

BIZTALKS | THE UTILITY GAS AND POWER | EXECUTIVE PERSPECTIVE

The liability is not the exposure; the recovery path is.

For a regulated utility, legacy cost becomes shareholder exposure where engineering obligation, counterparty recovery, regulatory eligibility, customer recovery and time stop lining up. The case shows why the decisive risk is not the booked number but the route by which that number is ultimately paid.

At a glance

Six signals that make recovery-path risk a 2026 board issue

\$420m

CCR obligation

The utility's June 2026 estimate, recorded as an asset retirement obligation; management says it expects recovery under the regulatory construct, while site detail and federal revisions remain unsettled. [1]

\$350–400m

Major asset-repair exposure

The utility's estimated share. Deferral is authorized, but ratemaking treatment follows litigation and remains subject to Commission review. [1] [2]

\$30.75m

Deferred at year-end 2024

The utility reported \$27.24m of capital and \$3.51m of non-capital regulatory assets, a booked subset of the wider estimate rather than proof of final recovery. [3]

\$1.141m

A real disallowance

A state appellate decision upheld disallowance of replacement-energy costs after the utility failed the applicable prudence burden; damages could offset the amount. [4]

\$369m

CCR/ELG capex through 2030

A separate capital estimate that overlaps the same environmental policy domain but is not the same accounting object as the \$420m ARO. [1]

2032

The liability outlives the plant

Final coal-unit retirements are planned by 2032, while federal CCR milestones now also run into 2031–2032. [1] [5]

B. What the evidence says

The diagnosis: gross liability is the beginning of the allocation problem

The utility’s disclosures put three numbers beside one another that look comparable and are not. The company had a \$10 million remediation accrual at 30 June 2026, a roughly \$420 million CCR obligation recorded as an asset retirement obligation, and an estimated \$350–400 million share of the affected generation asset repair and replacement exposure. It also separately estimated \$369 million of CCR and ELG capital expenditure through 2030. [1] These are not four versions of “environmental liability.” They are different economic objects: a present remediation accrual, a retirement obligation, a forward capital program and a disputed asset-repair pathway.

One label hides different cash and approval clocks

The \$10 million remediation accrual is undiscounted and sensitive to technique, contamination extent and regulation, but the utility says a material change is remote on current knowledge. The \$420 million CCR estimate is also explicitly provisional: site-specific information can move it, and EPA's April 2026 proposal could change the scope of CCR management-unit requirements. The utility nevertheless says the CCR cost is expected to be recoverable under the regulatory construct as part of removal costs. [1] Expected recovery is important accounting evidence; it is not the same as a final rate order specifying timing, return, allocation and customer incidence.

Executives therefore need four separate confidence states.

Obligation confidence

asks whether the duty exists.

Estimate confidence

asks whether scope, quantity, unit cost and schedule are mature.

Eligibility confidence

asks whether the cost fits an accounting or regulatory mechanism.

Collection confidence

asks whether an enforceable counterparty payment or approved customer charge will produce cash, on what date and with what carrying-cost treatment.

A single red-amber-green status cannot represent all four without hiding the source of uncertainty.

The affected generation asset follows a third path. The MPSC's May 2023 order authorized the utility and the co-owner utility to defer costs connected to allegedly defective contractor work and required any contractor recovery to enter the same regulatory asset as an offset. But the Commission stated that it was not prejudging reasonableness, prudence or ultimate ratemaking treatment. [2] The order therefore preserved the claim; it did not settle who pays.

The accounting bridge can be much smaller than the engineering horizon

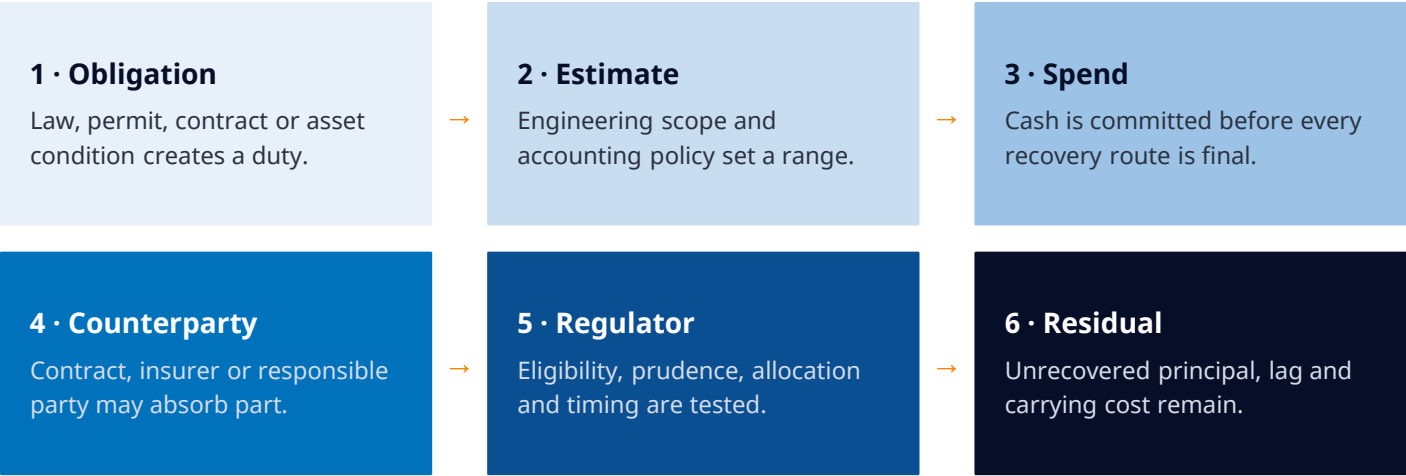
At year-end 2024, the utility reported \$27.24 million of capital associated with the affected generation asset and \$3.51 million of non-capital amounts in regulatory-asset accounts, or about \$30.75 million in total. [3] Against a disclosed \$350–400 million repair range, that balance is best read as the amount recorded at that date, not a recovery ratio. It shows the timing gap that boards must manage: engineering may define a multi-year exposure range long before spend is incurred, litigation becomes collectible, or a regulator converts a deferred balance into customer rates.

The legal route has advanced but is not closed. The utility's June 2026 filing says a jury found in favor of the utility and the co-owner in December 2025 and awarded contract and liquidated damages; the contractor was pursuing post-judgment relief and was expected to appeal. The utility said it could not predict the financial outcome. [1] A secondary counsel report put the joint verdict at \$394.4 million, but that figure is a gross award to both owners, not the utility's final collectible recovery; it is not used here as a balance-sheet offset.[6]



The recovery chain: where exposure changes hands

A booked obligation only becomes an economic allocation after six separate decisions



Source: NTT DATA analytical model based on public utility filings, a state commission order and appellate records. [1] [2] [4]

Prudence is a payer-allocation test, not a footnote

A smaller dispute involving the affected generation asset shows the mechanism end to end. The utility incurred \$1.141 million of incremental replacement-energy costs associated with an extended Unit 3 outage. The MPSC disallowed recovery after finding that the utility had not demonstrated, by the applicable evidentiary standard, that the outage was not caused or prolonged by unreasonable or imprudent management. The Michigan Court of Appeals affirmed. The regulator allowed the disallowed amount to be offset against contractor damages. [4]

That sequence matters more than its size. The operational event created a cost. The reconciliation process tested whether customers should bear it. Failure at the prudence gate moved the cost to shareholders, while a separate legal route could later move value back from the contractor. One dollar had two adjudication paths and two clocks. This is the simplest real-world demonstration of recovery-path risk in the public record.

Regulatory change shifts both the obligation and the clock

The federal baseline is moving. EPA's 2024 legacy CCR rule extended federal requirements to inactive surface impoundments at inactive facilities and to CCR management units. In February 2026, EPA extended several CCR-management milestones: facility evaluation into 2027–2028, groundwater monitoring into 2031 and initial closure into 2032. [5] In April 2026, EPA proposed rescinding all CCR-management-unit requirements and introducing site-specific pathways under permits; the proposal was not final at the research cut-off. [7]

Steam-electric wastewater requirements are moving too. EPA's December 2025 final rule extended several ELG deadlines, corrected in January 2026, while a May 2026 proposal sought further changes for unmanaged combustion-residual leachate. [8] [9] These changes do not simply raise or lower cost. They alter when spend must be committed, which technology remains viable, what evidence a permit authority will expect and whether a plant's remaining life justifies a specific intervention.

Michigan adds another layer. EGLE's 2026–2027 regulatory plan says state rules still need revisions to address CCR and obtain federal delegation. [10] The resulting management problem is temporal: a utility may need to preserve engineering optionality while federal scope, state delegation, site licenses and retirement timing evolve on different calendars.

The asset can retire before the recovery case does

The utility plans to retire the affected coal units 3 and 4 in 2028 and units 1 and 2 in 2032. Its disclosed CCR/ELG capital estimate runs through 2030, and the CCR rule's extended milestones reach 2032. [1] [5] The strategic implication is uncomfortable: retirement does not end the evidentiary life of the asset. Site files, engineering assumptions, permit history, contractor records and cost allocation can remain economically active after generation stops.



This is not unique to the focal case. One U.S. utility states that deferred environmental costs remain subject to regulator approval and would be charged to income if recovery were denied; its June 2026 filing also describes CCR-rule uncertainty and expected rate recovery. [11] Another U.S. utility reported \$3.67 billion of coal-ash ARO regulatory assets at year-end 2025 while warning that timely or complete customer recovery remains a risk [12]. These filings do not prove identical treatment across states. They do show that recovery-path risk is a sector governance issue, not merely a Michigan litigation story.

The accounting logic is necessarily probabilistic. Regulated utilities recognize regulatory assets when future recovery is considered probable under the applicable accounting framework; later proceedings still determine whether particular costs were reasonable, prudently incurred and appropriately allocated. This is why a regulatory asset should be treated as a governed claim on future rates, not as collected cash. Its quality depends on the evidence that will survive the next review.

Affordability and ROE make evidence quality part of capital allocation

Environmental recovery competes for customer headroom with reliability, generation transition and load growth. In February 2026, the state commission approved \$242.4 million of the utility's requested \$574.1 million annual revenue increase and retained a 9.9% ROE rather than the requested 10.75%. The Commission said it removed programs it considered ineffective, unsupported or poorly planned. [13] The utility then filed another case seeking \$474 million and a 10.25% ROE, with a decision expected in 2027. [1]

Those rate decisions are not findings on the environmental items discussed here. They are the surrounding capital context. When every new dollar must compete for affordability and prudence, fragmented evidence creates economic risk: duplicated reconciliation work, slower recovery, weaker counterparty claims, less credible sequencing and a larger chance that the same cost is treated differently by engineering, accounting, legal and regulatory teams.

Timing adds a second layer of economics even where principal is ultimately recovered. Cash may leave years before a rate order, settlement or appellate mandate converts the claim into collection. During that interval, the utility funds construction, carries working capital and consumes balance-sheet capacity. Whether carrying costs earn a return, are deferred without return or remain unrecovered can materially change the value of an otherwise successful recovery. A board view that reports only gross cost and ultimate eligibility misses this duration risk.



C. Implications and scenarios

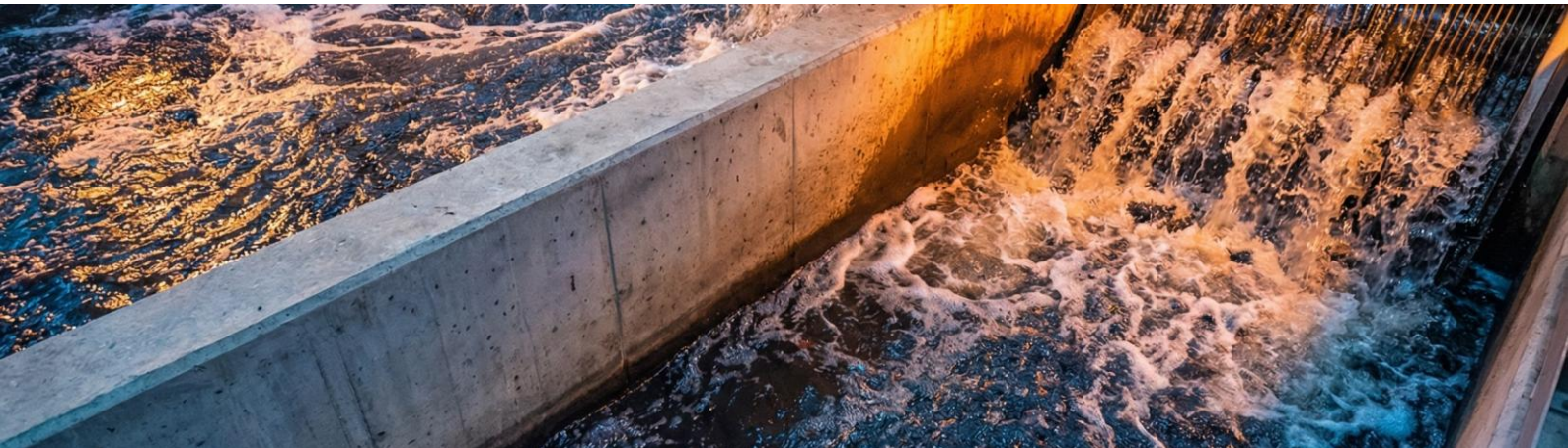
The Legacy Exposure Ladder separates gross obligation from residual shareholder risk

The Legacy Exposure Ladder

Each item moves through a different sequence; only the last column is true residual exposure

Exposure	CCR obligation	The affected generation asset	Other remediation
Gross / booked position	\$420m ARO at Jun 2026	\$350-400m repair range	\$10m undiscounted accrual
Estimate volatility	Site detail and rule scope still evolving	Repair scope, litigation and timing	Technique, contamination extent, regulation
Counterparty / insurance	No offset disclosed in cited filing	Joint jury verdict; post-judgment relief / appeal expected	Not disclosed in cited filing
Regulatory-asset eligibility	The utility expects recovery under regulatory construct	Deferral approved; all litigation proceeds offset	Not established by the cited disclosure
Customer recovery	No item-specific final rate order identified in this research	Prudence and ratemaking expressly reserved	Not established by the cited disclosure
Residual shareholder risk	Amount and timing not yet measurable	Unknown until collection and rate review	Provision is visible; payer route is not

Sources: Public utility filing and state commission order. [\[1\]](#) [\[2\]](#)



4

Governed exposure and recovery portfolio: Management allocates capital against recovery-adjusted exposure, not gross cost alone; the board sees the residual range and its drivers.

3

Payer-aware capital gating: Each capital gate carries a live payer hierarchy, evidentiary test, approval dependency and cash-clock scenario.

2

Case-by-case recovery: Legal, regulatory and engineering coordinate for large matters. Better claims, but no portfolio view or common evidence model.

1

Book and defer: Finance records the obligation; functions manage separate files. Fast to start, weak on hand-offs and residual-risk visibility.

Target operating direction

Move from stage 2 to stage 3 now, while designing stage 4 as the target operating model.

Three implications for the executive committee

First, estimate confidence and recovery confidence should never share one status. A cost can be well engineered and poorly recoverable, or highly recoverable and technically volatile. Combining the two hides the exact uncertainty the board needs to govern.

Second, counterparty recovery and ratemaking are one economic case. The state commission order makes this explicit for the affected generation asset: the contractor proceeds offset the regulatory asset. [2] Legal strategy, repair scope and regulatory narrative therefore change one another. They should use the same facts, version history and decision assumptions.

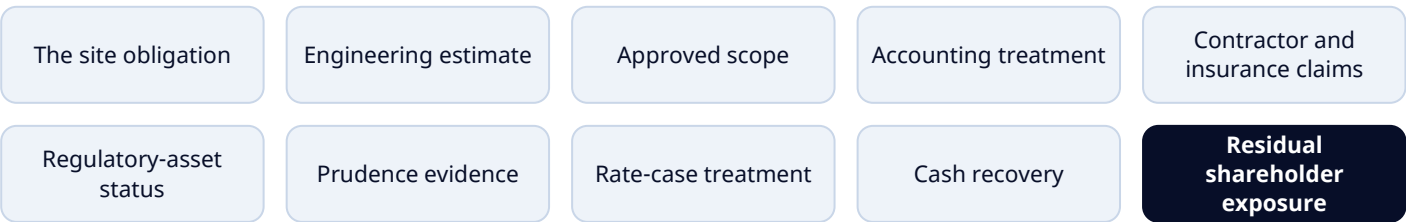
Third, capital timing is a recoverability lever. Deferring necessary safety or compliance work is not the answer. But sequencing discretionary scope, preserving alternatives and documenting why a particular intervention is prudent can reduce both disallowance risk and customer-rate shock. The correct comparison is not “spend versus do not spend”; it is the recovery-adjusted value of feasible pathways.

D. NTT DATA point of view

The governance unit should be the exposure-to-recovery chain

At NTT DATA, our reading is that the hard part is not another environmental dashboard. The utility already has systems for work, assets, finance, legal matters and regulatory filings. The difficulty is that no single object carries the full chain from obligation to residual risk, and each function updates its part on a different cadence.

We propose a governed **Environmental Exposure & Recovery capability**: a decision model linking



This is a proposed capability assembled from existing NTT DATA building blocks, not a pre-existing packaged offering.

This operating model would be difficult for three reasons. Legal privilege limits how evidence can be shared. Engineering estimates need change control without freezing legitimate learning. Regulatory judgment cannot be automated, particularly where prudence depends on a complete factual record. The capability would therefore separate machine-assisted traceability from human decision rights: AI may identify a changed requirement, a missing document or an inconsistent assumption; accountable legal, regulatory, engineering and finance leaders decide what that means.

That position is grounded in two public BizTalks assets. **AI for Regulatory & Operational Compliance** connects requirements to procedures, assets, controls and evidence while keeping regulatory judgment with qualified professionals. [14] **AI-Assisted Asset Investment Prioritization** combines condition, failure probability, criticality and business impact to compare capital interventions while leaving final accountability with asset leaders. [15] The proposed capability joins those ideas with legal-recovery and ratemaking lineage.

What NTT DATA would bring is therefore not a promise of recovery. It would be an evidence and decision architecture:

A canonical exposure record

Controlled assumptions

Links to source documents

Scenario comparison by payer and cash date

Alerts when regulation, litigation or scope changes

Role-based approval across engineering, legal, finance and regulatory affairs

These public assets support adjacent capabilities, but do not by themselves evidence this exact end-to-end recovery model in production. [16] [17]

The economics should be expressed as directional deltas until a client baseline exists:

Less duplicated reconciliation work

Shorter evidence-assembly cycles

Earlier identification of unsupported cost

Better preservation of counterparty claims

Fewer conflicting assumptions across filings

Improved timing of recovery requests

A smaller range of unowned residual risk

Any quantified benefit belongs in a client-specific business case, not in this article.

Implementation would begin with a narrow exposure family and a controlled evidence map, not a multi-year platform program. The first release would reconcile a small number of high-value obligations to their source requirement, estimate version, approved work scope, offset rights, regulatory status and board reporting. Only after those definitions hold across functions would automation, scenario analytics or AI-assisted change detection be scaled.



E. What leaders should do

Five moves before the next major commitment or filing

1	Name one exposure owner	Give one executive accountability for the cross-functional recovery path, while preserving legal and functional decision rights.
2	Gate capital by payer evidence	At every approval, show the gross range, counterparty route, regulatory basis, customer impact, cash timing and residual.
3	Create one evidence spine	Link engineering revisions, contracts, permits, legal filings, accounting entries and rate-case testimony to the same exposure record.
4	Stress the clocks	Model appeal, rule change, permitting, spend and recovery timing together, including carrying cost and affordability windows.
5	Report recovery-adjusted exposure	Show the board what is booked, deferred, claimed, approved, collected and still at risk, with confidence and ownership for each layer.

Boardroom questions

- 1 Which exposure could be technically necessary but still fail the prudence or evidentiary test?
- 2 Where are we committing cash before the payer hierarchy is documented?
- 3 Which retirement dates arrive before the recovery process can close?
- 4 Can management reconcile the gross estimate to the residual shareholder range in one traceable record?

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