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August 3, 2026

Ms. Lisa Felice
Michigan Public Service Commission
7109 W. Saginaw Hwy.
Lansing, MI 48909

Via E-File

RE: MPSC Case No. U-22058

Dear Ms. Felice:

Attached please find the enclosed documents for filing:

- Public Reply Brief by Michigan Environmental Council, Natural Resources Defense Council, and Sierra Club; and
- Proof of Service.
- Please note that there is a confidential version of this Reply Brief filed under seal and will only be served to those with an executed non-disclosure certificate pursuant to the Protective Order.

Thank you for your assistance in this matter. If you have any questions, please feel free to contact me.

Sincerely,

Digitally signed by Holly Hillyer
Date: 2026.08.03 13:19:25 -04'00'

Holly L. Hillyer
holly@tropospherelegal.com

CC: Parties to Case No. U-22058

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of **DTE ELECTRIC COMPANY** for approval of special contracts and for other relief.	Case No. U-22058

REPLY BRIEF

BY

MICHIGAN ENVIRONMENTAL COUNCIL, NATURAL RESOURCES DEFENSE COUNCIL, AND SIERRA CLUB

PUBLIC VERSION

August 3, 2026

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I. INTRODUCTION

The Michigan Environmental Council (MEC), Natural Resources Defense Council (NRDC), and Sierra Club (collectively, MNS) submit this brief to reply to DTE Electric Company (DTE or the Company) regarding the following issues concerning DTE's request for expedited approval of a Primary Supply Agreement (PSA) and a Clean Capacity Accelerator Agreement (CCAA) (together, the Special Contracts) executed between DTE and Google LLC (Google or the Customer):

Burden of proof and persuasion. DTE misstates the applicable law on the burden of proof in this case. DTE claims that it has an initial burden of proof and then the burden shifts to any party challenging its position. On the contrary, DTE has the burdens of proof and persuasion throughout this proceeding.

D11 rate schedule and retroactivity. DTE touts the benefits of the Special Contracts over Rate D11 without acknowledging that Google's load alone is nearly half of the combined load for all 2,000+ customers currently on D11. DTE also argues that, with respect to contributions in aid of construction (CIAC) policy, it would be inappropriate to apply tariff provisions retroactively, thereby suggesting it might oppose a requirement that Google switch to a new large customer rate schedule should the Commission approve one. MNS maintains that the Commission should not approve the Special Contracts merely because their terms appear better than the standard D11 rate schedule provisions and that the Commission should condition approval on Google switching to a different rate should the Commission subsequently approve one.

Customer benefit analysis. DTE addresses the various factors comprising its customer benefit analysis in isolation and ignores that combinations of factors could result in net costs for DTE's other customers. MNS reiterates that the Commission should not endorse DTE's claimed $1.7 billion benefit from the Special Contracts.

Claimed benefit from proxy resource. DTE used a combined cycle gas turbine with carbon capture and sequestration (CCGT with CCS) as a proxy to calculate costs for its benefit analysis. MNS and DTE agree that DTE should evaluate and select resources during the upcoming IRP proceeding, not here. Therefore, MNS maintains that the purported benefits of a CCGT with CCS need not be discussed or considered in this proceeding.

Deployment of energy storage and renewables. DTE argues that the, to the extent MNS witness Woods recommended that the Commission treat the CCAA amounts as a floor rather than a ceiling, doing so would change the terms of its agreement with Google and thereby exceed the Commission's authority. MNS clarifies that its recommendation does not change the terms of the Special Contracts and that the Commission has the authority to adopt MNS's recommendation that it require DTE to deploy the full amount of energy storage and renewables contemplated by the CCAA.

Google's 100% renewable energy claim. MNS recognizes that it might be acceptable for Google to claim 100% renewable energy using an annual matching methodology but maintains that the Commission should not endorse such a claim because it obscures the fact that fossil fuels will be used to power Google's data center so long as DTE's grid relies on fossil generation.

Cost of compliance with renewable energy standard. DTE argues that it does not expect any additional renewable energy projects will be needed for renewable portfolio standard (RPS) compliance, even though Google's non-VGP load would increase DTE's RPS compliance requirements by more than 10%. MNS recommends that the Commission direct DTE to provide in its next IRP and REP proceedings a comparison of renewable energy resources necessary to meet RPS obligations with and without Google's load and attribute any difference to Google in the affordability backstop. MNS also supports Staff's recommendation that RECs generated by VGP resources be retired by either DTE or Google in the year that the enrolled load is being excluded from retail sales.

Renewable energy procurement safeguards. MNS witness Woods recommended several safeguards to help ensure that DTE can meet the large amounts of renewable builds required by the Google and Oracle data centers. DTE argues that any such safeguards should be addressed in its IRP proceeding, not here. However, given how quickly DTE will need to act to achieve the required builds, it is reasonable to expect that DTE will begin issuing requests for proposal before the Commission has the opportunity to act in DTE's next IRP case. Therefore, MNS maintains that the Commission should adopt witness Woods's recommended safeguards in this proceeding.

II. REPLIES

A. Reply to DTE regarding the burden of proof: DTE bears the burden of proving its entitlement to the relief it seeks and that burden does not shift.

In its initial brief, DTE prefaces its discussion of the burden of proof by reviewing the standard of proof that applies in PSC proceedings (preponderance of the evidence).[1] Then DTE says it has the "*initial* burden to prove its case by a preponderance of the evidence," suggesting that the burden might shift through the proceedings.[2] It does not. At all times, DTE bears the burden of proving, by a preponderance of the evidence, its entitlement to the relief it seeks.[3]

As the Michigan Supreme Court has explained:

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[1] DTE Initial Brief, p 9

[2] DTE Initial Brief, p 5, 9 (emphasis added).

[3] Case No. U-18419, Order, July 24, 2018, p 6 ("Though the burden of going forward shifts between parties as a proceeding progresses, the burden of proof never shifts away from the applicant.").

> There are two separate meanings [of "burden of proof"]. One of these meanings is the *burden of persuasion* or the *risk of nonpersuasion*. The other is the *burden of going forward* or the *risk of nonproduction*. Generally the burden of persuasion is allocated between the parties on the basis of the pleadings. The party alleging a fact to be true should suffer the consequences of a failure to prove the truth of that allegation. A plaintiff has the burden of proof (risk of nonpersuasion) for all elements necessary to establish the case. This burden never shifts during trial.[4]

Immediately after describing its burden as an "initial" one, DTE quotes a 2017 Commission order from Case No. U-18224 discussing arguments about the correct *standard* of proof to apply in a certificate of necessity (CON) proceeding where the CON statute does not specify any particular standard.[5] DTE quotes the Commission describing arguments made by Commission Staff, which included a quote from a 2010 order in Case Nos. U-15768 and U-15751 that discussed both the standard of proof and shifting burdens of going forward, but the Commission in Case No. U-18224 said nothing about a shifting burden of persuasion. It held only that, for purposes of the CON proceeding, "the preponderance of evidence *standard* applies."[6]

Then DTE quotes the 2010 Commission order in Case Nos. U-15768 and U-15751 directly.[7] In that order, the Commission was addressing an ALJ's recommendation that the Commission reject a proposed expense adjustment in a rate case based on an alternative analysis presented by the Commission Staff. The ALJ had found that Staff had not established the accuracy of its analysis and had not supported its position on cross examination, and that a utility witness

[4] *Kar v. Hogan*, 399 Mich 529, 539-40 (1976) (citations omitted) (emphasis original). *See also Michigan Tractor & Mach. Co. v. Elsey*, 216 Mich App 94, 102–03 (1996) ("The burden of persuasion never shifts during trial from the plaintiff to the defendant. Only the burden of going forward may shift from one side to the other at various times during the trial as evidence is introduced by the respective parties.") (citations omitted).

[5] DTE Initial Brief, p 9; Case No. U-18224, Order, October 25, 2017, pp 14-15.

[6] Case No. U-18224, Order, October 25, 2017, p 15 (emphasis added).

[7] DTE Initial Brief, p 9.

had effectively rebutted Staff's analysis.[8] Staff argued that the utility had not met its burden of proof but did not say what information it believed was lacking until its reply brief.[9] The Commission discussed alternating burdens of *going forward* before concluding that "[t]he problem" was that Staff's "criticism . . . came too late in the process for a fair determination on that issue."[10] Nothing in the order supports the suggestion that a utility's burden of proof, meaning its burden of persuading the Commission that it is entitled to the relief it seeks, shifts elsewhere after an "initial" showing.

More recent Commission orders have stated that the utility has the burden to prove its case by a preponderance of the evidence, regardless of what evidence other parties submitted. For example, in Case No. U-18014, the PFD stated:

> There is no legal presumption that findings of fact should be made in the utility's favor if there is conflicting evidence. If the Commission were to accept DTE's invitation to rule in the utility's favor whenever substantial evidence supports the utility's position, the Commission would not be performing the legally-required weighing and sifting of evidence and would be committing legal error. Instead, as discussed above, the ALJ and the Commission must determine how the evidence preponderates to resolve the disputed issues.[11]

The PFD noted that "[i]t is for the PSC to weigh conflicting opinion testimony of the qualified ("competent") experts to determine how the evidence preponderated."[12] The PFD also quoted an ABATE complaint case that stated:

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[8] Case Nos. U-15768 and U-1571, PFD, November 11, 2009, pp 59-61.

[9] Case Nos. U-15768 and U-1571, Order, January 11, 2010, pp 35-37.

[10] Case Nos. U-15768 and U-1571, Order, January 11, 2010, p 38.

[11] Case No. U-18014, PFD, November 21, 2016, p 45.

[12] *Id*. at 44, quoting *Antrim Resources v Public Service Commission*, 179 Mich App 603, 620-621 (1989).

> [As] the complainant, ABATE bears the burden of proof and unless it prevails the status quo will continue in effect, just as a plaintiff in a court cannot demand a judgment in its favor merely because it puts in some evidence and the defendant remains silent. The burden of proof requires more. The plaintiff's, and ABATE's evidence, must persuade by a preponderance of the evidence.[13]

In its Order in U-18014, the Commission adopted the ALJ's analysis.[14] The Commission further held:

> The fact that the company has presented "substantial evidence" (i.e., "more than a mere scintilla") on a particular proposal does not make the reasonableness and prudence of that proposal a forgone conclusion, as DTE Electric would have it, whether or not any other parties weigh in.[15]

Likewise in Case No. U-20963, Consumers Energy argued that "[d]espite the significant evidence presented by the Company showing the reasonableness and prudence of the Company's projected costs needed to provide safe and reliable electric service to its customers, as will be discussed in additional detail throughout these Exceptions, the [ALJ] repeatedly determined it was not enough and that the Company should have provided different or additional information."[16] The Commission stated that it "fully addressed" the issue in Case No. U-18014, among others.[17]

In sum, DTE bears more than just the "initial" burden of proving its case by a preponderance of the evidence. It bears the burden of proving its entitlement to the relief it seeks

[13] *Id.* (quoting Case Nos. U-7076 and U-7218, Order, March 11, 1986, p 4.).

[14] Case No. U-18014, Order, January 31, 2017, p 8.

[15] *Id*.

[16] Case No. U-20963, Order, December 22, 2021, p 3, quoting Consumers Energy's exceptions, p 5.

[17] *Id.* at 4.

by a preponderance of the evidence at all times throughout this proceeding, and that burden does not shift.

B. Reply to DTE regarding the D11 rate schedule and retroactivity: Any approval of the Special Contracts should be conditioned on Google moving to a different rate schedule if one is subsequently approved by the Commission.

As the Commission has recognized, large loads such as Google's are unique and their "costs should not be socialized due to their magnitude and unprecedented character, including the high load factor, 24/7/365 demand profile, and the fact that the vast majority of new generation and transmission investments will be driven by such a small number of discrete loads."[18] Despite this reality, DTE makes two arguments in its initial brief that disregard the unprecedented nature of the Special Contracts.

First, DTE argues that the Special Contracts benefit other customers simply because provisions of the Special Contracts are stronger than standard D11 rate schedule requirements.[19] This argument places review of the Special Contracts in a vacuum and ignores the reality of Google's impact on DTE's system and the other pending proceedings before the Commission. As ABATE notes in its initial brief, "DTE's total current full-service customer load on Rate D11 is approximately 1.8 GW with a 73.4% load factor spread over 2,079 customers."[20] Trying to compare the protections needed for adding Google's 1.0 GW load to provisions for these 2,079 other customers is like comparing one very large apple to a multitude of very small oranges. The

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[18] Case No. U-21859, Order, November 6, 2025, p 116.

[19] *See, e.g.,* DTE Initial Brief, p 14 ("the Special Contracts are more protective of the Company's other customer than standard Rate D11 in every respect in which they differ."); *id*., p 15 ("None of these protections would apply to a large-load customer taking standard D11 service.").

[20] *See* ABATE Initial Brief, p 3 ("DTE's total current full-service customer load on Rate D11 is approximately 1.8 GW with a 73.4% load factor spread over 2,079 customers.")

Commission has recognized this reality by requiring DTE to separately create a tariff for large loads to be layered on top of the standard D11 rate schedule (U-22061) and by requiring DTE to evaluate in its rate case (U-22046) different cost allocation methods for large loads to better address their costs on the system. Thus, DTE's allusions to how the Special Contracts differ from the standard D11 provisions should not factor into the Commission's determination.

Second, DTE argues that "[i]t would not be appropriate to retroactively apply tariffs to prior contracts or requests."[21] DTE makes this argument with regard to pending potential changes to CIAC policy. While it is not clear whether DTE would make the same argument against retroactively requiring Google to switch to a different rate schedule,[22] MNS reiterates its argument from its initial brief that approval of the Special Contracts should be conditioned on Google switching to a different rate schedule approved by the Commission if one is approved in subsequent proceedings.[23] The Commission required such an approach in U-21859 when it noted that Consumers Energy plans to transfer any existing large load customers to a new rate that results from a rate case order and further ordering that "[t]his expectation should be included in any contract that Consumers enters into with a large load customer served on Rate GPD after the date of this order."[24] DTE should not be permitted to force special contracts over the finish line ahead of more fulsome decisions by the Commission on how to address the unprecedented nature of large

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[21] DTE Initial Brief, p 101.

[22] Furthermore, DTE's concerns related to retroactivity of a CIAC policy would not apply to retroactivity of a rate schedule. A new rate schedule would not lead to a reassessment of what customers would have paid for past periods had the new rate been in effect.

[23] MNS Initial Brief, p 19; *see also* Staff Initial Brief, p 17 ("Approval of the special contracts is therefore conditional.")

[24] Case No. U-21859, Order, November 6, 2025, p 116.

loads, and simultaneously argue that such special contracts are protected from relevant Commission decisions made mere months later.

Given the scope of Google's load, the Commission should not base approval on how the Special Contracts differ from standard D11 rate schedule provisions and should condition approval on Google switching to a different rate schedule should one be subsequently approved by the Commission.

C. Reply to DTE regarding the benefit analysis: The combination of multiple factors throws considerable doubt on the claimed benefit of the Special Contracts.

In its initial brief, MNS pointed out multiple faulty assumptions, improper inclusions of avoided costs and exclusions of costs, and high levels of uncertainty associated with DTE's benefit analysis.[25] "There are too many unknowns"[26] that "all compound to throw considerable doubt on the $1.7 billion benefit espoused by DTE."[27] In its initial brief, DTE notes that "the Company does not ask the Commission to guarantee any special benefit figure;"[28] it also addresses multiple factors affecting the benefit calculation and argues that each alone does not show a cost to other customers. DTE's arguments in support of its benefit analysis are unavailing.

As an initial matter, MNS is not requesting that the Commission "guarantee" any specific level of benefit from the Special Contracts, rather that the Commission not endorse nor find likely DTE's forecast that the Special Contracts will provide a $1.7 billion benefit given the errors and uncertainties used to identify that figure. In addition, MNS is not asking the Commission not to

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[25] MNS Initial Brief, pp 5-13.

[26] Direct Testimony of Bryndis A. Woods, 3 Tr 623.

[27] MNS Initial Brief, p 13.

[28] DTE Initial Brief, p 23.

endorse the *exact* $1.7 billion benefit number, but requests that the Commission not find that the Special Contracts are likely to provide any specific level of net benefit to customers. As described further below, on this record it is not possible to credibly conclude that the Special Contracts are likely to lead to any particular net benefit or cost to other ratepayers.

Further, MNS does not argue that one particular factor would result in a cost to other customers, but rather that all the issues with DTE's benefit analysis compounded together should raise doubts as to DTE's figure: (1) the non-rigorous methodology for the "Base Sales Benefit" calculation;[29] (2) the overinflated assumption of 90% load factor,[30] which DTE does not dispute and indeed acknowledges would impact the "magnitude of the [claimed] benefit;"[31] (3) the overinflated assumption of an annual 1.5% rate increase for the life of the PSA;[32] (4) the use of nominal dollars for the benefit analysis;[33] (5) the improper inclusion of Avoided Costs;[34] (6) the underestimation of transmission costs;[35] (7) the potential underestimation of incremental RPS compliance costs;[36] and (8) the lack of certainty about additional generation resources need to fill the projected resource adequacy that would result from the addition of the Google load,[37] among other factors raised by other intervenors and Staff. DTE addresses many of these factors in isolation, without considering that a confluence of various factors together could result in net costs.

[29] MNS Initial Brief, pp 5-6.

[30] *Id.,* p 6.

[31] DTE Initial Brief, p 122.

[32] MNS Initial Brief, p 6.

[33] *Id.,* p 7.

[34] *Id.,* pp 7-11.

[35] *Id.,* p 11.

[36] *Id.,* pp 12-13.

[37] *Id.,* p 13.

As MEI-CEO notes, "[e]very line of the Company's Affordability Benefit estimate at this point is necessarily based on a number of assumptions that are subject to significant uncertainty and that may or may not turn out to be accurate."[38] DTE's best-case scenario for each of the factors should not be accepted as likely at this stage. In fact, Staff calculated a worst case scenario where DTE [redacted]

MNS thus renews its request that the Commission not endorse DTE's claimed benefit from the Special Contracts.

D. Reply to DTE regarding the proxy CCGT with CCS: As the CCGT with CCS is a "proxy" resource, the Commission should disregard the purported "benefit."

In its initial brief, MNS relied on witness Woods' testimony and argued that "descriptions of purported benefits are irrelevant to this proceeding and unnecessarily place a thumb on the scales in favor of the CCGT to be selected in future proceedings."[40] Given DTE's own acknowledgment that the CCGT with CCS is a proxy resource used only as a placeholder to calculate monetary costs for the benefit analysis, there is no need for DTE to describe its purported "benefits" to the degree it has. In its initial brief, DTE refers to witness Woods' testimony and asks that it be rejected.[41] But nothing in DTE's argument in the initial brief directly addresses witness Woods' concern—rather the seven paragraphs on this topic address MEI-CEO witness Kenworthy's criticism of the CCGT with CCS. As stated in witness Woods' testimony and its initial

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[38] MEI-CEO Initial Brief, p 16.

[39] Staff Initial Brief, p 7 (citing Direct Testimony of David W. Isakson, 3 Tr 879).

[40] MNS Initial Brief, p 19 (citing Woods Direct, 3 Tr 632-633).

[41] DTE Initial Brief, p 115.

brief, MNS agrees with DTE that the Company should evaluate and select resources during the upcoming IRP proceeding. If the CCGT with CCS is merely a proxy ahead of the more rigorous evaluation of resources during an IRP, its purported benefits do not need to be discussed or considered as part of this proceeding.

E. Reply to DTE regarding deployment of 450 MW in energy storage and 1,600 MW in renewable energy projects as contemplated by the CCAA: The Commission has the authority to condition its approval of the Special Contracts on DTE's compliance with its directives.

MNS thoroughly addressed in its initial brief the recommendation that the Commission require DTE to deploy the full 450 MW in energy storage and 1,600 MW in renewable energy projects contemplated by the CCAA as a condition of approving the Special Contracts. MNS replies briefly here to address DTE's argument that, to the extent MNS witness Woods recommended that the Commission treat the CCAA amounts as a floor rather than a ceiling, doing so would "force the Customer to accept terms beyond" what it had negotiated and therefore exceed the Commission's authority.[42]

As MNS explained in its initial brief, adopting MNS's recommendation would not require Google to pay for any more energy storage or renewables than it agreed to in the CCAA.[43] And, as DTE recognized in its initial brief,[44] the Commission has authority to impose obligations on a utility as a condition of approving a special contract. In Case No. U-21990, the Commission did just that – it conditionally approved DTE's special contracts with Green Chile Ventures upon

[42] DTE Initial Brief, p 81.

[43] MNS Initial Brief, p 23.

[44] DTE Initial Brief, p 7 (noting that, in Case No. U-21990, "the Commission conditionally approved DTE Electric's primary supply agreement and energy storage agreement to serve a different large load customer").

DTE's compliance with several directives aimed at protecting other ratepayers.[45] Here, the Commission has the authority to condition its approval of the Special Contracts on a directive requiring DTE to deploy 450 MW in energy storage and 1,600 MW in renewable energy projects to ensure that DTE develops the full amount of resources contemplated by the CCAA to reduce the Company's risk of RPS noncompliance and increase the likelihood that its customers will see the anticipated cost savings.

F. Reply to DTE regarding Google's 100% renewable energy claim: The Commission should not endorse the 100% renewable energy claim.

DTE asserts that, by enrolling 1,600 MW in DTE's Voluntary Green Pricing (VGP) program, Google "is positioned to claim 100% renewable energy usage once the Company reaches its 60% RPS target."[46] In its initial brief, MNS took the position that Google would achieve no more than 76% renewable energy usage based on an assumption that only 60% of the 60% of Google's load not enrolled in VGP would come from renewable sources by 2035.[47] MNS recognizes, however, that DTE clarified in response to a discovery request by MEI-CEO that Google will be "purchasing 100% of its energy needs through the PSA and outside of the VGP Special Contract," so the renewable energy from the VGP program will be in addition to 60% of the 100% of Google's load served through the PSA.[48] Still, MNS maintains that the Commission should not endorse Google's 100% renewable energy claim, which remains inaccurate to the extent that it relies on annual rather than hourly matching, ignores the six years between when Google

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[45] Case No. U-21990, Order, December 18, 2025, pp 43-45.

[46] DTE Initial Brief, p 73 (citing the Direct Testimony of Kevin L. Bilyeu, 3 Tr 279-280).

[47] MNS Initial Brief, pp 23-25.

[48] MEI-CEO Initial Brief, p 8 (citing Exhibit MEICEO-38, p 2).

begins operating and when DTE is required to meet the 60% renewable energy standard (RES), and neglects to consider DTE's use of banked and purchased RECs to meet the RES.

As MEI-CEO witness Shaver explained, annual matching is a "common[]" approach companies use to support claims about their renewable energy usage, but one that does not reflect "the day-by-day and hour-by-hour mismatch between [a] facility's demand and the supply of renewable energy," which "will still result in combustion of fossil fuels" for a facility connected to a grid that relies on fossil generation.[49] Even accepting that a company might be able to claim 100% renewable energy usage based on annual matching, Google could not do so here until DTE achieves full compliance with the 60% RES, which is not expected to occur until 2035, six years after Google is expected to begin operating at full load in 2029.[50] And, as witness Shaver observed, DTE's RPS compliance depends partly on the use of banked and purchased RECs, which means that "the actual amount of renewable energy DTE generates in a given year may be either higher or lower than its RPS requirement for that year."[51] Notably, DTE's RPS Compliance Summary indicates that the Company intends to obtain approximately 5% of its annual REC requirement through 2035 by purchasing RECs without the associated renewable energy or capacity as permitted under MCL 460.1028(5)(c).[52] While REC purchases cannot be used to satisfy a utility's REC requirement after 2035,[53] DTE's use of purchased RECs until then means that more of

[49] Direct Testimony of Lee Shaver, 3 Tr 741-42.

[50] Exhibit A-2, p 1, line 6; see also Exhibit MEC-28, Company Response to U-22058-CEOMEIBCIEIDE-3.2 + Att., p 2, line 6 and Bilyeu Cross, 3 Tr 325.

[51] Shaver Direct, 3 Tr 745-46.

[52] Exhibit A-2, p 1, lines 19 and 24.

[53] MCL 460.1028(5)(c).

Google's load between 2029 and 2036 will come from fossil fuels on DTE's grid than might otherwise be apparent.[54]

In sum, notwithstanding that it might be acceptable for Google to claim 100% renewable energy by common industry standards, such a claim obscures the fact that, in reality, fossil fuels will be used to power Google's data center so long as DTE's grid relies on fossil generation. Also, the amount of renewables beyond what DTE already planned to build before this proceeding that DTE is now proposing as a result of the addition of the Google data center – 1,600 MW – falls far short of what would be needed to serve 100% of Google's load. Therefore, MNS maintains that the Commission should not endorse Google's 100% renewable energy claim.

G. Reply to DTE regarding RPS compliance: Google's impact on DTE's cost of RPS compliance should be carefully scrutinized.

In its initial brief, MNS noted that "[a]t a minimum, DTE's ability to achieve RPS compliance with the addition of the Google load but with no non-VGP renewable additions *or incremental costs to other ratepayers* needs to be carefully scrutinized."[55] In its initial brief, DTE refers to witness Foley's testimony and explains in detail how it intends to ensure that generation resources "caused by" Google's load will be accounted for in the affordability backstop. However, the initial brief is silent as to how DTE will calculate "[t]he revenue requirement of renewable energy projects deployed to meet the Company's RPS obligations not covered by the CCAA,"[56] which witness Bilyeu has already admitted is "challenging."[57] At the same time, DTE argues that it does not expect any additional renewable energy projects will be needed even though Google's

[54] See Shaver Direct, 3 Tr 744.

[55] MNS Initial Brief, p 13 (emphasis added).

[56] DTE Initial Brief, p 36.

[57] Bilyeu Cross, 3 TR 349.

600 MW of non-VGP load would increase DTE's RPS compliance requirements by more than 10%.[58] This assertion raises red flags as to the assumptions DTE is making to reach such a conclusion.

To make certain that all RPS compliance requirements and costs are accounted for, DTE should, as it has agreed to do for generation costs,[59] provide in its next IRP and REP proceedings a comparison of renewable energy resources necessary to meet RPS obligations without Google's non-VGP load and the resources needed with Google's non-VGP load. The revenue requirement for RPS compliance caused by the difference in needed resources should be attributed to Google in the affordability backstop.[60] The amount that Google is paying through power supply cost recovery (PSCR), renewable energy plan (REP), or rate proceedings for DTE's RPS compliance can be credited to Google, but that calculus should be available for scrutiny by other parties in those proceedings.

Finally, MNS supports Staff's recommendations that RECs associated with the VGP resources paid for by Google be retired by DTE on behalf of the customer or are required to be retired by the customer in the year that the enrolled load is being excluded from retail sales.[61] The tracking and accountability measures already required to ensure Google is paying its fair share for its costs to the system should not be further complicated by, for example, the potential for a REC transferred to Google "to be sold back to DTE or another Michigan utility at a later date."[62] DTE

[58] Ex. MEC-17, Company Response to U-22058-MNSDE-2.21ai & aiv.

[59] DTE Initial Brief, p 36.

[60] MNS Initial Brief, p 17.

[61] Staff Initial Brief, p 33.

[62] *Id* at 35.

recognizes the potential for double-counting[63] and should bear the responsibility for ensuring its RECs are not misused.

H. Reply to DTE regarding safeguards to ensure renewable energy builds: The additional procurement-related safeguards that MNS has raised should be ordered by the Commission in this proceeding.

Witness Woods proposed several safeguards to ensure that DTE can meet the large amounts of renewable builds required by the Google and Oracle data centers.[64] In its initial brief, DTE disagrees that the present proceeding is the proper venue to require such safeguards, arguing that procurement-related safeguards should be considered in IRP proceedings.[65] However, given the quantity of renewables required for Google and Oracle's builds and the speed at which they are to be deployed, waiting until the IRP is finalized will be far too late. The below table from MNS's initial brief illustrates the significant increase in the amount of renewables DTE plans to bring online in the next ten years.[66]

Case	2028	2029	2030	2031	2032	2033	2034	2035
U-21662	420	700	700	1000	600	1000	1000	1000
U-21990			662	331	808			
U-22058			500	700	400	(200)	(50)	

In order to meet these planned builds, between the Commission's order on these Special Contracts and a Commission order on the upcoming IRP in 2027 (360 days after DTE's initial filing), DTE will likely issue one or more Request for Proposals (RFPs) to acquire resources for renewable builds assumed for its new data center loads in the coming years. The Commission should direct

[63] DTE Initial Brief, p 76.

[64] MNS Initial Brief, pp 27-28 (citing Direct Testimony of Bryndis Woods, 3 TR 642-643, 652-653).

[65] DTE Initial Brief, pp 82-83.

[66] MNS Initial Brief, p 25.

DTE to take specific steps now as part of this proceeding to ensure that DTE will comply with its RPS obligations, rather than wait for the IRP and miss one or more rounds of RFPs.

III. CONCLUSION

For the reasons discussed above, MNS respectfully reiterates the requests for relief set forth in MNS's initial brief.

Respectfully submitted,

Troposphere Legal
Counsel for MNS

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STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of **DTE ELECTRIC COMPANY** for approval of special contracts and for other relief.	Case No. U-22058

Proof of Service

On the date below, an electronic copy of **Public Reply Brief by Michigan Environmental Council, Natural Resources Defense Council, and Sierra Club** was served on the following:

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The statements above are true to the best of my knowledge, information and belief.

Troposphere Legal
Counsel for MNS

Natasha L. Fowles

Digitally signed by Natasha Fowles
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