STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of **CONSUMERS ENERGY COMPANY** for reconciliation of its 2024 demand response program costs.	)))))	Case No. U-21906

At the November 5, 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

On May 9, 2025, Consumers Energy Company (Consumers) filed an application in this case, with supporting testimony and exhibits, requesting authority to reconcile its 2024 demand response (DR) costs and revenues in accordance with the September 15, 2017 order in Case No. U-18369 (September 15 order) and Sections 6a and 6x of Public Act 3 of 1939, as amended.

A prehearing conference was held on June 26, 2025, before Administrative Law Judge James M. Varchetti (ALJ). Consumers and the Commission Staff (Staff) participated in the proceeding.

On September 25, 2025, the Staff filed testimony and exhibits, and on October 22, 2025, Consumers filed rebuttal testimony.

On November 18, 2025, the ALJ conducted an evidentiary hearing, wherein testimony and exhibits were bound into the record and cross-examination was waived.

On December 19, 2025, the Staff and Consumers filed their initial briefs, and on January 6, 2026, both parties filed reply briefs.

On February 25, 2026, the ALJ issued his Proposal for Decision (PFD). The Staff and Consumers filed exceptions to the PFD on March 18, 2026. On April 1, 2026, the Staff filed replies to exceptions and Consumers filed a letter stating the company would not be filing replies to exceptions. The record in this case consists of 120 pages of transcript along with 17 admitted exhibits.

Proposal for Decision

The ALJ addressed three issues that were initially briefed by the parties but found to be either resolved by the parties or rendered moot by intervening events. PFD, pp. 3-4. First, the ALJ recognized that the parties disputed proposed changes to the DR regulatory construct but that in its December 18, 2025 order in Case No. U-21637 (December 18 order), the Commission directed that DR be included in rate cases after a final reconciliation has taken place under the existing regulatory construct. December 18 order, p. 10. As such, the ALJ found that this issue is now moot.

Next, the ALJ addressed an issue related to Consumers' Smart Thermostat Program (STP). PFD, p. 3. As noted by the ALJ, Consumers desired to improve the cost effectiveness of the STP through offline device management, while the Staff wanted updates on the company's STP efforts and any cost savings results to be included in the company's next DR filing. *Id*. The ALJ recognized that Consumers resolved the issue by agreeing to provide the information as recommended by the Staff. *Id*.; *see also*, Consumers' reply brief, p. 2.

Finally, the ALJ provided that:

> the Company accepted several financial adjustments proposed by Staff witness Gretchen M. Wagner such that those suggested adjustments are not in dispute. Accordingly, the Commission should adopt the figures proposed by Ms. Wagner including the calculated regulatory liability balance of $11,621,286 and the surcharge calculation of $15,427,707 given that these figures are uncontested.

PFD, p. 3. (internal citation omitted). The ALJ then noted that two issues were still in dispute: (1) the company's DR performance incentive, and (2) the company's device cycling program (DCP).

Discussion

The Commission first finds that the ALJ's analysis and description of the three resolved issues is sound and that neither party objected to his findings and conclusions on these matters. Therefore, the Commission adopts the ALJ's recommendations related to the DR regulatory construct, STP, and the Staff's financial adjustments. The remaining two issues are addressed in further detail below.

1. Demand Response Performance Incentive

Consumers requested a DR performance incentive of $6,812,402, which the company claimed would encourage it to continue to invest in DR. 2 Tr 28-29. Consumers proposed to calculate the incentive using a shared savings mechanism without a cap structure and to recover the incentive through a DR surcharge. 2 Tr 29. The company also proposed excluding new DR pilots from the shared savings calculation and no longer requiring integrated resource plan (IRP) megawatt targets for the company to receive a performance incentive. 2 Tr 30.

The Staff argued that the DR performance incentive should end as the regulatory landscape that made the incentive prudent is no longer the same. Staff's initial brief, p. 4. The Staff argued that DR programs are much larger now and are being decided as part of the company's overall

capacity within the IRP process. *Id*., pp. 4-5. The Staff maintained that DR is on a level playing field with other capacity resources and the company no longer needs an incentive to develop its DR programs. *Id*., p. 5. The Staff contended that the IRP filing requirements explicitly require the company to include an analysis of DR and that, although Consumers may prefer not to pursue DR without an incentive, MCL 460.6t(8)(a) provides that the IRP is "the most reasonable and prudent means of meeting the electric utility's energy and capacity needs." *Id*., p. 6. The Staff also noted that, absent the incentive, DR program costs would necessarily be lower, potentially making DR even more cost effective and likely for selection in future IRPs. The Staff averred that MCL 460.6t(8)(a) requires that the Commission consider whether an IRP appropriately balances many factors, including generation supply diversity and affordability. *Id*.

Alternatively, the Staff argued that should the Commission grant the company a DR incentive, a shared savings methodology is reasonable. *Id*., p. 5. The Staff recommended that if the proposed shared savings structure is approved, the split between Consumers and its customers should be adjusted to favor customers and that a 25/75 split of the savings in favor of customers is reasonable. *Id*. The Staff further argued that the 25/75 split still provides the company with a substantial incentive (roughly $3.4 million) for its DR programs as well as a higher proportion of savings for its customers. *Id*.; *see also*, Exhibit S-1.

Consumers argued that:

> MCL 460.6a(13) supports the implementation of a DR financial incentive, and the Commission has recognized the reasonableness of a financial incentive for DR in Case No. U-18369 and the Company's initial DR reconciliation filing in Case No. U-20164. As recently as Case No. U-21410, the Commission affirmed the reasonableness of a financial incentive. *See*, [Commission] Case No. U-21410, June 6, 2024 Order [June 6 order], page 19. The underlying reasoning for the incentive has not changed since it was originally approved and is as applicable now as it was in 2024.

Consumers' initial brief, p. 11. Consumers disagreed with the Staff that the DR incentive adds to the expense of the company meeting DR targets it selected in its IRP. *Id*., p. 12. Consumers contended that the incentive ensures that the company can economically retain its DR portfolio in its current state and even grow the portfolio cost-effectively. *Id*.

Consumers also disagreed with the Staff's proposed shared savings methodology for the performance incentive. *Id*. Consumers maintained that the company requires regulatory certainty along with a reasonable incentive to continue to maintain a robust DR portfolio. *Id*. Consumers argued that a shared savings methodology with a 50/50 split incentivizes the company for offsetting generation and can be relied on by the company to continue to deliver consistent DR results, allowing the company to continue to expand the DR portfolio while improving its cost effectiveness. *Id*., pp. 12-13. Thus, Consumers averred, the Commission should approve the company's proposed methodology and 2024 incentive. *Id*., p. 13.

The ALJ noted that Consumers is correct to point out that several previous cases recognized that a financial incentive for DR programs is reasonable but that the Commission has more recently stated in its June 6 order an intention to reexamine the continued need for the DR financial incentive established in older cases. PFD, p. 10 (citing June 6 order, p. 19). The ALJ agreed with the Staff that, although the DR incentives were intended to induce the company to grow its DR program, Consumers' DR programs are well established and the need for ongoing financial incentives has diminished. PFD, p. 10. The ALJ further agreed with the Staff that DR resources are evaluated in IRP proceedings and that the company is required to include an analysis of DR in IRP proceedings, which require the utility's proposed course of action (PCA) to be "the most reasonable and prudent means of meeting the electric utility's energy and capacity needs." *Id*. (quoting MCL 460.6t(8)(a)). Accordingly, the ALJ recommended that the Commission

determine that DR should no longer need to be financially incentivized because the company's DR program has expanded and matured, and the optimal level of DR for the company's portfolio should be modeled and selected in IRP proceedings. PFD, p. 11.

The ALJ further found, concerning Consumers' witness's testimony, that "DR is a net benefit to customers, but the Company also has an obligation to shareholders who require a return on their investment." *Id*. (quoting 2 Tr 34). The ALJ provided that:

> [t]his statement is troubling for several reasons, not the least of which is that there is no reference in MCL 460.6t(8)(a)-(c) to shareholder returns as a consideration in determining the most reasonable and prudent resource mix to be approved in an IRP proceeding. Simply put, the IRP statutory planning parameters include determining an optimal mix of demand- and supply-side resources; the IRP parameters are not intended to consider or maximize shareholder returns.

PFD, p. 12. While recognizing that, as an investor-owned utility, Consumers' decisions are influenced by its obligation to deliver returns to its shareholders, the ALJ noted that implementing DR does not necessarily deprive the company of returns that it might have otherwise seen from investment in generating resources and that not every business decision warrants a return on investment or a special financial incentive. *Id*.

The ALJ also agreed with the Staff that should the Commission opt to retain the DR financial incentive, a 25/75 shared savings split that favors customers is the most reasonable methodology. *Id*., p. 13. The ALJ added that DR resources will often already be a reasonable and prudent choice such that the utility should not be incentivized too generously for selecting what is already the most obvious and reasonable course of action and that the allocation proposed by the Staff ensures that customers capture cost benefits while preventing excessive utility compensation. *Id*.

Consumers filed exceptions and argues that the ALJ erroneously determined that: (1) the DR financial incentive was intended to induce the growth of DR programs, (2) inclusion of DR in IRP

proceedings supports discontinuing the financial incentive, and (3) the Staff's proposed 25/75 shared savings split methodology is the most reasonable.

First, in its exceptions, Consumers argues that the ALJ ignores the explicit reasoning from the September 15 order, agreeing with comments from Advanced Energy Management Alliance (AEMA), which state that DR will not be on equal footing with generation because:

> from a utility's perspective, they are worse off if they invest in a program for which they cannot earn a return than if they invest in a capital project where returns are guaranteed. Given a fiduciary duty to shareholders this may be an imprudent choice for the utility even if it is the best choice for their customers.

Consumers' exceptions, p. 2 (quoting September 15 order, p. 8). Consumers points out that the Commission stated in its September 15 order that it agreed with AEMA that a financial incentive for DR is reasonable and that providers and other interested parties may propose appropriate incentives as part of the DR reconciliation proceeding. Consumers' exceptions, p. 3. Thus, Consumers argues, the evidence does not support the argument that the financial incentive was intended to grow fledgling DR programs when considering the explicit language of the September 15 order. *Id*., p. 4.

Consumers further argues that the ALJ failed to consider that there is statutory support for incentivizing the pursuit of DR and that the ALJ did not acknowledge the Commission's understanding from the beginning that DR would be included in the IRP process. *Id*., pp. 4-5. Consumers contends that the ALJ ignores that MCL 460.6a(13) is in place to implement financial incentive mechanisms to ensure demand-side resources are not disfavored when compared to utility supply-side investments. *Id*., p. 5. Consumers concludes that "prior Commission orders have understood that DR investment is not on equal footing with generation and it should be incentivized to encourage the company to maintain a robust DR portfolio." *Id*.

In regard to the shared savings split, Consumers argues that the company's proposed 50/50 split is reasonably designed to favor cost effectiveness rather than operations and maintenance spending and the 50/50 split encourages the company to continue to deliver future DR results. *Id*., p. 6.

In its exceptions, the Staff clarifies that, if the Commission maintains the performance incentive mechanism (PIM) pursuant to a shared savings methodology, the 2024 PIM amount will also need to be incorporated in the final surcharge calculation. Staff's exceptions, p. 3.

In replies to exceptions, the Staff argues that the Consumers' reliance on the Commission's statement in the September 15 order disregards the Commission's intent to continue to reassess the continued need for a financial incentive in Case No. U-21410. Staff's replies to exceptions, p. 2. The Staff acknowledges that it is true that the DR incentive may have been reasonable in 2017, however, it can also be true that the same incentive in 2024 may be unreasonable. *Id*., p. 3. The Staff maintains its position, as articulated in its briefing and adopted by the ALJ, that discontinuation of the financial incentive is reasonable and prudent at this time. *Id.* Additionally, the Staff argues that, should the Commission retain the DR incentive, even a 25% share of the savings results in a roughly $3.4 million incentive for the company, which is a more than reasonable incentive. *Id*.

The Commission agrees with the Staff and the ALJ that Consumers' DR financial incentive should be discontinued. In its June 6 order, the Commission articulated an intention to reexamine the continued need for the DR financial incentive in future cases and specifically noted that it "shares the Staff's concerns regarding the overall cost of Consumers' DR portfolio, which is one of the most expensive DR portfolios in the country, as well as the cost-effectiveness of the company's individual DR programs." June 6 order, p. 19. The Commission further expressed

concern that "Consumers' current FIM [financial incentive mechanism] may not incentivize cost-effective DR programs." *Id*. Specifically, a significant portion of the debate in that case was over the structure of the FIM, which incentivized higher spending, not necessarily better, more cost-effective, or more optimized DR performance. As such, the Commission concluded the June 6 order by directing Consumers to meet with the Staff "to discuss development of a revised FIM that includes a shared savings methodology that emphasizes cost-effective DR programs that will result in more DR savings for the system." *Id.* Following that directive, Consumers' next DR reconciliation case was resolved through a settlement agreement between the company and the Staff that included the following provision: "[b]eginning in the 2024 DR Reconciliation, Consumers Energy shall calculate the financial incentive using a shared savings mechanism that includes a cap on the incentive amount." January 23, 2025 order in Case No. U-21647 (January 23 order), Exhibit A, p. 2.

In its application in the present case, Consumers proposed to base its DR incentive not on the FIM it had previously used–and which the Commission found troubling–but on a shared savings mechanism in which savings resulting from the company's DR programs would be equally split between the company and its customers. 2 Tr 29. In principle, this should be a change for the better, and it would be expected that an increased amount of DR would result. However, the Commission needs to make its decisions based on facts, not theory, and it has not seen any evidence that this incentive has resulted in any meaningfully increased amount of DR.

Other programs approved by the Commission that employ incentives, like energy waste reduction, have resulted in successful expansion of the programs to the great benefit of customers. The Commission remains fully supportive of programs such as these, and indeed is continuing to expand incentive programs as part of its work in Case No. U-21400. However, results matter.

These programs have proven to be effective for improving reliability and reducing costs for customers. That is not the case for Consumers' DR program.

The Commission emphasizes the need for cost-effective capacity solutions. The Commission also agrees with the Staff and the ALJ that DR resources are evaluated in IRP proceedings and that the company is required to include an analysis of DR in IRP proceedings. Specifically, Public Act 341 of 2016, which established the statutory framework for IRPs, requires utilities to include as part of an IRP filing the "[p]rojected load management and demand response savings for the electric utility and the projected costs for those programs." MCL 460.6t(5)(e). While Consumers asserts that "the absence of the financial [sic] to encourage the pursuit of DR resources will be a factor for the Company to consider in determining whether to continue investments in DR compared with traditional supply-side resources," such considerations are notably absent from the statutory regime. Consumers' reply brief, p. 3. Further, Consumers' assertion that "the Company would reevaluate the DR programs that it should pursue compared with other capacity resource options" should an incentive be discontinued is at odds with the statutory requirement that a utility's PCA be "the most reasonable and prudent means of meeting the electric utility's energy and capacity needs." MCL 460.6t(8)(a). The Commission warns it will carefully evaluate future IRP portfolios to ensure that cost-effective solutions, including DR, are being properly considered and modeled. It will also carefully evaluate future PSCR proceedings to ensure that all fuel supply costs are reasonable as compared to alternatives, including DR programs, and make any necessary disallowances accordingly. Indeed, the Commission has previously determined that it would carefully scrutinize the reasonableness–and thus the ability to recover–excess power supply costs resulting from a utility's failure to appropriately leverage demand side resources to determine "whether these additional market and fuel purchase costs were in fact reasonably and prudently

incurred" consistent with the Commission's authority to "'consider any issue regarding the reasonableness and prudence of expenses for which customers were charged if the issue was not considered adequately at a previously conducted power supply and cost review.'" March 17, 2022 order in Case Nos. U-20867 *et al*., p. 10 (quoting MCL 460.6j(12)). The Commission subsequently adopted a disallowance to power supply costs tied to the shortfall in demand side savings. *See*, April 11, 2024 order in Case No. U-20805, p. 19.

The company does itself no favors in these proceedings when its primary arguments around incentives seem to focus on its own balance sheet considerations over serving its customers. The Commission's job is not to prop up utilities' bottom lines. It is to ensure safe and reliable electric service to customers *at reasonable rates*. And ensuring utilities include all forms of cost-effective capacity in their planning, including DR, is part of that responsibility.

Finally, the Commission notes that the focus on the appropriateness of an incentive and the level of incentive in this proceeding obscures the primary deficiency of the company's approach to DR: it is not working. This is particularly concerning as DR projections and commitments in IRPs have played a significant role in maintaining resource adequacy, including "DR resources supplying the utility's entire reserve margin" in Consumers' 2019 IRP. June 7, 2019 order in Case No. U-20165, p. 11.

While the Commission remains supportive of efforts to address legitimate business model concerns resulting from opportunities including DR, energy waste reduction, and other avenues for more cost-effective utility service, simply extending an incentive for a program that is failing to generate the results desired is in no one's best interest. The Commission would be willing to revisit both the appropriateness and level of an incentive for DR if and when Consumers is able to demonstrate more success in deploying DR than it has to date, and the Commission will continue

to review the incorporation of DR resources in other proceedings, including in the company's IRP currently pending in Case No. U-22127. Finally, because the Commission finds that the DR financial incentive should be discontinued, the Commission finds that arguments regarding the shared savings split are moot.

2. Device Cycling Program

Consumers' witness testified that the company's DCP involves installing a load control switch on a residential customer's air conditioning unit and utilizing the switch for load management events. 2 Tr 58.

The Staff argued that the DCP had levelized costs exceeding the cost of new entry, raising concerns about its cost-effectiveness. Staff's initial brief, p. 8. The Staff's witness testified that, although Consumers placed the DCP in maintenance mode due to its lack of cost-effectiveness, the company should either explore ways to further reduce the program's costs or phase it out entirely and transition customers to more efficient alternative DR programs.

Consumers argued that the Commission should reject the Staff's recommendation to explore ways to bring levelized costs down because it is unlikely to lead to any tangible results. Consumers' initial brief, p. 13. The company further argued that the Commission should reject the alternative of shutting down the DCP because its benefit exceeds its marginal cost. *Id*.

The ALJ agreed with the Staff that the company should explore alternative ways to reduce DCP costs but agreed with the company that there are probably limited opportunities to reduce costs under the current circumstances. PFD, p. 16. The ALJ agreed with Consumers that the DCP should not be closed but only so long as the company could demonstrate that the DCP benefits exceed its marginal costs. No exceptions were filed on this issue.

The Commission agrees with the ALJ that Consumers should continue, to the extent practical, to explore ways to reduce DCP costs and that the program should remain open so long as the DCP benefits exceed DCP marginal costs. *See*, PFD, p. 16.

THEREFORE, IT IS ORDERED that:

A. Consumers Energy Company's reconciliation of the company's 2024 demand response program costs is approved, as modified.

B. Consumers Energy Company's financial incentive mechanism for demand response is discontinued.

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 November 5, 2026.

Lisa Felice, Executive Secretary

PROOF OF SERVICE

STATE OF MICHIGAN)

Case No. U-21906

County of Ingham)

Brianna Brown being duly sworn, deposes and says that on November 5, 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 Brown

Subscribed and sworn to before me
this 5th day of November 2026.

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

Service List for Case: U-21906

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