S T A T E O F M I C H I G A N

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of **CONSUMERS ENERGY COMPANY** to implement a distribution incentive and disincentive mechanism consistent with the Commission's February 27, 2025 order in Case No. U-21400.	)))))))	Case No. U-21911

At the May 14, 2026 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. Daniel C. Scripps, Chair
Hon. Katherine L. Peretick, Commissioner
Hon. Shaquila Myers, Commissioner

ORDER

Background

In the April 24, 2023 order in Case No. U-21400 (April 24 order), the Commission established the Financial Incentives and Disincentives workgroup as part of the MI Power Grid Initiative to develop metrics relating to reliability, including, but not limited to, system average interruption duration index (including and excluding major event days), system average interruption frequency index, customers experiencing multiple interruptions, and customer average interruption duration index. The Commission also directed the workgroup to explore and evaluate resilience, including, but not limited to, downed wire response and the frequency and duration of outages during extreme weather, using the Commission's recently updated Service Quality and Reliability Standards for Electric Distribution Systems rules, Mich Admin Code, R 460.701 *et seq*., as a baseline. *See*, April 24 order, p. 12. Additionally, the Commission directed the workgroup to explore rate structures by which incentives and disincentives may be applied, otherwise known as a "Reliability Plus" approach. *Id*. To facilitate discussion on these issues, the Commission developed a straw proposal that identified candidate distribution investment and maintenance plan[1] performance metrics and applicable methods by which incentives and disincentives may be applied.[2] The straw proposal was issued on August 30, 2023, in Case No. U-21400, at which time the Commission solicited comments from interested persons regarding the candidate metrics, the proposed target performance identified for each metric, the potential incentive/disincentive mechanisms to be applied to each metric, and alternative metrics or approaches to those identified in the straw proposal. The Commission received hundreds of comments in Case No. U-21400 regarding the straw proposal.

The Commission Staff (Staff) hosted two engagement sessions with interested persons following the comment periods to discuss the straw proposal and alternative approaches. On December 19, 2023, in Case No. U-21400, the Staff filed a status report and a revised straw proposal in response to the comments and feedback received.

On December 21, 2023, the Commission issued an order in Case No. U-21400 directing the Staff to convene an additional engagement session with interested persons to discuss the revised straw proposal and the Commission invited additional comment. Several utilities and advocacy groups, a municipality, and a multitude of citizens filed initial and reply comments in Case

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[1] Distribution investment and maintenance plans are now referred to as distribution system plans. *See*, July 10, 2025 order in Case No. U-20147.

[2] The straw proposal initially focused on metrics and methods for DTE Electric Company (DTE Electric) and Consumers Energy Company (Consumers) and the workgroup expects to discuss the applicability of these metrics to other investor-owned utilities through future engagements and the review of comments.

No. U-21400 regarding the revised straw proposal. On May 3, 2024, the Staff filed a Financial Incentives and Disincentives Workgroup Report and updated straw proposal in Case No. U-21400 (updated straw proposal). *See*, Case No. U-21400, filing #U-21400-0040.

On June 6, 2024, the Commission issued an order in Case No. U-21400 (June 6 order) that reviewed the initial comments and reply comments received in response to the revised straw proposal and provided a summary of the Staff's updated straw proposal. The Commission also requested "comments on the updated straw proposal, including implementation steps for the financial incentives/disincentives mechanism as they may interact with existing rate case proceeding processes and filing requirements." June 6 order, p. 31. The Commission again received a multitude of comments.

On February 27, 2025, the Commission issued an order in Case Nos. U-21400 and U-21122 (February 27 order) summarizing the comments received regarding the updated straw proposal, defining the steps for implementing the financial incentive/disincentive mechanism, and discussing a number of additional issues. The Commission also approved a financial incentive/disincentive mechanism for Consumers and DTE Electric and directed each company to file a proposed performance mechanism[3] in a company-specific standalone proceeding by April 15, 2025.

On April 15, 2025, Consumers filed its application in this case, with supporting testimony and exhibits, requesting Commission approval of its proposed timeline and process for implementing the incentive/disincentive mechanism required by the February 27 order and acceptance of the

[3] Throughout the order, the phrase "performance-based ratemaking" is used. The Commission notes that performance-based ratemaking is a subset of the more general concept of performance-based regulation, or PBR. The Commission finds the term performance-based ratemaking more accurately reflects the substance of the proceeding, which involves the establishment of metrics and tying them to incentives and disincentives, which is a form of ratemaking.

company's presentation of certain baseline metrics and calculation of performance targets. Application, p. 1.

A prehearing conference was held on June 3, 2025, before Administrative Law Judge Christopher S. Saunders (ALJ). The ALJ recognized the intervention of the Michigan Department of Attorney General and granted intervention to the Citizens Utility Board of Michigan, the Great Lakes Renewable Energy Association (GLREA), and the Association of Businesses Advocating Tariff Equity. Consumers and the Staff also participated in the proceeding.

Subsequently, on November 25, 2025, the parties filed a settlement agreement in this docket (November 25 settlement agreement) resolving all issues in the case, with GLREA filing a statement of non-objection to the settlement agreement. The Commission notes that the settlement agreement was expressly conditioned on the Commission's decision on the contested settlement in Case No. U-21909.

On December 18, 2025, the Commission issued an order in this docket (December 18 order) approving the November 25 settlement agreement finding that "the public interest is adequately represented by the parties who entered into the settlement agreement." December 18 order, p. 5. In addition, the Commission found that the November 25 settlement agreement "is in the public interest, represents a fair and reasonable resolution of the proceeding, and should be approved." *Id*.

On January 19, 2026, GLREA filed a petition for rehearing of the December 18 order in this docket (GLREA's petition for rehearing) pursuant to the Commission's Rules of Practice and Procedure, Mich Admin Code, R 792.10437 (Rule 437). On February 9, 2026, Consumers filed an answer in this docket opposing GLREA's petition for rehearing (Consumers' answer).

<u>Great Lakes Renewable Energy Association's Petition for Rehearing</u>

GLREA asserts that, after discussions with Consumers and review by other parties, GLREA received permission to insert the following provision into the November 25 settlement agreement as a condition of GLREA's non-objection to the settlement agreement:

> 13. This settlement agreement is expressly conditioned on the Commission's decision in the contested settlement agreement in Case No. U-21909. If the Commission rejects or modifies the parties' proposed contested settlement agreement in Case No. U-21909, this settlement shall be withdrawn, without any prejudice to the parties' pre-settlement positions in this case, and the Administrative Law Judge will set a schedule for further proceedings in this case, to include the opportunity for the parties to resume settlement discussions in light of the Commission's decision in [Case No.] U-21909. The parties agree that any party may file an objection to this settlement agreement pursuant to Rule 431, [Mich Admin Code,] R 792.10431, in the event the Commission rejects this provision.

GLREA's petition for rehearing, p. 1. Accordingly, GLREA contends that its non-objection to the November 25 settlement agreement was conditioned upon the final decision in Case No. U-21909.

GLREA notes that it filed a petition for rehearing of the December 18, 2025 order in Case No. U-21909 and, thus, the December 18, 2025 order in Case No. U-21909 "is not final, and may be subject to amendment by the Commission based upon GLREA's Rehearing Petition." GLREA's petition for rehearing, p. 1. In addition, GLREA asserts that because the December 18, 2025 order in Case No. U-21909 is not final and GLREA's non-objection to the November 25 settlement agreement was conditioned on a final order in Case No. U-21909, GLREA requests that the Commission grant rehearing in the immediate case.

According to GLREA, the November 25 settlement agreement contains the same issues as the contested settlement agreement approved by the December 18 order in Case No. U-21909. GLREA explains that:

> [t]he specific targets and baseline set in that case (and in this Consumers Energy case) associated with each metric were far too low and deficient, resulting in the endorsement of performance for both utilities falling within the lowest tier of performance when compared to other utilities on a regional, national, or peer group basis. GLREA's evidence and briefing in DTE Electric [Case No.] U-21909 had

> established that both DTE Electric and Consumers Energy had deficient service performance, and that the Commission should have set a baseline and numerical metric targets that would require both utilities to achieve at least an average of the performance achieved by other regional, national or peer group utilities, with the objective of encouraging further improvements in service performance to ultimately achieve the top quartile of service performance as achieved by the top large electric utilities on a national basis.

GLREA's petition for rehearing, p. 3. GLREA asserts that the performance-based ratemaking mechanism in the November 25 settlement agreement is "ineffective and unsatisfactory" and it may "burden each utility's ratepayers with additional rate costs while receiving continued deficient service performance, placing an undue burden upon the utility's ratemaking customers without receiving a corresponding meaningful benefit." GLREA's petition for rehearing, pp. 3-4.

GLREA requests that, following the Commission's review and revision of the December 18, 2025 order in Case No. U-21909, the Commission grant rehearing in this case to improve Consumers' performance-based ratemaking mechanism. Specifically, GLREA recommends that the Commission:

> provide the opportunity for the parties to file additional testimony and exhibits, and/or to reconvene settlement discussions in this case, with the goal of substantially improving the proposed PBR mechanism in this case, and to specifically revise the baseline level and targets to be associated with each performance metric, so as to: (i) finally establish a PBR mechanism which is just and reasonable, and which provides meaningful and effective incentives for improved utility performance; (ii) which fully balances the interests of the utility and their customers; and (iii) to enable the Commission to uphold its duty to set just, reasonable, and affordable rates.

GLREA's petition for rehearing, p. 4.

Consumers Energy Company’s Answer Opposing Great Lakes Renewable Energy Association’s Petition for Rehearing

Consumers objects to GLREA’s petition for rehearing, asserting that the relief requested by GLREA is beyond the scope of this proceeding. The company notes that paragraph 13 of the November 25 settlement agreement states that:

> the agreement is “expressly conditioned on the Commission’s decision in the contested settlement agreement in Case No. U-21909.” See November [sic: 25], 2025 Settlement Agreement, paragraph 13. According to the terms of the settlement, the settlement was to be withdrawn by the parties “[i]f the Commission rejects or modifies the parties’ proposed contested settlement agreement in Case No. U-21909 . . . .” That condition did not occur. Instead, the Commission approved the parties’ contested settlement agreement in Case No. U-21909 without change.

Consumers’ answer, pp. 1-2 (quoting November 25 settlement agreement, p. 7). Consumers contends that the November 25 settlement agreement has not been withdrawn in this case and the Commission appropriately approved it.

Next, Consumers asserts that the Commission approved the financial incentive/disincentive mechanism in the February 27 order, which was based on many months of comments and meetings with interested persons. Consumers notes that “GLREA was an active participant in that process and had ample opportunity to offer its input for the Commission’s consideration before the Commission issued its February 27, 2025 Order.” Consumers’ answer, p. 2. Consumers states that in the February 27 order, the Commission directed the company to file a performance-based ratemaking mechanism in a standalone proceeding that is consistent with the framework approved in the February 27 order. The company asserts that the scope of this standalone proceeding is limited to the implementation of the financial incentive/disincentive mechanism approved in the February 27 order and “does not include a full reevaluation of the nature of the PBR mechanism the Commission determined to be just and reasonable.” Consumers’ answer, p. 2. Accordingly, the company contends that GLREA's request for rehearing is beyond the scope of this proceeding and recommends that the Commission deny GLREA's petition for rehearing.

However, in the event the Commission grants GLREA's request for rehearing in Case No. U-21909, Consumers notes that the November 25 settlement agreement could be withdrawn without any prejudice to the parties' pre-settlement positions in this case. The company states that:

> [i]f that occurs, the appropriate action would be for the Commission to acknowledge that the Settlement Agreement is withdrawn, vacate its December 18, 2025 Order approving the Settlement Agreement, and direct the Administrative Law Judge to set a schedule for further proceedings in this case, to include the opportunity for the parties to resume settlement discussions in light of the Commission's decision in Case No. U-21909.

Consumers' answer, p. 3. If the November 25 settlement agreement is not withdrawn, the company asserts that no further action on the November 25 settlement agreement is appropriate because GLREA did not object to the settlement agreement.

<u>Discussion</u>

Rule 437 provides that a petition for rehearing may be based on claims of error, newly discovered evidence, facts or circumstances arising after the hearing, or unintended consequences resulting from compliance with the order. A petition for rehearing is not merely another opportunity for a party to argue a position or to express disagreement with the Commission's decision. Unless a party can show the decision to be incorrect or improper because of errors, newly discovered evidence, or unintended consequences of the decision, the Commission will not grant a rehearing.

GLREA's petition for rehearing was filed pursuant to Rule 437. However, the Commission finds that GLREA failed to assert a claim of error in the December 18 order, any newly discovered evidence, facts or circumstances that arose after the hearing, or unintended consequences of the decision. Rather, GLREA asserts that if the Commission grants the rehearing petition in Case No. U-21909, the Commission should "review and revise its order approving the Settlement Agreement in this case ([Case No.] U-21911), so as to improve the PBR mechanism for each utility in each case." GLREA's petition for rehearing, p. 4. It is unclear how GLREA's request fits the criteria for approving a petition for rehearing pursuant to Rule 437. In any event, the Commission notes that the order issued today in Case No. U-21909 denies GLREA's petition for rehearing and, therefore, paragraph 13 of the November 25 settlement agreement does not apply. Accordingly, the Commission finds that GLREA's petition for rehearing in the immediate case does not meet the criteria of Rule 437 and should be denied.

THEREFORE, IT IS ORDERED that Great Lakes Renewable Energy Association's petition for rehearing is denied.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26. To comply with the Michigan Rules of Court's requirement to notify the Commission of an appeal, appellants shall send required notices to both the Commission's Executive Secretary and to the Commission's Legal Counsel. Electronic notifications should be sent to the Executive Secretary at LARA-MPSC-Edockets@michigan.gov and to the Michigan Department of Attorney General - Public Service Division at sheac1@michigan.gov. In lieu of electronic submissions, paper copies of such notifications may be sent to the Executive Secretary and the Attorney General - Public Service Division at 7109 W. Saginaw Hwy., Lansing, MI 48917.

MICHIGAN PUBLIC SERVICE COMMISSION

Daniel C. Scripps, Chair

Katherine L. Peretick, Commissioner

Shaquila Myers, Commissioner

By its action of May 14, 2026.

Lisa Felice, Executive Secretary

P R O O F O F S E R V I C E

STATE OF MICHIGAN)

Case No. U-21911

County of Ingham)

Brianna Brown being duly sworn, deposes and says that on May 14, 2026 A.D. she electronically notified the attached list of this **Commission Order via e-mail transmission**, to the persons as shown on the attached service list (Listserv Distribution List).

Brianna J. Brown

Brianna Brown

Subscribed and sworn to before me
this 14th day of May 2026.

Angela P. Sanderson

Angela P. Sanderson
Notary Public, Shiawassee County, Michigan
As acting in Eaton County
My Commission Expires: May 21, 2030

Service List for Case: U-21911

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