

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**

**REPLY BRIEF OF THE
GREAT LAKES RENEWABLE ENERGY ASSOCIATION**

Don L. Keskey (P23003)
Brian W. Coyer (P40809)
Public Law Resource Center PLLC
University Office Place
333 Albert Avenue, Suite 425
East Lansing, MI 48823
Telephone: (517) 999-7572
E-mails: donkeskey@publiclawresourcecenter.com
bwcoyer@publiclawresourcecenter.com

Dated: October 23, 2024

TABLE OF CONTENTS

I. – V.	TEST YEAR, RATEBASE, CAPITAL STRUCTURE AND RATE OF RETURN, ADJUSTED OPERATING INCOME AND COST OF SERVICE	1
VI.	RATE DESIGN AND TARIFFS.....	1
A.	Regulatory Environment.....	1
B.	Commercial Time of Use (TOU) Rates and Peak Load Reduction.....	1
C.	Demand Response.....	3
D.	Critical Peak Rebate (CPR) Programs and Grid Interactive Water Heaters (GIWH).....	4
E.	Rejection of DTE’s Tariff Filed in <i>Ex Parte</i> case U-21798	5
VII.	OTHER ISSUES.....	7
A.	Outage Credit Recovery.....	7
B.	DTEE’s Proposed Geo-Target EWR and DR Pilot (Fisher).....	8
C.	Battery Energy Storage System (BESS) Deployment	8
D.	DTE’s Outages and Development of Microgrids	9
VIII.	CONCLUSION AND REQUEST FOR RELIEF.....	12

The Great Lakes Renewable Energy Association (GLREA) files this Reply Brief in accordance with the schedule set by the presiding Administrative Law Judge (ALJ). GLREA presents this Reply Brief based upon the topic structures recommended by the ALJ, as reflected in the topics included in GLREA’s October 3, 2024 Initial Brief.

I. – V. TEST YEAR, RATEBASE, CAPITAL STRUCTURE AND RATE OF RETURN, ADJUSTED OPERATING INCOME AND COST OF SERVICE

The GLREA did not present testimony or briefing regarding these elements of the ratemaking process, but defers to the presentations made by the Staff and Intervenors on these issues.

VI. RATE DESIGN AND TARIFFS

A. Regulatory Environment

GLREA’s Initial Brief discusses the present incentive for the company to expand ratebase, and diminish addressing effective peak load cost reductions, and capacity adequacy, at pp 2-4 of its Initial Brief. There appears to be no response to these GLREA observations in the Initial Briefs filed by other parties.

B. Commercial Time of Use (TOU) Rates and Peak Load Reduction

GLREA discussed these issues at pp 4-11 of its Initial Brief.

The Company in its brief asserts that “Rate Schedule D11 is a demand-based rate that encourages more efficient use of the system, which in turn results in lower average costs.”¹ Nowhere in the record does the Company provide *evidence* that demand-based rates encourage more efficient use of the system. As GLREA discussed in its brief, in a prior (but recent) DTE Energy case, the GLREA provided testimony citing multiple rate design experts that stated that

¹ Company brief, p 318

TOU rates are more effective at encouraging efficient use of the system than non-coincident demand charges.² The Company's assertion should be disregarded as unsupported.

The Company in brief also expresses concern about a "snapback" in TOU rates, "inadvertently set[ting] a new class peak hour on the edge of the on-peak period".³ The Company does not, however, indicate why a shifting of peak usage from the current peak hour to a different peak hour would be a negative outcome. If the resulting class peak demand was lower than the current class peak demand, or if it was less correlated with the peak demand period of other classes, it would be beneficial. As discussed before, lower peak demand reduces costs. Of course, the peak rate period in TOU rates can always be adjusted in a later rate case, if it no longer aligns with peak demand. GLREA suggests that the Company's concern is misplaced, or more focused on their unsupported fear of under-recovery of costs.⁴

In brief, the Company again falsely claims that GLREA Witness Richter "reasoned that economic efficiency is the only important consideration in rate design."⁵ As GLREA discussed in its brief, nowhere in the record has Witness Richter (or any other GLREA witness) asserted that economic efficiency is the only important consideration in rate design. Witness Richter's testimony in the instant case, and a prior case, directly contradicts this assertion. Further, nowhere in the Company's testimony did they show, *or even assert*, that their proposed C&I TOU rate design would accomplish any other rate design objective more effectively than the proposal by GLREA.⁶ If the two proposals are equal by all other measures, but the GLREA

² GLREA brief, pp 8-9

³ Company brief, p 319

⁴ Ibid, p 316

⁵ Company brief, p 321

⁶ GLREA brief, pp 6-7.

proposal is superior in delivering economic efficiency, then the GLREA proposal is superior overall and worthy of implementation.

C. Demand Response

GLREA discussed Demand Response issues at pp 11-12 of its Initial Brief.

In their brief, Staff states that, “The Company should be required to expand its analysis of the cost-effectiveness of its DR programs....”⁷ GLREA agrees. As GLREA discussed in testimony, DTEE’s Cool Currents DR program is unable to curtail load in approximately 40% of their installations, while incentive rates are still being provided to all the enrolled customers. This has required a 9.4% reduction in the Company’s effective DR capability.⁸ The Company should be directed to report how this came to happen, how long it has been going on, and what remedies the Company proposes to correct this situation.

GLREA also suggested that if the Company resists Commission directives to enhance their DR program, the Commission should create the opportunity for a third-party to do so via Virtual Peak Power Plants (VPPs). The Company disagrees because allowing a third-party aggregator to conduct a residential DR pilot “would violate the Commission’s decisions in Case No. U-21099.”⁹ In brief, GLREA pointed out that a Commission order cannot “violate” a prior Commission order; the Commission is not bound by its prior orders. Further, GLREA’s recommendation was for the Commission to open VPPs to residential customers only if the Commission had ordered the Company to propose new DR programs in the Company’s next rate case, and the Company resisted doing so. GLREA’s proposal would put any change to VPP practices into the future, after Staff and stakeholders have had time to put customer protections in

⁷ Staff brief, p 155.

⁸ 6 Tr 4825 - 4830

⁹ Company brief, pp 174-5.

place.¹⁰ Given the Company's economic incentives for continued capital investment, GLREA stands by its recommendation that the Commission consider opening competition to regulated utility-sponsored DR programs.

D. Critical Peak Rebate (CPR) Programs and Grid Interactive Water Heaters (GIWH)

GLREA discussed these issues in its Initial Brief at pp 12-16.

With respect to Critical Peak Rebate (CPR) program, the Company simply states that "The proposed directive would be inappropriate, but the Company appreciates GLREA's suggestions and will keep them in mind for potential future pilot opportunities."¹¹ GLREA disagrees with this company position. As GLREA explained in testimony, while reducing peak demand reduces capital investment costs, which reduces rate pressure, reducing peak demand may not be in the Company's interest. High peak demand provides the Company with the justification for capital investment in both generation and distribution systems, and the Company's profit is computed as a percentage of their capital base. Therefore, a Commission push for programs that can reduce peak demand and hence the need for more capital investment is completely appropriate, in the interest of affordability.¹²

While not opposing GLREA's recommendation that the Company be ordered to design a *pilot* CPR program, Staff expressed three concerns:¹³

1. **That CPR programs produce less demand reduction per customer than DPP programs.** In response, and as GLREA pointed out in its brief, Staff did not present any source of data to support this assertion, and the per customer demand

¹⁰ GLREA brief, pp 14-15.

¹¹ Company brief, p 174.

¹² GLREA brief, p 2.

¹³ Staff brief, pp 153 - 155

reduction would depend on the details of the program design. More importantly, if a pilot is implemented, effectiveness could be measured with hard data, prior to a full-blow program launch.¹⁴ This concern is valid, but can be managed via the pilot program process.

2. **That CPR programs require an imputed baseline of usage.** In response, GLREA agrees, that is a requirement of a CPR program. Numerous other jurisdictions that GLREA cited in testimony use that approach. Electric rates are already routinely based on projections of future sales and future costs, so using baseline data is not breaking new ground in rate setting.
3. **That the cost of the bill credits given to CPR customers is spread to all customers; therefore, cost effectiveness needs careful consideration.** In response, GLREA agrees, and points out that the numerous other jurisdictions that have implemented CPR programs (cited in our testimony), including Consumers Energy here in Michigan, have faced the same issue. GLREA did not propose a full-blown program, but a *pilot* program, which would allow cost effectiveness to be determined with hard data. Have all existing DR programs been subjected to the same scrutiny?

None of the limited three concerns raised by Staff justify the rejection of GLREA's proposals on this issue.

E. Rejection of DTE's Tariff Filed in *Ex Parte* case U-21798

GLREA discussed the legal issues related to the *ex parte* tariff filed in U-21798 at pp 16-22 of its Initial Brief, which is incorporated herein by reference.

¹⁴ GLREA brief, pp 15-16

GLREA notes that DTE in its Initial case filed no evidence or tariffs to exclude securitization charges from the total billing credit to be applicable to DG customer outflow. Nor did DTE revise or supplement its testimony, or tariff filings, to provide for such a proposal in this case. Because DTE has failed to carry its burden of proof to present evidence for a proposed tariff to exclude securitization charges from the total billing credit to be assigned to DG customer outflow, such a proposal and tariff should be rejected in this case, with the result that securitization charges are not to be excluded from the total billing credit assigned to DG customer outflow.

GLREA asserts that the plain language of Section 177(2), MCL 460.1177(2), does not provide for exclusion of securitization charges from the total credit applied to DG customer outflow. Section 177(2) states:

A distributed generation customer shall be credited by the customer's supplier of electric generation service for the outflow during the billing period. The credit must appear on the bill for the following billing period and be limited to the total charges on that bill. Any excess bill credits not used to offset inflow charges in the next billing period will be carried forward to subsequent billing periods.

Second, the DG billing credit is to be assigned to, and paid for, by the entity which furnishes electric service to the customer, which is clearly the utility and not any other entity (such as the Special Purpose Entity which collects securitization charges on customer bills). The subject billing credit is thus a responsibility for the utility to implement.

Third, there exists no conflict between the continued collection of securitization charges on customer bills (including DG customer bills) and the concurrent recognition and implementation of the billing credit to be undertaken by the utility with respect to DG customer outflow. Under no circumstances would the DG billing credit constitute a bypass or interruption of the continued collection of the securitization charges on all customer bills. Neither the

company nor any other party to this case presented any testimony or rationale for excluding the securitization charges from the billing credit applicable to DG customer outflow.

In short, the Commission in this case should adopt the tariff as originally proposed in this case by DTE to implement a billing credit for DG customer outflow that includes all charges on the total DG customer bill, including securitization charges.

VII. OTHER ISSUES

A. Outage Credit Recovery

GLREA discussed this issue at pp 22-27 of its Initial Brief.

DTE's Initial Brief (pp 292-296) discusses a somewhat convoluted proposal to recover in rates customer rate credits associated with outages occurring on DTE's system. DTE's proposals attempt to demarcate outages caused by events beyond its control (which may not relate to issues regarding the time to restore service) in contrast to outages within its control. The problem with DTE's proposals include the difficulty inherent in implementing this demarcation, and the lack of adequate criteria to administer DTE's proposals.

With the increased number and length of outages experienced by customers, GLREA suggests that the Commission would be well served by simply rejecting any rate recovery of outage credits (as otherwise required by Commission rules and orders) in this case. Requiring customers to pay for all or a part of the outage credit undercuts the purpose of the outage credits, and would be highly circular in that the customers would end up paying for the outage credits otherwise required by Commission rules and orders. Also, the cause for a particular outage may not adequately address the company's responsibilities to anticipate and proactively avoid outages. The initial cause of an outage also may not explain or excuse unacceptable delays in restoring service.

GLREA appreciates the Staff's discussion of this issue at pp 166-170 of its brief.

Overall, Staff's discussion may suggest that the criteria for allowing any rate recovery of outage credits is not yet sufficiently developed, and that allowing such rate recovery for purposes of this case is premature. Difficulties exist in defining when an outage is beyond the control of the utility (as the utility should proactively develop advance plans to quickly address outages) and to evaluate when an outage is unreasonably extended due to shortcomings in the utility's approach to restoring service.

DTE and the Staff have also avoided discussing other remedies the utility should pursue against a transmission company, another utility, or another third party causing an outage before requiring the ratepaying customers to serve as the "insurance company" in the first instance to cover the cost of outage credits to customers. Before any portion of outage costs are authorized in rates, the utility should also establish that it has first sought recovery of the outage costs from the third party that caused the outage.

GLREA therefore asserts that any rate recovery of a portion of the outage credits should not be adopted at this time, but should be deferred to a future case if at all.

B. DTEE's Proposed Geo-Target EWR and DR Pilot (Fisher)

GLREA discussed this issue at pp 25-27 of its Initial Brief. GLREA does not discern any meaningful discussion of this issue in the briefs of other parties.

C. Battery Energy Storage System (BESS) Deployment

GLREA discussed this topic at pp 27-29 of GLREA's Initial Brief.

DTE discusses its proposal (C&I Battery Storage Pilot) at pp 32-34 and 171-173 of its Initial Brief. DTE's discussion appears to address or counter GLREA Witness Richter's recommendations as included in GLREA's Initial Brief.

GLREA recommended a Commission directive for the Company to evaluate the option of connecting BESSs at substations, to provide a variety of benefits not provided by transmission-connected BESS. In brief, the Company repeats its assertion that its adherence to the MPSC's Competitive Procurement Guidelines for Rate-Regulated Electric Utilities already requires "transparent consideration and evaluation of distribution-connected resources." This response completely ignores our point that companies bidding BESSs in response to a DTEE RFP cannot reasonably propose a substation-located system if the Company does not provide its unique knowledge of its network to the bidders in the RFP. By the time the Company has issued an RFP, evaluated the bids, and brings proposals to the Commission for approval, it will be too late to redesign the RFP and pursue bids that would provide capacity relief and other benefits to the grid that transmission-connected BESSs cannot provide. The Company's responses have also ignored GLREA testimony that third-party developers could install transmission-connected BESSs and sell the energy, capacity, and ancillary services in the MISO markets; the capital of a monopoly utility company is not necessary for that approach.

D. DTE's Outages and Development of Microgrids

GLREA discussed the need to address DTE's deficient outages record, and the need to encourage the development of microgrids to increase the reliability and resilience of DTE's system at pp 29-31 of GLREA's Initial Brief.

DTE's business model and regulatory proposals simply continue the century old approach of expending ever larger capital amounts on wholly centralized utility owned networks and generation facilities to serve its customers, including the residential class of customers who remain wholly captive to DTE's monopoly business model. An alternative approach that should be encouraged is to develop networks, facilities, and programs that decentralize the provision of

electric service to customers and empowers customers to at least partially contribute to self-generation to minimize customers' utility costs so as to increase the affordability and reliability of electric service, and to mitigate the impacts of electric service outages.

CEO envisions a grid of the future to be decentralized, possibly with the generation and energy storage both behind and in front of the meter. GLREA also agrees with ELPC¹⁵, to encourage DTE to implement generation and storage to increase reliability through “non-conventional solutions” that alleviate grid strain and maximize each solution's value to the system. GLREA asserts that DTE's battery pilot should also embrace the creation and expansion of microgrids to increase reliability, resiliency and grid flexibility at the substation and lower levels of the network.

Implementation of microgrids by the utility would stabilize the grid locally and as a whole. GLREA, however, asserts that utility owned microgrids should not adversely affect groups of users that want to band together and develop their own microgrid behind one meter, with interconnection with the utility using a compatible cooperative approach.

GLREA also supports the creation and expansion of customer owned microgrids. In brief, Staff witness Krause rejected DAAO's proposal for microgrids using fossil fuel generation¹⁶. It is unclear if Staff understands the function and purpose of microgrids. Microgrids already exist in many industrial and university campuses. Oxford Dictionary describes well Microgrids as “a small network of electricity users with a local source of supply that is usually attached to a centralized national grid but is able to function independently.” This definition does not describe the generation technology. The Commission should reject limiting

¹⁵ ELPC brief, pp 19-21

¹⁶ Staff brief, p 130

generation technology for purposes of implementing microgrids. GLREA is in favor of sustainably powered individual users all the way up to utility generation of power.

Staff witness Krause also rejects DAAO's proposal that microgrids be compensated on the basis of net metering.¹⁷ While GLREA disagrees with the present compensation rate for DG, GLREA agrees with Staff that compensation for microgrid outflow should be based upon Commission rates and tariffs. The rates and tariffs that should be applied to a microgrid may depend in part upon the size and generation capacity of the microgrid.

GLREA asserts that one of the advantages of microgrids is that a small group of electric customers can combine their usage as a group and can connect to the larger grid behind one meter, and to thereby be classified as a larger user (commercial or industrial) to qualify for lower rates. DAAO has argued that low-income rates are too high and that the reliability of service is not acceptable. Microgrids can address both problems by lowering power costs and rates, and by increasing reliability.

GLREA therefore requests the Commission to allow and encourage the grouping of users behind one meter, as the utilities presently allow for large users, with the microgrid being governed by the rates and tariffs as approved in each rate case.

¹⁷ Staff Brief p 131

VIII. CONCLUSION AND REQUEST FOR RELIEF

GLREA respectfully requests the Commission to adopt the positions and recommendations of GLREA as presented in its testimony, October 3, 2024 Initial Brief, and in this Reply Brief. GLREA requests such further and consistent relief that is lawful and reasonable.

Respectfully submitted,

Don L. Keskey

Don L. Keskey (P23003)

Brian W. Coyer (P40809)

Public Law Resource Center PLLC

University Office Place

333 Albert Avenue, Suite 425

East Lansing, MI 48823

Telephone: (517) 999-7572

E-mails: donkeskey@publiclawresourcecenter.com

bwcoyer@publiclawresourcecenter.com

Dated: October 23, 2024

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**

PROOF OF SERVICE

On **October 23, 2024** an electronic copy of the **Reply Brief of the Great Lakes**

Renewable Energy Association was served on the following:

Name/Party	E-mail Address
Administrative Law Judge Sally Wallace	wallaces2@michigan.gov
DTE ENERGY COMPANY Jon P. Christinidis Andrea E. Hayden Paula Johnson-Bacon John Janiszewski Breanne K. Reitzel	mpscfilings@dteenergy.com jon.christinidis@dteenergy.com andrea.hayden@dteenergy.com paula.bacon@dteenergy.com john.janiszewski@dteenergy.com breanne.reitzel@dteenergy.com
Attorney General Dana Nessel Joel B. King	Kingj38@michigan.gov
MPSC Staff Amit T. Singh Heather M.S. Durian Monica M. Stephens Michael J. Orris Lori Mayabb	Singha9@michigan.gov durianh@michigan.gov stephensm11@michigan.gov orrism@michigan.gov mayabbl@michigan.gov
Michigan Environmental Council, Citizens Utility Board of Michigan (CUB), Natural Resources Defense Council, Sierra Club Christopher M. Bzdok Tracy Jane Andrews	chris@tropospherelegal.com tjandrews@tropospherelegal.com breanna@tropospherelegal.com

<p>Soulardarity, We Want Green Too Amanda Urban Mark N. Templeton Jacob Schuhardt Sam Heppel Madison S. Wilson</p>	<p>t-9aurba@lawclinic.uchicago.edu templeton@uchicago.edu jschuhardt@uchicago.edu heppell@uchicago.edu madisonswilson@uchicago.edu</p>
<p>Michigan Energy Innovation Business Council (MIEIBC), Foundry Association of Michigan, Energy Michigan Laura A. Chappelle Timothy J. Lundgren Justin K. Ooms</p>	<p>lchappelle@potomaclaw.com tlundgren@potomaclaw.com jooms@potomaclaw.com</p>
<p>Environmental Law & Policy Center, The Ecology Center, Union of Concerned Scientists, Vote Solar Nicholas N. Wallace Daniel H. B. Abrams</p>	<p>nwallace@elpc.org dabrams@elpc.org</p>
<p>City of Ann Arbor, Michigan Municipal Association for Utility Issues Valerie R. Jackson Valerie J. M. Brader</p>	<p>vjackson@a2gov.org valerie@rivenoaklaw.com</p>
<p>THE KROGER COMPANY Kurt J. Boehm Jody Kyler Cohn Justin Bieber</p>	<p>kboehm@bkllawfirm.com jkylercohn@bkllawfirm.com jbieber@energystrat.com</p>
<p>UTILITY WORKERS UNION OF AMERICA, LOCAL 223 Benjamin L. King</p>	<p>bking@michworkerlaw.com</p>
<p>Walmart, Inc. Melissa M. Horne</p>	<p>mhorne@hcc-law.com</p>
<p>Association of Businesses Advocating Tariff Equity Michael J. Pattwell Stephen A. Campbell</p>	<p>mpattwell@clarkhill.com scampbell@clarkhill.com jyork@consultbai.com</p>

EVgo Services, LLC Nikhil Vijaykar	nvijaykar@keyesfox.com
International Transmission Company Richard J. Aaron Courtney F. Kissel Olivia R.C.A. Flower Hannah Buzolitis	RAaron@dykema.com CKissel@dykema.com OFlower@dykema.com HBuzolits@dykema.com
Michigan Cable Telecommunications Association (MCTA) Sean P. Gallagher	sgallagher@fraserlawfirm.com
PROTEC (The Michigan Coalition to Protect the Public Rights of Way) Michael J. Watza	Mike.watza@kitch.com
Electrify America, LLC Stephen Bright Jennifer A. Morante	Steve.Bright@electrifyamerica.com jmorante@grsm.com

The statements above are true to the best of my knowledge, information and belief.

PUBLIC LAW RESOURCE CENTER PLLC,

Carol A. Dane

Carol A. Dane

Public Law Resource Center PLLC

University Office Place

333 Albert Avenue, Suite 425

East Lansing, MI 48823

Telephone: (517) 999-7572

E-mail: adminasst@publiclawresourcecenter.com

Dated: October 23, 2024