation of the Attorney General to require the company to disclose, by operating unit and cost function, forecasted inflationary cost increases that are different from the CPI forecast inflation rates. This requirement will highlight costs where the inflation rate differs to provide greater ability to scrutinize whether such increases are reasonable and justified.

This PFD declines to adopt ABATE's recommendation to use the GDP chained price index rather than the standard CPI. The standard CPI is an adequate and generally recognized gauge for inflation and a new price index should not be adopted based upon a correlation review of a single expense item like gas meters.

This PFD shares CUB's concern regarding whether the company adequately offsets inflation with productivity increases and documents such savings. This PFD also believes that CUB's recommendation to apply a productivity offset to inflation is an idea worthy of consideration to ensure that productivity improvements are moderating costs and providing customers with cost savings that should result from increases in productivity. However, this PFD declines to adopt—at least not currently—CUB's recommendation to apply productivity offsets across a wide range of O&M and labor

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<sup>1973</sup> ABATE reply, 10.  
U-21806  
Page 416

expenses to reduce the effects of inflation. Instead, this PFD agrees with CUB that the Commission, consistent with its order in the company's last electric case, should direct the company to present, in its next gas rate case, more detailed evidence to demonstrate that it is in fact offsetting inflation with productivity increases.<sup>1974</sup> This course of action is consistent with previous Commission precedent and will allow the company to specifically demonstrate how it offsets inflationary increases with productivity gains. The company complains that this requirement would be burdensome, but: (1) the Commission already required the company to do so in its last electric rate case, and (2) the company argues that it already considers productivity or other cost reductions in its cost projections,<sup>1975</sup> so this direction should not be overly burdensome because it simply requires the company to more transparently highlight how such considerations are taken into account. This PFD also notes that CUB's proposal to apply a productivity factor offset to inflation would certainly be simpler, easier, and less burdensome, but it may be a more appropriate approach to allow the company to demonstrate how it accounts for productivity gains.

E. Depreciation and Amortization – Non MGP

*i. Testimony*

The company projected a test-year depreciation expense (non-MGP) of \$374.164 million.<sup>1976</sup>

Mr. Witt supported a \$11,005,000 reduction to the company's test year projected depreciation, as shown on Exhibit S-3, Schedule C-1. This reduction included a \$2,386,000 decrease due to adjustments in capital expenditures, an \$8,856,000

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<sup>1974</sup> See March 21, 2025, Order in Case No. U-21585, pp. 355-356.

<sup>1975</sup> See e.g. Consumers brief, 338.

<sup>1976</sup> Exhibit A-13, Schedule C-6, line 18.



decrease from the Company using incorrect depreciation rates, and a \$237,000 increase related to the Riverside Storage Field plant adjustment.<sup>1977</sup> Mr. Witt supported a \$2,905,000 reduction to the company's test year projected Amortization Expense, as shown on Exhibit S-3, Schedule C-1. This reduction included a \$2,959,000 decrease related to the Riverside Storage Field plant adjustment supported by Staff witness Nichols and a \$54,000 increase related to the amortization of Manufactured Gas Plant (MGP) costs supported by Staff witness Hecht.<sup>1978</sup>

Mr. Coppola proposed a \$13.3 million reduction to the Company's projected test year depreciation expense; he based this adjustment on the capital expenditure reductions he identified in Exhibit AG-34.<sup>1979</sup>

*ii. Briefing*

Consumers reiterates that it projected test year non-MGP depreciation expense of \$374.164 million, although it later agreed to Staff's proposed reduction of \$11.347 million because of adjustments to capital expenditures.<sup>1980</sup> The company explains that any other adjustments by Staff or other parties should be rejected for the same reasons discussed in response to proposed capital expenditures.<sup>1981</sup>

Staff recommends a depreciation expense of \$361.001 million, which Staff asserts is \$1.816 million less than the company's rebuttal position of \$362.817 million.<sup>1982</sup> Staff attributes the difference to the effect of capital expenditure adjustments and recommends

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<sup>1977</sup> 4 Tr 2514-2515.

<sup>1978</sup> 4 Tr 2515.

<sup>1979</sup> 4 Tr 1939.

<sup>1980</sup> Consumers brief, 339.

<sup>1981</sup> Consumers brief, 339.

<sup>1982</sup> Staff brief, 82.

that the depreciation expense should be updated to include the corresponding impact of any decisions the Commission makes in its final order. Staff recommends an amortization expense of \$7.334 million, equal to the company's rebuttal projection, which included a Staff-proposed upward adjustment of \$54,000 to MGP amortization expense.<sup>1983</sup>

The Attorney General repeats her request for a reduction in depreciation of \$13.3 million.<sup>1984</sup>

*iii. Recommendation*

The difference in depreciation expense appears to arise from differences in capital expenditure amounts; accordingly, this PFD recommends that depreciation expense should be recalculated based upon the determinations in the Commission's final order.

F. Taxes

1. Property Tax

Mr. VanBlarcum, presented the company's property tax rate for the test year of 0.013998859.<sup>1985</sup> He said the company calculated the rate by using the prorated gas property tax expense, divided by the total of the 2025 estimated year-end plant-in-service, plus one-half of the estimated 2025 construction work in progress.<sup>1986</sup> There is no methodological dispute among the parties regarding the rate calculation.

As discussed above, Staff calculated an increase in property taxes of \$159,000 due to the company retaining the Riverside Storage Field,<sup>1987</sup> Mr. Coppola also addressed the sale of the Riverside Storage Field but, as Ms. Myers testified in rebuttal,

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<sup>1983</sup> Staff brief, 84.

<sup>1984</sup> AG brief, 194.

<sup>1985</sup> 4 Tr 1830; see Exhibit A-13, Schedule C-7, line 1.

<sup>1986</sup> 4 Tr 1830-1831; Exhibit A-99, p 1, lines 10-11, 14, and 16.

<sup>1987</sup> 4 Tr 2512, Figure 1; 4 Tr 2516.

while she agreed with Staff's adjustment for the storage field, Mr. Coppola's calculation did not include the necessary property tax associated with the Riverside asset that the company will incur because the facility was not sold.<sup>1988</sup>

The company's initial brief relies on Ms. Myers' testimony and asks that the Commission adopt Staff's recommended property tax adjustment for the Riverside storage field.<sup>1989</sup> The Attorney General's brief does not address the company's rebuttal,<sup>1990</sup> and Staff's brief recommends a property tax expense consistent with its adjustments to rate base as shown in Appendix C, column I; Appendix E.<sup>1991</sup>

This PFD adopts Staff's adjustment to property tax expense to reflect the cancellation of the Riverside Storage Field sale, as agreed to by the company. For purposes of the adjustments made in this PFD, property tax expense is calculated in the appendices attached to this PFD.

## 2. Payroll and Other General Taxes

Company witness Rayl presented the payroll and other general tax calculations for the projected tax year as depicted in Exhibit A-13, Schedule C-7, lines 6, 8 and 15.<sup>1992</sup> Staff witness Putnam proposed two adjustments to the company's calculation.<sup>1993</sup> He did not dispute the methodology the company used for projecting payroll tax but said that it should be reduced by \$60,000.<sup>1994</sup> He also testified that the sales and use tax of \$400,000

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<sup>1988</sup> 4 Tr 1599-1600.

<sup>1989</sup> Consumer's Brief, 83-84.

<sup>1990</sup> AG's Brief, 193-194.

<sup>1991</sup> Staff's Brief, 85.

<sup>1992</sup> 4 Tr 1768; Exhibit A-13, Schedule C-1.1, lines 28 through 31.

<sup>1993</sup> 4 Tr 2643-2644.

<sup>1994</sup> 4 Tr 2644; Exhibit S-14.1.

should be absorbed by the company.<sup>1995</sup> As a result, Staff proposed the Commission reduce the company's general tax projection from \$19,785,000 down to \$19,325,000.<sup>1996</sup>

In rebuttal, the company did not oppose Mr. Putnam's recommended adjustments and amended its projection accordingly as shown in Appendix C1, line 12, column (d) and Appendix C2, line 18, column (m).<sup>1997</sup> Ms. Rayl admitted in rebuttal that in calculating the general tax expense balance, the company incorrectly adjusted for inflation through December 31, 2026, instead of October 31, 2026.<sup>1998</sup> And because the company should have excluded the projected sales and use tax from the calculation, Ms. Rayl said the company agreed to a \$0.5 million reduction of general tax expense.<sup>1999</sup> The company's brief reiterated its request for the Commission to adopt the general tax calculation of \$19,325,000.<sup>2000</sup> Therefore, this PFD adopts Staff's recommendations as assented to by the company.

### 3. State and Local Income Tax

The company originally projected that its state income tax expense will be \$25,256,000 and that its local tax expense will be \$838,000 in the test year as described in Exhibit A-13, Schedule C-1, lines 13 and 14; and Exhibit A-13, Schedules C-9 and C-10. After Staff proposed different revenue and expense assumptions some of which were accepted by the company, Consumers adjusted its projected state income tax expense to \$26,294,000 and its local tax expense to \$869,000 in rebuttal.<sup>2001</sup> In its brief, Staff

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<sup>1995</sup> 4 Tr 2643.

<sup>1996</sup> 4 Tr 2644-2645.

<sup>1997</sup> 4 Tr 1779; Consumer's Brief, 340-341.

<sup>1998</sup> 4 Tr 1779; Exhibit A-13 Schedule C-7.

<sup>1999</sup> 4 Tr 1779.

<sup>2000</sup> Consumer's Brief, 341.

<sup>2001</sup> Appendix C1, lines 13 and 14; Appendix C2, line 18, columns (n) and (o); Consumer's Brief, 341.

recommends state income taxes of \$26,422,000, explaining that this amount is greater than the company's rebuttal projection due to the various adjustments Staff made to the company's projected revenues and expenses.<sup>2002</sup> This PFD calculates state and local income tax consistent with the findings herein, and the final state and local taxes should be calculated in accordance with the findings in the final order in this proceeding.

#### 4. Federal Income Tax

The company originally projected a Federal Income Tax (FIT) expense of \$83,757,000 for the test year.<sup>2003</sup> But based on its adoption of certain revenue and expense adjustments by Staff the company revised its projected FIT expense in rebuttal to \$87,694,000 as reflected in Appendix C1, page 1, line 15, column (d); Appendix C2, line 18, column (p). In its brief, Staff recommends a FIT expense of \$88,180,000 based on its adjustments to the company's projected revenues and expenses.<sup>2004</sup> This PFD calculates FIT consistent with the adjustments discussed above. FIT should be recalculated in accordance with the findings in the final order in this proceeding.

#### 5. Excess Deferred Federal Income Tax

The company's calculated test year excess deferred FIT being returned to gas customers under the Tax Cuts and Jobs Act of 2017 and the Commission's 2019 order in Case No. U-20309 is projected to be \$2,043,000.<sup>2005</sup> Staff and the Attorney General concur with the company's projection.<sup>2006</sup> The company's excess deferred FIT balance projection is therefore adopted.

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<sup>2002</sup> Staff's Brief, 87.

<sup>2003</sup> Exhibit A-13, Schedule C-1, line 15; Exhibit A-13, Schedule C-8.

<sup>2004</sup> Staff's Brief, 87.

<sup>2005</sup> 4 Tr 1834; Exhibit A-13, Schedule C-8, lines 43, 47, 48; Consumer's Brief, 340.

<sup>2006</sup> AG's Brief, 125-126; Staff's Brief, 50.

G. Allowance for Funds Used During Construction

For the projected test year, the company projected an allowance for funds used during construction (AFUDC) amount of \$1,298,000.<sup>2007</sup> No party has recommended an adjustment; therefore, this PFD recommends the Commission adopt the company's projected allowance for funds used during construction.

H. Calculation of Adjusted Net Operating Income

Based on the findings and recommendations above, this PFD estimates an adjusted net operating income of \$574,083,000 as shown in Appendix C to this PFD.

**VIII.**

**REVENUE DEFICIENCY**

After filing rebuttal testimony and making certain adjustments, the company revised its revenue deficiency from \$248 million to approximately \$217 million, a reduction of roughly \$31 million from the deficiency originally projected in the company's application.<sup>2008</sup>

However, based on the findings and recommendations in the Rate Base, Cost of Capital, and Adjusted Net Operating Income sections above, this PFD recommends finding a revenue deficiency of \$142,202,000 as shown in Appendix A to this PFD. However, this PFD notes that this revenue deficiency projection does not include the effect of the recommended SAP S/4 HANA O&M deferral, which meaningfully decreases the projected revenue deficiency.<sup>2009</sup>

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<sup>2007</sup> Exhibit A-13, Schedule C-11.

<sup>2008</sup> 4 Tr 1776.

<sup>2009</sup> The revenue deficiency impact of the SAP S/4 HANA O&M deferral can be found in Confidential Exhibit S-13.

## IX.

### **COST OF SERVICE, RATE DESIGN, AND TARIFFS**

#### A. Cost Of Service Study

A Cost-of-Service (COS) Study (COSS) by rate class is the systemic functionalization, classification, and allocation of a utility's costs to provide gas service. A COSS has two broad purposes. First, the COSS identifies and separates costs associated with the utility's transmission, storage, and distribution of gas into the rate classes. Second, it determines the relative contribution to earnings from each of the utility's rate classes. "Ultimately, the information provided by the COSS is used to guide rate design among other things. The fundamental guiding principle used to assign costs in the COSS is cost causation. In other words, the costs assigned to a customer or group of customers should reflect how those customers drive or influence the utility's costs."<sup>2010</sup>

Mr. Geller presented three versions (V1, V2, and V3) of the company's gas COSS, as set forth in Exhibit A-16, Schedule F1; Schedule F1.1; and Exhibit A-54. Mr. Geller testified that COSS V1 uses the methods previously approved by the Commission in Case No. U-20650, updated for the company's revenue requirement in this case, and that COSS V2, found in Exhibit A-16, Schedule F1.1, begins with COSS V1, but makes three changes to that COSS. First, asset retirement costs (ARCs) are removed from the calculation of other distribution plant. Second, other distribution plant costs are broken

out and allocated by FERC account, and third, customer care center (CCC) costs and business care center (BCC) costs are broken out and allocated separately.<sup>2011</sup>

COSS V3, the presentation of which was agreed to in the settlement in the company's last gas rate case, Case No. U-21490, used the average and excess (A&E) method for allocating distribution costs, rather than the average and peak (A&P) method used in COSS V1 and V2. Consumers states that COSS V3 was provided for informational purposes only, noting that when presented with this issue in the past, the Commission has consistently ruled in favor of the A&P method.<sup>2012</sup> As indicated above, Consumers advocates the use of COSS V2 in setting rates in this case.

Staff presented its COSS in Exhibit S-6, Schedule F-1.1, which "functionalizes, classifies, and allocates Consumers Energy Company's . . . costs as projected by Staff to customers based on a set of schedules developed for such a purpose."<sup>2013</sup> Staff's COSS incorporates Staff's adjustments to rate base, O&M expense, ROE, and present revenue. Staff also proposed changes to two allocators, one for uncollectibles expense and the second for FERC account 378.

ABATE recommends that the Commission adopt the company's COSS V3, with certain adjustments, "reflecting a more equitable revenue apportionment than proposed by the Company."<sup>2014</sup> ABATE witness York characterized the company's proposed

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<sup>2011</sup> 4 Tr 1229-1230. Mr. Geller testified that the removal of ARC costs from the COSS calculation of other distribution plant was proposed, unopposed, and included in the COSS in two prior (settled) rate cases. And it does not appear that the parties dispute the change to the allocation of BCC and CCC costs.

<sup>2012</sup> Consumers brief, 343.

<sup>2013</sup> 4 Tr 2569.

<sup>2014</sup> 4 Tr 2084.



allocations and rate design as based on a flawed COSS, specifically citing the allocation of costs associated with transmission and distribution (T&D) main.

LBWL/MSU recommends that the Commission adopt COSS V2, with some modifications to reflect the apportionment of other distribution plant costs between high pressure (HP) and non-high pressure (NHP) mains.<sup>2015</sup>

Disputes concerning specific aspects of the COSS are addressed below.

1. Uncollectible Expense Allocator

- i. Testimony*

Staff witness Krause recommended that the allocation of uncollectible expense be based on revenue “as this reflects how the bills that may end up uncollectible are determined and also is how Consumers Electric (as well as DTE Gas and DTE Electric) allocates uncollectibles.”<sup>2016</sup> Mr. Krause added that Staff’s proposed allocation method correctly reflects that uncollectible expense is a general cost of doing business, such that “[u]ncollectible expense should be shared by all customers consistent with how their overall costs are recovered by the Company: by revenue.”<sup>2017</sup> CUB witness Bunch offered a similar recommendation regarding uncollectible expense allocation, also noting that DTE Gas and both major electric utilities allocate uncollectibles as a general cost of doing business.<sup>2018</sup>

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<sup>2015</sup> 4 Tr 2247.

<sup>2016</sup> 4 Tr 2570.

<sup>2017</sup> *Id.*

<sup>2018</sup> 4 Tr 2382-2383.

In rebuttal, Mr. Geller agreed with Staff to use present total revenue (Allocator 111) for uncollectible expense, consistent with the way Consumers allocates this expense in the company's electric COSS.<sup>2019</sup>

In her rebuttal, ABATE witness York disputed the allocation recommendation made by Staff and CUB, noting that although uncollectible expense is a cost of doing business, that cost is largely caused by the residential customer class, as shown in Exhibit CUB-3. She further testified that "the large transportation customers have been responsible for little to no net write-offs (or even net negative net write-offs)" from 2021-2023, adding "[t]here is no evidence to suggest that the Company's projected uncollectible expense will be driven by a different rate class in the future test year."<sup>2020</sup>

Ms. York explained that Staff's and CUB's proposals, if adopted, would result in a significant shift in costs to non-residential customers that have not incurred any net write-offs. Ms. York added that the proposed change to uncollectible expense allocation is contrary to the National Association of Regulatory Utility Commissioners' Electric Utility Cost Allocation Manual (NARUC Manual), which states in pertinent part: "Many utilities monitor the uncollectible account levels by tariff schedule. Therefore, it may be appropriate to directly assign uncollectible accounts expense to specific customer classes."<sup>2021</sup>

LBWL/MSU witness Lyons similarly criticized Staff's and CUB's proposals, observing that although he agreed with Mr. Krause that the reason that a customer

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<sup>2019</sup> 4 Tr 1241.

<sup>2020</sup> 4 Tr 2114.

<sup>2021</sup> 4 Tr 2115-2116, quoting NARUC Manual, 102.

becomes uncollectible has only to do with the uncollectible customer's circumstances and is not caused by another customer:

[T]he statement overlooks the premise that Consumers Energy's class cost of service and rates are based on the service requirements and cost of service of an entire rate class and not an individual customer or group of customers; otherwise, Consumers Energy would develop its class cost of service and rates based on the unique demand and cost characteristics of an individual customer or groups of customers rather than an entire rate class.<sup>2022</sup>

*ii. Briefing*

Consumers' brief reiterates Mr. Geller's agreement with Staff's proposed allocation of uncollectible expense. Staff responds to Ms. York's and Mr. Lyons' rebuttal testimony by quoting from a recent DTE Gas Company rate case wherein the Commission found that "the allocation of uncollectibles as a general cost of doing business more accurately reflects both cost of service principles and, as the ALJ noted, the approach used by most other companies."<sup>2023</sup>

CUB points to the increasing unaffordability of residential customer bills noting that allocating uncollectibles by cost of gas plus cost of service is one small measure that addresses this concern.<sup>2024</sup> Like Staff, CUB discusses recent Commission orders that have discontinued the previous method of assigning uncollectible expense by rate class and found it more reasonable and consistent with cost-of-service principles to address this expense as a general cost of doing business.<sup>2025</sup>

In its initial brief, ABATE reasserts that the approach advocated by Staff and CUB does not reflect cost-causation principles and, as such, the Commission should continue

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<sup>2022</sup> 4 Tr 2262.

<sup>2023</sup> Staff brief, 90, quoting December 9, 2021, Order in Case No. U-20940, p. 189.

<sup>2024</sup> MSC brief, 120-121.

<sup>2025</sup> MSC brief, 121-123.

its prior practice of assigning uncollectible costs to the specific customer classes that cause those costs. ABATE cites Commission orders in Case Nos. U-17689, U-17990, and U-17767, among others, wherein the Commission determined, or reaffirmed, that uncollectible expense should be directly assigned to different classes of customers in accordance with the extent to which these costs are caused by the different classes.<sup>2026</sup>

In reply, Staff points to more recent Commission orders that have found that uncollectibles should be allocated as a general cost of service and not on a customer class basis.<sup>2027</sup>

### *iii. Recommendation*

This PFD agrees with Consumers, Staff, and CUB that uncollectibles should be treated as a general cost of doing business and allocated accordingly, as is done with DTE Gas and both major electric utilities regulated by the Commission. In addressing near-identical arguments opposing this approach, which were presented in Case No. U-20940, (a DTE Gas rate case) the Commission determined:

The Commission agrees with the ALJ's recommendation to return to allocating uncollectibles on Cost of Service plus Cost of Gas, as proposed by the Staff. While the Commission recognizes that this is a departure from the currently-approved methodology, the Commission finds that the allocation of uncollectibles as a general cost of doing business more accurately reflects both cost of service principles and, as the ALJ noted, the approach used by most other companies. PFD, p. 254. At its heart, DTE Gas's argument is that allocating uncollectibles in the manner suggested by the Staff—and the manner approved by this Commission for many years prior to the change made just five years ago—would unfairly assign to ratepayers costs they did not cause. 5 Tr 1098. Yet as Mr. Revere (the Staff's witness) notes, the current allocation approach does just that—assigning the costs of the company's uncollectibles largely to residential

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<sup>2026</sup> ABATE brief, 69-70, quoting, *inter alia*, the June 15, 2015 order in Case No. U-17689, pp 26-27; February 28, 2017 order in Case No. U-17990, pp.131-132; December 11, 2015 order in Case No. U-17767, pp 113-14

<sup>2027</sup> Staff reply, 15-16.

customers, even though “one customer who does not pay their bill does not ‘cause’ another to pay or not pay, regardless of which class the customers are in.” PFD, p. 254. Indeed, while DTE Gas’s expert witness on this issue describes a “classes’ (sic) failure to pay their bills,” (5 Tr 1098) the Commission finds that such a description is off point. The question of whether to pay—or not to pay—the utility bill rests with the individual customer, not the class in which that customer is situated. Because these costs tie much more closely to the company’s basic cost of doing business than to the current allocation approach that conflates cost causation with mere class membership, the Commission adopts the PFD’s allocation of uncollectibles on the Cost of Service plus Cost of Gas allocator.<sup>2028</sup>

Thus, the Commission both acknowledged the departure from past practice and provided a rationale for doing so. In the instant proceeding, ABATE and LBWL/MSU provide no additional evidence or argument that would necessitate a reexamination or change to the uncollectible expense allocation method approved for DTE Gas, Consumers Electric, and DTE Electric. Further, this PFD rejects the notion that the allocation of uncollectible costs proposed here is contrary to the NARUC Manual, which describes various allocation methods but does not make specific recommendations as to how costs should be allocated, as illustrated by the highlighted quote above. Accordingly, this PFD adopts the approach for uncollectible expense allocation recommended by Staff and CUB and agreed to by Consumers.

## 2. Other Distribution Plant Allocation

### *i. Testimony*

As noted above, Consumers COSS V2 includes a proposal to break out and allocate other distribution plant by FERC account. Other distribution plant includes costs in FERC Accounts 374 (Land and Land Rights), 375 (Structures and Improvements), 377

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<sup>2028</sup> December 9, 2021 order in Case No. U-20940, pp. 189-190.

(Compressor Station Equipment), 378 (Measuring and Regulating Station Equipment), and 382 (Meter Installations).<sup>2029</sup> According to Mr. Geller, the company has historically allocated other distribution plant using Allocator 105 but now proposes to allocate other distribution plant for FERC Accounts 374, 375, 377, and 378 using Allocator 104. Mr. Geller explained that “[c]osts in these FERC accounts . . . are incurred to serve all customers. Since Allocator 104 is based on each rate class’s respective forecasted total annual throughput and peak month throughput, the Company believes it is an improvement over Allocator 105 which excludes volumes that bypass the high-pressure system.”<sup>2030</sup> For FERC Account, 382, Consumers proposes to use Allocator 108, which Mr. Geller testified is more appropriate than Allocator 105.

Turning to particulars regarding FERC Account 378, Mr. Geller explained that consistent with the settlement in Case No. U-21490, the company agreed to provide more details on this account, specifically:

- (1) Identify the costs in FERC Account 378 associated directly with measuring and regulator stations;
- (2) Identify, with as much granularity as available, all other costs contained in FERC Account 378;
- (3) Identify the total number of measuring and regulator stations in FERC Account 378 that regulate pressure from (a) high-pressure mains to high-pressure mains, (b) high-pressure mains to non-high-pressure mains, and (c) non-high-pressure mains to non-high-pressure mains; and
- (4) Provide an analysis, either based on existing costs or an estimate of building new assets, that would allow for the allocation of measuring and regulator station costs between high pressure and non-high pressure.<sup>2031</sup>

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<sup>2029</sup> 4 Tr 1232.

<sup>2030</sup> 4 Tr 1231, 1232-1233.

<sup>2031</sup> 4 Tr 1235; Exhibit A-57.

According to Mr. Geller, Exhibit A-57 satisfies the settlement agreement because “lines 5 through 7 provide[] the necessary information to separate and functionalize the costs in FERC Account 378 that service high-pressure mains and those that serve non-high-pressure mains. This detail can be used to determine an allocator to distribute the share of costs for high pressure and non-high pressure.”<sup>2032</sup>

Based on the information provided in Exhibit A-57, Staff recommended the use of a composite allocator for Account 378 “that weights allocators (determined appropriate for each category in the detailed analysis provided by the Company) by the amount of costs in those categories, calculated on Exhibit S-21.0.”<sup>2033</sup> According to Mr. Revere, Staff agrees with the use of allocator 104 for the “all other costs” categories (i.e., Huron Compressor Station and Odorization) because these costs have not been shown to be associated with any particular pressure level.<sup>2034</sup> Consumers agreed with Staff’s composite allocator for FERC account 378 as it better reflects cost-causation based on pressure level.<sup>2035</sup>

In rebuttal, Mr. Lyon also agreed with Staff’s recommended composite allocator for FERC account 378, but in his direct testimony he explained that failure to functionalize other distribution plant between HP and NHP mains overallocates costs to XXLT customers.<sup>2036</sup> Mr. Lyon presented Figure 1 at 4 Tr 2249, which “shows other distribution

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<sup>2032</sup> 4 Tr 1235-1236.

<sup>2033</sup> 4 Tr 2756.

<sup>2034</sup> *Id.*

<sup>2035</sup> 4 Tr 1243.

<sup>2036</sup> 4 Tr 2261-2262, 2247.

plant is first functionalized into HP mains of 13.23 percent and non-HP mains of 87.66 percent based on HP and non-HP mains investment.”<sup>2037</sup>

Consistent with his analysis, Mr. Lyon advocated the allocation of other distribution plant (FERC accounts 374, 375, 377, and 378) based on a new allocator, Allocator 217, “that is the weighted average of two existing allocators: (1) HP mains allocator 105, which is applied to the portion of other distribution plant functionalized to non-HP mains, and (2) non-HP mains allocator 106, which is applied to the portion of other distribution plant functionalized to non-HP mains.” He added that “Allocators 105 and 106 are weighted by the portion, respectively, of HP and non-HP mains investment.”<sup>2038</sup>

In her rebuttal testimony, Ms. York agreed with Mr. Lyons’ analysis and recommendation, presenting Table JAY-1-RT at 4 Tr 2119, which she stated shows that “there is not a significant difference for most classes, including Residential, between the AED CCOSS using Staff’s proposed allocation of Account 378 as compared to an AED CCOSS using LBWL/MSU’s allocation of Other Distribution Plant.”<sup>2039</sup>

In rebuttal, Mr. Revere pointed out that, except for FERC account 378, the proportion of costs associated with HP and non-HP mains is unknown and:

[I]t is Staff’s understanding that the Company does not have records on which pressure level the items in these Other Distribution Plant accounts are installed or associated with. The proposed “functionalization” effectively assumes that the costs in these Other Distribution plant accounts are distributed between HP and non-HP mains in proportion to the costs of mains in each category, as that is what the Company workpaper does. No evidence was presented that would support this assumption. Therefore, the proposal should be rejected for these accounts.<sup>2040</sup>

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<sup>2037</sup> 4 Tr 2249.

<sup>2038</sup> *Id.*

<sup>2039</sup> 4 Tr 2119.

<sup>2040</sup> 4 Tr 2760-2761.



Mr. Geller similarly testified that, absent additional analysis for FERC accounts 374, 375, and 377, there is insufficient information to allocate these accounts based on pressure.<sup>2041</sup>

*ii. Briefing*

In briefing, the parties generally rely on the testimony of their respective witnesses, with Consumers, Staff, ABATE, and LBWL/MSU in agreement that Staff's proposed allocator for FERC account 378 should be utilized. For the remaining other distribution accounts, LBWL/MSU reiterates that new allocator 217 represents "a reasonable method of functionalizing and allocating other distribution costs."<sup>2042</sup> ABATE agrees with LBWL/MSU that its proposed allocation of FERC accounts 374, 375, and 377 using Allocator 217 is reasonable. The parties' reply briefs do not provide further evidence or argument on this issue.

*iii. Recommendation*

As an initial matter, this PFD notes the agreement of the parties on the use of a composite allocator for FERC account 378, which the PFD finds should be approved. The PFD further agrees with Consumers and Staff that there is insufficient information in this record regarding FERC accounts 374, 375, and 377 to allocate these costs by pressure level, as LBWL/MSU and ABATE recommend. Accordingly, this PFD finds that the company's recommended allocation for these accounts should be adopted.

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<sup>2041</sup> 4 Tr 1245.

<sup>2042</sup> LBWL/MSU brief, 4.

### 3. Transmission Distribution Plant Allocation

As noted previously, Consumers, Staff, and LBWL/MSU generally supported the methodology used in the company's COSS V2, albeit with some modifications addressed above. ABATE asserted that while a COSS based on the design day method would be most accurate, given the Commission's preference for some energy weighting, ABATE recommended that the Commission approve COSS V3 for setting rates in the instant case. ABATE's recommendation and responses thereto are discussed below.

#### *i. Testimony*

As outlined above, Consumers presented COSS V3, which allocated T&D costs using the A&E method, for informational purposes.<sup>2043</sup> Mr. Geller described the A&E method as comprised of two components, stating: "The first component is based on average annual throughput weighted by a utility's system load factor. The second component considers the non-coincident peak ("NCP") which is derived using each class's maximum monthly throughput."<sup>2044</sup> Mr. Geller presented the revenue impacts of the COSS V2 versus V3 in Table 3 at 4 Tr 1235.

Mr. Geller testified that while the A&E method is reasonable, and may show some improvement over the A&P method, the Commission has consistently shown a preference for the A&P method, citing Case Nos. U-10150, U-18124, and U-20322.<sup>2045</sup>

Referencing Table JAY-3, column 4, of her testimony, which shows the company's proposed revenue increases by customer class, Ms. York explained that implementation

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<sup>2043</sup> Exhibit A-54. ABATE refers to this allocation method as the Average and Excess Demand method or AED.

<sup>2044</sup> 4 Tr 1234.

<sup>2045</sup> 4 Tr 1235.

of COSS V2 would increase costs for Rates ST, LT, and XLT customers by more than the system average increase due to what she described as the “flawed” A&P methodology.<sup>2046</sup> According to her, because Consumers’ COSS is unsound, it resulted in an inequitable revenue apportionment that shifts costs from residential, GS-3, and XXLT customers to ST, LT, and XLT customers.<sup>2047</sup>

Ms. York presented Table JAY-3 at 4 Tr 2081, which compares the company’s revenue apportionment to the results of COSS V2, and Table JAY-4 at 4 Tr 2083, which compares Consumers’ proposed increases by class to those recommended by ABATE, testifying that her proposed revenue allocation, based on COSS V2 and V3, “reflects a more equitable distribution of the claimed revenue deficiency than proposed by the Company,” adding that “[m]y recommended revenue allocation makes a gradual but meaningful movement toward cost of service, and ensures that no class receives an increase greater than 1.6 times the system average.”<sup>2048</sup>

Ms. York discussed the revenue allocations she proposes, explaining that using COSS V3 to “inform” the revenue spread and rate design is a more accurate approach, but she cautioned against “strict reliance on the AED CCOS.”<sup>2049</sup> She added that the Commission has relied on multiple COSSs in past proceedings, including Case No. U-21291, DTE Gas’s most recent rate case, wherein the approved rate design was based on both the A&P method as well as an alternative method.<sup>2050</sup>

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<sup>2046</sup> 4 Tr 2081.

<sup>2047</sup> *Id.*

<sup>2048</sup> 4 Tr 2083.

<sup>2049</sup> 4 Tr 2084. It should be noted that although the revenue apportionment part of Ms. York’s recommendation is part of rate design, given how the COSS and rate design aspects of her proposal are intertwined, both are addressed as part of COSS in this PFD.

<sup>2050</sup> *Id.*

Turning to her critique of COSS V2, and the A&P method for allocation of T&D main, Ms. York explained that the A&P allocator uses a weighting of two system load factors: (1) a design day demand allocator; and (2) and an average demand allocator, weighted by the system load factor.<sup>2051</sup> Ms. York then reviewed that Commission's past rationale for using the A&P method for T&D cost allocation, noting that other allocation methods, such as the AED method could also meet the Commission's stated objectives.<sup>2052</sup> Consistent with her view that the A&E method is more reflective of the cost to serve, she recommended that the Commission consider changing its allocation method in this case.<sup>2053</sup>

Next, Ms. York described Consumers' approach to designing its system to meet peak-day demand, explaining: "The peak day design requirement, also referred to as a design peak day, is the total maximum daily load for all natural gas customers that Consumers would expect to serve under the most extreme cold weather conditions[.]"<sup>2054</sup> Referencing Exhibit AB-1, Ms. York summarized the criteria used by Consumers in designing its system to meet peak day demand, noting that "[t]he objective of using Design Day Demand for capacity planning is to ensure sufficient supply under extreme and potentially dangerous cold conditions, which protects the Company's ability to serve its customers under all other conditions when load is less than the Design Day Demand requirement."<sup>2055</sup> As such, Ms. York posited that peak demand is the primary driver of T&D main investment, and as such the design day demand method is the most accurate

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<sup>2051</sup> 4 Tr 2087.

<sup>2052</sup> *Id.*

<sup>2053</sup> 4 Tr 2088.

<sup>2054</sup> 4 Tr 2089.

<sup>2055</sup> 4 Tr 2089-2090.

approach from a COS perspective. But, because the Commission has found that an average demand allocator should be incorporated, her recommendation is to use the AED CCROSS that ABATE proposes.<sup>2056</sup>

Next, Ms. York discussed the differences between the A&P (or P&A) method and the A&E (aka AED) methods, explaining:

The demand component of the P&A allocator reflects each class's contribution to system peak day demand (i.e., coincident peak demand), which also includes the average demand. On the other hand, the AED allocator reflects the difference between each class's NCP demand and average demand (i.e., demand in excess of average demand), and as such does not suffer from the inherent flaw of double counting the average demand like the P&A method does.

Thus, the AED method assigns greater cost responsibility to gas deliveries that are more variable due to weather sensitivity or other factors. This is more reflective of cost-causation, as the excess T&D main capacity is held in reserve to meet the demand of weather-sensitive loads that spike on a peak day.<sup>2057</sup>

Ms. York further highlighted Mr. Geller's statement that the A&E method is reasonable and makes improvements over the A&P method and the company's confirmation that "the P&A method calculates peak demand inclusive of average demand volumes, while the AED method only considers the amounts of each rate class's peak demand over and above its average demand."<sup>2058</sup> Illustrating her claim about the purported double counting that occurs in the A&P approach, Ms. York provided a discussion and diagram at 4 Tr 2095-2096. She noted that the Pennsylvania Public Utility

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<sup>2056</sup> 4 Tr 2191, 2093.

<sup>2057</sup> 4 Tr 2093.

<sup>2058</sup> 4 Tr 2094; Exhibit AB-1, p. 11.

Commission and the Missouri Public Utility Commission have recognized the double counting issue with the A&P approach and have found the AED method preferable.<sup>2059</sup>

Next, Ms. York presented Table JAY-5 at 4 Tr 2099, which presents a comparison of the CCOSS for COSS V2 and V3. According to her, “[a]s shown in the table, the AED CCOSS produces similar results as the Company’s Preferred CCOSS for the Residential class, but shows that closer-to-system average increases are needed to bring Rate LT and Rate XLT to cost of service.”<sup>2060</sup>

Lastly, Ms. York summed up the advantages of the A&E method including; (1) the A&E method recognizes that Consumers provides both peak-day and off-peak service; (2) the A&E method assigns T&D capacity costs in a way that reflects the way the gas system operates to provide reliable service every day of the year; and (3) the A&E method produces reasonable results, consistent with COS principles.<sup>2061</sup>

In rebuttal, Mr. Smith disagreed with Ms. York’s approach to the COSS and rate design, explaining:

ABATE witness York proposes a revenue apportionment methodology to adjust rate design outcomes to reflect her preferred Version 3 cost-of-service study, which utilizes an Average and Excess Demand (“AED”) allocator. However, she simultaneously concedes that if the Commission adopts the Company’s Version 2 COSS, her apportionment approach could be used to approximate the results of her Version 3 COSS. Rather than using a COSS to guide revenue allocation, witness York is relying on revenue apportionment—essentially shifting revenue between classes without a supporting cost basis. Revenue apportionment that shifts cost recovery between rate schedules to reflect a rejected cost-allocation method undermines the very purpose of conducting a COSS in the first place.<sup>2062</sup>

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<sup>2059</sup> 4 Tr 2097-2098.

<sup>2060</sup> *Id.*

<sup>2061</sup> 4 Tr 2099-2101.

<sup>2062</sup> 4 Tr 1808.

Staff witnesses Krause, Rademacher, and Revere also take issue with ABATE's presentation. Ms. Rademacher pointed out that "most of the difference shown in Table JAY-3 is due to the allocation of low-income credits and the XXLT storage adjustment that occur in the rate design file rather than the COS."<sup>2063</sup>

Mr. Revere testified regarding the design day demand method that ABATE deems the most accurate method for allocating T&D costs, acknowledging that while cost causation for mains does depend in part on peak-day demand, usage is also a factor. He added that "it has not been shown how exactly costs change with demand. A number of costs associated with designing and constructing the system may vary little with demand (trenching, boring, etc.) or vary more on geography (length of main, etc.)."<sup>2064</sup>

Mr. Revere also took issue with the use of COSS V3, which uses monthly class NCPs for the design peak day, explaining that Ms. York "provides no support for why class NCP is appropriately considered a cost causative element other than it does not result in an allocation equivalent to coincident peak demand, and for that reason alone the allocation method should be rejected."<sup>2065</sup> Continuing, Mr. Revere testified that the A&E method fails to recognize usage of the system; "[i]t also breaks the link between system load factor, peak, and usage that the A&P method relies on[.]" and Ms. York provided no justification for using system load factor "when the peak used to calculate that load factor is no longer part of the equation."<sup>2066</sup> Lastly, Mr. Revere discussed Staff's support for the A&P method, stating:

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<sup>2063</sup> 4 Tr 2592.

<sup>2064</sup> 4 Tr 2761-2762.

<sup>2065</sup> 4 Tr 2762.

<sup>2066</sup> *Id.*

Both A&E methods also fail to recognize that delivering the “average” amount of gas on a peak day (or during a class’ NCP month) does not result in the same costs as on an average day. They also fail to recognize that average usage is really another way of incorporating throughput, or the entirety of gas used throughout the year, of which the average used on one of the days of the year represents an exceedingly small portion, thereby overcorrecting a problem that does not exist in the first place.

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By using both design peak and throughput by class, weighted by load factor, the A&P allocator does a better job than the A&E method reflecting the variability in load between classes. In effect, the argument relies on the assumption that, even though the system is built to serve load both on peak (or during any given class’ peak month) and at every other time of year, customers should pay as if the system was built only to serve them and their load shape. This would be inappropriate; in fact, under such conditions, the system would likely not exist at all. For all of the foregoing reasons, the proposed replacement of the A&P allocator with the A&E allocator would less accurately reflect use of the system and should be rejected.<sup>2067</sup>

Responding to Ms. York’s specific claims concerning the double counting problem with the A&P method, Mr. Krause testified that even if double counting exists, Staff disagrees that this is a serious flaw in the method. Mr. Krause pointed out that average gas consumption is based on 365 days of usage, and only a portion of the peak day usage could be considered double counted. Thus, the removal of the peak day usage would have little, if any, impact on the average for the remaining 364 days of the year.<sup>2068</sup>

Turning to the allocation of class revenue responsibility proposed by Ms. York, Mr. Revere noted that she claims that her rate design is informed by both COSS V2 and COSS V3, which results in a more “equitable” cost allocation. However, according to Mr. Revere:

An equitable revenue apportionment, in Staff’s view, is one that properly reflects the allocation of costs, which ABATE witness York’s proposal fails

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<sup>2067</sup> 4 Tr 2763-2764.

<sup>2068</sup> 4 Tr 2574; Exhibit A-24.



to do in a number of respects. First, by using the A&E method, which does not appropriately reflect cost causation as discussed earlier and in the rebuttal testimony of Staff witness Krause. Second, by arbitrarily lowering the increase to the transportation class and shifting revenue responsibility to the sales class (and amongst the transportation rate schedules). It also appears that ABATE witness York arbitrarily determined whether the results of the A&P or A&E COS was more appropriate on which to base the recommended revenue for any given class or schedule given the lack of justification given for these decisions.<sup>2069</sup>

In summary, Mr. Revere recommended that the Commission reject ABATE's proposal and allocate revenue responsibility among the different customer classes, consistent with the approved COSS (i.e., COSS V2 as modified by Staff).<sup>2070</sup>

*ii. Briefing*

The parties' briefs generally track their respective witnesses' testimony. Consumers reasserts that while the A&E approach to COSS may have some advantages, the Commission has consistently found that the A&P method is preferable. Consumers adds that ABATE's revenue apportionment method only appears to be COS-based, and that her recommendation merely shifts cost responsibility from one class to another without any cost justification.<sup>2071</sup>

Staff maintains that the Commission should reaffirm that the A&P allocator best reflects cost-causation for T&D main, reiterating that; (1) double counting, if it does exist, has little to no impact on the allocator itself; (2) the A&P method best reflects how the system is used by all classes of customers; and (3) while the design day demand method

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<sup>2069</sup> 4 Tr 2765.

<sup>2070</sup> 4 Tr 2765-2766.

<sup>2071</sup> Consumers brief 343, 348-349.

does reflect system design for peak days, usage on the other 364 days of the year is also a factor that must be considered.<sup>2072</sup>

Turning to ABATE's proposed class revenue allocation proposal, Staff reiterates:

ABATE witness York fails to explain why the proposed revenue apportionment is more equitable; Staff's position is that an equitable revenue apportionment "is one that properly reflects the allocation of costs" which ABATE witness York's proposal fails to do. (4 TR 2764-2765.) One way the proposal fails to do so is in relying on the A&E method, which has been shown elsewhere in this brief to be inappropriate. (4 TR 2765.) Another way the proposal fails to reflect an equitable revenue apportionment is "by arbitrarily lowering the increase to the transportation class and shifting revenue responsibility to the sales class (and amongst the transportation rate schedules)." (*Id.*) Another way the proposal fails the objective is the apparent arbitrary determination of "whether the results of the A&P or A&E COS was more appropriate on which to base the recommended revenue for any given class or schedule given the lack of justification given for these decisions." (*Id.*)<sup>2073</sup>

ABATE repeats that COSS V2 does not adequately reflect cost causation, as demonstrated by the fact that proposed rate increases for Rates ST, LT, and XLT are well above the system average.<sup>2074</sup> ABATE restates Ms. York's criticisms of the A&P method, including the alleged double counting of average demand in the peak day allocator, and the claim that Consumers' gas system is effectively designed to meet peak-day demand.<sup>2075</sup> Further, in response to the company's concerns about revenue apportionment, ABATE maintains that "ABATE's proposed revenue apportionment is supported by the Version 2 and Version 3 CCOSs and uses them to guide and inform

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<sup>2072</sup> Staff brief, 92.

<sup>2073</sup> Staff brief, 95-96.

<sup>2074</sup> ABATE brief, 35.

<sup>2075</sup> *Id.* at 40-42, 45.

an equitable revenue apportionment in this case considering cost of service, gradualism, and rate shock. This is the exact approach proposed by Consumers (and Staff).<sup>2076</sup>

Responding to Staff's rebuttal, ABATE posits that: (1) double-counting of average demand on peak days is in fact a serious flaw in the A&P method, as found by several other utility regulators, and contrary to Mr. Krause's claims; (2) Staff mischaracterizes the double counting problem; thus the suggestion that any double counting has a limited impact is erroneous; and (3) Staff continues to discount that the capacity required to meet average demand is insufficient to meet peak demand, and that the A&E allocator better addresses the reality of system design and usage.

In its reply brief, Staff emphasizes that the Commission has repeatedly approved the A&P method for T&D cost allocation for decades, adding that ABATE's proposed revenue apportionment is less equitable than Staff's, because ABATE's proposal results in subsidization of certain transportation customers by sales customers and other transportation customers.<sup>2077</sup>

### *iii. Recommendation*

This PFD agrees with Consumers and Staff that COSS V2, as modified by the recommendations discussed above, should be used for setting rates in this proceeding. ABATE's issues and arguments regarding the A&P method have been raised and repeatedly rejected in prior rate cases. Specifically, in Case No. U-10150, the Commission rejected ABATE's recommendation to allocate gas capacity costs using the AED method, and affirmed that throughput should be a factor in T&D cost allocation.<sup>2078</sup>

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<sup>2076</sup> ABATE brief, 48.

<sup>2077</sup> Staff reply, 16-17.

<sup>2078</sup> October 28, 1993 order, pp. 95-98.

In Case No. U-17999, the Commission rejected ABATE's recommendation to use the design peak day method for allocating fixed costs.<sup>2079</sup> In Case No. U-20322, the Commission rejected the use of a minimum size study for allocation of distribution main costs.<sup>2080</sup> And in Case No. U-21291, the Commission rejected both the A&E method as well as the design peak day method, reaffirming the used of the A&P allocator.<sup>2081</sup>

As for ABATE's proposed revenue allocation, this PFD agrees with Staff and the company that ABATE's recommendation appears to shift revenue from one customer class to another consistent with ABATE's preferred outcome, but without any meaningful COS basis. As such, this recommendation should also be rejected for lack of support.

#### B. Rate Design

Rate design refers to the process of translating the revenue requirement of a utility into the prices paid by customers by implementing a set of rates for each customer class to produce the revenues necessary to cover the cost of serving that class. Mr. Smith explained that:

Generally, the Company has designed rates so that the revenue recovered from each customer class reflects the adjusted costs for that class in the Company's test year Cost of Service Study ("COSS"). The Company also considers: (i) establishing rates that promote efficient use of the Company's gas system and promoting energy efficiency; (ii) establishing rates that promote a favorable business climate; and (iii) designing rates that provide the Company with a fair opportunity to collect its revenue requirements.<sup>2082</sup>

Mr. Smith explained that Consumers proposes: (1) to maintain its existing residential rate structure with an excess peak demand charge for rate A-1 customers with

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<sup>2079</sup> December 9, 2016 order, pp. 57-59.

<sup>2080</sup> September 26, 2019 order, pp. 111-119.

<sup>2081</sup> November 7, 2024 order, pp. 228-229, including a brief summary of ABATE's issues with the A&P method at pp. 225-228, which were implicitly rejected.

<sup>2082</sup> 4 Tr 1786.

higher metering costs; (2) maintain the current rate structure for rates GS-1, GS-2, and GS-3 and maintain the current economic breakeven points; (3) maintain the current rate structure for rates ST, LT, XLT, and XXLTT with current breakeven points; and (4) change the current Transportation Only Transportation (TOT) Service Rate structure to align with full-service transportation rate structures.<sup>2083</sup>

Disputes concerning rate design are addressed below.<sup>2084</sup>

1. Transmission-Only Transportation (TOT) Service Rate

- i. Testimony*

Mr. Smith testified that the current TOT rate is only one rate, with a volumetric service charge of \$0.4533 per Mcf. According to him, Consumers proposes to offer four rate options, based on size (STT, LTT, XLTT, and XXLTT) with rates comprised of a customer charge and a volumetric transmission charge.<sup>2085</sup> Mr. Smith explained that the company designed transmission-only rates to align with the full-service transportation rate schedules and are set to maintain economic breakeven points. Mr. Smith testified to the specifics of this proposal, stating:

These rate changes maintain economic breakeven points between Rate STT and Rate LTT at 100,000 Mcf annually and a breakeven point between Rate LTT and Rate XLTT at 500,000 Mcf annually, as well as provide for recovery of the annual revenue requirement for Transmission-related costs. Consistent with rate design proposed for full transportation service customers, and to maintain current approved breakeven points, the Company is proposing to shift proposed revenue between transmission-

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<sup>2083</sup> 4 Tr 1756-1787, 1791.

<sup>2084</sup> As noted in Consumers' brief, pp. 347-348, the parties did not dispute the company's proposed Authorized Tolerance Levels, its proposed discount and carrying cost rates for the customer attachment program or Consumers' proposed Home Products credit. In its brief, p. 101, Staff notes that the company's proposal to increase the excess peak demand threshold from 45 Mcf to 76 Mcf was an error, and in rebuttal, agreed that the threshold should be established at 92 Mcf. Given the lack of controversy regarding these proposals, this PFD does not discuss them further and they should be adopted.

<sup>2085</sup> 4 Tr 1797.

only rate schedules. . . . Furthermore, to mirror the proposal for XXLT, the Company is proposing to maintain Rate XXLT's minimum annual eligibility requirement of 4 Bcf.<sup>2086</sup>

Mr. Smith testified that revenue from these customers will be included in Other Revenue and used to offset Consumers' revenue requirement.<sup>2087</sup>

Ms. Rademacher testified that Staff opposed the company's proposal, explaining:

The proposed Transmission Only Transportation Service rates do not reflect the breakeven points of the associated rate schedules and therefore should not be used. In addition, the service provided to the Transmission Only Transportation Service customers has not been shown to differ in a way that supports separate rates for the breakeven-based classes. For these reasons, all Transmission Only Transportation Service customers should be served on a single rate. Having a volumetric rate for the Transmission Only Transportation Service customers would be consistent with the Transportation Off-System Service Rate approved by the Commission for DTE Gas Company.<sup>2088</sup>

Mr. Smith countered that Ms. Rademacher's testimony "mirrored" her testimony in the company's previous rate case, when Consumers' proposal did not include customer charges or breakeven points for the four TOT rate schedules. But, he pointed out that "in the instant case, the rates are set according to the same breakeven point thresholds used by the Transportation class rate schedules," as discussed in his direct testimony.<sup>2089</sup>

In response to Ms. Rademacher's testimony that the company has not demonstrated that, based on their size, TOT customers differ in a way that supports separate rates with breakeven points, Mr. Smith explained, "[t]he Company has now developed and applied breakeven points for Transmission-Only customers consistent with how rates are designed for end-use transportation customers. This approach

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<sup>2086</sup> 4 Tr 1798.

<sup>2087</sup> *Id.*

<sup>2088</sup> 4 Tr 2585, citing Exhibit S-9.4 and DTE Gas's gas rate book, Sheet Nos. E-34.00, E-35, and E-35.01.

<sup>2089</sup> 4 Tr 1803.

ensures internal consistency across all transportation rate classes and better reflects cost-causation principles.”<sup>2090</sup> Finally, in response to Ms. Rademacher’s reference to TOT rates for DTE Gas, Mr. Smith states that rate design methods used by other gas utilities should not prevent the Commission from approving alternatives that are justified by COS and customer usage.<sup>2091</sup>

*ii. Briefing*

The parties’ briefs closely track the testimony of their respective witnesses, with Consumers emphasizing that there is no cause for Staff’s concern since the breakeven points for TOT customers is consistent with the breakeven points used in other transportation schedules. Consumers adds that, contrary to Staff’s claim, service provided to TOT customers does vary, which is why the company used the same breakeven thresholds it uses for other transportation customers.<sup>2092</sup>

Staff responds to the company’s rebuttal noting that the Company has still failed to show “how service provided to these customers differed in a way that supports separate rates for the break-even based classes.”<sup>2093</sup>

*iii. Recommendation*

This PFD agrees with Staff that Consumers failed to adequately support its proposal and demonstrate that separate rates, including breakeven thresholds, for TOT customers are justified as they are for other transportation customers. Consumers’ justification on this point relies on one or two lines of testimony from Mr. Smith avowing

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<sup>2090</sup> 4 Tr 1803.

<sup>2091</sup> 4 Tr 1804

<sup>2092</sup> Consumers brief, 348-349.

<sup>2093</sup> Staff brief, 102.

that the service to TOT customers does differ, without any further support as to how or why it differs. Therefore, this PFD finds that Consumers' proposal should be rejected at this time.

## 2. Economic Break-Even Points

### *i. Testimony*

Mr. Smith testified that the customer charges for rates LT and XLT are “set to maintain the economic breakeven points,” defining an economic breakeven point as “the point of volumetric usage where revenue collected from one rate would equal revenue collected on a different rate.”<sup>2094</sup> Mr. Smith explained that Consumers intends to maintain the breakeven points that were first established in Case No. U-18124 and approved in gas rate cases ever since.<sup>2095</sup> According to Mr. Smith:

Maintaining breakeven points allows for greater precision in revenue prediction and, therefore, greater accuracy in setting rates and minimizes confusion for customers. When economic breakeven points change, customers have an economic incentive to switch from their existing rate to a more economical rate. This can result in under- and over-recovery of costs if many customers shift rates. In addition, frequent shifts from rate to rate on a large scale can create volatility in revenues received by the Company. This makes it difficult to accurately predict future revenues for ratemaking and planning purposes. Maintaining economic breakeven points minimizes volatility by eliminating any economic incentive to change rates when the customer use has not changed, while simultaneously establishing cost-based rates for the General Service class. However, it may be necessary in certain circumstances to realign the breakeven points if the individual rate classes continue to move further from their cost-basis and maintaining the current breakeven points is no longer appropriate.<sup>2096</sup>

Next, quoting from the July 23 Order in Case No. U-21490, p. 4, which directed the company to undertake a study of breakeven points, with the participation of interested

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<sup>2094</sup> 4 Tr 1793.

<sup>2095</sup> 4 Tr 1793-1794.

<sup>2096</sup> 4 Tr 1794.



parties, Mr. Smith testified that Consumers held a collaborative meeting to discuss options for studying breakeven points. He explained that several options were discussed including: (1) setting transportation customer charges to COS and recalculating new breakeven points; (2) resetting breakeven points based on “natural breaks in billing frequency distribution;” and (3) eliminating breakeven points and setting up a declining block rate structure.<sup>2097</sup> Mr. Smith stated that Consumers is not recommending any changes to the breakeven points at this time because the transportation charges proposed in the instant case align closely with COS and no change to the breakeven points was necessary. He added that Consumers will nevertheless continue to evaluate COS and breakeven points to ensure that the transportation rate structure remains reasonable and consistent with COS.<sup>2098</sup>

Staff witness Rademacher testified that Staff agreed with Consumers’ rate design method that maintains breakeven points between GS and transportation rate schedules.<sup>2099</sup> Ms. Rademacher echoed the company’s discussion regarding the importance of effective economic breakeven points similarly noting that “If . . . breakeven points were changed without cause, or without properly reflecting such a change in the determinants, the Company’s ability to collect its targeted revenue requirement would be inappropriately impaired.”<sup>2100</sup>

Ms. York testified that Consumers’ rationale for using economic breakeven points, namely to avoid rate shifting and revenue volatility, is unsupported, noting that “minimal

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<sup>2097</sup> 4 Tr 1795.

<sup>2098</sup> *Id.*

<sup>2099</sup> 4 Tr 2586.

<sup>2100</sup> *Id.*

rate shifting has occurred over the last several years.” She added that “the Company’s tariff provides that after a transportation customer selects a rate under which it will take service, the customer shall not be permitted to change from that rate to another rate until at least 12 months have elapsed.”<sup>2101</sup> She further observed that the most significant amount of rate shifting occurred in 2024, when 87 Rate LT customers shifted, which did not appear to negatively impact the company’s revenues.<sup>2102</sup>

Consistent with her testimony and her proposals regarding COSS, Ms. York recommended that breakeven points be reestablished based on ABATE’s preferred COSS.<sup>2103</sup>

In rebuttal, Mr. Smith countered that Consumers is justifiably concerned about rate shifting based on both the company’s experience and COS/rate design principles.<sup>2104</sup>

According to him:

Current approved breakeven points reflect economic thresholds that guide how customers evaluate their rate class alignment. If the Company were to abruptly shift transportation rates to align precisely with the current class COSS without considering these breakeven points—or without re-running the full forecasting and cost-allocation process—there is a material risk of distorting cost recovery. Specifically, the Company could experience customer migration between rate classes or changes in usage patterns, leading to either over-recovery or under-recovery of authorized revenues. Rate design and customer class assignment are part of a cyclical, iterative process. If these thresholds were altered midstream—without adjusting load forecasts, usage patterns, and cost allocations accordingly—it would invalidate the assumptions embedded in the class COSS and result in rates that no longer align with actual cost causation.<sup>2105</sup>

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<sup>2101</sup> 4 Tr 2104.

<sup>2102</sup> 4 Tr 2104; Exhibit AB-1, p. 12; Table JAY-6 at 4 Tr 2105.

<sup>2103</sup> 4 Tr 2106.

<sup>2104</sup> 4 Tr 1809.

<sup>2105</sup> *Id.*

Ms. Rademacher testified that while the company did shift some revenue to maintain breakeven points, the amount shifted was *de minimis* totaling approximately \$120,000 from Rate XLT to Rate LT. She added that “most of the difference shown in Table JAY-3 is due to the allocation of low-income credits and the XXLT storage adjustment that occur in the rate design file rather than the COS.”<sup>2106</sup> Ms. Rademacher further testified that Staff’s transportation rate design does not shift revenue between transportation rate schedules, as shown in Exhibit S-6.0, Schedule F-2.2.<sup>2107</sup>

In his rebuttal testimony, Mr. Revere explained that while the economic breakeven points do serve to minimize rate shifting, “[t]raditionally, the customer charges for the transportation rates have been set only to maintain the breakevens, and have not relied on a cost-based calculation,” noting that rates based on the COSS have been considered for Rate ST, and Rate XXLT “has its customer charge set using the cost-based calculation.”<sup>2108</sup> Mr. Revere testified that for other gas transportation rate schedules (LT and XLT), “the delineations between them are effectively arbitrary (though they may initially have had some justification when put in place); the schedules are defined as they are due to the breakeven points, not due to any consideration of differential use of the system as they are for, say, electric distribution rates.”<sup>2109</sup> According to Mr. Revere, if breakeven points were changed, such alteration would require an estimation of which customers are likely to change schedules as well as “redoing all determinants, associated

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<sup>2106</sup> 4 Tr 2591.

<sup>2107</sup> *Id.*

<sup>2108</sup> 4 Tr 2766.

<sup>2109</sup> *Id.*

allocations, and appropriate rate design unless the breakevens locked customers into a schedule.”<sup>2110</sup>

Mr. Revere concluded by noting that no party has proposed that transportation schedules be based on anything other than maintaining economic breakeven points, and that the method Ms. York proposes does not establish the breakeven points nor does it adjust determinants appropriately. As such, he testified that ABATE’s recommendation should be rejected.<sup>2111</sup>

*ii. Briefing*

The parties’ briefs generally rely on the testimony of their respective witnesses. Consumers emphasizes that it has very good reasons for its concerns about rate shifting, based on both experience and sound ratemaking principles, and the company reiterates that ABATE’s proposed rate design “does not consider the impact that changing breakeven points would have on sales determinants or revenue. A more thorough analysis, including another sales forecast with the new breakeven points, would be needed to calculate [the] proposal’s rate impacts.” Because ABATE has not performed this analysis, Consumers recommends that the Commission reject the proposal.<sup>2112</sup>

Staff similarly argues that “[n]o change to the transportation schedules to reflect different use of the system rather than the breakeven-based schedule definitions was proposed in the instant case and therefore Staff continues to use the traditional method of calculating rates for breakeven based schedules.”<sup>2113</sup>

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<sup>2110</sup> 4 Tr 2766-2767.

<sup>2111</sup> 4 Tr 2767.

<sup>2112</sup> Consumers brief, 351.

<sup>2113</sup> Staff brief, 103.

ABATE counters that Consumers' proposal, supported by Staff, is unreasonable. According to ABATE setting rates for LT and XLT customers on the basis of economic breakeven points "results in customer charges for Rates LT and XLT being less than the customer charge indicated by the Company's CCOSS by 5% and 7%, respectively."<sup>2114</sup> ABATE posits that Mr. Smith tacitly acknowledged that rates for LT and XLT customers do not comport with COS when he admitted that the company's rate design "does not 'align precisely with the current class COSS'" whereas adopting ABATE's proposal would be COS-based.<sup>2115</sup>

ABATE reiterates that Consumers has not shown that setting transportation rates at COS would result in significant shifting or rate volatility. In response to Staff's concerns, ABATE states that "Staff's position and explanation provide a basis for revisiting Consumers' transportation rate design, not locking it into place."<sup>2116</sup>

In response, Consumers points out that ABATE's selective quotation of Mr. Smith's testimony regarding transportation rate alignment with COS, is inaccurate, noting that:

[T]he Company has not acknowledged this, implicitly or otherwise. Mr. Smith's statement that ABATE quoted in part – which was part of a hypothetical illustrating the potential for customer migration – should be read in context. He clearly said that ABATE's proposal did not produce cost-based rates. 4 TR 1808. And Mr. Smith obviously was not concerned that ABATE's proposal would somehow force the Company to adopt a cost-based approach as the Company already used a cost-based approach. Indeed, Mr. Smith criticized ABATE's approach for undermining "the very purpose of conducting a COSS in the first place." *Id.*<sup>2117</sup>

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<sup>2114</sup> ABATE brief, 66.

<sup>2115</sup><sup>2115</sup>*Id.* citing 4 Tr 1808-1810.

<sup>2116</sup> ABATE brief, 68.

<sup>2117</sup> Consumers reply, 132.

In its reply brief, ABATE maintains that the use of COSS V2 coupled with the proposed rate design assigns even more costs to transportation customers, an approach ABATE describes as both “unreasonable and inequitable.”<sup>2118</sup> And ABATE criticizes Staff’s rate design and maintenance of breakeven points, arguing: “[w]hy this is a goal in and of itself is not explained and does not support the Company and Staff’s proposal.”<sup>2119</sup> ABATE insists that the Commission should disregard Staffs’ claim that no evidence was provided to show that different customers use the system differently, pointing to the COSS presented by ABATE.<sup>2120</sup>

*iii. Recommendation*

This PFD agrees with Consumers and Staff that the company’s rate design and economic breakeven points for transportation customers are reasonable and should be adopted for three reasons. First, by failing to provide additional analyses of sales, determinates, allocations, etc., ABATE’s recommendation is unsupported and cannot be adopted, as the company and Staff point out. Second, the proposal to reset breakeven points consistent with ABATE’s preferred COSS, should be dismissed because ABATE’s COSS was rejected, as discussed in detail above. Finally, this PFD agrees with Consumers and Staff that the company’s concerns about rate shifting (and potential customer confusion) are well founded, and that attempting to set new breakeven points as part of this proceeding could result in significant instability in revenue collection and could cause customer confusion.

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<sup>2118</sup> ABATE reply, 17.

<sup>2119</sup> *Id.*

<sup>2120</sup> *Id.*

### 3. Customer Charges

#### *i. Testimony*

Based on his calculations, using both historical ratios and projected costs, Mr. Smith computed a residential customer charge of \$21.96 per month, but proposed limiting the increase to \$5.00, resulting in a charge of \$20.00 per month. In addition, Mr. Smith recommended a customer charge of \$24 for rate GS-1, an increase of \$6.00.<sup>2121</sup>

Mr. Krause testified that Staff accepts the company's calculation of the customer charge for Rate GS-1, and that all other customer charges should be set by rate design.<sup>2122</sup> However, according to Mr. Krause, Consumers calculated the residential customer charge consistent with the method approved in the company's last rate case, but it used a combination of historical and projected costs. Mr. Krause explained Staff's objection to the company's approach:

Staff's customer charges are calculated on Exhibit S-6, Schedule F-1.1b. Staff proposes to only rely on historical amounts for customer charges in the instant case. Test-year capital and O&M, as presented by the Company, are split into separate accounts or categories (e.g. distribution, storage, customer accounting) based on the historic composition of those accounts in relation to total historic capital and O&M. This treatment may be acceptable if the costs compositions did not change year to year, but that is not the case. Therefore, the Company's calculation fails to reflect projections of costs appropriate for inclusion in the customer charge. Utilizing only historical costs ensures that the Company's method of spreading projected costs does not include costs that are inappropriate for inclusion in the customer charge. Staff's calculation results in Staff recommendation for the residential customer charge of \$19.00.<sup>2123</sup>

Mr. Krause noted that although Staff's recommended increase to the residential customer charge is considerable, it is the result of the fact that the last several Consumers Gas rate

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<sup>2121</sup> 4 Tr 1790-1791.

<sup>2122</sup> 4 Tr 2571-2572.

<sup>2123</sup> 4 Tr 2571.

cases have settled, with little or no increase in the charge, despite past justification for an increase.<sup>2124</sup>

Mr. Coppola observed that Consumers' proposed residential customer charge represents a 33% increase, which "could cause financial hardship to customers in smaller households who use less gas than the average customer."<sup>2125</sup> He elaborated by noting that fixed monthly charges discourage energy conservation, whereas collecting more revenue through volumetric charges allows customers to reduce usage and reduce costs. Consistent with his testimony, Mr. Coppola recommended that the customer charge remain the same at \$15.00 for residential customers and \$18.00 for GS-1 customers.<sup>2126</sup>

CUB witness Denzler similarly opposed any increase in the residential meter charge for four reasons: (1) increased customer charges are more regressive, thus having a greater impact on low and moderate income (LMI) customers; (2) high customer charges result in poor price signals; (3) customers oppose high customer charges; and (4) Consumers' customer charge is already high compared to other Michigan gas utilities.<sup>2127</sup>

Mr. Denzler testified that although the RIA customer credit increases commensurate with the increase in the customer charge, given the small number of customers who participate in Consumers' low-income assistance programs (less than one in six qualifying customers) non-participating LMI customers will still be harmed by increasing the fixed charge. He added that Consumers could still elect to increase the

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<sup>2124</sup> 4 Tr 2572.

<sup>2125</sup> 4 Tr 2035.

<sup>2126</sup> *Id.*

<sup>2127</sup> 4 Tr 2480.



RIA credit even if the company does not increase the customer charge.<sup>2128</sup> Further, Mr. Denzler explained that increased fixed charges reduce volumetric charges, which in turn leads to muted price signals and less interest in energy efficiency.<sup>2129</sup>

Turning to customer preferences and Consumers' meter charges specifically, Mr. Denzler pointed to opposition to increased customer charges by the National Association of State Utility Advocates (NASUCA), which represents residential utility customers. Lastly, Mr. Denzler observed that Consumers Gas already has the highest residential fixed charges in Michigan, calculating that the company's recommended meter charge would result in a charge that was 40% higher than that charged by DTE Gas.<sup>2130</sup>

In rebuttal, Mr. Geller testified that an approach to calculating customer charges, based solely on historical costs, "is a departure from the method approved in the Company's previous gas rate case" and that the company's method, based on historical ratios is more reasonable. Mr. Geller added that because of the projected test year, fixed charges, like other costs, should also be projected.<sup>2131</sup> As such, he recommended that the Commission reject both Staff's calculation method and customer charge.<sup>2132</sup>

In response to the Attorney General and CUB, Mr. Smith testified that Mr. Coppola's and Mr. Denzler's recommendations are not based on a COSS, and that both the company and Staff calculated higher customer charges on that basis. He highlighted Mr. Krause's testimony that previous rate case settlements have not raised the customer

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<sup>2128</sup> 4 Tr 2481.

<sup>2129</sup> 4 Tr 2481-2482.

<sup>2130</sup> 4 Tr 2482-2483.

<sup>2131</sup> 4 Tr 1242.

<sup>2132</sup> *Id.*

charge resulting in a “widened . . . gap between calculated and approved charges over time.”<sup>2133</sup>

In response to Mr. Denzler’s claims about the negative impacts on LMI customers resulting from higher fixed charges, Mr. Smith presented Table 1 at 4 Tr 1805, which, according to him, demonstrates that an RIA customer paying a \$20.00 customer charge would see an average decrease in annual bills of 6.9% based on 2023 average usage by RIA customers.

While acknowledging that not all LMI customers take advantage of the RIA credit, Mr. Smith disputed Mr. Denzler’s claim that non-RIA customers’ overall costs will increase, calculating that “paying a \$20.00 Customer Charge and consuming 8 Mcf or more per month actually experiences a lower bill.”<sup>2134</sup> Mr. Smith also took issue with Mr. Denzler’s claim that higher fixed charges dampen price signals resulting in less energy efficiency. According to Mr. Smith, volumetric charges “more closely reflect[] the marginal cost of delivering gas,” and the combination of commodity charges and delivery charges are more consequential in a customer’s decision to conserve gas.<sup>2135</sup>

Next, Mr. Smith dismissed Mr. Denzler’s reliance on NASUCA, characterizing that organization’s position as a “broad policy stance” that does not consider the circumstances of individual customers or utilities.<sup>2136</sup> Lastly, Mr. Smith objected to a comparison of Consumers’ customer charges to those of other Michigan gas utilities, reiterating that customer charges should be COSS-based for each individual utility.<sup>2137</sup>

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<sup>2133</sup> 4 Tr 1804.

<sup>2134</sup> 4 Tr 1806.

<sup>2135</sup> 4 Tr 1807.

<sup>2136</sup> *Id.*

<sup>2137</sup> 4 Tr 1807-1808.

*ii. Briefing*

Consumers relies on the testimony of witnesses Geller and Smith, reiterating that Staff's method, using only historical costs to calculate the customer charge is not only a departure from past practice, but also fails to reflect the forward test period. Consumers adds that the perceived large increase in residential customer charges is the result of several settlements that did not address or adequately adjust the customer charge in the past.<sup>2138</sup> And the company cites past Commission precedent requiring that meter charges be COSS-based, citing the December 9, 2016, Order in Case No. U-17999. p. 66.<sup>2139</sup>

Relying on Mr. Krause's testimony, Staff asserts that the Commission should adopt Staff's method for calculating the residential customer charge, along with its proposed charge of \$19.00 per month.

The Attorney General reasserts her objections to both the increase in the residential charge from \$15.00 to \$20.00 and the GS-1 charge from \$18.00 to \$24.00, noting that fixed charges were increased in the company's last rate case and raising concerns that a more than 30% increase in these charges could cause rate shock for customers that use less gas than average customers.<sup>2140</sup>

CUB points out that the Commission recently rejected a proposed 30% meter charge increase in a DTE Gas rate case, and they urge the Commission to do so again in this case.<sup>2141</sup> CUB relies on Mr. Denzler's testimony, reiterating his points about the regressivity of fixed charges, poor price signals, customer preference for lower meter

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<sup>2138</sup> Consumers brief, 343-344; 351-355.

<sup>2139</sup> *Id.* at 353.

<sup>2140</sup> AG brief, 198.

<sup>2141</sup> MSC brief, 111, citing November 7, 2024 order in Case No. U-21291, pp.236-238.

charges, and the higher customer charges assessed by Consumers compared to other gas utilities in Michigan.<sup>2142</sup>

Responding to Mr. Smith's rebuttal, CUB points out that while the customer charge and RIA credit are offsetting, Mr. Smith failed to address Mr. Denzler's point that it would be more beneficial to LMI customers to increase the RIA credit *without* increasing the customer charge.<sup>2143</sup> CUB added that, although the small number of customers receiving the RIA credit might see lower bills, other customers will likely see their bills increase, thus adding to affordability concerns.<sup>2144</sup> Lastly, while acknowledging that Staff's recommended increase is smaller than that proposed by the company, CUB urges the Commission to reject both proposals.

In its reply brief, Consumers emphasizes that "the issue is, at its core, whether the customer charge should be cost based. If so, then the Commission should approve a customer charge that captures the costs directly associated with supplying service, like metering, service laterals, and customer billing."<sup>2145</sup> In its reply to Consumers, CUB argues that while the Commission has consistently found that fixed charges should be COSS based, the Commission "does not require customer charges to equal the entire amount of customer-related costs estimated in the cost-of-service study. Instead, the U-4331 order only set the 'maximum allowable service charge,' limiting what costs could be included, not requiring their inclusion."<sup>2146</sup>

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<sup>2142</sup> MSC brief, 114-116.

<sup>2143</sup> MSC brief, 117.

<sup>2144</sup> MSC brief, 117-118.

<sup>2145</sup> Consumers reply, 133.

<sup>2146</sup> MSC reply, 18.

Staff and the Attorney General do not raise any additional arguments on this issue in their respective reply briefs.

*iii. Recommendation*

This PFD agrees that Staff's method for calculating the residential customer charge, using historical costs, is reasonable and should be adopted. As Mr. Krause pointed out, while it might be acceptable to use historical ratios with updated costs for calculating the customer charge "if the costs compositions did not change year to year," that is not necessarily the case, and adoption of the company's approach could result in inappropriate costs being included in the customer charge.

That said, this PFD agrees with Staff and Consumers that the customer charge, like other costs, should be based on COSS principles. However, the 25-30% increases proposed here could result in rate shock, especially for non-RIA customers and customers that use less than average amounts of gas. Accordingly, this PFD recommends that the Commission limit the increase in the residential customer charge to \$2.00, resulting in a charge of \$17.00 per month for residential customers, and limit the increase to GS-1 customers to \$3.00 resulting in a customer charge of \$21.00 per month, with any remaining disparity between the COSS and customer charges to be addressed in future rate cases. This approach is aligned with the principle of gradualism in rate design while still adjusting the customer charge in a direction that reflects the cost of service.

C. Tariffs

Mr. Harrington presented Consumers' proposed tariff sheets in Exhibit A-16, Schedule F-5, with a summary and explanation of any changes set forth in Exhibit A-71.

As described in the company's brief:

The changes on Tariff Sheet Nos. D-2.30, D-10.00 through D-13.00, E-8.00, and E-10.00, reflected the proposed price changes. Tariff Sheet Nos. D-9.00, E-13.00 and E-14.00 revise the Transmission Only Transportation Service Rate per the testimony of Company witness Smith. 4 TR 1476. Tariff Sheet No. A-6.00, G-1.00 through G-3.00, G-5.00, G-6.00 and G-8.00 through G-11.0 are being revised to remove the word Pilot from the program name. Tariff Sheet Nos. D-2.00, D-2.10, D-2.30, D-9.00 and D-14.00 revise the General Service Outdoor Lighting Rate to reflect the proposed termination of the rate. Tariff Sheet No. C-37.00 - Rule C8.B added a waiver for winter construction charges at the Company's discretion.<sup>2147</sup>

There were no specific issues raised with respect to the company's proposed tariffs, which should be revised and updated consistent with the final order in this case.

Staff witness Rademacher recommended that new rates be made effective 14 days after the final order is issued in this case. According to her, this will provide the parties sufficient time to review the calculations and tariffs and notify the Commission of any errors.<sup>2148</sup>

There were no objections to Staff's recommendation regarding the timing of implementation of new rates.<sup>2149</sup> Accordingly, this PFD finds that Staff's proposal should be adopted.

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<sup>2147</sup> Consumers brief, 357. See also 4 Tr 1475-1476.

<sup>2148</sup> 4 Tr 2586-2587.

<sup>2149</sup> Staff brief, 104-105.

## X.

### OTHER ISSUES

The parties made several recommendations that the Commission require the utility to take additional steps before or in connection with its next rate case, or to otherwise consider policy issues or take other actions. Some of the parties' recommendations were addressed as necessary in some of the discussion above. To the extent feasible, additional requests are addressed in this section.

#### A. Probabilistic Modeling

##### *i. Testimony*

MEC/SC witness, Dr. deLeon, testified that Consumers needs to incorporate probabilistic risk modeling and cost-effectiveness calculations in its evaluation and selection of capital projects to maximize the safety impacts of ratepayer expenditures. She explained that in relation to safety-related programs, a cost-effectiveness analysis examines the level of risk reduction expected from alternative measures in comparison with their costs.<sup>2150</sup>

Dr. deLeon explained that the cost-effectiveness, or risk spend efficiency (RSE), of safety investments can be calculated by dividing the risk reduction of each mitigation alternative by its lifetime cost.<sup>2151</sup> She explained further that the risk reduction is calculated as the level of risk multiplied by mitigation effectiveness. She presented the resulting calculation as:

$$\text{RSE} = \text{Risk Reduction (Risk x Mitigation Effectiveness)} / \text{Cost}^{2152}$$

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<sup>2150</sup> 4 Tr 2337.

<sup>2151</sup> 4 Tr 2338.

<sup>2152</sup> 4 Tr 2338.

She asserted that such risk modeling and cost-effectiveness analyses would provide transparency and insight into the tradeoffs between risk reduction and affordability, which she opined is currently lacking in the company's applications for rate increases.<sup>2153</sup>

Dr. deLeon noted that other utilities, such as Washington Gas in Washington D.C., use risk modeling and cost-effectiveness analyses.<sup>2154</sup> She also testified that a 2010 pipeline failure in San Bruno, California led to the requirement that all California utilities must model risk to develop cost-effectiveness statistics for their gas inspection and investment programs.<sup>2155</sup>

According to Dr. deLeon, Consumers responded in discovery that it has developed a probabilistic risk model for transmission assets and Transmission Operated by Distribution assets; that it expects to begin using a probabilistic risk model for storage wells by 2025, and it plans to develop a probabilistic risk model for distribution assets by 2027.<sup>2156</sup> However, she stated that the company currently uses relative risk models for storage wells and distribution assets.<sup>2157</sup> She opined that relative risk models cannot examine the cost effectiveness of remediation alternatives or the risk across asset types (e.g., distribution vs. transmission), as probabilistic risk models can.<sup>2158</sup>

Dr. deLeon made several recommendations that she claimed would provide greater transparency regarding the tradeoffs between safety and affordability in the company's selection of capital projects. Her recommendations included that Consumers

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<sup>2153</sup> 4 Tr 2339.

<sup>2154</sup> 4 Tr 2340.

<sup>2155</sup> 4 Tr 2341.

<sup>2156</sup> 4 Tr 2342.

<sup>2157</sup> 4 Tr 2342.

<sup>2158</sup> 4 Tr 2343.



should: (1) report on transmission-level projects that demonstrates how the company uses cost-effectiveness to maximize safety impacts for ratepayer dollars spent; (2) starting in the next rate case, when risk models are available for distribution assets, calculate and use total risk reduction and cost-effectiveness statistics to select appropriate distribution projects; (3) use probabilistic risk modeling and cost-effectiveness calculations to a much greater extent for all asset classes in future rate cases, including developing probabilistic risk models for all asset classes in the next rate case unless Consumers can demonstrate that it is not possible; (4) calculate the risk reduction, cost, and cost-effectiveness (RSE) of its expenditures for its proposed projects; and (5) provide an estimate of the impact the prior year's expenditures have made to reduce risk on the system.<sup>2159</sup> She added that all of the company's calculations and assumptions should be provided to interested parties, if requested.

In rebuttal, Mr. Snyder disagreed with most of Dr. deLeon's claims, while stating that, "overall, the company agrees" that probabilistic risk modeling and cost-effectiveness calculations are "a valuable tool."<sup>2160</sup> He opined that Dr. deLeon failed to acknowledge "the nature and limitations of the company's current Transmission Probabilistic Risk Model and risk models in general."<sup>2161</sup> He testified that the company's probabilistic risk model was developed for the company's Transmission Integrity Management Program and not for cost analyses or mitigation effectiveness.<sup>2162</sup> He maintained that the model is

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<sup>2159</sup> 4 Tr 2349-2351.

<sup>2160</sup> 4 Tr 1815.

<sup>2161</sup> 4 Tr 1815.

<sup>2162</sup> 4 Tr 1815-1818.

used to understand the risk and threats to an asset and then industry knowledge, cost, system reliability, and customer impact are used to select the mitigation method.<sup>2163</sup>

Mr. Snyder disagreed with Dr. deLeon's view of cost-effectiveness in relation to safety-related programs. He maintained that cost-effectiveness and risk reduction are just two of several factors, including customer impact and system resilience, that need to be considered when evaluating various mitigative measures.<sup>2164</sup> He also asserted that Dr. deLeon's proposal to calculate cost effectiveness would not be applicable to the company's model or any model the company is familiar with.<sup>2165</sup> He explained that some models use industry averages for an effectiveness value, but he claimed this is not accurate for individual assets.<sup>2166</sup> He emphasized that the company's risk model is intended to provide insight into threats on the system and is not intended to be a financial evaluation tool.<sup>2167</sup> He maintained that any cost-effectiveness measure would need to be calculated outside the model.<sup>2168</sup>

He explained that the purpose and limitations of probabilistic risk modeling do not support Dr. deLeon's recommendations. He testified that the limitations include the need for a history of data collection, the sharing of confidential and critical information, the fact that they do not directly address affordability, and that they do not address what is an acceptable level of risk.<sup>2169</sup>

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<sup>2163</sup> 4 Tr 1818.

<sup>2164</sup> 4 Tr 1819.

<sup>2165</sup> 4 Tr 1819.

<sup>2166</sup> 4 Tr 1819-1820.

<sup>2167</sup> 4 Tr 1820.

<sup>2168</sup> 4 Tr 1821.

<sup>2169</sup> 4 Tr 1822.

Mr. Snyder likewise opposed all of Dr. deLeon's recommendations. He testified that the company explained in discovery that it is not practical to regularly report on how it uses cost-effectiveness to maximize the safety impacts of its transmission projects.<sup>2170</sup>

The company stated:

The company's current processes prudently address system risk in a cost-effective manner. The probabilistic model is designed to inform the operator of the overall risk of an asset and the threats that are present on that asset. This allows for the selection of the proper method and technology to assess those threats. The results from the inspection and post inspection remediation work determines the overall health of that pipe segment and ensures it can operate safely until it is scheduled for reassessment. The risk model is used to identify risk and threats to our pipe segments. It is an aid in project selection and prioritization. Cost effectiveness is factored into the remediation methodology selected for each individual project as well as complying with all applicable regulations and industry standards.<sup>2171</sup>

He also stated that it is impossible to use probabilistic risk modeling and cost-effectiveness calculations to a much greater extent for all asset classes. He noted that the company is in the process of rolling out probabilistic risk modeling for the different asset classes, but he stated, "[d]eveloping the models is a tremendous undertaking and the company will in all likelihood not have probabilistic models for all asset classes prior to its next rate case."<sup>2172</sup> And he added that the company's models are not developed with cost-effectiveness capabilities.<sup>2173</sup> He testified that Dr. deLeon's recommendation that the company calculate the risk reduction, cost, and RSE for all of its expenditures is impossible for the same reasons noted above.<sup>2174</sup> He also asserted that her recommendation that the Commission order the company to estimate the amount of risk

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<sup>2170</sup> 4 Tr 1823-1824.

<sup>2171</sup> Exhibit A-127.

<sup>2172</sup> 4 Tr 1824.

<sup>2173</sup> 4 Tr 1824.

<sup>2174</sup> 4 Tr 1824.

reduced on the system from a prior year's expenditures is not appropriate based on the models the company uses.<sup>2175</sup> He contended that Dr. deLeon's recommendations would be unduly burdensome and unnecessary as the company currently operates the system in a safe and effective manner taking into consideration safety and affordability.<sup>2176</sup>

Mr. Griffin also provided brief rebuttal testimony regarding Dr. deLeon's suggestion that all utility programs should be assessed for risk reduction and cost effectiveness. He opined that it is impractical.<sup>2177</sup> He explained that some transmission programs and projects are customer requested, and a large number are in response to regulatory requirements or to maintain the reliability and resiliency of the company's system.<sup>2178</sup>

*ii. Briefing*

The company's brief largely tracks Mr. Snyder's rebuttal testimony. Consumers criticizes Dr. deLeon's recommendations arguing they are impractical and inappropriate as they fail to understand the capabilities of the company's probabilistic risk model and how it operates.<sup>2179</sup>

In briefing, MEC/SC elaborates on Dr. deLeon's testimony and urges the commission to require Consumers to undertake probabilistic risk modeling "to determine reasonable and prudent annual spending amounts – rather than continuing to propose spending the maximum amounts of capital on these programs up to the limits of available labor and contract resources."<sup>2180</sup> MEC/SC disputes the company's claims of the

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<sup>2175</sup> 4 Tr 1825.

<sup>2176</sup> 4 Tr 1824-1825.

<sup>2177</sup> 4 Tr 1325.

<sup>2178</sup> 4 Tr 1325.

<sup>2179</sup> Consumers brief, 74-76.

<sup>2180</sup> MSC brief, 2, 31-32.

limitations and impracticalities associated with probabilistic models, including that they cannot be used to evaluate cost effectiveness without substantial further development to predict site-specific costs of remediation, among other things.<sup>2181</sup> According to MEC/SC, cost estimates for transmission-related remediation projects are not based on site-specific factors, rather they are based on the history of the line segment and the average cost of a dig.<sup>2182</sup> MEC/SC argues that Consumers could use the same kind of information to estimate costs as part of an RSE process using a probabilistic risk model for distribution.<sup>2183</sup>

Neither party addressed probabilistic risk modeling in their reply briefs.

### *iii. Recommendation*

MEC/SC recommended that the Commission should: (1) direct the company to develop probabilistic risk models for all asset classes for use in its next rate case; and (2) MEC/SC provided additional recommendations for the company's next rate case related to probabilistic risk modeling for distribution assets.<sup>2184</sup> This PFD need not address these recommendations because the company is already developing probabilistic models for a variety of asset classes, including a distribution-related probabilistic model, but the distribution-related probabilistic model will not be ready for use in time for the company's next rate case.<sup>2185</sup>

MEC/SC recommends that cost-effectiveness calculations should be integrated with the probabilistic risk models with cost-effectiveness statistics, inputs, and

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<sup>2181</sup> MSC brief, 42.

<sup>2182</sup> MSC brief, 42.

<sup>2183</sup> MSC brief, 42.

<sup>2184</sup> See 4 Tr 2350.

<sup>2185</sup> 4 Tr 1824.

assumptions to be made available to interested parties upon request. However, as even MEC/SC admitted, there is a distinction between compliance programs that mandate repairs or replacements (suggesting that cost effectiveness is a moot point) and discretionary programs where there is greater flexibility.<sup>2186</sup> MEC/SC nevertheless contended that all programs should be evaluated for cost effectiveness because the distinction between legal compliance programs and discretionary replacement programs is not always clear.<sup>2187</sup> This PFD is not thoroughly persuaded by this reasoning, and calculating cost effectiveness for all programs would be unduly burdensome if, for example, a certain repair or replacement was legally mandated. Further, this PFD also credits the company's testimony that MEC/SC's recommendations are not possible to integrate with the existing probabilistic risk model and would not be obtainable.<sup>2188</sup> Accordingly, this PFD declines to adopt MEC/SC's recommendations regarding cost effectiveness calculations being incorporated into the company's probabilistic risk models.

B. Natural Gas Distribution Plan

a. Testimony

Mr. Dreisig presented the most recent update to the company's Natural Gas Distribution Plan (NGDP), which he described as the company's 10-year investment plan to achieve a safe, reliable, affordable, and clean, natural gas distribution system.<sup>2189</sup> CUB

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<sup>2186</sup> 4 Tr 2340.

<sup>2187</sup> 4 Tr 2340.

<sup>2188</sup> 4 Tr 1820, 1824.

<sup>2189</sup> 4 Tr 569-571.

witness Denzler, and MEC/SC witnesses deLeon and Napoleon, criticized the NGDP's consideration of future gas demand, decarbonization, and other matters.

*i. Testimony Regarding Future Gas Demand*

Mr. Denzler testified that the company must recognize that future demand for natural gas is uncertain. He asserted that decreasing demand for gas will likely cause increases in gas rates and reduce the usefulness of certain plant investments.<sup>2190</sup> He cautioned that investing heavily in gas infrastructure could lead to millions, if not billions, of dollars of stranded costs, which will harm both the utility and its customers.<sup>2191</sup> He urged the Commission to carefully scrutinize the company's proposals to ensure that recovery is authorized only for those costs which are truly necessary and sufficiently demonstrated to be reasonable and prudent.<sup>2192</sup>

Dr. deLeon asserted that the company's NGDP must account for the "energy transition," which she described as "the economy-wide transition to reduce GHG emissions by 80 percent or more by 2050 by moving away from an energy system of fossil fuel resources and toward an energy system of renewable and zero-carbon resources."<sup>2193</sup> Similar to Mr. Denzler, she testified that as the energy transition progresses, and gas sales decline, some gas assets will no longer be used and useful and will need to be removed from the rate base.<sup>2194</sup> If these stranded assets are not fully

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<sup>2190</sup> 4 Tr 2454.

<sup>2191</sup> 4 Tr 2454.

<sup>2192</sup> 4 Tr 2454.

<sup>2193</sup> 4 Tr 2317.

<sup>2194</sup> 4 Tr 2319.

depreciated, the company's remaining customers or investors will bear the risk of stranded costs.<sup>2195</sup>

In rebuttal, Mr. Dreisig testified that natural gas is by far the least-cost energy source for Michigan, and he pointed to data that he stated shows that the natural gas system is critical to Michigan's energy future from a cost, customer, and energy capacity perspective.<sup>2196</sup> He maintained that natural gas infrastructure will become more critical in the energy transition, and he referred to the retirement of coal plants coupled with the high cost of nuclear energy.<sup>2197</sup> He added that the gas distribution system mitigates significant additional electric load for winter heating and reduces the need for investment in electric generation and infrastructure by \$20-25 billion.<sup>2198</sup>

*ii. Testimony Regarding Non-Pipeline Alternatives*

Dr. deLeon testified that there is no evidence that the company evaluated lower cost non-pipe alternatives (NPAs) in its investment decisions, contrary to its claims that affordability is a key objective of its NGDP.<sup>2199</sup> She asserted that NPAs, such as electrification and energy efficiency, can reduce emissions, avoid costs, and reduce the risk of future stranded assets.<sup>2200</sup> She claimed that the company is seeking approval for billions of dollars of capital investments without substantive justification that they are truly necessary.<sup>2201</sup>

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<sup>2195</sup> 4 Tr 2319-2320.

<sup>2196</sup> 4 Tr 579.

<sup>2197</sup> 4 Tr 581.

<sup>2198</sup> 4 Tr 581.

<sup>2199</sup> 4 Tr 2354.

<sup>2200</sup> 4 Tr 2353.

<sup>2201</sup> 4 Tr 2354.



She advised the Commission to: (1) open a docket for the purpose of establishing a common framework and planning parameters, including consideration of NPAs and other alternatives for the future of the natural gas system in Michigan; (2) set forth minimum requirements for an NPA framework, including benefit-cost analysis, project size, type of project, timeline for implementation, and alternatives to consider; (3) launch an inclusive process to develop the details of the NPA framework; and (4) require the company to evaluate NPAs, including electrification, before the company can seek cost recovery of traditional gas infrastructure investments.<sup>2202</sup>

Ms. Napoleon agreed with Dr. deLeon and recommended that the Commission require Consumers to consider NPAs in place of pipe replacement, new customer connections, or other traditional infrastructure investments.<sup>2203</sup>

In rebuttal, Mr. Dreisig refuted the claims that the company's NGDP does not consider NPAs. He asserted that the company is actively investigating all potential carbon reduction pathways to meet its customer emission reduction goals.<sup>2204</sup> He maintained that the company extensively collaborates with interested parties, such as the Low Carbon Resources Initiative, the H2EDGE Program, the MI Hydrogen Initiative, and the Midwest Alliance for Clean Hydrogen (MachH2) hydrogen hub, to inform and validate its modeling and analysis assumptions.<sup>2205</sup> He stated that it is well understood through these collaborations that NPAs that introduce new technologies raise costs for customers, and

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<sup>2202</sup> 4 Tr 2314.

<sup>2203</sup> 4 Tr 2284-2285.

<sup>2204</sup> 4 Tr 582.

<sup>2205</sup> 4 Tr 582.

in some cases jeopardize the safety of the gas system.<sup>2206</sup> He added that customers are most interested in reliable, low-cost energy, and not more expensive NPAs.<sup>2207</sup>

Mr. Dreisig also disagreed with the premise that all NPAs reduce emissions. He testified that the carbon intensity of natural gas is significantly less than the carbon intensity of electrification or hydrogen technologies, which carry the emissions profile of the electric grid.<sup>2208</sup> He asserted that this indicates that technologies powered by the electric grid like heat pumps and hydrogen electrolyzers actually emit more carbon than heating with natural gas today.<sup>2209</sup>

*iii. Testimony Regarding Renewable Natural Gas Program*

Dr. deLeon questioned the ability of the Renewable Natural Gas (RNG) Program to contribute to the company's GHG emission reduction goals. She testified that the company plans to achieve its methane and carbon reductions goals, in part, through the procurement of carbon credits potentially through RNG.<sup>2210</sup> But, Dr. deLeon asserted, the company acknowledged that no customers have been enrolled in the program since its inception in April 2024.<sup>2211</sup> She raised questions about the efficacy of the program in contributing to the achievement of the company's GHG emission reduction goals.<sup>2212</sup>

In rebuttal, Mr. Dreisig testified that industrial customers have shown significant interest in the company's RNG Program, although most of these customers indicate they

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<sup>2206</sup> 4 Tr 583.

<sup>2207</sup> 4 Tr 583.

<sup>2208</sup> 4 Tr 585.

<sup>2209</sup> 4 Tr 585.

<sup>2210</sup> 4 Tr 2322-2323.

<sup>2211</sup> 4 Tr 2323.

<sup>2212</sup> 4 Tr 2323.

are not interested in it until they need it, around 2030.<sup>2213</sup> He testified that high customer interest in RNG aligns with the MI Healthy Climate Plan presumption that it and other clean fuel alternatives are critical in decarbonizing high heat end uses.<sup>2214</sup>

*iv. Testimony Regarding Decarbonization*

Dr. deLeon testified that there is no evidence that the company considered decarbonization when developing the capital investments in the NGDP.<sup>2215</sup> Ms. Napoleon testified that while the company acknowledges the findings of a third-party statewide decarbonization pathways analysis (the study), the NGDP does not reflect the findings.<sup>2216</sup> She noted that the study found that a balanced scenario with hybrid electric heating and gas backups mitigates electric winter peaks in the future, but she maintained, the company stated that it “does not have current plans to deploy or support hybrid heating through 2030 and 2050.”<sup>2217</sup>

Ms. Napoleon testified that Consumers indicated that the balanced scenario was identified as the optimal decarbonization pathway in the study because it has the lowest cost, least impact to existing electric infrastructure, poses less risk for hydrogen blending, and leverages carbon capture.<sup>2218</sup> She found the study unpersuasive and took issue with its finding that full electrification is more expensive than a gas/electric hybrid.<sup>2219</sup> She asserted that studies in Massachusetts, New York, and Maryland come to vastly different conclusions about the ability of strategies that rely on hybrid electric and gas space

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<sup>2213</sup> 4 Tr 581.

<sup>2214</sup> 4 Tr 582.

<sup>2215</sup> 4 Tr 2326.

<sup>2216</sup> 4 Tr 2274-2275.

<sup>2217</sup> 4 Tr 2276.

<sup>2218</sup> 4 Tr 2277.

<sup>2219</sup> 4 Tr 2276-2277.

heating to meet decarbonization goals.<sup>2220</sup> And she opined that the study was biased by inappropriately attributing high electric system build-out costs to the high electrification scenario while not giving this pathway credit for pipe replacement that targeted electrification could avoid.<sup>2221</sup> She also critiqued the study's inclusion of carbon capture in the balanced scenario, as she asserted that carbon capture and storage is cost-prohibitive for addressing emissions of individual gas consumers.<sup>2222</sup> Lastly, she noted that demand-side measures, such as energy efficiency or demand response, are essential components of decarbonization studies in other states, so it is puzzling to her why the study apparently did not include them, and the company is not proposing them in this filing.<sup>2223</sup>

In rebuttal, Mr. Dreisig testified that contrary to Ms. Napoleon's claims, the study used by the company to inform the NGDP is consistent with other studies. He noted that the Low Carbon Resource Initiative net-zero 2050 study performed by the Electric Power Research Institute (EPRI) showed similar findings to the company's assertion that a balanced combination of multiple technologies will be needed to cost effectively meet the State's 2050 net zero goal.<sup>2224</sup> He also referred to the MI Healthy Climate Plan, which he asserted demonstrates that no single pathway is viable to achieving the State's 2050 net zero goals.<sup>2225</sup> Mr. Warriner responded to Ms. Napoleon's statement that it is puzzling that the study does not include demand-side measures to reduce emissions. He testified

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<sup>2220</sup> 4 Tr 2277.

<sup>2221</sup> 4 Tr 2277-2278.

<sup>2222</sup> 4 Tr 2278.

<sup>2223</sup> 4 Tr 2278.

<sup>2224</sup> 4 Tr 583

<sup>2225</sup> 4 Tr 583.

that the company conducted demand response program pilots during the 2020/2021 and 2021/2022 winter seasons, the results of which indicated that a full-scale customer program for natural gas demand response would not provide enough benefits to be cost effective.<sup>2226</sup>

Mr. Dreisig disagreed with Ms. Napoleon's claim that electrification can save costs by avoiding traditional infrastructure investments. He testified that the economics of electrification are based on the combination of capital and energy costs and efficiencies specific to geographic regions and electrified space heating efficiency drops considerably and consumes more energy in colder climates like Michigan.<sup>2227</sup> He stated that it is not practical to assume a heat pump can provide sufficient space heating without proper insulation, which older homes generally do not possess.<sup>2228</sup> He added that independent third-party studies have determined that electrification is unlikely to be cost effective in Michigan.<sup>2229</sup>

b. Briefing

The company's brief largely echoes Mr. Dreisig's rebuttal testimony. Consumers contends that MEC/SC's criticisms of the company's NGDP are based on MEC/SC's belief that electrification is the best way to achieve future climate goals, with which the company disagrees.<sup>2230</sup> The company argues that MEC/SC's recommendations would modify the company's natural gas business, increase costs to customers, and interfere

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<sup>2226</sup> 2 Tr 111-112.

<sup>2227</sup> 4 Tr 584.

<sup>2228</sup> 4 Tr 584.

<sup>2229</sup> 4 Tr 584-585.

<sup>2230</sup> Consumers brief, 363.

with the company's managerial discretion.<sup>2231</sup> Consumers describes the future importance of natural gas and urges the commission to reject MEC/SC's arguments and recognize that the company is actively considering various energy transition pathways and the associated costs and risks of each.<sup>2232</sup>

In briefing, MEC/SC elaborates on the testimony of Dr. deLeon and Ms. Napoleon, arguing that the company's NGDP "presents substantial risk to ratepayers by planning for a decarbonization pathway that entrenches investments in gas infrastructure rather than planning for a managed decline consistent with reduced gas demand and impending electrification."<sup>2233</sup> MEC/SC states that the company fails to provide any details or support for its "preferred decarbonization pathway," which MEC/SC posits, is the status quo. According to MEC/SC, the company's explanations for not considering electrification, energy efficiency, demand response, or other NPAs in its investment planning are inadequate, while failing to consider these measures could potentially cost ratepayers, millions of dollars.<sup>2234</sup> And MEC/SC argues that the NGDP fails to address the energy transition and is incongruent with the Michigan Healthy Climate Plan and the state's GHG reduction goals for space heating.<sup>2235</sup>

Expounding on its witnesses' recommendations, MEC/SC's proposals include: advising the company to reassess the viability of Demand Response measures every 3 years;<sup>2236</sup> requiring Consumers to prove its investments in pipe replacements are cost-

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<sup>2231</sup> Consumers brief, 363.

<sup>2232</sup> Consumers brief, 363-365.

<sup>2233</sup> MSC brief, 4, 125.

<sup>2234</sup> MSC brief, 126-136.

<sup>2235</sup> MSC brief, 137.

<sup>2236</sup> MSC brief, 136.

effective by requiring that capital investments be shown to be superior to leak repair as well as NPAs through a new Future of Gas Docket, a specific NPAs docket, or through prescriptive requirements for future rate cases;<sup>2237</sup> and urging the Commission to initiate a docket where the company's investment choices can be scrutinized in the context of the energy transition and where interested parties have equal standing with Consumers.<sup>2238</sup> At the very least, opines MEC/SC, "ratepayers deserve a more robust NGDP with requirements to consider NPAs and leak repairs and prove the cost-effectiveness of investments."<sup>2239</sup>

In reply, the company argues that MEC/SC seeks to require Consumers to plan for a decline in its natural gas business, but that MEC/SC should not be allowed to interfere with the company's managerial discretion in its planning for the future of its business.<sup>2240</sup> Consumers contends that decarbonization is not addressed in any statute and the Commission has never required or requested that the company examine decarbonization as part of its NGDP.<sup>2241</sup> As to the criticism directed at the decarbonization study included in the company's NGDP, Consumers argues it was a state level analysis performed by a third party, was not performed to meet any statutory mandates, and the company has not included any cost recovery solely focused on decarbonization.<sup>2242</sup> The company reiterates that the Commission should reject the arguments raised by MEC/SC

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<sup>2237</sup> MSC brief, 137.

<sup>2238</sup> MSC brief, 139.

<sup>2239</sup> MSC brief, 139.

<sup>2240</sup> Consumers reply, 134.

<sup>2241</sup> Consumers reply, 137.

<sup>2242</sup> Consumers reply, 137.

and recognize that the company is actively considering various decarbonization pathways and the associated costs and risks of each.<sup>2243</sup>

The MEC/SC reply brief did not specifically address the company's NGDP.

c. Recommendation

This PFD generally agrees with MEC/SC's concerns about the company's NGDP, particularly whether it appropriately considers the uncertainty of future gas demand and the impending energy transition. In DTE's most recent gas case, the commission ordered DTE to update its ten-year gas distribution plan (GDP) to include consideration of the energy transition, stating as follows:

It is clear from the record in this case that the transition away from fossil fuels and the eventual trend of declining natural gas demand will have impacts on the future of the natural gas system and that these impacts were not sufficiently considered in the company's GDP as filed.<sup>2244</sup>

The commission went on to order that DTE's updated GDP consider various energy transition pathways and the associated costs and risks of each and include:

information pertaining to how the company intends to achieve emissions reductions as part of its corporate goals and the State's emissions reductions goals with an estimated timeline for achieving those goals and interim goals; alternatives to capital investment, such as pipeline repairs and NPAs; historical trends of natural gas demand, projected demand, and impacts of changing demand; and the projected impacts of the transition towards electrification and decarbonization, including the portion of its distribution system that DTE Gas anticipates will be most immediately impacted. DTE Gas shall take steps to meaningfully engage interested persons in the development of its updated GDP and shall file the plan in this docket no later than December 31, 2025.<sup>2245</sup>

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<sup>2243</sup> Consumers reply, 139.

<sup>2244</sup> November 7, 2024 order in Case No. U-21291, p. 216.

<sup>2245</sup> November 7, 2024 order in Case No. U-21291, pp. 216-217.



This PFD notes that Consumers' NGDP includes the company's emission reduction goals and how it plans to achieve its goals by reducing "gas system carbon equivalent emissions by eliminating methane leaks and implementing various technologies for gas system decarbonization."<sup>2246</sup> But this PFD finds that this explanation is insufficiently detailed. Further, this PFD notes that the NGDP includes a study modeling decarbonization pathways, but the company's plan does not appear to implement the study's findings or address the potential decline in gas demand that would accompany a transition toward electrification. Based on the foregoing and consistent with the Commission's order in Case No. U-21291, this PFD recommends that the Commission direct Consumers to file an updated NGDP that considers the costs and risks of various energy transition pathways including information pertaining to how the company intends to achieve emissions reductions as part of its corporate goals and the State's emissions reductions goals with an estimated timeline for achieving those goals and interim goals; alternatives to capital investment, such as pipeline repairs and NPAs; historical trends of natural gas demand, projected demand, and impacts of changing demand; and the projected impacts of the transition towards electrification and decarbonization, including the portions of its distribution system that Consumers estimates will be most immediately impacted. This PFD recommends that the Commission direct Consumers to take steps to meaningfully engage interested parties in the development of its updated NGDP and should direct the company to file the updated plan in this docket by a time specified by

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<sup>2246</sup> Exhibit A-42, p 18.

the Commission, which this PFD recommends should be no later than December 31, 2026.

This PFD declines to adopt MEC/SC's other recommendations, including opening an NPA-focused docket, finding that an updated NGDP as described above should adequately address the intervening parties' concerns.

C. Ending Gas-Only EWR Measures

*i. Testimony*

MEC/SC witness Napoleon testified that Consumers' Energy Waste Reduction (EWR) program should be changed to provide funding or rebates only for electrification and building envelope measures. She pointed out that the company does not offer any electrification incentives, such as for installing heat pumps to replace gas heating systems, through the EWR programs or otherwise, even though Act 229 allows them.<sup>2247</sup> Ms. Napoleon posited that providing incentives to replace gas appliances with more energy efficient gas appliances, as the current EWR program does, makes it more difficult to meet building decarbonization goals and perpetuates reliance on the gas system for years or decades into the future.<sup>2248</sup>

She recommended that the Commission initiate a process to reconsider the measures of EWR programs to align them with the state's climate targets, eliminate the company's EWR incentives for gas-burning equipment, and as soon as its next EWR plan, fund only electrification and building envelope measures.<sup>2249</sup> She opined that the

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<sup>2247</sup> 4 Tr 2280.

<sup>2248</sup> 4 Tr 2282.

<sup>2249</sup> 4 Tr 2272, 2284-2285.

EWB plan design is relevant in this rate case, since it informs the company's investment plan.<sup>2250</sup>

In rebuttal, Ms. Byrom disagreed with Ms. Napoleon. She testified that the company's next EWB plan (Case No. U-21680) will be filed in August 2025 and its reconciliation (Case No. U-21671) is currently pending before the Commission.<sup>2251</sup> She maintained that by statute, these programs are designed and reconciled outside of general rate proceedings, and the proper venue to make suggestions on EWB program design would be in a reconciliation or plan filing.<sup>2252</sup>

Staff also opined on Ms. Napoleon's EWB recommendation. In rebuttal testimony, Mr. Tiwana asserted that changes to the design of EWB (and Efficient Electrification (EFEL)) programs are irrelevant to this case and are addressed "within legislatively mandated Energy Optimization Proceedings" to ensure that the programs "are developed, evaluated, and implemented within a consistent framework, avoiding overlap with unrelated cases."<sup>2253</sup> He recommended that the Commission make a finding consistent with his assertions.<sup>2254</sup>

## *ii. Briefing*

In its brief, the company reiterates the rebuttal testimony of Ms. Byrom, points to Staff witness Tiwana's rebuttal testimony, and urges the Commission to reject Ms. Napoleon's recommendation.<sup>2255</sup>

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<sup>2250</sup> 4 Tr 2285.

<sup>2251</sup> 4 Tr 1136.

<sup>2252</sup> 4 Tr 1136,

<sup>2253</sup> 4 Tr 2773.

<sup>2254</sup> 4 Tr 2773-2774.

<sup>2255</sup> Consumers brief, 361.

Staff also recommends that the Commission reject Ms. Napoleon's recommendation to modify the company's EWR program, stating that it "should be addressed solely in EO Plan proceedings."<sup>2256</sup> Staff asserts that it does not oppose a robust and transparent evaluation of EWR (and EFEL initiatives), but that "the appropriate venue must be maintained" to ensure the "integrity of rate case proceedings" and protect the "procedural structure established by statute and Commission practice."<sup>2257</sup>

In briefing, MEC/SC elaborates upon Ms. Napoleon's testimony and states that "even if detailed EWR changes are saved for later proceedings, the Commission ought to address issues in Consumers EWR plan in so far as those issues inform fundamental assumptions of the company's investment plan."<sup>2258</sup> MEC/SC recommends that the commission initiate a process to explicitly address current EWR design as it relates to gas appliances.<sup>2259</sup>

The parties did not address EWR changes in their reply briefs.

### *iii. Recommendation*

This PFD agrees with Consumers and Staff in finding that this rate case is not the appropriate forum to make changes to the company's EWR program. This PFD finds persuasive Staff's argument that, based on the procedural structure established by statute and Commission practice, any EWR changes should be addressed comprehensively in other proceedings, such as EWR or Energy Optimization plan proceedings. Therefore, this PFD rejects MEC/SC's proposed EWR changes and advises

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<sup>2256</sup> Staff brief, 112.

<sup>2257</sup> Staff brief, 112.

<sup>2258</sup> MSC brief, 134.

<sup>2259</sup> MSC brief, 135.

MEC/SC to make its recommendations in other proceedings that are designated for that purpose.

## XI.

### 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 \$142,202,000<sup>2260</sup> with an authorized return on equity of 9.75% and an overall cost of capital of 5.97%, as well as recommendations regarding various accounting requests, cost of service allocations, rate design elements, and including recommendations for additional utility reporting and analysis.

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

**James M.  
Varchetti**

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Date: 2025.08.14 12:07:31 -04'00'

James M. Varchetti  
Administrative Law Judge

Issued and Served:  
August 14, 2025

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<sup>2260</sup> Again, this revenue deficiency projection does not include the effect of the recommended SAP S/4 HANA O&M deferral, which significantly decreases the revenue deficiency. The revenue deficiency impact of the SAP S/4 HANA O&M deferral can be found in Confidential Exhibit S-13.

**MICHIGAN PUBLIC SERVICE COMMISSION**

Consumers Energy Company

Revenue Deficiency (Sufficiency)

For the Projected 12-Month Period Ending October 31, 2026

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**Appendix A**

Case No.: U-21806

PFD

Appendix A

Line No	( a ) Description	( b ) Source	( c ) (Initial Brief) Applicant Projection	( d ) PFD Adjustment	( e ) PFD Projection
1	Rate base	Exhibit No.: A-12 (HLR-31)	11,563,068	(167,769)	11,395,299
2	Adjusted net operating income	Exhibit No.: A-13 (HLR-36)	556,865	17,218	574,083
3	Overall rate of return	Line 2 / Line 1	4.82%	0.22%	5.04%
4	Required rate of return	Source: Exhibit No.: A-14 (MRB-1)	6.22%	-0.25%	5.97%
5	Income requirement	Line 1 * Line 4	719,166	(38,809)	680,357
6	Income deficiency (sufficiency)	Line 5 - Line 2	162,300	(56,027)	106,274
7	Revenue conversion factor	Exhibit No.: A-13 (HLR-38)	1,3381	-	1,3381
8	Revenue deficiency (sufficiency)	Line 6 * Line 7	217,171	(74,969)	142,202

**MICHIGAN PUBLIC SERVICE COMMISSION**Consumers Energy Company

Rate Base

For the Projected 12-Month Period Ending October 31, 2026

(\$000)

**Appendix B**

Case No.: U-21806

PFD

Appendix B

Line No	( a ) Description	( b ) Source	( c ) (Initial Brief) Applicant			( d ) PFD		( e ) PFD	
			Projection	Adjustment	Projection	Adjustment	Projection	Adjustment	Projection
1	Total utility plant	Exhibit No.: A-12 (HLR-32)	14,840,747	(172,603)	14,668,144				
2	Depreciation reserve	Exhibit No.: A-12 (HLR-33)	(4,643,859)	4,834	(4,639,024)				
3	Customer advances for construction	WP-HLR-22	(19,159)	-	(19,159)				
4	Net utility plant	Sum of Lines 1 through 3	10,177,729	(167,769)	10,009,960				
5	Net unamortized MGP	Exhibit No.: A-47 (MJF-5), p.2, Line 43	20,438	-	20,438				
6	Utility plant rate base	Line 4 + Line 5	10,198,167	(167,769)	10,030,398				
7	Working capital	Exhibit No.: A-12 (HLR-34)	1,364,902	-	1,364,902				
8	Total rate base	Sum of Lines 6 through 7	11,563,068	(167,769)	11,395,299				

**MICHIGAN PUBLIC SERVICE COMMISSION**

Consumers Energy Company  
Development of Adjusted Net Operating Income  
for the Projected 12-Month Period Ending October 31, 2026  
(\$'000)

**Appendix C**

Case No.: U-21806

PFD  
Appendix C

Line No.	Party	Revenue					Expenses										NOI				
		(a) Description (Witness)	(b) Sales Revenue	(c) Transport Revenue	(d) Other Revenues	(e) Total	(f) Cost of Gas Sold	(g) LAUF	(h) Company Use	(i) Other O&M	(j) Depreciation	(k) Amortization	(l) Property Tax	(m) General Taxes	(n) Other (Local) Taxes	(o) State Income Tax	(p) FIT	(q) Total	(r) NOI	(s) AFUDC	(t) Adjusted NOI
<b>Company Filed</b>																					
		Operating Income (Direct)	2,182,075	102,396	28,666	2,313,137	737,588	12,709	5,502	297,904	374,164	10,239	201,200	19,785	838	25,256	83,757	1,768,943	544,194	1,298	545,492
		RIA credit projections	1,119	-	-	1,119	-	-	-	(2)	-	-	-	-	2	59	222	283	836	-	-
		2024 IT Capital Expenditures Underspend	-	-	-	-	-	-	-	(2)	-	-	-	-	0	0	0	(1)	1	-	-
		HR Support Pack & Business Software Upgrade 2025	-	-	-	-	-	-	-	(20)	-	-	-	-	0	1	4	(15)	15	-	-
		HR Support Pack & Business Software Upgrade 2026	-	-	-	-	-	-	-	(40)	-	-	-	-	0	2	8	(30)	30	-	-
		Application Currency Project - Electric & Gas Shared	-	-	-	-	-	-	-	(8)	-	-	-	-	0	0	2	(6)	6	-	-
		Standard Work Plan Program	-	-	-	-	-	-	-	(71)	-	-	-	-	0	4	14	(53)	53	-	-
		Next Generation eSOMS	-	-	-	-	-	-	-	(8)	-	-	-	-	0	0	2	(6)	6	-	-
		Distribution Gas Ops - Comp & Controls	-	-	-	-	-	-	-	634	-	-	-	-	(1)	(33)	(126)	474	(474)	-	-
		Depreciation	-	-	-	-	-	-	-	-	(11,347)	-	-	-	18	595	2,234	(8,480)	8,480	-	-
		MPG Amortization	-	-	-	-	-	-	-	-	-	-	-	-	(0)	(3)	(11)	40	(40)	-	-
		Riverside Storage Field Amortization	-	-	-	-	-	-	-	-	-	-	-	-	5	155	588	(2,211)	2,211	-	-
		General Taxes	-	-	-	-	-	-	-	-	-	-	-	(461)	1	24	92	(344)	344	-	-
		Property Tax Expense	-	-	-	-	-	-	-	-	-	-	-	-	1	46	173	(650)	650	-	-
		Income Tax Effect of Interest	-	-	-	-	-	-	-	-	-	-	-	-	5	175	664	844	(844)	-	-
		Interest Synchronization	-	-	-	-	-	-	-	-	-	-	-	-	0	1	3	4	(4)	-	-
		Operating Income (Rebuttal)	2,183,194	102,396	28,666	2,314,257	737,588	12,709	5,502	298,389	362,817	7,334	200,331	19,325	869	26,281	87,646	1,768,791	555,466	1,298	556,763
1		Depreciation	-	-	-	-	-	-	-	-	(101)	-	-	-	0	5	20	(76)	76	-	-
		Property Tax Expense	-	-	-	-	-	-	-	-	-	-	-	-	0	3	12	(46)	46	-	-
		Income Tax Effect of Interest	-	-	-	-	-	-	-	-	-	-	-	-	-	4	16	(20)	20	-	-
		Interest Synchronization Adjustment	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
		Rounding	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
		Operating Income (Initial Brief	2,183,194	102,396	28,666	2,314,257	737,588	12,709	5,502	298,389	362,716	7,334	200,269	19,325	869	26,294	87,684	1,758,689	555,568	1,298	556,865
<b>PFD Adjustments</b>																					
2		<b>Gas Operations</b>	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
3		Customer Service Contact Center O&M	-	-	-	-	-	-	-	(176)	-	-	-	-	0	9	35	(132)	132	-	-
4	CUB	Customer Order Service Tracker	-	-	-	-	-	-	-	(1,062)	-	-	-	-	2	56	211	(794)	794	-	-
5		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
6	CUB	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
7		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
8		<b>Transmission</b>	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
9	AG	MAOP Related Expense	-	-	-	-	-	-	-	(561)	-	-	-	-	1	29	111	(419)	419	-	-
10		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
11		<b>Gas Engineering &amp; Supply</b>	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
12	AG	Quality Lean Office Expense	-	-	-	-	-	-	-	(1,259)	-	-	-	-	2	66	250	(941)	941	-	-
13	AG	Advanced Methane Detection Expense (Gas Engineering Supp	-	-	-	-	-	-	-	(1,969)	-	-	-	-	3	103	391	(1,472)	1,472	-	-
14		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
15		<b>Information Technology &amp; Security - Investments</b>	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
16	Staff	Product Family Enhancements-Customer-Capital* (Klocke)	-	-	-	-	-	-	-	(21)	-	-	-	-	0	1	4	(16)	16	-	-
17	AG	Data Center Migration	-	-	-	-	-	-	-	(716)	-	-	-	-	1	38	142	(535)	535	-	-
18	AG	Forward Web Proxy Services	-	-	-	-	-	-	-	(150)	-	-	-	-	0	8	30	(112)	112	-	-
19	AG	Physical Access Management and Alarm Response Projects	-	-	-	-	-	-	-	(102)	-	-	-	-	0	5	20	(76)	76	-	-
20	CUB	Asset Accounting Tax Upgrade Project	-	-	-	-	-	-	-	(25)	-	-	-	-	0	1	5	(19)	19	-	-
21		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
22		<b>Other Benefits</b>	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
23	Staff	Leaving It Better Award (Rueckert)	-	-	-	-	-	-	-	(550)	-	-	-	-	1	29	109	(411)	411	-	-
24		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
25	Staff	Incentive Compensation (McMillan-Sepkoski)	-	-	-	-	-	-	-	(276)	-	-	-	-	0	14	55	(206)	206	-	-
26		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
27	AG	All O&M - Voluntary Separation Program Expense Savings	-	-	-	-	-	-	-	(7,989)	-	-	-	-	13	419	1,587	(5,970)	5,970	-	-
28		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
29	Staff	Impact of Cap Ex Adj. on Depr., Prop. Tax, and AFUDC (Witt)	-	-	-	-	-	-	-	-	(5,786)	-	-	-	13	430	1,629	(6,130)	6,130	-	-
30		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
31	Staff	Proforma Interest (Nichols)	-	-	-	-	-	-	-	-	-	-	-	-	0	3	11	14	(14)	-	-
32	Staff	Interest Synchronization	-	-	-	-	-	-	-	-	-	-	-	-	0	0	1	1	(1)	-	-
33		<b>Total Adjustm</b>	-	-	-	-	-	-	-	-	-	-	-	-	37	1,211	4,593	(17,218)	17,218	-	-
34		<b>PFD NOI - Test Year</b>	2,183,194	102,396	28,666	2,314,257	737,588	12,709	5,502	283,531	356,930	7,334	197,853	19,325	906	27,505	92,287	1,741,470	572,786	1,298	574,083



**MICHIGAN PUBLIC SERVICE COMMISSION**

Consumers Energy Company

Capital Structure and Rate of Return Summary

For the Projected 12-Month Period Ending October 31, 2026

(\$000)

**Appendix D**

Case No.: U-21806

PFD

Appendix D

Line No	Description	Capital Structure				Weighted Cost			
		Amount	Percent		Cost Rate %	Permanent		Conversion Factor	Pre-Tax Return
			Permanent Capital	of Total Capital		Capital	Total Cost %		
		(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
1	Long term debt	12,839,000	49.85%	41.82%	4.35%	2.17%	1.82%		1.82%
2	Preferred stock	37,315	0.14%	0.12%	4.50%	0.01%	0.01%	1.3381	0.01%
3	Common equity	12,877,000	50.00%	41.95%	9.75%	4.88%	4.09%	1.3381	5.47%
4	Permanent Capital	25,753,315							
5	Short term debt	201,385		0.66%	4.52%		0.03%		0.03%
6	Deferred income taxes	4,629,270		15.08%	0.00%		0.00%		0.00%
7	Deferred JDITC - long term debt	56,840		0.19%	4.35%		0.01%		0.01%
8	Deferred JDITC - preferred stock	165		0.00%	4.50%		0.00%	1.3381	0.00%
9	Deferred JDITC - common equity	56,995		0.19%	9.75%		0.02%	1.3381	0.02%
10	Total	30,697,970					5.97%		7.36%

**MICHIGAN PUBLIC SERVICE COMMISSION**

ConsumersEnergy Company

Capital Expenditure and Rate Base Adjustments  
For the Projected 12-Month Period Ending October 31, 2026  
(\$000)

**Appendix E**

Case No.: U-21806

PFD

**Appendix E**

Line No.	Party	Capital Project Bucket/Description	(a)	Test Year Impacts From PFD Adjustments to Cap Ex Projects						(g)
				Total	Test Year Impacts From PFD Adjustments to Cap Ex Projects					
					(b)	(c)	(d)	(e)	(f)	
Distribution										
1										
2	AG	Material Condition - EIRP - 7 Projects - In Initial Phase	(84,888)	(42,445)	(538)	(41,906)	(1,077)	(594)		
3	AG	Material Condition - Non-Modeled - HP Water Crossing Mains	(5,500)	(3,000)	(43)	(2,957)	(76)	(42)		
4	AG	Material Condition - Vintage Services Replacement (VSR)	(35,506)	(23,569)	(422)	(23,147)	(598)	(330)		
5	AG	Compliance & Controls - AMD System	(8,052)	(6,462)	(242)	(6,220)	(164)	(90)		
6	AG	Compliance & Controls - Enterprise Corrective Action	(453)	(437)	(17)	(419)	(11)	(6)		
7	ABATE	Asset Relocation - Disallow 2023 Cost Variances	(10,533)	(10,533)	(757)	(9,776)	(267)	(147)		
8		Total	(144,933)	(86,444)	(2,019)	(84,425)	(2,193)	(1,210)		
9										
Transmission										
10										
11	AG	Regulatory Compliance - Pipeline Integrity - TOD - Casings	(2,000)	(1,000)	(11)	(989)	(23)	(14)		
12	AG	Regulatory Compliance - Pipeline Integrity - TOD - Risk Mitigation	(2,953)	(1,477)	(17)	(1,460)	(34)	(21)		
13	AG	Regulatory Compliance - MAOP - Placeholder	(2,564)	(1,282)	(15)	(1,267)	(29)	(18)		
14	AG	Capacity/Deliverability - DFM - B-GM-00041 Rose Center	(1,120)	(711)	(11)	(700)	(16)	(10)		
15	AG	Capacity/Deliverability - DFM - 6 Projects No Design Work	(8,369)	(4,185)	(48)	(4,137)	(96)	(59)		
16	AG	Capacity/Deliverability - Base Pipeline - 11 Projects No Design V	(18,466)	(9,233)	(106)	(9,127)	(212)	(129)		
17	AG	Capacity/Deliverability - TED-1 - (RCV) - 7 Projects No Design Wc	(14,145)	(7,073)	(81)	(6,982)	(162)	(99)		
18		Total	(49,617)	(24,960)	(289)	(24,671)	(572)	(349)		
19										
20										
Compression and Storage										
21	AG	Storage - Lyon 29/34 Northville Storage Gas Dehydrat	(37,360)	(35,536)	(1,039)	(34,496)	(881)	(497)		
22										
Information Technology and Security										
23	Staff	Customer - Click to Chat	(3)	(3)	(1)	(2)	(1)	(0)		
24	Staff	Customer - Product Family Enhancements - Web Chat AI	(181)	(90)	(9)	(81)	(18)	(1)		
25	Staff	Customer - LMI Customer Enhancements	(241)	(221)	(39)	(182)	(44)	(3)		
26	Staff	Customer - Product Family Enhancements - Self Service Mobile	(1,148)	(824)	(124)	(700)	(165)	(12)		
27	AG	Security - Forward Web Proxy Services	(939)	(470)	(47)	(423)	(94)	(7)		
28	AG	Security - Physical Access Management and Alarm Response	(678)	(339)	(34)	(305)	(68)	(5)		
29	AG	IT/Digital Foundation - OT Data Center Migration	(1,441)	(721)	(72)	(648)	(144)	(10)		
30	CUB	Gas - Gas SCADA Software Solution	(6,525)	(3,262)	(326)	(2,936)	(652)	(46)		
31	CUB	IT/Digital Foundation - ARP - LAN Costs	(128)	(87)	(13)	(75)	(17)	(1)		
32	CUB	IT and Security - All Projects - Enhancement Projects	(4,389)	(3,289)	(513)	(2,776)	(658)	(46)		
33		Total	(15,653)	(9,306)	(1,178)	(8,128)	(1,861)	(130)		
34										
35										
Operations Support										
36	CUB	New Construction - Lansing Service Center	(1,817)	(1,817)	(26)	(1,791)	(28)	(25)		
37	CUB	New Construction - Hastings Service Center	(95)	(95)	(1)	(94)	(1)	(1)		
38	CUB	Renovations - Kalamazoo Service Center	(14,029)	(12,489)	(217)	(12,272)	(195)	(175)		
39		Total	(15,941)	(14,401)	(244)	(14,157)	(225)	(202)		
40										
Incentive Compensation										
41										
42	Staff	Leave It Better Award	(2,388)	(1,957)	(65)	(1,892)	(54)	(27)		
43		TOTAL	(265,892)	(172,603)	(4,834)	(167,769)	(5,786)	(2,416)		