

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 Motion to Reopen Proceeding

Attorney General Dana Nessel hereby moves pursuant to Mich. Admin. Code 792.10436 to reopen a proceeding in this matter. DTE Electric Company's ("DTE's" or "the Company's") "letter," filed in the present docket on January 15, 2026 (the "DTE Letter"), does not reflect the requirements of the Commission's December 18, Order in this matter (the "Order"). The DTE Letter further attempts to impose an additional condition for DTE's agreement beyond those set forth in the Order, acting as a counter-proposal rather than an acceptance. For those reasons, as discussed and elaborated further below, the Commission should reopen this proceeding and grant a contested case.

I. Standard of Review.

Mich. Admin. Code R. 792.10436 provides as follows:

- (1) A proceeding may be reopened for the purpose of receiving further evidence when a reopening is necessary for the development of a full and complete record or there has been a change in conditions of fact or law such that the public interest requires the reopening of the proceeding.
- (2) After providing due notice and an opportunity for the parties to be heard, the presiding officer, upon his or her own motion or upon motion of any party, may reopen the proceeding at any time before the date for the filing of exceptions to a proposal for

decision or, if provided for, replies to exceptions. After the date for filing exceptions or replies to exceptions and until the expiration of the statutory time period for filing a petition for rehearing, the commission may reopen a proceeding. The commission may reopen a proceeding after the time period for filing a petition for rehearing for good cause.

- (3) Within 21 days after service of a motion to reopen a proceeding, any party may file an answer. Any party failing to do so is considered to have waived objection to the granting of the motion. As soon as practicable after the time for filing answers to a motion to reopen, the presiding officer or the commission shall, in writing, grant or deny the motion. The presiding officer or the commission may provide for hearing and oral argument on a motion to reopen.

II. Argument.

As explained below, DTE's failure to accept the terms of the Commission's Order for the DTE Letter materially changes the condition of this case. The Order provided as follows concerning the process for accepting the conditions of the Order:

The Commission directs DTE Electric to file, within 30 days of the date of this order, a letter in the instant docket accepting these conditions. If the company is unwilling to accept these conditions, it may file an application for a contested case.¹

As DTE has not accepted the conditions of the Order, the Commission should, "as soon as practicable," Order that the proceeding be reopened as a contested proceeding pursuant to Mich. Admin. Code R. 792.10436. The public interest further requires reopening under that rule; the substance of DTE's changes to a conditional approval undermine any arguments that its agreement might actually present additional safeguards against rate increases or cross-subsidizations of Green Chile Ventures (GCV's) incremental costs.

¹ December 18, 2025, Commission Order at 41.

A. The DTE Letter fails to accept the specific cost-coverage language included in the Order.

The conditions of the Order explicitly includes representations from DTE “that payments made by Green Chile Ventures LLC under Rate Schedule D11 and the special contracts will cover the costs to serve Green Chile Ventures LLC such that the costs of serving Green Chile Ventures LLC (including generation, transmission, distribution, or other costs) are not covered by other customers.”²

The DTE Letter instead includes language that alters the conditions set forth in the above-quoted section of the Order, asserting that “the aggregate revenues generated by [GCV] will cover the costs to serve them.”³ This modification of the Commission’s language that costs not be “covered by other customers” describes an even less stringent requirement to prevent against cost-subsidization. Crucially, as described in the Attorney General’s January 8, 2026, Petition for Rehearing, DTE has to date operated under cost-allocation methodologies that would entail subsidization by other customers.⁴ Maybe most concerning here, DTE’s application affirmatively describes that the Company is not proposing to change its methodology for allocating transmission upgrade costs, which would entail subsidization through the PSCR process.⁵

Under the DTE Letter’s “aggregate revenue” language, the Company might thus attempt to circumvent the Order’s requirement of no costs “covered by other

² December 18, 2025, Commission Order at 43.

³ DTE’s January 15, 2026, Letter.

⁴ Attorney General’s Petition for Rehearing and Clarification at 21 – 24.

⁵ *Id.*

customer,” permitting near-term subsidization under a theory that, over a long period of time, “aggregate revenue” might offset such subsidization. But as further identified in the Attorney General’s Petition for Rehearing and Clarification, neither DTE nor the Commission has identified any record evidence to explain how and when such a theory might operate to actually avoid otherwise inherent subsidization.⁶ The DTE Letter’s alternative language thus further runs afoul of the Commission’s findings in its Case U-21859 Order, which described inherent cost allocation inequities of Consumers Energy—and shared by DTE here—as “unacceptable.”⁷

For these reasons, the language of DTE’s letter is not consistent with, and does not accept, the “conditions” required in the Order. Because DTE has failed to accept those conditions within the time required under the Order, the Commission should issue an order directing that this case be reopened as a contested proceeding. This relief is further in the public interests as the defects in the DTE Letter directly correspond with the concerns of inadequate cost coverage and rate increases central to this matter and the Commission’s regulation of such special contracts writ large.

B. The DTE Letter attempts to impose additional conditions, invalidating any purported acceptance of the Order’s terms.

Not only does the DTE Letter appear to modify the Order’s conditions, it also seeks to impose additional conditions that operate as a counter-proposal rather than an acceptance of those conditions. Specifically, the DTE Letter states that

DTE Electric expressly reserves all rights, remedies, and defenses, including the right to contest, appeal, or otherwise challenge any and all future determinations, findings, or

⁶ *Id.*

⁷ *See, id.*

decisions of the Commission in any appropriate forum, or to alter or withdraw its acceptance if the conditions of the Order change following the Commission's disposition of petitions for rehearing on the Order.⁸

In petitions for rehearing, the Attorney General and MNSC have sought clarification on key points in the Order where the Commission provides unclear and inconsistent findings as to what exact obligations it would purport to impose on DTE under the "conditions" of the Order, as well as to the processes for enforcing any such obligations. For example, the Order fails to make clear the degree to which such conditions might require DTE to cover GCV's incremental costs,⁹ and the DTE Letter does nothing to resolve those inconsistencies. Nor does the Order make clear how an enforcement process for effecting the terms of the conditions might operate.¹⁰

The first part of the above-quoted sentence from the DTE Letter expressly reserves a right to challenge the Commission's application of the currently ordered conditions in future proceedings, which is again a qualifying statement to the conditions. Assuming, *arguendo*, that the conditions are clear, then DTE should not be qualifying its acceptance of the conditions with this reservation. Moreover, the second part of the sentence appears to be saying that the Company reserves the right to withdraw its acceptance of the Commission's conditions should the Commission afford clarification of its Order on rehearing. The Company's reservation of a right of withdrawal exceeds and asserts an alteration to the terms of the Order's conditions, representing a counter-proposal rather than an acceptance. DTE thus once again has

⁸ DTE's January 15, 2026, Letter.

⁹ *See*, the Attorney General's Petition for Review and Clarification at 3 – 9.

¹⁰ *See, id.*

failed to accept the conditions set forth by the Order under the 30-day timeline as required.

This in turn presents a change in condition such that a reopening of this matter as a contested case should be granted under Mich. Admin. Code 792.10436. The Company's counter-proposal further presents issues of cost-coverage and enforceability that require reopening the proceeding as a matter of public interest; the Company should not be allowed to condition any ratepayer protections here on, for example, an acknowledgement by the Commission on rehearing of an enforcement mechanism to ensure any such protections are in fact implemented.

III. Conclusion.

For the reasons described above, the Attorney General requests that, pursuant to Mich. Admin. Code 792.10436, the Commission "as soon as practicable" issue an order directing this matter be reopened as a contested proceeding.

Respectfully submitted,

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PROOF OF SERVICE - U-21990

The undersigned certifies that a copy of the *Attorney General's Motion to Reopen Proceeding* was served upon the parties listed below by e-mailing the same to them at their respective e-mail addresses on the 20th day of January 2026.

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