

STATE OF MICHIGAN  
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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

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MPSC No. U-21990

**Attorney General’s Notice of Intervention and Motion Requesting a  
Contested Proceeding as to DTE’s Battery Contracts**

Attorney General Dana Nessel hereby intervenes<sup>1</sup> and requests a contested proceeding under MCL 24.271 et seq. as to DTE’s request for approval of six contracts for three battery storage facilities (the “Battery Contracts”).<sup>2</sup> Such a contested case could proceed as part of a re-opened contested proceeding for the underlying special contracts in this Case U-21990, as separately requested by the Attorney General.<sup>3</sup>

**I. Argument.**

**A. DTE has not identified statutory authority permitting *ex parte* relief for the purpose of its Battery Contracts application.**

DTE has failed to meet its burden of proof for showing why *ex parte* relief is appropriate here. MCL 460.6a(3), which sets forth the applicable *ex parte* standard under which DTE seeks relief,<sup>4</sup> states in relevant part that:

An 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

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<sup>1</sup> See MCL 14.28 (“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.”). See also, *In re Certified Question*, 465 Mich 537, 543-545, 638 NW2d 409 (2002); See also, *Gremore v Peoples Community Hospital Authority*, 8 Mich App 56, 153 NW2d 377 (1967); See also, *People v O’Hara*, 278 Mich 281, 270 NW2d 298 (1936).

<sup>2</sup> See, DTE’s January 16, 2026, Application.

<sup>3</sup> See, the Attorney General’s Motion to Reopen Proceeding, U-21990-0036.

<sup>4</sup> See, DTE’s January 16, 2026, Application at 4.

service to its customers may be authorized and approved without notice or hearing.

Crucially however, DTE's own application explicitly asserts that its requests here "will not cause alteration or amendment in DTE Electric rates or rate schedules...."<sup>5</sup> Thus by its own description, DTE has identified that it does not qualify for the relief requested per the language of MCL 460.6a(3); the statute refers only to "an alteration or amendment in rates or rate schedules." The Commission has no common law powers, possesses only that authority granted by the legislature, and must follow the plain meaning of the statute.<sup>6</sup> As DTE has not identified any legal basis for the Commission to afford *ex parte* relief here, its request must be denied. As addressed further below, DTE similarly cannot satisfy the second part of the exception because the contracts are heavily redacted and it is impossible to determine whether there would be any increase in the cost of service to DTE's customers.

**B. The Commission should exercise its explicit authority to direct a contested proceeding given the dearth of evidence supporting DTE's requested relief.**

In contrast to the lack of authority identified by DTE for *ex parte* relief, the Commission has explicit authority under Mich. Admin. Code R 792.10415 "to set any matter for a contested case where not prohibited by law."<sup>7</sup> Several bases for a contested case exist here. Crucially, every single page of the Battery Contracts included in Attachment A in DTE's application is subject to some form of redaction,

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<sup>5</sup> *Id.*

<sup>6</sup> *Consumers Energy Co v Pub Serv Comm*, 460 Mich 148, 155 (1999); *See also*, the Attorney General's Petition for Rehearing and Clarification at 24 – 27.

<sup>7</sup> Case No. U-20763, Order, June 30, 2020, p 69.

with a large portion of pages redacted in their entirety.<sup>8</sup> Given these extensive redactions, it is impossible to glean whether the contracts might in fact accomplish any “affordability benefit” as claimed by DTE in its underlying case, or otherwise prove to be reasonable, prudent, or in the public interest,<sup>9</sup> even assuming final approval of DTE’s underlying U-21990 application (which the Attorney General continues to challenge).<sup>10</sup>

To provide additional examples of the many problems with DTE’s Battery Contract application, it fails to present any information as to the cost of the contracts in part or in total, or whether the Company conducted a competitive bidding process for the three “master service agreements for engineering, procurement, and construction”<sup>11</sup> (the “EPC” contracts).<sup>12</sup> And because the three “equipment supply agreements for battery modules”<sup>13</sup> (the “Battery ESAs”) were apparently selected from a list of bids previously picked through for IRP selections, the present contracts are presumably second-tier bids – less financially advantageous for DTE’s ratepayers than those the Company selected per its IRP.<sup>14</sup> Given the many issues caused by the lack of information in DTE’s Battery Contract application, accentuated by the extensive redactions to the Battery Contracts, the Commission should exercise its authority to direct a contested case proceeding.

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<sup>8</sup> See, e.g., Attachment A, Affidavit of Sebastian Coppola, at 1, paragraph 1.

<sup>9</sup> See, e.g., Attachment A, Affidavit of Sebastian Coppola (the Attorney General hereby incorporates by reference the points identified in the Affidavit).

<sup>10</sup> See, the Attorney General’s Motion to Reopen Proceeding, U-21990-0036.

<sup>11</sup> As described in DTE’s January 16, 2026, Application at 2.

<sup>12</sup> See, Attachment A, Affidavit of Sebastian Coppola at 2, ¶6.

<sup>13</sup> As described in DTE’s January 16, 2026, Application at 2.

<sup>14</sup> See, Attachment A, Affidavit of Sebastian Coppola at 2, ¶7.

Further, the Attorney General has identified and sought rehearing on numerous material errors in the Commission’s December 18, 2025, Order that would warrant the setting of a contested case, many of which persist in the context of DTE’s Battery Contracts application.<sup>15</sup> For example, neither DTE nor the Commission has identified whether or how an early exit fee would apply to the costs of company-owned battery storage development prior to those projects’ commercial operation dates (“CODs”).<sup>16</sup> Thus neither DTE nor the Commission has shown how Green Chile Ventures, LLC (“GCV”) will cover its costs for build-out of the battery storage at issue in DTE’s Battery Contract application, should GCV leave service prior to the projects’ completion, failing to meet the Commission’s caused-cost standards from Case U-21859.<sup>17</sup> This goes to the *ex parte* standard of MCL 460.6a(3) as well. Even if DTE were to assert it is avoiding cost-increases through deferred cost-accounting—which it has generally failed to adequately articulate or explain<sup>18</sup>—it has further not shown how it would avoid a rate increase should GCV leave prior to CODs of these battery projects.<sup>19</sup>

The location of the Battery Contract projects raises additional questions about GCV’s incremental costs to serve. DTE’s Battery Contract application presents

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<sup>15</sup> The Attorney General hereby incorporates by reference the arguments raised in her January 8, 2026, Petition for Rehearing and Clarification.

<sup>16</sup> See, e.g., the Attorney General’s Petition for Rehearing and Clarification at 17, 18 – 19 (noting, for example, on page 17 that “DTE failed to detail... how the ESA termination fee provisions will provide cost coverage during the pre-COD period of company-owned ESA project development”).

<sup>17</sup> *Id.*

<sup>18</sup> See, e.g., Attachment A, Affidavit of Sebastian Coppola at 3, ¶8; See also, e.g., the Attorney General’s Petition for Rehearing and Clarification at 21 – 24; See also, e.g., the Attorney General’s Motion to Reopen Proceeding at 3 – 4.

<sup>19</sup> See, e.g., the Attorney General’s Petition for Rehearing and Clarification at 17, 18 – 19.

project locations that are from 70 to 150 miles from the proposed data center location, facts that DTE failed to include in its underlying U-21990 application.<sup>20</sup> It remains unknown whether or how the cost for the three substations and the transmission of power from the battery projects to the data center were incorporated into any analyses by either DTE or the Commission as set forth in this matter.<sup>21</sup>

Finally, as raised in the Attorney General’s Motion to Reopen Proceeding, DTE has not accepted the conditions set forth in the Commission’s December 18, 2025, Order within the time frame required therein.<sup>22</sup> DTE thus does not have a basis to argue that any approval of its underlying special contracts provides support for *ex parte* relief here, because it failed to meet the Commission’s required conditions for approval. Further, the secretive manner in which DTE seeks approval on withheld information—reflective of its approach in the underlying matter—is contrary to principles of transparency, accountability, and evidence-based procedure fundamental to sound administrative decisionmaking.<sup>23</sup> The same goes for DTE’s repeated attempts to hold the MPSC to arbitrary and self-imposed contractual deadlines for approval of these contracts.<sup>24</sup>

In light of the above and as set forth in the Affidavit of Attorney General witness Sebastian Coppola, myriad compelling reasons exist for the Commission to

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<sup>20</sup> See, Attachment A, Affidavit of Sebastian Coppola at 2, ¶4.

<sup>21</sup> See, *id.*

<sup>22</sup> See, the Attorney General’s Motion to Reopen Proceeding, U-21990-0036.

<sup>23</sup> See, Attachment A, Affidavit of Sebastian Coppola at 2 – 3, ¶¶2 – 3.

<sup>24</sup> *Id.* at 3, ¶9.

Order a contested proceeding here as it is authorized to do under Mich. Admin. Code R 792.10415.

## **II. Relief Requested.**

Given the arguments set forth above, the Attorney General hereby requests a contested proceeding under MCL 24.271 et seq. as to DTE's request for approval of the Battery Contracts. Such a contested case could proceed as part of a re-opened contested proceeding for the underlying special contracts in this case U-21990, as separately requested by the Attorney General.<sup>25</sup>

Respectfully submitted,

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Dated: January 27, 2026

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<sup>25</sup> See, the Attorney General's Motion to Reopen Proceeding, U-21990-0036.

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 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 assess the adequacy of the request by DTE Electric Company (“DTE” or “Company”) for ex parte approval by the Michigan Public Service Commission (Commission) of three battery energy storage system (BESS) contracts and related Engineering, Procurement, and Construction (EPC) 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 many 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 assessment is that the application and related affidavit and exhibit filed on January 16, 2026 (Application) do not provide sufficient information for the Commission to make an adequate and informed, ex parte decision, 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 assessment on the following major issues and concerns:

1. The contracts are highly redacted and undecipherable as filed in the Application. Every page of the 252 pages of documents filed in Attachment A, consisting of three EPC contracts and three BESS contracts, is redacted and often entire pages of the contracts are fully redacted. Due to the extensive redactions, it is not possible for the Commission, the Commission Staff (Staff), or other parties to draw any conclusions that the contracts are reasonable, are in the best interest of customers, and should be approved by the Commission.
2. Although DTE has offered to show the unredacted contracts to the Commission and Staff for visual review, it stated in the Affidavit of Luisa M. Dunlap (DTE Affidavit) that the contracts must remain undisclosed. The lack of disclosure prevents the creation of a record in this case for any future reference to the contracts and specific terms and conditions that the Commission actually approved. This presents an untenable situation for all parties, including the

Commission, Staff, and intervenors to validate future requests for cost recoveries, cost reconciliations, and support any potential cost disallowances.

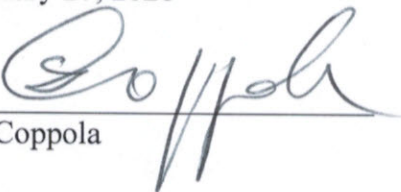
3. The secretive process of disclosing information to only the Commission and Staff, while hiding key terms from other parties who have a vested interest in protecting their constituencies, bodes poorly for an open and transparent process. With the three BESS contracts representing only 332 MW of the 1,400 MW of storage assets planned by DTE, which is less than a quarter of the total, DTE will certainly file other contracts in a similar manner if the Commission permits this practice to continue. This practice establishes a bad precedent for future proceedings, whereby utilities can file heavily redacted and secretive contracts for approval under expedited ex parte applications without the public and interested parties having the opportunity to fully assess the full financial implications of those contracts on the utility's customers and the public in general.
4. The DTE Affidavit states that three locations have been chosen to hold the BESS units: at the Cold Creek Energy Center substation being constructed in Branch County, the Fish Creek Energy Center substation being constructed in Montcalm County, and the Pine River Energy Center substation being constructed in Gratiot County. These locations are from 70 to 150 miles from the Saline data center. The construction of the new substations at the three locations is new information that DTE had not previously disclosed in the Energy Storage Agreement (ESA) filed with the October 31, 2025 ex parte application. It is unknown whether the cost for the three substations and the transmission of power from the BESS units to the data center are part of the ESA and paid by the data center customer or not.
5. The DTE Affidavit states that each BESS unit will provide four hours of power if called upon. Computer centers run 24 hours by seven days throughout the year and need constant power. In this case, the data center will require up to 1,400 MW at any point in time. It is not clear how DTE would supplement generation capacity after four hours if the battery storage is called upon for a period longer than four hours.
6. DTE presented three EPC contracts with the Application, which it has already signed. However, no information was presented that the company conducted a competitive bidding process before selecting the three contractors. No information has been presented about the cost of each contract or the total cost of the three contracts.
7. The three BESS contracts apparently were selected from a list of bids received from an IRP solicitation conducted in the second quarter of 2025. In Attachment B, DTE shows a list of storage bids received in the IRP solicitation but no information as to which of the listed bids were selected. The DTE Affidavit states that the company selected the most advantageous bids for the IRP. Therefore, by default the three bids selected for the ESA are second-tier bids that are less financially advantageous. The DTE Affidavit presents some costs per kW installed and a levelized cost but no comparison to market benchmarks to establish that the costs are reasonable.

8. The DTE Affidavit states that the three BESS projects will be owned by the company and will be included in a rate case for cost recovery. The company also states that payments from the data center customer will offset the rate base costs. However, no information has been presented to show how costs and reimbursements will match and what time lag between those two events will occur.
9. DTE is requesting ex parte approval of the contracts filed with this Application by March 12, 2026, arguing that if the MPSC fails to grant approval of the Application on or before March 22, 2026, then the Battery ESA will terminate and cease to be of any force or effect. This is another case of DTE holding the Commission and other parties hostage to a deadline it arbitrarily established and by default preventing an open and transparent review process. The Commission should reject this demand.

I recommend that the Commission take a more deliberate approach through a 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: January 27, 2026

  
 Sebastian Coppola

Sworn before me this 27 day of January 27, 2026:

Sebastian Coppola

Notary Public Paul H. 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 and Motion Requesting a Contested Proceeding* was served upon the parties listed below by e-mailing the same to them at their respective e-mail addresses on the 27<sup>th</sup> day of January 2026.

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Lucas Wollenzien

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