

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**
(e-file paperless)

**MICHIGAN PUBLIC SERVICE COMMISSION STAFF'S (STAFF'S)
CONSOLIDATED MOTION AND BRIEF CONCERNING GREAT LAKES
RENEWABLE ENERGY ASSOCIATION'S (GLREA'S)
REPEATED FAILURE TO EXECUTE PROPER SERVICE**

**MICHIGAN PUBLIC SERVICE COMMISSION
STAFF**

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DATED: September 20, 2024

Through its counsel, Staff files this consolidated motion and brief seeking relief from an ongoing problem.

- 1) Pursuant to the Commission's filing requirements in Case No. U-18238, parties were first informed that they must include Staff's Case Coordinator on the service list in ongoing rate cases.
- 2) This case, U-21534 is an ongoing rate case for DTE Electric Company, *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.*
- 3) On the April 26, 2024, a scheduling memo was issued in this case. It contained the following language (Attachment A):

General 1. The parties shall maintain an up-to-date service list and ensure that all persons or mailboxes on the list are served all documents. **Please make sure that ALL documents (especially discovery) are served on the Staff case coordinator.**
- 4) No party objected to the terms of the Scheduling Order.
- 5) In addition, steps have been taken to list the Staff Case Coordinator on the Parties List on the docket in this case.
- 6) Despite these efforts, GRLEA's counsel has repeatedly failed to serve Staff's Case Coordinator, even though politely reminded to do so, as demonstrated by the following instances:

- a. On June 20, 2024, GLREA failed to serve Staff's case coordinator Lori Mayabb, and she was not on the service list for the proof that was filed. On June 20th, I informed Mr. Keskey's secretary Carol Dane, Mr. Keskey's administrative assistant, that GLREA should serve Staff's Case Coordinator.
- b. On July 8, 2024, GLREA failed to serve Ms. Mayabb on two sets of discovery, and she was not on GLREA's service list for the proofs that were filed. On July 9, 2020, Michael Orris contacted Carol Dane via email to request Ms. Mayabb be added to the service list.
- c. On July 16, 2024, GLREA failed to serve Ms. Mayabb on discovery, even though she was on the service list for the proof that was filed. On July 16, 2024, I reached out to the entire service list via email, including Mr. Keskey to kindly remind everyone to serve Lori Mayabb in this and all rate cases. Ms. Dane replied indicating she made a mistake on service.
- d. On July 18, 2024, GLREA failed to serve Ms. Mayabb on discovery. ALJ Wallace was informed, and the ALJ sent an email to GLREA's counsel Don Keskey reminding him to include Ms. Mayabb, per Attachment A to the scheduling order and stating, "going forward to do better".

- e. On September 17, 2024, GLREA failed to serve Ms. Mayabb on discovery and failed to include her on the service list.
- 7) This is problematic for the Staff because Ms. Mayabb is instrumental in distributing copious discovery and numerous pleadings to Staff members for their review. With the tight timelines in 10-month rate cases and voluminous dockets, Staff does not wish to overlook documents from any party, including GLREA.
- 8) In its April 25, 2024, Order in Case No. 18238 at page 8 the Commission states:
- Discovery Responses issued by the utility or any intervening party shall be served to those parties and individuals **identified on the Proof of Service and the Parties List**. [Emphasis added.]
- 9) Page 6 of the updated standard rate case filing requirements, updated July 9, 2024, pursuant to order dated April 25, 2024, in Case No. U-18238, states:
- The Staff's Case Coordinator shall be included on the service list for all rate cases, including, but not limited to, for receiving service of non-confidential discovery as well as confidential discovery.
- 10) Ms. Mayabb is included in Parties List for this case and should be served on all discovery requests and responses.
- 11) Rule 792.10110 allows the ALJ to address issues regarding service and to decline to consider documents not properly served.

- 12) In light of the foregoing, Staff requests that future scheduling orders and rate cases further emphasize the need to serve the Case Coordinator with all documents, including discovery, to be deemed properly served.
- 13) The Commission has upheld the ALJ's directives that assist in complying with the strict deadlines of rate cases. In its September 26, 2019, Order in Consumers Energy's rate Case No. 20322, the Commission stated:

Pursuant to MCL 460.6a(5), the Commission must reach a final decision on a completed application to increase or decrease utility rates within a very strict 10-month timeframe. To assist the Commission in complying with that deadline, the administrative law judge is required to set a schedule for the proceedings, consistent with the Commission's Rate Case Filing Requirements, and is permitted to issue specific directives, pursuant to statute, the administrative rules, and the Michigan Court Rules, that may include limiting the length and content of reply briefs. If the parties choose not to comply with the administrative law judge's legally enforceable directives, the Commission acknowledges the administrative law judge's discretion to enforce those directives pursuant to law and the Michigan Court Rules.

- 14) In the September 26, 2019, Order, the Commission upheld the ALJ's decision not to consider non-conforming portions of the party's reply brief where they were in conflict with the ALJ's appropriate directives in the ALJ's scheduling order. The same reasoning would apply to a party's failure to comply with an ALJ's directive on proper service of documents.

Conclusion

Therefore, as stated in this consolidated motion and brief, the Staff moves for the ALJ to warn GLREA's counsel that this repeated failure to serve is not taken

lightly as it is in violation of a Commission order and the Scheduling Order instructions in this matter and that failure to serve the Case Coordinator may constitute failure of service. The Staff respectfully requests that the ALJ take such action as she deems appropriate to resolve this issue. In the future, Staff submits it may be appropriate for the discovery not to be considered served until the Staff's Case Coordinator is served and for the period for response not to start until that date. The Staff requests such other relief as the ALJ may deem appropriate in this matter.

Respectfully submitted,

**MICHIGAN PUBLIC SERVICE COMMISSION
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DATED: September 20, 2024

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Subscribed and sworn to before me
this **20th** day of **September, 2024**.

Cherie A. R. Shea, Notary Public
State of Michigan, County of Jackson
Acting in the County of Eaton
My Commission Expires: 04-13-31