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April 6, 2018

Ms. Kavita Kale
Executive Secretary
Michigan Public Service Commission
7109 W. Saginaw Highway
Lansing, MI 48917

Re: Complaint of Citizens Against Rate Excess Against Upper Peninsula Power
Company U-20150

Dear Ms. Kale:

Enclosed for filing in the above-referenced matter, please find the Complaint of Citizens Against Rate Excess, the Direct Testimony of Douglas B. Jester, and a Certificate of Service. If you have any questions please do not hesitate to contact me.

Very truly yours,

John R Liskey
(P31580)

Enclosure
cc: All parties of Interest

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * *

In the matter of the complaint of **CITIZENS AGAINST**)
RATE EXCESS against UPPER PENINSULA POWER) Case No. U-20150
COMPANY.)
_____)

Certificate of Service

John R Liskey hereby certifies that on the 6th day of April, 2018, he served a copy of the Complaint of Citizens Against Rate Excess and the Direct Testimony of Douglas B. Jester upon the parties listed below at their respective addresses by email. Also included in the service was a cover letter to Ms. Kale.

John R Liskey

UPPER PENINSULA POWER COMPANY

Sherri A. Wellman
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STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the complaint of CITIZENS AGAINST)	
RATE EXCESS against UPPER PENINSULA POWER)	Case No. U-20150
COMPANY.)	
_____)	

FORMAL COMPLAINT OF CITIZENS AGAINST RATE EXCESS

Pursuant to Rule 441 (R 792.10441, 2015 AACS) of the Rules of Practice and Procedure before the Michigan Public Service Commission (the “MPSC” or “Commission”), Citizens Against Rate Excess files this Formal Complaint against Upper Peninsula Power Company and, in support, states as follows:

I. PARTIES

1. The Complainant is Citizens Against Rate Excess (“CARE”), a Michigan non-profit corporation with its principal place of business located at 921 N. Washington Ave., Lansing, MI 48906. Complainant is represented by its Attorney, John R Liskey Attorney At Law, 921 N. Washington Ave, Lansing, MI 48906.

2. CARE is a non-profit corporation organized and existing in good standing under the laws of the State of Michigan. CARE was organized to protect Michigan’s residential ratepayers from unreasonable and unjust utility rate increases.

3. Respondent is Upper Peninsular Power Company (“UPPCO” or “Respondent”), a Michigan corporation with principal offices located at 1002 Harbor Hills Drive, Marquette, Michigan 49855. UPPCO is a public utility engaged in the generation, purchase, distribution, and sale of electric energy in its service territory in the Upper Peninsula of Michigan.

II. INTEREST OF COMPLAINANT

4. CARE is a grantee of the Utility Consumer Representation Fund created by 1982 PA 304, selected by the Michigan Utility Consumer Participation Board to represent residential utility customers in this matter. CARE has members that are residential electric customers of Respondent who are and will continue to be directly affected by the decision of the Commission in this matter.

III. STATEMENT OF FACTS

5. This Formal Complaint stems from an unlawful surcharge imposed by the Upper Peninsula Power Company (“UPPCO”) on ratepayers in 2010 (and beyond). The issue was brought to light in a case (“Enbridge Formal Complaint”) initiated by Enbridge Energy, Limited Partnership (“Enbridge”) against Upper Peninsula Power Company (“UPPCO”) on October 23, 2012 in MPSC Case No. U-17077. The Enbridge Formal Complaint alleged that revenue deficiency mechanism (“RDM”) surcharges approved by the Michigan Public Service Commission (the “MPSC”) in an Order dated August 14, 2012 (“August 14, 2012 Order”) in MPSC Case No. U-16568, a case requesting authority to reconcile UPPCO’s revenue decoupling, were unlawful. The August 14, 2012 Order authorized UPPCO to collect a revenue shortfall of \$1,723,294 related to UPPCO’s RDM reconciliation for the calendar year 2010. The Enbridge Formal Complaint stated that the Commission lacked statutory authority to approve an electric RDM, an RDM reconciliation, and the resulting revenue shortfall.

6. Case No. U-16568 was not the first case in which the Commission addressed the issue of an RDM for UPPCO. There, as noted, UPPCO had filed for reconciliation of a revenue shortfall by means of a surcharge. The RDM itself was established previously, in Case No. U-15988, a general rate case. In U-15988, UPPCO, the MPSC Staff and other intervening parties

entered into a settlement agreement providing among other things for the implementation of the RDM for UPPCO for the test year 2010. On December 16, 2009, the Commission approved the settlement agreement including a rate increase in that case. UPPCO later filed two additional rate cases, Case Nos. U-16166 and U-16417. These cases were resolved by respective settlement agreements approved by the Commission on December 21, 2010, and December 20, 2011. One of these cases, U-16166, included a modified version of the RDM approved in U-15988. The settlement in Case No. U-16417 provided for a termination date for the RDM, but provided that the reconciliation and related surcharges/credits associated with UPPCO's 2010 and 2011 RDM would not be affected. Enbridge did not intervene in any of these rate cases and therefore was not a party to any of the settlement agreements.

7. Prior to filing the Enbridge Formal Complaint, on August 20, 2012 Enbridge had filed a "Petition for Rehearing, or in the Alternative, Formal Complaint of Enbridge Energy, Limited Partnership" in Case No. U-16568, contending that the RDM surcharges approved in the August 14, 2012 Order were unlawful. Previously, an evidentiary hearing in Case No. U-16568 had been held, and the Administrative Law Judge had issued a Proposal for Decision ("PFD") on March 28, 2012. In an Order dated September 25, 2012 ("September 25, 2012 Order"), the Commission denied the petition for rehearing because Enbridge had not previously been a party to U-16568. At that time the Commission took no action with respect to the formal complaint.

8. On April 10, 2012, while Case No. U-16568 was pending and following the March 28 PFD, the Court of Appeals issued its opinion *In Re Detroit Edison Co. Application*, 296 Mich App 101; 817 NW2d 630 (2012) ("*Detroit Edison* case"), holding that the Commission lacked the statutory authority to approve or direct the use of an RDM for electric providers. However, the August 14, 2012 Order in Case No. U-16568 approved RDM surcharges for UPPCO in spite of

the holding by the Court of Appeals in the *Detroit Edison* case. Although Commission Staff had raised the question of what impact the *Detroit Edison* case might have in the context of U-16568, the Commission distinguished the *Detroit Edison* case on the grounds that the settlement agreement in Case No. U-15988 was a binding contract between the signatories, not present in the *Detroit Edison* case (August 14, 2012 Order in U-16568, p.4).

9. As noted in paragraph 8, above, the *Detroit Edison* case was decided on April 10, 2012. In light of this ruling Enbridge, as a customer of UPPCO but not a party to the previous cases addressing the RDM nor a signatory to the settlement agreements relied upon in the August 14, 2012 Order, took action to challenge the Commission's authorization of the RDM reconciliation, first on August 20, 2012 in the context of U-16568 and then, having been rebuffed, in Case No. U-17707.

10. On December 11, 2012, UPPCO filed an answer and motion to dismiss the Enbridge Formal Complaint in Case No. U-17077. Commission Staff and Enbridge filed motions for summary disposition on December 11 and 12, 2012, respectively. On December 14, 2012, UPPCO filed a response to Enbridge's motion for summary disposition. On May 13, 2014, the Commission issued an Order (the "May 13, 2014 Order") granting UPPCO's motion to dismiss and dismissing the complaint with prejudice.

11. On May 27, 2014, Enbridge appealed the May 13, 2014 Order to the Michigan Court of Appeals. On December 22, 2015, the Court of Appeals issued an opinion in which the court held that the Commission erred in approving a settlement agreement including the RDM and in dismissing the Enbridge Formal Complaint. The court remanded the case to the Commission for further proceedings (*Enbridge Energy Ltd. Partnership v Upper Peninsula Power Co.*, 313 Mich App 669; 884 NW2d 581 (2015) ("Enbridge Energy case")).

12. UPPCO and the Staff filed applications for leave to appeal to the Michigan Supreme Court on February 2, 2016. After hearing oral argument on the applications, the Supreme Court denied the applications on May 24, 2017 (*Enbridge Energy Limited Partnership v. Upper Peninsula Power Company*, 894 N.W.2d 605 (2017)).

13. On remand in Case No. U-17077, on July 12, 2017, the Commission issued an order (the “July 12, 2017 Order”) inviting parties to address the purpose and scope of the remand proceeding ordered by the Court of Appeals. The Commission further directed parties to submit briefs by August 4, 2017, outlining their positions regarding how the Commission should address the Enbridge Formal Complaint, addressing what form of proceeding or proceedings should take place before the Commission, and indicating what issues each party deems necessary to resolve in those proceedings. Briefs were filed by Enbridge, UPPCO, and Commission Staff. On August 3, 2017, Enbridge filed a motion to withdraw the Enbridge Formal Complaint.

14. On October 20, 2017, CARE filed extensive Comments in Case No. U-17077, alerting the Commission that based on evidence and testimony provided in Case No. U-16568, UPPCO’s residential customers should be entitled to a refund for the years UPPCO had been collecting a surcharge based on an unlawful RDM, regardless of whether Enbridge had independently decided to withdraw the Enbridge Formal Complaint. CARE maintained that the RDM surcharges collected by UPPCO from all customers were unlawfully collected because the MPSC lacked statutory authority to approve or implement RDM surcharges. CARE argued that because settlements in the regulatory context bind all consumers in the affected area, not just the immediate parties to the agreement, the MPSC should review the amount of RDM surcharges collected and order a refund to ratepayers.

15. On February 5, 2018, the Commission issued an Order (the “February 5, 2018 Order”) in which it approved Enbridge’s request to withdraw the Enbridge Formal Complaint, dismissed the complaint with prejudice, and closed the docket. The February 5, 2018 Order nowhere mentions CARE’s Comments, nor does it in any way address the impact of the RDM surcharge on residential ratepayers.

16. CARE submits that UPPCO’s residential customers are entitled to a refund for the years UPPCO had been collecting a surcharge based on an unlawful RDM. Such a claim is based, in part, on evidence and testimony provided in Case No. U-16568. Attached hereto on behalf of CARE is the Direct Testimony of Douglas B. Jester, attesting that he has reviewed the exhibits previously filed in this and related cases and concluding that a refund for residential ratepayers is just and reasonable.

IV. LEGAL ANALYSIS

17. As noted above, the Michigan Court of Appeals in the *Detroit Edison* case has held that the Commission lacked the statutory authority to approve the use of an RDM for an electric utility. The Court in the *Detroit Edison* case found that although the MPSC was authorized under MCL 460.1089(6) to approve the use of an RDM by a natural gas utility, MCL 460.1097(4), covering electric utilities, contained no similar provision (817 N.W.2d 630, 633, 634; 296 Mich App 101, 108-109).¹

18. In the *Enbridge Energy* case addressing the appeal of the May 13, 2014 Order in Case No. U-17077, the Michigan Court of Appeals rejected the argument that the Commission’s statutory limitations can be overridden by the existence of a settlement agreement. The Court of

¹ The provision formerly codified at MCL 460.1097(4) was eliminated when 2008 Act 295 was amended by 2016 Act 342, Eff. Apr. 20, 2017. Commission authority to authorize an RDM for gas utilities is now set out in MCL 460.1089(5).

Appeals in the *Enbridge Energy* case discussed this issue at some length and sharply rejected the Commission's position, which relied primarily on *Dodge v Detroit Trust Co*, 300 Mich. 575; 2 N.W.2d 509 (1942) ("the *Dodge* case" or "*Dodge*"). Addressing the question "whether, in approving the underlying settlement, the PSC exceeded its statutory authority" (*Enbridge*, 884 NW2d at 585), the court examined the *Detroit Edison* opinion and MCL 460.1097(4), and reiterated that the statute "does not call for or authorize actual implementation of an RDM by [electric] utilities" (*Detroit Edison*, 296 Mich App at 109). On that basis the court stated:

The PSC possesses only that authority granted it by the Legislature. Authority must be granted by clear and unmistakable language. A doubtful power does not exist." Mich Elec Coop Ass'n v Pub Serv Comm, 267 Mich App 608, 616; 705 NW2d 709 (2005). We hold that the PSC erred when it upheld the settlement agreement in the prior case and dismissed *Enbridge*'s complaint in the instant case (*Enbridge*, 884 NW2d at 585).

The court, among other things, also contrasted MCL 460.1097(4) with MCL 460.1089(6), which expressly allowed the MPSC to approve RDMs for gas utilities and stated, as it had in *Detroit Edison*, that "[W]hen the legislature has used certain language in one instance and different language in another, the indication is that different results were intended" (*Enbridge*, 884 NW2d at 586). The court later noted, "The fact that the approval was accomplished in the context of a settlement does not transform the PSC's ultra vires act into a legal one" (*Enbridge*, 884 NW2d at 587). Thus the court reversed the Commission's May 14, 2014 Order in Case No, U-17077, again holding that the MPSC possesses only that authority granted it by the Legislature, that authority must be granted by clear and unmistakable language, and that a doubtful power does not exist. Thus the MPSC lacks the authority to implement the RDM for UPPCO (313 Mich App at 675-678).

19. In its opinion in the *Enbridge Energy* case, the court discussed and rejected the Commission's reliance on *Dodge*, 300 Mich. 575; 2 N.W.2d 509. The *Dodge* case centered on

litigation involving a contested will, in which the parties entered into a settlement agreement that resolved a disputed legal issue. Based on that case, the Commission argued that it had the authority to approve the settlement agreement in Case No. U-16568, on the grounds that the law regarding electric decoupling was uncertain at the time the settlement agreement was approved. However, the court in the *Enbridge Energy* case disagreed, holding that the law was not in dispute nor unclear even prior to its decision in the *Detroit Edison* case. The court stated:

[I]n the instant case, unlike in *Dodge*, there was no intervening change in the law. MCL 460.1097(4) became effective in 2008 and has not been altered since. 2008 PA 295. Although *Detroit Edison* was issued after the PSC approved the settlement in this case, that fact is not dispositive. Even without the benefit of our decision in *Detroit Edison*, contrary to the PSC's claim that "it was unclear whether Act 295 [of 2008] permitted electric RDMs," the act's language is unmistakably clear, and it was not reasonable to believe that the law was in dispute or otherwise unclear. While the PSC could approve RDMs for gas utilities, it was not authorized to do so for electric utilities.

20. Settlement agreements relating to RDMs are fundamentally different from those binding on private parties only. The court in the *Enbridge Energy* case firmly rejected the notion that the settlement agreement in question was analogous to an agreement among private parties, as had been the case in *Dodge*. The court stated that "[h]ere, as acknowledged by all the parties, settlements in the regulatory context carry the force of law and ***necessarily bind all consumers in the affected area***, even those who were not parties to the agreement" (884 NW2d at 586, emphasis added). Citing *Plamondon v Plamondon*, 230 Mich.App. 54, 56; 583 N.W.2d 245 (1998), the Court of Appeals explained that "***the strong public policy behind the longstanding doctrine that requires parties to be bound by their settlement agreements simply is not advanced when such a 'settlement' affects countless others who were not parties to the agreement***" (884 N.W.2d 581, 588, emphasis added). By way of footnote (footnote 5, 884 NW2d at 587), the court explained that "at oral argument, the PSC admitted that the settlement

did not merely bind the signatories to the agreement, as it claimed in its order in Case No. U-16568, but rather, the settlement bound *thousands of users in the affected area*” (Emphasis added).

21. The RDM surcharges collected by UPPCO from residential customers were unlawfully collected because the MPSC lacked statutory authority to approve or implement RDM surcharges. A refund of monies paid pursuant to an invalid rate order must be mandated if the order is subsequently found to be unreasonable. *In re MCI Telecommunications Complaint*, 255 Mich App 361, 366; 661 NW2d 611(2003). As the Court of Appeals in the *Enbridge Energy* case has ultimately concluded that the RDM surcharges reviewed and imposed in U-16568 and U-17077 were unlawful, the MPSC should review the amount of RDM surcharges collected and order a refund to residential ratepayers, including but not limited to CARE’s members in UPPCO’s service territory.

22. Staff’s brief filed in Case No. U-17077 (p. 3) contemplates that providing refunds to other ratepayers might necessitate voiding the settlement agreements approved in U-15988, U-16166, and U-16417. CARE thinks this concern is unwarranted because the RDMs approved and modified in U-15988, U-16166, and U-16417 were simply a means to adjust an over or under recovery of non-fuel revenues. The base rates were not modified in those general rate cases; they were adjusted in U-16568. Therefore, relief can be appropriately restricted to refunds collected as a result of the orders cited above and in Mr. Jester’s testimony.

23. Disregarding these concerns, the Commission in Case No. U-17077 considered and approved Enbridge’s Request to withdraw its Formal Complaint, dismissed the Enbridge Formal Complaint with prejudice, and closed the docket. This resolution, without further action, is unjust and unreasonable in that it ignores any and all impacts on UPPCO’s residential ratepayers.

It ignores the Court of Appeals' observation, quoted above, that the settlement agreement approved in Case No. U-15988 and relied upon in U-16568 "bound thousands of users in the affected area." Staff, in its brief, took no position on Enbridge's motion to withdraw, but suggested that if the Commission granted the motion, "the Commission may still wish to explore whether other UPPCo customers may be entitled to a refund" (Staff Brief at p. 2). CARE respectfully requests that the Commission do so at this time. As the Commission is abundantly aware, UPPCO's residential ratepayers are already subject to extremely high electric rates and an order to refund those amounts unlawfully collected is the only just remedy.

V. DEMAND FOR CONTESTED CASE

24. In accordance with Rule 441(1) of the Commission's Rules of Practice and Procedure (R 792.10441, 2015 AACS), CARE requests that this case be conducted as a contested case.

VI. RELIEF

WHEREFORE, based upon the statutes, cases, regulations and other authorities set out hereinabove, CARE requests that the Commission find that CARE has stated a *prima facie* case that the surcharges are unlawful, forward this Formal Complaint to UPPCO for an answer, and set this matter for a contested case hearing to review the amount of RDM surcharges unlawfully collected and to order a refund to all UPPCO's residential ratepayers, including but not limited to CARE's members in UPPCO's service territory.

April 6, 2018

Respectfully Submitted,

Citizens Against Rate Excess,
a Michigan nonprofit corporation

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STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the complaint of)
CITIZENS AGAINST RATE EXCESS)
against **UPPER PENINSULA POWER**)
COMPANY.)
_____ /

Case No. U-20150

DIRECT TESTIMONY

AND EXHIBITS

OF

DOUGLAS B. JESTER

ON BEHALF OF

CITIZENS AGAINST RATE EXCESS

April 6, 2018

I. INTRODUCTION & QUALIFICATIONS

1 **Q. Please state for the record your name, position, and business address.**

2 A. My name is Douglas B. Jester. I am a Partner of 5 Lakes Energy LLC, a Michigan limited
3 liability corporation, located at Suite 710, 115 W Allegan Street, Lansing, Michigan 48933.

4 **Q. On whose behalf is this testimony being offered?**

5 A. I am testifying on behalf of Citizens Against Rate Excess (“CARE”).

6 **Q. Please summarize your experience in the field of electric utility regulation.**

7 A. I have worked for more than 20 years in electricity industry regulation and related fields.
8 My work experience is summarized in my resume, provided as Appendix A.

9 **Q. Have you testified before this Commission or as an expert in any other proceeding?**

10 A. I have previously testified before the Michigan Public Service Commission in the
11 following cases:

- 12 • Case U-17473 (Consumers Energy Plant Retirement Securitization);
- 13 • Case U-17096-R (Indiana Michigan 2013 PSCR Reconciliation);
- 14 • Case U-17301 (Consumers Energy Renewable Energy Plan 2013 Biennial
15 Review);
- 16 • Case U-17302 (DTE Energy Renewable Energy Plan 2013 Biennial Review);
- 17 • Case U-17317 (Consumers Energy 2014 PSCR Plan);
- 18 • Case U-17319 (DTE Electric 2014 PSCR Plan);
- 19 • Case U-17671-R (UPPCO 2015 PSCR Reconciliation);
- 20 • Case U-17674 (WEPCO 2015 PSCR Plan);
- 21 • Case U-17674-R (WEPCO 2015 PSCR Reconciliation);

- 1 • Case U-17679 (Indiana-Michigan 2015 PSCR Plan);
- 2 • Case U-17688 (Consumers Energy Cost of Service and Rate Design);
- 3 • Case U-17689 (DTE Electric Cost of Service and Rate Design);
- 4 • Case U-17698 (Indiana-Michigan Cost of Service and Rate Design);
- 5 • Case U-17735 (Consumers Energy General Rates);
- 6 • Case U-17752 (Consumers Energy Community Solar);
- 7 • Case U-17762 (DTE Electric Energy Optimization Plan);
- 8 • Case U-17767 (DTE General Rates);
- 9 • Case U-17792 (Consumers Energy Renewable Energy Plan Revision);
- 10 • Case U-17895 (UPPCO General Rates);
- 11 • Case U-17911 (UPPCO 2016 PSCR Plan);
- 12 • Case U-17911-R (UPPCO 2016 PSCR Reconciliation);
- 13 • Case U-17990 (Consumers Energy General Rates);
- 14 • Case U-18014 (DTE General Rates);
- 15 • Case U-18089 (Alpena Power PURPA Avoided Costs);
- 16 • Case U-18090 (Consumers Energy PURPA Avoided Costs);
- 17 • Case U-17911-R (UPPCO 2016 PSCR Reconciliation);
- 18 • Case U-18091 (DTE PURPA Avoided Costs);
- 19 • Case U-18092 (Indiana Michigan Power Company PURPA Avoided Costs);
- 20 • Case U-18093 (Northern States Power PURPA Avoided Costs);
- 21 • Case U-18094 (Upper Peninsula Power Company PURPA Avoided Costs);
- 22 • Case U-18095 (Wisconsin Public Service Company PURPA Avoided Costs);
- 23 • Case U-18096 (Wisconsin Electric Power Company PURPA Avoided Costs);

- Case U-18224 (UMERC Certificate of Necessity);
- Case U-18255 (DTE Electric General Rates);
- Case U-18322 (Consumers Energy General Rates);
- Case U-18406 (UPPCO 2018 PSCR Plan);
- Case U-18408 (UMERC 2018 PSCR Plan); and
- Case U-18419 (DTE Certificate of Necessity).

Additionally, I have testified as an expert witness before the Public Utilities Commission of Nevada in Case No. 16-07001 concerning the 2017-2036 integrated resource plan of NV Energy; and before the Missouri Public Service Commission in Cases Nos. ER-2016-0179, ER-2016-0285, and ET-2016-0246 concerning residential rate design and electric vehicle (“EV”) policy, revenue requirements, cost of service, and rate design. I testified before the Kentucky Public Service Commission in Case No. 2016-00370 concerning municipal street lighting rates and technologies, and the Massachusetts Department of Public Utilities in Case Nos. DPU 17-05 and DPU 17-13 concerning EV charging infrastructure program design and cost recovery.

I have also testified as an expert witness on behalf of the State of Michigan before the Federal Energy Regulatory Commission in cases relating to the relicensing of hydro-electric generation, and have participated in state and federal court cases on behalf of the State of Michigan, concerning electricity generation matters, which were settled before trial.

1 **Q. What is the purpose of your testimony?**

2 **A.** I will establish that residential and other customers of Upper Peninsula Power Company
3 (“UPPCO”) were subject to surcharges in relation to a Revenue Decoupling Mechanism
4 (“RDM”) that was found to be unlawful on appeal in case U-17077. I also provide an
5 estimate of the amount of those surcharges billed to residential customers and the amount
6 of refund that may be due to residential customers as a result of those unlawful surcharges.

7 **Q. Are you sponsoring any exhibits?**

8 **A.** Yes. I have attached the following exhibits for review.

- 9 • Exhibit CARE-1: U-16568 Exhibit A-5
- 10 • Exhibit CARE-2: U-17555 Exhibit A-2
- 11 • Exhibit CARE-3: U-16990 Attachment A to Order of March 19, 2012
- 12 • Exhibit CARE-4: U-16990 page 1 of Revised Exhibit A-1
- 13 • Exhibit CARE-5: U-17555 Attachment 1 to Order of July 8, 2014

14 **II. BACKGROUND**

15 **Q. What is the Revenue Decoupling Mechanism of concern in this case?**

16 **A.** The Revenue Decoupling Mechanism (“RDM”) was authorized by the Commission in case
17 U-15988, a general rate case, for the future test year calendar 2010. The RDM was modified
18 in case U-16166 to provide that revenue shortfalls in 2010 would be based on the sales
19 projections in U-16166 rather than U-15988. Pursuant to the RDM as established in U-
20 15988 and modified in U-16166, if UPPCO’s non-fuel revenue was short of the amount
21 projected due to sales per customer being less than expected, UPPCO would subsequently

1 file a reconciliation application and request the Commission to authorize a surcharge on
2 future electricity sales by which UPPCO would obtain the resulting revenue deficiency.

3 In case U-16417, the Commission approved a settlement that provided that the RDM
4 approved in U-16166 would terminate on December 31, 2011 and would be replaced by a
5 new RDM with a modified revenue shortfall formula on and after January 1, 2013 and
6 which would terminate upon UPPCO's implementation of new rates associated with
7 UPPCO's next general rate case. UPPCO filed its next general rate case in docket U-17274
8 on June 28, 2013, settlement of which was confirmed by the Commission in its order of
9 December 19, 2013. The settlement of U-17274 included a provision terminating the RDM
10 as of December 31, 2013.

11 **Q. Did UPPCO request reconciliation of revenues pursuant to the RDM?**

12 **A.** Yes. Revenue reconciliation related to the RDM for 2010 was done in case U-16568.
13 Revenue reconciliation for 2011 was done in case U-16990. Revenue reconciliation related
14 to the RDM for 2013 was done in case U-17555.

15 **Q. Why is refund of surcharges related to the RDM warranted?**

16 **A.** On October 23, 2012, Enbridge Energy, Limited Partnership, a customer of UPPCO, filed
17 a complaint to the Commission alleging that the Commission lacked statutory authority to
18 approve an RDM for an electric utility. That complaint was considered in case U-17077
19 and the RDM was ultimately found unlawful by the Michigan Court of Appeals. It is my
20 opinion that refund of unlawful surcharges is the just and reasonable response of the
21 Commission to these circumstances.

1 **III. AMOUNT OF REFUND**

2 **Q. What did the Commission order in case U-16568?**

3 **A.** The Commission issued its order in case U-16568 on August 14, 2012. The Commission
4 authorized UPPCO to collect a revenue shortfall of \$1,723,294 for calendar year 2010
5 through surcharges “as set forth in Exhibit A-5 on a service rendered basis from September
6 1, 2012 through August 31, 2013.”¹ I have attached Exhibit A-5 from case U-16568 to my
7 testimony as Exhibit CARE-1.

8 **Q. What RDM revenue did UPPCO collect based on the Commission’s order in U-**
9 **16568?**

10 **A.** UPPCO made these calculations as part of its filing in case U-17555 and presented them
11 in Exhibit A-2 of that case. I have attached Exhibit A-2 from case U-17555 to my testimony
12 as Exhibit CARE-2.

13 **Q. What did the Commission order in case U-16990?**

14 **A.** The Commission issued its order in case U-16990 on March 19, 2012. The Commission
15 authorized UPPCO to credit to customers a net revenue overcollection under the RDM of
16 \$273,456 for calendar year 2011 through surcharges and credits “as reflected in Attachment
17 A to this order.”² I have attached Attachment A to the order in case U-16990 to my
18 testimony as Exhibit CARE-3. It is important to note that the RDM calculations were done
19 by rate class and that some rate classes received a credit but other rate classes, in including
20 residential customers, were subject to a surcharge.

¹ Pages 4-5 of Michigan Public Service Commission order of August 14, 2012 in case U-16568.

² Pages 4-5 of Michigan Public Service Commission order of August 14, 2012 in case U-16568.

1 **Q. What RDM revenue did UPPCO collect based on the Commission's order in U-**
2 **16990?**

3 **A.** I was unable to find a public record of UPPCO's actual RDM revenue in relation to case
4 U-16990 nor of the sales by rate class for calendar year 2011 that would enable me to
5 calculate revenues based on the credits and surcharges authorized in U-16990. The credits
6 and surcharges authorized in U-16990 were based on Revised Exhibit A-1 in U-16990,
7 page 1 of which I have attached to my testimony as Exhibit CARE-4.

8 Exhibit CARE-4 shows that the net revenue overcollection under the RDM of \$273,456
9 consisted of an undercollection for some customer classes and overcollection for other
10 customer classes. Residential customers are shown as having an undercollection of
11 \$244,008 which was then the basis for a surcharge of 0.091 cents per kWh.

12 **Q. What did the Commission order in case U-17555?**

13 **A.** The Commission issued its order adopting a settlement agreement in case U-17555 on July
14 8, 2014. The Commission authorized UPPCO to collect a revenue shortfall for calendar
15 year 2013 of \$619,580 as well as \$71,247 by which UPPCO under-collected RDM
16 revenues for calendar year 2010 during the period September 1, 2012 through August 31,
17 2013. The Commission authorized surcharges on a service rendered basis from January 1,
18 2015 through December 31, 2015 as detailed in Attachment 1 to the settlement agreement
19 incorporated in the order. I have attached that Attachment 1 from settlement of case U-
20 17555 to my testimony as Exhibit CARE-5.

21 **Q. What RDM revenue did UPPCO collect based on the Commission's order in U-**

1 **17555?**

2 **A.** I was unable to find a public record of UPPCO's RDM revenue in calendar year 2015 nor
3 of sales by rate class for calendar year 2015 that would enable me to calculate such
4 revenues based on the authorized surcharges. Notably, UPPCO has not filed a
5 reconciliation of this revenue despite the Commission's order that "Any overrecovery or
6 underrecovery resulting from the surcharges shall be reconciled in an application filed by
7 Upper Peninsula Power Company in this docket after January 1, 2016."

8 **Q. Based on the information available to you, what do you estimate as the amount that**
9 **should be refunded to residential customers due to unlawful surcharges under the**
10 **RDM?**

11 **A.** As shown in Exhibit CARE-2, UPPCO collected \$591,059.28 in RDM surcharges from
12 residential customers in 2013 as a result of the 2010 RDM revenue shortfall. Since I was
13 unable to determine UPPCO's actual revenue as a result of the 2011 residential RDM
14 revenue shortfall, the best available estimate is the \$244,008 that the resulting surcharge
15 was planned to collect. Since I was unable to determine UPPCO's RDM collections in
16 2015 pursuant to case U-17555, I estimated RDM surcharges from residential customers
17 in 2015 based on the 2013 kWh sales to residential customers in 2013 as shown in Exhibit
18 CARE-3 and the surcharge rate established in U-17555; that amount is \$296,854.89. The
19 total of these estimates of UPPCO's RDM surcharge revenues from residential customers
20 is \$1,131,922.17.

21 Interest on these amounts will need to be calculated based on the actual collection schedule
22 in 2015 and the date of refund issuance.

1 **V. RECOMMENDATIONS AND CONCLUSION**

2 **Q. Please summarize your recommendations to the Commission.**

3 A. I recommend that the Commission order UPPCO to

4 (1) promptly file a reconciliation of 2015 RDM surcharge revenue as required by
5 the Commission's order in U-17555;

6 (2) provide a reconciliation of revenue received by UPPCO as a result of residential
7 RDM surcharges imposed by U-16990;

8 (3) propose the earliest practicable billing month in which to refund the full amount
9 of the unlawful RDM revenues with interest to its residential customers and provide a
10 calculation of interest from initial collection date to refund date for such RDM revenues;
11 and

12 (4) issue refunds to residential customers in amounts proportional to kWh delivered
13 to each customer in the most recent 12-month period.

14 **Q. Does that complete your testimony?**

15 A. Yes.

Douglas B. Jester

Personal Information

Contact Information:

115 W Allegan Street, Suite 710
Lansing, MI 48933
517-337-7527
djester@5lakesenergy.com

Professional experience

January 2011 – present
Partner

5 Lakes Energy

Co-owner of a consulting firm working to advance the clean energy economy in Michigan and beyond. Consulting engagements with foundations, startups, and large mature businesses have included work on public policy, business strategy, market development, technology collaboration, project finance, and export development concerning energy efficiency, smart grid, renewable generation, electric vehicle infrastructure, and utility regulation and rate design. Policy director for renewable energy ballot initiative and Michigan energy legislation advocacy. Supported startup of the Energy Innovation Business Council, a trade association of clean energy businesses. Expert witness in utility regulation cases. Developed integrated resource planning models for use in ten states' compliance with the Clean Power Plan.

February 2010 - December 2010
Energy, Labor and Economic Growth
Senior Energy Policy Advisor

Michigan Department of

Advisor to the Chief Energy Officer of the State of Michigan with primary focus on institutionalizing energy efficiency and renewable energy strategies and policies and developing clean energy businesses in Michigan. Provided several policy analyses concerning utility regulation, grid-integrated storage, performance contracting, feed-in tariffs, and low-income energy efficiency and assistance. Participated in Pluggable Electric Vehicle Task Force, Smart Grid Collaborative, Michigan Prosperity Initiative, and Green Partnership Team. Managed development of social-media-based community for energy practitioners. Organized conference on Biomass Waste to Energy.

August 2008 - February 2010

Rose International

Business Development Consultant - Smart Grid

- Employed by Verizon Business' exclusive external staffing agency for the purpose of providing business and solution development consultation services to Verizon Business in the areas of Smart Grid services and transportation management services.

December 2007 - March 2010

Efficient Printers Inc

President/Co-Owner

- Co-founder and co-owner with Keith Carlson of a corporation formed for the purpose of acquiring J A Thomas Company, a sole proprietorship owned by Keith Carlson. Recognized as Sacramento County (California) 2008 Supplier of the Year and Washoe County (Nevada) Association for Retarded Citizens 2008 Employer of the Year. Business operations discontinued by asset sale to focus on associated printing software services of IT Services Corporation.

August 2007 - present

IT Services Corporation

President/Owner

- Founder, co-owner, and President of a startup business intended to provide advanced IT consulting services and to acquire or develop managed services in selected niches, currently focused on developing e-commerce solutions for commercial printing with software-as-a-service.

2004 – August 2007

Automated License Systems

Chief Technology Officer

- Member of four-person executive team and member of board of directors of a privately-held corporation specializing in automated systems for the sale of hunting and fishing licenses, park campground reservations, and in automated background check systems. Executive responsible for project management, network and data center operations, software and product development. Brought company through mezzanine financing and sold it to Active Networks.

2000 - 2004

WorldCom/MCI

Director, Government Application Solutions

- Executive responsible in various combinations for line of business sales, state and local government product marketing, project management, network and data center operations, software and product development, and contact center operations for specialized government process outsourcing business. Principal lines of business were vehicle emissions testing, firearm background checks, automated hunting and fishing license systems, automated appointment scheduling, and managed application hosting services. Also responsible for managing order entry, tracking, and service support systems for numerous large federal telecommunications contracts such as the US Post Office, Federal Aviation Administration, and Navy-Marine Corps Intranet.
- Increased annual line-of-business revenue from \$64 million to \$93 million, improved EBITDA from approximately 2% to 27%, and retained all customers, in context of corporate scandal and bankruptcy.
- Repeatedly evaluated in top 10% of company executive management on annual performance evaluations.

1999-2000 Compuware Corporation

Senior Project Manager

- Senior project manager, on customer site with five project managers and team of approximately 80, to migrate a major dental insurer from a mainframe environment to internet-enabled client-server environment.

1995 - 1999 City of East Lansing, Michigan

Mayor and Councilmember

- Elected chief executive of the City of East Lansing, a sophisticated city of 52,000 residents with a council-manager government employing about 350 staff and with an annual budget of about \$47 million. Major accomplishments included incorporation of public asset depreciation into budgets with consequent improvements in public facilities and services, complete rewrite and modernization of city charter, greatly intensified cooperation between the City of East Lansing and the East Lansing Public Schools, significant increases in recreational facilities and services, major revisions to housing code, initiation of revision of the City Master Plan, facilitation of the merger of the Capital Area Transportation Authority and Michigan State University bus systems, initiation of a major downtown redevelopment project, City government efficiency improvements, and numerous other policy initiatives. Member of Michigan Municipal League policy committee on Transportation and Environment and principal writer of league policy on these subjects (still substantially unchanged as of 2009).

1995-1999 Michigan Department of Natural Resources

Chief Information Officer

- Executive responsibility for end-user computing, data center operations, wide area network, local area network, telephony, public safety radio, videoconferencing, application development and support, Y2K readiness for Departments of Natural Resources and Environmental Quality. Directed staff of about 110. Member of MERIT Affiliates Board and of the Great Lakes Commission's Great Lakes Information Network (GLIN) Board.

1990-1995 Michigan Department of Natural Resources

Senior Fisheries Manager

- Responsible for coordinating management of Michigan's Great Lakes fisheries worth about \$4 billion per year including fish stocking and sport and commercial fishing regulation decisions, fishery monitoring and research programs, information systems development, market and economic analyses, litigation, legislative analysis and negotiation. University relations. Extensive involvement in regulation of steam electric and hydroelectric power plants.
- Served as agency expert on natural resource damage assessment, for all resources and causes.
- Considerable involvement with Great Lakes Fishery Commission, including:
 - Co-chair of Strategic Great Lakes Fishery Management Plan working group

- Member of Lake Erie and Lake St. Clair Committees
- Chair, Council of Lake Committees
- Member, Sea Lamprey Control Advisory Committee
- St Clair and Detroit River Areas of Concern Planning Committees

1989-1990 American Fisheries Society

Editor, North American Journal of Fisheries Management

- Full responsibility for publication of one of the premier academic journals in natural resource management.

1984 - 1989 Michigan Department of Natural Resources

Fisheries Administrator

- Assistant to Chief of Fisheries, responsible for strategic planning, budgets, personnel management, public relations, market and economic analysis, and information systems. Department of Natural Resources representative to Governor's Cabinet Council on Economic Development. Extensive involvement in regulation of steam electric and hydroelectric power plants.

1983-present Michigan State University

Adjunct Instructor

- Irregular lecturer in various undergraduate and graduate fisheries and wildlife courses and informal graduate student research advisor in fisheries and wildlife and in parks and recreation marketing.

1977 – 1984 Michigan Department of Natural Resources

Fisheries Research Biologist

- Simulation modeling & policy analysis of Great Lakes ecosystems. Development of problem-oriented management records system and "epidemiological" approaches to managing inland fisheries.
- Modeling and valuation of impacts power plants on natural resources and recreation.

Education

1991-1995 Michigan State University

PhD Candidate, Environmental Economics

Coursework completed, dissertation not pursued due to decision to pursue different career direction.

1980-1981 University of British Columbia

Non-degree Program, Institute of Animal Resource Ecology

1974-1977 Virginia Polytechnic Institute & State University

MS Fisheries and Wildlife Sciences

MS Statistics and Operations Research

1971-1974 New Mexico State University

BIS Mathematics, Biology, and Fine Arts

Citizenship and
Community
Involvement

Youth Soccer Coach, East Lansing Soccer League, 1987-89

Co-organizer, East Lansing Community Unity, 1992-1993

Bailey Community Association Board, 1993-1995

East Lansing Commission on the Environment, 1993-1995

East Lansing Street Lighting Advisory Committee, 1994

Councilmember, City of East Lansing, 1995-1999

Mayor, City of East Lansing, 1995-1997

East Lansing Downtown Development Authority Board Member, 1995-1999

East Lansing Transportation Commission, 1999-2004

East Lansing Non-Profit Housing and Neighborhood Services Corporation Board Member, 2001-2004

Lansing – East Lansing Smart Zone Board of Directors, 2007-present

Council on Labor and Economic Growth, State of Michigan, by appointment of the Governor, May 2009 – May 2012

East Lansing Downtown Development Authority Board Member and Vice-Chair, 2010 – present.

East Lansing Brownfield Authority Board Member and Vice-Chair, 2010 – present.

East Lansing Downtown Management Board and Chair, 2010 – 2016

East Lansing City Center Condominium Association Board Member, 2015 – present.

Douglas Jester

Specific Energy-Related Accomplishments

Unrelated to Employment

- Member of Michigan SAVES initial Advisory Board. Michigan SAVES is a financing program for building energy efficiency measures initiated by the State of Michigan Public Service Commission and administered under contract by Public Sector Consultants. Program launched in 2010.
- Member of Michigan Green Jobs Initiative, representing the Council for Labor and Economic Growth.
- Participated in Lansing Board of Water and Light Integrated Resource Planning, leading to their recent completion of a combined cycle natural gas power plant that also provides district heating to downtown Lansing.
- In graduate school, participated in development of database and algorithms for optimal routing of major transmission lines for Virginia Electric Power Company (now part of Dominion Resources).
- Commissioner of the Lansing Board of Water and Light, representing East Lansing. December 2017 – present.

For 5 Lakes Energy

- Participant by invitation in the Michigan Public Service Commission Smart Grid Collaborative, authoring recommendations on data access, application priorities, and electric vehicle integration to the grid.
- Participant by invitation in the Michigan Public Service Commission Energy Optimization Collaborative, a regular meeting and action collaborative of parties involved in the Energy Optimization programs required of utilities by Michigan law enacted in 2008.
- Participant by invitation in Michigan Public Service Commission Solar Work Group, including presentations and written comments on value of solar, including energy, capacity, avoided health and environmental damages, hedge value, and ancillary services.
- Participant by invitation in Michigan Senate Energy and Technology Committee stakeholder work group preliminary to introduction of a comprehensive legislative package.
- Participant by invitation in Michigan Public Service Commission PURPA Avoided Cost Technical Advisory Committee.
- Participant by invitation in Michigan Public Service Commission Standby Rate Working Group.
- Participant by invitation in Michigan Public Service Commission Street Lighting Collaborative.
- Participant by invitation in State of Michigan Agency for Energy Technical Advisory Committee on Clean Power Plan implementation.
- Conceived, obtained funding, and developed open access integrated resource planning tools (State Tool for Electricity Emissions Reduction aka STEER) for State compliance with the Clean Power Plan:
 - For Energy Foundation - Michigan and Iowa
 - For Advanced Energy Economy Institute – Arkansas, Florida, Illinois, Ohio, Pennsylvania, Virginia
 - For The Solar Foundation - Georgia and North Carolina
- Presentations to Michigan Agency for Energy and the Institute for Public Utilities Michigan Forum on Strategies for Michigan to Comply with the Clean Power Plan.
- Participant in Midcontinent Independent Systems Operator stakeholder processes on behalf of Michigan Citizens Against Rate Excess and the MISO Consumer Representatives Sector, including Resource Adequacy Committee, Loss of Load Expectation Working Group, Transmission Expansion Working Group, Demand Response Working Group, Independent Load Forecasting Working Group, and Clean Power Plan Working Group.
- Expert witness before the Michigan Public Service Commission in various cases, including:

- Case U-17473 (Consumers Energy Plant Retirement Securitization)
- Case U-17096-R (Indiana Michigan 2013 PSCR Reconciliation)
- Case U-17301 (Consumers Energy Renewable Energy Plan 2013 Biennial Review);
- Case U-17302 (DTE Energy Renewable Energy Plan 2013 Biennial Review);
- Case U-17317 (Consumers Energy 2014 PSCR Plan);
- Case U-17319 (DTE Electric 2014 PSCR Plan);
- Case U-17674 (WEPCO 2015 PSCR Plan);
- Case U-17679 (Indiana-Michigan 2015 PSCR Plan);
- Case U-17689 (DTE Electric Cost of Service and Rate Design);
- Case U-17688 (Consumers Energy Cost of Service and Rate Design);
- Case U-17698 (Indiana-Michigan Cost of Service and Rate Design);
- Case U-17762 (DTE Electric Energy Optimization Plan);
- Case U-17752 (Consumers Energy Community Solar);
- Case U-17735 (Consumers Energy General Rates);
- Case U-17767 (DTE General Rates);
- Case U-17792 (Consumers Energy Renewable Energy Plan Revision);
- Case U-17895 (UPPCO General Rates);
- Case U-17911 (UPPCO 2016 PSCR Plan);
- Case U-17990 (Consumers Energy General Rates); and
- Case U-18014 (DTE General Rates);
- Case U-17611-R (UPPCO 2015 PSCR Reconciliation);
- Case U-18089 (Alpena Power PURPA Avoided Costs);
- Case U-18090 (Consumers Energy PURPA Avoided Costs);
- Case U-18091 (DTE PURPA Avoided Costs);
- Case U-18092 (Indiana Michigan Electric Power PURPA Avoided Costs);
- Case U-18093 (Northern States Power PURPA Avoided Costs);
- Case U-18094 (Upper Peninsula Power Company PURPA Avoided Costs);
- Case U-18095 (UMERC PURPA Avoided Costs);
- Case U-18224 (UMERC Certificate of Necessity);
- Case U-18255 (DTE General Rate Case);
- Case U-18322 (Consumers Energy General Rate Case).
- Expert witness before the Public Utilities Commission of Nevada in
 - Case 16-07001 (NV Energy 2017-2036 Sierra Pacific Integrated Resource Plan)
- Expert witness before the Missouri Public Service Commission in
 - Case ER-2016-0179 (Ameren Missouri General Rate Case)
 - Case ER-2016-0285 (KCP&L General Rate Case)
 - Case ET-2016-0246 (Ameren Missouri EV Policy)
- Expert witness before the Kentucky Public Service Commission
 - Case 2016-00370 (Kentucky Utilities General Rate Case)
- Expert witness before the Massachusetts Department of Public Utilities in
 - Case 17-05 (Eversource General Rate Case)
 - Case 17-13 (National Grid General Rate Case)
- Coauthored “Charge without a Cause: Assessing Utility Demand Charges on Small Customers”
- Currently under contract to the Michigan Agency for Energy to develop a Roadmap for CHP Market Development in Michigan, including evaluation of various CHP technologies and applications using STEER Michigan as an integrated resource planning tool.
- Under contract to NextEnergy, authored “Alternative Energy and Distributed Generation” chapter of Smart Grid Economic Development Opportunities report to Michigan Economic Development Corporation and assisted authors of chapters on “Demand Response” and “Automated Energy Management Systems”.
- Developed presentation on “Whole System Perspective on Energy Optimization Strategy” for Michigan Energy Optimization Collaborative.
- Under contract to NextEnergy, assisted in development of industrial energy efficiency technology development strategy.

- Under contract to a multinational solar photovoltaics company, developed market strategy recommendations.
- For an automobile OEM, developed analyses of economic benefits of demand response in vehicle charging and vehicle-to-grid electricity storage solutions.
- Under contract to Pew Charitable Trusts, assisted in development of a report of best practices for electric vehicle charging infrastructure.
- Under contract to a national foundation, developed renewable energy business case for Michigan including estimates of rate impacts, employment and income effects, health effects, and greenhouse gas emissions effects.
- Assisted in Michigan market development for a solar panel manufacturer, clean energy finance company, and industrial energy management systems company.
- Under contract to Institute for Energy Innovation, organized legislative learning sessions covering a synopsis of Michigan's energy uses and supply, energy efficiency, and economic impacts of clean energy.

For Department of Energy Labor and Economic Growth

- Participant in the Michigan Public Service Commission Energy Optimization Collaborative, a regular meeting and action collaborative of parties involved in the Energy Optimization programs required of utilities by Michigan law enacted in 2008.
- Lead development of a social-media-based community for energy practitioners in Michigan at www.MichEEN.org.
- Drafted analysis and policy paper concerning customer and third-party access to utility meter data.
- Analyzed hourly electric utility load demonstrating relationship amongst time of day, daylight, and temperature on loads of residential, commercial, industrial, and public lighting customers. Analysis demonstrated the importance of heating for residential electrical loads and the effects of various energy efficiency measures on load-duration curves.
- Analyzed relationship of marginal locational prices to load, demonstrating that traditional assumptions of Integrated Resource Planning are invalid and that there are substantial current opportunities for cost-effective grid-integrated storage for the purpose of price arbitrage as opposed to traditionally considered load arbitrage.
- Developed analyses and recommendations concerning the use of feed-in tariffs in Michigan.
- Participated in Pluggable Electric Vehicle Task Force and initiated changes in State building code to accommodate installation of vehicle charging equipment.
- Organized December 2010 conference on Biomass Waste to Energy technologies and market opportunities.
- Participated in and provided support for teams working on developing Michigan businesses involved in renewable energy, storage, and smart grid supply chains.
- Developed analyses and recommendations concerning low-income energy assistance coordination with low-income energy efficiency programs and utility payment collection programs.
- Drafted State of Michigan response to a US Department of Energy request for information on offshore wind energy technology development opportunities.
- Assisted in development of draft performance contracting enabling legislation, since adopted by the State of Michigan.

For Verizon Business

- Analyzed several potential new lines of business for potential entry by Verizon's Global Services Systems Integration business unit and recommended entry to the "Smart Grid" market. This recommendation was adopted and became a major corporate initiative.
- Provided market analysis and participation in various conferences to aid in positioning Verizon in the "Smart Grid" market. Recommendations are proprietary to Verizon.

- Led a task force to identify potential converged solutions for the “Smart Grid” market by integrating Verizon’s current products and selected partners. Established five key partnerships that are the basis for Verizon’s current “Smart Grid” product offerings.
- Participated in the “Smart Grid” architecture team sponsored by the corporate Chief Technology Officer with sub-team lead responsibilities in the areas of Software and System Integration and Network and Systems Management. This team established a reference architecture for the company’s “Smart Grid” offerings, identified necessary changes in networks and product offerings, and recommended public policy positions concerning spectrum allocation by the FCC, security standards being developed by the North American Reliability Council, and interoperability standards being developed by the National Institute of Standards and Technology.
- Developed product proposals and requirements in the areas of residential energy management, commercial building energy management, advanced metering infrastructure, power distribution monitoring and control, power outage detection and restoration, energy market integration and trading platforms, utility customer portals and notification services, utility contact center voice application enablement, and critical infrastructure physical security.
- Lead solution architecture and proposal development for six utilities with solutions encompassing customer portal, advanced metering, outage management, security assessment, distribution automation, and comprehensive “Smart Grid” implementation.
- Presented Verizon’s “Smart Grid” capabilities to seventeen utilities.
- Presented “Role of Telecommunications Carriers in Smart Grid Implementation” to 2009 Mid-America Regulatory Conference.
- Presented “Smart Grid: Transforming the Electricity Supply Chain” to the 2009 World Energy Engineering Conference.
- Participant in NASPI net work groups of the North American Energy Reliability Corporation (NERC), developing specifications for a wide-area situational awareness network to facilitate the sharing and analysis of synchrophasor data amongst utilities in order to increase transmission reliability.
- Provided technical advice to account team concerning successful proposal to provide network services and information systems support for the California ISO, which coordinates power dispatch and intercompany power sales transactions for the California market.

For Michigan Department of Natural Resources

- Determined permit requirements under Section 316 of the Clean Water Act for all steam electric plants currently operating in the State of Michigan.
- Case manager and key witness for the State of Michigan in FERC, State court, and Federal court cases concerning economics and environmental impacts of the Ludington Pumped Storage Plant, which is the world’s largest pumped storage plant. A lead negotiator for the State in the ultimate settlement of this issue. The settlement was valued at \$127 million in 1995 and included considerations of environmental mitigation, changes in power system dispatch rules, and damages compensation.
- Managed FERC license application reviews for the State of Michigan for all hydroelectric projects in Michigan as these came up for reissuance in 1970s and 1980s.
- Testified on behalf of the State of Michigan in contested cases before the Federal Energy Regulatory Commission concerning benefit-cost analyses and regulatory issues for four different hydroelectric dams in Michigan.
- Reviewed (as regulator) the environmental impacts and benefit-cost analyses of all major steam electric and most hydroelectric plants in the State of Michigan.
- Executive responsibility for development, maintenance, and operations of the State of Michigan’s information system for mineral (includes oil and gas) rights leasing, unitization and apportionment, and royalty collection.
- In cooperative project with Ontario Ministry of Natural Resources, participated in development of a simulation model of oil field development logistics and environmental impact on Canada’s Arctic slope for Tesoro Oil.

UPPER PENINSULA POWER COMPANY

MPSC Vol No 8-ELECTRIC

Original Sheet No. D-75.00

D2. Decoupling**Decoupling**

All customer bills subject to the provisions of this tariff shall be adjusted by the Decoupling surcharge, per kWh, as follows for the period XXXXXX through XXXXXX, on a service rendered basis:

<u>Rate Schedule</u>	<u>Adjustment \$/kWh</u>
Integrated System	
A-1	\$0.00223 /kWh
AH-1	\$0.00223 /kWh
C-1	\$0.00347 /kWh
H-1	\$0.00347 /kWh
P-1	\$0.00347 /kWh
Cp-U Secondary	\$0.00347 /kWh
Cp-U Primary	\$0.00258 /kWh
Cp-U Transmission	\$0.00258 /kWh
WP-3	\$0.00258 /kWh
SL-3	\$0.00347 /kWh
SL-5/6	\$0.00000 /kWh
Z-3	\$0.00000 /kWh
Iron River System	
A-2	\$0.00223 /kWh
AH-2	\$0.00223 /kWh
C-2	\$0.00347 /kWh
H-2	\$0.00347 /kWh
P-2	\$0.00347 /kWh
Cp-U Secondary	\$0.00347 /kWh
Cp-U Primary	\$0.00258 /kWh
Cp-U Transmission	\$0.00258 /kWh
SL-10	\$0.00000 /kWh
Z-4	\$0.00000 /kWh

Issued: XX-XX-XX
By J F Schott
VP External Affairs
Green Bay, Wisconsin

Effective for Service
Rendered XX-XX-XX
through XX-XX-XX
Issued Under Auth. of
Mich Public Serv Comm
Dated: XX-XX-XX
In Case No: U-16568

EXHIBIT CARE-2

CASE U-20150

Page 1 of 2

Case No. U-17555
 Witness: Seth S. DeMerritt
 Exhibit A-2 (SSD-2)
 Page 1 of 2

		Sep-12	Oct-12	Nov-12	Dec-12	Jan-13	Feb-13	Mar-13	Apr-13	May-13	Jun-13	Jul-13	Aug-13	Total
A-1	Calendar Sales	16,495,823	16,902,142	17,333,822	21,038,298	20,762,837	18,659,463	17,294,433	17,146,797	16,693,986	16,019,691	18,554,738	18,463,249	215,365,279
	Decoupling Rate	\$ 0.00223	\$ 0.00223	\$ 0.00223	\$ 0.00223	\$ 0.00223	\$ 0.00223	\$ 0.00223	\$ 0.00223	\$ 0.00223	\$ 0.00223	\$ 0.00223	\$ 0.00223	
	Decoupling Revenues	\$ 36,785.69	\$ 37,691.78	\$ 38,654.42	\$ 46,915.40	\$ 46,301.13	\$ 41,610.60	\$ 38,566.59	\$ 38,237.36	\$ 37,227.59	\$ 35,723.91	\$ 41,377.07	\$ 41,173.05	\$ 480,264.57
A-2	Calendar Sales	1,316,861	1,291,716	1,406,778	1,626,762	1,828,354	1,516,596	1,430,569	1,423,652	1,376,893	1,212,858	1,503,765	1,543,240	17,478,044
	Decoupling Rate	\$ 0.00223	\$ 0.00223	\$ 0.00223	\$ 0.00223	\$ 0.00223	\$ 0.00223	\$ 0.00223	\$ 0.00223	\$ 0.00223	\$ 0.00223	\$ 0.00223	\$ 0.00223	
	Decoupling Revenues	\$ 2,936.60	\$ 2,880.53	\$ 3,137.11	\$ 3,627.68	\$ 4,077.23	\$ 3,382.01	\$ 3,190.17	\$ 3,174.74	\$ 3,070.47	\$ 2,704.67	\$ 3,353.40	\$ 3,441.43	\$ 38,976.04
AH-1	Calendar Sales	1,676,413	2,176,843	2,931,825	3,724,470	4,118,607	3,650,072	3,561,694	2,804,459	2,520,522	1,549,569	1,677,893	1,813,315	32,205,682
	Decoupling Rate	\$ 0.00223	\$ 0.00223	\$ 0.00223	\$ 0.00223	\$ 0.00223	\$ 0.00223	\$ 0.00223	\$ 0.00223	\$ 0.00223	\$ 0.00223	\$ 0.00223	\$ 0.00223	
	Decoupling Revenues	\$ 3,738.40	\$ 4,854.36	\$ 6,537.97	\$ 8,305.57	\$ 9,184.49	\$ 8,139.66	\$ 7,942.58	\$ 6,253.94	\$ 5,620.76	\$ 3,455.54	\$ 3,741.70	\$ 4,043.69	\$ 71,818.67
C-1	Calendar Sales	3,919,942	4,156,633	4,139,056	4,555,789	4,411,426	4,401,082	4,370,649	4,188,333	4,131,123	4,167,781	4,541,651	4,792,531	51,775,996
	Decoupling Rate	\$ 0.00347	\$ 0.00347	\$ 0.00347	\$ 0.00347	\$ 0.00347	\$ 0.00347	\$ 0.00347	\$ 0.00347	\$ 0.00347	\$ 0.00347	\$ 0.00347	\$ 0.00347	
	Decoupling Revenues	\$ 13,602.20	\$ 14,423.52	\$ 14,362.52	\$ 15,808.59	\$ 15,307.65	\$ 15,271.75	\$ 15,166.15	\$ 14,533.52	\$ 14,335.00	\$ 14,462.20	\$ 15,759.53	\$ 16,630.08	\$ 179,662.71
C-2	Calendar Sales	443,568	422,032	426,794	517,921	453,368	488,412	437,558	489,812	430,418	445,400	522,554	479,996	5,557,833
	Decoupling Rate	\$ 0.00347	\$ 0.00347	\$ 0.00347	\$ 0.00347	\$ 0.00347	\$ 0.00347	\$ 0.00347	\$ 0.00347	\$ 0.00347	\$ 0.00347	\$ 0.00347	\$ 0.00347	
	Decoupling Revenues	\$ 1,539.18	\$ 1,464.45	\$ 1,480.98	\$ 1,797.19	\$ 1,573.19	\$ 1,694.79	\$ 1,518.33	\$ 1,699.65	\$ 1,493.55	\$ 1,545.54	\$ 1,813.26	\$ 1,665.59	\$ 19,285.68
H-1	Calendar Sales	448,274	545,248	581,024	760,730	787,393	1,049,504	901,241	598,518	551,588	450,445	575,343	558,774	7,808,082
	Decoupling Rate	\$ 0.00347	\$ 0.00347	\$ 0.00347	\$ 0.00347	\$ 0.00347	\$ 0.00347	\$ 0.00347	\$ 0.00347	\$ 0.00347	\$ 0.00347	\$ 0.00347	\$ 0.00347	
	Decoupling Revenues	\$ 1,555.51	\$ 1,892.01	\$ 2,016.15	\$ 2,639.73	\$ 2,732.25	\$ 3,641.78	\$ 3,127.31	\$ 2,076.86	\$ 1,914.01	\$ 1,563.04	\$ 1,996.44	\$ 1,938.95	\$ 27,094.04
P-1	Calendar Sales	7,323,246	7,477,116	7,425,554	8,439,495	7,698,203	7,138,202	8,084,764	7,212,095	7,408,831	7,105,416	8,397,098	7,463,976	91,173,996
	Decoupling Rate	\$ 0.00347	\$ 0.00347	\$ 0.00347	\$ 0.00347	\$ 0.00347	\$ 0.00347	\$ 0.00347	\$ 0.00347	\$ 0.00347	\$ 0.00347	\$ 0.00347	\$ 0.00347	
	Decoupling Revenues	\$ 25,411.66	\$ 25,945.59	\$ 25,766.67	\$ 29,285.05	\$ 26,712.76	\$ 24,769.56	\$ 28,054.13	\$ 25,025.97	\$ 25,708.64	\$ 24,655.79	\$ 29,137.93	\$ 25,900.00	\$ 316,373.77
Cp-U Secondary	Calendar Sales	5,739,945	6,071,915	6,382,424	6,310,059	6,712,860	5,642,113	6,436,089	6,080,776	6,528,980	6,476,419	5,408,594	3,658,935	71,449,109
	Decoupling Rate	\$ 0.00347	\$ 0.00347	\$ 0.00347	\$ 0.00347	\$ 0.00347	\$ 0.00347	\$ 0.00347	\$ 0.00347	\$ 0.00347	\$ 0.00347	\$ 0.00347	\$ 0.00347	
	Decoupling Revenues	\$ 19,917.61	\$ 21,069.55	\$ 22,147.01	\$ 21,895.90	\$ 23,293.62	\$ 19,578.13	\$ 22,333.23	\$ 21,100.29	\$ 22,655.56	\$ 22,473.17	\$ 18,767.82	\$ 12,696.50	\$ 247,928.41
Cp-U Primary	Calendar Sales	223,455	393,512	427,842	550,991	521,703	421,037	408,853	346,011	363,813	395,758	353,131	422,125	4,828,231
	Decoupling Rate	\$ 0.00258	\$ 0.00258	\$ 0.00258	\$ 0.00258	\$ 0.00258	\$ 0.00258	\$ 0.00258	\$ 0.00258	\$ 0.00258	\$ 0.00258	\$ 0.00258	\$ 0.00258	
	Decoupling Revenues	\$ 576.51	\$ 1,015.26	\$ 1,103.83	\$ 1,421.56	\$ 1,345.99	\$ 1,086.28	\$ 1,054.84	\$ 892.71	\$ 938.64	\$ 1,021.06	\$ 911.08	\$ 1,089.08	\$ 12,456.84

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Surcharge/(Credit)	\$ 0.00011
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D2. Decoupling**Decoupling**

All customer bills subject to the provisions of this tariff shall be adjusted by the Decoupling surcharge, per kWh, as follows for the period October 1, 2013 through September 1, 2014, on a service rendered basis:

<u>Rate Schedule</u>	<u>Adjustment \$/kWh</u>
A-1	\$0.00091 /kWh
A-2	\$0.00091 /kWh
AH-1	\$0.00091 /kWh
C-1	(\$0.00293) /kWh
C-2	(\$0.00293) /kWh
H-1	(\$0.00293) /kWh
P-1	(\$0.00293) /kWh
Cp-U Secondary	(\$0.00293) /kWh
Cp-U Primary	\$0.00152 /kWh
Cp-U Transmission	\$0.00152 /kWh
RTMP	\$0.00000 /kWh
RTMP-D	\$0.00000 /kWh
WP-3	\$0.00152 /kWh
SL-3	(\$0.00293) /kWh
SL-5/6	\$0.00000 /kWh
Z-3	\$0.00000 /kWh
Z-4	\$0.00000 /kWh

Issued: XX-XX-XX
 By D M Derricks
 Assistant VP - Regulatory Affairs
 Green Bay, Wisconsin

Effective for Service
 Rendered 10-1-13
 through 9-30-14
 Issued Under Auth. of
 Mich Public Serv Comm
 Dated: XX-XX-XX
 In Case No: U-16990

EXHIBIT CARE-4

CASE U-20150

1 PAGE

Case No. U-16990
Witness: Seth S. DeMerritt
Revised Exhibit A-1 (SSD-1)
Page 1 of 9

**UPPER PENINSULA POWER COMPANY
2011 Decoupling Calculation
Summary of Results**

		(a)	(b)	(c)	(d)	(e)	(f)
			Secondary (2)		Primary (3)		Total/Average
Line No.	Description	Residential (1)	Bundled	ROA	Bundled	ROA	
<u>Rate Case Nonfuel Charges</u>							
1	Proposed Tariff Revenue	\$51,400,552	\$36,071,873	\$0	\$11,623,800	\$0	\$99,096,225
2	Less: Fuel Revenue	(\$18,200,719)	(\$15,961,911)	\$0	(\$8,041,718)	\$0	(\$42,204,347)
3	Nonfuel Revenue	\$33,199,833	\$20,109,962	\$0	\$3,582,082	\$0	\$56,891,878
4	Annual Sales (kWhs)	268,724,620	235,669,730	0	118,731,995	0	623,126,345
5	Nonfuel Charge (¢ / kWh)	12.355	8.533	0.000	3.017	0.000	9.130
<u>Rate Case Sales & Customers</u>							
6	2011 Annual Sales (kWhs)	268,724,620	235,669,730	0	118,731,995	0	623,126,345
7	2011 Monthly No. of Customers	45,900	5,632	0	13	0	51,545
8	Rate Case Sales/Customer	5,855	41,845	0	9,133,230	0	12,089
<u>Actual Sales & Customers</u>							
9	2011 Annual Sales (kWhs)	268,383,602	242,301,120	0	107,425,504	0	618,110,226
10	2011 Monthly No. of Customers	46,181	5,594	0	12	0	51,787
11	Actual Sales/Customer	5,812	43,314	0	8,651,718	0	11,936
<u>Calculation of Revenue Decoupling Surcharges</u>							
<u>Annual kWh Sales/Customer</u>							
12	Rate Case Sales/Customer	5,855	41,845	0	9,133,230	0	12,089
13	Actual Sales/Customer	5,812	43,314	0	8,651,718	0	11,936
14	Sales/Customer Variance	43	(1,470)	0	481,512	0	153
15	Nonfuel Charge (¢/kWh)	12.355	8.533	0.000	3.017	0.000	9.130
16	Nonfuel Revenue Variances (\$/Customer)	\$5.32	(\$125.41)	\$0.00	\$14,526.96	\$0.00	\$14.01
17	Rate Case Monthly No. of Customers	45,900	5,632	0	13	0	51,545
18	Nonfuel Revenue Variance	\$244,008	(\$706,315)	\$0	\$188,851	\$0	(\$273,456)
19	2012 Projected Sales (kWh)	267,405,458	241,122,358	0	124,048,441	0	632,576,257
20	RDM Surcharges (¢/kWh)	0.091	(0.293)	0.000	0.152	0.000	(0.043)

Note 1: Residential = A-1, AH-1, A-2, and AH-2.

Note 2: Secondary = C-1, H-1, P-1, CP-U Secondary, SL-3, C-2, H-2, and P-2.

Note 3: Primary = CP-U Primary, CP-U Transmission, Schedule A and WP-3.

D2. Decoupling

Decoupling

All customer bills subject to the provisions of this tariff shall be adjusted by the Decoupling surcharge, per kWh, as follows for the period January 1, 2015 through December 31, 2015, on a service rendered basis:

<u>Rate Schedule</u>	<u>Full Requirements Adjustment \$/kWh</u>	<u>Retail Access Adjustment \$/kWh</u>
A-1	\$0.00112 /kWh	\$0.00047 /kWh
A-2	\$0.00112 /kWh	\$0.00047 /kWh
AH-1	\$0.00112 /kWh	\$0.00047 /kWh
C-1	\$0.00137 /kWh	\$0.00063 /kWh
H-1	\$0.00137 /kWh	\$0.00063 /kWh
P-1	\$0.00137 /kWh	\$0.00063 /kWh
Cp-U Secondary	\$0.00137 /kWh	\$0.00063 /kWh
Cp-U Primary	\$0.00067 /kWh	\$0.00038 /kWh
Cp-U Transmission	\$0.00067 /kWh	\$0.00038 /kWh
RTMP	\$0.00000 /kWh	\$0.00000 /kWh
RTMP-D	\$0.00000 /kWh	\$0.00000 /kWh
WP-3	\$0.00067 /kWh	\$0.00038 /kWh
SL-3	\$0.00011 /kWh	\$0.00011 /kWh
SL-5/6	\$0.00000 /kWh	\$0.00000 /kWh
Z-3	\$0.00000 /kWh	\$0.00000 /kWh
Z-4	\$0.00000 /kWh	\$0.00000 /kWh

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Effective for Service
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