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June 12, 2023

Lisa Felice  
Executive Secretary  
Michigan Public Service Commission  
7109 West Saginaw Highway  
Lansing, MI 48917

RE: In the matter, on the Commission's own motion, to commence a collaborative to consider issues related to **FURTHER ENGAGEMENT, EDUCATION, AND PARTICIPATION OF UTILITY CUSTOMERS**  
MPSC Case No: U-20959

Dear Ms. Felice:

Attached for electronic filing in the above referenced matter are the Reply Comments of DTE Electric Company and DTE Gas Company. Also attached is the Proof of Service.

Very truly yours,

Andrea E. Hayden

AEH/cdm  
Enclosures

cc: Service List

**STATE OF MICHIGAN  
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION**

In the matter, on the Commission’s own motion, to )  
commence a collaborative to consider issues related to )  
**FURTHER ENGAGEMENT, EDUCATION, AND )**  
**PARTICIPATION OF UTILITY CUSTOMERS )**

Case No. U-20959

**REPLY COMMENTS OF DTE ELECTRIC AND DTE GAS**

**I. BACKGROUND**

On April 24, 2023, the Commission issued an order granting rehearing in response to petitions filed by DTE Electric and DTE Gas (“the Companies”) as well as Consumers Energy (“Consumers”). The Order requested stakeholder comments on the Staff Report filed in this docket on March 25, 2022, with initial comments due May 22, 2023 and reply comments due June 12, 2023. Initial comments were filed by the Companies, Consumers, the Michigan Electric & Gas Association (“MEGA”), the Michigan Municipal Association for Utility Issues (“MI-MAUI”), the Michigan Energy Innovation Business Council and Advanced Energy United (“MEIBC/AEU”), and the Mission:data Coalition (“Mission:data”).

**II. DISCUSSION**

The Companies reiterate the concerns, observations, and arguments raised in their initial comments. With these reply comments, the Companies supplement their initial comments with responses to various issues raised by the other commenting parties, which are further described herein. Lack of discussion of any positions raised in other parties’ comments should not be construed as support for those positions by the Companies.

## **A. Consumers**

The Companies note that many of the observations and recommendations from Consumers' initial comments are consistent with those offered in the Companies' initial comments. The Companies also note the recommendations that Consumers offers in response to the Staff Report's recommendation in Section 4.1.2 for increased transparency and oversight, specifically:

- “annual reporting at a higher level than recommended, which would include categories of data collected from customers; a summary of business needs met by contractors with which customer data has been shared to conduct primary utility business, and a summary of confidentiality requirements in place that protect the data ad restrict its use”; and
- “an annual discussion of data privacy and security policies and procedures with Staff”<sup>1</sup>

The Companies support both these recommendations offered by Consumers as this approach would balance appropriate levels of transparency and oversight with the concerns previously raised by the Companies related to the administrative burden and information security. Similar to Consumers, the Companies request that any show cause orders be limited to investigations of a material breach of Commission regulations.

## **B. MEGA**

The Companies note that many of the observations and recommendations from MEGA's initial comments are consistent with those offered in the Companies' initial comments. In particular, the Companies emphasize and agree with the concerns MEGA raises that costs of providing access to data should be placed on the cost-causer, not utility customers.<sup>2</sup>

## **C. MI-MAUI**

MI-MAUI's comments imply that the Companies approve of the local government data sharing regime established by the California Public Utilities Commission. The Companies have not fully evaluated the California construct for municipal data sharing and thus any inference of

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<sup>1</sup> Consumers initial comments, page 3

<sup>2</sup> MEGA initial comments, pages 9-11

full approval by the Companies should be disregarded. However, MI-MAUI's observation that the Companies approve of different levels of access to utility data for different entities remains valid.

More broadly, MI-MAUI's comments generally focus on the public interests that local governments and their partners have in access to utility customer data. The Companies agree that collaboration between utilities and local governments is important to serve their respective constituencies and some level of data sharing can support that collaboration. The Companies also appreciate MI-MAUI's observation that standardization of information requests would benefit both the requesting units of local government and the responsive utilities.

MI-MAUI points to a wide range of information types that are of interest to local governments and encompasses a scope much larger than what was ordered by the Commission in its September 8 Order in this docket. While the Commission's Order addressed the reporting of aggregated and anonymized energy usage, MI-MAUI's recommendations go well-beyond that to include reliability data, energy assistance and vulnerable customer data, and clean energy data. These types of data are already reported elsewhere, such as reliability data (which are reported in Case No. U-21122), vulnerable customer data (which are reported in Case No. U-20757), and distributed generation data (which are reported in Case No. U-15787). The Companies believe that in the interest of efficiency, existing data reporting constructs should be utilized to the extent possible.

There are also practical considerations that must be addressed in the development of data reporting constructs beyond those already in place. From a structural standpoint, not all data types are appropriate to report at a granular localized level. For example, environmental emissions are generally incurred at a system level, and allocating this data to a local level likely provides no

more meaning than the system-level data. Investments in the distribution system may also lack meaning at the granular localized level as an investment in one location can provide benefits across several hundred circuit miles across many zip codes or census tracts. Additionally, the utility may not have full visibility into the information requested. For example, DTE-Electric supports and incentivizes electric vehicle (EV) charger installation through various programs, but a customer who installs an EV charger outside of one of these programs may escape the Company's view and would be unknown to the Company. From an implementation standpoint, the data desired by local governments reside in disparate information systems within the Companies, and the consolidation and automation necessary to support reporting constructs beyond those already in place will require significant time, effort, and cost.

The Companies appreciate the important public interest role that local governments play in serving their constituents (who are also utility customers) but also note that any data sharing construct must incorporate the practical considerations associated with reporting that data. As such, the Companies are open to further dialog on ways to make utility data available to local governments in a way that maintains customer privacy, leverages data already made available in other contexts, and supports local governments' objectives to effectively serve their constituents. Such a dialog should address both the scope of information provided and the format and frequency of distribution.

#### **D. MEIBC/AEU**

MEIBC/AEU's comments touch on several topics which warrant reply from the Companies: individual customer data access (including use of the Green Button Standard), the definition of "Personal Data-Un-Shareable", the definitions of Primary Purpose and Value-Added

Products and Services, third party access to anonymized and aggregated customer data, and reporting requirements for transparency and oversight.

**i. Individual Customer Data Access (Including Use of the Green Button Standard)**

MEIBC/AEU's comments provide an extensive discussion on customer data access, all under the general premise that:

“...customers should own their billing and usage data. Thus, sharing these data with independent third parties should be at the customer's discretion. That said, if the sharing process between customers and third parties is too cumbersome, only some customers are likely to complete the process or follow through with sharing their data on an ongoing basis.”<sup>3</sup>

MEIBC/AEU's comments go on to articulate a wide range of principles, technical requirements, and recommendations related to customer data access, including a discussion of the Green Button Standard. Specifically, MEIBC/AEU offer numerous recommendations on this topic, including<sup>4</sup>:

- Principles for customer consent for data access
- Direction for utilities to streamline the customer and third-party data release authorization process
- Changes to data access policies and practices to enable convenient, timely access to customer data by authorized third parties
- Principles for successful use of Green Button Connect, including the availability of bill quality data, full data sets, and synchronous data

The Companies note that the existing Energy Usage Report that the Companies offer for customers to access and share their billing and usage data with third parties is already well-aligned with the premise articulated by MEIBC/AEU and is compatible with the Green Button Standard. Thus, the Companies' Energy Usage Report already satisfies or obviates the principles and requirements described by MEIBC/AEU.

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<sup>3</sup> MEIBC/AEU initial comments, page 3

<sup>4</sup> MEIBC/AEU initial comments, pages 10-11

The Companies' Energy Usage Report provides customer data access consistent with Green Button and empowers customers to share their data with any third party as they see fit. Customers can download their hourly electric and daily gas usage data from their DTE account in a file format that is usable by tools that use Green Button formatting. Customers can also generate a link to share with any third party of their choosing, which is also usable by tools that use Green Button formatting and refreshes daily to show the customer's energy usage from the last 13 months. The Companies utilized the Green Button validation tool when testing this feature to ensure interoperability with data users set up to use Green Button. The Companies place no restrictions on whom the customer can share their information with, providing maximum flexibility to the customer. Customers can access all these functions through their online DTE account without the need for any separate authorizations or log in credentials. The user interface is simple, intuitive, and seamlessly integrated with the rest of the Companies' web interface. Once a customer is logged into their DTE account, it takes as little as four mouse clicks to either download a report or generate a shareable link. Should a customer not be able to access their account, or for any other reason, they can still request their data via a consent form.

In summary, the Companies' Energy Usage Report provides customers with full access and control over their usage data in a format that is fully compatible with the Green Button standard. The Companies note that MEIBC/AEU has not identified any specific gaps in the Companies' Energy Usage Report that need to be remediated. Thus, the Companies request that if the Commission adopts any of the related recommendations offered by MEIBC/AEU, then the Commission should also recognize that the Companies have already incorporated these features into their operations. Transitioning from the company's solution to Green Button would require

substantial investment which the Company feels is unnecessary given that the current tool provides the same service.

## ii. Definition of “Personal Data-Un-Shareable”

The Staff Report proposes the following definition of “Personal Data – Un-shareable”:

“Personal Data – Un-shareable” means personal information collected or known by the Company that **cannot be shared with utility contractors, agents, or third parties** [emphasis added]. Such information includes birth date, social security number, biometrics, bank and credit card account numbers, driver’s license number, credit reporting information, bankruptcy or probate information, health information, security questions, ground position satellite (GPS) location, electronic device identifier, or network or internet protocol address.

MEIBC/AEU’s comments stress the “need to strike a balance between data that can be shared and data that cannot be shared and the circumstances that require customer consent.”

MEIBC/AEU goes on to conclude that “we agree with the definition of Personal Data-Un-shareable information found in the Staff Report.”<sup>5</sup>

The Companies reiterate their strenuous objection to the definition of “Personal Data-Un-shareable” on the grounds that it would result in detrimental impacts to numerous core business functions and is premised on a questionable legal and factual basis, as explained in detail in the Companies’ initial comments<sup>6</sup> and acknowledged by the Commission.<sup>7</sup> In the April 24 Order, the Commission noted that it “did not intend the application of the ‘Personal Data-Un-shareable’ definition to have a significantly deleterious effect on utilities’ primary operations and activities, but makes clear that utilities who contract with third parties for primary purpose activities shall require and ensure that the third parties have stringent data privacy guidelines and procedures to protect customers’ personal data from unnecessary, negligent, or accidental release.” Consistent

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<sup>5</sup> MEIBC/AEU initial comments, page 5

<sup>6</sup> DTE initial comments, pages 8-11

<sup>7</sup> April 24 Order, page 11

with the Commission’s expectations and the requirements of Michigan Administrative Code, R 460.153, the Companies already have protocols in place to ensure the security and privacy of sensitive customer data and contractually require that vendors and contractors implement at least the same level of protection that the Companies afford such information. However, the proposed definition of “Personal Data-Un-shareable” fails to recognize the requirements that already exist to protect customers and their information and the practices and protocols that utilities already implement to address those requirements. Furthermore, the plain text of the definition contravenes the Commission’s stated position that utilities can share customer data in support of primary operations as long as that sharing incorporates “stringent data privacy guidelines and procedures”.

MEIBC/AEU note the need to strike a balance between data which can be shared without customer consent and data which cannot be shared without customer consent. However, this is the balance that has already been achieved with the existing construct for data sharing, whereby customer consent is not necessary for Primary Purposes whereas it is necessary for Secondary Purposes. MEIBC/AEU provide no further substantive arguments for why the definition of “Personal Data-Un-shareable” should be adopted and note elsewhere in their recommendations that “[t]he Commission should recognize that data privacy is actively addressed and mandated through contractual provisions between the utilities and the agents acting on their behalf in implementing EWR programs.”<sup>8</sup> The Companies respectfully reiterate their request that the Commission decline to adopt this recommendation from the Staff Report.

### **iii. Definition of Primary Purpose and Value-Added Programs and Services**

MEIBC/AEU’s comments propose an effort to redefine Primary Purpose and Value-Added Programs and Services (VAPS). Specifically, MEIBC/AEU state:

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<sup>8</sup> MEIBC initial comments, page 10

- “we recommend that the future language distinguish between primary purpose, which we associate with basic utility functions and services, and value added activities,” and
- “Staff should convene stakeholders to develop a definition of competitive, value-added services to inform the differentiation between different uses of data.”

The Companies note that Primary Purpose and VAPS are already well-defined; the former being defined by Commission order<sup>9</sup> and the latter being defined by statute<sup>10</sup>. MEIBC/AEU also suggest that this definition is needed to differentiate between different uses of data, but, as MEIBC/AEU acknowledge, data sharing between utilities and affiliates offering VAPS is already governed by the Code of Conduct. Given the regulatory and statutory guidance that already exists, the objectives of any such effort are unclear, and will likely introduce unnecessary confusion into the state’s regulatory construct for data sharing and VAPS offerings. The Companies respectfully request that the Commission decline to adopt these recommendations offered by MEIBC/AEU.

MEIBC/AEU, similar to Section 4.2 of the Staff Report, discusses the notion of implementing policies that allow third parties to compete “on a level playing field” with utilities. Specifically, MEIBC/AEU states “[t]he Commission should make changes to data access policies and practices to enable convenient, timely access to customer data by authorized third parties and increase the ability of third parties to compete on a level playing field with utilities.” As noted in the initial comments of the Companies<sup>11</sup> as well as Consumers<sup>12</sup> and MEGA,<sup>13</sup> the notion of a “level playing field” here is a flawed one as utilities are required by law and regulation to offer certain programs whereas no such obligation exists for third parties. The Companies respectfully request that the Commission decline to adopt this recommendation offered by MEIBC/AEU.

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<sup>9</sup> See Exhibit A of the Commission’s June 28, 2013 Order in Case No. U-17102, sheet number C-74.00 of the DTE-Electric Company Rate Book, and sheet number C-55.00 of the DTE-Gas Company Rate Book

<sup>10</sup> See MCL 460.10ee(16)(b)

<sup>11</sup> DTE initial comments, page 6

<sup>12</sup> Consumers initial comments, page 5

<sup>13</sup> MEGA initial comments, page 2

#### **iv. Third-party Access to Anonymized and Aggregated Customer Data**

MEIBC/AEU's comments provide support for the broader sharing of aggregated and anonymized data, and in particular propose that the 4/50 standard be adopted for all datasets.

With respect to the aggregation standard for industrial customers, the Companies reiterate their concern that the inclusion of only four customers in a data set could result in violations of the Companies' data privacy tariff and is out of line with the aggregation standards from the majority of states highlighted in the collaborative (Colorado, California, and Illinois all use a 15/15 screen for industrial customers).

The Companies respectfully request that the Commission decline to adopt the recommendation offered by MEIBC/AEU with respect to data aggregation standards for industrial customers. While the Companies would be amenable to a 10/25 screen for industrial customers, if residential, commercial, and industrial customers should all be subject to the same standard (as MEIBC/AEU suggest), then the 15/15 standard should be adopted.

With respect to sharing of aggregated and anonymized data with third parties more broadly, the Companies reiterate the points raised in MEGA's initial comments and restated *supra* that the cost of providing data access should be placed on the cost causer, not utility customers.

#### **v. Reporting Requirements for Transparency and Oversight**

MEIBC/AEU offer support for Recommendation 4.1.2 in the Staff Report, which recommends increased reporting requirements for transparency and oversight. As discussed *supra*, the Companies support Consumers' proposal for a more limited scope disclosure. MEIBC/AEU also propose further modification to the reporting recommendation from the Staff Report, including "how utilities support customer access to these data and customer relationships and interactions with that data" and (quoting Mission: data) "any commercial, financial, or competitive

advantage’ that result from current data sharing practices.” MEIBC note that “[w]ithout such a report, the Commission will be hampered in its understanding of how its policies affect the multitudes of programs currently being implemented...” and that “[w]ithout an understanding of the universe of data, the Commission will be unable to keep up with the ever-evolving energy marketplace and new technologies being brought into the marketplace.”<sup>14</sup> The Companies observe that if the Commission’s goal is to understand how its policies affect the multitude of programs currently being implemented by the range of market participants, then a better means to that end would be further inquiry or collaboratives on topics of interest to the Commission, rather than a compliance filing. The Commission has a range of other means at its disposal to stay abreast of industry developments, such as comment dockets, collaboratives, and technical conferences, all of which allow for more extensive discussion with a wider audience than the recommendation offered by MEIBC/AEU. The Companies respectfully request that the Commission decline to adopt the modifications proposed by MEIBC/AEU and adopt the proposal offered by Consumers as discussed *supra*.

#### **E. Mission:data**

Mission:data’s comments focus on the requirement for increased transparency and oversight as discussed in Staff Report Recommendation 4.1.2. Mission:data’s comments also discuss data sharing in relation to the Inflation Reduction Act’s (“IRA”) Home Energy Performance-Based, Whole-House Rebates (“HOMES”) program.

##### **i. Reporting Requirements for Transparency and Oversight**

As a threshold matter, Mission:data’s comparison between the reporting of reliability metrics and the reporting of an inventory of data sharing arrangements is misplaced. Reliability

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<sup>14</sup> MEIBC initial comments, page 9

reporting falls squarely within the Commission’s role to establish service quality and reliability standards as well as assess the reasonableness and prudence of utility costs. In the case of the proposed inventory of data sharing arrangements, the linkage to a policy objective is much less clear. Furthermore, Michigan Administrative Code R460.10112(h) already requires utilities to disclose “the number of times that customer information was provided to an affiliate or competing provider of an unregulated value-added program or service, the identity of the affiliate or competing provider, and a description of the information shared.” Unlike the broad-based inventory contemplated by Mission:data, the existing disclosure requirements do have a clear policy objective of prohibiting preferential treatment for utility affiliates, and specifically address the concerns around utility-affiliate data sharing cited in Mission:data’s comments.

Mission:data’s comments also argue that excluding an inventory of entities receiving customer data amounts to “security through obscurity.” This contention is patently false. As noted *supra*, the Companies already have protocols in place to ensure the security and privacy of sensitive customer data and contractually require that vendors and contractors implement at least the same level of protection that the Companies afford such information. The notion that sensitive customer information is kept behind the unlocked door that Mission:data alludes to is meritless. However, as Mission:data should be aware, the world of cybersecurity and the associated threats to personal information continue to evolve. To build on Mission:data’s door analogy, investing in a lock is a prudent means of increasing security. Placing a schematic diagram next to the lock and shining a spotlight on it ultimately benefits an intruder seeking to pick the lock and may compromise security.

The Companies note that Consumers’ proposal for this disclosure offers a balance between increased transparency and oversight and the risks associated with the reporting of more detailed

information on personal customer data. The Companies respectfully request that the Commission decline to adopt the recommendations and modifications proposed by Mission:data and adopt the proposal offered by Consumers as discussed *supra*.

## **ii. Data Sharing and the IRA HOMES program**

Mission:data argues that the availability of anonymized and aggregated data reporting could undermine Michigan's ability to successfully administer the federal funding for energy efficiency appropriated under the IRA HOMES program. However, Mission:data's concerns are premature and speculative, as the Department of Energy has yet to provide guidance to the Michigan Department of Energy, Great Lakes, and Environment regarding the evaluation of energy savings. While the IRA is expected to promote the adoption of energy efficiency measures, the impact of these measures on savings opportunities from utility-administered programs remains unclear. Additionally, Michigan already has existing infrastructure, such as the Michigan Energy Measures Database, which can facilitate these evaluations and be utilized for data reporting, and customers may retrieve their own usage data, if it is required, from their online account within four clicks. Finally, although it is too early to develop energy savings plans, the Companies are committed to maximizing the availability of IRA HOMES funding for the benefit of their customers.

## **III. CONCLUSION**

In conclusion, the Companies offer the following observations and recommendations based on the other parties' initial comments:

- The Companies recommend that the Commission adopt Consumers' recommendations related to reporting requirements for transparency and oversight.

The Companies further recommend that the Commission decline to adopt the modifications proposed by MEIBC/AEU and Mission:data.

- The Companies agree with Consumers that any show cause orders be limited to investigations of a material breach of privacy requirements.
- The Companies emphasize and agree with the concerns raised by MEGA that costs of providing access to data should be placed on the cost causer, not utility customers.
- The Companies are open to further dialog on ways to make utility data available to local governments in a way that maintains customer privacy, leverages data already made available in other contexts, and supports local governments' objectives to effectively serve their constituents. Such a dialog should address both the scope of information provided and the format and frequency of distribution.
- The Companies request that, if the Commission adopts any of the recommendations offered by MEIBC/AEU related to individual data access (including use of the Green Button standard), the Commission should also recognize that the Companies have already incorporated these recommendations into their operations and that adoption of the Green Button standard would impose unnecessary costs on customers.
- The Companies respectfully reiterate their request that the Commission decline to adopt the recommended definition of "Personal Data – Un-Shareable" from the Staff Report.

- The Companies respectfully request that the Commission decline to adopt the recommendations offered by MEIBC/AEU to redefine Primary Purpose and Value-Added Programs and Services.
- The Companies respectfully request that the Commission decline to adopt the recommendation offered by MEIBC/AEU with respect to data aggregation standards for industrial customers. While the Companies would be amenable to a 10/25 screen for industrial customers, if residential, commercial, and industrial customers should all be subject to the same standard (as MEIBC/AEU suggest), then the 15/15 standard should be adopted.

The Companies appreciate this opportunity to provide further comment on the important topics of data access and privacy and remain open to further dialog and collaboration.

Respectfully Submitted,

DTE ELECTRIC COMPANY

DTE GAS COMPANY

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission's own motion, to )  
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Case No. U-20959

**PROOF OF SERVICE**

STATE OF MICHIGAN )  
 ) ss.  
COUNTY OF WAYNE )

CAITLIN D. MYERS states that on June 12, 2023, she served a copy of the Reply Comments of DTE Electric Company and DTE Gas Company in the above captioned matter, via electronic mail, upon the persons listed on the attached service list.

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CAITLIN D. MYERS

**MPSC Case No. U-20959**  
**SERVICE LIST**

**MPSC STAFF**

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