S T A T E   O F   M I C H I G A N

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of **DTE ELECTRIC COMPANY's** application for the regulatory reviews, revisions, determinations, and/or approvals necessary to fully comply with Public Act 295 of 2008.	)))))	Case No. U-21285

At the December 21, 2022 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. Daniel C. Scripps, Chair
Hon. Tremaine L. Phillips, Commissioner
Hon. Katherine L. Peretick, Commissioner

ORDER

On September 30, 2022, DTE Electric Company (DTE Electric) filed an application (September 30 application) with supporting affidavits and attachments, pursuant to Public Act 295 of 2008, as amended by Public Act 342 of 2016 (Act 342), MCL 460.1001 *et seq*., requesting *ex parte* approval of a customer-requested special contract between DTE Electric and Ford Motor Company (Ford), along with an accompanying amended renewable energy plan (REP).

As a brief background, DTE Electric filed an application on March 29, 2018 in Case No. U-18232, for approval of an amended REP, which the Commission approved, in part, on July 18, 2019. July 18, 2019 order in Case No. U-18232, pp. 31-32. In the same docket, the company subsequently filed an application seeking approval of an amended REP, which the Commission approved on July 9, 2020. July 9, 2020 order in Case No. U-18232, p. 47. On August 31, 2020, DTE Electric filed an amended REP application in Case No. U-20851 along with an application in

Case No. U-20713, for biennial review of the company's voluntary green pricing (VGP) program, pursuant to Section 61 of Act 342—cases which were consolidated into a single proceeding, Case Nos. U-20713 *et al*. The Commission thereafter approved a contested settlement agreement resolving all issues in Case Nos. U-20713 *et al*. *See*, June 9, 2021 order in Case Nos. U-20713 *et al*. (June 9 order), p. 53. Included in the Case Nos. U-20713 *et al*. settlement agreement was an agreement by DTE Electric to include a customer-requested offering in its VGP program to be implemented through the execution of individual special contracts that are filed with the Commission on an *ex parte* basis. September 30 application, p. 2; *see also*, June 9 order, Exhibit A, ⁋ 9.

In the instant application, DTE Electric explains that, to reach a goal of 100% clean energy for a 35-year period, Ford has requested and contracted with DTE Electric to build up to 675 megawatts (MW) of dedicated solar projects (modeled at 650 MW in the instant filing). DTE Electric included a redacted version of the special contract as Attachment 1 to its application and contends that it is consistent with the settlement agreement in Case Nos. U-20713 *et al*. The company also requests approval of an accompanying amended REP. DTE Electric asserts that its application is consistent with Section 9.1.1 of the settlement agreement in Case Nos. U-20713 *et al*., which requires special contracts to be included in the company's VGP and REP and to be brought before the Commission on an *ex parte* basis with an *ex parte* amendment to the company's REP. September 30 application, pp. 4-5; *see also*, June 9 order, Exhibit A, ⁋ 9.1.1.

Turning to the specifics of the special contract and the amended REP, DTE Electric explains that it is proposing additional solar builds of 300 MW for 2024, and 350 MW for 2025, to fulfill the requirements of the special contract. September 30 application, Affidavit of Vielka M. Hernandez, p. 3. The company contends that approval of the special contract and amended

REP will not alter the revenue recovery mechanism and that the renewable energy surcharge for all customer classes will remain at $0.00. September 30 application, p. 5. DTE Electric recounted that the Commission approved an amended REP that included the development of 420 MW in 2022, 162 MW in 2023, 183 MW in 2024, and 132 MW in 2025 in the Case Nos. U-20713 *et al*. settlement agreement. Noting that two of the renewable energy projects totaling 320 MW approved by the Commission in Case Nos. U-20713 *et al*. have been indefinitely delayed, DTE Electric states that the instant amended REP models the 380 MW projects filed on September 27, 2022 in place of the 320 MW of delayed projects, along with 60 MW of the 2023 generic solar build that were already approved by the Commission in Case Nos. U-20713 *et al*. Per the company, the remaining 2023 generic solar build was shifted to 2024. September 30 application, p. 4.

According to DTE Electric, the changes within the instant amended REP impact the current REP's forecasted total revenue requirement, VGP subscribed generation and revenue, incremental cost of compliance, and regulatory liability ending balance as shown in Attachment 2 to the September 30 application. DTE Electric explains that the amended REP increases the forecasted total REP portfolio revenue requirement to $5,330 million, while VGP subscribed generation increases by the total generation of the new assets under the special contract. Therefore, this increases the forecasted revenue from the VGP program to approximately $1,285 million from 2022 through August 2029, which is a reduction to the overall REP portfolio revenue requirement by that amount. The new estimated regulatory liability ending balance in August 2029 is approximately $15 million. September 30 application, p. 4.

DTE Electric describes the costs of the special contract further as follows:

> The estimated installed cost for the generic and proposed Special Contract build is based on the average of the four self-developed solar projects submitted in the

> Company's Spring 2022 RFP [request for proposals]. Given the unprecedented solar development and construction market, as discussed above, the Company is assuming that the estimated 2023 COD [commercial operation date] installed costs will increase annually by 2% for COD years 2024 and 2025 as the supply chain and labor markets settle. For 2023, the Company estimates an installed cost of $1,453/kW [kilowatt] and an NCF [net capacity factor] of 22.3%. Increasing installed costs by 2% for 2024 and 2025, the Company estimates the 2024 and 2025 generic and Ford Special Contract assets at $1,482/kW for 2024 and $1,511/kW for 2025. Following the methodology for estimating NCFs as described above, the NCFs for 2024 and 2025 are estimated to be 24.1% and 24.3%, respectively. The Company has assumed that the generic and Special Contract 2024 and 2025 projects will qualify for 100% PTCs [production tax credits].

September 30 application, p. 6; *see also*, September 30 application, Attachment 5.

DTE Electric states that the special contract term is for 35 years, with the option for Ford to terminate the agreement with a one-year advanced notice in year 25 of the special contract. September 30 application, Affidavit of Kelsey T. Tremberth, p. 3. Further, the special contract will be considered effective as of the date that Commission approval is received. September 30 application, Attachment 1, p. 2. The contract term is equivalent to the expected useful life of the assets developed to meet the contract needs. September 30 application, Affidavit of Kelsey T. Tremberth, p. 3. The special contract is designed to mirror the subscription charge and associated bill credit methodology of the revised Rider 17. The revenue from the special contract will cover the revenue requirements of the projects over the life of the contract. In the event of a customer-initiated termination event, pre-calculated default and early termination payments would be assessed. *Id*. The company requests that the Commission issue an order by December 31, 2022, to satisfy the 2024 COD of the 300 MW project in order to avoid potential tariff increases related to the U.S. Department of Commerce investigation involving panels imported from Southeast Asia and because the project will require a significant deposit on solar modules prior to December 31, 2022, to ensure manufacturing capacity and delivery prior to June 2024. September 30 application, p. 5.

On April 28, 2022, DTE Electric provided the special contract to the Commission Staff (Staff) for review, and on August 10, 2022, the company hosted an informational session with the intervening parties to Case Nos. U-20713 *et al*., as required in Section 9.1.3.6 of the settlement agreement. Based on Mich Admin Code, R 460.2031 (Rule 31)[1] and the March 23, 1995 order in Case No. U-10646 (March 23 order),[2] the Staff recommends that the Commission direct the company to file any amendments to the company's contract in this docket. The Staff also recommends that, in future rate cases the Company present evidence to show that the contract is compliant with the Commission's previous ruling on special contracts.

Discussion

MCL 460.1022(4) provides, in relevant part:

> If an electric provider proposes to amend its plan after the review process under subsection (3), the electric provider shall file the proposed amendment with the commission. For an electric provider whose rates are regulated by the commission, if the proposed amendment would modify the revenue recovery mechanism, the commission shall conduct a contested case hearing on the amendment pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. After the hearing and within 90 days after the amendment is filed, the commission shall approve, with any changes consented to by the electric provider, or reject the plan and the proposed amendment or amendments to the plan.

MCL 460.1028(4) provides:

> For an electric provider whose rates are regulated by the commission, the electric provider shall submit a contract entered into for the purposes of subsection (3) to the commission for review and approval. If the commission approves the contract, it shall be considered consistent with the electric provider's renewable energy plan.

---

1 Rule 31 reads, in relevant part: "When a utility enters into a special contract to provide service in a manner or at a rate not specifically covered by its filed rate schedules or rules and regulations, the utility shall file an application for approval of the special contract with the commission."

2 Speaking to cost allocation, the Commission found in the March 23 order that, "unless [The] Detroit Edison [Company] can make a compelling showing why a different ratemaking treatment is justified, the Commission will not permit Detroit Edison to reallocate the costs of serving contract customers to other ratepayer classes." March 23 order, p. 21.

> The commission shall not approve a contract based on an unsolicited proposal unless the commission determines that the unsolicited proposal provides opportunities that may not otherwise be available or commercially practical through a competitive bid process.

The Commission has reviewed DTE Electric's September 30 application, supporting affidavits and attachments, the applicable statutory language, as well as the settlement agreement in Case Nos. U-20713 *et al*. and finds that the special contract and amended REP should be approved. Specific projects selected to meet the requirements of the special contract are subject to future Commission approval. The Commission agrees with the Staff that any amendments to the special contract require Commission approval and that the company must demonstrate in subsequent rate cases that the special contract meets the requirements stated earlier. The Commission also finds that the changes in the amended REP do not impact the REP revenue recovery mechanism or surcharge level, nor do they impact the company's compliance with MCL 460.1028 and, therefore, should be approved on an *ex parte* basis. *See*, MCL 460.6a(3).

THEREFORE, IT IS ORDERED that:

A. DTE Electric Company's application for *ex parte* approval of the special contract between DTE Electric Company and Ford Motor Company and for *ex parte* approval of DTE Electric Company's amended renewable energy plan is approved.

B. DTE Electric Company, in its subsequent general rate cases, shall file evidence demonstrating that the special contract with Ford Motor Company complies with the Commission's previous directives regarding special contracts and Mich Admin Code, R 460.2031.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26. To comply with the Michigan Rules of Court's requirement to notify the Commission of an appeal, appellants shall send required notices to both the Commission's Executive Secretary and to the Commission's Legal Counsel. Electronic notifications should be sent to the Executive Secretary at mpscedockets@michigan.gov and to the Michigan Department of Attorney General – Public Service Division at pungp1@michigan.gov. In lieu of electronic submissions, paper copies of such notifications may be sent to the Executive Secretary and the Attorney General – Public Service Division at 7109 W. Saginaw Hwy., Lansing, MI 48917.

MICHIGAN PUBLIC SERVICE COMMISSION

Daniel C. Scripps, Chair

Tremaine L. Phillips, Commissioner

Katherine L. Peretick, Commissioner

By its action of December 21, 2022.

Lisa Felice, Executive Secretary

P R O O F   O F   S E R V I C E

STATE OF MICHIGAN)

Case No. U-21285

County of Ingham)

Brianna Brown being duly sworn, deposes and says that on December 21, 2022 A.D. she electronically notified the attached list of this **Commission Order via e-mail transmission**, to the persons as shown on the attached service list (Listserv Distribution List).

Brianna Brown

Subscribed and sworn to before me
this 21^{st} day of December 2022.

Angela P. Sanderson
Notary Public, Shiawassee County, Michigan
As acting in Eaton County
My Commission Expires: May 21, 2024

Service List for Case: **U-21285**

Name	On Behalf of	Email Address
Amit T. Singh	MPSC Staff	singha9@michigan.gov
Andrea E. Hayden	DTE Electric Company	andrea.hayden@dteenergy.com
DTE Electric Company	DTE Electric Company	mpscfilings@dteenergy.com
Jonathan Thoits	ALJs - MPSC	thoitsj@michigan.gov
Nicholas Q. Taylor	MPSC Staff	taylorn10@michigan.gov