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January 29, 2026

Lisa Felice
Executive Secretary
Michigan Public Service Commission
7109 West Saginaw Highway
Lansing, MI 48917

RE: In the matter of the Application of DTE Electric Company for Approval of Special Contacts
MPSC Case No. U-21990

Dear Ms. Felice:

Attached for electronic filing in the above referenced matter is DTE Electric Company's Answer Opposing Petitions for Rehearing. Also attached is the Proof of Service.

Very truly yours,

Andrea E. Hayden

Digitally signed by Andrea E. Hayden
Date: 2026.01.29 16:45:54 -05'00'

Andrea E. Hayden

AEH/erb
Attachments

cc: Service List

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

DTE ELECTRIC COMPANY'S

ANSWER OPPOSING PETITIONS FOR REHEARING

Dated: January 29, 2026

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I. INTRODUCTION

On October 31, 2025, DTE Electric Company ("DTE Electric" or the "Company") filed an Application for *Ex Parte* Approval of Special Contracts for Electric Service ("Application") requesting that the Commission grant expedited *ex parte* approval of the Company's Primary Supply Agreement ("PSA") and Energy Storage Agreement ("ESA") (collectively, the "Special Contracts") with Green Chile Ventures LLC (the "Customer"). On December 18, 2025, the Michigan Public Service Commission ("MPSC" or the "Commission") issued an order in this docket ("December 18 Order") conditionally approving DTE Electric's Application and directing the Company to file a letter accepting the conditions therein. On January 15, 2026, the Company filed a letter accepting the conditions.[1]

On January 8, 2026, the Michigan Attorney General ("AG") and the Michigan Environmental Council, Natural Resource Defense Council, Sierra Club, and Citizens Utility Board of Michigan ("MNSC") filed petitions for rehearing and clarification. On January 14, 2026, the Great Lakes Renewable Energy Association ("GLREA") filed a petition for rehearing.

Pursuant to Rule 437 of the Commission's Rules of Practice and Procedure, R 792.10437, and all other applicable law, DTE Electric now files this Answer Opposing Petitions for Rehearing. The Company respectfully requests that the Commission deny the Petitions because they fail to meet the standards for rehearing. The December 18 Order reflects the Commission's thorough review of the Application and supporting testimony and exhibits,[2] detailed analysis and

[1] Case No. U-21990, Dkt No. 34.

[2] The December 18 Order, p 32, also notes that subject to the terms of an NDA,"[Commission] Staff was able to perform an investigation in order to substantiate the validity of the request for ex parte treatment. Complete, unredacted copies of the PSA and ESA were made available by DTE Electric to the Commission and the Staff, and the Staff performed an audit of the application and testimony . . . .".

disposition of motions, and methodical discussion of conditions and the types of future proceedings that will address issues at the appropriate time.

II. LEGAL STANDARD

Rule 437 governs petitions for rehearing and provides:

> (1) A petition for rehearing after a decision or order of the commission shall be filed with the commission within 30 days after service of the decision or order of the commission unless otherwise specified by statute. A petition for rehearing based on a claim of error shall specify all findings of fact and conclusions of law claimed to be erroneous with a brief statement of the basis of the error. A petition for rehearing based on a claim of newly discovered evidence, on facts or circumstances arising subsequent to the close of the record, or on unintended consequences resulting from compliance with the decision or order shall specifically set forth the matters relied upon. The petition shall be accompanied by proof of service on all other parties to the proceeding.

The Commission has consistently found that a petition for rehearing "is not merely another opportunity for a party to argue a position or to express disagreement with the Commission's decision. Unless a party can show the decision to be incorrect or improper because of errors, newly discovered evidence, or unintended consequences of the decision, the Commission will not grant rehearing." Case No. U-17691 Order dated January 31, 2017, p 8; *see also* Case No. U-21662 Order dated August 7, 2025, p 4. As provided in Rule 437, a petition for rehearing may not be granted to rehash arguments or express disagreement with the Commission's decision. Case No. U-17990 Order dated July 22, 2016, p 4.

This is similar to the standard applied to reconsideration motions before the courts under MCR 2.119(F)(3), which states that "a motion for rehearing or reconsideration which merely presents the same issues ruled on by the court, either expressly or by reasonable implication, will not be granted. The moving party must demonstrate a palpable error by which the court and the parties have been misled and show that a different disposition of the motion must result from correction of the error." These standards are routinely applied by courts. *See, e.g., Cason v Auto*

Owners Ins Co, 181 Mich App 600, 609-10; 450 NW2d 6 (1989) ("A motion which merely presents the same issues as ruled on by the Court, either expressly or by reasonable implication, will not be granted"); *Sargent v AM Eckhouse, DO, PC*, 171 Mich App 703, 706; 430 NW2d 763 (1988).

The Michigan Administrative Procedures Act ("APA"), MCL 24.287(1), relevantly provides that "[a]n agency may order a rehearing **in a contested case** on its own motion or on **request of a party**." (emphasis added). Rule 437(1) requires that any petition for rehearing must be served "on all other parties."[3] The Commission has ruled many times that only a party to a proceeding may seek rehearing or reopening. Case No. U-18218 Order dated March 28, 2017, p 3; Case No. U-16568 Order dated September 25, 2012, p 3; Case No. U-14883 Order dated August 21, 2007, p 3; Case No. U-12334 Order dated May 15, 2001, pp 2-3. When a petitioner seeks rehearing who has not been granted intervention, the petitioner lacks standing upon which to base claims under Rule 437. Case No. U-17990 Order dated July 22, 2016, p 4. When an evidentiary phase of a contested case proceeding has not occurred, rehearing is not appropriate. *Id*.

III. DISCUSSION

A. Petitioners are not parties and may not seek rehearing of a case that was not contested.

The December 18 Order conditionally approved the Special Contracts on an *ex parte* basis pursuant to MCL 460.6a(3). In so approving, the Commission expressly denied motions for a contested case proceeding filed by the AG, MNSC, GLREA, Clean Energy Organizations, and the Association of Businesses Advocating Tariff Equity (these persons were collectively

[3] The Commission's Rules of Practice and Procedure, R 792.10402(k), defines "Party" as "a person by or against whom a proceeding is commenced or a person that is permitted to intervene or the staff of the commission in any proceeding in which the staff participates."

referred to as "potential intervenors" or "movants" in the December 18 Order).[4] (December 18 Order, p 31). Hence, the Commission determined that because *ex parte* approval of the Application was proper under MCL 460.6a(3) and applicable precedent, notice and hearing were not required. (December 18 Order, pp 27-32, 43).

The Commission's denial of the potential intervenors' motions for a contested case proceeding in the December 18 Order, p 31, effectively denied their secondary petitions to intervene in this docket. Indeed, because the Commission's denial of the potential intervenors' motions for a contested case proceeding was dispositive, their petitions to intervene were rendered moot. See Case No. U-18218 Order dated March 28, 2017, p 3. Thus, the potential intervenors were never granted intervenor status, as defined by R 792.10402(j), nor became a "party" to this matter under R 792.10402(k), as a contested case was not ordered or conducted under the APA. No clarification is necessary regarding this basic ruling in the December 18 Order. The AG's Petition, however, ignores this dispositive aspect of the December 18 Order, erroneously asserting that the non-parties seeking rehearing are in fact "intervenors" in this docket. (*See, e.g.*, AG Petition, pp 21-22 ("[m]ultiple intervenors have identified issues with . . ." and "[t]he Commission's Order does not resolve the intervenors' concerns on this issues")). This fundamental oversight and defect in the AG's Petition should not be glossed over.

Petitioners cannot seek rehearing on the December 18 Order under well-established Commission precedent that only a party[5] to a proceeding may seek rehearing or reopening.[6] The

[4] December 18 Order, p 2, n 3.

[5] Rule 437 plainly refers only to "parties". For example, Rule 437 requires that the petition shall be accompanied by proof of service on "all **other parties** to the proceeding" (emphasis added) and contemplates that a petition must be filed by a "party" to the proceeding.

[6] Case No. U-18218 Order dated March 28, 2017, p 3; Case No. U-16568 Order dated September 25, 2012, p 3; Case No. U-14883 Order dated August 21, 2007, p 3; Case No. U-12334 Order dated May 15, 2001, pp 2-3.

Commission has ruled that when a petitioner seeks rehearing who has not been granted intervention in the matter, that petitioner is not a party and lacks standing upon which to base claims under Rule 437. Case No. U-17990 Order dated July 22, 2016, p 4. This precedent applies to the Petitioners, who are not parties and do not indicate any other apparent authorization for them to seek rehearing of the December 18 Order.

To the extent that MNSC's Petition, pp 16-17, seeks clarification regarding, and granting of, their petition to intervene in this docket, the Commission should deny the relief requested as improper under Rule 437. As discussed above, the absence of a grant of intervention and MNSC's non-party status bars MNSC from seeking rehearing.[7] Further, the Commission's rules do not provide for clarification petitions and MNSC's Petition does not allege an error, unintended consequence, or newly discovered evidence that would somehow provide a basis for rehearing on the issue of its petition to intervene. In any event, there is nothing to clarify because the Commission's denial of the potential intervenors' motions for a contested case proceeding was dispositive and rendered their petitions to intervene moot.

MNSC's Petition, p 16, further argues that the December 18 Order "makes clear this is an ongoing matter" because the Commission reserved jurisdiction and required the Company to submit quarterly and annual reports. This argument is unavailing, as the mere fact that the Commission reserved jurisdiction[8] and required the Company to submit reports does not convert this docket to a contested case or otherwise provide a basis to grant MNSC intervention in

[7] See Case No. U-17990 Order dated July 22, 2016, p 4. *See also*, Case No. U-18218 Order dated March 28, 2017, p 3; Case No. U-16568 Order dated September 25, 2012, p 3; Case No. U-14883 Order dated August 21, 2007, p 3; Case No. U-12334 Order dated May 15, 2001, pp 2-3.

[8] Per standard practice, the Commission reserves jurisdiction in virtually all of its orders by stating, "The Commission reserves jurisdiction and may issue further orders as necessary."

contravention of the December 18 Order.[9] Similarly, to the extent that GLREA's Petition, p 19, "renews" its petition to intervene, GLREA's request should be rejected as improper under Rule 437. The Company's Application was decided *ex parte*, and there remains no basis or need to grant intervention to the Petitioners simply because the December 18 Order was conditional. As set forth in the December 18 Order, several other avenues remain for the Petitioners to seek discovery of information and participate in other statutory proceedings.

B. The Petitions do not meet the legal standards for rehearing.

The Petitions fail to meet the applicable standards for rehearing because they fail to establish any errors, newly discovered evidence, or unintended consequences that will occur as a result of the December 18 Order. While Petitioners primarily frame their arguments as requests for clarification, their requests are simply disagreements, new proposals, or speculation as to future scenarios that do not comport to Rule 437 and seek to expand the scope of this limited *ex parte* docket. The intent of these requests is not to obtain "clarification", but to express disagreement and obtain a different outcome than the carefully considered and thoroughly supported December 18 Order. The Commission should deny these requests as they do not meet the legal threshold for rehearing set forth in Rule 437.

1. Petitioners' requests for clarification and additional details do not provide a valid basis for rehearing.

As a threshold matter, the Commission's rules do not expressly provide for clarification petitions. Thus, absent a showing that one of the bases for rehearing under Rule 437 applies, a

[9] When the Commission has ordered an *ex parte* filing be converted to a contested case, petitions to intervene (including those filed by objectors) are considered at the duly noticed prehearing before the administrative law judge assigned as the presiding officer in the contested case. *See, e.g.*, Case No. U-21859, Dkt Nos. 13, 14, 73. That did not occur in this docket. MNSC's request for the MPSC to grant its petition to intervene in the context of a petition for rehearing in wholly inconsistent with well-established MPSC precedent and procedure.

petition for "clarification" has no standalone validity under the Commission's rules.[10] Even if the Commission's rules are somehow interpreted to provide for clarification petitions filed by non-parties when a contested case has not been initiated, the December 18 Order is well-reasoned and does not require clarification. The Company's Application presented narrow requests that were appropriate for the Commission's grant of *ex parte* relief, while the broader issues suggested by Petitioners remain subject to future contested cases. Specifically, despite the narrowness of the Company's request and the appropriateness of the Commission's conditional grant of that request, the AG, MNSC, and GLREA continue to press for more information on rate case processes and outcomes, integrated resource planning ("IRP"), renewable energy planning ("REP"), and energy waste reduction ("EWR") planning as related to the December 18 Order, and now also seek more information and prejudgments on how the conditions will play out in the future.

MNSC makes clear that they are primarily seeking "clarification" of various conditions in the December 18 Order to resolve what they suggest are ambiguities on how those conditions will be implemented and enforced. (MNSC Petition, p 3). Notably, MNSC's Petition does not adhere to Rule 437, as it does not include requisite claims of error associated with the conditions in the December 18 Order or newly discovered evidence. To the extent that the MNSC takes issue with the conditions first arising in the December 18 Order and not having a chance to present arguments and develop a record regarding most of the conditions, this simply expresses disagreement with the *ex parte* nature of the Commission's conditional approval.[11] It appears

[10] "Unless a party can show the decision to be incorrect or improper because of errors, newly discovered evidence, or unintended consequences of the decision, the Commission will not grant rehearing." Case No. U-17691 Order dated January 31, 2017, p 8; *see also* Case No. U-21662 Order dated August 7, 2025, p 4.

[11] Although it does not appear that any Petitioner expressly argues that the conditions set forth in the December 18 Order amount to newly discovered evidence, it should be emphasized that the December 18 Order's findings and conclusions, including the conditions, are not newly discovered "evidence" as contemplated in Rule 437.

that MNSC's only attempt at arguing through the proper lens of Rule 437 is a passing reference that clarification is necessary to avoid unintended consequences of a potential increase in the cost of service. (MNSC Petition, p 1). This falls woefully short of satisfying Rule 437 and justifying rehearing.

Specifically, MNSC seeks clarification regarding allocation of costs, advocating for additional process details, requesting EWR and renewable energy cost allocation information, seeking the Commission's rationale regarding the need for a contract amendment, and requesting additional conditions around costs. (MNSC Petition, pp 3-13). None of these requests comport with Rule 437.

The AG similarly seeks clarification regarding the conditions in the December 18 Order and how the conditions might be enforced. (AG Petition, pp 3-9). The AG asks questions about future processes and the Commission's intent, for example, she asks whether the Commission will require certain studies in the future and seeks confirmation that the Commission will establish a "process for the Attorney General to seek payment or reimbursement from DTE to ratepayers". (AG Petition, p 8). The AG proffers no legal obligation for the Commission to answer the AG's pontifications on rehearing.

Petitioners' requests for details about what may happen in future cases are premature and inappropriate in the context of Rule 437.[12] Similar to the Petitioners' previously rejected claims, in their capacity as potential intervenors, these requests remain mere speculation that rely on positing concerns about what might occur in future statutory proceedings. (See December 18 Order, p 30). As the Commission recognized, there are obligatory statutory proceedings,

[12] In this regard, Petitioners' requests for clarification are akin to impermissible attempts to seek declaratory rulings as to speculative, hypothetical future scenarios without an actual state of facts. See MCL 24.263.

including future IRP, PSCR, and REP proceedings, conducted as contested cases where these items may be raised and will be reviewed on a regular cadence. (December 18 Order, pp 30-31). The topics prematurely raised by Petitioners will undoubtedly surface in a multitude of cases going forward, and there is no legal basis or factual need for the Commission to "clarify" them here. The Commission will have jurisdiction in those future cases, and various parties including the AG, MNSC, and GLREA will have notice and an opportunity to participate. Petitioners' requests for clarification are simply a continuing disagreement with the Commission's decision and not a basis for rehearing.

Moreover, the Commission does not have a duty to address every question or hypothetical concern that a petitioner may have. In many dispositive orders issued by the Commission, the Company is frequently directed to provide data, reports, analyses, or studies on a variety of topics. The Commission does not, nor are they obligated to, spell out precisely how they intend to use such information in the future. The Petitioners' questions and wishes do not give rise to a valid basis for rehearing under Rule 437. Thus, the Petitioners' requests for clarifications and additional details should be denied.

2. Petitioners' requests for added conditions do not provide a valid basis for rehearing.

GLREA sets forth a litany of proposals that are so far beyond the boundaries of rehearing, they should be given little deliberation and rejected outright. Those proposals include expanding the conditions to apply to all other existing and future (data and non-data center) customers, requiring DTE Electric to file for solar facilities to be installed at the data center site (GLREA Petition, p 2-3)[13], limiting the Company's ROE and preventing the Company from presenting

[13] Notwithstanding the fact that GLREA's proposals are not valid rehearing requests, GLREA's particular proposal to require solar installation at the customer's facility runs afoul of constitutional rights against takings. Mich Const 1963, art 10, §2 provides that: "Private property shall not be taken for public use without just compensation therefor

evidence and arguments regarding ROE in future rate cases[14], establishing additional conditions for contract default (GLREA Petition, p 9), requiring development of a separate customer class applicable to data centers (GLREA Petition, pp 10-11), and finally, urging the Commission to adopt other aggressive policies in IRPs, EWRs, renewable energy plans, virtual power plant proposals, and as applied to reliability metrics (GLREA Petition, pp 11-19)[15].

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being first made or secured in a manner prescribed by law." The Fifth Amendment of the United States Constitution similarly provides that "the government may not take private property unless it is done for a public use and with just compensation." *Silver Creek Drain Dist v Extrusions Div, Inc*., 468 Mich 367, 374; 663 NW2d 436 (2003).

GLREA's proposals also abrogate the bounds of regulation as described in *Union Carbide v. Pub Serv Comm*., 431 Mich 135, 148-149; 428 NW2d 322 (1988) ("The power to fix and regulate rates, however, does not carry with it, either explicitly or by necessary implication, the power to make management decisions. 'It must never be forgotten that while the State may regulate with a view to enforcing reasonable rates, it is not the owner of the property of public utility companies and is not clothed with the general power of management incident to ownership.'" [citations omitted]).

[14] GLREA acknowledges that its proposal is contrary to established regulatory practice. (GLREA Petition, p 7). GLREA's proposals to limit the Company's ability to make a record and the Commission's ability to make a decision are contrary to law that the Commission has repeatedly recognized. See, for example, January 23, 2025 Order in Case No. U-21534, p 200 ("The Supreme Court has made clear that, in establishing a fair ROE, consideration should be given to both a utility's investors and its customers"). As a matter of fundamental ratemaking law, DTE Electric is entitled to a commensurate return of and on its investment in providing utility service. See *Bluefield Waterworks Improvement Co v Public Service Commission of West Virginia*, 262 US 679, 690-694; 43 S Ct 675; 67 L Ed 1176 (1923); *Federal Power Comm v Hope Natural Gas Co*, 320 US 591, 603; 64 S Ct 281; 88 L Ed 333 (1944). See also *Permian Basin Area Rate Cases*, 390 US 747, 769-70; 88 S Ct 1344; 20 L Ed 2d 312 (1968); *FPC v Memphis Light, Gas and Water Division*, 411 US 458; 43 S Ct 1723; 36 L Ed 2d 426 (1973); *General Telephone Co v Pub Serv Comm*, 341 Mich 620; 67 NW2d 882 (1954); *Michigan Consolidated Gas Co v Pub Serv Comm*, 389 Mich 624; 209 NW2d 210 (1973).

Additionally, utilities have constitutional protections against "takings" and confiscatory rates under the Fifth Amendment to the U.S. Constitution, which is applicable to the states through the Fourteenth Amendment. Similarly, Mich Const 1963, art 10, § 2 provides in part, "Private property shall not be taken for public use without just compensation therefore being first made or secured in a manner prescribed by law." These constitutional protections have been recognized and applied to public utility rates in well-established case law. See generally, *Missouri ex rel Southwestern Bell Telephone Co v Public Service Comm of Missouri*, 262 US 276; 43 S Ct 544; 67 L Ed 981 (1923); *Federal Power Comm v Natural Gas Pipeline*, 315 US 575; 62 S Ct 736; 86 L Ed 1037 (1942); *Duquesne Light Co v Barasch*, 488 US 299; 109 S Ct 609; 102 L Ed 2d 646 (1989). See also, *Northern Michigan Water Co v Pub Serv Comm*, 381 Mich 340; 161 NW2d 584 (1968); *Consumers Power Co v Pub Serv Comm*, 415 Mich 134; 327 NW2d 875 (1982); *ABATE v Pub Serv Comm*, 430 Mich 33; 420 NW2d 81 (1988).

[15] GLREA's assertions about reliability metrics have no relationship to this case, but instead reflect GLREA's continuing attempts to re-litigate performance-based ratemaking metrics.

GLREA also asserts (and MNSC and AG imply) that the conditions to the December 18 Order "constitute 'facts or circumstances arising subsequent to' any other filings or events in this case". (GLREA Petition, p 2). The Company disagrees because GLREA legally and factually misapplies Rule 437. First, Rule 437 does not establish an independent basis for rehearing based on the language, "on facts or circumstances arising subsequent to the close of the record." The excerpted language must not be read in isolation. Rule 437 must be read as a whole,[16] which states, in pertinent part:

> **A petition for rehearing based on a claim of newly discovered evidence, on facts or circumstances arising subsequent to the close of the record, or** on unintended consequences resulting from compliance with the decision or order shall specifically set forth the matters relied upon. (emphasis added).

When read in the full context of Rule 437, it is clear that "on facts or circumstances arising subsequent to the close of the record" is a dependent clause predicated on a "claim of newly discovered evidence." This reading is consistent with over 50 years of jurisprudence concerning the legal framework for rehearings before the MPSC.[17] Presumably, this is why the Commission's well-established application of Rule 437 does not cite "on facts or circumstances arising subsequent to the close of the record" as a standalone basis for rehearing. See Case No. U-17691 Order dated January 31, 2017, p 8; see also Case No. U-21662 Order dated August 7, 2025, p 4 ("Unless a party can show the decision to be incorrect or improper because of errors,

[16] "[S]tatutory provisions are not to be read in isolation; rather, context matters, and thus statutory provisions are to be read as a whole." *Robinson v Lansing*, 486 Mich 1, 15; 782 NW2d 171 (2010). "[C]ourts must interpret statutes in a way that gives effect to every word, phrase, and clause in a statute and avoid an interpretation that would render any part of the statute surplusage or nugatory." *O'Connell v Director of Elections*, 316 Mich App 91, 98; 891 NW2d 240 (2016) (quotation marks and citation omitted).

[17] See Case No. U-4331 Order dated March 27, 1974, pp 3-4 (describing the legal framework and extensive body of administrative law providing for rehearing based on "(1) Newly discovered evidence upon facts and circumstances arising subsequent to the close of the record"). To the extent that Rule 437 has a comma between "newly discovered evidence" and "on facts or circumstances," this does not bifurcate the clauses nor establish a standalone right to rehearing solely based on facts or circumstances that are not tied to newly discovered evidence and an evidentiary hearing with a closed evidentiary record.

newly discovered evidence, or unintended consequences of the decision, the Commission will not grant rehearing").

In addition to GLREA's misinterpretation of Rule 437, GLREA's invocation of "facts or circumstances arising subsequent to any other filings or events in this case" as a basis for rehearing is also factually incorrect. The facts and circumstances regarding the ESA and PSA as filed in the Company's Application are unchanged, and the conditions established by the Commission do not alter them. Instead, the conditions in the December 18 Order require future action by the Company and will be addressed in future contested proceedings as necessary. The conditions do not provide a foundation for the additional requests made by Petitioners.

3. Petitioners' suggestions to modify terms of the Company's letter of acceptance are moot.

GLREA and MNSC both assert that the condition requiring that the Company file a letter of acceptance is not sufficient, and that further conditions and obligations should be added to the letter. (GLREA Petition, p 5; MNSC Petition, p 7, *see also*, p 10, n 26). On January 15, 2026, the Company filed a letter as the Commission directed. Therefore, GLREA's and MNSC's suggestions are moot and provide no basis for further action.[18] GLREA expresses concerns regarding the signatory to the letter, but the letter was signed by Marco A. Bruzzano, the Company's Senior Vice President, Regulatory Affairs. Thus, it is not a "mere letter from a DTE employee" (GLREA Petition, p 5).

[18] See for example, *B P 7 v Bureau of State Lottery*, 231 Mich App 356, 359; 586 NW2d 117 (1998) (dismissing appeals because issue presented became moot); *International Union v Michigan*, 211 Mich App 20, 29; 535 NW2d 210 (1995) (dismissing claims that had been rendered moot by subsequent developments); *Plumbers and Pipefitters Local Union No 190 v Wolff*, 141 Mich App 815, 818; 369 NW2d 239 (1985) (declining to address moot issues).

4. MNSC's requests for clarification regarding EWR obligations are unnecessary and not appropriate for rehearing.

MNSC raises questions regarding EWR, but again no action is necessary. MNSC's Petition, pp 11-12, acknowledges that MNSC raised EWR concerns, and that the Commission addressed such concerns as follows:

> Turning to EWR, the Staff confirmed that DTE Electric commits to addressing the increased EWR targets in the next EWR plan filing, which will be due eight months after the issuance of a final order in the company's next IRP case. The Commission finds the EWR issues associated with the special contracts to be relatively straightforward, and directs DTE Electric, in its next EWR filing, to provide a detailed analysis of the incremental EWR costs necessary to meet the 2% EWR savings target inclusive of the Customer, along with a thorough analysis of updated surcharges that are designed to ensure other customers are not impacted by the incremental EWR program costs attributable to the Customer [December 18 Order, p 37.]

The Order's schedule for the Company's next EWR filing follows the applicable EWR statute (MCL 460.1073(3)), which also provides for the possibility of an amendment. MCL 460.1073(4) ("If a provider proposes to amend its plan at a time other than during the review process under subsection (3), the provider shall file the proposed amendment with the commission . . . ."). There is nothing more for the Commission to do at this point based on MNSC's speculation about how the future might develop.

5. The Commission did not err in establishing its reporting conditions.

Although MNSC does not claim a valid basis for rehearing on the reporting conditions established in the December 18 Order, MNSC "requests the Commission grant rehearing to modify the quarterly reporting requirement to provide an up-to-date assessment of the credit rating and financial state of GCV, Oracle, and any affiliate providing a parent guarantee for the PSC and/or ESA. . . . [and provide] clarification regarding whether the Commission will require DTE to make available the quarterly reporting to parties seeking intervention in this case, along with parties to future electric rate cases, so that such parties can monitor the potential cost-of-

service implications of the information in the quarterly reports". (MNSC Petition, p 11, *see also* pp 13-16).

In addition to not forming a valid basis for rehearing under Rule 437, the Company disagrees with MNSC's requests for modification and clarification of the December 18 Order, because the Commission already set forth reporting requirements which are tailored to the conditional approval of the Special Contracts and the credit and collateral terms that protect the Company and its customer. MNSC suggests that it is unclear how such information will be made available in discovery future rate cases, but MNSC also does not identify any express bar to discovery created by the December 18 Order. MNSC asserts that customer specific sensitive data may be precluded from discovery due to the Company's data privacy tariff, but this is a speculative problem that does not present any basis for rehearing. To the extent MNSC's concern seeks modification of utility data privacy tariffs, this is not the proper forum to do so. *See, e.g.*, Case No. U-21534 Order dated April 10, 2025, p 16 (rejecting rehearing request that essentially disputed billing rules).

6. The Petitioners' claims of unintended consequences regarding credit and collateral are speculative.

While MNSC does not expressly argue through the requisite lens of unintended consequence or error with respect to the December 18 Order, MNSC suggests that it has continuing concerns that "can be reduced by the Commission granting rehearing and issuing an order that (1) requires DTE to file a letter accepting the condition that it bear the costs and risks of any insufficiency in the credit and collateral provisions, and (2) includes such condition in the lists of things specifically ordered by the Commission in this proceeding". (MNSC Petition, p 10. Footnote omitted). MNSC also tacitly recognizes that this condition would likely be subject to future review by the Commission because it is based on a hypothetical circumstance that

cannot and should not be addressed in this case. *Id*. Nevertheless, as discussed above, proposals for additional conditions provide no basis for rehearing and should be rejected.

The AG expresses similar concerns, but questions whether DTE Electric should be a "backstop". (AG Petition p 9-14). The Commission addressed concerns about protecting the Company and ratepayers in the event of a default or termination by the Customer, relevantly stating:

> While the PSA termination payment is based on ten years, the Commission finds that the minimum termination amounts of approximately $2.3 billion under the PSA and $3.9 billion under the ESA were negotiated by DTE Electric to protect itself from the financial impacts of default by the Customer. If the load fails to materialize, the MBD will still apply. In addition, should the Customer seek to exit the contracts, the termination amounts will apply. As some movants point out, at any stage in this process costs may (and likely will) have already been incurred by DTE Electric. The PSA and ESA minimum termination amounts, along with the Commission's conditions, ensure that all of those costs will be fully borne by the Customer. Additionally, addressing the Attorney General's concern that the termination fee may not be adequate to protect other customers, the Commission finds that the credit and collateral requirements in the unredacted PSA and ESA, along with the Commission's conditions, ensure that any risk that the Attorney General's concern materializes is either covered by the substantial collateral collected or is borne by DTE Electric and not by other customers. See, Attorney General's motion, pp. 7-9. [December 18 Order, pp 33-34.]

The AG's discussion is untethered from the Commission's decision and relies on several pages of conjecture derived from various media articles about Oracle or OpenAI. The Commission has reviewed the credit provisions in the PSA and ESA and found that "the credit and collateral requirements in the unredacted PSA and ESA, along with the Commission's conditions, ensure that any risk that the Attorney General's concern materializes is either covered by the substantial collateral collected or is borne by DTE Electric and not by other customers". (December 18 Order, pp 33-34).

Speculation is not a basis for rehearing, and in light of the Commission's thorough audit of the Special Contracts and findings in the December 18 Order, the AG's unintended consequences argument should be rejected.

7. *The Commission's findings do not contradict its requirements for special contract approvals in Case No. U-21859 as the AG suggests.*

The AG argues that, "as discussed at length in [her] December 3, 2025 Reply",[19] DTE Electric's pleadings do not meet the requirements for special contract approvals in the Case No. U-21859 Order dated November 6, 2025 ("November 6 Order"). (AG Petition, p 14). As the AG recognizes, these arguments have been raised, responded to, and rejected by the Commission. Thus, the AG fails to establish a claim of error to justify rehearing.

The Company has repeatedly explained that its special contract filing aligns with the Commission's directives to Consumers in the November 6 Order, and that the AG's reliance on the November 6 Order is misplaced (DTE Electric's November 18, 2025 Response Opposing the AG's Request for a Contested Proceeding ("November 18 Response"), pp 5-8; November 26 Response, pp 9-14). As set forth in the Company's filing and acknowledged by the Commission, the addition of the Customer to DTE Electric's system provides a significant benefit to existing customers. (December 18 Order, pp 32-33, 27-38). The AG repeats her wish list of items she asserts that the Company did not provide, however, aside from the speculative assertions regarding cost recovery, each of these items are addressed in the Company's filing and informed the Commission's well-reasoned December 18 Order.

The remainder of the AG's Petition on this issue is somewhat perplexing, as it alleges that the Company did not provide publicly available details regarding certain terms in the Special

[19] Notably, the AG's December 15, 2025, Motion for Leave to File its December 3, 2025 Reply to DTE Electric's Response was denied by the Commission. December 18 Order, p 2, n 4. Thus, the Commission should disregard cross-references to the AG's denied December 3, 2025 Reply in the AG's Petition.

Contracts. The AG suggests that there are no public provisions regarding the exit fee in the PSA and ESA (AG Petition, p 18), but this is not correct. The termination fee conditions were not redacted in either the PSA or ESA and are available to review publicly in the docket. (See Exhibits A-1 and A-2 to the Testimony of Neal T. Foley). Similarly, the AG suggests that the Company did not put forth details regarding the amount of renewables it needs to achieve the Renewable Portfolio Standard. (AG Petition, p 19). This too is incorrect. Although a full Renewable Energy Plan was not prepared, the Company did provide a forecast of the amount of renewable energy it may need to develop, and as the Commission acknowledged, the full details and plan for RPS compliance will be determined in the Company's next Renewable Energy Plan filing consistent with the December 18 Order. (See Testimony of Kevin L. Bilyeu, pp 8-11).

Finally, the AG alleges that the Commission failed to address cost allocation issues. (AG Petition, p 21). The AG neglects that the Commission provided for cost allocation to be addressed in the Company's next rate case (December 18 Order, pp 39-40), providing that: "In addition, consistent with the directives in the November 6 order, DTE Electric shall also file a cost allocation and rate design proposal in its next general rate case that ensures that any future large load interconnection customers are paying the costs of interconnection," and requiring DTE Electric to file "at least six cost allocation and rate design studies" that the Commission described.

A petition for rehearing fails if the request simply rehashes the arguments already made by the petitioner. Case No. U-17990 Order dated July 22, 2016, p 4. The AG's arguments should therefore be rejected.

8. The Commission did not err by finding that MCL 460.6a(3) authorized it to grant ex parte approval of the Special Contracts.

The Commission found that the Company's "application meets the standard for *ex parte* treatment authorized by MCL 460.6a(3) because conditional approval of the special contracts will not result in an increase to the rates, rates schedules, or costs of service for any customers". (December 18 Order, p 31).

The AG and MNSC assert that the Commission lacked authority to issue the December 18 Order under MCL 460.6a(3). (AG Petition, pp 24-27; MNSC Petition, pp 17-19). Their arguments are essentially identical, contending that the condition precedent for the *ex parte* exception (a need for a contested case) did not arise, so the exception does not apply. They then pivot to the flawed conclusion that there must be a contested case. To the contrary, if there is no basis for a contested case in the first place, then there is still no basis for a contested case.

More specifically, the AG and MNSC rely on two things. First, MCL 460.6a(3) provides in part: "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 service to its customers may be authorized and approved without notice or hearing." Second, the Company's Application stated, in part: "The approvals requested in this Application will not result in an alteration or amendment in rates or rate schedules and will not increase the cost of services to the Company's customers". (Application, paragraph 10).

Based on these things, the AG asserts: "Because both DTE and the Commission appear to be arguing that the first portion of the statute is not applicable here, the Commission erroneously concluded that Section 6a(3) grants it the authority to approve DTE's application without a contested case hearing". (AG Petition, p 26). MNSC similarly asserts: "Because DTE

does not request an alteration or amendment in rates or rate schedules, the text in section 6a(3) does not apply". (MNSC Petition, p 17).

MCL 460.6a relevantly provides:

> (1) A gas utility, electric utility, or steam utility shall not increase its rates and charges or alter, change, or amend any rate or rate schedules, the effect of which will be to increase the cost of services to its customers, without first receiving commission approval as provided in this section. . . . The commission shall require notice to be given to all interested parties within the service area to be affected, and allow interested parties a reasonable opportunity for a full and complete hearing. . . .
>
> (3) . . . 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 service to its customers may be authorized and approved without notice or hearing.

The Company's Application, and the December 18 Order, are consistent with the statute and applicable case law, and the Commission lawfully granted *ex parte* approval. The Company submitted the Customer's Primary Supply Agreement for Commission approval in order to alter the terms and conditions of the DTE Electric's standard industrial rate as they particularly related to one customer. The additional terms of service proposed by the Company – extended contract term, increased minimum billing demand, the addition of credit support, and a substantial termination fee – are not currently explicitly authorized by the Company's current rate schedule D11, and thus amendment for one customer was needed. Similarly, the Energy Storage Agreement set forth the terms and conditions by which the customer would pay for batteries that will be utilized to serve the data center facility.

But assuming for argument's sake that the AG and MNSC are accurate in contending that Section 6a(3)'s *ex parte* exception does not apply because the basis for a contested case in Section 6a(1) does not exist, then there simply is no requirement for a contested case in the first place. Either way, there is no basis for either a contested case or rehearing.

The AG and MNSC cite no authority for their suggestion that the Commission should (or even could) order a contested case where there is no statutory requirement for one. There is no such authority, and as the December 18 Order recognized, special contracts have been approved in many instances on an *ex parte* basis. December 18 Order, p 30; *see, e.g*., Case No. U-21285 Order dated December 21, 2022 (approving a special contract for renewable energy resources for Ford Motor Company); Case No. U-21361 Order dated May 18, 2023 (approving a special contract for Stellantis N.V.). [20]

The AG offers a "hypothetical [that] illustrates the absurd extension of the Commission's reasoning here" by purportedly showing how the "Commission's application of this exception in MCL 460.6a(3) would further create the unintended effect of allowing a utility to file an application for a general rate increase and claim that a hearing is not required" (AG Petition, pp 26-27). The Company agrees only that the hypothetical is absurd. The Commission was authorized to issue the December 18Order *ex parte* consistent with MCL 460.6a(3) and doing so does not create the precedent-setting risk tenuously suggested by the AG.

III. REQUEST FOR RELIEF

Based on the discussion above, DTE Electric respectfully requests that the Commission deny the AG's, MNSC's, and GLREA's petitions for rehearing.

[20] Courts of Appeals has recognized that a contested case is not triggered by 460.6a(1). See *Attorney General v Pub Serv Comm*, 220 Mich. App. 561, 562, 560 N.W.2d 348, 349 (1996) (affirming approval of power purchase agreement on an ex parte basis, where cost to purchase power were offset by facility lease proceeds); *Attorney General v Pub Serv Comm*, 1999 WL 33455129, at *1 (Mich. Ct. App. Jan. 15, 1999) (contract for "for natural gas transportation and storage services" was not subject to the contested case requirement in Section 460.6a(1).

Respectfully submitted,

DTE ELECTRIC COMPANY

By: Andrea E. Hayden

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Dated: January 29, 2026

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

STATE OF MICHIGAN)
) ss.
COUNTY OF WAYNE)

ESTELLA R. BRANSON states that on January 29, 2026, she served an electronic copy of DTE Electric Company's Answer to Petitions for Rehearing in the above captioned matter, via electronic mail, upon the persons listed on the attached service list. Courtesy copies were provided to counsel for the Petitioners via electronic mail.

Estella R. Branson

Digitally signed by Estella R. Branson
Date: 2026.01.29 16:47:48 -05'00'

ESTELLA R. BRANSON

MPSC Case No. U-21990
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