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.	))))	Case No. U-21990

At the March 27, 2026 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. Daniel C. Scripps, Chair
Hon. Katherine L. Peretick, Commissioner
Hon. Shaquila Myers, Commissioner

ORDER

On November 3, 2025,[1] DTE Electric Company (DTE Electric)[2] filed an application in this docket, with supporting testimony and exhibits, for *ex parte* approval of special contracts for electric service (application). DTE Electric sought approval of a primary supply agreement (PSA) and energy storage agreement (ESA) (together, the special contracts) with Green Chile Ventures LLC (Customer or GCV), a subsidiary of Oracle Corporation, for supplying electric service to a 1.383 gigawatt (GW) data center facility in Saline Township, Michigan, which the Customer plans to "lease, operate, and cause to be constructed" in DTE Electric's service territory. Application,

[1] DTE Electric Company initially filed an application on October 31, 2025, but that application was removed from the docket at the company's request per filing #U-21990-0001.

[2] Some movants and petitioners refer to DTE Electric as DTE. All quotes are rendered verbatim unless otherwise indicated.

pp. 1-2. The special contracts were expected to become effective upon Commission approval in this case. *See*, application, Exhibits A-1 and A-2.

On November 6, 2025, the Michigan Department of Attorney General (Attorney General) filed a notice of intervention and a motion for a contested case pursuant to MCL 24.271 *et seq*. On November 18, 2025, DTE Electric filed a response in opposition to the Attorney General's motion for a contested case.

On November 19, 2025, the Association of Businesses Advocating Tariff Equity (ABATE); the Michigan Environmental Council, Natural Resources Defense Council, Inc., Sierra Club, and Citizens Utility Board of Michigan (together, MNSC); and the Environmental Law & Policy Center, the Ecology Center, Union of Concerned Scientists, and Vote Solar (together, the Clean Energy Organizations or CEOs) each filed a petition to intervene and a motion for a contested case. On November 21, 2025, the Great Lakes Renewable Energy Association (GLREA) filed a petition to intervene and a motion for a contested case.[3] On November 26, 2025, DTE Electric filed a response in opposition to the motions for a contested case filed by ABATE, MNSC, the CEOs, and GLREA.[4]

[3] The potential intervenors to the underlying proceeding variously styled their requests for a contested case as a request, a petition, or a motion. For purposes of this order, the Commission refers to the requests as "motions" and, at times, refers to the potential intervenors as "movants" or "petitioners."

[4] On December 3, 2025, ABATE filed a motion for leave to file a reply to DTE Electric's response in opposition to the motions for a contested case and the Attorney General filed a reply to DTE Electric's response in opposition to the motions for a contested case. On December 12, 2025, MNSC filed a motion for leave to file a reply to DTE Electric's response. On December 15, 2025, the Attorney General filed a motion for leave to file the reply to DTE Electric's response which was already filed by the Attorney General on December 3, 2025, and DTE Electric filed a response to ABATE's motion. Mich Admin Code, R 792.10432 (Rule 432) does not provide for the filing of a reply to a response. In the order issued in this docket on December 18, 2025, the Commission denied the motions filed by ABATE, MNSC, and the Attorney General.

On December 3, 2025, the Commission held a virtual public hearing on the application via Microsoft Teams at which the Commission received comments from interested persons. The transcript of the public hearing is available in the docket at filing #U-21990-0025. As of the date of this order, there are 6,267 comments filed in the Case Comments section of the docket as of March 25, 2026.[5]

On December 18, 2025, the Commission issued an order conditionally approving the application for *ex parte* approval of the ESA and PSA (December 18 order). The Commission stated that the approval was conditional and required the filing of a letter in the instant docket by DTE Electric accepting the conditions within 30 days of the date of the order. December 18 order, p. 43. The December 18 order includes numerous other directives to DTE Electric and imposes quarterly and annual reporting requirements. *See*, December 18 order, pp. 43-45.

On January 8, 2026, the Attorney General and MNSC each filed a petition for rehearing and clarification pursuant to Mich Admin Code, R 792.10437 (Rule 437). On January 14, 2026, GLREA also filed a petition for rehearing under Rule 437.

On January 15, 2026, DTE Electric filed its acceptance letter (acceptance letter).

On January 16, 2026, DTE Electric filed an *ex parte* application for approval of special contracts concerning battery modules, with a supporting affidavit (January 16 application).

On January 20, 2026, the Attorney General filed a motion to reopen the proceeding pursuant to Mich Admin Code, R 792.10436 (Rule 436). On the same day, MNSC filed a concurrence with the Attorney General's motion to reopen.

On January 27, 2026, the Attorney General filed a notice of intervention and a motion

[5] Many of the comments address water usage and/or land use and local zoning, which are not within the Commission's jurisdiction.

requesting a contested proceeding regarding the January 16 application for approval of the battery contracts, along with a supporting affidavit (Attorney General's motion).

On January 29, 2026, DTE Electric filed an answer opposing the petitions for rehearing (DTE Electric's rehearing response).

On February 6, 2026, DTE Electric filed an answer opposing the motion to reopen (DTE Electric's reopening response).

On February 10, 2026, GLREA filed an answer to the motion to reopen.

On February 17, 2026, DTE Electric filed an answer opposing the motion for a contested proceeding (DTE Electric's motion response).

This order will address the petitions for rehearing, the motion to reopen, and the motion for a contested proceeding regarding the battery contracts.

The Petitions for Rehearing and the Response

In the ordering paragraphs of the December 18 order, the Commission conditioned its approval of the application as follows:

> The approval of the special contracts is conditioned upon the representations made by DTE Electric Company 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. Within 30 days of the date of this order, DTE Electric Company shall file a letter in this docket expressly accepting these conditions, as described in this order.

December 18 order, p. 43 (Ordering Paragraph B). In her petition for rehearing, the Attorney General begins by seeking clarification regarding this ordering paragraph in the December 18 order, arguing that the Commission's language does not obligate DTE Electric to cover any portion of the costs incurred to serve the Customer and thus the condition has no effect. Attorney

General's petition for rehearing, pp. 3-5 (citing December 18 order, pp. 34, 40, and 43). She contends that the language of the order is not clear and does not provide protection for ratepayers from stranded costs associated with serving the Customer. She adds that the order lacks any identification of an enforcement mechanism for holding DTE Electric to such an agreement, and that the quarterly and annual reporting required by the December 18 order does not actually require a full accounting of the costs incurred by the company and covered by the Customer, which is needed to allow for a determination of whether there are stranded costs. The Attorney General also asserts that it is not clear whether the reporting will be available to her office. She avers that the order also fails to engage with many points that were "identified by intervenors in pleadings, where DTE did not provide sufficient cost-coverage or the avoidance of rate increases." Attorney General's petition for rehearing, p. 7 (note omitted). The Attorney General seeks clarification of the following issues:

a) Whether the Commission intends to require DTE, and not its preexisting ratepayers, to guarantee all costs it incurs to provide service to GCV, including all PA 235 [Public Act 235 of 2023 (Act 235)] compliance costs incurred as a result of added retail demand from the Customer;
b) Whether the Commission intends to require, as part of its reporting requirements, an assessment of costs-incurred to serve GCV compared to costs-covered, including an assessment of any near-term rate-increases for other customers caused by GCV's incremental costs (such as might occur through DTE's existing cost allocation methodologies);
c) Whether the Commission intends there to be processes for the Attorney General to seek payment or reimbursement from DTE to ratepayers for un-covered costs, tracking with the timing of the reporting requirements, and if so to specify what such processes are;
d) Whether the Commission intends that DTE's reporting will be accessible and reviewable in unredacted form by the Attorney General; and
e) Whether the Commission expects that DTE's investments to serve GCV won't begin accruing until the end of 2026, or whether it would consider instead requiring that DTE begin its reporting in the first quarter following the quarter in which it begins incurring costs to serve GCV.

Id., pp. 8-9.

Moving on, the Attorney General contends that the order presents errors and unintended consequences because "the Commission has not provided any analysis or explanation for why DTE itself is a reasonable and prudent credit backstop to Oracle[.]" *Id*., p. 9. She avers that the order does not analyze DTE Electric's ability to absorb the potential costs and does not demonstrate a "path to profitability for OpenAI" or for Oracle, and argues that these entities had losses in 2025. *Id*., pp. 10-12. The Attorney General points to testimony from the Commission Staff (Staff) describing concerns with the future of the artificial intelligence (AI) industry in Case No. U-21859 and argues that the December 18 order does not address the financial risk posed by these issues. She maintains that "[a]llowing Michigan utilities to backstop the risks of the AI software industry also contradicts the standard from [Case No.] U-21859 that the customers would cover their own caused costs." *Id*., p. 13 (citing the November 6, 2025 order in Case No. U-21859 (November 6 order), p. 117, which was a large load tariff proceeding for Consumers Energy Company (Consumers)). The Attorney General states that the Commission has failed to require DTE Electric to detail all of the resources that will be necessary to serve the Customer and she again requests a contested case on the application.

The Attorney General also argues that the December 18 order conflicts with the November 6 order. She contends that, in contrast to the December 18 order, the November 6 order requires that the full costs of service must be paid by the interconnecting large load customer and that all generation, transmission, and renewable resources must be detailed by the utility. Attorney General's petition for rehearing, pp. 15-17. She asks that the Commission apply the standards set in the November 6 order on rehearing in the instant case. The Attorney General further requests that the Commission identify record evidence in support of its findings, as it did in the earlier case, and provide greater analysis of the issues of termination and exit fees, compliance with Act 235,

and cost allocation. *Id*., pp. 18-23.

Finally, the Attorney General contends that the Commission lacked statutory authority to issue the December 18 order. MCL 460.6a(3) provides as follows: "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 Attorney General argues that, because DTE Electric did not seek an alteration or amendment in rates or rate schedules in the application, but instead expressly stated that its application "will not result in an alteration or amendment in rates or rate schedules[,]" the Commission lacks jurisdiction under the statute to grant *ex parte* treatment. *Id*., p. 25 (providing an uncited quote from the application, p. 4). She notes that the Commission has no common law powers, and argues that:

> [b]ecause 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. 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. Under the reasoning provided in the Commission's order, a utility could file an application seeking to alter or amend a rate or rate schedules, such as a general rate case, and claim that it "will not result in an increase in the cost of service to its customers." In fact, the Commission's decisionmaking [sic] here indicates that such a utility could file an application with the critical information redacted from the record and prevent any interested party from reviewing that information.

Id., p. 26. The Attorney General again requests a contested case. *Id*., p. 27.

In its petition for rehearing, MNSC states that the December 18 order contains conditions that were first introduced in the order itself and thus were "not subject to any input or evidentiary development by any of the parties to this proceeding." MNSC's petition for rehearing, p. 1. MNSC contends that the conditions do not adequately protect ratepayers and the unintended consequence of the order will be an increased cost of service for ratepayers. MNSC seeks rehearing and clarification of the conditions included in the order.

MNSC contends that DTE Electric failed to present adequate evidence regarding its calculations and modeling; the projected generation, transmission, and distribution costs associated with compliance with various statutes; and the impacts of investments on customers. MNSC argues that the Commission's conditions are unlikely to protect customers from stranded costs. *Id*., pp. 3-4. Like the Attorney General, MNSC argues that the December 18 order fails to identify an enforcement mechanism or process, and fails to require DTE Electric to "make an affirmative showing that actual payments being made are fully covering the costs being incurred." *Id*., p. 5. MSNC criticizes the order's analysis of the issues of resource adequacy, renewable energy, clean energy, and energy waste reduction (EWR). *Id*., pp. 5-6. MNSC also argues that cost allocation is not clear. MNSC adds that the letter accepting the condition should be sworn under oath by someone with authority to legally bind the company.

MNSC states that it seeks clarification regarding the credit and collateral provisions in the special contracts, contending that despite the language of the December 18 order, it is unlikely that DTE Electric would actually bear the costs associated with service under the special contracts if the credit and collateral provisions for the Customer prove to be insufficient. *Id*., p. 9. MNSC argues that it is not clear from the order whether the Commission's decisions really are conditional and the sufficiency of the credit and collateral was not made one of the conditions. MNSC states that these concerns can be addressed 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." *Id*., p. 10 (note omitted). MNSC also questions whether there is an adequate enforcement mechanism, particularly in light of the fact that requiring the company to bear the costs could "undermine the financial viability of

the utility." *Id*. MNSC argues that this requires clarification and the reporting requirements should be increased and reporting be made available to the entities seeking intervention in this case.

MNSC also seeks clarification regarding the company's EWR obligations and the affordability reporting. *Id*., pp. 11-15. MNSC submits that it is unclear how parties will be able to determine whether the condition has been met and whether any rate classes are benefitting from a reduction to the cost of service, and whether the affordability reporting will be discoverable in rate cases. MNSC also argues that the Commission does not appear to have ruled on its request to intervene. MNSC renews its request to intervene.

Finally, MNSC makes the same legal argument made by the Attorney General, asserting that the Commission lacks authority under MCL 460.6a(3) to issue the December 18 order "because DTE Electric did not apply for an alternation or amendment in rates or rate schedules." *Id*., p. 17. MNSC contends that:

> Section 6a(3) does not grant the Commission authority to approve a special contract *ex parte* – it does not mention special contracts at all. The provision only applies to requests [sic] an alteration or amendment in rates or rate schedules – which may be embodied in a special contract – but DTE Electric expressly states it is not making such a request here. MCL 462.11 authorizes the Commission to approve special contract rates but does not authorize the Commission to do so *ex parte*. And section 6a(1), which the Order also cites, provides the process for deciding rate cases and does not address special contracts. Thus, an examination of the various statutes pertaining to special contracts and *ex parte* approvals reveals no authority for the Commission's action here.

Id., p. 18 (citing the December 18 order, pp. 28-29 and cases cited therein). MNSC argues that the cases cited by the Commission for support involved alterations or amendments to rates and thus are distinguished from the instant case.

In its petition for rehearing, GLREA states that there is no evidence or record in this proceeding, and that the December 18 order introduced conditions for the first time. Thus,

GLREA contends that those conditions constitute facts or circumstances that arose subsequent to the "events in this case" and require rehearing. GLREA's petition for rehearing, p. 2. GLREA complains that the December 18 order fails to require the company to file for approval of solar facilities to be installed at the Customer's site, and the Commission should rehear the case in order to direct such a requirement. *Id*., pp. 2-4. GLREA asserts that the condition letter should reflect a resolution by DTE Electric's board of directors, rather than rely on an undesignated company employee. GLREA also asks that the Commission's conditions apply to all future customers rather than to only existing customers, and argues that the order should be amended to implement transparent accounting and allocation procedures. *Id*., pp. 6-7. GLREA asks that the Commission ensure that DTE Electric's data center customers do not form a basis for seeking an increase to the company's return on equity (ROE) in rate cases based on increased risk.

Further, GLREA asks that the Commission strengthen conditions relating to a potential bankruptcy or default by a data center project developer, and argues that DTE Electric should be prohibited from using securitization to address stranded assets or other costs. *Id*., pp. 8-9. GLREA posits that the Commission should clarify and strengthen its requirements addressing curtailment of load in the event of a capacity or energy shortfall. *Id*., p. 10. Finally, GLREA advises the Commission to aggressively implement other statutory schemes such as integrated resource plans (IRPs), EWR programs, renewable energy plans (REPs), and clean energy plans (CEPs) along with virtual power plants (VPPs), in order to mitigate potential cost impacts and risks associated with approval of the special contracts. *Id*., pp. 11-19. GLREA suggests a potential method for determining the currently available utility headroom. *Id*., p. 13.

In its response, DTE Electric notes that MCL 24.287(1) provides that "[a]n agency may order a rehearing in a contested case on its own motion or on request of a party" and Rule 437 requires

service of a petition for rehearing "on all other parties[,]" and a "party" is defined 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." DTE Electric's rehearing response, p. 3, and p. 3, n. 3 (quoting MCL 24.287(1), Rule 437(1), and Mich Admin Code, R 792.10402(k) (Rule 402(k)), respectively). DTE Electric further argues that 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*.

DTE Electric's rehearing response, p. 3. Thus, DTE Electric maintains that the three petitioners for rehearing are not parties to this case and may not seek rehearing. The company notes that in the December 18 order, pp. 27-32 and 43, the Commission denied the motion for a contested case and found that *ex parte* treatment of the application was appropriate and notice and hearing were not required. Thus, DTE Electric argues that the three petitioners never became parties to the instant proceeding as that term is defined in Rule 402(k) nor did they become "intervenors" as that term is defined in Rule 402(j). DTE Electric's rehearing response, p. 4 (citing the March 28, 2017 order in Case No. U-18218, p. 3). DTE Electric contends that the Attorney General errs in referring to herself as an intervenor in her petition and that a non-party lacks standing to file a petition under Rule 437. DTE Electric's rehearing response, p. 5 (citing the July 22, 2016 order in Case No. U-17990, p. 4). The company argues that the three petitioners offer no basis to seek rehearing other than Rule 437.

DTE Electric also argues that a non-party may not seek clarification and the Commission's Rules of Practice and Procedure do not provide for clarification petitions. The company states that

the mere retention of jurisdiction and the requirement of continued reporting by the company does not render this a contested case. DTE Electric asserts that the renewed requests for intervention should be denied, and posits that "several other avenues remain for the Petitioners to seek discovery of information and participate in other statutory proceedings." DTE Electric's rehearing response, p. 6.

DTE Electric argues that the three petitions do not meet the standards for rehearing under Rule 437 because they fail to establish errors, newly discovered evidence, or unintended consequences of the December 18 order and instead simply disagree with the order and offer speculation. DTE Electric states that MNSC's petition makes no claim to adhere to the requirements of Rule 437 but simply expresses disagreement, and the company rejects the notion that conditions in an order constitute newly discovered evidence. *Id*., p. 7. DTE Electric contends that, as the Commission recognized in the order, "there are obligatory statutory proceedings, including future IRP, PSCR [power supply cost recovery], and REP proceedings, conducted as contested cases where these items may be raised and will be reviewed on a regular cadence." *Id*., pp. 8-9. The company adds that "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." *Id*., p. 9; *see, id.,* pp. 9-12.

Turning to the letter of acceptance, DTE Electric argues that the petitioners' suggestions are moot and provide no basis for action by the Commission, noting that the letter was signed by the Senior Vice President for Regulatory Affairs and not a mere employee. *Id*., p. 12. DTE Electric asserts that MNSC's requests for clarification regarding EWR obligations are also not appropriate for rehearing, as this issue was addressed by the Commission in the December 18 order, p. 37, and the Commission did not err in establishing reporting conditions. The company further argues that the petitioners' claims regarding the credit and collateral terms are speculative and based on

hypotheticals, and were addressed by the Commission in the December 18 order, pp. 33-34. DTE Electric maintains that the December 18 order does not conflict with the findings in the November 6 order, and notes that, as the Attorney General concedes, these arguments have already been raised and rejected by the Commission. DTE Electric's rehearing response, p. 16.

Finally, DTE Electric addresses the legal argument that the Commission lacked authority to issue the December 18 order. Regarding whether there must be a contested case, the company argues that "if there is no basis for a contested case in the first place, then there is still no basis for a contested case." *Id*., p. 18. DTE Electric contends that:

> [t]he 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 [Attorney General] 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.

Id., p. 19. DTE Electric states that the Attorney General and MNSC cite no authority for their suggestion because there is no such authority, and that special contracts have been approved in many cases on an *ex parte* basis.

The Motion to Reopen Proceeding

In her motion to reopen, the Attorney General contends that DTE Electric's acceptance letter

does not reflect the requirements of the December 18 order and attempts to impose an additional condition on the acceptance, thus acting as a counter-proposal to the order. Attorney General's motion to reopen, p. 1. Referring to Ordering Paragraph B, the Attorney General argues that DTE Electric has not accepted the conditions of the order and thus the acceptance letter does not "actually present additional safeguards against rate increases or cross-subsidizations[.]" *Id*., p. 2. Noting that the language of the December 18 order requires a commitment that the costs to serve the Customer "are not covered by other customers[,]" she points out that the acceptance letter states that "the aggregate revenues generated by [the Customer] will cover the costs to serve them." *Id*., p. 3 (quoting the December 18 order, p. 43, and the acceptance letter, respectively). The Attorney General argues that DTE Electric operates under cost allocation methodologies that entail subsidization by other customers, specifically with respect to allocating transmission upgrade costs which are subsidized by other customers via operation of the PSCR process. She contends that the company's reference to aggregate revenue is an attempt to circumvent the requirements of the order:

> 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.

Attorney General's motion to reopen, p. 4 (footnote omitted). She contends that the defects in the letter require reopening of this case.

Further, the Attorney General notes that in the acceptance letter DTE Electric reserves its right 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."' *Id*., p. 5 (quoting the acceptance letter). The Attorney General argues that the December 18 order requires rehearing or

clarification on several points and thus the acceptance letter represents a counter-proposal to the Commission rather than an acceptance.

MNSC joins and concurs with the Attorney General's requested relief, as does GLREA. GLREA argues that the acceptance letter constitutes a partial acceptance of the Commission's conditions and omits the commitment that the costs to serve the Customer will not be covered by other customers. GLREA's answer, p. 2. GLREA contends that an express acceptance must be clear and unequivocal, not conditional. *Id*., p. 3.

In its opposition, DTE Electric notes that Rule 436 provides that reopening may be granted by the ALJ or the Commission, or on the "motion of any party." DTE Electric's reopening response, p. 2 (quoting Rule 436(2)). DTE Electric argues that the Commission:

> has consistently ruled that a motion for reopening can only be sought by a party to the proceeding: "[t]he Commission has ruled many times that only a party to a proceeding may seek reopening or rehearing." Case No. U-18218 Order dated March 28, 2017, p 3; *see also* 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.

DTE Electric's reopening response, p. 2. The company contends that the Attorney General, MNSC, and GLREA are not parties to this proceeding and may not seek reopening. The company notes that the Commission denied the motions for a contested case and found that notice and a hearing were not required at pages 27-32 and 43 of the December 18 order. As argued above, DTE Electric states that the movants were denied intervention and thus are not parties per Rule 402(j) and (k). DTE Electric asserts that the movants do not indicate that they have any authorization to seek reopening other than Rule 436. *Id*., p. 4 (citing the July 22, 2016 order in Case No. U-17990, p. 4).

Additionally, DTE Electric argues that a motion to reopen a proceeding is conditioned on the existence of a contested proceeding which can be reopened after an evidentiary hearing, which is

implied by the language in Rule 436 allowing reopening for the receipt of "further evidence." DTE Electric's reopening response, p. 4 (quoting Rule 436(1)). DTE Electric asserts that the movants will have notice and an opportunity to participate in the obligatory proceedings that will follow, including IRP, PSCR, and REP proceedings which are conducted as contested cases. The company contends that the Commission has the sole discretion to reopen this proceeding.

Finally, DTE Electric argues that the acceptance letter is not defective, stating that the letter makes clear that "costs would be offset by the substantial contribution to existing fixed costs that would otherwise be recovered from the Company's other customers." DTE Electric's reopening response, p. 6 (citing the direct testimony of Neal Foley, pp. 25, 28, and 30-35). The company argues that the letter repeats the presentation made by DTE Electric in its filing, which was acknowledged by the Commission in the December 18 order. DTE Electric also notes that the Commission did not include a condition requiring the company to waive its legal rights with respect to future orders, and the company did not agree to accept all future conditions that may be imposed via future orders.

The Motion for Contested Case

In the January 16 application, DTE Electric requests *ex parte* approval of the Cold Creek Energy Center, Fish Creek Energy Center, and Pine River Energy Center projects (collectively, the Projects) and the equipment supply agreements for battery modules and master service agreements for engineering, procurement, and construction (collectively, the Contracts) necessary to develop the Projects, as consistent with the ESA and the December 18 order. DTE Electric explains that the Projects included for approval in the January 16 application constitute the first 332 megawatts (MW) of company-owned projects under the ESA. January 16 application, p. 2. Specifically, the company seeks approval for the construction of the Cold Creek Energy Center, Fish Creek Energy

Center, and Pine River Energy Center to fulfill the ESA.[6] DTE Electric states that the Projects, consistent with the December 18 order, "will not cause alteration or amendment in DTE Electric rates or rate schedules, nor will Commission approval of the Project[s] and DTE Electric's related requests increase the cost of service to DTE Electric customers. Therefore, the relief requested in this Application may be authorized and approved without notice or hearing under MCL 460.6a(3)." January 16 application, p. 4.

In her motion for a contested proceeding, the Attorney General states that her intervention is pursuant to MCL 14.28. Attorney General's motion, p. 1, n. 1. Similar to her petition for rehearing, she argues that DTE Electric has failed to show that *ex parte* treatment of the January 16 application is appropriate under MCL 460.6a(3) because the application itself states that the request will not cause an alteration or amendment to rates or rate schedules. She further argues that it is impossible to tell whether that is a true statement "because the contracts are heavily redacted." Attorney General's motion, p. 2. The Attorney General urges the Commission to exercise its authority to require a contested proceeding based on this lack of evidence, noting the Commission's general power to do so under Mich Admin Code, R 792.10415 (Rule 415). She states that:

> every single page of the Battery Contracts included in Attachment A in DTE's application is subject to some form of redaction, with a large portion of pages redacted in their entirety. 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[.]

[6] As detailed in the affidavit of Luisa M. Dunlap in support of the January 16 application, the Cold Creek Energy Center will be sited in Branch County, Michigan, and is anticipated to provide 100 MW of dispatchable energy storage capacity. January 16 application, Exhibit 1, p. 4. The Fish Creek Energy Center will be sited in Montcalm County, Michigan, and is anticipated to provide 132 MW of dispatchable energy storage capacity. *Id.* The Pine River Energy Center will be sited in Gratiot County, Michigan, and is anticipated to provide 100 MW of dispatchable energy storage capacity. *Id.*

Id., pp. 2-3 (citing the attached affidavit of Sebastian Coppola). The Attorney General states that the January 16 application and attachments fail to provide any cost information and seem to indicate that the Contracts are second-tier bids, because the first tier bids were used to fulfill IRP requirements. She maintains that neither the company nor the Commission have shown exactly how costs for the build-out of the battery storage will be covered and how rate increases will be avoided. *Id*., p. 4. She requests a contested proceeding pursuant to MCL 24.271 *et seq*.

In its response, DTE Electric argues that the Attorney General simply rehashes her disagreement with the findings of the December 18 order. The company argues that the January 16 application is consistent with standard practice for implementing:

> projects and contracts that do not result in an increase to the cost of service, including those that support the fulfillment of Commission-approved special contracts. Contrary to the AG's insinuations that the Application somehow asks for extraordinary relief or is otherwise inappropriate, the AG is undoubtedly aware that the Commission has long exercised authority to grant *ex parte* applications for utility owned and third party owned projects and related supply and procurement contracts where no increases to the cost of service results. The Company's Application falls squarely within that well established practice and should be granted accordingly.

DTE Electric's motion response, p. 3 (footnote omitted). DTE Electric asserts that the Commission had authority to issue the December 18 order under MCL 460.6a(3) and repeats its contention that "if there is no basis for a contested case in the first place, then there is still no basis for a contested case." *Id*., p. 4. The company argues that MCL 460.6a(3) must be read within the overall context of MCL 460.6a, and notes that the direct testimony of Neal Foley, p. 15, confirmed that DTE Electric will submit each energy storage project deployed under the ESA to the Commission for review and approval prior to construction. DTE Electric acknowledges that cost recovery for actions taken pursuant to the ESA "will be fully addressed and decided in future rate cases." *Id*., p. 5, n. 9. DTE Electric asserts that:

> [c]onsistent with the December 18 Order, the costs of the Projects will be paid for by the Customer under the Special Contract ESA. Thus, the relief requested in the Application may be authorized and approved without notice and hearing under MCL 460.6a(3).
>
> Nevertheless, assuming for the sake of argument that the AG is accurate in contending that MCL 460.6a(3)'s *ex parte* exception does not apply because the basis for a contested case in MCL 460.6a(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 a contested case.

Id., p. 6. The company cites to examples of approvals of special contracts on an *ex parte* basis. *Id*.; *see also*, *id.*, p. 3, n. 6. The company further avers that the Court of Appeals has recognized that a contested case is not automatically triggered by MCL 460.6a(1). *Id*., p. 6, n. 11. DTE Electric posits that the Attorney General's disagreement with the December 18 order is not a basis for initiating a contested case, and notes that the Staff consulted with the company and reviewed the Projects and Contracts on December 18, 2025, and January 16, 2026. The company further notes that the Attorney General provides no citation to authority that allows her to turn this matter into a contested case or to open a proceeding to intervention that has not been opened to intervention by the court or tribunal. *Id*., pp. 8-9.

Finally, DTE Electric again argues that, though not directly relevant to the January 16 application, its acceptance letter was unequivocal. *Id*., pp. 10-11.

Discussion

With respect to rehearing, Section 87(1) of the Michigan Administrative Procedures Act of 1969 (APA) provides that "[a]n agency may order a rehearing in a contested case on its own motion or on *request of a party*." MCL 24.287(1) (emphasis added). Further, Rule 437, upon which the Attorney General, MSNC, and GLREA expressly base their petitions for rehearing, provides in pertinent part: "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 . . . The petition shall be accompanied by proof of service on *all other parties* to the proceeding." Rule 437(1) (emphasis added).[7] Similarly, Rule 436(2) provides that reopening may be granted by the ALJ or the Commission, or on the "motion of *any party*." Rule 436(2) (emphasis added). Rule 402(k) defines a "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."

In this case, the Commission finds that the Attorney General, MNSC, and GLREA are not parties to the instant proceeding. The Attorney General, MNSC, and GLREA are neither the person by or against whom this proceeding was commenced nor members of the Staff. Moreover, the Attorney General, MNSC, and GLREA are not persons that were permitted to intervene in the contested case proceeding. *See*, December 18 order, pp. 27-32, and 43. Accordingly, the Commission finds that the Attorney General, MNSC, and GLREA are not "parties" as defined by Rule 402(k). Because they are not parties to the instant proceeding (which is not a contested case), the Commission also finds that they may not seek rehearing or reopening.[8] The Commission finds that the plain language of MCL 24.287(1), Rule 437(1), and Rule 436(2) expressly contemplates that rehearing and reopening may only be pursued by a party to a contested case proceeding. This conclusion is consistent with prior Commission orders addressing a request to rehear or reopen filed by a non-party. *See*, October 9, 2025 order in Case Nos. U-21471 *et al*., pp. 9-10; October 5,

[7] The use of the term "other" necessarily denotes that the person filing a petition is also a party. *See*, "Other." Merriam-Webster.com Dictionary, https://www.merriam-webster.com/dictionary/other. (accessed March 17, 2026) (defining "other" as being "the one or ones distinct from that or those first mentioned or implied" or "additional").

[8] The Commission notes that the Attorney General has argued that a non-party may not seek rehearing. *See*, December 20, 2001 order in Case No. U-12887, p. 3.

2018 order in Case No. U-18090, pp. 10-11; March 28, 2017 order in Case No. U-18218, p. 3; July 29, 2013 order in Case No. U-16582, p. 4; December 18, 2007 order in Case No. U-14800, p. 10; and August 21, 2007 order in Case No. U-14882, p. 3. The Commission finds that the Attorney General, MNSC, and GLREA have no legal basis upon which to petition for rehearing or reopening because they lack standing and that it is therefore appropriate to deny the petitions. This ruling is dispositive and thus any renewed petitions to intervene are moot. Additionally, the Commission notes that the Commission's Rules of Practice and Procedure, Mich Admin Code, R 792.10401 *et seq.*, do not provide for clarification petitions, and the Commission finds that a non-party may not seek clarification of a Commission order.

Moreover, even assuming that the petitioners were parties to this case with standing to seek reopening and rehearing, the Commission finds that they have not satisfied the standards of Rules 436 and 437.

Rule 436(1) provides that "[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." Rule 436(2) provides that "[t]he commission may reopen a proceeding after the time period for filing a petition for rehearing for good cause." Rule 437(1) provides that a petition for rehearing may be based on claims of error, newly discovered evidence, facts or circumstances arising after the hearing, or unintended consequences resulting from compliance with the order. 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 a rehearing.

The Commission finds that the petitions for rehearing and reopening express the petitioners' disagreement with the outcome of the December 18 order and repeat the arguments that they made in seeking a contested proceeding. In the December 18 order, the Commission began by addressing the requests for a contested proceeding. In its consideration of the petitioners' arguments, the Commission thoroughly analyzed the statutory language and case law applicable to the treatment of special contracts, and concluded as follows:

> These cases demonstrate that the Court of Appeals has found that special contracts that do not result in an immediate change in rates or in the cost of service to customers qualify for *ex parte* approval, even where it is clear that the existence of the special contracts could—or even likely will—result in an associated revenue request by the utility in a future rate case. The Court in *Attorney General* rejected the notion that a special contract may only receive *ex parte* treatment if the Commission can attest that there is no potential for a rate or cost of service increase in the short-term or at any time in the future. 227 Mich App at 153-155. Instead, the Court found the Commission's interpretation of MCL 460.6a(3) to be reasonable in light of the fact that, should the potential for a change in rates or costs arise in a rate case, the Commission has plenary power to address the issue in the context of a contested proceeding in which all interested parties will be able to participate. MCL 460.6; MCL 460.6a. It is axiomatic that the Commission avoids single-issue rate cases, because changes in rates must be done on a holistic basis in order to understand the context of the changes and to best examine issues of rate design and cost allocation among customers, where customers as well as all other parties have the ability to participate. Thus, a request for approval of a special contract cannot be treated like a single-issue rate case, and such an approval may occur only when there will be no impact on existing rates or costs of service to any customer.
>
> The Commission acknowledges the unprecedented size of the Customer in this case and the unique considerations in addressing load of this magnitude associated with a single customer. The fact that the Customer is seeking to exclusively pay for its own capacity source also presents unique aspects. But the Commission recognizes, as do the movants, that this type of application itself is not unusual. Special contracts with individual customers that meet the statutory standards are routinely addressed through *ex parte* proceedings. This is different from Consumers' request in Case No. U-21859 for a general tariff that would apply to all data centers or large load customers. The special contracts apply only to the Customer. A generally applicable tariff will apply to all customers that are covered by the tariff's eligibility criteria and, thus, could justify the use of the Commission's discretion to order a contested case pursuant to the Commission's broad authority under Rule 415(1) even if the tariff would not result in an increase in rates or the cost of

service.

The Commission also notes the speculative nature of the movants' claims, many of which rely on positing concerns about what might occur in future IRP, PSCR, and REP proceedings, that could result in increases to rates or costs of service. As the Commission observed in the November 6 order:

> issues related to renewable and clean energy standards should be addressed in the proceedings that are already structured to address these issues, including REP, CEP, IRP, and VGP [voluntary green pricing] program cases, as well as rate cases. As the Staff notes, capacity demonstration cases and EWR cases will be involved as well. The Commission recognizes that MCL 460.1051 and MCL 460.1028 require a ramping-up of clean and renewable energy supplies and they are volumetrically-based. These are requirements that will be addressed in the proceedings where such requirements are reviewed under the statutorily authorized process. As the Staff correctly noted, the existing separate proceedings authorized by statute have a wider scope and allow for better consideration of alternatives. Thus, the Commission declines the suggestion to include mandated renewable and clean energy requirements in the large load provisions of Rate GPD [the large load tariff at issue in the case]. This does not foreclose the possibility of changes to the tariff at a later date based on the results of future CEP, REP, IRP, VGP, and rate cases[.]

November 6 order, pp. 118-119. Notably, REPs, IRPs (including consideration of CEPs), and rate cases are all required to be contested proceedings. *See*, MCL 460.6a(1); MCL 460.6t(7); MCL 460.1022(3)-(4). Likewise, PSCR issues, such as the appropriate factor, will be addressed in the applicable PSCR plan or reconciliation proceeding—a contested proceeding authorized by statute specifically for the consideration of a record addressing the issue in the context of actual data rather than theoretical scenarios. MCL 460.6j(5), (12). The same principles apply in this special contract review case. The Commission is not persuaded that hypothetical outcomes from future statutorily mandated proceedings require the rejection of an application for *ex parte* treatment for these special contracts.

Applying the case precedent and these legal principles, the Commission finds that the 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, rate schedules, or costs of service for any customers. Thus, the Commission finds that the motions for a contested case should be denied. And while the Commission finds that the standard for *ex parte* treatment is met on that basis alone, it also notes that, in this case, the standard argued by the Attorney General in *Attorney General* is also met. Although the argument was ultimately rejected by the Court of Appeals, the then-Attorney General argued "the only way

> the PSC could approve the contract without public notice and an opportunity for hearing would be if the PSC ruled that all discounts and costs resulting from the [special] contract must always be borne by Consumers and its shareholders only, and never by any of Consumers' other customers." 227 Mich App at 152. As described below, the Commission is conditioning its approval on the requirement that, at the very least, all current and future costs caused by the Customer shall be covered by the Customer or by DTE Electric and not existing customers. As such, approval of the special contracts in this case not only meets the findings of the Court of Appeals in *Attorney General*, but also meets the higher standard proposed by the then-Attorney General (though not adopted by the Court of Appeals) in that case.

December 18 order, pp. 29-32.

The Commission goes on to discuss the Staff's review of the special contracts and makes findings with respect to the public interest, holding that:

> the terms of the PSA that enhance the conditions of Rate D11 [Rate Schedule D11], including the long-term 19-year commitment, the MBD [minimum billing demand], the termination fee, and the credit and collateral requirements, mitigate some risk associated with potential cost subsidization and include distinct protections for the utility with respect to stranded costs particularly as any such subsidization or exposure that could occur can be addressed in such cases where the company requests that rates be changed to reflect the same.

Id., p. 33. The Commission then addresses its concerns (and the concerns of the petitioners) regarding cost allocation; compliance with Act 235; EWR, IRP, REP, and CEP issues; storage; the affordability model; and the new substation, and imposes certain conditions on DTE Electric in order to ensure that future proceedings have the benefit of an adequate record. *Id*., pp. 34-38. The Commission goes on to find that:

> based on its independent review of the unredacted contracts and the Staff's analysis, the weight of the evidence and public interest considerations support approval of the special contracts, both because the special contracts conform to the requirements of MCL 460.6a(3) and because they represent a means of potentially obtaining the company's claimed affordability benefit that is estimated to accrue to ratepayers. However, the Commission recognizes that the application does not mirror every aspect of the November 6 order. Thus, the Commission directs DTE Electric to file, within 90 days, an application for a generally applicable large load customer tariff that aligns with the findings in the November 6 order. The Commission will consider this application in a contested case proceeding.

> Addressing MNSC's concern that the decision on the special contracts may set precedent for future negotiations and agreements, the Commission notes that the generally applicable large load customer tariff will serve the purpose of setting this standard. In the meantime, the Commission will consider any subsequent applications for approval of special contracts on a case-by-case basis. The Commission encourages DTE Electric to take steps to promote transparency and meaningful review as part of any such applications, and the Commission maintains its broad discretion under Rule 415(1) to convert any such applications to contested case proceedings as appropriate.

December 18 order, p. 39.[9] Thereafter, the Commission provides DTE Electric with several directives regarding required cost allocation evidentiary filings in its next electric rate case. *Id*., pp. 39-40. The Commission also requires an update to the company's Rate Book for electric service and addresses the issue of load shed. *Id*., p. 41.

The Commission set quarterly and annual reporting requirements in the December 18 order as follows:

> DTE Electric is further directed to file a quarterly report in this docket detailing the following: (1) the Customer's load profile for the previous quarter; (2) the amount of storage that is operational as of the end of that quarter; (3) the Customer's total demand for the preceding 12 months, compared to expected contract capacity and MBD; (4) any changes to the Customer's credit rating that trigger a change to the credit and collateral terms; and (5) DTE Electric's assessment of the financial state of the Customer. On an annual basis, in every report filed on December 31, DTE Electric shall also include any other information related to the realization of the projected affordability benefit. Such reports may be filed on a confidential basis as necessary to protect sensitive information. The Commission directs DTE Electric to file the first of these quarterly reports no later than December 31, 2026.

Id., p. 42. As noted, the reporting is required to be posted in the public electronic docket by specific dates. In conclusion, the Commission adds that it "reserves the authority to reopen this case at any time and/or issue an order to show cause if DTE Electric's claimed affordability benefit fails to materialize or vanishes or costs associated with serving the Customer are expected

[9] The application for a large load customer tariff was filed on March 18, 2026, in Case No. U-22061.

to fall upon existing customers." *Id*., p. 43. The order ends with numerous mandated directives. *Id*., pp. 43-45.

As this brief recap of the December 18 order demonstrates, the issues highlighted by the petitioners in their arguments in support of rehearing have already been considered by the Commission and, in many instances, the Commission crafted a result in the December 18 order that coincides with the interests and concerns expressed by the petitioners in their original requests for a contested proceeding and which are repeated in their requests for rehearing. *See*, December 18 order, pp. 27-43. While there are areas where the petitioners disagree with the order, these do not rise to the level of requiring rehearing because the petitioners do not identify an error, newly discovered evidence, facts or circumstances arising after the hearing, or unintended consequences resulting from compliance with the order. The issue of cost allocation was front and center in this case and thus the Commission is not persuaded that the condition that it imposed in Ordering Paragraph B constitutes newly discovered evidence or a fact or circumstance arising after the hearing. The Commission finds that the consequences arising from compliance with the December 18 order were contemplated by the mandated result. Moreover, the Commission does not routinely refer to the options that are available under the law for enforcing Commission orders, but made an exception in this case by noting its ability to issue an order to show cause, along with several references to its discretion under Rule 415. *See*, *e.g.*, December 18 order, p. 43. All of the enforcement opportunities that normally accrue to the Attorney General also remain open, as in any other case, and are in no way curtailed by the December 18 order. Thus, the Commission is not convinced that rehearing or reopening are required on grounds that the December 18 order is ineffectual.

The Commission also finds that its rulings with respect to quarterly and annual reporting are

reasonable and thorough, and the order makes clear that the filings are to be made publicly in this docket, subject to the same claims of confidentiality that exist with respect to any other filing made before the Commission (and the associated required demonstration of need). The Commission notes that it also thoroughly addressed the differences between the instant case and Case No. U-21856 in the December 18 order. *See*, December 18 order, pp. 30-31, 39-42. Because Case No. U-21856 was a tariff case (applicable to all customers seeking service under the relevant tariff) and the instant case involves a special contract with a single potential customer, the two cases are inevitably different. The Commission also rejects the notion that it is required to define the path to profitability for an AI vendor. The Commission's mission is to ensure that the utility provides safe, reliable, and accessible electricity at reasonable rates through its plenary power to regulate those rates—power which is exercised via rate case determinations, auditing, reporting, and the issuance of orders. *See*, MCL 460.6, 460.6a, 460.54, 460.55, 460.556, and 460.558. The Commission's determinations in the December 18 order are based on its analysis of the application and supporting exhibits, which demonstrate that the Customer will be responsible for all caused costs, and that, moreover, the special contracts represent an opportunity for all ratepayers to accrue benefits. Specifically, the Commission found that:

> the public interest is served by approval of the special contracts by contribution to the fixed costs that would otherwise be recovered from other ratepayers through both rate base and PSCR surcharges, creating the affordability benefit, as well as through the construction of 1.383 GW of incremental energy storage resources, fully funded by the Customer, that add additional benefits to the broader electrical grid. The Commission finds that the terms of the PSA that enhance the conditions of Rate D11, including the long-term 19-year commitment, the MBD, the termination fee, and the credit and collateral requirements, mitigate some risk associated with potential cost subsidization and include distinct protections for the utility with respect to stranded costs particularly as any such subsidization or exposure that could occur can be addressed in such cases where the company requests that rates be changed to reflect the same. The Commission makes clear that approval of the special contracts, in and of itself, does not approve or require future approval of subsidization by existing customers, or cost recovery of stranded

> costs from existing customers. 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.

December 18 order, pp. 32-34. The Commission found DTE Electric's evidence to be satisfactory and the petitioners have failed to show otherwise through either error, newly discovered evidence, new facts or circumstances, or unintended consequences of the order.

Likewise, the Commission finds that the Attorney General's concerns with the acceptance letter do not require reopening in order to achieve a full and complete record and do not constitute a change in conditions of fact or law. The Commission set no requirement that the utility waive all of its existing lawful rights in order to enter into the special contracts and did not expect such a waiver. The Commission finds that the reference to aggregate revenues in the acceptance letter does not change or somehow endanger the cost allocation conditions that were placed on the approval in the December 18 order. *See*, December 18 order, pp. 32-34.[10] The Commission further finds that the fact that the letter is signed by the Senior Vice President for Regulatory Affairs for DTE Electric, a Corporate Officer, is sufficient to bind the company to the

[10] The Commission notes that it placed specific requirements on IRP planning scenarios in order to ensure that the appropriate information is obtained for evaluating the impact of the special contracts. *See*, December 18 order, pp. 35-36.

commitments therein and the Commission is not persuaded that reopening is necessary in order to require another corporate official to endorse the acceptance.

Turning to the Attorney General's assertion of intervention and associated motion for a contested case addressing the Contracts, the Commission finds that it must also be denied. MCL 14.28 provides that 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." MCL 14.28 (emphasis added). MCL 14.101 provides that:

> [t]he attorney general of the state is hereby authorized and empowered to intervene in any action heretofore or hereafter commenced in any court of the state whenever such intervention is necessary in order to protect any right or interest of the state, or of the people of the state. Such right of intervention shall exist at any stage of the proceeding, and the attorney general shall have the same right to prosecute an appeal, or to apply for a re-hearing or to take any other action or step whatsoever that is had or possessed *by any of the parties* to such litigation.

MCL 14.101 (emphasis added). As the above discussion demonstrates, the definition of "party" in Rule 402(k) does not accord a status to the Attorney General that is different from any other entity seeking intervention. While the Attorney General may intervene by right in any contested case before the Commission, that does not also mean that any proceeding in which the Attorney General seeks to participate therefore becomes a contested case. Rather, the discretion of whether to transition a proceeding that could otherwise proceed on an *ex parte* basis to a contested case belongs to the Commission under Rule 415.

In its wisdom, the Michigan Legislature drafted Section 6a of Public Act 304 of 1982, as amended, to state that "[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[,]" and that "[a]n 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." MCL 460.6a(1), (3), respectively. The Attorney General and MNSC argue that the Legislature intended that the statute be read to mean that a utility that intends to raise rates is not subject to a contested proceeding before the Commission to examine whether the rate increase is warranted. Attorney General's petition for rehearing, pp. 25-27; MNSC's petition for rehearing, pp. 17-18. The Commission rejects the idea that the Legislature intended this absurd result. As the Attorney General and MNSC are aware, the quoted language authorizes the Commission to conduct proceedings which will not affect the rates or rate schedules or the cost of service for the utility's customers on an *ex parte* basis. "*Ex parte*" means "[o]n one side only; by or for one party; done for, in behalf of, or on the application of, one party only." *See*, "*Ex parte*." The Law Dictionary, https://thelawdictionary.org/ex-parte/ (accessed March 16, 2026). Such treatment involves the applicant utility as the single party seeking authorization for a change in rates or rate schedules for a single potential customer whose proposed rates, terms, and conditions will not impact the utility's existing customers. In *Attorney General v Liquor Control Comm*, 65 Mich App 88, 92-93; 237 NW2d 196 (1975), the Michigan Court of Appeals first recognized the authority of the Attorney General to intervene and represent the public interest in administrative proceedings. That holding has never been extended to allow the Attorney General to force a proceeding to become a contested proceeding (through intervention) where statutory authority allows the tribunal to dispense with notice and a hearing, and the Attorney General provides no legal authority to do so. This ruling is dispositive and the petition to intervene is moot.

DTE Electric's submission of the Projects and Contracts intended to fulfill the ESA for *ex*

parte review and approval is consistent with the December 18 order. December 18 order, pp. 7, 37-45. DTE Electric's November 3 application, as reflected in the supporting testimony of Neal Foley, p. 15, confirmed that the company would submit each energy storage project deployed under the ESA to the Commission for review and approval prior to construction. Applications for approval of projects and related contracts that do not result in an increase to the cost of service, including those intended to fulfill special contracts, are routinely addressed through *ex parte* proceedings before the Commission. The Commission further finds that *ex parte* review is appropriate because approval of the Projects and Contracts will not result in an increase to rates or rate schedules or to the cost of service to customers. MCL 460.6a(3). Thus, the Attorney General's motion for a contested proceeding is denied.

THEREFORE, IT IS ORDERED that:

A. The petitions for rehearing filed by the Michigan Department of Attorney General; the Michigan Environmental Council, Natural Resources Defense Council, Inc., Sierra Club, and Citizens Utility Board of Michigan; and the Great Lakes Renewable Energy Association are denied.

B. The motion to reopen filed by the Michigan Department of Attorney General is denied.

C. The motion for contested proceeding filed by the Michigan Department of Attorney General is denied.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26. To comply with the Michigan Rules of Court's requirement to notify the Commission of an appeal, appellants shall send required notices to both the Commission's Executive Secretary and to the Commission's Legal Counsel. Electronic notifications should be sent to the Executive Secretary at LARA-MPSC-Edockets@michigan.gov and to the Michigan Department of Attorney General - Public Service Division at SheaC1@michigan.gov. In lieu of electronic submissions, paper copies of such notifications may be sent to the Executive Secretary and the Attorney General - Public Service Division at 7109 W. Saginaw Hwy., Lansing, MI 48917.

MICHIGAN PUBLIC SERVICE COMMISSION

Daniel C. Scripps, Chair

Katherine L. Peretick, Commissioner

Shaquila Myers, Commissioner

By its action of March 27, 2026.

Lisa Felice, Executive Secretary

P R O O F O F S E R V I C E

STATE OF MICHIGAN)

Case No. U-21990

County of Ingham)

Brianna Brown being duly sworn, deposes and says that on March 27, 2026 A.D. she electronically notified the attached list of this **Commission Order via e-mail transmission**, to the persons as shown on the attached service list (Listserv Distribution List).

Brianna Brown

Subscribed and sworn to before me
this 27th day of March 2026.

Angela P. Sanderson
Notary Public, Shiawassee County, Michigan
As acting in Eaton County
My Commission Expires: May 21, 2030

Service List for Case: U-21990

Name	On Behalf Of	Email Address
Andrea E. Hayden	DTE Electric Company	andrea.hayden@dteenergy.com
DTE Electric Company	DTE Electric Company	mpscfilings_account@dteenergy.com
Joel B. King	Department of Attorney General	kingj38@michigan.gov
John A. Janiszewski	DTE Electric Company	john.janiszewski@dteenergy.com
Lucas Wollenzien	Department of Attorney General	wollenzienl@michigan.gov
Michael E. Moody	Department of Attorney General	moodym2@michigan.gov