



November 19, 2025

Ms. Lisa Felice
Michigan Public Service Commission
7109 W. Saginaw Hwy.
Lansing, MI 48909

Via E-File

RE: MPSC Case No. U-21990

Dear Ms. Felice:

Attached please find the enclosed documents for filing:

- Petition to Intervene by Michigan Environmental Council, Natural Resources Defense Council, Sierra Club, and Citizens Utility Board of Michigan;
- Objection to Ex Parte Approval, Motion for Contested Case by Michigan Environmental Council, Natural Resources Defense Council, Sierra Club, and Citizens Utility Board of Michigan;
- Affidavit of Caroline Palmer;
- Appearance of Christopher M. Bzdok on behalf of Michigan Environmental Council, Natural Resources Defense Council, Sierra Club, and Citizens Utility Board of Michigan; and
- Proof of Service.

Thank you for your assistance in this matter. If you have any questions, please feel free to contact me.

Sincerely,

Christopher M. Bzdok
chris@tropospherelegal.com

CC: Parties to Case No. U-21990

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the Matter of the Application of **DTE
ELECTRIC COMPANY** for Approval of
Special Contracts

Case No. U-21990

**MICHIGAN ENVIRONMENTAL COUNCIL,
NATURAL RESOURCES DEFENSE COUNCIL, SIERRA CLUB,
AND CITIZENS UTILITY BOARD OF MICHIGAN'S
PETITION TO INTERVENE, OBJECTION TO EX PARTE APPROVAL,
AND MOTION FOR A CONTESTED CASE PROCEEDING**

Michigan Environmental Council (“MEC”), Natural Resources Defense Council (“NRDC”), Sierra Club, and Citizens Utility Board of Michigan (“CUB”) (collectively, “MNSC”) petition the Michigan Public Service Commission (the “Commission”) for leave to intervene in the captioned proceeding. MNSC also hereby object to *ex parte* approval of DTE Electric Company’s (“DTE”) proposed Primary Supply Agreement (“PSA”) and Energy Storage Agreement (“ESA”) (collectively, the “Special Contracts”) with Green Chile Ventures LLC (the “Customer”) and request a contested case proceeding.

MNSC’s Petition for Leave to Intervene

1. MNSC seek to intervene in this case to represent the interests of their members in receiving affordable power that is generated and supplied in a reliable and environmentally sound manner.
2. MEC is a statewide environmental organization with 100 member groups and a collective membership of over 300,000 people. These individuals live, use electricity, and pay electric bills in Michigan, and thousands of them are within DTEE’s service territory.
3. NRDC is a national, non-profit environmental organization with over 30 years of experience working on state energy policy, including utility regulation and energy efficiency.

NRDC has over 12,300 members who live, use electricity, and pay electric bills in Michigan, and over 4,800 members who are within DTEE's service territory.

4. The Sierra Club, a national, non-profit organization, has approximately 610,000 dues-paying members nationwide, dedicated to exploring, enjoying, and protecting the wild places of the earth; to practicing and promoting the responsible use of the earth's ecosystems and resources; to educating and enlisting humanity to protect and restore the quality of the natural and human environment; and to using all lawful means to carry out these objectives. Sierra Club has many years of experience working on energy and electric generation issues throughout the United States, including in Michigan. Sierra Club has more than 17,000 members in Michigan, over 8,700 of whom live, work, and pay electric bills in DTEE's service territory.

5. CUB is a Michigan nonprofit corporation organized to protect Michigan's residential ratepayers from unreasonable and unnecessary utility rate increases. CUB has members that live, use electricity, and pay electric bills in DTEE's service territory.

6. Many of MNSC's members have a particular interest in renewable energy.

7. MNSC's members are directly affected by the rates, policies, terms, and conditions governing DTEE's provision of electricity, and these members have a strong interest in having their electricity provided in a dependable and environmentally responsible manner, and at costs that are competitive and relatively stable over the long term. Collectively and individually, these members also have a strong interest in avoiding economic harm caused by unreasonable or imprudent utility practices. These members may be harmed if they are required to incur higher costs and encounter environmental harm caused by imprudent utility practices.

8. The Michigan Public Service Commission recognizes two types of intervention.
 - a. First, intervention by right, which must be granted if the party petitioning to intervene will suffer an injury-in-fact as a result of the case, and that party is within the zone of interests protected by the statute. See for example, *Association of Data Processing Service Organizations, Inc v Camp*, 397 US 150; 90 S Ct 827; 250 L Ed 184 (1970).
 - b. Second, permissive intervention, which may be granted in the Commission’s discretion where the party petitioning to intervene can provide useful information to the Commission or a unique perspective on the issues in the case. *In re Application of The Detroit Edison Co for Authority to Increase its Rates*, Case Nos. U-15768 and U-15751, Order, January 11, 2010, p. 7 (“*In re Detroit Edison*”).
9. MNSC meet both tests.
10. MNSC’s members who live and work within DTEE’s service territory will suffer an injury-in-fact if a decision in this proceeding results in higher electric bills for non-data center customers and environmental harm.
11. MNSC’s members are within the zone of interests protected by MCL 460.1, *et seq.* These statutes generally protect ratepayers and provide opportunities for advocacy by ratepayer groups to protect their interests in Commission proceedings.
12. MNSC meet organizational standing because its members meet the zone of interests test. Commission rules and precedent provide that an association may be granted intervention to represent the interests of its members. See *In re Detroit Edison* at 8 (citing MPSC Rules of Practice and Procedure, Mich Admin Code R 460.17101(f), (g)(vii), and R 460.17201); see also *Drake v*

Detroit Edison, 453 F Supp 1123, 1129 (WD Mich 1978) (noting that “a plaintiff may be granted standing when he asserts interests not of his own but of a third party that meets the zone of interests test.”). To establish standing to intervene in a Commission proceeding, an association can assert the interests of its third-party members without specifically identifying each individual member whose interests are to be represented. *In re Detroit Edison* at 8.

13. MNSC meet both prongs of the *Data Processing* test because a significant number of its members are DTEE customers, because this case directly implicates these members’ cost of electricity, and because these members are well within the zone of interests protected by MCL 460.1 *et seq.*

14. MNSC also meet the test for permissive intervention, because it will provide useful information to the Commission and a unique perspective on the issues presented for its review in this proceeding.

15. MNSC will bring significant expertise to bear in these proceedings. MEC, NRDC, Sierra Club, and CUB’s staff and witnesses have extensive knowledge and experience in the areas of environmental, energy, and ratepayer advocacy. In addition, MEC, NRDC, Sierra Club, and CUB have each intervened and participated in numerous cases before the Commission to advocate for these issues, both individually and in coalition with other environmental organizations.

16. MEC, NRDC, Sierra Club, and CUB have also worked for years to advance policies through the legislative process that would benefit the public and the environment in these areas.

17. If permitted by the Commission, MNSC plan to evaluate the Application, along with any testimony and exhibits, and to conduct discovery, and then to raise those issues and take

those positions that best serve the interests described above. MNSC reserve the right to advance other issues as the case develops.

18. No other party adequately represents the interests of MNSC and their members.

MNSC's Motion for a Contested Case Proceeding

1. MNSC object to *ex parte* approval of the proposed Special Contracts and request the Commission to initiate a contested case proceeding. For the reasons explained in this Motion and the accompanying Affidavit of Caroline Palmer, a contested case proceeding is necessary to fully evaluate DTE's proposal and to ensure that the special contract provisions for the Customer sufficiently protect DTE and its existing customers.

2. A contested case proceeding would align with Commission precedent established in U-21859. In that proceeding, Consumers Energy Company applied for *ex parte* approval of tariff revisions that would govern terms of service for large data center customers. The Commission denied *ex parte* approval and opened a contested case proceeding, finding 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 . . . application is prudent and reasonable."¹ In its Final Order, the Commission reaffirmed that "data centers are a unique industry with characteristics that differ significantly from other commercial and industrial enterprises," and that "[t]he Commission benefits from the development of a robust record on the disputed issues."²

3. The significant cost and energy supply implications of DTE's proposed Special Contracts likewise warrant the development of a robust record. The Special Contracts would

¹ Case No. U-21859, Order, March 13, 2025, p 3.

² Case No. U-21859, Order, November 6, 2025, p 9.

govern electric service for a data center Customer with an anticipated peak load of 1.4 gigawatts (“GW”).³ This Customer alone would comprise over 10% of DTE’s existing peak load, which in 2023 was 10.85 GW, and in 2026 is expected to be 10.71 GW.⁴

4. DTE anticipates that the Customer will increase DTE’s coincident peak demand and Planning Reserve Margin Requirements (“PRMR”), and that DTE would not have sufficient existing resources in all seasons to meet the higher PRMR from the incremental Customer demand.⁵ Furthermore, DTE anticipates that it will incur at least the following five categories of incremental costs by serving the Customer: (1) energy storage portfolio costs, (2) fuel and purchased power costs, (3) transmission upgrade costs, (4) new industrial substation costs, and (5) renewable generation costs for Renewable Portfolio Standards (“RPS”) compliance.⁶ As described in more detail below and in the Affidavit of Caroline Palmer, DTE has not demonstrated sufficient assessment of these costs or their impact on other customers.

5. In addition to the roughly 1.4 GW of data center demand at issue in its Application, DTE has announced that it is in “[a]dvanced discussions with multiple hyperscalers for ~3 GW of additional load,” and that there are “[m]ultiple other co-locator data center opportunities for an additional 3-4 GW of new load.”⁷ DTE claims that “data center load ramps [for these additional opportunities] will require investments in new baseload generation and/or related storage investment.”⁸ Furthermore, according to DTE’s most recent Earnings Conference Call, “[d]ata

³ Direct Testimony of Neal T. Foley, p 5 (“Foley Testimony”).

⁴ Case No. U-21860, Direct Testimony of Markus B. Leuker, April 24, 2025, pp 34-35.

⁵ Foley Testimony, p 22.

⁶ Foley Testimony, pp 30-31.

⁷ DTE 3Q 2025 Earnings Conference Call, Oct. 30, 2025, p 7, available at https://s24.q4cdn.com/970999156/files/doc_financials/2025/q3/Q3-25-presentation-FINAL-v2.pdf.

⁸ *Id.*

center transaction and continued need to modernize [its] utility assets drives a \$6.5 billion increase to [its] 5-year capital investment plan.”⁹

6. DTE has not established standardized tariff provisions for providing electric service to data centers and other large loads.¹⁰ As such, the Special Contract terms established in this proceeding have the potential to set precedent for future negotiations and agreements with data center customers.

7. As discussed in more detail in the attached Affidavit of Caroline Palmer, DTE’s Application fails to provide support for numerous claims regarding the purported costs and benefits of the proposed Special Contracts. In particular, DTE’s Application and Testimony is almost entirely lacking in the types of supporting assumptions, calculations, workpapers, and/or modeling files that are needed to meaningfully evaluate and verify each of the following claims upon which DTE bases its ex parte request:

- a. Supporting the claim that the Customer will be responsible for approximately 18% of total costs and bring down the responsibility of other customer classes,¹¹ and explaining whether the Estimated Cost of Service Responsibility is based on allocators that assume 80% or 100% of contract capacity;
- b. Supporting the forecasted “affordability benefit” through 2030 and explaining whether that “benefit” was premised on revenues based on 80% or 100% of contract capacity;¹²

⁹ *Id.* at p 5.

¹⁰ In June 2024, the Commission granted DTE’s request to close its XL-HLF Rate to data center customers, which the Company claimed was needed to “allow the time and analysis necessary to develop an appropriate rate design to support these unique customers.” Case No. U-21163, Order, June 6, 2024, at p 2. To date, DTE has not submitted any such rate design to the Commission for approval.

¹¹ Foley Testimony, pp 25-29.

¹² *Id.*

- c. Demonstrating that the Customer’s revenue contributions would exceed the incremental costs in both the near term and over the anticipated 19-year term of the Special Contract of the investments that would be needed to serve the Customer;
- d. Explaining how the estimated \$200 million of transmission upgrades will impact Power Supply Cost Recovery (“PSCR”) customers;¹³
- e. Assessing the impact of industrial substation construction costs, which DTE estimates to be \$300 million;¹⁴
- f. Assessing distribution asset costs other than the industrial substation;
- g. Estimating the additional renewable energy resources necessary to ensure compliance with Michigan’s Renewable Energy Standards, including the potential need for transmission services related to the additional renewable resources, and the anticipated cost recovery for those resources; and
- h. Estimating anticipated power supply investments other than the referenced renewable resources.

The above inadequacies in DTE’s filing were also highlighted in the Attorney General’s November 6, 2025 Request for a Contested Proceeding and the Affidavit of Sebastian Coppola supporting that Request.

8. This lack of detail is especially concerning given the size of the Customer and its potential impact on other DTE customers. As the Commission recently explained in U-21859: “if the rate under which the large load customer takes service is insufficient to fully cover all costs associated with serving them—including generation and other resources, as well as transmission

¹³ *Id.* at 31.

¹⁴ *Id.*

and distribution—then existing customers would be effectively subsidizing these new large load customers. This is of particular concern given the size of the potential large load customers, making it necessary to add greater visibility into the generation and other resources needed to serve them.”¹⁵

9. Furthermore, as the Attorney General also noted, DTE’s Application fails to demonstrate that its proposed termination fee provisions would provide adequate protection for ratepayers. DTE claims that the PSA “termination payment was designed such that the Company will recover at least 10 years of Minimum Monthly Charges,”¹⁶ but the PSA would govern electric service for approximately 19 years at minimum, leaving roughly nine years unprotected by the termination payment. In contrast, in U-21859, the Commission approved an exit fee provision that would equal the minimum billing demand multiplied by the number of months remaining on the contract term.¹⁷ In doing so, the Commission affirmed that “it is also important to ensure adequate exit fees to compensate existing customers if . . . the load fails to full[y] materialize (or fails to remain fully materialized) and its non-fuel revenues fall far enough below projections.”¹⁸ There is no evidence that DTE’s proposal does so here.

10. In addition to the aforementioned costs and proposals that DTE has not adequately supported in its Application, MNSC note the following additional concerns, each of which would benefit from review through a contested case proceeding and the development of an evidentiary record.

¹⁵ Case No. U-21859, Order, November 6, 2025, pp 103-104.

¹⁶ Foley Testimony, p 12.

¹⁷ U-21859 at pp 109.

¹⁸ *Id.* at p 104.

11. First, DTE acknowledges that “[b]y serving the Customer’s load, the Company’s targeted EWR [Energy Waste Reduction] savings will increase.”¹⁹ However, DTE has not provided any analysis of the extent of the increase in targeted EWR savings that would result, or of the impact of such increase on EWR costs and surcharges to other customers. Nor has DTE provided any assurance that any such costs would be borne by the Customer, as opposed to other ratepayers. Instead, DTE attempts to simply defer additional consideration of issues related to its EWR targets to the Company’s next EWR plan.²⁰ Even assuming that the specifics of meeting the increased EWR savings targets are best addressed in the next EWR plan, assurances that the costs of doing so would be borne by the Customer rather than other customers needs to be addressed now before the Special Contracts are approved.

12. Second, the Special Contracts are proposed to be secured through a parent guarantee,²¹ which the Commission did not allow as a sufficient means to meet a default collateral requirement in U-21859.²² The parent guarantee sections of the proposed special contracts are also redacted, providing limited ability to determine their sufficiency without further review.²³

13. Third, the proposed PSA would allow the Customer to move to a rate class different from D11 in certain circumstances, but does not appear to require the Customer to move to a large load-specific rate class if one is approved in the future.²⁴ In contrast, in U-21859, the Commission

¹⁹ Foley Testimony, p 6.

²⁰ *Id.*

²¹ *Id.* at 13.

²² Case No. U-21859, Order, November 6, 2025, pp 112-13. In deciding not to approve a parent guarantee as sufficient to meet the default collateral requirement in U-21859, the Commission noted that it remains open to considering their use on a case-by-case basis. *Id.* In doing so, the Commission made clear that it would require a demonstration by the utility that it would be “reasonable and prudent” to accept a parent guarantee after “taking into account the risk level of the individual large load customer, including the credit rating of the customer and/or its parent company.” *Id.* at 113. DTE has not even attempted to make such a showing in its filing.

²³ Ex A-1, p 29; Ex A-2, p 25.

²⁴ Ex. A-1, p 6.

directed that Consumers Energy Company’s plan to transfer any existing large load customers to a new, large load-specific rate “should be included in any contract that Consumers enters into with a large load customer.”²⁵

14. Fourth, DTE has not demonstrated that it has adequately assessed the impact on other customers of its proposal to allow the Customer to receive 100% of incremental Midcontinent Independent System Operator’s market revenues, net of charging costs, that the energy storage assets generate in the open market to offset development costs.²⁶

15. Fifth, the load ramp flexibility that the Special Contracts would afford the Customer may undermine the possibility of recovering full costs from the Customer.²⁷

16. Sixth, DTE has heavily redacted the versions of the Special Contracts that it publicly filed with its Application, including but not limited to the following terms and attachments, of which a contested case proceeding would allow for more thorough review:

- a. Conditions precedent for the PSA;²⁸
- b. The effect of exceeding the customer committed capacity ramp for the PSA;²⁹
- c. Operational parameters for the PSA;³⁰
- d. Certain terms related to post-termination obligations for the PSA;³¹
- e. Terms related to customer credit support for the PSA and ESA;³²

²⁵ Case No. U-21859, Order, November 6, 2025, p 116.

²⁶ Application, p 3.

²⁷ Foley Testimony, p 12.

²⁸ Ex A-1, p 4.

²⁹*Id* at 7.

³⁰ *Id.* at 8-9

³¹ *Id* at 12.

³² *Id* at 13-15; Ex. A-2, pp 12-14.

- f. Terms related to assignment of the PSA and ESA;³³
- g. The customer-committed capacity ramp for the PSA;³⁴
- h. Letter of credit posting amounts for the ESA;³⁵
- i. The form of parent guarantee for the PSA and ESA;³⁶
- j. The early termination payment schedule prior to December 2027 for the PSA;³⁷
- k. The sample termination payment calculation for the ESA;³⁸
- l. The project portfolio matrix for the ESA;³⁹
- m. The cost recovery period and renewable term pricing for the ESA;⁴⁰
- n. Numerous definitions for the PSA and ESA;⁴¹

17. For each of the foregoing reasons, and those set forth in the attached Affidavit of Caroline Palmer, DTE has not established that the proposed Special Contracts “will not result in an increase in the cost of service to its customers.” MCL 460.6a(3). As such, the proposed Special Contracts are not statutorily eligible for *ex parte* approval, and a contested case proceeding must be held.⁴²

³³ Ex. A-1, p 19; Ex. A-2, pp 16-17.

³⁴ Ex. A-1, p 27.

³⁵ Ex. A-2, p 23.

³⁶ Ex A-1, p 29; Ex A-2, p 25.

³⁷ Ex A-1, p 38.

³⁸ Ex A-2, p 35.

³⁹ *Id.* at 24.

⁴⁰ *Id.* at 8-9.

⁴¹ Ex A-1, pp 30-36; Ex A-2, pp 26-33.

⁴² MCL 460.6a; Case No. U-15161, Order, February 27, 2007, p 2 (dismissing request for *ex parte* approval where utility had not “rule[d] out the possibility that some of [its] customers w[ould] experience cost increases as a result of approval of the application.”)

18. Furthermore, the Commission has “broad discretion” under Mich. Admin. Code R 792.10415 “to set any matter for a contested case where not prohibited by law.”⁴³ The Commission has utilized this discretion to open contested case proceedings in matters involving “significant public interest and concern,” “significant factual and policy questions,” and “complex legal determinations that can only be resolved with the benefit of discovery, comprehensive testimony and evidence, and a well-developed record.”⁴⁴ The Consumers Energy Company large load tariff proceeding in U-21859 was one such matter. MNSC urge the Commission to utilize such discretion here as well, given the substantial amounts of potential load, costs, and financial risks to other customers at issue; the newness and complexity of the issues surrounding data center load within DTE’s service territory; and the potential to set precedent for DTE’s agreements with future data center customers.

19. The Commission has further noted that it “may ask for comments or may direct a contested proceeding in cases involving a program that draws significant criticism.”⁴⁵ This is such a case, and MNSC join the Attorney General and numerous public commenters who have already raised legal, factual, and public policy concerns pertaining to DTE’s proposed Special Contracts, including but not limited to those concerns already outlined in this Petition and supporting Affidavit.

20. DTE’s reliance on *Attorney General v Pub Serv Comm* in its Response Opposing the Attorney General’s Request for a Contested Proceeding is misplaced. In that case, the Court upheld the Commission’s *ex parte* approval of a special contract for an 80 MW customer based on

⁴³ Case No. U-20763, Order, June 30, 2020, p 69.

⁴⁴ *Id.*

⁴⁵ Case No. U-18349, Order, July 12, 2017, p 15.

deference to the Commission's interpretation of M.C.L. § 460.6a(1).⁴⁶ The cost impacts of an 80 MW customer are not analogous to the cost impacts of a 1.4 GW customer. And importantly, when the Commission approved the special contract in Case No. U-11001 for the 80 MW customer, it also directed the utility "to account for the contract as a separate rate class in future cost of service studies" in order to help insulate other customers from resulting cost increases,⁴⁷ which DTE has not proposed to do here.

21. Furthermore, the Commission Order approving the special contract for the 80 MW customer in Case No. U-11001 referenced the special contracts at issue in Case No. U-10646,⁴⁸ which are significantly more analogous to DTE's proposed contracts. In Case No. U-10646, the Commission denied *ex parte* review for special contracts that would govern approximately 1 GW of connected load and ordered a roughly six-month procedural schedule on the following basis:

Detroit Edison admits that sales to these customers represent 10% of its retail sales base and it seeks approval of ten-year contracts. Consequently, even if it proves to be true that rates paid by other customers are completely unaffected at this time by approval of the contracts, Detroit Edison is seeking approval of an arrangement that may well have substantial effects in subsequent cases, including rate cases, capacity solicitation cases, and retail wheeling cases. The revenues and time period in question are so large, and the issues potentially affected are so broad, that Detroit Edison's application requires careful scrutiny as to its terms and potential effects. Essentially the same rationale supported the Commission's recent decision to hold a hearing on Consumers Power Company's application for approval of a competitive tariff. Furthermore, the claims and counterclaims of Detroit Edison, the Attorney General, and Energy Michigan highlight the importance of the issues and the uncertainty of the consequences of

⁴⁶ Attorney General v Pub Serv Comm, 227 Mich App 148, 155; 575 NW2d 302, 305 (1997); Case No. U-11001, Order, Dec. 15, 1995, p 1 (referencing the customer's maximum demand of 80 MW).

⁴⁷ Case No. U-11001, Order, December 15, 1995, pp 6-7.

⁴⁸ *Id* at 2.

approving the contracts. The Commission will therefore not act on the proposal without notice and an opportunity for a hearing.⁴⁹

As with the special contracts at issue in U-10646, a 19-year contract for a 1.4 GW customer “requires careful scrutiny as to its terms and potential effects,”⁵⁰ particularly because the Commission has already held that there is a substantial risk of existing customers “effectively subsidizing” new large load customers.⁵¹

22. Finally, in addition to the evidentiary record established in U-21859, MNSC note that proceedings in other jurisdictions have demonstrated that proceedings related to terms of service for data centers and other large load customers benefit from “discovery, comprehensive testimony and evidence, and a well-developed record.”⁵² For example, after the development of evidentiary records and adjudicatory hearing processes, the Indiana Utility Regulatory Commission, Ohio Public Utilities Commission, Kansas Corporation Commission, and Missouri Public Service Commission all approved large load tariff settlements that contained numerous additional or modified provisions compared to the original applications in those cases.⁵³ The West

⁴⁹ Case No. U-10646, Order, August 18, 1994, pp 5-6; see Case No. U-10646, Order, Mar. 23, 1995, pp 2-3 (specifying that the contracts would cover “a total of about 1,000 megawatts (MW) of connected load”).

⁵⁰ Case No. U-10646, Order, August 18, 1994, p 5.

⁵¹ Case No. U-21859, Order, November 6, 2025, pp 103-104.

⁵² Case No. U-20763, Order, June 30, 2020, p 69.

⁵³ Order, *In re Application of Ohio Power Company for New Tariffs Related to Data Centers and Mobile Data Centers*, Case No. 24-508-EL-ATA (Ohio P.U.C. July 9, 2025), <https://dis.puc.state.oh.us/DocumentRecord.aspx?DocID=badab793-e041-4173-9b6d-436e51f80e5c>; Order, *In re Verified Petition of Indiana Michigan Power Company for Approval of Modifications to its Industrial Power Tariff I.P.*, Cause No. 46097 (Ind. Utility Reg. Comm’n Feb. 19, 2025), https://iurc.portal.in.gov/_entity/sharepointdocumentlocation/2b48cf93-d9ee-ef11-be20001dd80b8c52/bb9c6bba-fd52-45ad-8e64-a444aef13c39?file=ord_46097_021925.pdf; Order, *In re Application of Evergy Kansas Metro, Inc., Evergy Kansas South, Inc., and Evergy Kansas Central, Inc. for Approval of Large Load Service Rate Plan and Associated Tariffs*, Docket No. 25-EKME-315-TAR (Kans. Corp. Comm’m Nov. 6, 2025), https://estar.kcc.ks.gov/estar/ViewFile.aspx/25-315_Settlement_Agreement.pdf?Id=f65c8223-c3d3-47a7-b83b-877f318cf355; Order, *In re Application of Evergy Metro, Inc. d/b/a Evergy Missouri Metro and Evergy Missouri West, Inc. d/b/a Evergy Missouri West for Approval of New and Modified Tariffs for Service to Large Load Customers*, Case No. EO-2025-0154 (Mo. P.S.C. Nov. 13, 2025, <https://efis.psc.mo.gov/Document/Display/857331>).

Virginia Public Service Commission likewise approved a large load tariff settlement after the filing of intervenor testimony but prior to the holding of a hearing.⁵⁴

23. In light of the issues that MNSC raise in this Motion, MNSC request that the Commission deny ex parte approval of DTE's proposed Special Contracts and open a contested case proceeding to resolve these issues. MNSC further support the Attorney General's request to set a schedule allowing at least 180 days from the date of the Company's application before a final order is issued by the Commission.

Request for Relief

MNSC hereby request the Michigan Public Service Commission to:

- A. Grant MNSC's Petition for Leave to Intervene and treat them as a party to this proceeding;
and
- B. Grant MNSC's Motion for a Contested Case Hearing, develop an evidentiary record and conduct contested proceedings pursuant to Chapter IV of the Administrative Procedures Act, and allow at least 180 days from the date of the Company's application before a final order is issued by the Commission.

TROPOSPHERE LEGAL, PLC
Counsel for MNSC

Date: November 19, 2025

By: _____

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⁵⁴ Order, *In re Appalachian Power Company and Wheeling Power Company's Application for Approval of Revisions to Schedules LCP and IP*, Case No. 24-0611-E-T-PW (W.V. P.S.C. March 25, 2025), <https://www.psc.state.wv.us/scripts/WebDocket/ViewDocument.cfm?CaseActivityID=638931&NotType=WebDocket>.

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the Matter of the Application of **DTE
ELECTRIC COMPANY** for Approval of
Special Contracts

Case No. U-21990

AFFIDAVIT IN SUPPORT OF MOTION FOR A CONTESTED CASE PROCEEDING

Caroline Palmer, being sworn, states the following:

1. My name is Caroline Palmer. I am providing this affidavit on behalf of MNSC, based on my initial assessment of DTE Electric Company's ("DTE" or "Company") request for *ex parte* approval of contracts to serve a large new data center customer.
2. I am a Principal Associate at Synapse Energy Economics, Inc., and have over 10 years of energy and regulatory experience, including submitting expert testimony in Consumers Energy Company's recent data center tariff case (U-21859) and rate case (U-21890).
3. DTE's request involves providing service to a new data center customer requiring 1.4 gigawatts ("GW") of contract capacity by December 2027 – a substantial level of new demand and associated cost within a very short timeframe. Based on my initial assessment, DTE's application and accompanying testimony do not allow for evaluation and verification of the Company's claims that the proposed service contracts do not increase the Company's cost of service or customer rates.
4. Evaluation and verification of DTE's claims requires access to and time for analysis of DTE's workpapers, assumptions, and cost of service allocation modeling, along with disclosure (subject to confidentiality agreements as appropriate) of important portions of the proposed contracts that are redacted in DTE's filing. In addition, meaningful evaluation of the Company's claims can only occur after the ability to ask discovery and the opportunity for parties to provide input on the reasonableness of the Company's analyses and proposals. It is my understanding that approval of DTE's request under an *ex parte* proceeding would not enable these critical processes. Therefore, I recommend that the Commission open a contested case to allow for proper evaluation of whether the proposed contracts would likely increase the Company's cost of service or rates for existing customers.

5. DTE claims that the proposed contracts will deliver an affordability benefit to the Company's other customers by spreading the Company's fixed costs of generation and distribution over a larger customer base.¹ As a result, DTE claims that adding this new customer will reduce existing customer rates and decrease the cost of service to other customers, given the contribution to the Company's costs that the customer will make.² These statements, however, rely on several unverified analyses and potentially flawed assumptions. Following is a non-exhaustive list of such shortcomings in DTE's analysis that I have identified in my initial assessment.

- a. The Company does not provide any of its supporting calculations or detail the numerous assumptions required to conclude that the customer will contribute to the Company's existing generation, distribution, renewable, and transmission costs, which would have otherwise been allocated to other customers.³ The assertion is simply based on the requirement that the customer take service under D11 rates and pay the Power Supply Cost Recovery ("PSCR") Surcharge.
- b. For example, the Company should not consider the customer to be contributing to existing customers' costs unless it has fully paid its own incremental costs, which DTE has not demonstrated. In fact, the Company has likely under-represented the customer's cost impact, such as long-term incremental generation costs.

DTE seemingly assumes that the only generation costs attributable to the new customer are "incremental capacity resources needed to ensure resource adequacy (i.e., energy storage deployed under the ESA)"⁴ and incremental fuel and purchased power costs.⁵ However, DTE has not demonstrated that it can meet the enormous new customer's demand over the lifetime of service using only 1.4 GW of new storage and using fuel and purchased power. The Company may need to build more generation resources to meet the reserve margin, account for storage's 96.12% capacity accreditation,⁶ and serve the increased energy required for charging 1.4 GW of new storage. It's also not clear if the Company will incur incremental fixed gas costs or transmission costs required to support incremental generation, nor whether the PSCR will ensure that all related incremental fuel and purchased power costs flow to the new customer. The new customer should be held responsible for these costs.

¹ Direct Testimony of Company Witness Neal T. Foley, p 25.

² Foley Direct, p 29.

³ *Id.* at 25-26.

⁴ *Id.* at 25.

⁵ *Id.* at 30.

⁶ *Id.* at 22. Capacity accreditation also changes over time and over seasons, which DTE does not appear to have accounted for.

In fact, when DTE contemplates the impacts of the customer's load on the Company's long-term generation plan, it simply states that "the resources necessary to meet the Company's long-term energy and capacity needs will be determined in the Company's 2026 IRP filing."⁷ DTE does not engage with the possibility of needing increased generation investments (beyond the energy storage deployed under the ESA) to meet its resource adequacy requirements with the addition of a new 1.4 GW customer, simply excluding them from its calculation of the affordability benefits and cost of service impacts to other customer classes.⁸ Thus, those benefits may be exaggerated, as it is not reasonable to ignore these potential costs.

- c. Another cost impact that the Company may have under-represented is the distribution investment required to serve the new customer. DTE discusses an incremental distribution substation – with a capital cost of \$300 million, of which the customer's landlord has evidently agreed to pay \$40 million⁹ – but does not specify if that is the only incremental distribution equipment necessary to serve the large new customer, nor provide evidence indicating as much.
- d. Not only is further analysis required to probe the costs that DTE attributes to the new customer, but the calculation of benefits also requires further support and explanation. For example, the Company's estimate of total affordability benefit includes the customer's revenues, but it is unclear if the revenues assume demand at 80% of contract capacity – which is all the customer is required to pay under the contract – or 100% of contract capacity. The latter would be an unreasonably high assumption. 80% of 1.4 GW is 1.12 GW, meaning that the difference could be 0.28 GW or 280 MW of assumed demand revenues.

Likewise, the Company has not specified if its estimated decrease in cost of service responsibility for other customer classes,¹⁰ which is based on the customer's contribution to the Company's costs, is based on allocators that assume 80% of contract capacity or 100% of contract capacity. Again, the difference could be 280 MW of capacity allocation, which could make a meaningful difference in the distribution and generation cost responsibility assumed for the new customer.

⁷ Foley Direct, p 24.

⁸ DTE also does not present enough information to ascertain the cost impacts of meeting the increased RPS requirements associated with the projected new customer load. DTE notes that its approach will include a combination of company-owned projects, PPAs, strategic acquisitions, phased capacity additions, and technology mix optimization, but ultimately defers to the 2026 IRP filing and its anticipated 2027 REP filing for further information. See Direct Testimony of Company Witness Kevin L. Bilyeu, pp 10-11.

⁹ Foley Direct, p 32.

¹⁰ *Id.* at 29.

Further, the PSCR is not collected on a demand basis and therefore not subject to the Company's proposed minimum billing demand, introducing uncertainty that the customer will pay what the Company has calculated in its analysis in the event that the Customer significantly reduces its load or goes out of business. Given that the Company intends to use the PSCR to recover the customer's share of \$200 million in new transmission system investment needed to serve the customer,¹¹ this is another critical assumption that must be probed.

- e. The Company does not demonstrate over a sufficient time scale that the customer's revenue contributions exceed the incremental costs of the investments it necessitates. The calculated affordability benefits only consider five years of costs and revenues, while cost of service analysis is typically based on a single test year, and DTE has not specified the year. As mentioned, it is likely that neither of these short-term analyses include long-term generation costs, despite the Company's commitment to serve the data center customer until 2045.
 - f. DTE's proposed load ramp flexibility may further undermine the possibility of collecting full costs over the long term. The customer can delay the Customer Committed Capacity Ramp or any increase in the scheduled ramp by up to 12 months. Such a delay is likely to reduce expected revenues from the Customer, since there is no indication that the contract term would extend after the specified 2045 end date. The Company does not explain whether the lost revenues could require costs to be collected by other customers.
6. For the reasons stated above, there is insufficient evidence in DTE's filings that the proposed contracts do not increase the Company's cost of service or rates for existing customers. I recommend that the Commission open a contested case to allow parties to conduct the analysis required to probe and verify the Company's assumptions and calculations.

¹¹ Foley Direct, pp 31, 33.

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

By: Caroline Palmer
Caroline Palmer

STATE OF Massachusetts
Middlesex COUNTY

Signed and sworn before me in Middlesex County, Massachusetts, by Caroline Palmer on
November 18, 2025.

Jennifer Marusiak, Notary Public
State of MA, County of Middlesex
My commission expires May 4, 2029
Acting in the county of Middlesex



Caroline Palmer, Principal Associate

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PROFESSIONAL EXPERIENCE

Synapse Energy Economics, Cambridge, MA. *Principal Associate*, June 2024 – present.

- Conduct analysis and provide expert witness and consulting services on behalf of public interest clients in regulatory proceedings, on topics including electric utility class cost of service, revenue allocation, advanced rate design, avoided cost methodology, and distributed generation interconnection and planning.

Strategen Consulting, Oakland, CA. *Senior Manager*, 2024; *Manager*, 2023 - 2024; *Senior Consultant*, 2021 - 2022; *Consultant*, 2019 - 2021.

- Conducted analysis and provided expert witness and consulting services to state regulatory commissions, state consumer advocates, and non-profits to advance the public interest in regulatory decision-making around electricity service, pricing, and decarbonization.

Metropolitan Area Planning Council Boston, MA. *Clean Energy Fellow*, 2017.

- Provided technical assistance to Massachusetts local government on renewable energy technology and energy planning.

Fulbright Foundation Athens, Greece. *Fulbright Research Fellow*, 2015 – 2016.

- Designed and conducted original, independent research on renewable energy policymaking and implementation in the context of Greece's severe economic crisis

Meister Consultants Group (now Cadmus), Boston, MA. *Analyst*, 2014 – 2015.

- Performed research and writing for renewable energy policy design, analysis, and implementation.

EDUCATION

University of California, Berkley, CA

Master of Public Policy – Energy Policy, 2019

Georgetown University, Washington, DC

Bachelor of Science in Foreign Service – Science, Technology, and International Affairs, 2013

TESTIMONY

Michigan Public Service Commission (U-21870). Direct Testimony of Caroline Palmer regarding Application of Consumers Energy Company for Authority to Increase its Rates for the Generation and Distribution of Electricity and for Other Relief. On behalf of Michigan Environmental Council, Natural Resources Defense Council, Sierra Club, and Citizens Utility Board of Michigan, collectively “MNSC.” September 30, 2025. *Issues covered: cost-of-service study, economic development rate design.*

Missouri Public Service Commission (ET-2025-0184) Direct Testimony of Caroline Palmer regarding Application of Union Electric Company d/b/a Ameren Missouri for Approval of New Modified Tariffs for Service to Large Load Customers. On behalf of Sierra Club. September 5, 2025. *Issues covered: data center tariff design and cost allocation.*

Missouri Public Service Commission (ER-2024-0621) Direct and Surrebuttal Testimony of Caroline Palmer regarding Request of The Empire District Electric Company d/b/a Liberty for Authority to File Tariffs Increasing Rates for Electric Service Provided to Customers in Its Missouri Service Area. On behalf of Consumers Council of Missouri. July 21, 2025 and September 17, 2025. *Issues covered: cost-of-service study, residential rate design.*

Michigan Public Service Commission (U-21859). Direct and Rebuttal Testimony of Caroline Palmer regarding Application of Consumers Energy Company for Ex Parte Approval of Certain Amendments to Rate GPD. On behalf of Michigan Environmental Council, Natural Resources Defense Council, Sierra Club, and Citizens Utility Board of Michigan, collectively “MNSC.” June 12, 2025 and July 9, 2025. *Issues covered: data center tariff design and cost allocation.*

Connecticut Public Utilities Regulatory Authority (24-10-04) Direct Testimony, Surrebuttal Testimony, and Cross-examination of Caroline Palmer regarding Application of The United Illuminating Company to Amend Its Rate Schedules. On behalf of The Office of Consumer Counsel. February 13, 2025, March 24, 2025, and May 6, 2025. *Issues covered: cost-of-service study, time-of-use rate design.*

New Hampshire Public Utilities Commission (DE 24-070) Direct Testimony and Cross-examination of Caroline Palmer regarding Public Service Company of New Hampshire d/b/a Eversource Energy Request for Change in Distribution Rates. On behalf of the NH Office of Consumer Advocate. January 23, 2025 and June 4, 2025. *Issues covered: cost-of-service study, residential rate design.*

Massachusetts Department of Public Utilities (D.P.U. 24-195, 24-196, 24-197) Direct and Surrebuttal Testimonies of Caroline Palmer and Thanh Nguyen addressing the EV Infrastructure Program mid-term modification filings from the electric distribution companies. On behalf of The Massachusetts Office of the Attorney General. April 4, 2025 and May 27, 2025. *Issues covered: EV program design and budget.*

Missouri Public Service Commission (WR-2024-0320). Direct Testimony of Caroline Palmer regarding Missouri-American Water Company's Request for Authority to Implement a General Rate Increase for Water and Sewer Service. On behalf of Consumers Council of Missouri. December 20, 2024. *Issues covered: cost-of-service study, residential rate design.*

Missouri Public Service Commission (ER-2024-0319). Direct Testimonies and Surrebuttal Testimony of Caroline Palmer regarding Union Electric Company d/b/a Ameren Missouri's Tariffs to Adjust Its Revenues for Electric Service. On behalf of Consumers Council of Missouri. December 3, 2024, December 17, 2024, and February 14, 2025. *Issues covered: revenue requirement, cost-of-service study, residential rate design.*

Nova Scotia Utility and Review Board (M11874). Direct Testimony of Caroline Palmer regarding costs incurred to implement the Renewable to Retail market. On behalf of Counsel to Nova Scotia Utility and Review Board. November 1, 2024.

Maine Public Utilities Commission (Docket No. 2024-00137). Direct Testimony and Cross-examination of Caroline Palmer and Eric Borden regarding Stranded Cost Rate Design. On behalf of the Maine Office of the Public Advocate. October 1, 2024 and January 10, 2025.

New York Public Service Commission (Cases 24-E-0322 & 24-G-0323): Direct Testimony of Caroline Palmer, Melissa Whited, and Ben Havumaki regarding the Rates, Charges, Rules and Regulations of Niagara Mohawk Power Corporation d/b/a National Grid for Electric and Gas Service. On behalf of the Utility Intervention Unit of the New York Department of State's Division of Consumer Protection. September 26, 2024.

Massachusetts Department of Public Utilities (D.P.U. 23-150): Direct Testimony, Surrebuttal Testimony, and Cross-examination of Caroline Palmer and Ron Nelson regarding Petition of Massachusetts Electric Company and Nantucket Electric Company, each d/b/a National Grid, pursuant to G.L. c. 164, § 94 and 220 CMR 5.00, for Approval of a General Increase in Base Distribution Rates for Electric Service and a Performance-Based Ratemaking Plan. On behalf of the Massachusetts Office of the Attorney General. March 29, 2024, May 3, 2024, and May 20, 2024.

North Carolina Utilities Commission (Docket No. E-7, Sub 1276): Direct Testimony of Caroline Palmer regarding the Application of Duke Energy Carolinas, LLC, for Adjustment of Rates and Charges Applicable to Electric Service in North Carolina and Performance-Based Regulation. On behalf of the North Carolina Attorney General's Office. July 19, 2023.

Oklahoma Corporation Commission (Case No. PUD 2022-000093.): Adoption of Direct Testimony and Cross-examination regarding the Application of Public Service Company of Oklahoma, for an adjustment in its rates and charges and the electric service rules, regulations, and conditions of service for electric service in the state of Oklahoma and to approve a formula-based rate proposal. On behalf of AARP. May 22, 2023.

Maine Public Utilities Commission (Case No. 2022-00152): Direct and Surrebuttal Testimony of Caroline Palmer, Nikhil Balakumar, and Ron Nelson regarding the Central Maine Power Company's request for Approval of a Rate Change - 307 (7/30/23). On behalf of the Maine Governor's Energy Office. December 2, 2022 and April 6, 2023.

Massachusetts Department of Public Utilities (D.P.U. 21-91): Direct Testimony and Cross-examination of Caroline Palmer and Ron Nelson regarding the Petition of NSTAR Electric Company d/b/a Eversource Energy for approval of its Phase II Electric Vehicle Infrastructure Program and EV Demand Charge Alternative Proposal. On behalf of the Massachusetts Office of the Attorney General. January 5, 2022, and March 22, 2022.

Massachusetts Department of Public Utilities (D.P.U. 21-90): Direct Testimony and Cross-examination of Caroline Palmer and Ron Nelson regarding the Petition of Massachusetts Electric Company and Nantucket Electric Company, each d/b/a National Grid, for approval of its Phase III EV Market Development Program and EV Demand Charge Alternative Proposal. On behalf of the Massachusetts Office of the Attorney General. January 5, 2022, and March 22, 2022.

Massachusetts Department of Public Utilities (D.P.U. 21-92): Direct Testimony and Cross-examination of Caroline Palmer and Ron Nelson regarding the Petition of Fitchburg Gas and Electric Light Company d/b/a Unitil for approval of its EV Infrastructure Program, EV Demand Charge Alternative Proposal, and Residential EV Time-of-Use Rate Proposal. On behalf of the Massachusetts Office of the Attorney General. January 5, 2022, and March 22, 2022.

PUBLICATIONS

Yuang, C., M. Whited, T. Nguyen, S. Schadler, R. Anderson, W. Dejeanlouis, C. Palmer, C. Mattioda, A. Glaser Schoff, S. Koester, J. Hittinger, P. Eash-Gates. 2024. *Utility Engagement Playbook for Industrial Customers: Addressing Power Sector Barriers to Electrification*. Synapse Energy Economics and World Wildlife Fund for Renewable Thermal Collaborative.

Palmer, C. 2019. *Using Low Carbon Fuel Standard Proceeds from EV Adoption to Improve the Efficiency of Electricity Rates*. Berkeley Public Policy Journal.

PRESENTATIONS

Palmer, C. 2025. Large Load Tariffs – Current Efforts to Minimize Risk to Consumers. NASUCA Mid-Year Meeting. Columbus, OH.

Palmer, C. 2022. Utility Transportation Electrification from a Consumer Advocate Perspective. NASUCA Mid-Year Meeting. Indianapolis, IN.

Palmer, C. 2017. Integration of renewable energy in Greek energy markets: A case study. 2nd HAEE International Conference. Athens, Greece.

Resume last updated October 2025

MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
PUBLIC SERVICE COMMISSION

ENTRY OF APPEARANCE IN AN ADMINISTRATIVE HEARING

This form is issued as provided for by 1939 PA 3, as amended, and by 1933 PA 254, as amended. The filing of this form, or an acceptable alternative, is necessary to ensure subsequent service of any hearing notices, Commission orders, and related hearing documents.

General Instructions:

Type or print legibly in ink. For assistance or clarification, please contact the Public Service Commission at (517) 284-8090.

*Please Note: The Commission will provide **electronic** service of documents to all parties in this proceeding.*

THIS APPEARANCE TO BE ENTERED IN ASSOCIATION WITH THE ADMINISTRATIVE HEARING:

Case / Company Name: DTE Electric Company Docket No. U-21990

Please enter my appearance in the above-entitled matter on behalf of:

1. (Name) Michigan Environmental Council
2. (Name) Natural Resources Defense Council
3. (Name) Sierra Club
4. (Name) Citizens Utility Board of Michigan
5. (Name)
6. (Name)
7. (Name)

Name Christopher M. Bzdok
Address 420 E. Front Street

City Traverse City State MI
Zip 49686 Phone (231) 709-4000
Email chris@tropospherelegal.com
Date 11/19/2025

<input type="checkbox"/> I am not an attorney
<input checked="" type="checkbox"/> I am an attorney whose:
Michigan Bar # is P- <u>53094</u>
_____ Bar # is: _____
(state)

Signature: _____

Save Form

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the Matter of the Application of **DTE ELECTRIC COMPANY** for Approval of Special Contracts Case No. U-21990

Proof of Service

On the date below, an electronic copy of **Petition to Intervene and Motion for Contested Case by Michigan Environmental Council, Natural Resources Defense Council, Sierra Club, and Citizens Utility Board of Michigan; Affidavit of Caroline Palmer; and Appearance of Christopher M. Bzdok**, was served on the following:

Name/Party	E-mail Address
ALJ Hon. Theresa Staley	staley1@michigan.gov
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Michigan Attorney General Joel B. King Lucas Wollenzien Michael E. Moody	ag-enra-spec-lit@michigan.gov kingj38@michigan.gov wollenzienl@michigan.gov moodym2@michigan.gov
Association of Businesses Advocating Tariff Equity Michael J. Pattwell Stephen A. Campbell Lauren Degnan	mpattwell@clarkhill.com scampbell@clarkhill.com LDegnan@clarkhill.com
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{signature on following page}

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

Troposphere Legal, PLC
Counsel for MEC, NRDC, SC & CUB

Date: November 19, 2025

By: _____
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