

December 30, 2025

Michigan Public Service Commission
Case number: U-21985

**Flow Water Advocates Comments in Opposition to Consumers Power Company's
Proposed Sale of the Thirteen Dams to Confluence Hydro**

Statement of Interest

Flow Water Advocates (“Flow”) submits these comments in opposition to the proposed sale of the thirteen hydropower dams to Confluence Hydro, a wholly owned subsidiary of Hull Street Energy, LLC, which is a private-equity firm based in Bethesda, Maryland. The proposed sale is contrary to sound public policy and the public interest and, as such, cannot be authorized by the Commission. The proposed sale would contravene the Commission’s mandatory fiduciary responsibilities under the public trust doctrine to prevent or minimize environmental degradation and protect the state’s natural resources from pollution, impairment or destruction.

Founded in 2011, Flow Water Advocates is a not-for-profit organization incorporated in the State of Michigan with offices in Traverse City. Flow’s mission, grounded in the public trust doctrine, is to ensure the waters of the Great Lakes Basin are healthy, public, and protected for all. Flow advances this mission through strategic legal action, policy advocacy, and public education centered on strengthening and protecting the public trust doctrine and state and federal environmental laws and regulations, and ensuring these legal frameworks are applied to steward our shared waters and natural resources for the benefit of current and future generations.

Flow recognizes and promotes water as a public trust resource that must be managed for the benefit of present and future generations. As a shared public resource, Michigan waters must be protected from impairment, pollution, overuse, commodification, and privatization. Flow engages policymakers to prioritize environmental protection, science-based policy making, transparency, and long-term planning to ensure that future generations enjoy the benefits and security of Michigan’s water resources.

The proposed sale is contrary to sound public policy and the public interest

In this case, the Commission is asked to authorize the sale of the thirteen dams to Confluence Energy and approve the purchase power agreement under which Consumers will purchase power from Confluence. MCL 460.6q (7) requires the Commission to consider, among other factors, “whether the action is otherwise inconsistent with public policy and interest” in its evaluation of whether or not to authorize any sale, assignment, transfer, or otherwise encumber its assets to another person.¹

Michigan's aging dam infrastructure is extensive, with over 2,500 structures. Many are old and pose potential environmental and economic risks, rendering their operation and management a significant concern for state and federal agencies.² The dams at issue here are ecologically and economically obsolete, with their continued operation resulting in continual ecological harm and dependent upon extraordinarily generous 30-year power purchase agreement terms that “involve paying a private buyer twice the market rate for comparable hydropower in exchange for selling its fleet of aging hydroelectric dams at nominal cost.”³

In contrast to the unified ownership of Consumers Power Company, the intended establishment of individual limited liability corporations for each dam will vastly complicate oversight and regulatory responsibilities, while making long-term dam operation and maintenance dependent upon the experience, competencies, and solvency of a private individual corporation. Nor can Confluence Hydro be relied upon for continuing management of the dams, given the parent corporation's history of expedited sales of the dams it has acquired in the past.⁴

The orderly retirement and removal of the dams is the most reasonable and prudent solution to their functional obsolescence and their potential for further environmental and economic harm. The MPSC, in allowing Consumers Power Company to disestablish retirement funds for the dams,⁵ risks exacerbating the harm by authorizing the imprudent transfer of the dams.

¹ MCL 460.6q (1).

² The 2020 series of catastrophic dam failures resulted in the drainage of Sanford Lake near Midland and the resulting flooding that destroyed 2,000 homes and devastated the downstream Tittabawassee river corridor. That happened after a local power company sold the dams to an outstate private investor that failed to properly maintain the dams that failed.

³ Garrett Ellison, *Consumers Energy would pay double for hydro power under dam deal*. MLive. Nov. 4, 2025 <https://www.mlive.com/environment/2025/11/consumers-energy-would-pay-double-for-hydro-power-under-dam-deal.html>

⁴ Of 49 facilities Hull Street Energy has owned, 32 were sold to new owners in less than three years.

⁵ The Au Sable / Muskegon / Manistee settlement (filed with FERC Dec. 1992) required decommissioning studies and contemplated funding options. Consumers filed a retirement study plan with FERC on Jan 13, 2005 and a final retirement report in May 2007. The Au Sable project summary explicitly states: “Instead of submitting a plan for establishing a trust fund for funding the retirement costs through its retail and wholesale general rate filings, Consumers proposed to recover its projected retirement costs through its depreciation rates.” river-management.org

The transfer of the dams is clearly and demonstrably contrary to public policy and the public interest

The negative ecological impacts of legacy dams and the restorative benefits of dam removal are well documented. The thirteen dams at issue no longer serve their original purpose and have continuing profound adverse impacts on aquatic and downstream ecosystems. The impoundments behind the dams warm the waters, raising downstream water temperatures, lowering oxygen levels, and stressing cold-water species. The dams trap sediment, further degrading water quality and habitat. All of these adverse effects and ecological impairments will continue under the proposed transfer.

The science is well established that moving water has an array of ecological benefits, is better oxygenated, and supports healthy and desirable habitats. Natural flow patterns sustain diverse insect populations, plants, and microorganisms that form the base of river food webs. Many fish species depend on free-flowing rivers to migrate, spawn, and complete their life cycles. Dam removal allows sediment to move naturally downstream, reconnecting and rebuilding vital habitat and allowing native populations of organisms to recover and thrive.

Dam removal is a critical tool for restoring natural river function, improving water quality, reconnecting fish and wildlife habitat, reducing sediment and contaminant buildup, and increasing resilience to flooding and climate change.

As a public trust resource, healthy, free-flowing rivers are essential to the ecological, cultural, and economic well-being of our region and the Great Lakes. Under Michigan law, protecting Michigan's natural resources is a "paramount" fiduciary responsibility of the MPSC – one that cannot be ignored or circumvented.⁶

Flow urges the MPSC to forego authorizing the sale of the dams and instead, prioritize a science-based evaluation and accounting of the environmental and economic benefits of dam removal and restoration of the affected rivers and streams. Given the known continued impact of the dams on fisheries, recreation, and the long-term health of Michigan's water resources, as well as the potential for catastrophic failure, the Commission cannot approve the sale and transfer of the dams as sound public policy and consistent with the public interest.

⁶ Michigan Constitution, Article IV, Section 52.

Thank you for your attention to this important matter.

Sincerely,

A handwritten signature in black ink, reading "Liz Kirkwood". The signature is written in a cursive, flowing style.

Liz Kirkwood
Executive Director