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STATE OF MICHIGAN

UTILITY CONSUMER PARTICIPATION BOARD

- - -

MEETING OF MONDAY, APRIL 3, 2017

12:43 P.M.

611 West Ottawa, 4th Floor  
Lansing, Michigan

- - -

PRESENT: James MacInnes, Chairperson  
Paul Isley, Board Member  
Susan Licata Haroutunian, Board Member  
Sam Passmore, Board Member  
Kelly Jo Kitchen, Board Assistant  
Christopher Bzdok, Michigan Environmental  
Council (MEC)  
John Liskey, Citizens Against Rate Excess (CARE)  
Douglas Jester, CARE  
Don Keskey, Residential Customer Group (RCG) and  
Great Lakes Renewable Energy Association (GLREA)  
William Peloquin, RCG and GLREA  
Jeanine Deal, RCG  
Lola Killey, RCG  
Michael Moody, Assistant Attorney General  
Joel King, Assistant Attorney General  
Shawn Worden, LARA  
Jim Wilson, LARA  
Jim Ault, Michigan Electric & Gas Association

- - -

REPORTED BY: Lori Anne Penn, CSR-1315  
33231 Grand River Avenue  
Farmington, Michigan 48336

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1 MR. PELOQUIN: Bill Peloquin with Don  
2 Keskey.

3 MR. WILSON: Jim Wilson, LARA.

4 MS. WORDEN: Shawn Worden, LARA.

5 MR. BZDOK: Christopher Bzdok on behalf  
6 of MEC.

7 MR. PASSMORE: Sam Passmore, member of  
8 the board.

9 MS. LICATA HAROUTUNIAN: Susan Licata  
10 Haroutunian, Detroit, member of the board.

11 MR. AULT: Jim Ault, Michigan Electric &  
12 Gas Association.

13 MS. DEAL: Jeanine Deal, Residential  
14 Customer Group.

15 MS. KILLEY: Lola Killey, Residential  
16 Customer Group.

17 MR. MacINNES: Okay. And I'm Jim  
18 MacInnes, the board chair. Welcome, everyone.

19 MS. KITCHEN: Kelly Jo Kitchen, assistant  
20 to the board.

21 MR. MacINNES: Oop, sorry. Okay. Who  
22 brought us all these goodies here.

23 The first item will be the approval of  
24 the agenda here. And do I have a motion to approve the  
25 agenda?

1 MR. ISLEY: So moved.

2 MR. MacINNES: Is there support?

3 MS. LICATA HAROUTUNIAN: Support.

4 MR. MacINNES: Is there any discussion?

5 MR. LISKEY: I have a couple of changes,  
6 CARE, and I'll explain this when it gets to our turn, but  
7 we would like to, under the Business Item II(c), there  
8 are two bullet points. You can cross out the very first  
9 bullet point, we're not going -- we're withdrawing our  
10 request for UMEREC funding in that certificate of  
11 necessity case. And with regards to that bullet No. 2,  
12 we would like to substitute where it says U-18224, if you  
13 would put in U-17911-R, and I'll discuss that more when  
14 we get to it.

15 MR. MacINNES: And that is which one?

16 MR. LISKEY: That is the UPPCo 2016  
17 reconciliation case.

18 MR. MacINNES: PSCR reconciliation?

19 MR. LISKEY: Yeah. Which has already  
20 been funded to some degree by the board at the last  
21 meeting.

22 MR. MacINNES: Okay. Is there anymore  
23 discussion?

24 I wonder if we should restate the motion  
25 with the change that was suggested here?

1 MR. ISLEY: Okay.

2 MR. MacINNES: Do we have a motion to  
3 approve the agenda with the, including the change from  
4 CARE?

5 MS. LICATA HAROUTUNIAN: So moved.

6 MR. MacINNES: Is there support?

7 MR. ISLEY: Support.

8 MR. MacINNES: Is there anymore  
9 discussion?

10 All those in favor, please say aye.

11 BOARD MEMBERS: Aye.

12 MR. MacINNES: Opposed, same sign.

13 Okay. Very good. Let's go into the  
14 budget here. I think you all hopefully have received --  
15 Shawn put together a nice, does a great job keeping us up  
16 to date here, keeping us on track with our funding, and  
17 maybe you could talk with us a little bit about that.

18 MS. WORDEN: Yeah. There's really --  
19 your ending fund balance available is really no different  
20 from the last meeting. The only difference in this  
21 packet would be any expenditures that were recorded in  
22 the new balances per grant as far as what your available  
23 balance is.

24 MR. MacINNES: So we currently have --  
25 there were, was 17,398 in unencumbered funds; is that

1 right, funds that were unencumbered?

2 MS. WORDEN: From previous years?

3 MR. MacINNES: Yes.

4 MS. WORDEN: Yeah.

5 MR. MacINNES: So that was included?

6 MS. WORDEN: Yes.

7 MR. MacINNES: And so that leaves us with

8 a current balance of \$161,470?

9 MS. WORDEN: Yes.

10 MR. MacINNES: Okay.

11 MS. WORDEN: That still includes you

12 paying back 70,000.

13 MR. MacINNES: That includes us paying  
14 our banker, the AG's office, 70,000 for this year. Which  
15 is this -- is this our second or third year paying back  
16 the 70? Second, this is our second year. So we still,  
17 even after this year, we'll still have 140 to go.

18 Okay. Is there any discussion on the  
19 budget?

20 One thing I'll bring up at this time is  
21 Mike and I, Mike Moody and I met with Valerie last week,  
22 Valerie Brader, and she mentioned that there could be  
23 quite a few more cases coming at us yet this year, and  
24 that maybe even more so than next year, and that we  
25 should try to keep our powder dry here to the extent

1 possible for this year. And some of the ones she listed,  
2 and maybe you can chime in and, you know, you correct me,  
3 well, we've we got the Consumers rate case which has been  
4 filed; there's a Consumers gas case; DTE rate case, which  
5 is yet to be filed; I&M rate case; DTE certificate of  
6 need case for the large gas combined-cycle plant. How  
7 big is that plant, do you know?

8 MR. MOODY: Actually, I don't know the  
9 numbers on it.

10 MR. MacINNES: Is it going to be  
11 800 megawatts or something?

12 MR. JESTER: The preliminary press  
13 coverage has suggested about a gigawatt and a half.

14 MR. MacINNES: Oh, that big, a gigawatt  
15 and a half. That's like two 750s. So that's going to be  
16 big. So we've got that coming at us. There's also a,  
17 and I don't know if we'll get involved in this, but this  
18 TES Filer coal-to-gas transition up in our area,  
19 Manistee, 225 megawatts cogen; there's the Palisades  
20 nuclear issue; there's the UMERC; there are these 6w  
21 cases, which are capacity charges. Can you explain  
22 those --

23 MR. MOODY: Yeah, that's the --

24 MR. MacINNES: -- to us in general?

25 MR. MOODY: -- in the new statute, you

1 know, the energy legislation that was passed and it takes  
2 effect April 20, but in there is this argument about, you  
3 know, MISO does an analysis of capacity for the region,  
4 and there's been some analysis by MISO and the MPSC that  
5 what, outlook of 2020, I can't remember the actual times,  
6 could be lack of capacity issues, and so --

7 MR. MacINNES: This is Zone 7?

8 MR. MOODY: Yeah, yeah. And then there's  
9 this argument between since -- it's a long story -- but  
10 between the utilities and the AESes that the utility  
11 argument being the AESes are making money off the excess  
12 capacity and that the utilities are paying for this  
13 excess capacity, when that goes away, there could be some  
14 problems with the competitive AES side of it, and so the  
15 utilities want a charge that shows that the AESes either  
16 have a bilateral contract that shows the other capacity  
17 or they have to pay a charge to the utility so that the  
18 utility will build for that capacity. So the statute has  
19 this long, lengthy discussion about a couple different  
20 mechanisms, two of which didn't make it through FERC; one  
21 was the state compensation -- no, state prevailing  
22 compensation mechanism and a forward auction, those two  
23 didn't make it through the Federal Energy Regulatory  
24 Commission to get approved, so then there's a third  
25 fallback, which is the state reliability mechanism,



1 that's what's going to be discussed at the 6w and this  
2 charge.

3 MR. MacINNES: Are we allowed to  
4 intervene in those cases?

5 MR. MOODY: Yeah, we can. It's not  
6 actually one of the letters in the statute, the new, you  
7 know, the 6t and s and j and h and everything else we  
8 have there, so 6w isn't listed there. I took a look at  
9 what that capacity charge is, and it looks like, based on  
10 arguments about other people and the statute itself, that  
11 the charge could be actually set in a rate case or in the  
12 PSCR, and you're actually going to see when it does get  
13 set by the Commission that it will flow through in one of  
14 those, and so we have this argument forever in these type  
15 of cases which are funded by the statute, Act 304  
16 statute. So I think an argument could be made that that  
17 could be funded, you know, depending on what the proposal  
18 is, and I'd have to look at it more closely, and that's  
19 not an official AG opinion at this point, but if you want  
20 one, we can do it.

21 MR. MacINNES: But so we could maybe have  
22 a bite at it later?

23 MR. MOODY: Yeah. Oh, yeah, I mean  
24 they're going to set it this time, which will be  
25 probably, you know, big, but it's going to be fought

1 fiercely, obviously utilities and the AESes or the  
2 competitive group.

3 MR. MacINNES: The Titans.

4 MR. MOODY: Yeah. They're going to --  
5 one wants it really high, one wants it low; the higher it  
6 is, technically it would be better for ratepayers for the  
7 utility because the more money the utility gets in. Of  
8 course, if you're in a competition, you know, there are  
9 arguments that the higher it is, you could kill off  
10 competition. So there's a lot of battles going on there,  
11 but they will undoubtedly spend a lot of money.

12 MR. MacINNES: Do you think you'll get  
13 in -- will the AG's office get in it?

14 MR. MOODY: We haven't yet, but I think  
15 we will intervene. We have yet to take a position on  
16 which way, but we thought it would make sense for our  
17 office to intervene and monitor. So we're probably going  
18 to hire an expert to kind of read it over and just kind  
19 of watch for now and see if the AG wants us to take a  
20 position.

21 MR. MacINNES: Okay. So the jury is out.

22 MR. MOODY: So we'll be there, so you  
23 won't have to worry that there won't be any ratepayer  
24 advocate, but like I said, this one is an odd one where  
25 you have the utility probably spending a lot of money on

1 what the ratepayer, you know, residential ratepayer would  
2 want, a higher charge, you know what I mean.

3 MR. MacINNES: Did you have something?

4 MR. JESTER: If I may, I have a couple  
5 points. One is I had conversation with some staff from  
6 one of the major utilities recently where it was their  
7 view that in all of the tariffs, there would be a split  
8 of the current energy charge into a capacity piece and a  
9 non-capacity piece, so we -- that will become a specific  
10 focus in all of the tariffs. That is not an argument for  
11 engagement, I'm just saying that structurally the  
12 tariff's going to reflect that going forward, at least in  
13 the view of this one utility.

14 The other is that the Public Service  
15 Commission Staff have called a special meeting of  
16 stakeholders with an interest in this Section 6w with  
17 respect to the Upper Peninsula for next Tuesday, so I  
18 will go and see what they say, and I can report back next  
19 time.

20 MR. MacINNES: So but you, in terms of  
21 your involvement --

22 MR. MOODY: Yeah, we will be spending  
23 money. We are -- I mean, well, we haven't actually  
24 intervened yet, but I expect the office to intervene, and  
25 we have proposals already, actually from Ken Rose and Bob

1 Burns, I think some of the guys that John, you know, CARE  
2 group has used before, and they're really bright and they  
3 know that area back of their hand.

4 MR. MacINNES: That's good. And then in  
5 terms of other things, just kind of continuing down the  
6 list here, the other things that could come at us, PSCR  
7 cases, GCR cases, IRPs next year, is that what we  
8 understand?

9 MR. MOODY: Yeah. We were thinking,  
10 right, they're starting up at end of the year or  
11 something, I can't remember, but yeah, I think that's  
12 what Valerie was saying.

13 MR. MacINNES: And then a look at the I&M  
14 CON case with regard to the Cook Nuclear Plant, that  
15 they've received \$800 million, and our question would  
16 be --

17 MR. MOODY: Yeah, was it all spent and is  
18 it going to flow into the rate case that is expected to  
19 come.

20 MR. MacINNES: Is that something -- now,  
21 is that something that would be handled in a rate case?

22 MR. MOODY: Yeah, that will be in the I&M  
23 electric rate case that Valerie said might happen late  
24 spring.

25 MR. MacINNES: So we alluded to that

1 earlier.

2 MR. MOODY: Yep.

3 MR. MacINNES: So that's an issue, that's  
4 a key issue I know she wants -- see, she can get a -- she  
5 gets a better view of this than we do, because  
6 historically we've basically, we hear from you all as  
7 grantees and we talk a little bit, so we don't know what  
8 all's coming at us, and that's hopefully going to change.  
9 So we're going to try and have more meetings and try to  
10 better understand what's coming at us so we can make sure  
11 between what your people do and what we do, we -- you  
12 know, we always have limited funds, right, even though we  
13 worked really hard to try to get some more, and we did  
14 get some more, but there's still going to be a lot of  
15 action going forward.

16 MR. MOODY: And we don't get that funding  
17 until the following year even. Some people think we're  
18 fully funded now, but the effect of that statute won't  
19 take effect --

20 MR. MacINNES: Which is something that  
21 also Shawn is going to talk to us -- Shawn was at the  
22 meeting, too. So the bottom line is we've got a lot on  
23 our plate here.

24 Now, in terms what the AG's office is  
25 going to get involved in that you know of, like

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1 Palisades, what are you going to do at Palisades?

2 MR. MOODY: Yeah, so we've got  
3 proposal -- we've already intervened and we've got  
4 experts signed on, actually we have MEC's expert, Evans  
5 and Dr. Zoe, Zau, I don't remember.

6 MR. BZDOK: You just have to give them  
7 back when you're done.

8 MR. MOODY: Yeah, that's right. So we've  
9 hired them on, we're giving them I think it was \$170,000  
10 to do both the Palisades and the PSCR, which is a lot of  
11 money, so we're really putting some energy into both.  
12 The cases are, I don't know what the numbers were, I have  
13 them here somewhere, 18250, and then I think that's the  
14 Palisades piece, and then the, I can't remember what the  
15 other number was for the PSCR version, but I can look  
16 that up. And we have, like I said, we have our attorneys  
17 on it, we have a lot of money spent on that already. In  
18 terms of the other cases, we expect to be in most of  
19 those rate cases, but we can always coordinate on issues  
20 like we've talked.

21 MR. MacINNES: Now, what about the DTE  
22 CON case for the big combined cycle?

23 MR. MOODY: We'll most likely get in,  
24 unless we hear different from the Attorney General, but  
25 we'll probably recommend it, you know, from a division

1 level, recommend it to the AG.

2 MR. MacINNES: So I think the key for us  
3 is to try to understand -- well, let's say like the  
4 Consumers rate case, that's involved with Palisades, too,  
5 right?

6 MR. MOODY: Well, they'll take -- well, I  
7 guess it's going to flow through here, but the issue will  
8 really be addressed in that securitization Palisades  
9 case, and then the PSCR are going to be really the main  
10 spots for that, you know, like you can see the impact of  
11 it in the rate case as to capacity and everything else.

12 MR. MacINNES: So I think what we want to  
13 try to do is, when there's a big case like this, because  
14 the, you know, it can make a lot of difference, the money  
15 that we divvy it up, you know, you hit certain areas and  
16 we hit certain areas. And one of the things that we  
17 learned as a couple of us here just attended the school,  
18 the IPU school with Jan Beecher at Michigan State, it's a  
19 grid school, four days, very interesting, great, it was a  
20 really good school, and one of the things we learned in  
21 the school, that there are certain issues that have more  
22 opportunity for success than others in terms of saving  
23 ratepayers money, and one of the, probably the biggest  
24 one is the spending on capital projects, that's the big  
25 issue, that's where the, if you look at the little chart,

1 that's where we can -- that's where the difference can be  
2 made as if making sure that the spending is prudent for a  
3 new plant and that sort of thing, and of course we  
4 haven't been able to do that because we couldn't  
5 intervene in those in the old days, so now we'll be able  
6 to, so that's a good thing. So we're going to -- I think  
7 the idea is with limited money, we want to make sure we  
8 don't double dip on the same stuff, and that we put our  
9 money where the greatest possible return is. To me, that  
10 seems like it would make sense. I don't know, do you  
11 have any --

12 MR. MOODY: Yeah. And then Valerie  
13 mentioned to us that this might be your crush year  
14 because you have so much stuff coming up, and she thought  
15 maybe the following year wouldn't be as bad, meaning you  
16 might want to, you know, not spend on the periphery and  
17 focus on the main rate cases and everything. Actually,  
18 she was telling us, so that's a call for you guys. And  
19 like I said, I told her, well, the AG will probably try  
20 to get in most of the cases, whether we spend the money  
21 in all of those, we'll try to focus on the greatest bang  
22 for the buck.

23 MR. MacINNES: Right. And then we'll  
24 know more what you're going to focus on and then we can  
25 figure out what we would focus on maybe if we're in the  
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1 same cases.

2 MR. MOODY: Yep, yeah. And then one of  
3 the things we did, I know CARE had backed out of the CON,  
4 UMERCON, but what we did before this meeting about a  
5 week ago is we shared our expert proposal with them to  
6 kind of look at what issues we expected to address so  
7 that they could, you know, say, well, why spend money on  
8 what you're doing, we'll focus elsewhere, and I thought  
9 that was a helpful, you know, exercise that we could  
10 offer to all the intervenors to do, you know, to share.

11 MR. MacINNES: Absolutely. And Valerie  
12 is encouraging us to do that, which I think it's a great  
13 thing to do, and I'm glad to get more information in  
14 front.

15 MR. JESTER: Jim, may I make a brief  
16 comment?

17 MR. MacINNES: Yes, yep.

18 MR. JESTER: Your point with capital  
19 spending, the certificate of necessity cases open up the  
20 opportunity for us to look at -- for you to fund some of  
21 us looking at the investments in power plants. Utilities  
22 invest similar amounts of money in the distribution  
23 network, and because the power plant costs are allocated  
24 across industrial customers but the distribution plant is  
25 only across smaller customers, the impact on residential

1 ratepayers is as high or perhaps a bit higher on the  
2 residential side than on the power plant side, and the,  
3 so far the investments in distribution system come, they  
4 get validated, approved, and so on largely through the  
5 rate cases, but I just wanted to make sure everybody had  
6 that perspective on the investments.

7 MR. MacINNES: But now -- and that's  
8 good. But aren't we also as residential ratepayers,  
9 because of the cost of service cases we've gone through  
10 over the last few years, still paying a pretty heavy  
11 premium on the power plant itself?

12 MR. JESTER: Oh, yes. I don't mean to  
13 minimize that, just to point out the importance of --

14 MR. MacINNES: And those numbers can  
15 be --

16 MR. JESTER: -- having a distribution  
17 system that's --

18 MR. MacINNES: -- like a one and a half  
19 gigawatt gas combined cycle plant, that's serious money,  
20 right, so. So yeah, but that's a good point for us all  
21 to keep in mind.

22 Okay. Any other discussions about the  
23 budget and the process, the cases coming our way before  
24 we actually get into hearing from the grantees?

25 MR. KESKEY: Consumers Energy also filed  
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1 U-18261 last Friday, a case, its application for approval  
2 of its energy waste reduction plan for the years 2018  
3 through 2021, and --

4 MR. MacINNES: So this is the Consumers,  
5 the newly filed Consumers rate case?

6 MR. KESKEY: No, it's not, that's a  
7 separate docket.

8 MR. MacINNES: Oh, separate case. Okay.

9 MR. KESKEY: That docket is U-18322, so  
10 this is a separate case. Sometimes the utilities try to  
11 divide and concur by having a number of dockets going on  
12 at the same time, and then you're either told not to be  
13 in one or the other and then, you know, it's on their  
14 platform and that's one of the things you have to be  
15 careful of, that you don't let them maneuver the process.

16 MR. MacINNES: Right. And I know that  
17 energy waste reduction is a big priority of the Governor,  
18 as it should be. So okay. Well, thank you for that.  
19 That's good insight. And is that the primary focus of  
20 that case, energy waste?

21 MR. KESKEY: I haven't had a chance to  
22 read the filing yet, but that's --

23 MR. MacINNES: So that's 18621?

24 MR. KESKEY: 18261.

25 MR. MacINNES: Oh, excuse.

1 MR. KESKEY: 18261. And the rate case is  
2 U-18322.

3 MR. MacINNES: Okay. Well, that would  
4 seem like an important thing to look at. Are you guys in  
5 that?

6 MR. MOODY: In the energy waste  
7 reduction?

8 MR. MacINNES: Yeah.

9 MR. MOODY: No, we haven't really -- the  
10 EOs and REPs and stuff, they're 90 days, a lot of them, I  
11 think if I remember correctly, it's hard to get up to  
12 speed and do discovery and have an expert and  
13 participate. We did them early on, we felt that with our  
14 limited staff and the amount of money we had. But  
15 they're, you know, they're still important, we just find  
16 a bigger bang in the rate cases and the bigger money  
17 capital projects.

18 MR. MacINNES: Now, you have how many  
19 staff working on this?

20 MR. MOODY: Now we've got Joel on board  
21 now, I mean he does a little bit of both environmental,  
22 but a lot of our area especially, then we have our  
23 attorney that was on sick leave back, John Janiszewski,  
24 and then we have Celeste Gill and then myself, but  
25 sometimes not myself. I do a little bit on the -- so I

1 mean full attorneys, you know, it depends.

2 MR. MacINNES: And you have more money.

3 MR. MOODY: Yes, which is super helpful.

4 MR. MacINNES: Rachael Eubanks, a  
5 commissioner, was in our school, too, and I had a chance  
6 to talk with her briefly, and apparently -- and well, in  
7 the bill there's money for PSC staff, and so she said  
8 something like 13 new people --

9 MR. MOODY: Yeah.

10 MR. MacINNES: -- in the PSC staff, which  
11 is going to really help, you know, because they haven't  
12 had either the staffing levels to really dig into some of  
13 the cases.

14 MR. MOODY: Yep.

15 MR. MacINNES: So they'll be stepping it  
16 up.

17 MR. MOODY: I think they actually even  
18 got an extra attorney for our division that represents  
19 them, so, through that.

20 MR. MacINNES: So that's good, so we'll  
21 have more help, which we need.

22 Okay. Anything else on this topic of the  
23 budget and the cases coming our way? Any questions from  
24 the board members on this?

25 Okay. Well, let's get into the business

1 items here, and begin with Michigan Environmental  
2 Council, Chris Bzdok.

3 MR. BZDOK: Thank you. Mr. Chairman,  
4 members of the board, Chris Bzdok on behalf of MEC. I  
5 have a bit of an enhanced sense of self-importance  
6 sitting here at the end of the table, so hopefully that  
7 will come across. We have two requests, Amendment No. 5  
8 and Amendment No. 6. If it's okay with the board, I'd  
9 like to take Amendment No. 6 first because it's a much  
10 smaller amount of money and it's a much shorter  
11 discussion.

12 Amendment No. 6 is simply, it's a request  
13 for \$5,050 for the Consumers PSCR reconciliation case  
14 from 2015 that would be conditioned on our commitment to  
15 allow \$5,250 of last year's fiscal funds to lapse from  
16 that case. So in other words, that case has been -- has  
17 had its schedule extended three times, which has put us  
18 beyond the calendar for fiscal extensions. The board did  
19 give us a supplement in that case, partly because of the  
20 extensions and partly because of the, this -- because of  
21 the scope of that case, and we had committed to lapsing  
22 some money from other dockets in order to do that, but  
23 this is just simply a time management issue for us. It  
24 is not a transfer request, and so in that sense it's  
25 funds that I mean are going to lapse one way or another,

1 the 5,250, we're not going to hurry up and spend it. You  
2 know, that was not the case when we made the request and  
3 that's not the case now because it would have expired at  
4 this point anyway. So really it's just helping us to  
5 manage the calendar, which would be a net positive of 200  
6 to the board -- or to the fund, and if the board denies  
7 the request, obviously all those funds will come back  
8 anyway. So it's really just a calendar issue. So it's  
9 a -- the request for 5,050, fiscal year '16, at least  
10 5,250 will have lapsed.

11 MR. MacINNES: So Shawn, that's not  
12 included in your budget now --

13 MS. WORDEN: Well, it's --

14 MR. MacINNES: -- in terms of the extra  
15 funds, it's assuming that's going to lapse?

16 MS. WORDEN: Right.

17 MR. MacINNES: Is that correct?

18 MS. WORDEN: It's still included in their  
19 budget.

20 MR. MacINNES: Okay.

21 MR. PASSMORE: When the funds are lapsed  
22 and returned, do they come back to the board or do they  
23 disappear into the general fund or something?

24 MS. WORDEN: No, it comes back to the  
25 board.

1 MR. PASSMORE: It comes back to us and we  
2 can re --

3 MR. MacINNES: Yeah.

4 MS. WORDEN: Yeah. None of the utility  
5 assessments goes back to general fund.

6 MR. PASSMORE: So we don't lose it?

7 MS. WORDEN: Correct.

8 MR. MacINNES: So we're keeping track of,  
9 even better track of that now.

10 MS. WORDEN: Yes.

11 MR. MacINNES: Which is good.

12 MR. BZDOK: My second request.

13 MR. MacINNES: Before we get to your  
14 second one, does the board have any other questions on  
15 that?

16 MS. LICATA HAROUTUNIAN: No.

17 MR. MacINNES: What do you see, I mean  
18 assuming we spend this money, what do you see the  
19 benefit; in other words, how is the ratepayer going to  
20 benefit?

21 MR. BZDOK: So we have two main issues  
22 which we've advanced in the case which are outlined in  
23 the status report. One of the issues is that CSXT  
24 litigation that we've talked about in the past where  
25 there was a case filed to, before the Surface



1 Transportation Board to try to lower a fuel rate for rail  
2 service of coal to I believe the Campbell plant, and  
3 we've been successful on that one time and are continuing  
4 to press on that issue.

5 The larger issue and the issue that has  
6 led to an increase in scope is this -- has to do with the  
7 nature of operation of Consumers Energy's coal plants in  
8 2015. So you'll recall we had a discussion in the PSCR  
9 plan case from 2015 where the Company we believe used a  
10 market energy price forecast in its PSCR plan modeling  
11 that was too high, and we said that it was, we believed  
12 it was too high because it included an adder to energy  
13 forward market forecasts -- or energy market forwards  
14 prices, there was an adder that was meant to reflect the  
15 cost of compliance or increases in energy market prices  
16 due to coal unit retirements due to the Mercury and Air  
17 Toxics Standard, so Consumers called that the MATS adder.  
18 They didn't file anything on it, but the price was too  
19 high, and when we asked in discovery, that was what came  
20 out. The administrative law judge and the, ultimately  
21 the Commission agreed with us that that was an  
22 unreasonable projection to make, and so the Commission  
23 issued an order in the plan case that said, if there are  
24 any additional costs to ratepayers that result from the  
25 use of this unreasonable MATS adder, Consumers is on

1 notice that it may have eat some of those costs. And so  
2 the primary issue having to do with 2015 is essentially  
3 that, is essentially because the energy market price  
4 forecast was too high, Consumers over-ordered contract  
5 coal at a cost premium because they were over-forecasting  
6 the generation from their units because they were  
7 over-forecasting the energy market prices and, therefore,  
8 how often those units were going to be in the money, so  
9 to speak. And so that's our main issue.

10 There is a related issue having to do  
11 with units being committed must-run and operating at  
12 times when Consumers on its short-term energy projections  
13 made during the course of the year was projecting them to  
14 have a negative economic value for these, you know, two-  
15 or four-week periods, and so that's a sub-issue,  
16 that's -- and both of those issues are being handled by  
17 George Evans, who I've very, very, with some anxiety, you  
18 know, let the Attorney General borrow for Palisades. But  
19 he did a great job on that and on both of those issues.  
20 That case is going to hearing in April, and then will be  
21 briefed following that. So those are the issue.

22 MR. MacINNES: What kind of savings do  
23 you -- what kind of potential is there, do you think?

24 MR. BZDOK: The savings on the CSX issue  
25 is \$3.4 million incurred in 2015 via the reconciliation.

1 And there's a funny chronology there that we could talk  
2 about in detail or not. So that's the CSX issue.

3 As to the -- the reason I'm consulting my  
4 notes more is that T.J. Andrews in my office is working  
5 on this case with an attorney from Earthjustice, and so I  
6 am staying abreast of it, but I'm not as, you know, I'm  
7 not as day-to-day on it as I am. But the numbers on that  
8 are in our status report. Actually, they're in the -- I  
9 believe maybe they're in the grant amendment request.

10 It's like a \$2 or \$3 million allocation we're seeking,  
11 and as to the reconciliation, there is a certain sort of  
12 in the alternative; in other words, if you do it -- if  
13 you do it our way in terms of which -- when was a unit  
14 uneconomic to continue operating or committing must-run,  
15 it's one number, and a higher number, and if you do it  
16 Consumers' way, it's a lower number, but it's still a  
17 number, and it's -- so it's in that -- here it is, it's  
18 on page 2 of the grant request under Item 7. CSXT  
19 litigation issue, 3.4 million; market energy price  
20 forecast issues, either 1,995,583 or 4,326,689, depending  
21 on which way you do it, and then for the uneconomic  
22 must-run operation of the coal units, we're requesting  
23 about \$8.8 million, knowing that, in recognition that,  
24 you know, that may be an issue on which an ALJ may choose  
25 to do something, but maybe not everything. So the whole

1 case is, you know, maybe a \$10 million midpoint ballpark  
2 I'd say.

3 MR. MacINNES: Sounds like it could be a  
4 good investment to spend \$5,000 more.

5 MR. BZDOK: I know you're not supposed to  
6 look at sunk costs, but you've also funded this case at  
7 a, you know, at our request at a reasonably aggressive  
8 level as well, I'm just acknowledging that. But it's --  
9 when we had initially outlined a plan for you at the  
10 beginning of that fiscal year, we had indicated we were  
11 going to emphasize the DTE reconciliation more than the  
12 Consumers, and then we downshifted some of the resources  
13 used in DTE and let those lapse and then the board  
14 granted us a supplement in Consumers. So in other words,  
15 based on how things have worked out, we've relatively  
16 shifted that priority, and so this is our priority  
17 reconciliation case at this time period.

18 MR. MacINNES: Okay. Great. Great.  
19 Good explanation. Okay. Did you want to go, then, to  
20 the next one --

21 MR. BZDOK: Sure.

22 MR. MacINNES: -- the next request.

23 MR. BZDOK: So the next one is a longer  
24 discussion. We sent you a couple of items, we sent you a  
25 detailed memo in your packet on the order that the

1 Commission issued in the Consumers Energy rate case, the  
2 one that just ended, U-17990, which ended basically at  
3 the -- the Commission order was issued I think on the  
4 28<sup>th</sup> of February.

5 Bye, Mike.

6 MR. MOODY: Sorry, guys.

7 MR. MacINNES: Thanks for coming.

8 MR. MOODY: We got a meeting to head to.

9 Thanks, guys.

10 MR. KING: Thank you.

11 MR. BZDOK: And so we sent you a detailed  
12 memo on that case and on our efforts in that case on a  
13 number of different issues, which included spending on  
14 the Medium Four coal units. So again, Consumers has two  
15 coal plants remaining, a Campbell plant and a Karn plant  
16 in Bay City area and the Campbell plant in the southwest  
17 part of the state. Of those two plants, there are five  
18 units; of those five units, the Campbell 3 unit is  
19 relatively newer, larger, and more efficient, and so we  
20 don't really intend to pick on it economically in these  
21 cases, but the other four, we call the Medium Four,  
22 Campbell 1 and 2 and the two Karn units, and so we had a  
23 lot of litigation in the, in the rate case having to do  
24 with those Medium Four units for the first time.

25 I'm going to keep talking, but I'm just

1 going to grab a glass of water because my voice is  
2 tickling a little bit here.

3 So we had -- what we learned in discovery  
4 in the rate case was that Consumers had done updated  
5 economic analyses of the continued operational economics  
6 of the Medium Four coal units, and after some motion  
7 process, we were able to get those economic analyses,  
8 which were all NPV analyses, the net present value of  
9 revenue requirements to continue investing in and  
10 operating those units versus the net present value of  
11 revenue requirements of obtaining that energy and  
12 capacity off the market. Interestingly, the NPV analyses  
13 for the Medium Four that we received in discovery in the  
14 last rate case indicated that in most PSCR scenarios, so  
15 in most energy market price scenarios, natural gas price  
16 scenarios, and capacity price scenarios, the NPV of  
17 continued operation of those units was negative, in other  
18 words, was a bad -- not that the NPV was negative, but  
19 that the NPV comparison was worse for continued  
20 investment in operation than it was for the market energy  
21 and capacity scenarios. So in other words, Consumers'  
22 own NPV analyses indicated or were projecting that  
23 continued operation of those Medium Four units was not  
24 economic for customers. That was striking not because --  
25 it was striking because this was based on a Consumers

1 analysis, right. I mean we've had these, we've been  
2 tussling with the Company about these issues since at  
3 least 2012, the last time significant NPVs were done for  
4 Consumers coal units, and this is the first time we'd  
5 seen analyses by the Company indicating that continued  
6 operation was uneconomic.

7           And so the initial context for that  
8 litigation was Consumers' proposal of an investment  
9 recovery mechanism, which was basically a preapproval of  
10 all capital spending of any kind that the utility had  
11 through 2019. And so we challenged that both on its  
12 legal authority and also challenged it saying, why as to  
13 the generation capital spending would you preapprove  
14 capital spending, especially on units where the Company's  
15 own analyses indicate they're uneconomic to continue  
16 investing in. And so Consumers ultimately withdrew its  
17 proposal for the investment recovery mechanism, or the  
18 IRM, and basically in its rebuttal testimony it said,  
19 we're abandoning that, we are abandoning that proposal,  
20 so that took the future expenses, 2018-2019, off the  
21 table.

22           At that point we said, well, we still  
23 think the Commission ought to take a close look at test  
24 year spending on these units, and also should do  
25 something to tell the Company, you -- you know, the

1 Company said, well, these NPV analyses we did, I mean  
2 they're NPVs and they're analyses, but they're not really  
3 the kind of analysis we would do if we were going to  
4 actually make a decision, right. They're not sufficient  
5 for the Commission to really decide whether to approve or  
6 not approve anything or for us to decide what to do or  
7 not do. And so we said, well, based on -- if that's the  
8 case, then the Commission, before we get any further  
9 along in continuing to invest in these units both for,  
10 you know, major regular capital expense and also for  
11 environmental regulations, you know, hoping that we still  
12 have some of those in a couple years, that that -- that  
13 before you get further along in those investments, you do  
14 need to do analyses upon which you can make decisions.  
15 And so we wanted the Commission to require Consumers to  
16 do that. So the IRM went away because of Consumers.

17           The test year spending, we did get a  
18 little bit of support from the Commission, and Staff and  
19 us were in agreement about about \$2 1/2 million worth of  
20 expenditures for what Consumers calls the Steam Electric  
21 Effluent Guidelines, which is a water environmental rule,  
22 most people call it the ELG, the Effluent Limitation  
23 Guidelines, and the Commission said that about \$2 1/2  
24 million of that spending was premature because of  
25 uncertainties related to these units. And so that was



1 not allowed for test-year spending, the other test-year  
2 spending was allowed. And while the administrative law  
3 judge basically dismissed our suggestion that Consumers  
4 needed to be required to do retirement studies of  
5 immediate Medium Four units sooner rather than later, the  
6 Commission wholeheartedly endorsed that proposal and  
7 said, yeah, you have to do it, and you have to do it and  
8 you have to file it with the next rate case that you  
9 file.

10 That lead to a fair amount of excitement  
11 as Consumers and DTE, and I guess we didn't fully  
12 comprehend this at the time, and I don't know who did or  
13 who didn't, but both utilities made a decision at some  
14 point to file new rate cases before April 20, the day  
15 that the new energy legislation package goes into effect,  
16 and that has something to do I believe with they think  
17 that the self-implementation opportunities with the old  
18 legislation are better than with the new legislation, and  
19 so both utilities are going to file rate cases right away  
20 on a very quick turnaround.

21 Consumers was going to file theirs we  
22 think about March 15, which would have been I think an  
23 all-time record, it would have been 16 days from a  
24 Commission order to a new case. And so they filed a  
25 motion with the Commission saying, we can not do these

1 retirement studies in time to file this new rate case,  
2 and they laid out a process, and we responded to that,  
3 and Staff we believe was not going to support the request  
4 basically that they give the Consumers more time to do  
5 these retirement studies, and so Consumers filed a case  
6 not March 15, but actually Friday afternoon, which is the  
7 subject of this new grant request, and has done a set of  
8 retirement studies, but they have not filed them in the  
9 public dockets or provided them to any of the parties yet  
10 because they're seeking a protective order for the  
11 results of those studies. In testimony, the Company's  
12 witness, Thomas Clark, says, well, we did do studies, and  
13 the studies show all these units under most cases, most  
14 PSCR scenarios, energy capacity scenarios are economic  
15 now to continue investing in and operating, and so we are  
16 going to continue investing and operating, and so we have  
17 some rate-related requests in this case for that. We  
18 haven't seen the studies yet because the case was filed  
19 Friday, and they have not -- they were asserting  
20 confidentiality over them, but we have a concern about  
21 where we went from last year having NPVs on these same  
22 units, finding that they were not economic to continue  
23 operating, and now we have NPVs or some type of very  
24 similar studies on the same units finding that they are.  
25 And so this has our attention certainly, and that's the,

1 that was the primary thrust of our grant request when we  
2 filed it, because we had a fair amount of detailed  
3 information on where this part of the case was coming.

4 Now, the case has been filed Friday  
5 afternoon, I had a deposition on Saturday, and so I  
6 wasn't able to spend a lot of time on it yet, but I can  
7 just give you some bullet points on it. It's Case 18322,  
8 it's a \$173 million rate increase request for residential  
9 customers, it's a 5.6-percent increase for residential  
10 customers as a customer class. The residential bill  
11 impact for a customer using an average of 750 kilowatt  
12 hours a month is \$6.50 in the, per month in the winter,  
13 \$6.56 in the summer, or around somewhere in the vicinity  
14 of \$80 per year for an average residential customer.

15 There is -- one thing that I will note,  
16 and Douglas Jester mentioned this in some preliminary  
17 comments to the board, is that Consumers in this case is,  
18 while they are using for production cost allocation, they  
19 are using the now Commission-ordered and endorsed in the  
20 new legislation 75/25 method, 75 percent based on  
21 contribution of a customer class to peak demand and  
22 25 percent based on a customer class's total energy use,  
23 which was, you know, we were 50/25/25, and then the cost  
24 of service cases we were, we got recommendations to stay  
25 there, we got Commission orders to go 75/25, and then the

1 board has had to continue to fund trying to stop a  
2 continued utility push to go to 100/0/0, all peak demand  
3 for fixed production costs, which is the worst case  
4 scenario for residential customers.

5 Consumers is doing exactly what Douglas  
6 had mentioned, and we have not discussed this, this was  
7 fortuitous, he mentioned that they are doing what he had  
8 mentioned in this case, which is to say they are  
9 splitting in some way fixed production costs between a  
10 capacity portion and a non-capacity portion, and we  
11 don't -- we haven't been into the cost of service study  
12 since we just got this case, but I will say the thing  
13 that's notable is we have a \$173 million per year  
14 proposed rate increase, okay. We have a residential  
15 increase of 5.6 percent per year off of that 173 million,  
16 we have a secondary commercial, so small business and  
17 distribution, of 6.6 percent, and the primary and  
18 industrial rate increase, zero. So I suspect the answer  
19 to that is going to be having to do with how they've  
20 allocated -- while they said we are going to go with  
21 75/25, the way they've split now a capacity portion of  
22 the production costs and a non-capacity portion I expect  
23 is going to have something to do with how primary  
24 industrial customers are basically being held harmless  
25 from a \$173 million rate increase. So I'm just bringing

1 that to the board's attention as another -- you know, if  
2 we had had this case and we were submitting a request to  
3 you today, you know, for a meeting three weeks from now,  
4 we definitely would have flagged that in our written  
5 request as well, and I'm definitely flagging that as an  
6 issue that we would seek to pursue in addition to the  
7 retirement study issue, which is a capital investment  
8 issue and a PSCR, you know, scenarios issue. And so  
9 that's our proposal.

10 MR. MacINNES: So you're saying that this  
11 capital cost could be, like in the distribution system as  
12 Douglas alluded to, do we know?

13 MR. BZDOK: Generation. Generation.

14 MR. MacINNES: Okay. But what about the  
15 distribution system?

16 MR. BZDOK: We are not at this point  
17 proposing to the board to do advocacy in this case  
18 related to the distribution system, with the possible  
19 exception that we may want to do something with line  
20 losses again, so Douglas has been our primary expert on  
21 line losses in the past. Our position has typically  
22 been -- when I say us, MEC's position in Consumers and  
23 DTE has been if you're going to spend a whole bunch of  
24 money on capital investments in the distribution system,  
25 we are not necessarily going to oppose that, but you need

1 to have some kind of performance expectations or some  
2 kind of accountability for performance improvements in  
3 energy losses in the system. If you're building new  
4 distribution infrastructure, you should have some target  
5 for improving line losses along the way, you should have  
6 some plan for targeting cost-effective improvements that  
7 are going to help with line losses, and if we are going  
8 to be spending all this money, whether we should be or  
9 shouldn't be, there should be energy waste improvements,  
10 which is both an environmental improvement and a customer  
11 savings, because a line loss is just a multiplier on the  
12 cost of everything energy related. So that has been a  
13 position we've taken.

14 And the Commission, as a partial response  
15 to Douglas's testimony, and also as a partial response to  
16 some things that were going on with the Attorney General  
17 and the Staff, is requiring both utilities to file a  
18 five-year plan for distribution system capital and major,  
19 you know, O&M going forward, and to do cost benefit and  
20 to look at a number of different factors, including lost  
21 reduction opportunities. Consumers in its filing has  
22 said, we know we need to do that, however, we're not  
23 going to have that ready yet, and so we're filing a major  
24 distribution capital investment request, and if the  
25 Commission finds that we haven't sufficiently supported

1 it because we haven't done all the things you told us to  
2 do in terms of a cost benefit plan and a five-year  
3 investment plan, then we would just ask that you grant  
4 our request, subject to refund, once you do review our  
5 plan. And in the meantime, our line losses in the  
6 secondary distribution system have gone up, and so that's  
7 additional costs also to residential customers because,  
8 and secondary commercial customers because the primary  
9 customers don't pay for energy lost in the distribution  
10 system because they don't take energy off the  
11 distribution system by definition.

12 So that's another thing that's going on,  
13 and we are certainly going to be looking into that as  
14 well. We are not planning any sort of frontal assault on  
15 saying you're spending too much on distribution, I would  
16 say the Attorney General in every rate case I've ever  
17 been in is very aggressive about that, and so we sort of  
18 leave that space to the Attorney General, but we want to  
19 see, if you're going spend money, you need to spend it  
20 well, and it needs to be well thought out and it needs to  
21 have benefits to residential customers by reducing energy  
22 wasted in the distribution system where those  
23 opportunities present themselves.

24 MR. MacINNES: So to just kind of put out  
25 the other side of that a little bit, you know, there

1 needs to be tree trimming, right, which you're not going  
2 to reduce waste with that, and that really impacts  
3 reliability.

4 MR. BZDOK: Agreed.

5 MR. MacINNES: I mean I deal with that in  
6 my business, it's really important. And so that could be  
7 a fairly -- I mean I don't know how big of an  
8 expenditure, but that could be an expenditure that's not  
9 going to -- that could be an expenditure that's not going  
10 to help the, help reduce the line losses. And then you  
11 also could be replacing poles that have deteriorated, and  
12 I don't know when you need to replace the wires, but the  
13 wires may be better than the poles, I don't know, but  
14 unless you replace the wires, you're not going to reduce  
15 line losses probably, unless you reconfigure the topology  
16 of the system, which is the way it's laid out. The other  
17 thing is that there could be more load on the  
18 distribution system from increased development in the  
19 area, which would cause more current to go through the  
20 lines and increase line losses. So there are some other  
21 factors in that that, you know -- and I'm not saying  
22 don't -- you know, let's look for reducing energy waste,  
23 I think that's a great thing to do, but there are other  
24 factors that could affect the return, or the ability to  
25 do that, too. I don't know if you have any other



1 thoughts on that, but that's my --

2 MR. BZDOK: At a high level, I completely  
3 agree with that; at a more detailed level, Douglas has a  
4 list and he could probably provide you with more  
5 information now. I mean I'm not volunteering you, and we  
6 haven't even talked about this case, but he has a list of  
7 things, many of which the utilities have not disagreed  
8 with in terms of targeted measures that they could take,  
9 but I mean I guess I would defer that to him because it's  
10 all I've ever done is just, you know, been a conduit for  
11 his list.

12 MR. MacINNES: I mean --

13 MR. JESTER: I'll offer a brief response,  
14 and then we can follow up sometime. But first on tree  
15 trimming, Commission Staff actually have been after both  
16 utilities for treating tree trimming as kind of a  
17 balancing account; if they have a year when other  
18 expenses are high, they don't do much tree trimming, and  
19 then if they have a year when, you know, net revenues are  
20 pretty good, they'll do maybe some more, but they've been  
21 shorting tree trimming, which is part of the reason our  
22 reliability has been bad and that Staff have insisted on  
23 a one, what's called one-way tracker basically, they  
24 can't recover in rates what they don't actually spend on  
25 tree trimming, and that's relatively new and we're

1 starting to see some improvement on that.

2 MR. MacINNES: So hopefully it will get  
3 better.

4 MR. JESTER: Yeah. On the line loss  
5 side, the big opportunities in our system are power  
6 factor control, we've got deteriorating power factors  
7 because of the changing end-use technologies; voltage  
8 control, by making it more dynamic, it can lower voltage  
9 overall, and that both has a direct power use reduction,  
10 but also a line loss reduction; and then we have a lot of  
11 old, relatively inefficient transformers, and it's a  
12 matter not necessarily of replacing them prematurely, but  
13 when you replace them, going to the right standards.  
14 Those are the kinds of things we're talking about, so  
15 it's all practical, doable things.

16 MR. MacINNES: Well, certainly power  
17 factor control is a big one, you could definitely save  
18 because you'll reduce the current flow just by improving  
19 the power factor.

20 MR. JESTER: Right.

21 MR. MacINNES: And then the transformer  
22 loss is definitely another one. When we buy  
23 transformers, we always try to buy the lowest loss  
24 transformer, because even when you're not powering much,  
25 there's still a loss in the transformer.

1 MR. JESTER: Yeah. And transformer  
2 sizing is important as well, and I don't think --

3 MR. MacINNES: Right-sizing.

4 MR. JESTER: I don't think they've got it  
5 right across the whole system, there's a lot of legacy  
6 there.

7 MR. MacINNES: Yeah. No, there's a lot  
8 that can be done with the transformers, no doubt. So  
9 those would be good areas I think to, I agree to focus on  
10 in terms of saving, reducing losses, reducing energy  
11 waste.

12 Okay. Anything else, Chris?

13 MR. BZDOK: Nope. I think that's it. I  
14 was just going to add numbers for the -- I had mentioned  
15 some percentages. So of the \$173 million proposed  
16 increase, as filed, if the request were all granted as  
17 filed, residential customers would get an increase as a  
18 whole of 105 million, or 105 out of the 173; secondary  
19 commercial would be about 65 1/2 million; and the primary  
20 customers would see a bump of \$554,000, so more or less  
21 held harmless while the residential get the lion's share  
22 of the increase. So something rel -- whether it's  
23 relative to this energy losses in the distribution system  
24 or relative to this change in the way production costs  
25 are being I guess divvied up within the capacity element

1 and the non-capacity element, you know, something  
2 significant's driving a proposal again to shift the vast  
3 majority of a rate increase on residential customers.

4 MR. MacINNES: So that's had, the cost of  
5 service cases, as we painfully know, have had the  
6 biggest, some of the biggest impacts on residential rates  
7 in the last three years, so this is another way of I  
8 guess incorporating some more of that without changing  
9 the percentage, the official percentage.

10 So do the board members have any other  
11 questions?

12 MR. PASSMORE: Could you -- I didn't  
13 follow, I don't know if this is a major point or a minor  
14 point, but the issue of confidentiality, the utility  
15 wants to keep confidential the retirement plans, and  
16 confidential from whom? I mean --

17 MR. BZDOK: Sure. So there is a practice  
18 in Commission cases in which certain data or information  
19 or perhaps contracts that the utilities have or sometimes  
20 the other parties have are submitted to the Commission  
21 and to the other parties under a protective order or a  
22 nondisclosure agreement in which they are not placed  
23 publicly on the electronic docket and they are not  
24 subject to Freedom of Information Act requests, for  
25 example, but rather they're filed under seal and then

1 parties who are parties to the nondisclosures in the  
2 protective order have access to those materials, and  
3 sometimes a portion of the examination in the hearing  
4 will take place on a closed record, and sometimes people  
5 will even file testimony or briefs that have items that  
6 are redacted or missing, and so then the decision-maker  
7 and the parties who are participating on that issue have  
8 access to the materials, but there's no public disclosure  
9 of those materials.

10 Consumers filed a motion for a protective  
11 order, and we go around and around about certain elements  
12 of that with the Company. There was one paragraph in the  
13 report on 17990 about one issue we've had a continuing  
14 dispute over on protective orders. But be that as it  
15 may, Consumers in its testimony has said, we are filing  
16 exhibits that have the results of the NPVs, the  
17 retirement studies, but those exhibits are not going to  
18 be filed publicly; and I don't know whether they've been  
19 filed at all yet or whether they're not going to be filed  
20 until there is a protective order in place so that they  
21 can know that there are provisions in place to prevent,  
22 because if they just filed it and there wasn't a  
23 protective order in place, I mean I don't know that would  
24 bar a Freedom of Information Act request. So I suspect  
25 they haven't filed it anywhere yet, but they just have

1 placeholders for it for now. So they've described what  
2 they say, they've described without any numbers or  
3 specifics these retirement studies also support continued  
4 investment in operation in these units, but we just  
5 haven't seen what are the scenarios, you know, that they  
6 are, that they are looking at, what are the prices that  
7 they're using, what are the numbers that they're seeing  
8 as a result. I am not sure if we will contest whether  
9 those can be filed under a protective order, the actual  
10 results or not, that's a different -- that's a different  
11 practice than what's been done in the past. Certainly,  
12 you know, some of the details of how they got results  
13 have been subject to protective, but sort of the actual  
14 bottom line totals in the past have not been. But I  
15 guess the point there is they've told us what they say,  
16 but we haven't seen them yet.

17 MR. PASSMORE: So if there were a  
18 protective order, you, as sort of the party to the case,  
19 would still see the material, but a member of the public  
20 would not?

21 MR. BZDOK: Correct. We have had  
22 occasion also where something has seemed particularly  
23 important where we've gotten permission also to share  
24 that information with the board in a closed session  
25 portion of your meeting as well, so that's all sort of to

1 be determined. But there will be a -- there will be a  
2 hearing on the motion for a protective order at the  
3 initial prehearing conference for this case where parties  
4 intervene, et cetera, so something's going to happen on  
5 that. We will certainly object to some of the terms of  
6 the protective order, I know that based on having read  
7 it, but we may or may not contest whether these exhibits  
8 can be, you know, filed under seal or whether they need  
9 to be public. That's all to be determined.

10 MR. PASSMORE: Thank you.

11 MR. MacINNES: Any other questions?

12 MR. ISLEY: I'll ask the standard  
13 question. What's the timeline on this, and is there any  
14 spending happening after the June meeting? I mean is  
15 it -- what's the implication here between now and June?

16 MR. BZDOK: In terms of the timing of the  
17 request for funds, we are requesting these funds now, and  
18 the reason we are requesting that is because -- I guess  
19 it's two-fold. One is we know so much about this case  
20 already because of -- because it is a continuation of an  
21 issue that we've continued to litigate, and because  
22 there's going to be a fair amount of work upfront and  
23 commitments to be made upfront, and because this will be  
24 a heavier lift case than some, and we seek other sources  
25 of funds, this is closest in -- it's the most comparable

1 to the DTE rate case that was done in 2015, which was  
2 17767. I don't remember exactly what the board put into  
3 that case, but I know the total experts, so we had two  
4 other sources of funds -- three other sources of funds  
5 for experts in that case, and we spent a total of over  
6 \$150,000 on experts and licenses in that case, and I  
7 would expect that this is a similar lift. So we're  
8 asking for 25 and 25 from the board, but we really have  
9 some urgency to line up funds so we can try to secure  
10 other commitments right away as opposed to like a  
11 starter, you know what I mean, and so that the others  
12 know that we're serious. And then there's going to be a  
13 fair amount of work. We're probably going to have, you  
14 know, some litigation over this protective order issue,  
15 for example, we're going to have some need to evaluate  
16 fairly quickly what's going on with this production  
17 capacity allocation issue as well. That's a suspicion  
18 there's something going on there we're interested in, but  
19 we don't know yet, we're going to need some expert help  
20 for that.

21 MR. ISLEY: Thank you.

22 MR. BZDOK: Thank you.

23 MR. MacINNES: So you mentioned that  
24 you're going to have help with this?

25 MR. BZDOK: Yes.



1 MR. MacINNES: Can you tell us -- it  
2 says, we expect to be able to match the funds the board  
3 provides for the Consumers rate case with funds from  
4 other sources.

5 MR. BZDOK: Yes.

6 MR. MacINNES: Is there anything more you  
7 can say about that?

8 MR. BZDOK: Not yet. There's a  
9 conference call this week.

10 MR. MacINNES: Okay.

11 MR. BZDOK: If the board funds it, that's  
12 what I'll report, and I have a point of view of, you  
13 know, the size of a case like this based on 17767, and I  
14 have shared that already, but that's, you know --

15 MR. MacINNES: No, I see where you're  
16 going. Okay.

17 Okay. Any other board -- any other  
18 questions on these, on the MEC grant requests?

19 MR. PASSMORE: I'm good.

20 MR. MacINNES: Okay. Thank you, Chris  
21 and Douglas. Let's move on to CARE.

22 MR. LISKEY: Thank you. So as I reported  
23 at the beginning of the meeting, we are withdrawing our  
24 request for money for the UMEREC CON case, and requesting  
25 that the transfer that we had initially indicated be

1 spent on the UPPCo reconciliation case, and this all came  
2 about in the last few days when UPPCo filed their 2016  
3 reconciliation case, and it looks to us like there's --  
4 it's going to be a -- there's going to be a lot of  
5 discovery, it's going to be a litigious case, and so it  
6 is for that reason that we decided to give up our effort  
7 on the UMEREC Certificate of Necessity case, especially  
8 given the fact that the Attorney General is in that case  
9 but the Attorney General is not in this case. So I can  
10 ask Douglas to give you more technical specifics, but  
11 that's kind of in general where we're coming from. And I  
12 apologize we didn't get you anything in writing, but this  
13 all happened in really the last 72 hours. I was getting  
14 e-mails from Don Erickson at 10:00 o'clock last night and  
15 then again this morning, and so we're doing our best to  
16 give you a quick analysis so we can make this adjustment.

17 MR. MacINNES: Douglas.

18 MR. JESTER: Many of the cases or issues  
19 in this case are same ones we've been working and making  
20 a little bit of progress on. They have been purchasing  
21 more capacity than they actually are required to have by  
22 MISO's reliability standards, and we've had a sort of  
23 running dispute with the Company about whether that is of  
24 actual value to the customers, particularly when it's  
25 market purchases that may or may not be proximate to

1 their service territory. They have still contracts that  
2 are out of, out of market, if you will, that cost them  
3 more, and we want to make sure that they've minimized  
4 those costs within the scope of the contracts. And then  
5 finally, they have a special contract, you know, for one  
6 large customer that's quite advantageous, and we continue  
7 to believe that the cost allocations are not just and  
8 reasonable, that as a result, their small business  
9 customers and residential customers are concerned, are  
10 paying too large a share of the Company's power supply  
11 costs. And I would just remind you that this is the  
12 Company that has far and away the highest residential  
13 rates in the state, in the neighborhood of 25 cents a  
14 kilowatt hour.

15 MR. LISKEY: And these issues present  
16 themselves in the way the Company records their revenues  
17 and expenses according to the accounting rules for  
18 utilities, the USOA, and so that's where we really need  
19 to dig deep and get documentation on where those amounts  
20 are recorded and if they're recorded correctly, and  
21 that's what we've really been dealing with in the last 24  
22 hours is to get our arms around that.

23 I wanted to say a word about the transfer  
24 dollar amount. Jim Wilson and I have exchanged e-mails,  
25 and I copied you in our original UMEREC request, and I

1 believe it totals \$27,818, which we have settled two  
2 cases, and that's the amount of money you have previously  
3 approved that we will not be spending. And so what we're  
4 asking for, we're not asking for any new money, we're  
5 just simply asking that that, that amount of money be  
6 transferred to the UPPCo reconciliation case.

7 MR. MacINNES: Okay. Does the board have  
8 any questions about this?

9 MR. PASSMORE: Go ahead.

10 MR. ISLEY: Go ahead. I'll let you go.

11 MR. PASSMORE: I was just -- I know it  
12 sounds like this is a sort of a moving target, right, but  
13 do you have a sense of what could be saved here?

14 MR. LISKEY: \$495,000 a year if you total  
15 up all these PSCR issues.

16 MR. PASSMORE: Okay.

17 MR. LISKEY: Now, I'm not going to tell  
18 you, you know, we're going to win on all of that, or any  
19 of that, but that's -- that would be the best-case  
20 scenario.

21 MR. PASSMORE: And is the 27,000, is that  
22 a one-time deal or is -- were you going to need more  
23 later?

24 MR. LISKEY: No, you won't need any more  
25 later on this case.

1 MR. PASSMORE: Uh-huh.

2 MR. LISKEY: These cases will be --

3 MR. PASSMORE: Done.

4 MR. LISKEY: Yeah, I'm trying to think,  
5 probably by January. Who knows, we may settle it, and we  
6 have a -- we do have a good record if we don't spend the  
7 money, we bring it back.

8 MR. MacINNES: So in the last few years  
9 we've spent a lot of money on UPPCo, for good reason in  
10 my view. How much -- we've probably spent between  
11 150,000 and 200,000, something like that, over the last  
12 few years. How much -- how much have we, have you -- do  
13 you believe you've, you know, refresh our memory on  
14 how much --

15 MR. LISKEY: At least \$3 1/2 million with  
16 regards to the rate case, and that is -- can you remember  
17 any other specifics? I remember that number specifically  
18 because that's what we used I think in the annual report.

19 MR. JESTER: I don't remember the other  
20 numbers. They're obviously much smaller, but -- and part  
21 of what we're seeing as well is that we've raised issues  
22 in the earlier cases, not necessarily won in those cases,  
23 but over time the Company responds in their later  
24 proposals, so we're not sort of getting full credit for  
25 the impact we're having.

1 MR. MacINNES: Is there going to be any  
2 other funding on this besides if we were to grant the  
3 27,818?

4 MR. LISKEY: Well, the only other funding  
5 would be pro bono work if we exceed our budget from what  
6 you've approved. I should tell you that in the UMERC  
7 case, Douglas and I have both spent probably \$10,000  
8 worth of pro bono work to get to this point to say,  
9 whoops, we're going to change course here, but that's  
10 part of, that's -- you know, we do that.

11 MR. MacINNES: I do that in my business,  
12 too.

13 MR. LISKEY: Yeah, I mean that's part of  
14 the business.

15 MR. PASSMORE: I don't know, how  
16 disruptive would it be if we held off on making a  
17 decision on this until the next meeting? Because just  
18 reflecting on the chairman's comments, the beginning  
19 about keeping our powder dry, and that's a little hard to  
20 do if you're making decisions without a chance to think  
21 about it. Right?

22 MR. LISKEY: Yeah. I don't think --  
23 because the case was just filed, we won't have a  
24 prehearing for, it will be sometime in May, so you'll  
25 meet again like June 5th, so it would not be disruptive.

1 MR. MacINNES: Good. Good point. We  
2 like to not fund these things until -- the more  
3 information we have before the time we fund them, the  
4 better, so I like that idea.

5 Any other comments or thoughts?

6 MR. ISLEY: That answered mine.

7 MR. MacINNES: Anything else that you  
8 would have?

9 MR. JESTER: If you have the time, I can  
10 give you just a brief report on our MISO activities, if  
11 that is of interest, but I --

12 MR. MacINNES: Can we do that at end?

13 MR. JESTER: Absolutely.

14 MR. MacINNES: I want to get through the  
15 business items first --

16 MR. JESTER: Yes, let's do it.

17 MR. MacINNES: -- and then we can do that  
18 maybe.

19 Okay. Let's move on to the Residential  
20 Customer Group.

21 MR. KESKEY: Thank you, Mr. Chairman. We  
22 have submitted a supplemental grant request for the  
23 Consumers Energy PSCR Case U-18142 and related cases,  
24 which includes 18218, which is the case the Commission  
25 opened an investigation on Palisades, and also U-18250,  
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1 which is the securitization case where Consumers is  
2 requesting the Commission within a very short timeframe  
3 of 90 days to decide to charge the ratepayers \$172  
4 million to subsidize the private company, Entergy Nuclear  
5 Palisades, to default on its PPA contract that was  
6 approved by the Commission in 2007, and also the  
7 possibility of U-14992, which was the original docket in  
8 which the Commission approved the Palisades case, and in  
9 that case, I participated very heavily, and so did our  
10 witness, CPA Bill Peloquin, who opposed that original PPA  
11 and the sale of the plant to Entergy Nuclear Palisades  
12 for several reasons. Major issues involved the high cost  
13 and the rich nature of the charges, the PPA charges, the  
14 status of the decommissioning funds that the ratepayers  
15 had paid in over numerous years, the status and outcome  
16 of the nuclear waste that was stored on site at two  
17 different sites at Palisades and also one site at the Big  
18 Rock plant, and we also opposed in a rate case CECO's  
19 settlement with the Department of Energy on the standard  
20 contract and under the Nuclear Waste Policy Act as being  
21 very contrary to the ratepayer interest and public  
22 interest because Consumers in that case had proposed to  
23 give up \$172 million that it had collected from  
24 ratepayers which was held essentially within the Company  
25 in escrow that did not have to be paid to the federal



1 government until the federal government picked up the  
2 waste. The federal government defaulted on that;  
3 nevertheless, Consumers Energy paid the DOE the \$172  
4 million and we believe gave up its right to sue for  
5 damages every six years, which all, personally all of the  
6 other utilities in the country have done which were in  
7 similar circumstances.

8 In fact, I was just in Washington last  
9 week with our collaborative group that we meet every six  
10 months to a year of, comprising nuclear utilities,  
11 commissioners, state commissioners, ratepayer  
12 representatives, to update all these issues, including  
13 meetings with the DOE and so forth, and one of the  
14 utilities, it's the Yankee Atomic utilities in northeast  
15 New England, they were in a very similar situation to Big  
16 Rock and Palisades in that they had retired their plants  
17 and they had the nuclear waste sitting on the site, and  
18 in three cases they have been very successful, they've  
19 already collected damages from the federal government of  
20 a half a billion dollars, and they have the right to keep  
21 suing every six months. In fact, because so many  
22 utilities had filed suit at Court of Claims ahead of  
23 Consumers when they filed their suit, that by the time  
24 Consumers was heading for trial, it would -- the  
25 precedent had already been set, it was virtually a

1 formulaic basis for computing damages. We believe that  
2 Consumers Energy gave up their right for these damages.  
3 And we'll explore that further because in this case,  
4 these cases we've identified, first of all, the PSCR  
5 case, the testimony is due May 4, that's coming up very  
6 shortly. In the securitization case, the testimony is  
7 due May 15. There's \$172 million at stake upfront on the  
8 surcharge proposal to apply to ratepayers, but in  
9 reality, there are other costs, replacement power costs,  
10 what's going to be the status of nuclear waste sites and  
11 the nuclear waste both at Big Rock and at Palisades,  
12 what's going to happen to the decommissioning funds,  
13 what's going to happen to the plant, is it going to be  
14 retrofitted, you know, maybe to gas; what is the validity  
15 of the forecasts when they say that the ratepayers would  
16 save money by entering into this deal. This is all  
17 spongy future forecasts of what MISO power costs may be  
18 or the cost of replacement power.

19 There's issues about affiliated  
20 interests; in other words, one of the ideas would be that  
21 a generating plant owned or to be owned by CECO's parent  
22 company might be the one to supply some of the  
23 replacement power. There's going to be issues about  
24 who's going to own the plant, what other alternatives are  
25 there. And when you get into it, there's all kinds of

1 issues besides the 172 million; but let's not minimize  
2 the idea that the ratepayers should pay \$172 million to a  
3 private company, unregulated, that took over the  
4 ownership of the plant so that they can get out of what  
5 they may perceive is a bad deal now. If the PPA is  
6 uneconomic, it's uneconomic because the rates given in  
7 the PPA were too rich to begin with. And now because it  
8 was too rich to begin with, we compare it against the  
9 market and the market forecast, which may prove to be  
10 invalid on a longer basis, and say now the ratepayer  
11 should pay for -- the fact is that you paid too much in  
12 the past, so now you should pay more in the future to get  
13 us out of the deal. So there's all kinds of technical  
14 and accounting issues involved in this and regulatory  
15 issues.

16 Myself, Bill Peloquin, and other  
17 witnesses have had a lot of experience with Palisades. I  
18 represented the State and the Commission through several  
19 weeks of hearings at the Federal Energy Commission in  
20 1991 when Consumers first concocted a plan to spin off  
21 the plant with a PPA which was far too costly, and the  
22 ALJ at FERC rejected their plan, dismissed the case.  
23 Then we also opposed Consumers' deal on the DOE  
24 settlement as being one-sided, to pay the DOE for  
25 defaulting on its contract. And now then we opposed the

1 PPA in 2006 and 7.

2 MR. MacINNES: Excuse me a second. The  
3 DOE contract, is that the SNF, the spent nuclear fuel  
4 storage?

5 MR. KESKEY: Yes, yeah, yeah, yeah. And  
6 then we strongly opposed the deal to enter into the PPA  
7 and sell the plant to Entergy Nuclear Palisades in 2006  
8 and 7. And also in rate case, I believe it was 15245,  
9 Consumers requested additional decommissioning funds for  
10 the Palisades plant, which led Bill Peloquin to assist in  
11 looking into that issue and as to why they are claiming  
12 Big Rock was underfunded, and we found that they, that  
13 Consumers had collected -- under the previous orders of  
14 the Commission, they were supposed to collect funds every  
15 year from ratepayers and put it into a trust to be  
16 finally reconciled when it was decommissioned and any  
17 refunds or charges would be determined. Well, it was  
18 discovered through Bill's efforts and through discovery  
19 that for three consecutive years, I believe it was 1999,  
20 2000, 2001, Consumers had collected the \$33 million each  
21 of those years, they never put it into the trust, and we  
22 presented extensive testimony and cross-examination on  
23 that. The Commission deferred that to the next rate  
24 case, which I believe is 15645.

25 MR. MacINNES: And what year was this?

1 MR. KESKEY: Somewhere in the, you know,  
2 I'd say 2005 timeframe roughly.

3 MR. MacINNES: Didn't we talk about  
4 this --

5 MR. KESKEY: Yeah.

6 MR. MacINNES: -- when this board just  
7 started and we spent a year talking about these issues  
8 back in, was it 2015, is that when we started? I don't  
9 know, we've been there over five years now. So 2012.  
10 2012.

11 MR. KESKEY: Yeah, I'm not trying to  
12 re -- I'm just trying to give you some background.

13 MR. MacINNES: So these have all been  
14 hashed over and hashed over and --

15 MR. KESKEY: Yeah, and I'm almost done  
16 with that aspect, but I'm just saying is that then the  
17 Commission deferred it to the next rate case, and we  
18 presented all the testimony again. Then the Commission  
19 referred it to a special docket, U-15611, in which the  
20 Commission finally determined, yes, they owed \$99 million  
21 in principal, plus interest, then we'd offset it with  
22 what they said their cost overrun was, which was about  
23 45 million, so we ended up getting from the Commission an  
24 outright refund to ratepayers of about \$90 million, and  
25 I'm talking about a refund, meaning a credit off the bill

1 over seven months, and it got affirmed in the courts.

2 Now, what I'm saying is these kind of  
3 deals involve not only the securitization of 172 million,  
4 which we don't believe the ratepayers should have to pay  
5 for EMP or either continuing or not continuing the plant  
6 or whatever they're going to do, that's the risk they  
7 took on, not the ratepayers. We believe there are  
8 substantial issues to look into about decommissioning  
9 funds, and also the nuclear waste, and what's going to  
10 happen on all of this.

11 And so I guess our main point here is  
12 that the reason I've -- we're asking for the supplemental  
13 grant is to give you a preview of what the realistic cost  
14 is going to be for this, for these cases. And not that  
15 we're going to spend this whole grant, you know, between  
16 now and May 15, no, but when you file your testimony,  
17 it's going to take a lot of additional discovery and it's  
18 going to take a lot of work and a lot of review and  
19 research to get that testimony filed in these two cases  
20 on May 4 and May 15. And by the way, the rate case that  
21 was just filed may involve these issues, too, but our  
22 supplemental grant was -- didn't know about the rate case  
23 yet. And it's happening now, and there's a lot of money.  
24 This is the biggest, the biggest case of the year.

25 Now, one preliminary matter of importance

1 is there's important issues to be determined as to what  
2 legal platform or legal process should be used to look at  
3 these issues. Consumers would like you to go down a  
4 water trough, narrow trough of 91 days to decide these  
5 issues on the theory that it's a securitization case.  
6 One can raise significant challenge to the idea that the  
7 securitization statute does not fit. According to the  
8 information, the PPA was going to still continue for up  
9 to 18 months. There's no need to have a securitization  
10 case decide all these issues in three months.

11 The Commission was on the right track  
12 when they opened an investigation case in 18218, but then  
13 they went off the tracks when they closed the docket.  
14 This is really a case about, in large part about changing  
15 the PPA. And that being said, serious attention should  
16 be given as to whether there should be a reopener of the  
17 original PPA case.

18 MR. MacINNES: Which case number?

19 MR. KESKEY: U-14992. And the importance  
20 of this is to get the correct platform and correct  
21 jurisdiction to decide these weighty and important issues  
22 in a timeframe that works and that it's not to be decided  
23 on a special stage that Consumers Energy has constructed  
24 for its own benefit, for its own legal maneuvering. And  
25 so there has to be substantial legal research to

1 determine whether or not there should be a far better  
2 platform, a far more unified process that will take a  
3 longer period than 90 days to decide all these issues and  
4 present all these issues. There's no emergency here.  
5 But Consumers is very good at creating emergencies, sort  
6 of the blazing saddles defense, you know, he's going to  
7 be hung; if you do that, I'm going to shoot myself first,  
8 you know. I mean it has to be done right now; no, it  
9 doesn't. And so that we would urge that you -- that you  
10 grant our request. We had asked for reserving 50,000  
11 additional funds, but 30,000 right now.

12           And we'd also like to go in the PSCR with  
13 an additional issue on the solar, and working with the  
14 GLREA as well, and that is, on that, on that aspect, we  
15 have I think made significant progress with DTE Electric,  
16 because in the last case, U-17920, we had advocated that  
17 they study in their plan and their forecast the impact on  
18 PSCR costs of customer-owned solar, not just company-  
19 owned solar. And the Commission did not grant our  
20 request to require them to do that, but in this next  
21 case, the current case that DTE has filed, 18143, Edison  
22 on its own provided such an analysis for the residential  
23 class, and provided calculations and so forth to account  
24 for the impact of customer-owned solar. And so in the  
25 testimony that we just filed in that case, we have



1       advocated that they now also in this case or the next  
2       case do a similar analysis of the impact of customer-  
3       owned solar on the commercial and the industrial class.

4                   And so we would like in the current  
5       Consumers Energy case to pursue the same issue with  
6       Consumers Energy, that they should consider the impact of  
7       customer-owned solar and the trends of customer-owned  
8       solar on their PSCR costs, and that's -- these issues  
9       would all be within the request for the 48,000 additional  
10      now, which is made up of 30,000 legal and 18,000  
11      additional expert, because the filing deadlines are May 4  
12      and May 15, and it's going to have to be a lot of  
13      cramming and additional discovery to do.

14                   MR. MacINNES:  So I just sat through a  
15      presentation from an expert from Lawrence Berkley Labs on  
16      this subject last week, as did Rachael Eubanks,  
17      Commissioner, and showing, you know, what the impacts are  
18      on ratepayers for solar and, you know, retail rates, and  
19      it was very small, extremely small, the impact, because  
20      there's just not much penetration was the bottom line  
21      with most utilities in the country.  There are a few  
22      utilities that exceed, are like 10-percent penetration,  
23      but even forecasting out to 2030, the majority of  
24      utilities in the country would have just an absolute  
25      minimum impact on customer rates if solar was paid at

1 full retail.

2 MR. KESKEY: Well, that's what most  
3 utility forecasts will tell you, but the fact is that  
4 there's been a tremendous growth in solar, costs have  
5 gone down tremendously, and solar aligns very well with  
6 the air conditioning load which causes the peak in the  
7 summertime.

8 MR. MacINNES: But my point is -- and I  
9 like solar, okay, I think solar is a great thing. But my  
10 point is, we are here, this board is here to save  
11 ratepayers money. That's our mission. Residential  
12 ratepayers save money. And focusing on this issue is not  
13 going to save ratepayers money, much money.

14 MR. KESKEY: Well, we're not proposing to  
15 spend much money on the proposal, not on the issue.

16 MR. MacINNES: No, I know. But we don't  
17 have much money either, as you heard earlier.

18 MR. KESKEY: Yeah.

19 MR. MacINNES: So I just thought that was  
20 an interesting analysis, and I'd be glad to share that  
21 with the rest of the board, I've got some of the  
22 paperwork on it. But as I said earlier, the biggest  
23 opportunity for us is the capital that the utilities are  
24 spending.

25 MR. KESKEY: Except for the fact is that  
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1 the capital that they're spending is futuristic, not this  
2 year, not right now, and the efforts to try to challenge  
3 the reasonableness and prudence of capital expenditures  
4 is extremely difficult, and the results are extremely  
5 minimal, if at all. And we have been through that, those  
6 reasonable and prudence things with Midland Nuclear Plant  
7 with Consumers Energy in a number of other cases, and you  
8 are not going to have any payback, and it's down the  
9 road -- the Commission has repeatedly rejected the IRM  
10 proposals, which would give them a blank check for  
11 whatever you spend, you know, here's a formula, and  
12 that's a good thing because it shouldn't be that open,  
13 but the fact, the reality is, if you -- I just predict  
14 with you, if you'd spend a lot of money trying to  
15 challenge the reasonableness and prudence of the plant,  
16 you're not going to get any return for it.

17 MR. MacINNES: Well, I guess we'll see  
18 with time. We've got the DTE CON case coming up, and  
19 whether we do it or whether the AG does it, for a  
20 gigawatt and a half of combined-cycle plant, I mean I  
21 don't know. So you're saying there's no potential return  
22 by getting involved in that case?

23 MR. KESKEY: Well, I would suggest that  
24 the --

25 MR. MacINNES: And it hasn't even been  
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1 filed yet?

2 MR. KESKEY: Well, DTE is going to go big  
3 time into gas --

4 MR. MacINNES: Right.

5 MR. KESKEY: -- and that's one of the  
6 reasons why they have an alternative pipeline proposal  
7 through the parent company, to not just have ANR dictate  
8 the rates for transportation. But the point is, the  
9 economics are such that point of fact that gas is a  
10 prudent expense, and the risk of an overrun is a lot less  
11 than, let's say, for a nuclear plant, which Southern  
12 Company is finding out in Georgia, it's a disaster again.  
13 So the point is that it's less risky than a coal plant  
14 for many reasons. So what I'm saying is, I would predict  
15 that you try charge off with a whole lot of money into  
16 that, challenging that plant or finding an adjustment,  
17 your end result, you're not going to have any.

18 MR. MacINNES: Well, we don't have a  
19 whole lot of money to start with.

20 MR. KESKEY: But I'm not trying to be  
21 blunt, but I can --

22 MR. MacINNES: No, that's fine. It's  
23 just we don't have a whole lot of money, and we don't  
24 have to decide on that right now because that case is not  
25 before us. But we have to, as we were advised by the

1 Governor's energy policy person and Mike Moody, we need  
2 to be very careful with what we spend.

3 MR. KESKEY: But there's no question that  
4 Palisades is where the big money is right now.

5 MR. MacINNES: Well, and the AG is  
6 spending 175,000 on the Palisades case.

7 MR. KESKEY: Yes. Except we're the ones  
8 that were successful. Well, we were successful at FERC,  
9 we were -- also put up a whole lot of work on Palisades  
10 in several cases, we're the ones that uncovered the \$99  
11 million problem.

12 MR. MacINNES: Yes. But we also spent a  
13 lot of money with you in the early years of this board,  
14 okay, and we finally had to shut it off because we didn't  
15 feel we were getting the results that we were looking  
16 for, so we've been through that.

17 MR. KESKEY: Well, I'm not talking here  
18 about the --

19 MR. MacINNES: And this was on the spent  
20 nuclear fuel issue.

21 MR. KESKEY: Yeah. And spent nuclear  
22 fuel --

23 MR. MacINNES: I don't know how many --  
24 well, Susan, you were here, and Paul was here. I mean  
25 we've been through a lot of this already, we worked it

1 for well over a year.

2 MR. KESKEY: And that's helped get the  
3 \$99 million back.

4 MR. MacINNES: Well --

5 MR. KESKEY: And if it weren't --

6 MR. MacINNES: -- there were a lot of  
7 people that felt we shouldn't continue that, which is why  
8 we cut it off.

9 MR. KESKEY: Yeah. Well, the Palisades  
10 plant issue here of \$172 million is not an SNF issue.

11 MR. MacINNES: I know that. But the  
12 Palisades issue, if the AG's office is going to weigh in  
13 very heavily on it, I've already had this discussion with  
14 them, so the question is, do we need to have and can we  
15 afford to have more people doing that.

16 MR. KESKEY: Well, I --

17 MR. MacINNES: If we had more money, we  
18 probably would do it, but I don't know.

19 MR. KESKEY: I think that you, going back  
20 on the other cases, the efforts of what we did were not  
21 duplicative of the issues that the AG raised, and I don't  
22 think they're going to be duplicative now, and we  
23 certainly will discuss this with the AG.

24 MR. MacINNES: But I don't have that  
25 information, we don't have that before us right now.

1 MR. KESKEY: Well, that's because the  
2 cases are yet to -- you know, it's a short --

3 MR. MacINNES: And you're saying their  
4 efforts are not going to be duplicative, but you don't  
5 know yet. I mean, we don't have the information.

6 MR. KESKEY: Even if there were two  
7 parties, the AG and the RCG, presenting expert testimony  
8 on the important issues, one of them is a CPA with 35 or  
9 40 years of utility CPA experience and maybe another  
10 one's an engineer or someone like that, inherently the  
11 amount of money is so large and the timeframe is so short  
12 that two parties focusing on the importance of the issue  
13 is very helpful to the ratepayers, but there's going to  
14 be different viewpoints and different issues within that,  
15 that sub, that overall set.

16 MR. MacINNES: But that uses up -- I mean  
17 we've got \$160,00, that uses up -- that pretty much  
18 eliminates our ability to fund much else afterward for  
19 the rest of the year. We've got the rest of this year  
20 for cases that are going to be coming before us.

21 MR. KESKEY: And many of those cases will  
22 go beyond the fiscal year here. This case is now.

23 MR. MacINNES: Yeah. But we'll need to  
24 fund them if we're going to be involved.

25 MR. KESKEY: Yes, but --

1 MR. MacINNES: I don't know. I guess  
2 that's -- I don't want to dominate this, but is there  
3 anything else you want to present on that?

4 MR. KESKEY: No, I think it's the  
5 importance of the issues, the history of the situation,  
6 the immense cost involved, and the very short timeframe  
7 that this is, this work has to be done.

8 MR. MacINNES: Valerie said that it's  
9 going to be decided by August, she thought.

10 MR. KESKEY: Well, I put the, in my memo  
11 I put the timeframe of the securitization case in there.  
12 But that is if the case survives challenges to whether or  
13 not the securitization is a proper forum.

14 MR. ISLEY: Can I ask for clarification  
15 as to -- I mean of course the AG's office has left, but  
16 there was a part of this that was and a part of this that  
17 they weren't in, so I'm assuming they're in the PSCR, but  
18 they weren't in the forecast case? Does anybody  
19 remember?

20 MR. MacINNES: They're going to be in  
21 two -- they're in -- they're in the rate case and they're  
22 in the PSCR case.

23 MR. ISLEY: Okay.

24 MR. MacINNES: And they're weighing in  
25 heavily, we talked about it with Valerie, they're



1 concerned, people are concerned about this case, just  
2 like you say, we all are, it's a big amount of money, so  
3 it's not something we're taking lightly.

4 MR. KESKEY: I think legislators are very  
5 concerned in certain areas.

6 MR. MacINNES: Everyone is concerned  
7 about it.

8 MR. KESKEY: And it really I think  
9 supports board attention and focus on the importance of  
10 it.

11 MS. LICATA HAROUTUNIAN: Did you get the  
12 feeling that there was expectation that we would be  
13 participating along with the others?

14 MR. MacINNES: No. I mean it's our  
15 decision, but the concept is that we're going to divide  
16 the funds between the AG and us and do what we can, each  
17 doing what they can. That doesn't mean we can't do it if  
18 we decide, but.

19 And I was also confused on your -- you  
20 sent on Sunday night another budget, and I didn't  
21 understand what you're trying to, what you're asking for  
22 here. That's another problem. We asked you to --

23 MR. KESKEY: No, I didn't.

24 MR. MacINNES: Wasn't, Kelly --

25 MS. KITCHEN: Well, I received it at,  
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1 like at 11:00 o'clock on Friday, I couldn't get through  
2 it until --

3 MR. KESKEY: The budget that was sent  
4 Friday was the budgets as resulting from your February  
5 meeting. The budgets that we attached to our memo I hope  
6 of March 24 are the budgets that would show --

7 MR. MacINNES: There was no -- you see,  
8 that's another concern I have, Don. We asked to get this  
9 information ahead of time because we, a number of us have  
10 other things we're doing, we have other activities, so we  
11 need time to digest this.

12 MR. KESKEY: It was all provided on  
13 March 24.

14 MR. MacINNES: Well, but we ask -- you  
15 know, this is April 3.

16 MR. KESKEY: No, but that's the time that  
17 we were, all the parties were told to file by March 24,  
18 and we did.

19 MR. MacINNES: But we like to -- you  
20 didn't have any other prior information on, there's  
21 nothing you could have done to get information to us  
22 earlier?

23 MR. KESKEY: Well, that was the timeline  
24 we are told to file it, and that's what we did, so we  
25 timely filed it. That was two weeks ago.

1 MR. MacINNES: Well, I was confused on  
2 what you're asking for, because I got this, and then I  
3 got these two sheets, I received them Sunday night.

4 MR. KESKEY: Yeah, but those are not this  
5 request. Our request is March 24.

6 MR. MacINNES: But there was nothing, I  
7 just got these three sheets, I didn't know what they were  
8 for.

9 MR. KESKEY: It was being sent to Jim  
10 Wilson, he asked for the budget sheets from the last  
11 meeting, and that's what we sent him.

12 MR. MacINNES: But there's no -- I didn't  
13 get any explanation.

14 MR. KESKEY: That was not being requested  
15 at this meet being.

16 MR. MacINNES: But I don't know what --  
17 it was just sent at the last minute.

18 MR. KESKEY: I didn't send it to you.

19 MS. KITCHEN: I sent it to you because he  
20 sent it to me, it came to me.

21 MR. KESKEY: I just sent it to Jim Wilson  
22 and to --

23 MR. MacINNES: Yeah, okay. I'm trying to  
24 figure out, you know, we got this and then I got these at  
25 the last minute.

1 MR. KESKEY: No, that was a -- there was  
2 no explanation needed, it was an e-mail from Jim Wilson  
3 saying to send me the budget sheets and I did.

4 MR. MacINNES: Okay. Well, that's enough  
5 on that.

6 MR. KESKEY: So what we're asking for on  
7 the supplemental is 48,000 additional, and that's split  
8 between legal and expert.

9 MR. MacINNES: But then you're also  
10 asking us to reserve another 50,000, aren't you?

11 MR. KESKEY: No, I was saying for  
12 planning purposes to get through these cases, 50,000, but  
13 for this request, 48,000 would include the solar issue  
14 plus all the Palisades issue, that would be 30 legal and  
15 18 expert, and then one percent.

16 MR. PASSMORE: Don, one thing that you  
17 said earlier that I didn't follow was that it sounded  
18 like between now and the middle of May there's a lot of  
19 activity, you need money to sort of participate in that,  
20 and then you'd have a better sense at that point what the  
21 future looked like in terms of --

22 MR. KESKEY: The real effort --

23 MR. PASSMORE: -- sort of implied in that  
24 sort of additional expense further down the line, but  
25 just don't know what it's likely to be?

1 MR. KESKEY: Yeah. What's facing us on  
2 May 4 in the PSCR and May 15 on the securitization case  
3 is review of a vast amount of discovery and preparation  
4 of expert witnesses for their filings. Their filings are  
5 on May 4 and May 15. That is where everybody prefiles  
6 their testimony. After that, there are the hearings,  
7 there's actually rebuttal testimony by the Company, and  
8 then there are hearings where the actual cross-  
9 examination and the sponsorship of the direct testimony  
10 is done, and then there's briefing. So the real  
11 horserace right now is to meet the May 4 and May 15  
12 deadlines for getting the expert testimony filed based on  
13 the discovery and the review of all the research, which  
14 can include SEC reports, it can include NRC filings, it  
15 can include any number of things, besides the 800 pages  
16 of testimony and exhibits that the Company filed.

17 MR. PASSMORE: So the 48 gets you through  
18 everything you just described, or is this through the  
19 middle of May?

20 MR. KESKEY: I don't know how much it's  
21 going to cost, but it's going to be 48 or less.

22 MR. PASSMORE: Between now and the middle  
23 of May?

24 MR. KESKEY: Middle of May. And  
25 sometimes, we've been fairly successful at this, is

1 reaching stipulations with the Company and other parties  
2 to bind in testimony without cross if we feel our direct  
3 testimony is really good.

4 MR. PASSMORE: So there's some --

5 MR. KESKEY: So there's some potential  
6 to, you know, the costs, when you go into the process,  
7 you want to really do good on your direct testimony, you  
8 want to do good on your discovery, you want to do good on  
9 your own research, get that into your direct testimony;  
10 then as far as the hearing schedule, things can change  
11 depending on whether there's going to be a full-boat  
12 hearing or whether the parties will stipulate to binding  
13 in the testimony without cross-examination.

14 MR. PASSMORE: So there's some potential,  
15 depending on how things go, that you get to mid May and  
16 you need more?

17 MR. KESKEY: Only to the extent that we  
18 said reserve 50, 50,000 for the case.

19 MR. PASSMORE: So post mid May?

20 MR. KESKEY: Yeah.

21 MS. LICATA HAROUTUNIAN: So that would be  
22 another 2,000 then, or is it another 50,000?

23 MR. KESKEY: No, not another 50,000, it  
24 would be --

25 MR. MacINNES: See, this is where I was  
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1 confused.

2 MR. KESKEY: I'm sorry. We said reserve  
3 a supplemental 50 about for the case, but that we were  
4 asking for 30 now.

5 MS. LICATA HAROUTUNIAN: 30 now.

6 MR. KESKEY: Yeah. And of course, you  
7 know, we can provide you copies of the testimony and  
8 everything that's going to be filed, it's just --

9 MR. MacINNES: So the maximum would be  
10 50,000?

11 MR. KESKEY: That's right. And the idea  
12 there was sort of trying to forecast the potential, but  
13 on your viewpoint of going incrementally, you know,  
14 step-by-step on things, that the 30 would be immediate  
15 because, again, the deadlines are May 4 and May 15 and  
16 the huge amount of money involved.

17 MR. MacINNES: So how much would be for  
18 the solar part?

19 MR. KESKEY: The solar part, if we get  
20 into really good immense issues on the Palisades plant,  
21 we would focus on that. The solar part would be  
22 changeable. In other words, the biggest focus is on the  
23 Palisades situation. The solar would be good to get in  
24 there and in the PSCR case as an issue and see if  
25 Consumers would be willing to do that.

1 MR. ISLEY: Now, you know, according to  
2 your request, it was 18,000 for solar and 30,000  
3 currently for Palisades --

4 MR. KESKEY: That's correct.

5 MR. ISLEY: -- with the possibility of  
6 20,000 in the future.

7 MR. KESKEY: That's right. You're  
8 correct. And thank you for correcting me on that.

9 MR. MacINNES: On the Palisades part?

10 MR. KESKEY: The Palisades part was 30.

11 MR. MacINNES: So really that could be 30  
12 and -- that's 48 plus 20, so that's 68?

13 MR. KESKEY: Potentially. But recall  
14 that you have the potential for extended hearings and  
15 then there's briefing.

16 MR. MacINNES: Right.

17 MR. KESKEY: So it's attempting to do it  
18 step-by-stop but give you a top number, in other words.  
19 It's sometimes very difficult to be absolutely precise on  
20 something that's this immense, and then when you are  
21 precise, you end up, like the economists' forecasts, to  
22 be finding out that it wasn't quite useful.

23 MR. MacINNES: So how much of the 30  
24 would you be spending on the Palisades for reopening Case  
25 14992?



1 MR. KESKEY: The strategy -- first of  
2 all, it's laying out legal strategy about what would be a  
3 good strategy is sometimes dangerous at these meetings  
4 because it gives the other side a total advantage. The  
5 idea of seeking to reopen the Palisades and that, it's a  
6 an idea. What I'm saying is it would take some workup to  
7 file something, that the reality is this is a PPA case to  
8 a large extent. The PPA is where a lot of  
9 representations were made about what was being charged,  
10 what the idea was, and the sale of the plant, and how do  
11 you interpret the various provisions of the contract.  
12 Well, now they want to change the PPA, they want to  
13 terminate supposedly, it's not necessarily going to  
14 happen, terminate the plant; that may not happen in the  
15 end.

16 MR. MacINNES: So this was -- so 14992,  
17 that was in 2007?

18 MR. KESKEY: Yes, it was.

19 MR. MacINNES: So here it is ten years  
20 later trying to open up a case, and at the time, I mean  
21 they probably did the best they could to try to figure  
22 out what the future is going to be, which is a hard thing  
23 to do. So on one side we can criticize them and say, oh,  
24 hey, look what they did, and they, it's going to cost  
25 ratepayers, but that was ten years ago.

1 MR. KESKEY: Well, and it was a 15-year  
2 PPA and it was a permanent sale of the plant supposedly.

3 MR. MacINNES: True. But I mean --

4 MR. KESKEY: And the point is, the  
5 evidentiary record in that case is directly relevant.  
6 Actually, these cases should be all consolidated, and  
7 that the idea is the issues are so immense and there's so  
8 much money involved that there should be a broader forum  
9 and a longer pace than 91 days to decide these issues, as  
10 the Commission itself did in 2007.

11 MR. MacINNES: So can -- I mean without  
12 reopening this case, 14992, can they use the record?

13 MR. KESKEY: There could be challenge to  
14 that, risks in that.

15 MR. MacINNES: Or I mean do they have to  
16 open the case to use that record?

17 MR. KESKEY: Reopening a case and  
18 consolidating is no big -- this is not rocket science,  
19 but it does fit into the logic about what is this case  
20 really about and what is it really relevant to, and it  
21 goes back to that case.

22 MR. MacINNES: Right. Yeah, I bet it  
23 does. I bet it does.

24 MR. KESKEY: Okay. The Commission itself  
25 in the investigation of 18218 said that these issues,  
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1 basically they said these issues are -- 91 days is not  
2 sufficient to handle all these issues, and we would say  
3 that's true. But now you've got to have a platform that  
4 is broader and longer than 91 days, and we would propose  
5 legal strategy that would at least confront the  
6 Commission with the idea that we should not be going down  
7 this narrow, this narrow chute, whatever you want to call  
8 it, of 91 days and give them all this money and all these  
9 blank checks. There's no emergency, the PPA -- the  
10 plant's going to run for 18 months at least.

11 MR. MacINNES: Uh-huh.

12 MR. PASSMORE: So knowing that the AG's  
13 office is taking this one seriously and planning to put  
14 resources into it, have you -- would it be customary for  
15 you to talk with them and sort of discuss strategy and  
16 see if there's a real value add by -- I mean get the  
17 principle, big stake kind of issue, good to have more  
18 than, you know, one hand on the deck, but has there been  
19 conversation at the AG's office about sort of what the  
20 value add is having you guys in it, too? Because I think  
21 that's the issue we're faced with, right?

22 MR. MacINNES: Right.

23 MR. PASSMORE: What's the added value  
24 here?

25 MR. KESKEY: From experience in having  
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1       been in many cases with the AG, our participation often  
2       has been different issues, different facts, different  
3       evidence, maybe ending up with the same goal --

4               MR. PASSMORE: I understand.

5               MR. KESKEY: -- but we don't know where  
6       the AG's going to come out. Now, they may come out and  
7       support the deal, or they may come out and say, well, we  
8       suggest alternative A, B, and C, whereas we would be  
9       opposing the deal. If they're going to close the plant,  
10      let them close the plant, but the ratepayers shouldn't be  
11      paying for it, and we would propose maybe alternative  
12      remedies A, B, C. So the legal strategies don't match,  
13      even if the goals match at the end.

14              MR. PASSMORE: But do we know that? I  
15      mean that's what I'm asking.

16              MR. KESKEY: You can't know all of that  
17      in advance. So he's going to hire an expert, we don't  
18      know what the expert's going to say. But yes, we would  
19      cooperate and have in expert-to-expert discussions,  
20      discussions with the AG's office, and we're also reaching  
21      out to the Staff.

22              MR. PASSMORE: But it's premature to have  
23      those conversations now, is that what you're saying?

24              MR. KESKEY: No, no, it's not. It's that  
25      when the expert witnesses get deep in the preparation and

1 the attorneys are developing strategy, that -- it's not  
2 premature at any time, but it's most useful starting  
3 right now when everybody can do the deep dive on this  
4 stuff to find out how you coordinate and where you're  
5 going to go and where you're going to go. But remember,  
6 the Attorney General's may have come out differently than  
7 what's best for the residential ratepayers, we don't know  
8 that.

9 MR. MacINNES: Okay. Do the board  
10 members have anymore clarifying questions? Tough  
11 decision when you don't have a lot of money.

12 How about if we take like a five-minute  
13 break and come back.

14 MS. LICATA HAROUTUNIAN: Sounds good.

15 MR. MacINNES: Talk about this, all this.

16 (At 2:44 p.m., there was a ten-minute recess.)

17 MR. MacINNES: Okay. Shall we move on  
18 with the agenda here and review our grant items. So I'll  
19 restart the meeting. So how do you want to start?

20 MR. ISLEY: I guess we're going to have a  
21 few motions, then we can discuss them.

22 MR. MacINNES: That would be good.

23 MR. ISLEY: So I guess I'll start. So I  
24 move that we approve the supplemental budget of \$5,050  
25 for Consumers Energy 2015 PSCR reconciliation Case No.

1 U-1768-R [sic] for MEC.

2 MR. MacINNES: Do we have support?

3 MS. LICATA HAROUTUNIAN: Support.

4 MR. MacINNES: Is there any discussion?

5 All those in favor, please say aye.

6 BOARD MEMBERS: Aye.

7 MR. MacINNES: Opposed, same sign.

8 Okay. You started it off.

9 MR. ISLEY: I started it off. It gets  
10 more complicated after that one.

11 MR. MacINNES: Do you think. But you're  
12 on a roll.

13 MR. ISLEY: I'm on a roll. Well, I'm  
14 going to move that we approve \$50,500 for the Consumers  
15 Energy 2015 general rate case for MEC.

16 MR. MacINNES: And that's U-17678?

17 MR. BZDOK: 13822 [sic].

18 MR. MacINNES: Oh, okay. I don't know  
19 where I got that from. 13822. So that's the new -- that  
20 was just assigned?

21 MR. BZDOK: Yes, that's the one that came  
22 in Friday afternoon. We knew about it ahead, but we  
23 didn't have the docket number.

24 MR. MacINNES: 13822.

25 MR. BZDOK: I'm sorry, I transposed two  
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1 numbers. 18322. Sorry.

2 MR. MacINNES: So Case U -- do you want  
3 to say that again?

4 MR. ISLEY: I didn't write down the  
5 number.

6 MR. MacINNES: 18322.

7 MR. ISLEY: All right. So I move that we  
8 approve \$50,500 for the Consumers Energy 2017 general  
9 rate case, U-18322.

10 MR. MacINNES: Okay. Is there support?

11 MS. LICATA HAROUTUNIAN: Support.

12 MR. MacINNES: Is there discussion?

13 MR. PASSMORE: Just to clarify, I thought  
14 it was 17990. Am I --

15 MR. BZDOK: The memo that we sent you was  
16 recapping the results of 17990, and then explaining how  
17 that flowed into the new case.

18 MR. PASSMORE: Okay.

19 MR. BZDOK: We only just got that case  
20 number on Friday afternoon.

21 MR. PASSMORE: Okay. Any other  
22 discussion?

23 All those in favor, please say aye.

24 BOARD MEMBERS: Aye.

25 MR. MacINNES: Opposed, same sign.

1 MR. BZDOK: Thank you.

2 MR. MacINNES: Okay. Moving on to CARE.  
3 How to we want to handle CARE, the CARE request?

4 MR. ISLEY: My understanding was you were  
5 okay with us doing the adjustment in June; is that  
6 correct?

7 MR. LISKEY: Yes, yep.

8 MR. ISLEY: So we have nothing that we  
9 have to vote on here?

10 MR. LISKEY: Yep.

11 MR. MacINNES: Okay. Nothing to approve  
12 there. Well, that was easy. Now comes to the tough one,  
13 Residential Customer Group. Do we have a motion on that  
14 one?

15 MR. ISLEY: I will make the motion so  
16 that we can discuss. I have the wrong one out. I move  
17 that we approve \$30,000 for the supplemental grant  
18 request for CECO PSCR forecast case, U-18142, and the  
19 related cases as explained in the memorandum of March 24.  
20 That does not include the \$18,000 for solar.

21 MR. MacINNES: Okay. Do we have support?

22 MS. LICATA HAROUTUNIAN: Support.

23 MR. MacINNES: Okay. Some discussion?

24 MR. PASSMORE: The way I find myself  
25 thinking about this one is we know the AG's office is



1 going to be investing a lot of resources in this case, we  
2 know it's important, and the question is is what the  
3 added value is by making this grant. And I think one way  
4 to think about that -- and the problem is the answer to  
5 this question may not be known -- which is, to what  
6 extent the AG's office is going to represent the  
7 interests of residential ratepayers, I mean what's the  
8 probability that they're going to take care of the  
9 residential ratepayers in their strategy, and if we knew  
10 for certain that that was going to be their priority,  
11 then you really question the added value. I don't know  
12 that we know that for certain, but we may be able to  
13 assign some probability there.

14 MR. KESKEY: Can I respond briefly?

15 MR. MacINNES: Uh-huh.

16 MR. KESKEY: Number one is both with  
17 respect to the lawyers and the expert witnesses, dealing  
18 with the immensity of these Palisades' issues, we've had  
19 far more extensive experience than anybody from the AG's  
20 office, particularly anybody that's currently there, same  
21 is true with respect to the witness that they propose to  
22 have with respect to Palisades. Secondly, we absolutely  
23 will work with the AG's office to see what they are  
24 pursuing, what their remedies would be, what we would  
25 propose, what our remedies would be. That Big Rock

1 decommissioning case is an example. We were the only  
2 ones that found that issue and pursued it through three  
3 cases. The AG then supported us at the last case on the  
4 issue. So there are many instances in which the AG will  
5 file testimony, we'll file testimony, and the testimony  
6 presents additional evidence, different evidence,  
7 different issues, they dovetail sometimes, sometimes  
8 they're not dovetailing because they're different.

9           And we absolutely are representing  
10 residential customers. We have two representatives from  
11 the Residential Customer Group here today, Jeanine Deal  
12 and Lola Killey. And we've also been extremely  
13 conscientious in these cases, we've had quite a bit of  
14 success. And so we take your concern very seriously.

15           MR. PASSMORE: So the, just to respond, I  
16 mean the first point, I mean I'm not an attorney so, you  
17 know, whether they're better or you guys are better, you  
18 know, I guess I'm not a good judge of that.

19           MR. KESKEY: I didn't mean to suggest  
20 that in that way.

21           MR. PASSMORE: Okay. But I know that  
22 your group represents residential ratepayers, that's not  
23 the question; the question is to what extent we can count  
24 on the AG to, and I don't, like I said, know if that's an  
25 answerable question today. I don't know what the

1 experience has been with the other board members in terms  
2 of whether we can, you know, reasonably expect the  
3 residential ratepayers' interest to be represented by the  
4 AG or not, because I think a lot of our decision turns on  
5 that question.

6 MR. MacINNES: So a lot of this has to do  
7 with a PPA, right?

8 MR. KESKEY: The PPA and the  
9 securitization, the concept that you're asking the  
10 ratepayers to pay for this termination when in fact it's  
11 based on forecasts which may not turn out to be true, the  
12 savings may be --

13 MR. MacINNES: But all of that, PPA,  
14 securitization, wouldn't that be for everybody, and  
15 maybe -- I mean is that going to be divvied up, oh, hey,  
16 the residentials are going to get this, and I mean it's  
17 more of the big picture of how much the pie is, isn't it,  
18 rather than who -- how you cut the pie?

19 MR. KESKEY: It -- yes. You're saying  
20 that if we put on a real good case to protect the  
21 residential customers, will some other parties benefit,  
22 like commercial let's say? Yes, I would presume so. But  
23 how else are you going to fight for the residential  
24 customer, which is a big share of the pie, a big part of  
25 the pie.

1           The other thing I would mention about the  
2 Attorney General is that all the grantees here present,  
3 you know, present proposals and then budgets and report  
4 every two months or earlier or more often on cases,  
5 where, as I understand it, the AG gets half the budget  
6 and they don't apply to you for the use of their budget  
7 or explain what they're going to do, and sometimes they  
8 may say that they're going to spend 175,000 on this case,  
9 but it may not end up to be that.

10           MR. MacINNES: They don't even report to  
11 the legislators, as far as I know. There's no  
12 official -- we have to do an official report, and I don't  
13 think the AG's office has to do that.

14           MR. PELOQUIN: I believe there used to be  
15 some requirement they did, they just didn't do it and got  
16 away with it.

17           MR. MacINNES: I've never seen it.

18           MR. KESKEY: But the point is that you  
19 don't have any kind of extensive proposal or, you know,  
20 explanation of what they would propose to do or pursue or  
21 what issues or whether or not through the process of the  
22 way the AG's run, any AG's office is run, you don't know  
23 whether that's going to end up to be so or whether they  
24 will determine to spend some of it on something else.

25           MR. MacINNES: So one of the ways I look

1 at it is, is you do have the experience, I think that's a  
2 benefit, you know, you guys have been in this business  
3 for a while, and the AG's office, I think they do a good  
4 job, but to have another set of experienced eyes just in  
5 the case, whether it's residential or whatever, it's just  
6 how big the pie is I think could be useful from that  
7 standpoint.

8 MR. PELOQUIN: If I may just -- I don't  
9 want to be over-advocating, but having two parties  
10 opposing the utility gives, seems to give the Commission  
11 more comfort than one party all by themselves. There's  
12 been quite a few cases where points were won because  
13 there were a number of people from different positions  
14 that came to the same conclusion.

15 MR. MacINNES: Well, and the PSC Staff  
16 would be in this case, too, so because it's very  
17 important.

18 Paul, what do you think about it? What  
19 are your thoughts on all this?

20 MR. ISLEY: Well, we're supplementing  
21 something that we've already funded, so can you talk a  
22 little bit about how this is different or how your  
23 expectations are different from where we started?

24 MR. KESKEY: The immensity of the filings  
25 is just, and it's not just the filings, it's the studies

1 and it's the amount of discovery that should be done --  
2 we've done some, but I mean there's a lot more -- and so  
3 that you don't want to do a half-baked job. And, you  
4 know, the fact that you're granting this supplemental, if  
5 you do, doesn't mean that we're required to spend it, but  
6 on the other hand, it would be really unfortunate to get  
7 to the point where you really got some really good  
8 discovery, you've got some really good issues, you've got  
9 some good legal strategies and so forth, and you can't do  
10 justice to the job. And I guess our view is that this,  
11 this is of such an immense impact on the ratepayers and  
12 regulatory decisions, and it's just here right now that  
13 this is a -- this is this year's great opportunity to  
14 represent the residential ratepayers.

15 MR. ISLEY: So as we move forward towards  
16 June, if we would go forward with this \$30,000, I don't  
17 think that there's any way we could guarantee the  
18 additional 20. So can you talk to me about if we were  
19 forced to make a different choice in June, the value of  
20 this \$30,000 if we were unable to do the additional?

21 MR. KESKEY: Well, the effort to get  
22 discovery, review the discovery, do supplemental  
23 research, and file good direct testimony, and have good,  
24 sound legal arguments and positions, like I was saying,  
25 the strategy of should this be a broader view than just

1 going down a trough of 90 days, that's what you want to  
2 make sure you do a good job on. And there have been many  
3 cases, in that Big Rock case where we got a refund of  
4 about \$90 million, ended up to be about 50-percent  
5 pro bono. It was funded by the board, but it wasn't  
6 enough. So if we get a real good, sound case filed and  
7 we're running out of money, we would ask for the  
8 additional 28, but if you didn't grant it, we're not  
9 going to drop the case. We follow through on stuff.

10 MR. ISLEY: Okay. Thank you.

11 MR. MacINNES: So for the 43,000 that  
12 we've spent, what does that -- what work product does  
13 that represent?

14 MR. KESKEY: You haven't spent 43,000  
15 yet. We're trying to -- our supplemental request is  
16 based on a realistic evaluation of what is necessary to  
17 do a proper case filing, filings.

18 MR. MacINNES: So I guess I'm confused,  
19 I'm sorry. Help me out here, Don. So we've got 43,000,  
20 we got a request for 30,000, for a total of 73,000. Help  
21 me sort this.

22 MR. KESKEY: Which are you looking at?

23 MR. MacINNES: I'm looking at this. Help  
24 me sort that out, on how this all works. I'm just, I'm  
25 sorry, I'm just --

1 MR. KESKEY: Yeah. This --

2 MR. MacINNES: -- not quite

3 understanding.

4 MR. KESKEY: This, the 43,000, for  
5 example, is an already -- that's the approved budget  
6 right now, and work has been going on with discovery and  
7 meetings and discussions with experts.

8 MR. MacINNES: So we have spent?

9 MR. KESKEY: You haven't spent that --

10 MR. PASSMORE: You've granted it.

11 MR. KESKEY: -- you've granted it.

12 MR. MacINNES: I'm sorry. I look at this  
13 as --

14 (Multiple speakers.)

15 MR. KESKEY: You approved that, and we're  
16 saying is that realistically this -- and the other thing  
17 that's happened since the last meeting is they filed  
18 their securitization case, and the schedule was set and  
19 the -- so this, we didn't know they were going to file  
20 the securitization case, and that's 800 pages of  
21 testimony and exhibits, more than that. So  
22 realistically, looking at that development then, what --  
23 we're asking for a budget to do the right kind of job.

24 MR. MacINNES: So the 43,000, how much of  
25 that have you spent?



1 MR. KESKEY: Well, I hate to admit it,  
2 but the work, the work that we've been doing hasn't been  
3 invoiced yet.

4 MR. MacINNES: Okay. Let me ask that  
5 again. How much have you spent, do you think? I mean  
6 give me -- if you don't have a number, give me a, you  
7 know, is it half that, is it all that, and then what is  
8 the work product that you've generated for that spending?

9 MR. KESKEY: The -- I would say we've  
10 spent probably 15,000, and that's been spent in internal  
11 memos and in meetings with the experts to sit down and  
12 say, what are the key issues, what should be our  
13 strategy, we've talked about legal strategy, and as part  
14 of this what I'm calling broadening out the process, we  
15 have issued discovery questions to the Company, we've  
16 discussed additional discovery that we have to get out.  
17 So but I'm -- what I'm saying here is we're asking for a  
18 budget that we think is necessary to do the proper job,  
19 and given the immensity of the --

20 MR. MacINNES: So you've only spent  
21 15,000?

22 MR. KESKEY: 15,000, roughly, could be.

23 MR. MacINNES: What about on expert  
24 witnesses?

25 MR. KESKEY: Well, I'm including expert  
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1 witnesses, I'd say 15 to 20,000 range.

2 MR. MacINNES: So you're listing here --  
3 I'm just trying to understand how this budget, how this  
4 is working.

5 MR. KESKEY: What I'm saying is that  
6 there's an immense, immense amount of, almost total focus  
7 that has to be done starting now to May 4 and May 15.

8 MR. MacINNES: Right. So of this --  
9 okay. So you've got expert witnesses of 27,820, you've  
10 got legal of 43,460. I'm just trying to understand of  
11 this whole request here, how much you've spent and what  
12 your work product is on both the legal and the expert  
13 witnesses on this Palisades case, these Palisades cases,  
14 not on the solar or anything else, just on the Palisades  
15 cases.

16 MR. KESKEY: Okay. Well, for example,  
17 we -- I don't have the exact figures.

18 MR. MacINNES: Do you have an approximate  
19 figure?

20 MR. KESKEY: Well, I said 15 to 20,000.  
21 Now, remember, the motion is for 30,000, which would be  
22 broken out at 18,000 legal and 12,000 additional for  
23 expert.

24 MR. MacINNES: So what would that -- I  
25 think we need to make sure we understand, at least I need

1 to understand how much you want to spent on the Palisades  
2 cases total without the holding, you know, extra money  
3 later, in other words, that you're asking for right now  
4 just on the Palisades cases, the total in terms of the  
5 legal and expert witnesses.

6 MR. KESKEY: Okay. Last you approved  
7 72,000 roughly with a one-percent fee that's taken out of  
8 one of them, but 72,000 right now, which was the 43 and  
9 the 27.

10 MR. MacINNES: Okay. And that's just on  
11 the Palisades cases?

12 MR. KESKEY: No. What we had asked for  
13 before and we're trying to get clarity here is, in the  
14 last request we had asked for the Palisades and the  
15 related cases.

16 MR. MacINNES: Right.

17 MR. KESKEY: So we're not changing  
18 that --

19 MR. MacINNES: The related ones being the  
20 ones you stated --

21 MR. KESKEY: 18218 --

22 MR. MacINNES: 250 and 1992 [sic].

23 MR. KESKEY: Yeah, yeah. And what we're,  
24 the motion is to increase that by 30,000, which would be  
25 18,000 legal and 20,000 additional.

1 MR. MacINNES: Okay. So how do you get  
2 to the 72?

3 MR. KESKEY: If you add 72 plus 30, it's  
4 102.

5 MR. MacINNES: Okay. The 72 is the 43,6  
6 and the 27,8?

7 MR. KESKEY: That's correct.

8 MR. MacINNES: Okay. So that's 43,460.

9 MR. KESKEY: And then the one-percent  
10 fee.

11 MR. MacINNES: Yeah. I'm just -- and  
12 then the 27,820, and that equals the 72, roughly 72,000  
13 that you want to spend before this supplemental, right?

14 MR. KESKEY: That's right.

15 MR. MacINNES: So by adding the  
16 supplemental, you want to spend another 30, right? So  
17 that would be 102,000; is that right? Anybody?

18 MR. KESKEY: Yes. And between now and  
19 May 5 and May 15, I mean that literally is going to be,  
20 could be ten-hour days from now right through to get that  
21 filing done right.

22 MR. MacINNES: Yeah, I'll bet. So this  
23 is what we're looking at, we're looking at \$102,000  
24 commitment for the Palisades case, total.

25 MS. LICATA HAROUTUNIAN: Have we already  
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1 subtracted the 72, or is the whole 102 coming out of the  
2 161?

3 MR. MacINNES: The 72 has already been  
4 approved.

5 MS. LICATA HAROUTUNIAN: Factored in?

6 MR. MacINNES: Yep. So we're already in  
7 now, sunk costs, so.

8 MS. LICATA HAROUTUNIAN: Yeah.

9 MR. MacINNES: So it's an incremental 30  
10 with a possibility of it being an incremental 50.

11 MS. LICATA HAROUTUNIAN: What I'm hearing  
12 is that everybody feels this case is very important, and  
13 we have made a commitment to it already. Paul's thoughts  
14 are quite right, there probably won't be anything there  
15 when you come back for the other 18, okay. There could  
16 be, but there probably won't be because we don't have a  
17 whole lot that's left there. And you answered Sam's  
18 questions. It just seems to me that based on the  
19 importance of this particular thing and the speed with  
20 which it's coming at us, the 72 is a waste if we -- yeah,  
21 the 72 is a waste if we don't follow up on it to the best  
22 that we can.

23 MR. MacINNES: It is a sunk cost, but  
24 that's true. I don't think it would be a total waste,  
25 but it would be a waste.

1 MS. LICATA HAROUTUNIAN: Fine. But and  
2 can we afford -- and I mean this in the terms of what  
3 we'll have left -- to go with the 30,000 and keep doing  
4 business?

5 MR. MacINNES: Well, we have 161.

6 MR. ISLEY: We just spent 50.

7 MR. MacINNES: Just spent, so 50.

8 MR. ISLEY: So another 30 puts us at  
9 vaguely \$80,000, which is enough for two mid-range hits  
10 from what we normally get asked. And there's about seven  
11 or eight things there that you've listed.

12 MS. LICATA HAROUTUNIAN: Yeah.

13 MR. MacINNES: Uh-huh. But the other  
14 side of it, as Don points out rightly, it's a big number.

15 MS. LICATA HAROUTUNIAN: Yeah.

16 MR. MacINNES: So if you look, it's like  
17 a fat tail risk kind of thing, you know, we may or may  
18 not get something out of it, but there's a big number out  
19 there that's just hanging out there that we like to, we  
20 like to cut down --

21 MS. LICATA HAROUTUNIAN: Yeah.

22 MR. MacINNES: -- in terms of a \$175  
23 million case, and I know everyone's concerned about it,  
24 so it's going to be a full-court press by everybody.

25 MS. LICATA HAROUTUNIAN: Well, you've

1       been, as you've been saying, who you've talked to and  
2       what they've said each time, this is big, this is  
3       important.

4                       MR. MacINNES:  Oh, yeah, yeah,  
5       absolutely.

6                       MS. LICATA HAROUTUNIAN:  So that's our  
7       job, I guess.

8                       MR. MacINNES:  But it does mean, you  
9       know, that we're likely going to be considerably short  
10      if, you know -- I mean DTE's going to have a case coming  
11      in.  How much is it -- how much is it for a DTE rate  
12      case, electricity rate case?  How much would you charge?  
13      Would you -- if you were proposing a DTE rate case, what  
14      would you typically spend, Chris?

15                      MR. BZDOK:  There's what we would propose  
16      and there's what -- we're operating under the  
17      understanding that you're in an extreme resource  
18      constrained environment until October 1 --

19                      MR. MacINNES:  Right.

20                      MR. BZDOK:  -- and then you're going to  
21      have some, a little more leeway than you've had in the  
22      past.  So we're aware of the DTE rate case is coming,  
23      we're aware the CON case is coming, we're aware both of  
24      those cases, you know, will straddle fiscal years.  I  
25      mean I can give you any answer you want, but the real

1 answer is, we're going to be extremely practical  
2 understanding what we have.

3 MR. MacINNES: Well, typically it's what,  
4 70 or 80,000 or more than that, right?

5 MR. ISLEY: The budget amount for the  
6 CECo rate case from last year was 27,5.

7 MR. MacINNES: Well, and also depends on  
8 the issues.

9 MR. ISLEY: Depends on the issues.

10 MR. MacINNES: We've seen some pretty big  
11 numbers come our way over the years.

12 MR. ISLEY: Yep.

13 MR. PASSMORE: Can I ask a question. You  
14 know, my day job, I'm a grant-maker, also, and I know  
15 it's not always the nicest thing to do to grantees, but  
16 practically speaking sometimes what happens is that we'll  
17 make a grant in June for work that began in January, and  
18 the grantee take some risk during that timeframe, and I'm  
19 just wondering whether this is a situation where we would  
20 essentially ask you to take some risk here until we see  
21 kind of where things are in June and what the AG's office  
22 is actually doing and whether you guys are, you know, on  
23 the same page strategy wise, and then make a decision  
24 then that could potentially cover some expenditures  
25 you've already undertaken. Are we allowed to do that?



1 MR. ISLEY: No.

2 MR. PASSMORE: So we make a decision, the  
3 expenditures have to be after that date?

4 MR. ISLEY: Yes.

5 MR. PASSMORE: That's good to know.

6 MR. MacINNES: Well, there's already  
7 unspent funds, though, available, right?

8 MR. ISLEY: Uh-huh.

9 MR. MacINNES: Because out of the --

10 MS. KITCHEN: 57,000.

11 MR. MacINNES: How much?

12 MS. KITCHEN: If his numbers were correct  
13 that he gave me.

14 MR. MacINNES: So we've already approved  
15 72,000, and only 15 to 20,000 has been spent, right?

16 MR. KESKEY: Well, yeah. But as I  
17 explained, not only is there going to be a lot of legal  
18 work with discovery, but a lot of expert work, a lot of  
19 research, and it's not any kind of a part-time, even with  
20 other cases going on, it's not a part-time job, it's a  
21 deep dive and --

22 MR. MacINNES: But you still have 57,000  
23 to spend.

24 MR. KESKEY: Well, I mean our budget  
25 request is based on a realism and the immensity of the

1 case, the immensity of the importance of the case.

2 MS. LICATA HAROUTUNIAN: You said you  
3 hadn't billed recently. So you spent the, what, I'm  
4 trying to remember here? How much did you say you had  
5 spent of the 72?

6 MR. KESKEY: I would say 15 to 20.

7 MS. LICATA HAROUTUNIAN: Right. Okay.

8 MR. KESKEY: But there's a huge task  
9 ahead of us right now.

10 MS. LICATA HAROUTUNIAN: Now, are you  
11 including in that the part you have not yet billed?

12 MR. KESKEY: That's my estimate of what  
13 our billings would show when we finished them, right  
14 from, you know, the past.

15 MS. LICATA HAROUTUNIAN: Yes. Yes.

16 MR. KESKEY: But we've got a huge portion  
17 of the work to do right now, and I wanted to make sure  
18 the board was clear on the strategy of related cases and  
19 this idea of we shouldn't have to accept necessarily that  
20 the stage to be played on is going to be the Consumers  
21 Energy stage timeframe selection of statute, and it  
22 really -- you know, first of all, it's sort of like the  
23 Vietnam peace talks, you know, the shape of the table,  
24 sometimes these are very important, the initial legal  
25 strategy, and then besides that, you got all the

1 discovery and the additional research and then  
2 formulating the testimony and exhibits that would  
3 challenge their case.

4 MR. MacINNES: So what do you think, I  
5 mean can you give us any indication of the probability of  
6 opening up that case and changing the timeline? I mean  
7 is this like a moon shot or is this a 50/50, or what do  
8 you think?

9 MR. KESKEY: Well, the idea, the idea of  
10 reopening the case would involve a motion to reopen the  
11 case with reasoning and documentation as to why it makes  
12 sense, along with a motion to consolidate. That not only  
13 would provide the evidentiary contexts which are relevant  
14 to these issues directly as to what, how the contract was  
15 and the whole deal was and what is relevant to now, but  
16 it is also relevant as to whether or not the Commission  
17 should consider dismissing the securitization case,  
18 because we've been doing research along that line as to  
19 whether or not the securitization really fits here at  
20 all.

21 MR. MacINNES: Do you think with all the  
22 stuff that the Commission has on their plate, that they'd  
23 be likely, or I mean think they would do that, open it  
24 up?

25 MR. KESKEY: I think it would help them  
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1 if they were to give themselves a longer timeframe and a  
2 broader foundation as they themselves seem to suggest in  
3 their 18218 order of December 20, 2016. I guess it would  
4 be rational for one to conclude it would be a procedural  
5 process benefit for them.

6 MR. MacINNES: So what's really driving  
7 the August 18 -- or August -- what's driving that  
8 deadline, what's --

9 MR. KESKEY: Well, the securitization  
10 case requires that you make a decision within 90 days of  
11 filing, although the Company has agreed to extend it by a  
12 few days, and so that's part of the problem is that this  
13 is presenting huge amount of issues with a huge amount of  
14 money --

15 MR. MacINNES: Right, quick.

16 MR. KESKEY: -- which they spent a year  
17 preparing.

18 MR. MacINNES: Right.

19 MR. KESKEY: And I know that because when  
20 they stopped filing the reports -- by the way, they were  
21 filing monthly reports in the Palisades 14992 every month  
22 since that decision was rendered until about a year ago,  
23 so that's why I theorize that when they stopped filing  
24 those reports, that they were starting to bake this.

25 MR. MacINNES: Are there any other  
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1 reasons? I mean, okay, they want to rush it, I get that,  
2 that makes sense, so they can, you know, give us so much  
3 information in a short period of time. But are there any  
4 other technical reasons or anything you're aware of that  
5 would -- in other words, we're going to have to come up  
6 with a decision to replace the power. Is there  
7 800 megawatts?

8 MR. KESKEY: Roughly, I think that's the  
9 size.

10 MR. MacINNES: Because that thing is  
11 going to go offline in 18 months.

12 MR. KESKEY: We don't know that for sure.  
13 That's sort of a strange --

14 MR. PELOQUIN: It's going to go off the  
15 PPA, but we don't know that -- they've never said that  
16 they were going to shut it down.

17 MR. MacINNES: Are there any technical  
18 problems with the plant?

19 MR. PELOQUIN: We'd like to know that.

20 MR. MacINNES: Haven't heard anything on  
21 that?

22 MR. KESKEY: Well, there have been  
23 problems with this plant even back in 1991 when we were  
24 challenging their other proposal.

25 MR. MacINNES: Right. It's been a  
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1           problematic plant.

2                       MR. KESKEY: And they had the ratepayers  
3 plow a lot of money to refurbish it, then they were going  
4 to sell it to an affiliate.

5                       MR. MacINNES: But is there anything the,  
6 oh, hey, the steam generator needs to be replaced or  
7 there's some critical big item that's looming out there  
8 that --

9                       MR. KESKEY: We'd like to find out. We  
10 do not know that the plant is incapable of running  
11 another five years, we don't know that.

12                      MR. MacINNES: Douglas, have you heard  
13 anything about this plant?

14                      MR. JESTER: I've been wondering the same  
15 thing, but I've not found anything that sheds light on  
16 the question.

17                      MR. KESKEY: We don't know that the  
18 plant's unprofitable.

19                      MR. MacINNES: Uh-huh. Well, they've had  
20 a lot of problems, I know that. Okay. So those are  
21 unknowable I guess at this point.

22                      Any other, does the board have any other  
23 questions about this? It's an awful lot of unknowns. I  
24 mean it's terrible.

25                      So we have a motion on the table to fund  
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1 the \$30,000 for these items, 18142, 18218, 18250, and the  
2 potential reopening of a 2007 case, 14992. Is that  
3 right?

4 MR. ISLEY: That is correct.

5 MR. MacINNES: And so all those in favor  
6 of spending the \$30,000, please signify by saying aye.

7 MS. LICATA HAROUTUNIAN: Aye.

8 MR. MacINNES: Are there anymore ayes?

9 I am just torn down the middle on this  
10 one. It is really a tough, tough thing. Paul.

11 MR. ISLEY: I am split down on the middle  
12 on this one as well. It's very hard. The AG's putting  
13 in somewhere in the order of \$150-160,000 --

14 MR. MacINNES: 175.

15 MR. ISLEY: -- which tells us the  
16 complexity of the case and that it requires a lot of  
17 effort. You know, if we're going to be in it, we should  
18 be in it; if we're not going to be in it, we shouldn't.  
19 So, you know, I think I'm convincing myself into saying  
20 yes.

21 MR. MacINNES: Okay. Sam.

22 MR. PASSMORE: Well, obviously I mean  
23 it's an important case, and I appreciate the arguments  
24 for making additional grant. I'm also persuaded by the  
25 sort of keep the powder dry argument and the fact that

1 the -- I mean I guess I trust that the AG's office is  
2 going to be in it, and the only question is whether  
3 they'll sufficiently represent the residential ratepayer  
4 point of view; and I think, you know, my sense is that  
5 that will certainly be one of their interests, and in  
6 combination with the money we've already committed, I  
7 think it's, you know, not ideal, but sufficient. So I'm  
8 a no.

9 MR. MacINNES: So to the extent that we  
10 don't fund this case, there should be some extra funds  
11 left, it seems to me. So I'm going to vote no, also. A  
12 hard vote, hard decision. But I think between -- I know  
13 that the Public Service Commission Staff is going to be  
14 on it, I know the AG's going to be on it. I don't know.  
15 I just --

16 MR. KESKEY: Would there be a number,  
17 some number that you would be comfortable with?

18 MR. MacINNES: I think we've already  
19 spent 70 some thousand dollars.

20 MR. KESKEY: I mean in terms of a  
21 supplement, is there any other number that you --

22 MR. MacINNES: No. I think -- I think  
23 I'm going to go with a no at this point. And from all  
24 I've heard from the AG, from Valerie, from everybody, I  
25 think I'm going to go with a no.



1                   So it's not approved. Sorry. Okay.  
2                   Difficult decision, probably one of the most difficult  
3                   decisions we've made here, that I can recall.

4                   Do we have any other motions?

5                   MR. ISLEY: I have none.

6                   MR. MacINNES: Okay. Let's move on,  
7                   then, to the report from the grantees. Chris, do you  
8                   want to --

9                   MR. BZDOK: I don't have a lot of  
10                  additional items to report. The most significant,  
11                  relatively new developments were the DTE Electric rate  
12                  case order, which I discussed with you in some detail at  
13                  the last meeting, and then we followed up with a detailed  
14                  report in our status report. And then the Consumers  
15                  order, which came a month later, which we've talked about  
16                  already in the Consumers rate case. Other matters are  
17                  either in their early stages or, you know, are pending,  
18                  and we've provided detailed updates on the issues in the  
19                  status report.

20                  Our next hearings are that Consumers PSCR  
21                  reconciliation in April, which we talked about today, and  
22                  then the DTE hearing, the biggest issue in that being the  
23                  NEXUS gas transportation contract goes to hearing in May.  
24                  So I will have more developments on that for your June  
25                  meeting; but otherwise, it's pretty quiet.

## 1 The Consumers and DTE PSCR

2 reconciliations were also filed on Friday afternoon; I  
3 have not had a chance to look at those. You offered  
4 small starter budgets for those in light of the direction  
5 you've received that will further reinforce our strategy  
6 that, I mean unless there's something that bowls us over,  
7 we're going to take a pass on those for this year, and  
8 hopefully not even spend the, you know, the full starter  
9 budgets, but I'll have more news for that by the time of  
10 the next meeting.

11 We understand the board is really looking  
12 to winnow down for the remainder of the fiscal year, you  
13 know, on these few big cases that are looming, so we will  
14 operate consistent with that direction from here on out.

15 MR. MacINNES: It's very helpful when you  
16 don't spend the money, if you don't intend to spend it --  
17 it's like, you know, I separate, in my business I  
18 separate the, you know, how to fund things from the  
19 project, so I don't tie the -- I usually don't like to  
20 tie the two together. So it's like, okay, if you're  
21 going to turn in the funds, turn in the funds, and then  
22 we'll evaluate the case on its own merit, rather than,  
23 hey, if I return 20,000, can I spend it on my project for  
24 20,000. I just don't think that's a good way to do  
25 business. And we have, we've been good, and I think --

1 but that's how I'm going to look at it, and how I do it  
2 in my own business, I separate the project, whether it's  
3 a good project or not, from the funding decision.  
4 Project decision separate from the funding decision. So  
5 to me, that's something I would like to see that we  
6 continue to do that. And we'll, you know, be fair; if  
7 the project stands on its own merit, makes sense, we have  
8 the funding, good, you know. We don't want to tie them  
9 together.

10 Okay. John.

11 MR. LISKEY: We only have the UPPCo rate  
12 case appeal, the first round of briefs are due April 10.  
13 As you know, the two plan cases, we've settled. And then  
14 I'm going to turn it over to Douglas to give you a MISO  
15 update.

16 MR. JESTER: And just very briefly on  
17 MISO, of course there's a lot going on at MISO always,  
18 but Bob Burns and I have been focusing on a few narrow  
19 issues of direct concern here. One of them is that the  
20 resource adequacy issues that drive investment decisions  
21 by utilities in part are based on forecasts that MISO  
22 does about load and the expected availability of  
23 generation resources in each of the zones, and the way  
24 they've done the forecast in the past tends to account  
25 for all of the expected retirements, but not actually

1 account for all of the expected new builds, so they're  
2 working on some changes of method to do a better job of  
3 that, which would then result in a better expectation  
4 about the availability of supply, therefore, not so much  
5 pressure to build stuff. So that's one thing that we've  
6 been working at.

7 The local clearing requirement, the  
8 amount that you have to have to generate within the zone,  
9 is based on the expected total requirement less the  
10 import capacity, and there are two import capacity issues  
11 that Bob in particular has been working on, they're both  
12 still in progress, but one of them is kind of reform in  
13 the way they account for external zones. They've been  
14 talking about generation from outside of MISO as though  
15 it all comes in at one place, and in fact it doesn't, it  
16 comes in in various zones, and because we're on the  
17 border, a lot of that affects Michigan, so that's an  
18 important topic for us to work through as we get to  
19 the --

20 MR. MacINNES: Because it's something  
21 like, what, isn't it 92 percent is the local clearing  
22 requirement?

23 MR. JESTER: Yes, yes.

24 MR. MacINNES: It's a huge number.

25 MR. JESTER: Which is way higher than any

1 other zone.

2 MR. MacINNES: Anybody else, yeah.

3 MR. JESTER: That's the Zone 7, right.

4 And then in Zone 2, the Upper Peninsula, is a part of  
5 that, and the issue we keep having is the -- any  
6 investments in transmission to improve the situation  
7 within Zone 2 have, they've tended to want to charge them  
8 all to Zone 2, and part of that has to do with voltage  
9 level at which they put various categories of projects  
10 where funding is shared or not, so we've been trying to  
11 lower that voltage level for load balancing area  
12 investments, so keep working on those. But that's where  
13 we've been spending most of our attention.

14 And then the last thing is their  
15 transmission planning is based on futures, various  
16 scenarios that they might imagine, and there's been a lot  
17 of pressure from the southern area of MISO to try to  
18 minimize consideration of transmission, make things work  
19 without new transmission investment, which may or may not  
20 be the best solution, so we're trying to keep a range of  
21 scenarios to tell us whether it's useful to invest in  
22 transmission or not.

23 MR. MacINNES: And they've got a lot of  
24 nuclear down there, right, Entergy?

25 MR. JESTER: And gas.

1 MR. MacINNES: And gas, yeah. So they're  
2 not into transmission as much maybe?

3 MR. JESTER: Right.

4 MR. MacINNES: So what, what role from  
5 your perspective does -- now, the MPSC, is it Sally that  
6 is on the Organization of MISO States?

7 MR. JESTER: Yes.

8 MR. MacINNES: So what's their role in  
9 representing Michigan to MISO? I mean how -- what do  
10 they do, do they attend these resource adequacy meetings  
11 and things like that?

12 MR. JESTER: They do, they do. Part of  
13 the advantage of us being there is we tend to have a U.P.  
14 focus, they tend to have a Lower Peninsula focus in our  
15 relative participation in those issues. That doesn't  
16 mean we're at odds, we're generally not, but --

17 MR. MacINNES: Is there anybody else from  
18 the PSC Staff that participates?

19 MR. JESTER: Well, Sally has a number of  
20 Staff people that are assigned to various parts of the  
21 stakeholder process, so yes, and we talk to them, and  
22 coordinate in the same sense that we would with the  
23 Attorney General on cases.

24 MR. MacINNES: Have you been involved  
25 with their -- there's been some discussion about bringing  
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1 power in from Canada on the east side. Do you have any  
2 update on that, or have you heard anything?

3 MR. JESTER: The study results from that  
4 are supposed to come in late this summer, I don't  
5 remember the exact date.

6 MR. MacINNES: And that's for the U.P.?

7 MR. JESTER: Yep.

8 MR. LISKEY: Apparently there's a closed  
9 plant in Ontario, a natural gas plant, that's pretty  
10 sizeable.

11 MR. MacINNES: Well, we've been told by  
12 the MISO people on several occasions that there aren't a  
13 lot of economic, so-called economic projects as long as  
14 the gas prices are low, so I assume that's still the  
15 case, because the prices are -- and at this IPU  
16 conference, they basically said they expect gas prices to  
17 be low for a long time, we had an expert from Louisiana  
18 there talking about it, so --

19 MR. JESTER: Yeah.

20 MR. MacINNES: -- does not bode well for  
21 transmission.

22 MR. JESTER: What that means is that  
23 instead we'll invest in pipelines.

24 MR. MacINNES: Right. But then there's  
25 the diversity issue, how much gas do you really want to

1 have in your system versus other generation types.

2 MR. JESTER: Right.

3 MR. MacINNES: Okay. Anything else, John  
4 or Douglas?

5 MR. LISKEY: No.

6 MR. MacINNES: Don.

7 MR. KESKEY: Yes. I think perhaps a more  
8 timely thing that's happened is the, what's going on in  
9 the PURPA cases that you had provided a budget in U-18090  
10 for Consumers Energy and U-18091 for DTE Electric, and  
11 this is relevant to your idea about diversity of  
12 resources. The hearings have been held, the briefs have  
13 been filed, and in the Consumers Energy PURPA case, the  
14 administrative law judge issued a PFD which in the main  
15 aspect was very favorable to Great Lakes Renewable  
16 Energy. We had challenged the Company's proposal to  
17 sharply limit the length of the contracts, they wanted  
18 three to five years, and we had taken a position that the  
19 standard offer tariff should be available to any project  
20 up to 20 megawatts, which is permitted by FERC, rather  
21 than just very small ones. And we also advocated of  
22 course according to the purpose of PURPA, which is to  
23 promote small projects, cogeneration projects,  
24 independent projects, nonutility-owned projects, as long  
25 as the rates are reasonable and nondiscriminatory as to



1 what the utility would incur, what they call an avoided  
2 cost, for energy and capacity.

3 And looking at those goals, we advocated  
4 that, look what Consumers Energy has done for itself; in  
5 other words, back in 1991 when they wanted to convert the  
6 Midland Nuclear Plant assets which were abandoned into a  
7 gas plant and what's called the MCV, the Midland  
8 Cogeneration Venture Limited, they entered into a 35-year  
9 contract, and that's when they owned 49 percent of that  
10 plant. As a stocking horse to that major decision, they  
11 had entered into a contract with Tondu Systems, and that  
12 was for 35 years, and that sort of set the standard. In  
13 other words, the planning horizon for a utility on  
14 additional capacity can be quite long, and they planned  
15 for a project that's going to go 30, 30-40 years, I mean  
16 they're not -- so that should be sort of the same  
17 standard applied to the PURPA, independent PURPA  
18 projects; cost neutral to the ratepayer, but those  
19 nondiscriminatory rates or prices, that they be paid to  
20 QF, qualifying facility projects.

21 All of the other parties advocated for a  
22 lower, a less long contract period than what we  
23 advocated. We pointed to the state law which provides  
24 for -- to make projects possible, that at least a  
25 17.5-year period should be respected, or longer for

1 certain types of QFs, biomass, and the statute lists a  
2 number. That's in Act 304, it's part of Act 304. And  
3 the administrative law judge agreed with us. And in  
4 fact, we said it should be 17.5 years or longer in order  
5 to make these projects financeable, and they add  
6 diversity to the system, they're independent, they come  
7 from different sources, locations, and so forth, and the  
8 ALJ decided that he would go with 20 years, and we  
9 nevertheless filed exceptions -- we're happy with that  
10 progress, but we nevertheless filed exceptions to suggest  
11 that even a longer period would be acceptable because  
12 Consumers for itself had previously entered into 35-year  
13 contracts.

14 MR. MacINNES: Absolutely. You can't  
15 finance something for a short contract.

16 MR. KESKEY: So it's a real positive we  
17 think. And so --

18 MR. MacINNES: Utilities must have known  
19 that that wouldn't fly, I mean it's just ridiculous.

20 MR. KESKEY: Well, it was a little  
21 surprising to me that the independent projects didn't  
22 pick up on this provision of the state law. And one of  
23 them went as predicted, suggested 15 years, the Staff had  
24 a combination of 5, 10, or 15 years, and we were the only  
25 ones saying it should be longer.

1 MR. MacINNES: Even the banks are doing  
2 20-year financing commercial projects now.

3 MR. KESKEY: Yeah. Yeah. And so our  
4 position in the Edison case will mirror that situation.  
5 There was a PFD, a long PFD issued in the Edison case  
6 very recently, and I haven't read it yet.

7 MR. MacINNES: Where do you think it's  
8 going to shake out on the capacity and energy, any idea,  
9 any guess?

10 MR. KESKEY: Well, let's try to predict a  
11 Commission decision again, that's really dangerous. But  
12 I just think that there's a great logic for going at  
13 minimum with what the state statute says for  
14 financeability purposes, and it's 17.5 years or longer.  
15 And then if you look at what Consumers has done for  
16 itself in the past --

17 MR. MacINNES: In terms of pricing?

18 MR. KESKEY: In terms of the length of  
19 the contract.

20 MR. MacINNES: Oh, okay. Well, yeah.  
21 But what about pricing?

22 MR. KESKEY: Pricing, in the avoided  
23 cost, there were different proposals on that. We didn't  
24 really take much issue with the pricing that the Staff  
25 was recommending.

1 MR. MacINNES: What is that?

2 MR. KESKEY: I don't recall offhand what  
3 it was. They had -- well, they had a three-tier, the  
4 Company had a three-tier system, and the Staff had an  
5 avoided cost that would be, for energy, would include  
6 line losses, would include provisions for certain items  
7 to be, you know, besides just the energy cost, and we  
8 would agree -- we agreed with that. So the energy cost  
9 is not just simply the MISO cost, for example, there are  
10 other factors that go into it. And so we really want --  
11 we want to focus on the length of the contract and what  
12 the standard offer contract should be available to  
13 projects up to 20 megawatts.

14 MR. MacINNES: Okay. Anything else?

15 MR. KESKEY: No, that's it.

16 MR. MacINNES: Okay. No more grantee  
17 reports.

18 Public comment. Any public comment?

19 Okay. Next meeting, the 5th of June. Is  
20 that correct, Kelly Jo?

21 MS. KITCHEN: I believe so.

22 MR. MacINNES: June 5 is what I have on  
23 here.

24 And otherwise, do we have a motion to  
25 adjourn?

1 MR. ISLEY: So moved.

2 MS. LICATA HAROUTUNIAN: Support.

3 MR. MacINNES: Okay. Thank you. We're  
4 adjourned. Thank you, all.

5 (The meeting was adjourned at 3:55 p.m.)

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16 STATE OF MICHIGAN )

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17 COUNTY OF MACOMB )

18 I, Lori Anne Penn, certify that this  
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I also certify that I am not a relative  
or employee of or an attorney for a party; or a relative  
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interested in the action.

April 25, 2017  
Date

*Lori Anne Penn*  
Lori Anne Penn, CSR-1315  
Notary Public, Macomb County, Michigan  
My Commission Expires June 15, 2019