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August 30, 2024

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

RE: In the matter of the Application of **DTE ELECTRIC COMPANY** for authority to increase its rates, amend its rate schedules and rules governing the distribution and supply of electric energy, and for miscellaneous accounting authority
MPSC Case No. U-21534

Dear Ms. Felice:

Attached for electronic filing in the above captioned matter is DTE Electric Company's Response to the Motion to Strike by Attorney General, Michigan Environmental Council and Natural Resources Defense Council. Also attached is the Proof of Service.

Very truly yours,

Paula Johnson-Bacon

PJB/erb
Attachments
cc: Service List

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application of)
DTE ELECTRIC COMPANY)
for authority to increase its rates, amend)
its rate schedules and rules governing the)
distribution and supply of electric energy, and)
for miscellaneous accounting authority.)

Case No. U-21534

**DTE ELECTRIC COMPANY’S RESPONSE TO
ATTORNEY GENERAL DANA NESSEL, MICHIGAN ENVIRONMENTAL
COUNCIL AND NATURAL RESOURCES DEFENSE COUNCIL
MOTION TO STRIKE**

DTE Electric Company (“DTE Electric”), pursuant to Rule 432 of the Michigan Public Service Commission’s (the “Commission”) Rules of Practice and Procedure (the “Commission’s Rules”), files its Response to the Michigan Attorney General’s (“AG”), Michigan Environmental Council (“MEC”) and Natural Resources Defense Council (“NRDC”) Motion to Strike. In support of its Response, DTE Electric states as follows:

INTRODUCTION

On August 23, 2024, the AG, MNSC, and NRDC filed a joint motion to strike portions of the pre-filed rebuttal testimony of DTE Electric witnesses Satvir S. Deol, Allen J. Kryscynski, and Morgan Elliot Andahazy on the purported basis that the rebuttal testimony is improper rebuttal testimony. Contrary to the mischaracterization of these witnesses’ testimony as improper rebuttal, in each case the rebuttal testimony is evidence given to “contradict, explain or disprove evidence produced by the other party and tending to directly weaken or impeach that evidence,” and is

permissible rebuttal testimony¹ Consequently, the AG/MEC/NRDC Motion to Strike, if granted, would only impair the Commission’s ability to make a fully-informed decision in this matter.

ARGUMENT

The Motion to Strike the Alleged Improper Rebuttal Testimony Should be Denied Because Such Testimony Properly “Contradicts, Explains or Disproves Evidence Produced by the Other Party”

The AG/MEC/NRDC mischaracterize the cited rebuttal testimony of witnesses Deol, Kryscynski, and Elliot-Andahazy as improper rebuttal, however, these portions of testimony are direct rebuttal to claims and assertions made by various witnesses in this case. In fact, DTE Electric seeks to build a complete and clear record to aid the trier of fact in making a fully informed decision in this case. The Commission’s definition of proper rebuttal evidence is provided in *In Re Midland Cogeneration Venture Limited Partnership*,² which distinguishes proper rebuttal testimony from improper supplemental direct testimony. Specifically, in *Midland Cogeneration*, the Commission defined rebuttal evidence by citing a prior Michigan Court of Appeals decision as follows:

The Michigan Court of Appeals defined rebuttal evidence as that evidence ***given by one party to contradict, explain or disprove evidence produced by the other party and tending to directly weaken or impeach that evidence.*** Further, whether evidence that could have been offered in a party’s case in chief may be given in rebuttal is a matter within the ***discretion of the trial court.*** *Kirk v Ford Motor Co*, 147 Mich App 337 (1985); *app lv den* 426 Mich 866 (1986)³ (bold emphasis added).

It is impossible for the Company to anticipate all the nuanced issues raised by intervenors, and as such, whether the Company could have provided the information in its direct testimony should not be should not be the deciding factor in determining whether rebuttal testimony is improper.

¹ *Kirk v Ford Motor Co*, 147 Mich App 337 (1985); *app lv den* 426 Mich 866 (1986)

² MPSC Case No. U-8871, Opinion and Interim Order, January 31, 1989.

³ MPSC Case No. U-8871, Opinion and Interim Order, January 31, 1989, p. 96.

1. Kryscynski Rebuttal, page 5 line 18 to page 6 line 4

Mr. Kryscynski's rebuttal testimony at page 5 line 18 to page 6 line 4 was intended to provide a specific example in support of the voluminous data provided in this case and others that witnesses Alvarez and Stephens seem to reject. Nevertheless, the Company has agreed to strike the cited rebuttal testimony.

2. Kryscynski Rebuttal, page 16 Q&A27

AG/MEC/NRDC allege that Q&A 27 on page 16 of Mr. Kryscynski's rebuttal testimony is improper rebuttal because it does not respond to Mr. Stephens' equipment failure analysis on page 8 lines 11-12 and page 9 lines 1-7 of his testimony, and instead contradicts the Company's analysis of outages in its Distribution Grid Plan ("DGP"). This is an incorrect characterization of Mr. Kryscynski's testimony.

This particular Q&A was directed toward Mr. Stephens' direct testimony on page 8 lines 1 through 6 where Mr. Stephens asserts that the Company's own data supports his conclusion that equipment failures are not primary a driver of decreased reliability, and therefore should not be considered in the Company's distribution grid planning. It is also provided in response to witness Alvarez's testimony on page 18 lines 11 through 14 and page 19 line 1 in which he broadly states that "in its Distribution Grid Plan, DTE reported that at least 50% of customer minutes of interruption are caused by vegetation contact, while less than 12% of customer minutes of interruption are associated with cause "equipment". To support these statements, both Mr. Alvarez and Mr. Stephens isolate one outage cause chart from the Company's DGP and use it to suggest that DTE Electric's own data shows that equipment outages do not significantly impact reliability. The chart selected by Mr. Stephens and Mr. Alvarez happens to be the chart from the DGP with the lowest equipment causation percentage and its impact on SAIDI (See Exhibit A-23 Schedule M8 pages 40 – 41). To rebut their claims, Mr. Kryscynski provided an analysis that shows an alternative view of equipment

outage impact. The analysis looks at outage causes and their impact on the frequency of customer interruptions (rather than duration) and removes Major Event Days from the analysis to show that in the absence of circumstances like very large storms, equipment outages are the primary driver of interruption frequency.

Similarly, Mr. Kryscynski's rebuttal chart does not undermine the Company's own evidence in the DGP about what causes more outages – trees/wind, animals, equipment, or others. It provides a different look at the causes of outages under different circumstances. Mr. Stephens isolated one set of outage causes to support his testimony, and Mr. Kryscynski provided a different perspective with a separate metric to illustrate the impact of equipment outages.

3. Deol Rebuttal, page 36 Q&A 44 through page 42, Q&A 47

AG/MNSC/NRDC's request to strike the rebuttal testimony of Witness Deol pertaining to the necessity of completion of Tie 4105, Phase 3 and Phase 4, and Trunk 3509 is disingenuous. Witness Stephens recommends disallowance for "projects not previously approved by the Commission", then conversely recommends disallowance of \$28.1M requested for completion of Tie 4105 Phase 3 and 4 and Trunk 3509 based on lack of cost benefit analysis. (Direct Stephens, p.37). These are subtransmission projects previously approved by the Commission. (See Case No. U-21297, December 1, 2023 Order, p.106).

Under no reasonable circumstance in advance of filing direct testimony could Witness Deol have anticipated a recommendation of disallowance relating to previously approved projects, currently in process of completion, based upon lack of a benefit cost analysis as proposed by Witness Stephens. Witness Deol's rebuttal Q&A 44 through 47 is appropriately offered in direct response to Witness Stephen's criticism that the necessity of the Tie 4105 and Trunk 3509 projects have not been appropriately and completely evaluated and to rebut the erroneous implication in his testimony that these projects were not previously approved by the Commission.

4. Elliott-Andahazy Rebuttal, page 12 line 23 to page 14 line 10 and Exhibit A-51 Schedule PP9

Exhibit A-51 Schedule PP9 and Witness Elliott-Andahazy Rebuttal, page 12 line 23 through page 14 line 10 are appropriate rebuttal as they tend to disprove Witness Stephens' claims that there is little to no benefit to 4.8kV Hardening over the performance of tree trimming alone. Exhibit A-51, Schedule PP9 is information requested by MNSC which was provided to them on May 24, 2024 in precisely the format they requested. It is a comparison of customer interruptions, minutes interrupted and wire downs between hardened circuits and control groups. The comparison data between the control groups and the hardened circuits are broken down by circuit in the Company's discovery response and contain a 3-year average for the prior and subsequent years as requested by MNSC.

The summary tables contained on pages 13 and 14 of Witness Elliott-Andahazy's Rebuttal Testimony are not the result of complex analysis and could easily have been produced by AG/MNSC/NRDC or anyone else reviewing the discovery response. The tables do nothing more than provide sums of the 3-year averages listed by circuit in Exhibit 51, PP9, subtract the sums of hardened circuits from the sums of control groups and express the difference numerically. These tables summarize the information provided to MNSC and directly refute Witness Stephens' inconsistent claims that 4.8kV Hardening is not beneficial compared to tree trimming alone.

The benefits of tree trimming degrade over time due to vegetation regrowth. The summaries of the information provided to MNSC reflected in Tables 1, 2 and 3 of Witness Elliott -Andahazy's rebuttal testimony demonstrate the benefits of the 4.8kV Hardening Program do not see benefit degradation in the same manner as tree trimming alone, and it is therefore reasonable to conclude that the equipment replacement effectuated by 4.8kV Hardening is contributing to the persistence of customer benefits.

REQUEST FOR RELIEF

Based on the foregoing, DTE respectfully requests that the AG/MEC/NRDC's Motion to Strike be denied with prejudice and that all of DTE Electric's challenged testimony and exhibits be deemed admissible in this proceeding.

DTE ELECTRIC COMPANY

By:

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Dated: August 30, 2024

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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Case No. U-21534

PROOF OF SERVICE

STATE OF MICHIGAN)
) ss.
COUNTY OF WAYNE)

ESTELLA R. BRANSON states that on August 30, 2024, she served a copy of DTE Electric Company’s Response to the Motion to Strike by Attorney General, Michigan Environmental Council and Natural Resources Defense Council in the above captioned matter, via electronic mail upon the persons listed on the attached service list.

ESTELLA R. BRANSON

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MPSC Case No. U-21534

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