

DTE Electric Company
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Detroit, MI 48226-1279



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May 29, 2024

Honorable Lesley C. Fairrow
Administrative Law Judge
7109 W. Saginaw Highway
Lansing, MI 48917

Re: In the matter, on the Commission's own motion, regarding the regulatory reviews, revisions, determination and/or approvals necessary for regulated electric providers to comply with Section 61 of 2016 PA 342.
MPSC Case No. U-21172

Dear Judge Fairrow:

Attached for your review and submission to the Commission is an executed Partial Settlement Agreement along with a Proof of Service upon all parties. The City of Ann Arbor, Environmental Law and Policy Center, The Ecology Center, and Vote Solar, and Great Lakes Renewable Energy Association signed this Partial Settlement Agreement only to indicate their non-objection. We are still working to obtain a statement of non-objection from the remaining parties. If you have any questions, please do not hesitate to contact me.

Very truly yours,

Andrea E. Hayden

AEH/erb
Attachments
cc: Service List

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission’s own motion,)
regarding the regulatory reviews, revisions,)
determination and/or approvals necessary for)
regulated electric providers to comply with)
Section 61 of 2016 PA 342.)

Case No. U-21172

PARTIAL SETTLEMENT AGREEMENT

Pursuant to MCL 24.278 and Rule 431 of the Michigan Administrative Hearing System’s Rules of Practice and Procedure before the Michigan Public Service Commission (“MPSC” or the “Commission”), the undersigned Parties agree as follows:

WHEREAS, on August 31, 2022 DTE Electric Company (“DTE Electric” or the “Company”) filed an Application requesting approval of its MIGreenPower Voluntary Renewable Energy Plan pursuant to 2008 PA 295, as amended, by 2016 PA 342, MCL 460.1001 et seq., the Rules of Practice and Procedure Before the Michigan Public Service Commission (“Commission”) (R 460.17101 et seq.), the Michigan Administrative Procedures Act (MCL 24.201 et seq.), and the Commission’s December 9, 2021 Order in this case. The Company filed testimony and exhibits in support of its positions concurrently with its Application.

WHEREAS, the initial prehearing conference was held on October 25, 2022 before Administrative Law Judge (“ALJ”) Katherine Talbot, during which the Michigan Energy Innovation Business Council (“Michigan EIBC”), the Institute for Energy Innovation (“IEI”) and Advanced Energy United (“United”; collectively, “Michigan EIBC/IEI/United”), the City of Ann Arbor, Great Lakes Renewable Energy Association (“GLREA”), the Ecology Center, the Environmental Law & Policy Center (“ELPC”), and Vote Solar were granted intervention. 1 Tr 6. The Commission Staff (“Staff”) is also a party to the proceeding.

WHEREAS, on March 14, 2024 DTE Electric filed a Partial Settlement Agreement between the Company and Michigan EIBC/IEI/United in order to resolve Michigan EIBC/IEI/United's request that the Commission allow the Company to continue its Customer Requested Offering only on the condition that it agrees to issue requests for proposals ("RFPs") and follows the Commission-approved competitive procurement guidelines, including the use of an Independent Administrator in this case ("Partial Settlement Agreement" or "Agreement").

WHEREAS, on March 27, 2024, Staff filed objections to the Partial Settlement Agreement, and the Company and Michigan EIBC/IEI/United each filed responses to Staff's objections on April 4, 2024.

WHEREAS, the Commission issued an order on April 25, 2024 remanding the Partial Settlement Agreement to the ALJ and directing that a hearing be held on the Agreement.

WHEREAS, in order to resolve Staff's objections DTE Electric, Michigan EIBC/IEI/United, and Staff have agreed upon certain revisions to the Partial Settlement Agreement as incorporated herein.

NOW THEREFORE, the undersigned parties agree as follows:

1. Subject to satisfaction of the requirements set forth in Section 5 below, DTE Electric agrees that, for special contracts entered into as part of the Customer Requested Offering under Sections 9.1.1 and 9.1.2 of the Settlement Agreement approved in Case No. U-20713/U-20851, including those for Ford Motor Company and Stellantis N.V. (collectively, the "Special Contracts"), it will target the acquisition of a minimum of 50% of the capacity required to fulfill each Special Contract through build transfer agreements ("BTAs") with unaffiliated third parties (the "50% Requirement"). The Company shall not be required to issue more than one RFP per Special Contract.

2. In acquiring the renewable energy resources for the Special Contracts, the Company will comply with the Michigan Public Service Commission's Competitive Procurement Guidelines for Rate Regulated Electric Utilities (Not for Public Utility Regulatory Policies Act ("PURPA")) as it pertains to use of an Independent Monitor ("IM"), and as set forth in paragraph 9 of the settlement agreement approved in Case No. U-21193, subject to the following exceptions:

a. The IM and DTE Electric will not hold a stakeholder information/feedback session before final publication of the RFP. Rather, a meeting with MPSC Staff will be held prior to final publication of the RFP, and a post-RFP publication discussion will be held at least 30 days prior to the cut-off for submission of bids with interested potential respondents to address requests for information.

b. All Long-term Resources will not be considered, as the RFP will be limited to build-transfer agreements only. As such, provisions of the of the Michigan Public Service Commission's Competitive Procurement Guidelines for Rate Regulated Electric Utilities (Not for Public Utility Regulatory Policies Act ("PURPA")) which pertain to neutral technology and PPAs are not applicable.

3. Notwithstanding anything to the contrary in Paragraph 1 or 2 above, the 50% Requirement shall not apply on an individual basis to Special Contracts that require less than 150 MW of new capacity. In the case of such Special Contracts, DTE Electric will instead make commercially reasonable efforts to ensure that at least 50% of the capacity required for such Special Contracts in the aggregate over a rolling two-year period beginning calendar year 2024 is procured through BTAs with unaffiliated third parties. To the extent that DTE Electric acquires any new capacity to fulfill Special Contracts that require less than 150 MW of new capacity in any given year or partial year, as applicable, DTE Electric will include a line item in the reports it files

bi-annually or annually, as applicable, in Docket No. U-18352, showing the capacity acquired to fulfill such Special Contracts during the past year and the amount of such capacity acquired through BTAs. If DTE Electric does not acquire any new capacity to fulfill such Special Contracts in any given year or partial year, as applicable, it shall include a statement to that effect in the report covering such year or partial year.

4. Notwithstanding the 50% Requirement and notwithstanding anything else to the contrary in Paragraphs 1 or 2 above, the Company will have the discretion, but not the obligation, to acquire a higher percentage of capacity from third-party BTAs for Special Contracts in any given solicitation in order to meet the desired capacity in such solicitation. In the case of Special Contracts that require less than 150 MW of new capacity, notwithstanding anything to the contrary in Paragraph 3, the Company will have the discretion, but not the obligation, to acquire a higher percentage of capacity from third-party BTAs in the aggregate over a rolling two-year period beginning calendar year 2024.

5. Third-party bids submitted to fulfill the Special Contract renewable energy resource requirements must conform to the terms of the respective Special Contract, including but not limited to pricing and commercial operation date. Third-party bids submitted must meet all requirements of the RFP.

6. Beginning with the Company's 2024 renewable energy all-source RFP, capacity acquired to fulfill customer demand under the Company's Rider 17 Voluntary Green Pricing ("VGP") Program will be subject to the ownership allocations set forth in paragraphs 12 and 14, collectively, of the July 26, 2023 Settlement Agreement approved in Case No. U-21193 (DTE Electric's Integrated Resource Plan) (the "U-21193 Settlement Agreement"). For ease of reference

only, paragraphs 12 and 14 of the U-21193 Settlement Agreement are included as Appendix A. This paragraph does not apply to capacity required to fulfill Special Contracts.

7. In the event a Special Contract is terminated by the customer, for cost-recovery purposes, the Company will allocate the contract capacity first to the VGP Program, and, if the contract capacity exceeds what is needed to meet current VGP Program demand, the Company will allocate the contract capacity to its Renewable Energy Plan or Clean Energy Plan, in each case approved under Public Act 342 of 2016, as amended by Public Act 235 of 2023, MCL 460.1001 *et seq.* (the “Clean Energy Law”). If the contract capacity is not needed to fulfill VGP Program demand or to comply with the Company’s obligations under the Clean Energy Law, and termination penalties are insufficient, the Company will notify Staff of the actions being taken to mitigate impacts on customers.

8. For the avoidance of doubt, Paragraph 7 above shall not be interpreted to relieve the Company of the obligations it has undertaken to acquire renewable capacity from non-affiliated third parties under paragraphs 12 and 14 of the U-21193 Settlement Agreement. To the extent that the reallocation of any Special Contract capacity to non-Special Contract capacity under Paragraph 7 would cause the Company to exceed the number of megawatts (“MW”) allocated to Company ownership in the applicable year as set forth in the Tables included within paragraph 12 of the U-21193 Settlement Agreement, such excess capacity will be subject to paragraph 14 of the U-21193 Settlement Agreement.

9. Beginning with the Company’s 2024 renewable energy all-source RFP, and through the duration of the Company’s VGP Program, each individual project selected through the RFP process will be allocated proportionately between the VGP Program customers and non-participating customers. Non-participating customers are those that do not subscribe to the

Company's VGP Program and are not a party to a Special Contract. The percentage of each project to be allocated to the Company's VGP Program is the amount of capacity selected by the Company to fulfill VGP Program demand in each RFP divided by the total amount of capacity selected. The outcome of this allocation is intended to target parity of the levelized cost of energy ("LCOE") for participating and non-participating VGP Program customers. Capacity required to fulfill Special Contracts is not subject to the requirements of this paragraph or paragraphs 12 or 14 of the U-21193 Settlement Agreement.

10. The Company will conduct a financial credit risk assessment on any customer seeking to enter into a Special Contract. The Company will review its financial credit risk assessment methodology with Staff. The results of the Company's analysis will be shared with Staff as part of the existing contract audit process, but will not be required to share customer-provided information utilized in the assessment.

11. For any Special Contract entered into after the date the Commission enters an order approving this Partial Settlement Agreement, the Company will also complete a customer impact assessment that compares revenue requirement to annual subscription fee revenue through the duration of the contract. The results of the customer impact assessment will be shared with Staff prior to seeking Commission approval of the Special Contract as part of the existing contract audit process.

12. Except as expressly stated herein, the terms of this Partial Settlement Agreement do not amend the terms of the Settlement Agreement approved in Case. No. U-20713/U-20851 or the U-21193 Settlement Agreement.

13. All offers of settlement and discussions relating to this Settlement Agreement are considered privileged under MRE 408.

14. If the Commission approves this Partial Settlement Agreement without modification, neither the parties to this settlement nor the Commission shall make any reference to, or use this Agreement or the order approving it, as a reason, authority, rationale, or example for taking any action or position or making any subsequent decision in any other case or proceeding; provided however, such references may be made to enforce or implement the terms of the Partial Settlement Agreement and the order approving it.

15. This Partial Settlement Agreement is not severable. Each provision of this Partial Settlement Agreement is dependent upon all other provisions of this Agreement. If the Commission rejects or modifies this Partial Settlement Agreement, the Agreement shall be deemed to be withdrawn, and shall not constitute any part of the record in this proceeding or be used for any other purpose and shall not operate to prejudice the pre-negotiation positions of any party.

16. The parties agree that this Partial Settlement Agreement is reasonable and in the public interest and will reduce the time and expense of the Commission, its Staff, and the parties.

17. This Partial Settlement Agreement may be executed in any number of counterparts, each considered an original, and all counterparts that are executed shall have the same effect as if they were the same instrument.

[SIGNATURES APPEAR ON THE FOLLOWING PAGES]


DTE ELECTRIC COMPANY

By: _____
Andrea E. Hayden (P71976)
One Energy Plaza, 1635 WCB
Detroit, MI 48226
(313) 235-9449

Dated: May 29, 2024

**MICHIGAN ENERGY INNOVATION BUSINESS COUNCIL, INSTITUTE FOR
ENERGY INNOVATION AND ADVANCED ENERGY UNITED**

By: **Laura A.
Chappelle**

 Digitally signed by Laura A.
Chappelle
Date: 2024.05.28 14:31:41 -04'00'

Dated: May 28, 2024

Laura A. Chappelle (P42052)
Justin K. Ooms (P82065)
Potomac Law Group, PLLC
120 N. Washington Square, Ste. 300
Lansing, MI 48933 (517) 281-1515

MICHIGAN PUBLIC SERVICE COMMISSION STAFF

By: 

Dated: May 29, 2024

Amit T. Singh
7109 Saginaw Hwy
3rd Floor
Lansing, MI 48917
(517) 284-7140

CITY OF ANN ARBOR (NON-OBJECTION)

By: Valerie Jackson

Dated: May 28, 2024

Valerie R. Jackson
City of Ann Arbor
Guy C. Larcom City Hall
301 E. Huron Street
Ann Arbor, MI 48104

The City of Ann Arbor signs this Partial Settlement Agreement only to indicate its non-objection.

**ENVIRONMENTAL LAW AND POLICY CENTER, THE ECOLOGY CENTER, AND
VOTE SOLAR (NON-OBJECTION)**

By:



Nicholas J. Schroeck (P70888)
Daniel H.B. Abrams PHV (6338638)
Environmental Law & Policy Center
35 East Wacker Drive, Suite 1600
Chicago, IL 60601

Dated: May 29, 2024

Environmental Law and Policy Center, The Ecology Center, and Vote Solar sign this Partial Settlement Agreement only to indicate their non-objection.

GREAT LAKES RENEWABLE ENERGY ASSOCIATION (NON-OBJECTION)

By: Don L. Keskey

Dated: May 28, 2024

Don L. Keskey (P23003)
Brian W. Coyer (P40809)
University Office Place
333 Albert Avenue, Suite 425
East Lansing, MI 48823

APPENDIX A

12. **Allocation of Renewables.** DTE Electric will target the following capacity allocation for the renewable energy projects proposed in its PCA through 2030:

Table 1 Target Renewables PCA Build and Capacity Allocation (MW)								
	2024	2025	2026	2027	2028	2029	2030	Total
PCA Build	0	0	400	400	600	1000	1000	3400
Company Owned	0	0	280	280	420	700	700	2380
PPA	0	0	120	120	180	300	300	1020

If the PCA build plan for 2029 and 2030 is decreased in the Company’s next IRP, the capacity allocations in Table 1 will be decreased proportionately. Any additional capacity that is added to the PCA build plan for 2028, 2029 and 2030 in the next IRP will not be subject to this Agreement. The Company will also accelerate the development of an additional 400 MW of renewable energy projects to 2026 or 2027 (depending on available capacity) from 2032 as proposed in the PCA, and will target the following capacity allocation for the accelerated renewable energy projects:

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Table 2 Target Renewables Acceleration Build and Capacity Allocation (MW)								
	2024	2025	2026	2027	2028	2029	2030	Total
Acceleration	0	0	200	200	0	0	0	400
BTA	0	0	50	50	0	0	0	100
PPA	0	0	150	150	0	0	0	300

The Company agrees that it will seek PPAs with a minimum term of 20 years and maximum term of 35 years, at the discretion of the bidder. Company-owned projects (self-build projects or Build Transfer Agreements (“BTAs”)) will be scored and ranked separately from PPA bids, and the Company’s affiliates will be prohibited from bidding on the portion of the Company’s new capacity acquired from third parties. Notwithstanding the above allocation, the Company shall not be required to seek approval of projects, whether Company-owned or third-party owned, that exceed the cost thresholds set forth in paragraph 14(b). In addition, if the winning bids from the annual solicitation do not amount to the desired RFP capacity because the balance of the submitted projects did not meet the RFP criteria, the Commission did not approve the project(s), or the projects exceed the cost thresholds in paragraph 14(b), then up to 100 MW or 50% per year of unfulfilled capacity, whichever is higher, in each allocation category (company owned and third party owned) will be carried forward and included in the Company’s next competitive solicitation under the same allocation category. Any remaining capacity that is not carried forward may be filled by projects that meet the project criteria in that solicitation, regardless of allocation category for these projects. Notwithstanding the above allocation and notwithstanding anything else to the contrary in this paragraph 12, the Company will have the discretion, but not the obligation, to acquire a higher proportion of capacity from PPAs in any given solicitation in order to meet the desired RFP capacity in such solicitation. Any such increase in the proportion of capacity acquired from PPAs as part of such solicitation will not affect the capacity allocations in future years.

14. **Additional Renewables and Storage.** The Company will seek to acquire the target amount of renewable and storage capacity identified in the PCA, as modified in paragraphs 12 and 13, for each annual solicitation period and may exceed that target amount depending on the amount of bids, the size of projects, cost and value, and variations in project commercial operation dates. Other than the 220 MW of storage designated for the Trenton Channel project and the 120 MW of storage designated for third parties, in any other solicitation any increase in capacity will be allocated proportionately between Company owned and third party owned projects in an amount similar to the combined build plan totals in Table 1 and 2 for renewables and the overall total in Table 3 for storage provided that the Company will have the discretion, but not the obligation, to acquire additional capacity from third parties without proportionally increasing the capacity allocated to Company-owned projects.

a. The Company will seek approval of contracts selected for development of renewables and storage resources through an *ex parte* application to the Commission.

b. The Parties agree that projects are consistent with the Company's IRP if they are determined to be priced at or below fair market value by the IM based on the bids submitted in each respective RFP or at or below 150% of the \$52.80 Solar LCOE used in the IRP model on Exhibit A-4.3 (i.e., \$79.20). The LCOE calculation will be used for both wind and solar projects if it is higher than the fair market value determined by the IM based on the bids submitted in each respective RFP. The IM will provide a report detailing the

analysis used to determine fair market value which will be submitted with each *ex parte* application. The report will include a summary of all bids received in each respective RFP, similar to DTE Exhibit A-9.3 as filed in this IRP. The report will not contain confidential bid information.

c. The Parties reserve their ability to and are not prohibited from objecting to approval of the contracts referenced in this section or cost recovery related to the same. Nothing in this section establishes or constitutes a presumption or agreement that any project costs or contract selected for development of renewables and storage resources through an *ex parte* application to the Commission are reasonable or prudent.

STATE OF MICHIGAN

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Case No. U-21172

PROOF OF SERVICE

ESTELLA R. BRANSON states that on May 29, 2024, she served a copy of the Partial Settlement Agreement in the above-captioned matter, via electronic mail upon the persons listed on the attached service list.

ESTELLA R. BRANSON

MPSC Case No. U-21172

Service List

ADMINISTRATIVE LAW JUDGE

Hon. Lesley C. Fairrow
Administrative Law Judge
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CITY OF ANN ARBOR

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MICHIGAN ENERGY INNOVATION BUSINESS COUNCIL; THE INSTITUTE FOR ENERGY INNOVATION AND ADVANCED ENERGY ECONOMY

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SOULARDARITY; WE WANT GREEN, TOO

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