

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of)
DTE ELECTRIC COMPANY for approval of)
its integrated resource plan pursuant to MCL 460.6t,)
and for other relief.)
_____)

Case No. U-21193

At the April 11, 2024 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Daniel C. Scripps, Chair
Hon. Katherine L. Peretick, Commissioner
Hon. Alessandra R. Carreon, Commissioner

ORDER

On February 16, 2024, DTE Electric Company (DTE Electric) filed an application (February 16 application), with supporting affidavits and exhibits, pursuant to Section 6j of Public Act 304 of 1982, MCL 460.6j, and Section 6t of Public Act 341 of 2016, MCL 460.6t, requesting *ex parte* approval of respective power purchase agreements (PPAs) between the company and Coldwater River Solar, LLC (Coldwater River Solar) and White Pine Grove Solar, LLC (White Pine Grove Solar) for the output of the Coldwater River Solar Park Project and the White Pine Grove Solar Park Project (the Projects).

In the February 16 application, DTE Electric recounted that on November 3, 2022, the company filed its integrated resource plan (IRP) in Case No. U-21193 that included the procurement of new solar resources. Subsequently, on July 13, 2022, the company filed a settlement agreement resolving all outstanding issues in the case. Several intervening parties did

not join the settlement but offered statements of non-objection. The Commission approved the settlement agreement in the July 26, 2023 order in Case No. U-21193 (July 26 order). Included in the IRP settlement agreement was the company's commitment to utilize competitive solicitation processes to acquire technologies specified in the company's proposed course of action and to seek approval of contracts selected for development of renewable resources arising from the IRP through *ex parte* applications to the Commission. February 16 application, pp. 2-3.

DTE Electric further explained that on March 17, 2023, the company issued a renewable energy request for proposals (RFP) to procure up to 400 megawatts (MW) of renewable energy capacity with commercial operation dates (CODs) in the first quarter of 2026. Proposal responses were due on April 21, 2023. The company selected Guidehouse Inc. (Guidehouse) to be the independent monitor (IM) and independent evaluator (IE). Per DTE Electric, Guidehouse provided support and oversight of the company's RFP development, administration of the bidding, and proposal evaluation processes. DTE Electric stated that it developed the RFP in consultation with the Commission Staff pursuant to and consistent with the December 4, 2008 and December 23, 2008 orders in Case No. U-15800; the Competitive Procurement Guidelines approved in the September 9, 2021 order in Case No. U-20852; and the partial settlement agreement in the June 9, 2021 order in Case Nos. U-20713 *et al.* (June 9 partial settlement agreement). To ensure evaluations of proposals were performed on a fair and consistent basis and to maintain integrity within the competitive bidding process, Guidehouse and DTE Electric established a firewall and communication protocols between the RFP evaluation team, RFP subject matter experts, and the DTE Electric self-build team. DTE Electric maintained that Guidehouse ensured that there was consistency between the RFP, the Competitive Procurement

Guidelines, and the prespecified minimum RFP requirements contained in Section 11 of the June 9 partial settlement agreement. February 16 application, pp. 3-4.

DTE Electric stated that the Projects were shortlisted based on the process described above. The Projects were among the highest scoring projects in the renewable RFP. Consistent with paragraph 14(b) of the IRP settlement agreement approved in the July 26 order, a summary of the RFP responses was included in Guidehouse's Report entitled, "DTE 2023 Renewable Energy All Source Request for Proposals." February 16 application, Exhibit A-2, Attachment A. DTE Electric explained that because the renewable RFP was issued and bid responses were received prior to execution of the IRP settlement agreement and the July 26 order, the renewable RFP conformed to the IRP settlement agreement with the following exceptions: (1) DTE Electric prepared initial bidder responses with IM/IE review, (2) all projects were scored and ranked together, and (3) DTE Electric company-owned projects were not prohibited from bidding on the portion of the capacity from third parties. However, DTE Electric attested that once the IRP settlement agreement was finalized, DTE Electric company-owned projects were not considered for the portion of the capacity allocated to third-party PPAs.

DTE Electric states that it executed respective PPAs with Coldwater River Solar and White Pine Grove Solar on February 9, 2024. The Coldwater River Solar PPA requires Coldwater River Solar to design, engineer, construct, install, startup, test, and maintain the project such that it can sell renewable capacity, energy, ancillary services, and renewable energy credits (RECs) to DTE Electric. The Coldwater River Solar PPA is subject to the financial compensation mechanism (FCM) approved in the July 26 order. The White Pine Grove Solar PPA requires White Pine Grove Solar to design, engineer, construct, install, start up, test, and maintain the White Pine Grove project such that it can sell renewable capacity, energy, ancillary services, and RECs to

DTE Electric for the 25-year term of the contract. The White Pine Grove PPA is also subject to the FCM approved in the July 26 order.

Giving further details on the Projects, DTE Electric explained that the Coldwater River Solar project is a 150 MW solar facility located in Branch County, Michigan contracted for 30 years with a COD in the first quarter of 2026. The Coldwater River Solar project's expected levelized cost of energy (LCOE) is \$75 per megawatt-hour (MWh). February 16 application, Exhibit A-1, p. 7. The White Pine Grove Solar project is a 100 MW solar facility located in Calhoun County, Michigan contracted for 25 years with a COD in the first quarter of 2026. The White Pine Grove Solar project's expected LCOE is \$79 per MWh. February 16 application, Exhibit A-1, p. 7. The blended LCOE of the two projects is \$76 per MWh. DTE Electric stated that these values include the FCM approved in the July 26 order. The company noted that the IRP settlement agreement stipulated that the projects be priced below 150% of the \$52.80 per MWh solar LCOE used in the IRP model, which is \$79.20 per MWh.

Discussion

MCL 460.6t, as amended by Public Act 231 of 2023 (Act 231), provides, in relevant part:

(11) In approving an integrated resource plan under this section, the commission shall specify the costs approved for the construction of or significant investment in an electric generation facility, the purchase of an existing electric generation facility, the purchase of power under the terms of the power purchase agreement, or other investments or resources used to meet energy and capacity needs that are included in the approved integrated resource plan. The costs for specifically identified investments, including the costs for facilities under subsection (12), included in an approved integrated resource plan that are commenced within 3 years after the commission's order approving the initial plan, amended plan, or plan review are considered reasonable and prudent for cost recovery purposes.

(12) Except as otherwise provided in subsection (13), for a new electric generation facility approved in an integrated resource plan that is to be owned by the electric utility and that is commenced within 3 years after the commission's order approving the plan, the commission shall finalize the approved costs for the facility

only after the utility has done all of the following and filed the results, analysis, and recommendations with the commission:

(a) Implemented a competitive bidding process for all major engineering, procurement, and construction contracts associated with the construction of the facility.

(b) Implemented a competitive bidding process that allows third parties to submit firm and binding bids for the construction of an electric generation facility on behalf of the utility that would meet all of the technical, commercial, and other specifications required by the utility for the generation or energy storage facility, such that ownership of the electric generation or energy storage facility vests with the utility no later than the date the electric generation or energy storage facility becomes commercially available.

(c) Demonstrated to the commission that the finalized costs for the new electric generation or energy storage facility are not significantly higher than the initially approved costs under subsection (11). If the finalized costs are found to be significantly higher than the initially approved costs, the commission shall review and approve the proposed costs if the commission determines those costs are reasonable and prudent.

Based on the plain language of these subsections in MCL 460.6t, as amended by Act 231, it is clear that the Legislature intended costs and specific projects to be refined through subsequent applications and proceedings before the Commission. Moreover, the Case No. U-21193 IRP settlement agreement as approved by the Commission contemplates the filing of subsequent *ex parte* applications for approval of resources consistent with those outlined in the settlement agreement.

In addition, MCL 460.6j(13) provides, in relevant part, that the Commission shall do all of the following:

(b) Not disallow the capacity charges for any facilities for which the electric utility would otherwise have a purchase obligation if the commission has approved capacity charges in a contract with a qualifying facility, as that term is defined by the Federal Energy Regulatory Commission pursuant to the public utilities regulatory policies act of 1978, Public Law 95-617, 92 Stat 3117, unless the commission has ordered revised capacity charges upon reconsideration under this subsection. A contract is valid and binding in accordance with its terms, and capacity charges paid pursuant to that contract are recoverable costs of the utility for rate-making purposes notwithstanding that the order approving that contract is

later vacated, modified, or otherwise held to be invalid in whole or in part if the order approving the contract has not been stayed or suspended by a competent court within 30 days after the date of the order, or by July 29, 1987 if the order was issued after September 1, 1986 and before June 29, 1987. The commission shall determine the scope and manner of the review of capacity charges for a qualifying facility. Except as to approvals for qualifying facilities granted by the commission before June 1, 1987, proceedings before the commission seeking those approvals shall be conducted as a contested case pursuant to chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287. The commission, upon its own motion or upon application of any person, may reconsider its approval of capacity charges for a qualifying facility in a contested case hearing after passage of a period necessary for financing the qualifying facility, if both of the following apply:

(i) The commission has first issued an order making a finding based on evidence presented in a contested case that there has been a substantial change in circumstances since the commission's initial approval.

(ii) The commission finding is set forth in a commission order subject to immediate judicial review.

The Commission has reviewed DTE Electric's application, the supporting affidavits and exhibits, and the language in MCL 460.6j and MCL 460.6t and finds that the PPAs, including the FCMs, should be approved. The Commission finds that the PPAs were acquired in a manner consistent with the requirements set forth in the IRP settlement agreement approved in the July 26 order. The Commission also finds that the finalized costs for the Projects are at or below the approved LCOE cost in the July 26 order. The Commission further finds that *ex parte* review and approval is appropriate because approval of the PPAs will not affect rates or rate schedules resulting in an increase in the cost of service to customers. *See*, MCL 460.6a(3).

THEREFORE, IT IS ORDERED that the power purchase agreement between DTE Electric Company and Coldwater River Solar, LLC, and the power purchase agreement between DTE Electric Company and White Pine Grove Solar, LLC, are approved. The Commission authorizes DTE Electric Company to earn the financial incentive per the financial compensation mechanism

associated with the power purchase agreements and consistent with the company's integrated resource plan approved in the July 26, 2023 order in Case No. U-21193.

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 pungpl@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

Katherine L. Peretick, Commissioner

Alessandra R. Carreon, Commissioner

By its action of April 11, 2024.

Lisa Felice, Executive Secretary


PROOF OF SERVICE

STATE OF MICHIGAN)

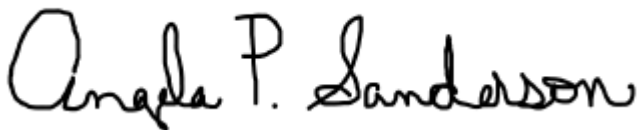
Case No. U-21193

County of Ingham)

Brianna Brown being duly sworn, deposes and says that on April 11, 2024 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 11th day of April 2024.



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

**Service List for U-21193
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