OLSON, BZDOK & HOWARD

January 15, 2021

Ms. Lisa Felice
Michigan Public Service Commission
7109 W. Saginaw Hwy.
P. O. Box 30221
Lansing, MI 48909

Via E-filing

RE: MPSC Case No. U-20697

Dear Ms. Felice:

The following is attached for paperless electronic filing:

Joint Petition for Rehearing Filed by Attorney General Dana Nessel, Michigan Environmental Council, Natural Resources Defense Council and Sierra Club

Proof of Service

Sincerely,

Tracy Jane Andrews
cn=Tracy Jane Andrews, o=Olson Bzdok & Howard, ou, email=tjandrews@envlaw.com, c=US
2021.01.15 15:03:12 -05'00'

Tracy Jane Andrews
tjandrews@envlaw.com

xc: Parties to Case No. U-20697

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application of **CONSUMERS ENERGY COMPANY** for authority to increase its rates for the generation and distribution of electricity and for other relief.	U-20697 ALJ Sally Wallace

JOINT PETITION FOR REHEARING

FILED BY

ATTORNEY GENERAL DANA NESSEL,

MICHIGAN ENVIRONMENTAL COUNCIL,

NATURAL RESOURCES DEFENSE COUNCIL,

AND

SIERRA CLUB

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I. INTRODUCTION

Pursuant to Rule 437 of the Michigan Public Service Commission's (the Commission) Rules of Practice and Procedure, Attorney General Dana Nessel (AG) and the Michigan Environmental Council, Natural Resources Defense Council, and Sierra Club (collectively, the MEC Group) respectfully request rehearing of the Commission's December 17, 2020, Final Order rejecting the recommendation to approve $12.5 million in additional program funding to expand bill assistance for Consumers Energy's low-income customers in 2021.

Consumers' electric bills were highly unaffordable for its 450,000 low-income customers before the 2020 pandemic-induced recession and the 2021 rate increase of 8.3% for the residential class. Consumers proposed to spend $6.1 million for low-income assistance in 2021, primarily to provide a monthly $8.50 Residential Income Assistance (RIA) credit for about 45,000 customers, with an additional $21.50 Low Income Assistance Credit (LIAC) (total $30) for 4,200 customers.

With support from the testimony and analysis by Roger Colton, joint witness for the Attorney General and the MEC Group, the Administrative Law Judge (ALJ) recommended increasing the budget for low-income assistance in 2021 by $12.5 million to $18.6 million. Mr. Colton made other recommendations; the ALJ accepted some (move more customers from RIA to LIAC; provide an additional $20 credit for the lowest income customers; initiate a percentage of income rate workgroup) and rejected others (increase the $30 LIA credit to $60; eliminate the RIA credit to fund expanded LIAC participation; initiate an arrears management program).

No party opposed the ALJ's recommendation to increase the 2021 low-income customer assistance budget by $12.5 million. Staff did not except to the recommendations. Consumers stated that it did "not oppose the approval of additional funding to expand the availability of LIAC credit." Consumers only raised concerns over what it characterized as recommended additional LIAC program changes – *i.e.*, income eligibility and verification changes.

The decision to reject the recommended $12.5 million increase is ambiguous, but it appears to misunderstand the ALJ's recommendation and the supporting record, as well as Consumers' exception. And it is likely to have unintended consequences. The Commission may have erroneously misunderstood that the $12.5 million would only fund the $20 adder for the lowest-income customers (up to 50% of Federal Poverty Level, FPL). The Commission rejected the $20 adder on the basis that eligible customers are currently unidentifiable. In tandem with that decision, the Commission inexplicably rejected the $12.5 million funding increase entirely, even though this funding would provide critically necessary bill assistance for substantially more low-income customers, independent of the $20 adder issue. The $12.5 million would facilitate expanded LIAC access by transitioning many RIA customers to LIAC such that they would receive an additional $21.50/month credit. This petition does not request reconsideration of the rejected $20 adder but targets the rejected increase in the 2021 bill assistance program budget.

To the extent the Commission rejected the increased funding recommendation on the basis that Consumers is presently unable to identify funding recipients, then that conclusion would also be erroneous. Consumers is presently able to identify and validate customers eligible for LIA credits. Expanding access to LIAC requires additional funding, not programmatic changes. Only if the Commission were also to modify LIAC eligibility and/or adopt the $20 adder would Consumers' concerns about income verification ripen. Challenges associated with income validation should not prevent the Commission from approving reasonable and meaningful assistance, especially when there is a clear demonstration of need as is the case currently. This petition does not seek reconsideration of the rejection of LIAC programmatic changes, but instead requests the Commission revisit its decision to reject the recommended program funding increase.

The Commission declined to eliminate the RIA credit because it was not satisfied the program does not provide benefits when considered in tandem with other programs. The ALJ also recommended retaining the RIA credit, to which no party excepted, but for a different reason. She found value in preserving the credit for eligible customers who are not moved to LIAC. Retaining the RIA credit, whatever the reason, does not obviate the rationale and necessity for expanding LIAC by increasing the program budget by $12.5 million. The petition requests reconsideration of the decision to reject the additional program funding, not the decision to retain the RIA credit.

The result of the Commission's Order is to maintain RIA and LIAC as proposed by the Company, approving a 2021 program budget for low-income customer assistance of $6.1 million.[1] This includes $1.5 million for up to 4,500 low-income customers (about 1% of the eligible population) to receive a $30 bill credit, which is likely to only moderately improve bill affordability and Consumer's ability to collect timely, complete, regular, and unsolicited bills for a portion of those customers. It also includes $4.6 million to provide up to 45,000 of Consumers' low-income customers (about 10% of the eligible population) an $8 monthly credit, which is less than the approved rate increase in this case and is unlikely to impact bill affordability. In light of the solid record, current economic circumstances, and increasing bill unaffordability, the seemingly unintended effect of the Order is maintenance of the status quo, including the disproportionate investment in a credit that has been demonstrated to be nearly meaningless, and despite the clear increase in need for more substantial bill assistance for low-income customers.

The AG and MEC Group respectfully request that the Commission reconsider its decision to reject the unopposed recommendation to fund increased participation in the LIAC program in 2021 by expanding the program budget by $12.5 million, from $6.1 million to $18.6 million.

[1] With the approved the RIA credit at $8 instead of $8.50, if participation remains constant, the 2021 RIA budget reduces to $4.3 million and the program budget reduces to $5.9 million. See Ex A-16, Sch. F-3.0.

Granting the petition will have a meaningful impact to reduce utility bills for 45,000 or more low-income customers during a time of great need.

II. STANDARD OF REVIEW

Petitions for rehearing are governed by Rule 437 of the Commission's Rules of Practice and Procedure. Rule 437 provides that a petition for rehearing, which must be filed within 30 days after service of an order unless otherwise specified by statute, may be based on claims of error, newly discovered evidence, facts or circumstances arising after the record closes, or unintended consequences resulting from compliance with the order. Mich. Admin Code, R 792.10437(1). A rehearing petition based on a claim of error must "specify all findings of fact and conclusions of law claimed to be erroneous with a brief statement of the basis of the error." *Id.* For a petition based on unintended consequences resulting from compliance with the order, the petition "shall specifically set forth the matters relied up." *Id.* While a petition for rehearing is not merely another opportunity for a party to argue a position or to express disagreement with the Commission's decision, the Commission may grant rehearing if a party "can show the decision to be incorrect or improper because of errors, newly discovered evidence, or unintended consequences of the decision."[2]

[2] See, e.g., Case No. U-17334, July 23, 2015, Order, p. 2; Case No. U-17900, July 23, 2015, Order, p. 2.

III. ARGUMENT

The Commission rejected an uncontested opportunity to expand participation in the LIAC program and provide more meaningful bill assistance to a significantly larger portion of Consumers' low-income customers by approving $12.5 million in additional program funding.

A. <u>Contextual circumstances elevate the importance of the Commission expanding bill assistance for low-income customers in this case.</u>

Consumers filed this case in February 2020, requesting a $244 million (+5.9%) revenue increase.[3] For the residential class, the requested annual rate increase was $280 million (+14%), with an offsetting rate decrease of $68.7 million (-5.2%) for the primary class.[4] This would have increased average monthly residential bills from $106 in 2020 to $121 in 2021.[5]

As the Commission acknowledged in its Order, several parties raised issues in this case about the affordability of Consumers' electric bills for residential customers.[6] At the end of 2019, Consumers Energy electric rates for residential customers were 21% higher than average rates in the United States; its $103 average monthly residential bill exceeded DTE's and also the average Michigan $100 monthly electric bills.[7] The Attorney General and the MEC Group both showed Consumers' residential electric rates have increased about 3% annually since 2009.[8] The

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[3] Application, p. 12.

[4] *Id.*, Attachment A.

[5] Ex MEC-113; Torrey Cross, 3 TR 127-28.

[6] Order, pp. 253-54.

[7] Ex MEC-110, p. 2.

[8] Order, p. 253; Attorney General Initial Brief, p. 197; MEC Initial Brief, p. 10.

Commission approved an 8.3% increase for residential customers effective in 2021, which is $8.63 over the average 2020 monthly residential bill.[9]

Also as the Commission acknowledged, the COVID-19 pandemic has heightened concerns about energy affordability particularly for low-income customers, adding urgency to improving options for customers needing assistance in paying electric bills.[10] Mr. Colton found that about 450,000 Consumers residential customers (28%) live below 150% of federal poverty levels.[11] Pre-pandemic and pre-2021 rate increase, their electric bills consumed from 5% to 17% of their income.[12] These bills substantially exceed an affordable 3% burden for electric bills in Michigan.[13] The approved 8% rate increase exacerbates bill unaffordability for each income bracket.[14] With this rate increase, Consumers' electric bills will be highly unaffordable (6-10% of income) for about 302,000 customers and severely unaffordable (11% or more of income) for about 130,000 customers.[15]

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[9] Order, Attachment A. Consumers' 2020 average monthly residential bill is $106. Ex MEC-113.

[10] Order, p. 254 (citing Case No. U-20757, July 23, 2020, Order, pp. 46-47).

[11] MEC Initial Brief, p. 233; Colton Direct, 8 TR 3692-93.

[12] For most customers with incomes in the lowest income bracket, up to 50% FPL, the energy burden of Consumers electric bills is about 17%. For most customers with incomes from 50% to 99% FPL bracket, the energy burden of Consumers electric bills is 9%. For most customers at 100 to 149% FPL, the burden of electric bills is 5%. Colton Direct, 8 TR 3695-96, Tables 2, 3, 4.

[13] See Order, p. 254; MEC Initial Brief, p. 10. A combined electric and gas burden at or below 6% of income is considered affordable. U-20757, Dec. 15, 2020, Staff Report, p. 4, n. 11. Assuming a 50/50 electric/gas split, which is conservative, means an affordable electric bill is at or below 3% of income. See Colton Direct, 8 TR 3690 n. 10.

[14] With the 8.3% rate increase, the electric bill burden for most customers with incomes up to 50% of FPL is 18% of income; for most customers with incomers 50-99% of FPL is 10%, and for most customers with incomes 100-149% of FPL is 6%. Colton Direct, 8 TR 3695-96, Tables 2, 3, 4.

[15] *Id.* Staff recognized *high* energy burden as those greater than 6% of income, while *severe* energy burdens are those greater than 10% of income. U-20757, Dec. 15, 2020, Staff Report, p. 4, n. 11. These standards apply to combined energy bills, not electric bills only.

Consumers' proposal for 2021 bill assistance for low-income customers was as follows:[16]

	2021 Budget	No. of Bills	No. of Customers
Low Income Credit (LIAC)	$1,512,000	50,400	4,200
Income Assistance (RIA)	$4,614,000[17]	542,868	45,239[18]
TOTAL	**$6,126,000**	**593,268**	**49,439**

These costs are independent of program administration. The Company requested $3.3 million to administer the RIA and LIAC programs, as well as for collections and other costs, as part of its 2021 O&M test year request.[19] Even with these and other programs, thousands of Consumers customers continue to carry large arrearages and face or suffer shut-offs, which impose additional costs on Consumers' other customers, including a projected $18 million in uncollectible expenses in 2021, up from $16.7 million in 2018.[20]

B. The ALJ recommended expanding participation in the LIAC credit in 2021 with a $12.5 million budget increase, with a process leading to longer-term reform.

Given these circumstances – a substantial rate increase request for the residential class, high residential rates and bills, pandemic-induced economic recession, and an insufficient offer of assistance for the substantial low-income customer group – the Attorney General and the MEC Group sponsored Roger Colton, an expert with four decades of experience in low-income utility

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[16] Ex A-16, Sch. F-3.0. Consumers proposed $16.3 million for the $3.75 Senior Citizen Credit (RSC).

[17] Since the Commission reduced the service charge and hence the RIA credit from $8.50 to $8, the RIA and total spends in 2021 would be reduced by about $300,000, assuming constant participation levels.

[18] Consumers expects about 15,000 *fewer* low-income customers to receive assistance in 2021 than in 2019. Ex MEC-45; McLean Cross, 3 TR 300-301 (about 64,600 customers received RIA in 2019).

[19] McLean Direct, 3 TR 204 (projecting $3.3 million in O&M in 2021, a $1.1 million increase "due to a rise in payments to third-party agencies that perform collection activities on the Company's behalf.").

[20] Ex A-64.

issues.[21] Mr. Colton undertook a deep analysis and developed comprehensive recommendations for improvements to Consumers' low-income assistance program. Mr. Colton demonstrated that a well-designed bill assistance program that improves bill affordability for customers results in corresponding business benefits for the utility and ratepayers – namely, more complete, timely, regular, and unsolicited payments.[22] These are measurable benefits: (a) increased bill payment coverage ratio – customers pay a bigger portion of their bill, without incurring substantial arrears; (b) increased productivity of utility collection efforts – more revenue is generated by each collection, and few collection activities are needed to generate the revenue (disconnection notices per dollar and per payment); (c) increased long-term success of collection efforts; and (d) improved price signals by reducing the distortion caused by wholly unaffordable bills.[23]

Mr. Colton provided a 4-part roadmap to develop an effective and targeted approach to provide meaningful assistance for low-income customers: (a) through a post-case workgroup, implement an appropriately-designed and targeted low-income bill assistance program with a fixed-payment Percentage of Income Payment Plan (PIPP), among other elements; (2) implement an arrearage management program; (3) eliminate RIA while increasing LIAC enrollment and doubling the $30 credit in order to provide more targeted and meaningful assistance, with a $20 adder for customers in extreme poverty, until a better bill assistance program is implemented, with $12.5 million additional resources to fund these recommendations; and (4) continue COVID-19

[21] Ex MEC-31, Colton CV.

[22] AG Initial Brief, pp. 172-75; MEC Initial Brief, pp. 244-45.

[23] The viability of price signals assumes the customer has the ability to receive and to act upon the signal. If a customer has an ability to pay $50 per month, the price signal of associated with a bill of $85 rather than $75 is negligible, if any, whereas the price signal of a bill for $49 rather than $55 is more significant. The closer bills are tailored to reflect affordability, the more efficacious any price signal will be. Colton Direct, 8 TR 3778-82.

related emergency relief measures.[24] The $12.5 million funding increase would impose a monthly impact of $0.24 per month on the average residential customer.[25] Increasing the bill assistance budget by $12.5 million would allow about 40% of RIA customers to receive the increased $60 LIA credit recommended by Mr. Colton. At the current $30 LIA credit, the $12.5 million increase would allow all RIA customers to receive the incremental $22 LIA credit over the $8 RIA credit.

In response, Consumers and Staff witnesses criticized aspects of Mr. Colton's analysis.[26] Staff's witness Revere did not agree with additional program funding because it would not solve the root problem of low incomes.[27] Consumers raised uncertainty about how it would automatically enroll food stamps recipients into the LIAC program and a challenge with verifying customers incomes for the proposed $20 adder.[28] It also resisted an arrears management program and the timeline to implement a PIPP. These concerns were addressed in briefing.[29]

The ALJ reviewed the testimony, oversaw the hearing, considered the briefing, and ultimately recommended a partial and modified set of Mr. Colton's initial recommendations. The ALJ recommended increasing Consumers' total program budget for 2021 to $18,628,808.[30] This spending increase would allow more customers to obtain some relief through the $30 LIA credit rather than the "nearly meaningless" RIA credit.[31] The ALJ rejected increasing the LIA credit to

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[24]See MEC Initial Brief, p. 231; Colton Direct, 8 TR 3686-87; PFD, pp. 356-57.

[25] Colton Direct, 8 TR 3804, 3806.

[26] McLean Rebuttal, 3 TR 269-76; Revere Rebuttal, 7 TR 2925-28.

[27] Staff Initial Brief, pp. 184-86.

[28] Consumers Initial Brief, pp. 506-507; Consumers Reply Brief, pp. 249-53.

[29] MEC Initial Brief, pp. 252-65; MEC Reply Brief, pp. 27-30.

[30] PFD, p. 362.

[31] *Id.* at 361. Mr. Colton recommended increasing the LIAC credit to $60/month, but the ALJ found this was unnecessary since Mr. Colton did not consider additional HHC and other assistance programs, and also

$60 on the basis that Mr. Colton did not account for additional available energy assistance from other programs. The ALJ recommended retaining the RIA credit because not all customers could transition to the LIAC. The ALJ also recommended providing an additional $20 adder for very low-income customers – those within incomes at or below 50% FPL. The PFD states that the Commission should direct Consumers to "develop an expanded LIAC program that provides $30 per month bill assistance for customers at or below 100% FPL, and an additional $20 per month for customers at or below 50% FPL, once Consumers is able to identify these customers."[32] The ALJ did not address the recommendation to implement an arrears management plan. She recommended the Commission direct Consumers to present a proposal within 30 days of the final order for expanded access to the LIAC credit and the $20 adder, with a program budget not to exceed $18.6 million.

C. <u>No party filed exceptions to the ALJ's recommendation to increase low-income bill assistance program spending in 2021.</u>

No party opposed the ALJ's additional funding recommendation. Consumers stated that it "does not oppose additional funding to expand the availability of LIAC."[33] The Attorney General excepted to the PFD on the basis it did not go far enough to implement necessary improvements to assist low-income customers.[34] Staff filed an exception requesting that the RIA credit be set to the residential customer charge, as has historically been the standard, but did not except to the recommended funding to increase bill assistance funding and expand LIAC participation.[35]

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that maintaining the credit at $30 as proposed by Consumers would allow more customer to obtain relief. *Id.* at 362.

[32] *Id.* at 362.

[33] Consumers Exceptions, p. 217.

[34] Attorney General Exceptions, pp. 45-49.

[35] Staff Exceptions, p. 9.

Consumers excepted to a different concern with the ALJ's recommendation, the "LIAC program changes" – *i.e.*, verifying that customers are at or below 100% FPL for the $30 LIAC credit and at or below 50% FPL for the $20 adder (verifications that are not required to simply expand the LIAC enrollment under current eligibility requirements).[36] As explained by Consumers:

> Customers qualify for RIA and LIAC credits if they participate in the state Home Heating Credit ("HHC") or State Emergency Relief ("SER") programs. Enrollment in these state programs validates the customer's income and need. Customers receiving HHC or SER are automatically enrolled in the RIA. LIAC is designed to provide greater assistance than RIA by prioritizing those customers who received an HHC, which has a 110% FPL income threshold.
>
> The Company permits enrollment in the Company's Shutoff Protection Plan and Winter Protection Plan if customers indicate that they receive Supplemental Security Income ("SSI"). However, those plans do not involve customer credits. Even where a customer may inform the Company that they receive SSI, the Company is not able to independently validate the percentage FPL for those customers. The Company does not have the ability to verify which customers would qualify for the LIAC under the PFD's recommendation.[37]

Thus, Consumers accepted expanding LIAC enrollment under the current program structure, with additional funding ("Consumers does not oppose approval of additional funding to expand the availability of LIAC")[38] but raised a concern about modifying LIAC eligibility and the $20 adder. As currently defined, LIAC eligibility is customers whose income "does not exceed 150% of the [FPL] as verified by an authorized State, Federal, or community agency."[39] Within

[36] *Id.*

[37] *Id.* (citation omitted).

[38] Consumers Exceptions, p. 217.

[39] See Order, Attachment B, Sheet No. D-15.00.

this, Consumers prioritizes customers at or below 110% FPL – *i.e*., those receiving HHC. Thus, it would be a "program change" to define eligibility into LIAC as "at or below 100% of FPL." And the Company currently relies on other entities to validate incomes for the LIAC credit, so it would also be a "program change" for the Company to validate qualifying incomes. Thus, it was these program changes, not the expansion of enrollment into the current LIAC program, that Consumers opposed in its exceptions to the PFD.

In reply, the MEC Group pointed out ways to mitigate or resolve concerns about potential program changes.[40] This petition does not seek reconsideration of the Commission's decision to reject program changes. Instead, this petition targets the funding increase to expand LIAC under the current program.

D. The Order rejected expanded access to LIAC for low-income customers in 2021.

The Commission did not expressly consider the unopposed recommendation to increase funding for expanded LIAC participation but implicitly rejected it while explicitly rejecting the $20 credit adder for very low-income customers:

> [T]he Commission declines to adopt the ALJ's recommendation to adopt part of the MEC Coalition's proposals to add an additional $20 LIAC credit for customers at or below 50% of the FPL and to eliminate the RIA program. As acknowledged by the MEC Coalition, there is currently no mechanism in place to identify the customers that would be eligible for the additional $20 credit. Consumers states that its customers qualify for RIA and LIAC if they participate in the HHC and State Emergency Relief (SER) programs and thus, those programs validate customer income and need. In other words, Consumers does not independently have the ability to verify the specified income levels suggested by the ALJ at this time. Income verification is a vital aspect of low-income program design and implementation and the Commission does not find it reasonable to approve $12.5 million in additional funds when the recipients of those funds are not

[40] MEC Reply Brief, pp. 27-30.

> yet identifiable. Therefore, the Commission declines to adopt the ALJ's recommendation to add an additional $20 credit available under LIAC to customers at or below 50% of the FPL.[41]

The Order here rejects the $12.5 million increased LIAC funding on what appears to be the mistaken understanding that the funding was to support only the $20 adder. The Order did not address the additional benefit of expanded access to LIAC facilitated by the funding increase. As noted above, Consumers is able to identify and validate customers for the RIA and LIAC credits generally, and also "priority" LIAC customers with income up to 110% FPL (HHC customers).

The Commission addressed the RIA credit as follows:

> The Commission adopts the ALJ's recommendation to retain the RIA credit. The Commission finds that the MEC Coalition did not adequately account for the benefit of the RIA credit in tandem with other assistance from the HHC and SER, and therefore, the Commission is not persuaded that eliminating the program is justified at this time.[42]

This is perplexing because the MEC Group did not file exceptions to the ALJ's modified recommendation to retain RIA while increasing LIAC participation through additional funding. While in testimony and briefing to the ALJ, the MEC Group supported replacing RIA with an expanded LIAC program, the ALJ's modified approach was a reasonable path forward.

The Commission also addressed the ALJ's recommendation to develop a workgroup to address low-income rates.[43] On this issue, the Commission directed the Company to include in its ongoing efforts under its gas rate case settlement the development of a PIPP for electric service.[44] Finally, the Commission ordered Staff to convene a low-income collaborative workgroup with the

[41] Order, pp. 261-62, emphasis added; citations omitted.

[42] *Id.*, p. 263.

[43] PFD, p. 362.

[44] Order, p. 262.

participation of Consumers to address energy affordability. The Order does not delineate a timeline nor identify other participants in such workgroup.

The PIPP proposal to be presented in future low-income collaborative workgroup may ultimately result in proposal that will be included in a future rate case. However, it is not likely to be addressed in Consumers' 2021 rate case, which will be effective in 2022, given the practical timing of both the workgroup and the next rate case. The earliest practical rate case where Consumers may propose a PIPP may be a 2022 rate case, effective 2023. In the interim, the result of the Commission's order is to approve only $6.1 million as proposed for the LIAC and RIA program, without modification, despite the lack of opposition to the recommended $12.5 million funding increase to expand LIAC availability in 2021, while the need is great.

E. The Commission should reconsider its decision to reject increased funding to expand participation in the LIAC program in 2021.

The Commission should grant this petition and reconsider its Order because the decision to reject expanded access to LIAC appears erroneous and is likely to result in unintended consequences. If the Commission is convinced that customer income verification challenges raised by Consumers are compelling, it may nevertheless approve expanded funding for the current LIAC program, without the $20 adder or modifying the income threshold.

The Order did not explicitly discuss nor otherwise apparently consider the benefits of funding expanded LIAC participation, instead wholly rejecting the funding increase on the basis the Commission found it unreasonable "to approve $12.5 million in additional funds when the recipients of those funds are not yet identifiable." This analysis suggests the Commission did not fully understand the scope of benefits provided by the $12.5 million program funding increase. This funding would provide resources to expand the availability of the LIAC credit under the program as currently defined and implemented. There are substantial benefits to expanding the number of Consumers' electric customers who may receive the LIA credit in 2021, in terms of increased bill affordability. These benefits would be achieved, independent of also providing the recommended $20 adder for very low-income customers. These affordability benefits would be achieved also independent of the suggestion to modify increased LIAC participation for customers at 100% or below of FPL. To the extent the Commission understood the expanded program funding was to support the $20 adder, that was a constricted understanding of the scope of increased funding and resultant benefits.

In addition, the Order reflects potential misunderstanding about the identifiability of the expanded pool of customers who would participate in LIAC, were additional funding approved. Current RIA-eligible or participating customers would be the recipients of the additional $12.5 million, were the Commission to approve it; these customers have been identified and income-verified. Consumers raised concerns about the $20 adder customers (up to 50% FPL) and a suggested modified LIAC eligibility (up to 100% of FPL), noting it does not have the ability to verify incomes if program participation is defined as percentage of income.[45] Thus, the Commission's conclusion that the recipients of the $12.5 million increased program budget are "not yet identifiable" appears erroneous. It is clear that the pool of customers who would participate in expanded LIAC is identifiable and verifiable.

Furthermore, it is reasonable to expand access to the LIA credit to more RIA customers. Mr. Colton showed, and the ALJ agreed, that the LIA credit demonstrably reduces energy burdens, while the RIA credit does not.[46] Before the approved rate increase, Mr. Colton showed that the LIA credit reduced bill unaffordability from 17% to 12% for most customers in the lowest income

[45] Consumers Exception, p. 217.

[46] PFD, pp. 361-62; Colton Direct, 8 TR 3727-30 (LIAC benefits); 3722-26 (RIA benefits).

bracket (below 50% FPL), from 9% to 6% for most customers in the 50-100 FPL bracket, and from 5% to 4% for most customers in the 100-150% FPL bracket.[47] While electric bills remain unaffordable for participating customers, the degree of unaffordability is reduced in all cases. As such, expanding access to the LIA credit for RIA customers is reasonable and supported.

Finally, the Order also appears to erroneously conflate Consumers' present inability to ***verify*** income levels for the proposed $20 adder to the LIAC program, with its ability to ***identify*** eligible customers for the program as a whole. The Order states:

> Income ***verification*** is a vital aspect of low-income program design and implementation and the Commission does not find it reasonable to approve $12.5 million in additional funds when the recipients of those funds are not yet ***identifiable***.[48]

As noted above, for the current RIA and LIAC programs, Consumers is able both to ***identify*** customers and to ***verify*** through other agencies eligible incomes. This petition does not request that the Commission change LIAC program eligibility (up to 150% of FPL) nor the Company's proposal to prioritize HHC participating customers (up to 110% of FPL). Although the Commission may be concerned about Consumers' present inability to ***verify*** incomes of customers who would qualify for the proposed $20 adder,[49] this petition does not request the Commission to revisit its decision rejecting the $20 adder.

Even so, the distinction between customer ***identification*** and income ***verification*** is important in the context of effective bill assistance programs. Mr. Colton presented a compelling analysis demonstrating that Consumers' bills are extremely unaffordable for the lowest income

[47] Ex MEC-38 (Scenario 1: Average Residential Bills).

[48] Order, p. 262 (emphasis added).

[49] Consumers Exceptions, p. 217.

bracket – those customers whose income is at or below 50% of the FPL.[50] The Commission is in the process of evaluating the findings and recommendations in Staff's report filed December 15, 2020, in Case No. U-20757, discussing utility bill affordability.[51] Moreover, the Commission has directed Consumers to develop a PIPP and Staff to convene a low-income work group.[52] These efforts should not proceed under the mistaken premise that Consumers is presently unable to identify customers who are in this lowest income bracket. The Company already identifies very low-income customers as those participating in Supplemental Security Income (SSI) for enrollment in the Shutoff Protection Plan or Winter Protection Plan programs.[53] Receipt of SSI (and also Temporary Assistance to Needy Families, TANF) benefits are indicative of customers in extreme poverty.[54] Likewise, Consumers' ability to verify income for these customers should not be a concern. *Verification* of income for these most vulnerable customers should not even be necessary at all for participants enrolled in indicative benefits programs. Regardless, there is no reason to conclude Consumers' customers in the lowest income bracket "are not yet *identifiable*."

The unintended consequence of the Commission's Final Order is that more than 45,000 low-income residential customers will not receive the more meaningful $30 bill assistance, which the ALJ recommended and no party opposed.[55] Instead, the approved program budget caps participation in the LIA credit at 4,200 customers in 2021. The Order also authorizes $4.6 million

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[50] Colton Direct, 8 TR 3695. The analysis shows that, based on historic average bills, 99.7% of the 126,317 customers in this income bracket experience electric bills that are 15% or more of their income. With the 8.3% rate increase, about 75% of customers in this income bracket will experience bills that are 18% or more of their income.

[51] Order, pp. 254-55.

[52] *Id.* at 262.

[53] Consumers Exceptions, p. 217; Ex MEC-115.

[54] Colton Direct, 8 TR 3802.

[55] $12.5 million would provide 47,348 customers with a $22 net credit increase over the $8 monthly RIA.

for the $8 monthly RIA credit, which was shown to not meaningfully impact electric bill affordability.[56] The RIA credit is particularly insufficient under economic hardships suffered by low-income customers resulting from the continuing pandemic. The 8.3% rate increase over already high rates and highest-in-Michigan residential bills exacerbates the insufficiency of the $8 monthly RIA credit. This credit may be "better than nothing," as the ALJ recognized when she recommended retaining this program for customers who do not transition to LIAC.[57] But more should be done, especially now.

Expanding access to LIAC by approving increased program funding of $12.5 million is a reasonable way to provide more effective bill assistance that reduces recipients' energy burdens. The Commission should reconsider its decision to reject this recommendation. If there are concerns about logistics associated with expanded program funding, then the Commission may direct Consumers present a plan within 30 days, as the ALJ also recommended.[58]

IV. CONCLUSION

For the reasons discussed above, the Attorney General and the MEC Group respectfully request that the Commission reconsider its Final Order and increase Consumers' 2021 bill assistance program funding by $12.5 million to allow expanded participation in the LIAC program at the $30 level Consumers proposed, while retaining the RIA credit for low-income customers who do not receive the increased LIA credit and continuing to support efforts leading to long-term, meaningful, and sustainable low-income assistance through the PIPP and low-income workgroup.

[56] Ex MEC-38.

[57] PFD, p. 362.

[58] PFD, p. 362. The ALJ noted that additional administrative costs should be minimal because customers participating in the LIAC credit are already identified. As noted above, Consumers included these two programs in its $3.3 million 2021 revenue requirements. McLean Direct, 3 TR 204.

Respectfully Submitted,

Dana Nessel
Attorney General

Date: January 15, 2021

Celeste R. Gill Digitally signed by Celeste R. Gill Date: 2021.01.15 14:54:52 -05'00'

By: ______________________________

Celeste R. Gill
Assistant Attorney General
Michigan Department of Attorney General,
Special Litigation Division
P. O. Box 30755
Sixth Floor Williams Bldg.
Lansing, MI 48909
Ph: (517) 335-7627
Email: gillc1@michigan.gov

OLSON, BZDOK & HOWARD, P.C.
Counsel for MEC, NRDC, SC, and CUB

Date: January 15, 2021

Tracy Jane Andrews
cn=Tracy Jane Andrews, o=Olson Bzdok & Howard, ou, email=tjandrews@envlaw.com, c=US
2021.01.15 15:02:51 -05'00'

By: ______________________________

Christopher M. Bzdok (P53094)
Tracy Jane Andrews (P67467)
Lydia Barbash-Riley (P81075)
420 E. Front St.
Traverse City, MI 49686
Phone: 231/946-0044; Fax: 231/946-4807
Email: chris@envlaw.com
tjandrews@envlaw.com
lydia@envlaw.com

EARTHJUSTICE
Counsel for Sierra Club

Michael C. Soules

Date: January 15, 2021

By: ______________________________

Michael Soules (P66312)
1625 Massachusetts Ave NW, Suite 702
Washington DC, 20036
Email: msoules@earthjustice.org

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application of **CONSUMERS ENERGY COMPANY** for authority to increase its rates for the generation and distribution of electricity and for other relief.	U-20697 ALJ Sally Wallace

PROOF OF SERVICE

On the date below, an electronic copy of **the Joint Petition for Rehearing by Attorney General Dana Nessel, Michigan Environmental Council, Natural Resources Defense Council and Sierra Club** was served on the following:

Name/Party	E-mail Address
Administrative Law Judge Hon. Sally Wallace	wallaces2@michigan.gov
Counsel for Consumers Energy Co. Robert W. Beach Bret A. Totoraitis Gary A. Gensch, Jr. Michael C. Rampe Theresa A.G. Staley Ian F. Burgess	mpscfilings@cmsenergy.com robert.beach@cmsenergy.com bret.totoraitis@cmsenergy.com gary.genschjr@cmsenergy.com Michael.rampe@cmsenergy.com Theresa.staley@cmsenergy.com Ian.burgess@cmsenergy.com
Counsel for MPSC Staff Amit T. Singh Daniel E. Sonneveldt Benjamin J. Holwerda Spencer Sattler Lori Mayabb	singha9@michigan.gov sonneveldtd@michigan.gov holwerdab@michigan.gov sattlers@michigan.gov mayabbl@michigan.gov
Counsel for Michigan Cable Telecommunications Association (MCTA) Michael S. Ashton Shaina R. Reed	mashton@fraserlawfirm.com sreed@fraserlawfirm.com
Counsel for Energy Michigan, Inc. Timothy J. Lundgren Justin K. Ooms Laura A. Chappelle	jkooms@varnumlaw.com lachappelle@varnumlaw.com tjlundgren@varnumlaw.com
Counsel for Hemlock Semiconductor Operations, LLC Jennifer Utter Heston	jheston@fraserlawfirm.com
Counsel for Attorney General Celeste R. Gill	AG-ENRA-Spec-Lit@michigan.gov GillC1@michigan.gov
Counsel for Association of Businesses Advocating Tariff Equity	

Bryan A. Brandenburg Michael J. Pattwell Stephen A. Campbell Jeffry Pollock	bbrandenburg@clarkhill.com mpattwell@clarkhill.com scampbell@clarkhill.com jcp@jpollockinc.com
Counsel for the Kroger Company Kurt J. Boehm Jody Kyler Cohn Michael L. Kurtz Kevin Higgins Justin Bieber	 kboehm@bkllawfirm.com jkylercohn@bkllawfirm.com mkurtz@bkllawfirm.com khiggins@energystrat.com jbieber@energystrat.com
Counsel for Midland Cogeneration Venture Limited Partnership Richard Aaron	 raaron@dykema.com
Counsel for Environmental Law & Policy Center, the Ecology Center, the Solar Energy Industries Association, Vote Solar and the Great Lakes Renewable Energy Association Margrethe Kearney Nikhil Vijaykar	 mkearney@elpc.org nvijaykar@elpc.org
Counsel for Walmart Melissa M. Horne	 mhorne@hcc-law.com
Counsel for Michigan Energy Innovation Business Council and Institute for Energy Innovation and ChargePoint, Inc. Laura A. Chapelle Timothy J. Lundgren Justin Ooms	 lachappelle@varnumlaw.com tjlundgren@varnumlaw.com jkooms@varnumlaw.com
Counsel for Michigan State Utility Workers' Council, Utility Workers Union of America and AFL-CIO Benjamin L. King John R. Canzano	 bking@michworkerlaw.com jcanzano@michworkerlaw.com
Counsel for Residential Customer Group Don L. Keskey Brian W. Coyer	 donkeskey@publiclawresourcecenter.com bwcoyer@publiclawresourcecenter.com

[signature page follows]

The statements above are true to the best of my knowledge, information and belief.

OLSON, BZDOK & HOWARD, P.C.
Counsel for MEC, NRDC and Sierra Club

Date: January 15, 2021

By: ________________________________

Digitally signed by Kimberly Flynn
DN: cn=Kimberly Flynn, o=Olson Bzdok & Howard, P.C., ou, email=kimberly@envlaw.com, c=US
Date: 2021.01.15 15:02:18 -05'00'

Kimberly Flynn, Legal Assistant
Karla Gerds, Legal Assistant
Breanna Thomas, Legal Assistant
420 E. Front St.
Traverse City, MI 49686
Phone: 231/946-0044
Email: kimberly@envlaw.com,
karla@envlaw.com, and
breanna@envlaw.com