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MPSC approves DTE Electric energy contracts for data center with conditions to strengthen protections for other customers

The Michigan Public Service Commission today conditionally approved an application from DTE Electric Co. for approval of special contracts to supply power for a Washtenaw County data center but imposed additional mandatory safeguards meant to protect residential and other customers from bearing any costs associated with the development and continued operation of the data center.

Among those protections, the Commission conditioned approval on requiring DTE Electric to be responsible for any costs to serve the 1,383- megawatt (MW) data center in Saline Township that it is unable to recover from Green Chile Ventures LLC, a subsidiary of the tech company Oracle Corp. Oracle, Open AI and Related Digital [announced plans](#) for the data center Oct. 30, and DTE Electric subsequently filed an [application](#) for approval of the special contracts in [Case No. U-21990](#).

The Commission's approval was also contingent on DTE Electric agreeing to update its emergency procedures so that, in the unlikely event of an energy emergency that requires the utility to involuntarily shed electricity load — interrupting service to customers in times of high demand to prevent catastrophic power grid failure — the utility will ensure that the data center's load is reduced or interrupted before interrupting service to other DTE Electric customers. Michigan has not experienced an involuntary load shed event due to lack of generation capacity at any point since the inception of the MISO energy market and no widespread blackouts since the 2003 blackout that covered much of the northeast portion of the country.

Terms of the primary supply agreement between DTE Electric and the data center include additional requirements above and beyond standard terms used for customers under the utility's D11 tariff rate for customers contracting for large energy loads. The additional terms require:

- A minimum contract duration of 19 years, compared to the standard agreement of five years for a new customer of 1 MW or more of peak demand taking service under the general D11 tariff.
- A minimum billing demand of 80%, compared to 50-60% in the general D11 tariff. The data center operators will have to pay a minimum of 80% of the contracted electricity use even if their actual usage is lower.

- A termination payment of up to 10 years' worth of minimum billing demand if the facility stops operating earlier than contracted to operate. There is no explicit reference to a termination payment included in the general D11 tariff.

“These protections will ensure that Michigan is able to reap the benefits of adding a significant new energy user to the grid while keeping any related costs off the utility bills of other customers,” MPSC Chair Dan Scripps said. “In written comments filed with the Commission and at a public hearing the MPSC [held Dec. 3](#), the MPSC heard from thousands of Michiganders concerned about the risks of higher utility bills for everyday customers and reversal of progress the state has made in decarbonizing its energy production. The MPSC shares those concerns and finds that today’s approval enacts strong protections for ratepayers against the risk of stranded costs and cost subsidization. The order shields DTE Electric customers from future price risk while supporting economic development.”

The Commission noted that the data center project will provide an affordability benefit to other customers because it will contribute significantly to fixed system costs that would otherwise be recovered solely from DTE Electric’s existing customers. In filings with the Commission, DTE Electric calculated the net benefit to other customers of approximately \$300 million.

Michigan law gives the MPSC jurisdiction over the electricity and natural gas rates that a data center customer is charged and the terms governing the services provided by regulated utilities. But the Commission does not have authority relating to the siting or construction of data centers, or to issue permits or make determinations related to water use. The Commission may require specific provisions in the terms of service meant to protect other customers if a large-load customer leaves the system.

The Commission directed DTE Electric to:

- File an amended renewable energy plan (REP) with its next integrated resource plan (IRP) and clean energy plan (CEP) that includes a comparison of the resource requirements needed to comply with its renewable portfolio standard targets both with and without Green Chile Ventures’ load and corresponding retail sales; an analysis of options for recovery of any incremental costs of renewable portfolio standard compliance that may result in a surcharge such that the surcharge is not collected on a per meter basis; and an analysis of equitable ways to recover the incremental costs of renewable portfolio standard compliance to ensure costs and benefits are evenly distributed among rate classes.
- Include, in its next IRP application and its initial CEP application, a comparison of the resource requirements necessary to serve the utility’s electric load with and without the addition of Green Chile Ventures’ load.
- Provide an updated analysis in its next capacity demonstration showing the impact of the data center’s load on the utility’s capacity requirements under direct

loss of load methodology using the Midcontinent Independent System Operator Inc.'s most recent indicative direct loss of load results.

- Provide a detailed analysis in its next energy waste reduction (EWR) plan filing of the incremental costs necessary to meet the 2% EWR savings target inclusive of Green Chile Ventures' load, and an analysis of updated surcharges designed to ensure other customers are not affected by the incremental EWR program costs attributable to the data center.

The Commission's conditional approval also includes a proposed energy storage agreement under which Green Chile Ventures would bear the costs over a 15-year period to develop 1,383 MW of energy storage facilities to match the data center's contracted demand. DTE Electric would develop, own and operate the facilities to the benefit of its grid, and Green Chile Ventures would receive the value of any market revenues from operating the energy storage facilities in the wholesale market. As with the primary supply agreement, the energy storage agreement includes an early termination payment and credit and collateral requirements.

The Commission directed DTE to file within 90 days an application for approval of a large load customer tariff for very large load customers such as data centers.

While a number of organizations and individuals petitioned the Commission to have the matter converted to a contested case, the Commission found that its conditional approval of DTE Electric's special contracts will not increase rates, rate schedules or costs of service for other customers, and therefore met the standard for an ex parte review under Michigan law and precedent established by Michigan courts going back decades. Ex parte approval is routinely used by the Commission in evaluating special contracts between a utility and a single customer, and is appropriate where, as here, the decision will not increase the rates or cost for serving other customers. In recent years, the Commission has approved large special contracts between DTE Electric and Ford Motor Company, Fiat Chrysler Automobiles, and the University of Michigan, among others.

As part of its conditional approval, the Commission directed DTE Electric to file a letter in the case docket within 30 days accepting the order's conditions. If the utility does not agree to the conditions, it may file an application instead for approval of the special contracts in a contested case.

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