

Donna M. Byrne
donna.byrne@troutman.com

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VIA EFILING

The Honorable Debbie-Anne A. Reese
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

Re: Consumers Energy Company
Docket No. ER26-____-000
Cost Recovery Filing Pursuant to Section 202(c) of the Federal Power Act

Dear Secretary Reese:

Consumers Energy Company (“Consumers Energy” or “Company”) submits this filing to the Federal Energy Regulatory Commission (“FERC” or “Commission”) pursuant to (1) sections 202(c) and 309 of the Federal Power Act (“FPA”);¹ (2) an emergency order issued by the U.S. Secretary of Energy on May 23, 2025, pursuant to FPA section 202(c), requiring Consumers Energy to take all measures necessary to ensure that the J.H. Campbell power plant (“Campbell Plant”) remains available to operate for the 90-day period of the order;² (3) a June 13, 2025 referral, to the Commission from the U.S. Department of Energy (“DOE”), of rate issues associated with the May 2025 DOE Order;³ (4) the Commission’s August 15, 2025 order granting a complaint filed by the Company on June 6, 2025 to seek a cost allocation and recovery mechanism in the Midcontinent Independent System Operator, Inc.’s (“MISO”) Open Access Transmission, Energy, and Operating Reserve Markets Tariff (“Tariff”);⁴ and (5) the revisions to the MISO Tariff that

¹ 16 U.S.C. §§ 824a(c), 824d.

² DOE, [Order No. 202-25-3](#) (May 23, 2025) (“May 2025 DOE Order”).

³ DOE, Referral to FERC, Docket Nos. AD25-14-000, *et al.* (June 13, 2025) (“DOE Referral”).

⁴ *Consumers Energy Co. v. Midcontinent Indep. Sys. Operator, Inc.*, 192 FERC ¶ 61,158 (2025) (“Complaint Order”). On October 16, 2025, the Commission’s Secretary issued a Notice of Denial of Rehearing by Operation of Law. *Consumers Energy Co. v. Midcontinent Indep. Sys. Operator, Inc.*, 193 FERC ¶ 62,037 (2025) (“Notice of Denial of Rehearing”). On December 22, 2025, the Commission issued an order addressing arguments raised on rehearing, reaching the

were submitted to the Commission by MISO in a compliance filing on September 15, 2025,⁵ as required by the Commission’s Complaint Order.

In its Complaint Order, the Commission recognized that Consumers Energy is being required to “take all measures necessary to ensure that the Campbell Plant is available to operate”⁶ for the 90-day period covered by the May 2025 DOE Order (“Order Duration Period”),⁷ and that costs would be incurred as part of complying with that directive.⁸ As requested by Consumers Energy, in the Complaint Order, the Commission took the first step required for cost recovery by “approv[ing] the cost allocation methodology” the Company had proposed and directing MISO to amend the MISO Tariff to adopt it (with limited clarifying language).⁹ The Commission further explained that the Company would need to initiate “a separate proceeding ... for approval to recover specific [May 2025] DOE Order Costs.”¹⁰ The purpose of this filing is to initiate that “separate proceeding” contemplated by the Complaint Order, and to present the actual costs incurred in connection with the May 2025 DOE Order (net of associated MISO market revenue, “Order Costs” or “May 2025 DOE Order Costs”) for Commission approval.

As explained in the Company’s Complaint, and consistent with the proposed Schedule 55 Tariff amendment that is pending in Docket No. ER25-3425, Consumers Energy is making this filing on behalf of itself and the minority interest co-owners of Campbell Unit 3, Wolverine Power Supply Cooperative, Inc. (“Wolverine”) and Michigan Public Power Agency (“MPPA”).¹¹

same result set forth in the Complaint Order. *Consumers Energy Co. v. Midcontinent Indep. Sys. Operator, Inc.*, 193 FERC ¶ 61,228 (2025) (“Rehearing Order”).

⁵ Compliance to Consumers Energy Company Complaint, Docket No. ER25-3425-000 (filed Sept. 15, 2025) (“MISO Compliance Filing” or “Proposed Schedule 55”) (submitting a proposed Schedule 55 to be added to the MISO Tariff). The MISO Compliance Filing remains pending.

⁶ Complaint Order, 192 FERC ¶ 61,158 at P 4 (citing May 2025 DOE Order).

⁷ The Order Duration Period for the May 2025 DOE Order is May 23, 2025, through August 20, 2025 (expiring at 00:00 Eastern Standard Time on August 21, 2025). The DOE has issued two subsequent orders, both requiring the Campbell Plant to continue to be available to operate for additional 90-day periods. DOE, [Order No. 202-25-7](#) (Aug. 20, 2025) (“August DOE 2025 Order”), (requiring the Campbell Plant’s availability from August 21, 2025 through November 18, 2025); DOE, [Order No. 202-25-9](#) (Nov. 18, 2025) (“November DOE 2025 Order”) (requiring the Campbell Plant’s availability from November 19, 2025 through February 16, 2026). The instant filing is limited to costs associated with the May 2025 DOE Order.

⁸ See, generally, Complaint Order, 192 FERC ¶ 61,158 at P 42.

⁹ *Id.*

¹⁰ *Id.*

¹¹ Consumers Energy, Wolverine and MPPA are referred to herein, collectively, as the “Co-Owners;” Wolverine and MPPA are each referred to, individually as a “co-owner.”

Accordingly, the Order Costs being presented for Commission approval include the collective actual costs incurred in connection with the May 2025 DOE Order by Consumers Energy and the two Unit 3 minority interest owners, net of the collective MISO market revenue realized by Consumers Energy and the two Unit 3 minority interest owners over the Order Duration Period.

Recovery of the May 2025 DOE Order Costs (net of associated market revenue) is legally mandated, and just and reasonable, pursuant to FPA section 202(c).¹² Consumers Energy is requesting that the Commission act expeditiously to approve the May 2025 DOE Order Costs within sixty (60) days of the date of this filing. Expeditious action is warranted here to ensure regulatory certainty as we approach the expected issuance of a fourth DOE order requiring the Company to keep the Campbell Plant available to operate for another 90-day period. Indeed, the most recent DOE order requiring the continued availability of the Campbell Plant states:

[T]he emergency conditions resulting from increasing demand and shortage from accelerated retirements of generation facilities supporting the issuance of [the May 2025 DOE Order and the August 2025 DOE Order] *will continue in the near term and are also likely to continue in subsequent years*. This could lead to the loss of power to homes and local businesses in the areas affected by curtailments or outages, presenting a risk to public health and safety. ... *I have determined that ... continued additional dispatch of the Campbell Plant is necessary to best meet the increased demand and determined shortage and serve the public interest under FPA section 202(c).*¹³

Consumers Energy has fully complied with the May 2025 DOE Order and the August 2025 DOE Order, and is continuing to fully comply with the November 2025 DOE Order. As determined by the DOE, the Company's actions have been required to "serve the public interest under FPA section 202(c),"¹⁴ and the costs incurred to do so therefore should be approved in a timely fashion. This filing is limited to seeking approval of the May 2025 DOE Order Costs. The costs associated

¹² FPA section 202(c)—and, to the extent necessary, FPA section 309—provides authority for the Commission to approve and grant recovery of costs associated with an order pursuant to FPA section 202(c). *See generally* Complaint Order; 192 FERC ¶ 61,158, and the June 13, 2025 DOE Referral. Such cost recovery is independent of, and not governed by, the Commission's ratemaking authority pursuant to FPA section 205 and 206. Nevertheless, certain Commission precedent developed over the years pursuant to FPA sections 205 and 206 is addressed herein because it is relevant to consideration of the matters being presented in this cost recovery filing by way of analogy.

¹³ November 2025 DOE Order at 8 (emphasis added).

¹⁴ *Id.*

with the August and November DOE orders, and any future orders requiring Campbell to remain available, will be addressed in separate, future cost recovery filings.

I. BACKGROUND

A. Description of Consumers Energy

Consumers Energy is a public utility serving over 1.9 million residential, commercial, and industrial electric customers in the Michigan Joint Zone of the MISO footprint. Consumers Energy is wholly owned by and is one of the two principal subsidiaries of CMS Energy Corporation. Consumers Energy owns and operates nearly 92,000 miles of electric distribution lines within its service territory and is a non-transmission-owning member of MISO. Consumers Energy is a Load Serving Entity (“LSE”) in the MISO footprint.

B. The Campbell Plant

The Campbell Plant is a coal-fired electric generation plant located in West Olive, Michigan, with a summer capacity of approximately 1400 MW. The Campbell Plant consists of three units:

- Unit 1, which commenced commercial operations in 1962, has a summer capacity of approximately 260 MW and is wholly owned by the Company (100%);
- Unit 2, which commenced commercial operations in 1967, has a summer capacity of approximately 280 MW and is wholly owned by the Company (100%); and
- Unit 3, which commenced commercial operations in 1980, has a summer capacity of approximately 840 MW and is majority owned by the Company (93.31%). Wolverine and MPPA own, respectively, 1.89% and 4.80% interests in Unit 3.

C. Planned Retirement of the Campbell Plant

On June 30, 2021, Consumers Energy filed an application with the Michigan Public Service Commission (“MPSC”) to seek approval of an integrated resource plan (“IRP”).¹⁵ The filing was contested and resulted in significant settlement negotiations, including negotiations related to retirement of the Campbell Plant. On June 23, 2022, the MPSC approved a multi-party settlement

¹⁵ In the Matter of the Application of Consumers Energy Company for Approval of an Integrated Resource Plan under MCL 460.6t, certain accounting approvals, and for other relief, MPSC Case No. U-21090-003, (filed June 30, 2021), <https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/068t000000Nib8YAAR>.

resolving all issues raised in the IRP proceeding.¹⁶ The MPSC found that the 2022 IRP Settlement “was the result of good-faith negotiation that resulted in significant compromises for all involved.”¹⁷ These compromises included, *inter alia*, (i) the agreement that Consumers Energy retire Campbell Units 1, 2, and 3 in 2025; and (ii) recovery of the Campbell Plant’s unrecovered book value through regulatory asset treatment.¹⁸

On December 14, 2021, Consumers Energy submitted to MISO an Attachment Y notice of intent to suspend Campbell Units 1, 2, and 3 effective June 1, 2025.¹⁹ MISO approved the suspension on March 11, 2022.²⁰

D. The May 2025 DOE Order

On May 23, 2025, days before the Campbell Plant’s scheduled retirement on May 31, 2025, the Secretary of Energy issued the May 2025 DOE Order, stating that an emergency exists within the Northern and Central zones of MISO and determining that it was necessary for the Campbell Plant to remain available “to best meet the emergency and serve the public interest for purposes of FPA section 202(c).”²¹ Consumers Energy complied with the Order’s directives and ensured that the Campbell Plant was available to operate and deliver energy to the MISO market.²² Pursuant to subsequent orders issued by the Secretary of Energy under FPA section 202(c), the Company is continuing to keep the Campbell Plant “available to operate.”²³

¹⁶ Order Approving Settlement, MPSC Case No. U-21090-0901 (June 23, 2022), <https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000003KjSDAA0> (“MPSC Order” and attached “2022 IRP Settlement Agreement”).

¹⁷ *Id.* at 88.

¹⁸ *Id.* at 7 & 88.

¹⁹ Letter from Timothy J. Sparks, Consumers Energy, to Andrew Witmeier, MISO, and Attachment Y Notification of Generating Resources Change of Status (Dec. 14, 2021).

²⁰ Letter from Andrew Witmeier, MISO, to Timothy J. Sparks, Consumers Energy, re: Approval of Campbell Units 1, 2 & 3 Attachment Y Suspension Notice (Mar. 11, 2022).

²¹ May 2025 DOE Order at 2.

²² The Company has cooperated with MISO to meet the reporting requirements set forth in the May 2025 DOE Order and has kept DOE informed regarding to outages experienced at the individual units that together constitute the Campbell Plant.

²³ August 2025 DOE Order at Ordering Paragraph A; November 2025 DOE Order at Ordering Paragraph A.

E. The Company's Complaint against MISO

On June 6, 2025, Consumers Energy filed a complaint²⁴ pursuant to FPA sections 202(c), 306, and 309,²⁵ and the May 2025 DOE Order's directive to "file with the [Commission] Tariff revisions or waivers necessary to effectuate [the] order."²⁶ The Complaint requested that the Commission order MISO to amend the MISO Tariff to include a mechanism for recovery of costs associated with the May 2025 DOE Order, net of the Campbell Plant's MISO market revenue, and to allocate such costs to load serving entities ("LSEs") throughout MISO Local Resource Zones 1 through 7 on a load ratio share basis.²⁷

F. DOE Referral of Rate Issues to the Commission

On June 13, 2025, DOE referred the rate issues related to the May 2025 DOE Order to the Commission for resolution, pursuant to 10 C.F.R. § 205.376.²⁸

G. The Commission's Order Granting Complaint

On August 15, 2025, the Commission issued an order granting the Complaint. Specifically, the Commission "accept[ed] Consumers' proposal to allocate the costs of keeping the Campbell Plant in operation, in response to the DOE Order, to LSEs within Local Resource Zones 1-7,"²⁹ and directed MISO to make a compliance filing to adopt the Tariff provision Consumers Energy proposed, with certain minor clarifications, to provide a mechanism for recovery of such costs by Consumers, MPPA, and Wolverine.³⁰ The Commission also stated that Consumers Energy would need to "petition the Commission in a separate proceeding at a later date for approval to recover specific DOE Order Costs" before such costs would be charged to ratepayers.³¹

After the Commission issued the Complaint Order, requests for rehearing were filed. On October 16, 2025, the Commission's Secretary issued a Notice of Denial of Rehearing by Operation of Law.³² Subsequently, the Commission addressed arguments raised on rehearing in a

²⁴ Consumers Energy v. MISO, Complaint Requesting Fast Track Processing, Docket No. EL25-90-000 (filed June 6, 2025) ("Complaint").

²⁵ 16 U.S.C. §§ 824a(c), 825e, 825h.

²⁶ May 2025 DOE Order at 2.

²⁷ Complaint at 5-6.

²⁸ See *supra* note 3.

²⁹ Complaint Order, 192 FERC ¶ 61,158 at P 40.

³⁰ *Id.* P 43.

³¹ *Id.* P 42.

³² Notice of Denial of Rehearing, 193 FERC ¶ 62,037.

Rehearing Order issued on December 22, 2025. In the Rehearing Order, the Commission continued to reach the same result set forth in the Complaint Order.

H. MISO Compliance Filing

As required by the Complaint Order, on September 15, 2025, MISO submitted a compliance filing, proposing a new Schedule 55 to be added to the MISO Tariff to allocate costs associated and consistent with the May 2025 DOE Order, net of market revenue for the relevant period.³³

II. REQUEST FOR APPROVAL OF MAY 2025 DOE ORDER COSTS

In this filing, Consumers Energy describes the actual May 2025 DOE Order Costs that are being presented for Commission approval as just and reasonable pursuant to FPA section 202(c). As described in Proposed Schedule 55 of the MISO Tariff, once approved by the Commission, such costs are deemed “Recoverable Order Costs” to be allocated pursuant to that schedule.

A. Overview of May 2025 DOE Order Costs

Consumers Energy is seeking Commission approval of \$41.981 million in May 2025 DOE Order Costs. That figure reflects the actual costs incurred by Consumers Energy, as well as the minority interest co-owners of Campbell Unit 3 (Wolverine and MPPA), after netting against the total MISO revenue realized by the Company, and the Unit 3 co-owners, from operation of the Campbell Plant during the May 2025 DOE Order Duration Period.

In support of this request for approval, the Company is submitting an affidavit from Patrick D. Daly, who serves as the Company’s Director of Revenue Requirements (“Daly Affidavit”).³⁴

³³ See *supra* note 5.

³⁴ The Daly Affidavit is included herewith as Attachment A. As Mr. Daly explains, most of the May 2025 DOE Order Costs of the Unit 3 co-owners are directly tracked by Consumers Energy, the operator of Unit 3, and billed to Wolverine and MPPA based on their respective ownership interests. Daly Affidavit at n.4. Mr. Daly addresses those categories of costs in his affidavit. However, the Unit 3 co-owners’ respective fixed costs, direct legal and other costs, and market revenue, are explained and further supported in two separate affidavits being submitted herewith to address the costs and revenues that are specific to the two Unit 3 co-owners. See Attachment B, Affidavit of Richard M. Kohler, describing Wolverine-specific costs and revenues (“Wolverine Affidavit”), and Attachment C, Affidavit of Laurie M. Valasek, describing MPPA-specific costs and revenue (“MPPA Affidavit”). For the avoidance of doubt, the total Order Costs described in Mr. Daly’s affidavit *do include* all of the Unit 3 co-owners’ costs and revenues. However, because Mr. Daly does not have direct personal knowledge regarding those costs and revenues, the Company is submitting separate affidavits to describe and further support the Wolverine- and MPPA-specific costs and revenues.

In his affidavit, Mr. Daly describes the following categories of costs that constitute the May 2025 DOE Order Costs: (1) Fuel Costs; (2) Operations & Maintenance Expenses (labor and non-labor related) (“O&M”); (3) Depreciation Expense; (4) Return on Campbell Rate Base; (5) Tax Expenses and Other Fees; and (6) Direct Legal and Other Costs. Because the May 2025 DOE Order Costs have been netted against the MISO market revenue realized by the Campbell Plant during the May 2025 DOE Order Duration Period (including for the co-owner’s share of Unit 3), Mr. Daly also addresses MISO market revenue in describing how he calculated the May 2025 DOE Order Costs. These categories and calculations are summarized in the table below, which is part of the Daly Affidavit:

Table 1 – May 2025 DOE Order Costs (Consumers Energy and Unit 3 Co-Owners)

	Category	Amount (\$000)
(1)	Fuel Costs	\$55.253
(2)	Operations & Maintenance Expenses (Labor and Non-Labor Related)	11.490
(3)	Depreciation Expense	31.467
(4)	Return on Campbell Rate Base	20.670
(5)	Property Taxes, Insurance, and Fees	.559
(6)	Direct Legal and Other Costs	.214
(7)	<u>Total Expenses</u>	<u>119.653</u>
(8)	<u>MISO Settlement Revenues</u>	<u>77.672</u>
(9)	<u>Order Costs (Net)</u>	<u>41.981</u>

B. Discussion of Specific Cost Categories

1. Fuel Costs

The Fuel Costs being presented for approval total \$55.253 million.³⁵ They include coal consumption, both generating and non-generating oil, and reagents including urea, activated carbon, and lime. Fuel Costs also include coal transportation expenses. The calculation of Fuel Costs is based on the actual consumption (“burn”) of each fuel source or reagent during the May

³⁵ Daly Affidavit ¶¶ 14-16 (addressing Fuel Costs).

2025 DOE Order Duration Period, as reflected in the Company's operational reports for the Campbell Plant.

The Fuel Costs being included as Order Costs include amounts billed to the Unit 3 co-owners pursuant to long-standing agreements governing the co-ownership of Unit 3.

2. Operations & Maintenance Costs (Labor and Non-Labor Related)

The O&M costs being presented for Commission approval total \$11.490 million.³⁶ They include labor-related, and non-labor-related, costs associated with Campbell Plant operations. Labor-related O&M includes Campbell Plant employee salaries. Non-labor related O&M includes outside contractor services, purchases of equipment and supplies, and fuel handling. In addition, O&M includes costs associated with the delay of plant decommissioning activities, which have both labor and non-labor components.

The O&M Costs include amounts billed to the Unit 3 co-owners. These de minimis amounts (less than approximately \$60,000 out of \$11.490 million in Operating Costs) have been calculated and billed to the Unit 3 co-owners under the relevant operating agreements since Unit 3 began operating in 1980.³⁷

3. Depreciation

The Order Costs include depreciation expense ("Depreciation Expense"), in the amount of \$31.467 million, associated with the continued operation of the Campbell Plant pursuant to the May 2025 DOE Order.³⁸

a. Consumers Energy's Depreciation Expense

The Company's Depreciation Expense was calculated based on the undepreciated net book value of Campbell Units 1, 2, and the Company's share of Unit 3, using actual 2024 plant in service figures from the Company's FERC Form No. 1, and end-of-service lives of May 2031 (for Units 1 and 2) and May 2040 (for Unit 3).

³⁶ *Id.* ¶¶ 17-22 (addressing O&M Costs).

³⁷ Daly Affidavit ¶ 19; MPPA Affidavit ¶ 11; Wolverine Affidavit ¶ 11.

³⁸ Depreciation Expense is addressed in paragraphs 25-26 of the Daly Affidavit. In addition, the Wolverine and MPPA Affidavits address Depreciation Expense for Wolverine and MPPA, respectively. For the avoidance of doubt, the figure for total Depreciation Expense in the Daly Affidavit includes the Depreciation Expense for both of the Unit 3 co-owners. However, the discussion of the Unit 3 co-owners' Depreciation Expense is included in their respective affidavits (Attachments B and C).

Depreciation Expense for Campbell Units 1 and 2 is based on the total depreciable plant amount of \$440.495 million. Depreciating on a straight-line basis through May 2031 (or 77 months) results in a monthly depreciation expense of \$5.721 million for Units 1 and 2. Similarly, Depreciation Expense for Campbell Unit 3 is based on the total depreciable plant amount of \$877.365 million. Depreciating on a straight-line basis through May 2040 (or 185 months) results in a monthly depreciation expense of \$4.743 million. As Mr. Daly explains in his affidavit, these monthly amounts are then prorated based on the number of days of each month within the May 2025 DOE Order Duration Period.

b. Unit 3 Co-Owners' Depreciation Expense

The Depreciation Expense for the May 2025 DOE Order Duration Period is \$0.251 for Wolverine and \$0.501 million for MPPA.³⁹

4. Return on Campbell Rate Base

The Order Costs being presented include a reasonable return (“Return”) on the undepreciated balance for the Campbell Plant in the amount of \$20.670 million.⁴⁰ In addition to the undepreciated balances for Campbell Units 1, 2 and 3, the rate base figure used to derive the Return component also includes working capital for fuel inventory, which is comprised of coal and oil that are necessary to support the continued operation of the Campbell Plant. Additionally, the rate base figure has been adjusted for excess accumulated deferred income taxes (“ADIT”) associated with the Campbell Plant.⁴¹

a. Consumers Energy's Return

Given that Consumers Energy does not own transmission facilities and does not have an applicable Commission-approved return on equity (“ROE”), Commission policy on cost-based rate filings supports using the weighted average cost of capital (“WACC”) of the interconnected transmission utility as a proxy for the generator’s cost of capital.⁴² Here, however, the Company’s

³⁹ See Wolverine Affidavit at ¶ 12; MPPA Affidavit at ¶ 12.

⁴⁰ Return on Campbell Rate Base is addressed in paragraphs 27-33 of the Daly Affidavit. As with Depreciation Expense, Return for Wolverine and MPPA is also addressed in the Wolverine Affidavit and the MPPA Affidavit. Again, for avoidance of doubt, the total figure for Return in the Daly Affidavit includes the Return for both of the Unit 3 co-owners. However, discussion of the Unit 3 co-owners’ Return is included in their respective affidavits.

⁴¹ Consumers Energy’s calculation of Order Costs does not include any tax benefits related to excess deferred tax amortization, because doing so would accelerate the return of certain tax benefits to customers and would cause a normalization violation under the Internal Revenue Code.

⁴² See, e.g., *Panda Stonewall LLC*, 174 FERC ¶ 61,266 at P 177 (2021) (“The Commission has generally allowed merchant generators to use the Commission-authorized cost of capital of the

MPSC-approved cost of capital is based on an ROE component of 9.90%,⁴³ whereas the currently effective MISO-wide ROE is 9.98%. Given that the May 2025 DOE Order was issued to address reliability concerns in the MISO region, it is appropriate for the Company to adopt the MISO-wide ROE figure for this proceeding, particularly given the Commission’s proxy ROE policy for non-utility generators. In addition, the Campbell Plant is interconnected to the transmission system of Michigan Electric Transmission Company (“METC”), whose capital structure is weighted 60% equity and 40% debt,⁴⁴ whereas Consumers Energy’s capital structure is approximately 50% equity, 50% debt.⁴⁵

Even though Commission policy would support use of the higher MISO-wide ROE, and the more favorable METC capital structure, Consumers Energy is proposing a conservative approach that lowers overall Order Costs. Specifically, to facilitate expeditious approval and reduce overall Order Costs, the Company is using the 9.90% ROE authorized by the MPSC (lower than MISO-wide ROE of 9.98%) and an adjusted WACC⁴⁶ in lieu of adopting METC’s more favorable WACC as a proxy (even though Commission policy would support it).

interconnected utility as a proxy.”); *Bluegrass Gen. Co.*, 118 FERC ¶ 61,214 at P 86, *reh’g denied*, 121 FERC ¶ 61,018 (2007); *Dynegy Midwest Gen., Inc.*, Opinion No. 498, 121 FERC ¶ 61,025 at P 54 (2007) (“the use of the interconnected utility as a proxy for a merchant generator was just and reasonable”), *order on reh’g*, 125 FERC ¶ 61,280 (2008); *Calpine Fox, LLC*, 113 FERC ¶ 61,047 at P 17 (2005).

⁴³ As explained in the Daly Affidavit, Consumers Energy’s MPSC-authorized rate of return prior to the originally anticipated retirement of the Campbell Plant was 9.90%. *In the matter of the application of CONSUMERS ENERGY COMPANY for authority to increase its rates for the generation and distribution of electricity and for other relief*, [Order](#), Case No. U-21585-0396 at 254 (Mar. 21, 2025) (“MPSC Case No. U-21585”). Although a 9.0% ROE was subsequently approved in the MPSC Order approving the 2022 IRP Settlement Agreement, that rate was to take effect upon the scheduled retirement, and that underlying assumption is no longer valid due to the DOE’s emergency orders requiring the Campbell Plant to continue operating. Daly Affidavit at n.13. Furthermore, because the updated operating profile, risk exposure, and capital requirements of the Campbell Plant align with the conditions underlying the 9.90% ROE, this ROE is used for purposes of this WACC calculation. *Id.*

⁴⁴ METC, Informational Filing of Annual Formula Rate Update and True-Up, Docket No. ER25-1602-000 (Mar. 3, 2025).

⁴⁵ Daly Affidavit ¶ 28.

⁴⁶ Consumers Energy’s currently effective WACC was established in MPSC Case No. U-21585. Consumers Energy is utilizing its permanent capital structure and ROE approved by the MPSC but has adopted the Commission’s ratemaking convention to exclude accumulated deferred income taxes (“ADIT”) as a component of capital structure in the WACC calculation and has instead reduced the rate base for the ADIT associated with the Campbell Plant to calculate its

To develop Consumers Energy's WACC in accordance with FERC methodology, Mr. Daly calculated the WACC based on the Company's MPSC approved permanent capital structure.⁴⁷ The Company's MPSC approved capital structure is approximately 50% debt and 50% equity with a ROE component of 9.90%, resulting in a WACC of 8.70%.⁴⁸ To calculate the Company's total rate base figure, Mr. Daly calculated ending monthly balances for April 2025 through August 2025, and then computed the monthly average balance for May 2025 through August 2025. He then multiplied this average monthly balance by the 8.70% WACC, to produce a Return component of \$19.875 million.⁴⁹

b. Wolverine and MPPA

The Return on Rate Base for Wolverine and MPPA utilizes a WACC of 7.04%, which is the after-tax WACC derived from Consumers Energy's pre-tax WACC of 8.70%.⁵⁰ Consumers Energy's WACC of 8.70% includes a gross-up for income tax purposes. However, because Wolverine and MPPA do not pay income taxes, Wolverine and MPPA have utilized Consumers Energy's after-tax WACC, which has the effect of removing the income-tax gross up to more

Return for this cost recovery filing. The Commission methodology results in a lower overall return figure than under the MPSC methodology.

⁴⁷ Daly Affidavit ¶ 29.

⁴⁸ The total weighted-average cost of capital calculation approved by the MPSC in Docket U-21585 incorporated the Company's deferred tax balances at a zero-cost rate, consistent with MPSC ratemaking methodology. To align with FERC methodology, the Company has removed these deferred tax balances from the calculation resulting in a WACC based on the Company's permanent capital structure. Daly Affidavit at n.11.

⁴⁹ *Id.* ¶ 32.

⁵⁰ The same rationale supporting Consumers Energy's utilization of the WACC of 8.70% supports the co-owners' derivation from Consumers Energy's WACC. *See, e.g., Ind. Mun. Power Agency*, 114 FERC ¶ 61,008 at P 20 (2006) ("The Commission has accepted the use of proxies by non-public utility generators like IMPA that are not subject to traditional rate regulation.") (citing *City of Vernon*, 93 FERC ¶ 61,103 (2000), *reh'g denied*, 94 FERC ¶ 61,148 (2001)); *id.* at P 10 ("IMPA further states that, since it is not a public utility whose rates are regulated by the Commission, it used an overall rate of return that was based on a proxy derived from the capital structure and return on equity (and overall rate of return) of LG&E, the owner of the transmission facilities with which TC-1 interconnects."); *see also Manitowoc Pub. Utils.*, 182 FERC ¶ 61,184 (2023). In other words, although Commission policy on cost-based rate filings supports using the WACC of the interconnected utility, Consumers Energy is conservatively using the lower MPSC-approved figure. The co-owners are following the same approach, but also reducing WACC to strip out the income tax gross-up as neither entity is subject to income taxes. Again, this results in an overall lowering of the Order Costs being presented for approval.

accurately reflect their tax-exempt status.⁵¹ Wolverine and MPPA's respective Return components associated with their minority interests in Unit 3 are \$0.252 and \$0.542 million, respectively.⁵²

5. Tax Expenses and Other Fees

The Order Costs include Campbell Plant property taxes, insurance expenses and fees ("Tax Expenses and Other Fees") in the amount of approximately \$559,000.⁵³ These expenses were calculated based on the valuation of the plant and the total property tax obligation for 2025, using a simple proration of total property tax costs based on the number of days corresponding to the May 2025 DOE Order Duration Period. In addition, the amounts for property insurance and general liability insurance were developed using the premiums applicable to the Campbell Plant for 2025 and applying the same proration methodology described above.

The Tax Expenses and Other Fees being included as Order Costs include amounts billed to the Unit 3 Co-Owners pursuant to long-standing agreements governing the co-ownership of Unit 3.

6. Direct Legal and Other Costs

The Order Costs being presented for Commission approval include direct legal and consulting costs associated with the May 2025 DOE Order ("Direct Legal and Consulting Costs") for Consumers Energy and the Campbell Unit 3 co-owners. As explained below, the Direct Legal and Consulting Costs incurred (*i.e.*, invoiced) through the end of the May 2025 Order Duration Period are \$214,111.

Direct Legal and Consulting Costs associated with the May 2025 DOE Order have been incurred after the expiration of the May 2025 DOE Order—and such costs continue to be incurred. For example, the costs of preparing this filing and participating in this proceeding are Order Costs associated with the May 2025 DOE Order. Other examples of ongoing legal costs include the Company's participation in legal proceedings involving third-party challenges to the validity of the May 2025 DOE Order (and therefore directly implicating the Company's compliance obligations). Because of the ongoing nature of the Direct Legal and Consulting Costs⁵⁴—and to reduce administrative burden—this cost recovery filing only includes Direct Legal and Consulting Costs incurred through the end of the May 2025 Order Duration Period. Any Direct Legal and Consulting Costs associated with the May 2025 DOE Order but incurred during the August 2025

⁵¹ See Daly Affidavit ¶ 31.

⁵² See *id.* ¶ 33.

⁵³ Daly Affidavit ¶¶ 10, 34-36 (addressing Property Taxes, Insurances and Other Fees).

⁵⁴ The ongoing nature of the Direct Legal and Consulting Costs differs from that of the other categories of Order Costs, which are known and finite as of the end of the Order Duration Period.

DOE Order duration period will be presented in a separate cost recovery filing addressing that particular order. Likewise, any Direct Legal and Consulting Costs associated with the May 2025 DOE Order but incurred during the November 2025 DOE Order duration period will be addressed in a future cost recovery filing addressing that particular order. Although the precise cadence of future cost recovery filings has not been determined, the Company will address Direct Legal and Consulting Costs of the DOE 202(c) orders on the rolling basis described above, based on costs incurred (i.e., invoiced) during a given 90-day order duration period.

Direct Legal and Other Costs for Wolverine and MPPA are being calculated and presented on the same rolling basis as for Consumers Energy. The Wolverine component of the Direct Legal and Other Costs incurred through the end of the May 2025 DOE Order Duration Period is \$0.038 million.⁵⁵ MPPA did not have any Direct Legal and Other Costs incurred through the end of the May 2025 DOE Order Duration Period.⁵⁶

7. No Plant-Wide Administrative & General Expenses Being Included

As Mr. Daly explains, the Company is not proposing to recover a plant-wide general allocation of corporate Administrative & General (“A&G”) costs associated with the May 2025 DOE Order, even though such costs were incurred and typically are recoverable. Again, this is a conservative approach intended to avoid disputes regarding the Order Costs and facilitate Commission approval.⁵⁷ Similarly, neither MPPA nor Wolverine seek to include any allocation of corporate A&G costs incurred by those entities.

C. Market Settlement Revenue

During the May 2025 DOE Order Duration Period, the Campbell Plant was offered into the MISO real time and day ahead markets on a “must run” basis, subject to outages and within defined load parameters due to operational limitations.⁵⁸ Subject to outages, the Campbell Units ran on a continuous basis for the 90-day Order Duration Period (committed from 00:00 to 23:59 each day).

The total revenue earned from the Campbell Plant’s participation in the MISO markets during the May 2025 DOE Order Duration Period was \$77.672 million, including revenue earned

⁵⁵ Wolverine Affidavit ¶¶ 14-16.

⁵⁶ MPPA Affidavit ¶¶ 14-16.

⁵⁷ Although general A&G costs associated with the May 2025 DOE Order are not included in this filing, the Company and the co-owners reserve the right to seek A&G costs for subsequent DOE orders requiring Campbell to remain in operation.

⁵⁸ The DOE has confirmed that operating the units on a “must run” basis is consistent with the obligation under the May 2025 DOE Order to make the units “available to operate.” See DOE, [Order Addressing Arguments Raised on Rehearing](#), Order No. 202-25-3B (Sept. 8, 2025).

by Consumers Energy as well as the Unit 3 co-owners.⁵⁹ This revenue has been netted against the costs described herein, which has the effect of lowering the Order Costs that Consumers Energy is presenting for Commission approval.⁶⁰

III. LEGAL BASES FOR RECOVERY OF MAY 2025 DOE ORDER COSTS

A. *Costs Associated with an Order Issued Pursuant to FPA Section 202(c) Are Recoverable*

As noted above, the Complaint Order approved the cost allocation mechanism and method for the costs associated with the May 2025 DOE Order to be recovered. Consumers Energy and the co-owners of Unit 3 have a right to recover such actual costs (net of market revenues). This is confirmed by the plain language of FPA section 202(c), and the May 2025 DOE Order, itself:

- FPA section 202(c): “If the parties affected by such order fail to agree upon the terms of any arrangement between them in carrying out such order, the Commission, after hearing held either before or after such order takes effect, may prescribe by supplemental order such terms as it finds to be just and reasonable, including the compensation or reimbursement which should be paid to or by any such party.”⁶¹
- May 2025 DOE Order: “Rate recovery is available pursuant to [FPA section 202(c)].”⁶²

Indeed, recovery of section 202(c) order costs is mandated by the U.S. Constitution.⁶³ Well-established precedent confirms that a utility providing regulated service has the right to recover its cost of service, which includes “all operating expenses, including depreciation,

⁵⁹ Daly Affidavit ¶¶ 40-42 (addressing MISO Market Revenue for the May 2025 DOE Order Duration Period).

⁶⁰ Given the planned retirement of the Campbell Plant at the end of May 2025, the Plant was not offered as a MISO capacity resource for the 2025/2026 Planning Reserve Auction. However, MPPA’s MISO market revenue includes a short-term bilateral capacity sale. Although the May 2025 DOE Order does not address the Campbell Plant’s participation as a capacity resource, subsequent 202(c) orders impacting the Campbell Plant state that “the Campbell Plant shall not be considered a capacity resource.” *See, e.g.*, August 2025 DOE Order at Ordering Paragraph G. Based on the foregoing language, it is Consumers Energy’s understanding that DOE does not intend for the Campbell Plant to be eligible to make capacity sales going forward.

⁶¹ 16 U.S.C. § 824a(c)(1).

⁶² May 2025 DOE Order at Ordering Paragraph F.

⁶³ U.S. CONST. AMEND. V (“[N]or shall private property be taken for use, without just compensation.”); *see, e.g., Duquesne Light Co. v. Barasch*, 488 U.S. 299, 308 (1989) (“If the rate does not afford sufficient compensation, the State has taken the use of utility property without paying just compensation . . .”).

depletion, and taxes, plus a fair return on the rate base.”⁶⁴ Moreover, rates that “are not sufficient to yield a reasonable return on the value of the property used at the time it is being used . . . are confiscatory.”⁶⁵ This understanding is fundamental to what has been referred to as the “regulatory compact”—providing for government regulation of rates for private industry—because “[t]he utility is not a servant to the state; it is a for-profit enterprise which incurs legal obligations in exchange for state-conferred benefits.”⁶⁶

Recognition of the right to full cost of service recovery is rooted in the Fifth Amendment takings clause, which bars the federal government from taking private property for public use without just compensation. In the context of FPA sections 205 and 206—and the Commission’s regulation of rates thereunder—courts have long held that the Fifth Amendment’s prohibition on takings bars the Commission from adopting “confiscatory” rates.⁶⁷ The Supreme Court’s decision in *FPC v. Hope Natural Gas Co.*⁶⁸ provides foundational guidance on the question of when rates approved—or imposed—by the Commission pursuant to the FPA become confiscatory, and thus unconstitutional. In *Hope*, the Supreme Court held that rates must be set to provide a return commensurate with the return received by other enterprises with comparable risk, and also must meet a financial sufficiency standard.⁶⁹

The precedent discussed above—holding that denial of full cost of service recovery, including a reasonable return, is confiscatory—addresses the issue in the context of rates established pursuant to FPA sections 205 and 206, where the utility in question has *voluntarily* chosen to undertake jurisdictional service. The same principles apply with even greater force where, as here, a utility is being compelled to operate a generation unit pursuant to FPA section 202(c). Any other outcome would render the May 2025 DOE Order constitutionally infirm for violating the Takings Clause.

⁶⁴ *Wis. v. Fed. Power Comm’n*, 373 U.S. 294, 298 n.6 (1963); *see also Ala. Power Co. v. FERC*, 160 F.3d 7, 8 n.1 (D.C. Cir. 1998) (citing Charles F. Phillips, Jr., *The Regulation of Public Utilities* 177 (3d ed. 1993)); *Chi. v. Fed. Power Comm.*, 458 F.2d 731, 734 n.9 (D.C. Cir. 1971) (citing *City of Chicago v. F.P.C.*, 110, 385 F.2d 629, 632 (1967), *cert. denied*, *Pub. Serv. Comm. v. F.P.C.*, 390 U.S. 945 (1968)).

⁶⁵ *Bluefield Water Works & Improvement Co. v. Pub. Serv. Comm’n*, 262 U.S. 679, 690 (1923).

⁶⁶ *Jersey Cent. Power & Light Co. v. FERC*, 810 F.2d 1168, 1189 (D.C. Cir. 1987).

⁶⁷ *See, e.g., id.*

⁶⁸ 320 U.S. 591 (1944) (“*Hope*”).

⁶⁹ *Id.* at 603.

B. Order Costs Include Fixed Costs, as well as Variable Costs

Although the legal sources for authority are different for mandated continued operation of a generation facility pursuant to FPA section 202(c) versus required continuing operation of a generation facility pursuant to the provisions of the MISO Tariff governing System Support Resources (“SSRs”), the circumstances are sufficiently similar that Commission precedent regarding recovery of fixed costs for SSR units is instructive on the issue of a generator’s right to recover fixed costs.⁷⁰ Specifically, the Commission has ruled, in the context of a complaint pursuant to FPA section 206, that MISO SSRs have the right to recover fixed costs, and that limiting such units to recovering only “going-forward costs” is unjust and unreasonable.⁷¹ Below, we discuss the background and relevant holdings from the Commission’s 2014 MISO SSR Order because the same legal principles dictate that it would be unjust and unreasonable to deny recovery of the fixed costs associated with keeping Campbell available, as required by the May 2025 DOE Order and subsequent (and future) related orders.

In 2004, the Commission approved a host of revisions to the MISO Tariff in preparation for the start of its “Day 2” markets.⁷² Among those tariff changes, MISO filed—and the Commission accepted—a procedure requiring Market Participants that have decided to retire or suspend a generation resource to submit to MISO a notice pursuant to Attachment Y of the MISO Tariff at least 26 weeks prior to the resource’s planned retirement or suspension effective date. During this 26-week notice period, MISO would conduct a study to determine whether all or a portion of the resource’s capacity is necessary to maintain system reliability. If MISO determines that reliability concerns require the unit in question to provide continued service beyond its planned deactivation date, MISO designates it an SSR unit and compensation is addressed in an SSR agreement that is filed with the Commission.

⁷⁰ In addition to the legal sources of authority being different between required generation pursuant to FPA section 202(c) and the MISO SSR Tariff provisions, the cost allocation approach is also different. The Complaint Order has already determined the just and reasonable cost allocation with respect to costs associated with the May 2025 DOE Order, and any orders requiring the continued operation of the Campbell Plant. The discussion herein of SSR precedent supports recognition of the fact that fixed costs are part of cost-of-service rates that have long been recognized by the Commission, particularly where a generator is being required to operate despite plans to cease operations.

⁷¹ *Midcontinent Indep. Sys. Operator, Inc.*, 148 FERC ¶ 61,057 at P 84 (2014) (“MISO SSR Order”).

⁷² *Midwest Indep. Transmission Sys. Operator, Inc.*, 108 FERC ¶ 61,163 (“TEMT II Order”), *order on reh’g*, 109 FERC ¶ 61,157 (2004) (“TEMT II Rehearing Order”) (together, “TEMT II Orders”).

The Commission conditionally accepted MISO's 2004 proposed Tariff amendments, including the SSR provisions.⁷³ On the issue of compensation, the Commission at that time emphasized that "all SSR units should be fully compensated for any costs incurred because of their extended service."⁷⁴

In 2012, MISO filed with the Commission proposed revisions to the SSR rules in the MISO Tariff and expressly sought to limit SSR compensation to only "going forward costs."⁷⁵ At the time, an affiliate of Ameren Corp. ("Ameren") owned a generation unit that MISO had recently designated as an SSR unit. When MISO took the position that compensation was limited to only going forward costs, Ameren filed a complaint. Ameren asserted that the MISO Tariff should be interpreted as providing for an SSR resource to fully recover its costs, including investment in existing plant, if it is being required by MISO to run for reliability purposes beyond the unit's requested deactivation date. In the alternative, Ameren argued that the MISO Tariff was unjust and unreasonable if it did not allow recovery of fixed costs. Ameren described the issue as follows:

The essence of this dispute is whether SSR compensation should include a rate of return on existing rate base (and associated taxes) as well as depreciation expense for undepreciated existing plant. MISO has argued that its tariff restricts SSR compensation to "going forward" costs, which it generally interprets to mean only those costs that could be avoided by retiring the plant, therefore excluding a return on existing rate base as well as depreciation expense. There is no basis to provide only a subset of a generator's cost of service in the SSR or [Reliability Must Run ("RMR")] context[.]⁷⁶

FERC agreed with Ameren's alternative argument:

[W]e grant the Complaint's alternative request for relief and find that section 38.2.7.h of the Tariff is unjust, unreasonable, and unduly discriminatory or preferential because, when MISO negotiates with a market participant to determine the level of SSR compensation, the Tariff does not allow MISO to compensate SSRs for the fixed costs of existing plant. While the Commission has accepted a range of reasonable compensation methodologies for RMR units in RTOs/ISOs, *we find that it is unjust and unreasonable to not allow*

⁷³ TEMT II Order, 108 FERC ¶ 61,163 at PP 370-72.

⁷⁴ TEMT II Rehearing Order, 109 FERC ¶ 61,157 at P 293.

⁷⁵ Filing to Enhance System Support Resource Provisions, Docket No. ER12-2302-000 at Tab B, Tariff § 38.2.7 h.ii (July 25, 2012) ("July 25, 2012 Filing").

⁷⁶ Complaint and Request for Fast-Track Processing of AmerenEnergy Resources Generating Company against MISO, Docket No. EL13-76-000, at 15 (filed July 5, 2013) ("Ameren Complaint").

*SSRs to receive compensation for the fixed costs of existing plant given MISO's authority under its Tariff to unilaterally require a generator that seeks to retire or suspend operations to remain online in order to address reliability concerns.*⁷⁷

The Commission's conclusion that it would be unjust and unreasonable to deny SSRs the right to receive compensation for the fixed costs of existing plant applies with equal force here, in the context of generation mandated by a DOE order pursuant to FPA section 202(c). In both contexts, a generation owner is being *required* to operate its generation facility beyond the date on which the owner had planned and received MISO approval to retire the unit. In both contexts, full cost of service recovery is required to avoid a violation of the Takings Clause of the U.S. Constitution.

C. There Will Be No Double Recovery of Fixed Costs

Consumers Energy recognizes that some entities may argue that Campbell's Fixed Costs are already being recovered through retail rates approved by the MPSC and that FERC should deny recovery pursuant to proposed Schedule 55 to prevent double recovery. The Commission should reject any such arguments.

First, the Company is currently recovering a return of and on the net book value of the Campbell Plant pursuant to a settlement approved by the MPSC. However, a Commission determination regarding the recovery of fixed costs here will not result in double recovery because the Company has committed in proceedings before the MPSC to refund to Michigan customers such costs as are recovered through the MISO Tariff. This ensures there will be no double recovery.⁷⁸

Second, this approach is necessary in order to avoid the unjust and unreasonable outcome of Consumers Energy's customers being required to shoulder more than their fair share of the May 2025 DOE Order costs. As a threshold matter, Consumers Energy's customers are already paying for the new capacity that the Company acquired in anticipation of the Campbell Plant's retirement. Moreover, pursuant to the regional cost allocation approach the Commission approved in the Complaint Order, Consumers Energy's customers will pay a proportionate share of the Order Costs—along with other customers throughout MISO Zones 1 through 7, based on the scope and nature of the emergency declared in the May 2025 DOE Order. As the Commission has already concluded, this outcome is just and reasonable. Specifically, the Commission stated in the Complaint Order: “[W]e find that it is just and reasonable for the cost allocation method to allocate costs in accordance with the scope of the emergency as described by the DOE Order.”⁷⁹

⁷⁷ MISO SSR Order, 148 FERC ¶ 61,057 at P 84 (emphasis added) (footnote omitted).

⁷⁸ Wolverine and MPPA do not provide retail service, and therefore do not recover any portion of their fixed costs through retail rates.

⁷⁹ Complaint Order, 192 FERC ¶ 61,158 at P 39.

Furthermore, “the most reasonable reading of the DOE Order’s intended scope is that the emergency necessitating the continued operation of the Campbell Plant is in the MISO North and MISO Central regions, i.e., Local Resource Zones 1-7.”⁸⁰ Denying recovery of fixed costs would directly contradict the Complaint Order’s conclusions by making Consumers Energy’s customers solely responsible for these legitimate Order Costs.

IV. EFFECTIVE DATE

Consumers Energy requests that the Commission approve the May 2025 DOE Order Costs presented herein and establish an effective date of May 23, 2025, the same effective date requested for Proposed Schedule 55.

V. NOTICE AND SERVICE

Consumers Energy has served a copy of this filing upon MISO and the MPSC.

VI. COMMUNICATIONS

Consumers Energy requests that communications regarding this filing should be addressed to the following individuals, whose names should be placed on the Commission’s official service list for this proceeding.⁸¹

Rachael H. Moore
Senior Attorney
Consumers Energy Company
One Energy Plaza
Jackson, MI 49201
517-788-1147
rachael.moore@cmsenergy.com

Donna M. Byrne
Christopher R. Jones
Miles H. Kiger
TROUTMAN PEPPER LOCKE LLP
401 9th Street NW, Suite 1000
Washington, DC 20004
(202) 274-2881
donna.byrne@troutman.com

VII. CONTENTS OF FILING

Consumers Energy is submitting the following documents with this filing:

⁸⁰ *Id.* P 40.

⁸¹ Consumers Energy respectfully requests waiver of 18 C.F.R. § 385.203(b)(3) so that more than two persons may be designated for service on the official service list in this proceeding.

1. Transmittal Letter;
2. Attachment A – Daly Affidavit and Exhibits;
3. Attachment B – Wolverine Affidavit; and
4. Attachment C – MPPA Affidavit

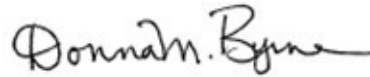
VIII. CONCLUSION

For the foregoing reasons, Consumers Energy respectfully requests that the Commission approve the May 2025 DOE Order Costs presented herein. Once approved by the Commission, such costs will become Recoverable Order Costs, as defined in Proposed Schedule 55, to be allocated and recovered through the MISO Tariff.

Respectfully submitted,

/s/ Rachael H. Moore

Rachael H. Moore
Senior Attorney
Consumers Energy Company
One Energy Plaza
Jackson, MI 49201
517-788-1147
rachael.moore@cmsenergy.com



Donna M. Byrne
Christopher R. Jones
Miles H. Kiger
TROUTMAN PEPPER LOCKE LLP
401 9th Street NW, Suite 1000
Washington, DC 20004
(202) 274-2881
donna.byrne@troutman.com

cc:

MISO
Tim Caister
Michael Kessler

Michigan Public Service Commission
Chairman Dan Scripps
Commissioner Katherine Peretick
Commissioner Shaquila Myers

Enclosures