

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the Matter of the Application of DTE Electric
Company for Approval of Special Contracts

MPSC No. U-21990

**Attorney General's Notice of Intervention
and Request for a Contested Proceeding**

Attorney General Dana Nessel hereby provides her notice of intervention in this matter and a request for a contested proceeding under MCL 24.271 et seq., allowing at least 180 days from the date of the Company's application before a final order is issued by the Commission, or if an expedited review is needed, at least 60 days for intervenors to review and conduct expedited discovery not including the time required for a briefing schedule. The Attorney General further gives notice of her appearance as a party. In response to the application filed by DTE Electric Company ("DTE Electric," "DTE," or "the Company"), the Attorney General states:

I. Statement of Interest

1. The State of Michigan is a body politic established under the Constitution of the United States of America and admitted into the Union by act of Congress under date of January 26, 1837.

2. She is the duly elected and qualified Attorney General of the State of Michigan and holds such office by virtue of and pursuant to the provisions of Const 1963, art 5, § 21, and by mandate of the qualified electorate of the State of Michigan,

and she is head of the Department of Attorney General created by the Executive Organization Act, 1965 PA 380, ch 3; MCL 16.150 et seq.

3. The Attorney General's intervention and appearance in this proceeding are authorized by both statutory and common law.

4. MCL 14.28 provides in relevant part:

The attorney general . . . may, when in [her] own judgment the interests of the state require it, intervene in and appear for the people of this state in any other court or tribunal, in any cause or matter, civil or criminal, in which the people of this state may be a party or interested.

The Attorney General has the right to intervene in any administrative proceeding when the Attorney General, in her own discretion, deems it in the public interest to do so. *People v O'Hara*, 278 Mich 281; 270 NW2d 298 (1936), and *Gremore v Peoples Community Hospital Authority*, 8 Mich App 56; 153 NW2d 377 (1967).

5. In *Attorney General v Liquor Control Comm'n*, 65 Mich App 88; 237 NW2d 196 (1975), the Michigan Liquor Control Commission issued a complaint against four liquor licensees arising out of criminal convictions in federal court actions. A hearing was conducted before one of the liquor control commissioners, and that commissioner dismissed the complaint. One month later, the Attorney General intervened in the proceedings and filed a petition for rehearing. The Liquor Control Commission issued a written decision and ruled (1) that the Attorney General could not intervene and (2) that it had no authority to consider a petition for rehearing. The Michigan Court of Appeals ruled that, even after the administrative agency had

ruled in favor of the licensee, the Attorney General had the legal authority and duty to intervene and seek review. *Id.* at 91-93.

6. As the chief law officer of the State, the Attorney General has common law authority to represent public interests, as she may deem necessary for the protection of public rights. *In re Certified Question*, 465 Mich 537, 543-545; 638 NW2d 409 (2002), and *Withee v Lane & Libby Fisheries Co*, 120 Me 121, 123; 113 A 22, 23 (1921).

7. The common law powers and duties of the Attorney General include the power to intervene in all actions which are of concern to the general public. *State ex rel Patterson v Warren*, 254 Miss 293; 180 So 2d 293, 299 (1965).

8. The Attorney General, in her judgment, has determined that the interests of the State and the People of the State of Michigan require her to intervene in this proceeding on their behalf. The proceeding will directly affect the State and a large number of the People of this State who are customers of DTE. Any action taken in this proceeding will directly affect the economy of this state and the general well-being of residents in DTE's service territory, and may impact the State's ability to achieve its renewable and clean energy standards established by the legislature under Public Act 235.

II. Statement of Positions

9. On October 31, 2025, DTE filed its application in this case together with supporting testimony and exhibits, seeking an order approving two contracts for providing service to a large customer in its service territory.

10. Per DTE’s application, the large customer at issue would represent an addition of 1.4 gigawatts of maximum electricity demand. A customer of this size is unprecedented in Michigan, and per DTE’s application would increase the Company’s total forecast of bundled sales to retail customers by more than 25% if it takes service as the Company projects.¹

11. The customer at issue is Green Chile Ventures LLC (the “Customer”), a subsidiary of Oracle Corporation (“Oracle”),² and will be “located at or near Saline, Michigan.”³ From news reports and other public statements, it appears that the Customer will be related to “Stargate” AI data center operations involving Oracle and OpenAI Group PBC.⁴

12. As has been noted previously in testimony and briefing before the Commission, data center customers appear to present unique operational considerations; as Consumers Energy Company has described: “[t]he load profile of data centers is unique because, unlike other commercial or industrial businesses that run varying shifts of production or only operate during normal business hours, they require consistent, high levels of demand – operating 24 hours a day, 7 days a week, 365 days a year.”⁵ Large data center customers also appear to present a different risk

¹ See, e.g., U-21990, Exhibit A-3 at column (e).

² U-21990, DTE’s Application at 2.

³ *Id.*

⁴ See, e.g., Melissa Frick, *ChatGPT-creator OpenAI Announces Massive New Data Center in Michigan*, MLIVE.COM, October 20, 2025 (accessible at <https://www.mlive.com/news/ann-arbor/2025/10/chat-gpt-creator-openai-announces-massive-new-data-center-in-michigan.html>); See also, *Expanding Stargate to Michigan*, OPENAI.COM, October 30, 2025 (accessible at <https://openai.com/index/expanding-stargate-to-michigan/>).

⁵ Case U-21859, In the Matter of the Application of Consumers Energy Company for Ex Parte Approval of Certain Amendments to Rate GPD, Consumers Energy Company’s Application at 2.

profile from traditional customers, as stated by Consumers Energy: “data center customers are unique in that they are extremely large loads but bring more risk than other [general commercial rate] customers as these customers are unlike traditional manufacturing customers who take service under [Consumers’ general commercial rate].... [d]ata centers do not have significant numbers of on-site employees, and do not have significant local supply chain needs, making it easier for data centers to “pick up shop” and reduce or leave the Company’s service [t]hese factors create a greater risk for stranded assets with respect to data center customers than exists for other [general commercial rate] customers.”⁶ MPSC Staff has further described in testimony potential risks the AI software industry might pose in the proliferation of data center customers:

The current [Consumers Energy general commercial demand rate] customer class is made up of customers from a variety of industries, such that a downturn in any one would not much affect the entire class. On the other hand, if interest and investment in artificial intelligence, for example, evaporates after the necessary infrastructure has been expanded to serve energy to data centers, then there is no obvious way in which other new customers would appear that would require the new capacity. This would leave existing customers and/or the utility with a tremendous amount of capacity that is no longer used and useful. So not only do large load customers expose the Company’s system to greater costs, but also have a higher risk of stranding those costs than the existing customer base due to their uniquely high level of demand.⁷

....

For example, if the market for artificial intelligence in products and services never matures into a viable, sustainable business model, then a data center customer may exit service and create a

⁶ *Id.*

⁷ Case U-21859, 4 TR, MPSC Staff Witness Isakson Direct Testimony at 294:19 – 295:7.

stranded asset due to forces beyond the large load customer, the Company, and especially all other customers.⁸

13. The two contracts at issue in DTE's application are a Primary Supply Agreement ("PSA") and an Energy Storage Agreement ("ESA").

14. DTE asserts in its application testimony that through the terms of the PSA and ESA, serving the Customer will provide benefits to the utility's other customers. For example, DTE claims that through its cost of service model "within a future general rate case,"⁹ "the Company estimates the Customer will be responsible for approximately 18% of total costs"¹⁰ and bring down the respective portions of responsibility for other customer classes.¹¹ The Company further includes in its application testimony a graph showing projected accrual of "affordability benefit" through 2030.¹² However, DTE does not include in its application adequate calculations, analyses, or exhibits to explain these forecasts. The Company also sets forth an estimate of annual "minimum cost recovery" for the Customer,¹³ but does not provide its calculations underpinning that estimate or a comparison to all expected costs over the same timeframe.

15. DTE's Application presents several large costs for the Customer which have not been adequately supported. For example:

⁸ *Id.* at 300:9 – 12.

⁹ U-21990, Foley Direct at 26:22 – 27:5.

¹⁰ *Id.*

¹¹ *Id.* The Company further includes a chart purporting to show "estimated cost of service responsibility." *Id.* at 29:4 – 14.

¹² *Id.* at 27:6 – 28:2.

¹³ *Id.* at 34:23 – 35:4.

- A. Company witness Foley states that “approximately \$200 million of capital investment will be needed to upgrade the transmission system to both connect the customer’s facility and deploy the energy storage portfolio under the ESA.”¹⁴ Witness Foley notes further that “[t]he Company is not proposing to change the way in which transmission costs are recovered from its customers” and that “[t]hese costs are recovered through the PSCR mechanism.”¹⁵ It remains unclear from the Company’s Application how these additional costs will impact PSCR customers.
- B. Company witness Foley further testifies that “approximately \$300 million of capital investment will be needed to construct” a substation to serve the Customer.¹⁶ While witness Foley states that “the Customer’s landlord has agreed to pay a \$40 million non-refundable construction advance to help offset the costs of the new industrial substation,”¹⁷ he goes on to testify that “[t]he Company will propose adding the net cost... to its rate base for recovery in a future rate case.”¹⁸ The Company provides little detail to explain the calculations and assumptions underpinning

¹⁴ *Id.* at 31:1 – 8.

¹⁵ *Id.* at 31:22 – 32:6.

¹⁶ *Id.* at 31:10 – 11.

¹⁷ *Id.* at 32:24 – 33:5.

¹⁸ *Id.*

this cost. The potential impact of this cost on ratepayers needs to be more fully evaluated.

- C. Other than the \$300 million in substation investment, DTE's application does not identify costs for any other distribution assets that may be necessary to supply power to the Customer.
- D. In its Application, DTE presents about 13 pages of testimony and 2 pages of exhibits related to developing renewable resources to accommodate the Customer's additional load under Michigan's renewable energy standards.¹⁹ The Company provides little detail on this development and related cost recovery such as it might put forth in a renewable energy plan case,²⁰ and it does not include detailed cost projections for how such investments might impact DTE ratepayers. For example, it is not clear if the \$200 million of estimated transmission costs includes the need for transmission services related to the additional renewable resources.
- E. DTE presents an unclear range of potential renewable resource development in its Application, noting in testimony that "incremental renewable energy capacity required to meet the increased RPS could technically reach up to 3.2 GW, but may be

¹⁹ U-21990, Bilyeu Direct at 1 – 13; Exhibit A-3.

²⁰ Instead, DTE's witness Bilyeu testifies that the Company intends to address this topic in its next IRP case by December 2026 and through an Amended Renewable Energy Plan it intends to file sometime in 2027. *Id.* at 11:19 – 12:16.

as low as 443 MW by 2032 if the Company fully leverages its estimated REC bank.”²¹ However, it is unclear under these projections whether and how much additional investment might be needed to supply any remaining power needs above the renewable resources. For example, DTE witness Bilyeu refers to a target of developing only 443 MW of additional renewable capacity by 2032.²² If other investments are necessary to meet the Customer’s power supply needs under the contracts, those investments do not appear to be identified in the Application.

F. It is unclear without further information and review whether DTE’s proposed termination fee provisions in the PSA and ESA provide adequate protections for ratepayers.

16. The Attorney General takes the position that the Company’s application does not qualify for *ex parte* relief under MCL 460.6a(3), which states that: “[a]n alteration or amendment in rates or rate schedules applied for by a public utility that will not result in an increase in the cost of service to its customers may be authorized and approved without notice or hearing.” In light of the several topics highlighted in Paragraph 15 above and in Attachment A hereto, along with the other issues referenced herein, the Company has failed to show how its proposed terms “will not result in an increase in the cost of service” as required for *ex parte* relief under MCL 460.6a(3). The Attorney General attaches hereto as Attachment A the Affidavit of

²¹ U-21900, Bilyeu Direct at 13:1 – 3.

²² See, e.g., *Id.* at 9:14 – 16.

Sebastian Coppola, presenting a breadth of reasons as to why DTE's application, testimony, and exhibits do not provide sufficient information to grant *ex parte* approval. The Attorney General also notes that the Commission previously rejected Consumers Energy's request for *ex parte* relief in case U-21859 concerning terms of service for large new data centers.²³ The Commission there found that:

The Commission has reviewed the filed pleadings and applicable legal authority and finds that *ex parte* treatment of the application is not appropriate. The electric load of new data centers presents unique and significant cost implications, and the development of an evidentiary record to consider the February 7 application is prudent and reasonable. MCL 460.6a(3); see also, June 30, 2020 order in Case No. U-20763, pp. 69-70. Thus, the Commission grants the requests for a contested case proceeding in this matter. Mich Admin Code, R 792.10415(1).²⁴

17. The Attorney General further takes the position that the Commission should not approve DTE's application without first developing an evidentiary record and conducting proceedings pursuant to Chapter IV of the Administrative Procedures Act [MCL 24.271 et seq.], because the requests therein may not be just and reasonable, may not be in compliance with all applicable legal authority, and may disrupt the State's ability to achieve its renewable and clean energy standards established by the legislature under Public Act 235.

18. The Attorney General may take the position that one or more of the Company's other proposals are not reasonable or prudent or in compliance with the law.

²³ Case U-21859, Commission's March 13, 2025, Order.

²⁴ *Id.* at 3.

19. The Attorney General reserves the right to present additional positions and arguments based upon additional information developed via discovery and evidence admitted into the record of this case.

III. Relief Requested

The Attorney General requests the Michigan Public Service Commission to:

- A. Enter her Notice of Intervention upon the official record of the captioned case, treat her as a party to these proceedings for all purposes, and treat this case as a Contested Proceeding;
- B. Develop an evidentiary record and conduct contested proceedings pursuant to Chapter IV of the Administrative Procedures Act [MCL 24.271 et seq.], allowing at least 180 days from the date of the Company's application before a final order is issued by the Commission, or if an expedited review is needed, at least 60 days for intervenors to review and conduct expedited discovery not including the time required for a briefing schedule;
- C. Determine if the relief requested in the Company's application is just, reasonable, prudent, and lawful; and
- B. Grant any further and additional relief the Commission may decide is reasonable and lawful.

Respectfully submitted,

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Dated: November 6, 2025

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of
DTE ELECTRIC COMPANY
for Approval of Special Contracts/

MPSC Case No. U-21990

AFFIDAVIT OF SEBASTIAN COPPOLA

My name is Sebastian Coppola and I am the expert witness retained by the Michigan Department of Attorney General (Attorney General) to make a preliminary assessment of the adequacy of the request by DTE Electric Company ("DTE" or "Company") for ex parte approval by the Michigan Public Service Commission (Commission) of two contracts pertaining to electric service to a large computer center.

I have more than forty years of experience in public utility and related energy work, both as a consultant and utility company executive. I have testified in several regulatory proceedings before the Commission and other regulatory jurisdictions. I have prepared and/or filed testimony in rate case proceedings, Power Supply Cost Recovery (PSCR) cases, and other proceedings, including several such cases pertaining to DTE. In that regard, I am very familiar with the Company's electric operations, its assets, and Michigan regulatory practices.

My preliminary assessment is that the application and related testimony and exhibits (Application) do not provide sufficient information for the Commission to make an adequate and informed decision by issuing an ex parte approval of the contracts without further detailed analysis, complete disclosure of redacted information in the contracts, appropriate discovery of facts and assumptions, and input from other interested parties wishing to participate in this proceeding, including the Attorney General, to protect the interest of all customers.

I base my preliminary assessment on the following major issues and concerns:

1. According to the Application, the customer will require up to 1.4 Gigawatts (GW) of electric load beginning in January 2027 and ramping up in subsequent months. DTE has entered into a Power Supply Agreement (PSA) with the customer. However, it has not fully disclosed the likely sources of power generation and the forecasted cost of the energy it will either produce or purchase.
2. The Application does not clearly disclose how power will be delivered to the customer, whether directly through transmission lines owned by third parties, the DTE's distribution system, or a combination of the two. The need for any new potential distribution power lines is not known. The Company disclosed that it has signed a Line Extension Agreement with the customer, but that agreement was not provided with the application.
3. The Company identified the need for Transmission upgrades at a capital cost of \$200 million and an annual revenue requirement of \$30 million, which will

decrease over time. DTE proposes to recover the additional transmission costs through the PSCR mechanism and claims that this approach will be advantageous to other customers. Transmission costs are billed by the transmission company based on power demand levels. Certain Midcontinent Independent System Operator (MISO) costs are also billed based on demand and included in the PSCR mechanism. PSCR costs are billed to DTE customers based on volumetric kWh consumed and not demand level. Given this mismatch between costs billed and cost recovery from customers, it is not clear from the Company's filing how the additional transmission and MISO costs will favorably or unfavorably impact PSCR customers.

4. DTE identified the need to build a dedicated industrial substation for the customer at a capital cost of \$300 million. According to the application, this capital expenditure will increase the Company's revenue requirement to be paid by all customers by \$35 million in the first full year and continue annually at lower amounts. No further details, calculations, or assumptions have been disclosed to validate the incremental revenue requirement. No other costs have been identified for any other distribution assets that may be necessary to supply power to the customer.
5. The Application states that the construction of the substation does not qualify for a customer contribution in aid of construction (CIAC) and the customer's landlord will voluntarily provide \$40 million toward its construction. No other details, calculations, or assumptions have been disclosed to validate those claims. The Company disclosed that it has signed a Line Extension Agreement with the customer but that agreement was not provided with the application.
6. The Application identifies a shift of 18% of the total cost of service to the new customer and a reduction of approximately \$300 million for other customers, including payment toward the Company's fixed costs by the new customer, but no details, calculations, or assumptions have been disclosed to validate those claims.
7. DTE has proposed the use of battery storage under the Energy Storage Agreement (ESA) to provide backup capacity to serve the new customer. The battery storage capacity appears to be equal to the customer's expected energy load demand of 1.4 GW. No specific sources or forecasted costs have been identified for the battery storage capacity other than references to unaccepted bids received from third-parties from a prior year IRP solicitation. No decommissioning or disposal costs have been identified subsequent to the 15-year useful life of the batteries and who would be responsible to pay for those costs.
8. Computer centers run 24 hours by seven days throughout the year and need constant power. Typical battery storage capacity lasts four hours. It is not clear how DTE would supplement generation capacity after four hours if the battery storage is called on for a period longer than four hours.
9. The Company has stated that the new load will increase its Planning Reserve Margin Requirements (PRMR) and the ESA would compensate for the additional requirements. However, the impact on the seasonal PRMR has not been disclosed.

10. The PSA appears to provide some protections for potentially stranded costs should the computer center cease to operate prematurely. However, The Minimum Billing Demand (MBD) payments have been structured based on 80% of contract capacity instead of 100% of capacity. It is not clear from the application whether the MBD payments would fully recover 100% of potentially stranded costs. No details, calculations, or assumptions were disclosed to show how the Company arrived at the MBD payments.
11. The PSA states that the Company will seek a parent company guarantee from Oracle Corporation or a subsidiary. The signed guarantee has not been provided. Given the potential early termination payment of more than \$2.2 billion that could be owed to DTE, it is critical that the parent company guarantee be made by a company with significant assets and financial capabilities, if it is not Oracle Corporation.
12. The PSA and ESA provided with the application are highly redacted and do not disclose important terms, which could be critical to the interests of other customers. For example:
 - a. PSA Paragraph 2.3 – Failure for DTE to deliver power
 - b. PSA Paragraph 4.2 – Conditions Precedent Deadlines
 - c. PSA Paragraph 4.4 – Application and Amendments to the Agreement
 - d. PSA Paragraph 5.3 – Customer Exceeding Capacity Ramp up
 - e. PSA Paragraph 7.3 – Contract Termination
 - f. PSA Paragraph 8.0 – Customer Credit Support
 - g. PSA Exhibit E – Termination Payments
 - h. ESA Paragraph 1 – Project Development
 - i. ESA Paragraph 2 – Term
 - j. ESA Paragraph 3.2 – Conditions Precedent Deadlines
 - k. ESA Paragraph 3.4 - Application and Amendments to the Agreement
 - l. ESA Paragraph 4.3 – Project Portfolio Matrix
 - m. ESA Paragraph 4.6 – Force Majeure and Excusable Events
 - n. ESA Paragraph 4.8 – Cost Recovery Period and Renewable Term Pricing
 - o. ESA Paragraph 6.3 – Termination Payment
 - p. ESA Paragraph 8.0 – Customer Credit Support

An adequate assessment of the application requires a review of all the terms of the contracts with no redactions, including identification of the signatories to the agreements, and all supporting schedules and exhibits unredacted.

In requesting ex parte approval, DTE claims that customer rates would not increase as a result of the Commission approving the contracts. This claim is misleading because approval of the contracts will impact customer rates once those contracts are implemented beginning in 2027. Based on my 40-year experience in the utility industry, once contracts of this type are approved, they cannot be easily modified. The best time to ensure that the provisions of the two contracts are fully vetted is before they are approved through appropriate discovery and analysis. The only other recourse to avoid negative outcomes for customers after contracts are approved is through cost disallowances, which are not desirable.

The contracts proposed by DTE in the Application for ex parte approval are not small or routine contracts. They entail hundreds of millions of dollars of capital commitments which will affect customer utility rates over at least two decades. The commitment to supply the customer at a contract capacity of 1.4 GW represents nearly a 30% increase over existing bundled sales to retail customers of DTE. This large increase has huge implications on the Company's cost of service.

I recommend that the Commission take a more deliberate approach through an contested case to carefully review the Application with input from other parties to such a proceeding.

I affirm that I have expert knowledge of the concerns raised in this affidavit and if sworn as a witness I can testify competently to the information stated in the affidavit.

Dated: November 6, 2025

Sebastian Coppola
Sebastian Coppola

Sworn before me this 6 day of November 2025:

Paul Hampel
Notary Public *Paul Hampel*

State of Michigan, County of Oakland

My Commission Expires: 2/14/2032

Acting in the County of Oakland

PAUL HAMPEL
NOTARY PUBLIC - STATE OF MICHIGAN
COUNTY OF MACOMB
My Commission Expires Feb. 14, 2032
Acting in the County of Oakland



PROOF OF SERVICE - U-21990

The undersigned certifies that a copy of the *Attorney General's Notice of Intervention* was served upon the parties listed below by e-mailing the same to them at their respective e-mail addresses on the 6th day of November 2025.

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