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 related relief. MPSC No. U-22058
_____ /

The Attorney General's

Petition for Rehearing

Respectfully submitted,

Dana Nessel
Attorney General

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Dated: October 30, 2026

I. Introduction

The Attorney General, under Rule 437 of the Rules of Practice and Procedure of the Michigan Public Service Commission ("MPSC" or "Commission"), Michigan Administrative Code R 792.10437, and MCL 460.352, files this Petition for Rehearing ("Petition") relative to the Commission's October 1, 2026, Order ("MPSC Order" or the "Order") in this proceeding. In its Order, the Commission conditionally approved DTE Electric's (DTE) request for approval of special contracts to provide electric service to a 1 gigawatt ("GW") data center facility to be built in Van Buren Township, Michigan, and to be operated by Google, LLC (the Google Data Center).

In this case, the Attorney General and other intervenors identified many critical issues for which DTE failed to meet its burden of proof. The Attorney General thus recommended a set of modest proposals for strengthening guaranteed cost recovery under the contracts, for establishing sufficient cost and benefit tracking mechanisms, and for ensuring adequate cost backstops by Google and DTE. In its October 1, 2026, Order, the Commission rejected each of those proposals in whole or in key parts.

The reasoning of the Commission's Orders demonstrates a litany of errors, such as by applying an incorrect burden of proof and an incorrect standard of review, by failing to meaningfully engage with (if not outright ignore) important arguments from the Attorney General's briefing, and by

repeatedly defaulting to acceptance of DTE's proposed terms despite failures of the Company to support the reasonableness and prudence of those terms. The unintended consequence of these errors is the imposition of mistaken and unnecessary cost-shifting risks onto Michigan ratepayers.

The Attorney General thus raises further recommendations for rehearing, summarized in the following bulleted paragraphs.[1] Given DTE's many failures to meet its burden of proof under Michigan law, should the Commission not adopt the Attorney General's recommendations on rehearing it should instead reject the special contracts outright.

- **Cost and Benefit Analysis.** On rehearing, the Commission should order further record evaluation of the intervenors' concerns as to cost/benefit questions. This should include a direction from the Commission requiring DTE to provide further cost/benefit modelling incorporating the omitted transmission cost categories identified by the Attorney General. The Commission should further order the data center customer to be responsible through the "affordability backstop" for additional costs identified in the further record evaluation described in the preceding sentences. Should the Commission decline to adopt this recommendation on rehearing, the contracts should be rejected as DTE did not meet its burden of proof

[1] The Attorney General further reiterates, maintains, and does not waive her arguments and recommendations made in briefing to the extent not adopted by the Commission.

such as under the Commission's standard for special contract review as described herein.

- **Cost and Benefit Analysis and "Affordability Backstop."** On rehearing, the Commission should reject DTE's contract-long (over the entire term of the contract) "aggregation" standard for evaluating costs and benefits. The Commission should further reject the use of "avoided costs realized" in assessing the affordability backstop. To the extent not adopting these recommendations on rehearing, the Commission's errors on these points undercut any justifications of the terms of service or the value of any substantial benefit that the "affordability backstop" might theoretically work to ensure, thus warranting rejection of the contracts.
- **Regulatory Liability Accounting.** The Commission should on rehearing adopt the Attorney General's recommendations, as raised in briefing, for regulatory liability accounting with an annual reconciliation
- **Transmission Cost Tracking**. On rehearing, the Commission should rescind its finding that DTE is unable to "to provide project-by-project information" for transmission cost tracking. The Commission should, at a minimum, direct DTE to work with ITC to capture and report project level costs in order to facilitate the identification of costs pertaining to the data center.

- **DTE as a Cost Backstop.** On rehearing, the Commission should order that DTE's backstop include all incremental costs of serving the Google data center as recommended by the Attorney General in briefing.
- **Collateral Cap**. On rehearing, the Commission should reject a collateral cap, as recommended by the Attorney General in briefing.

II. Requests for Rehearing

A. Cost and Benefit Analysis. The Commission erred by failing to apply the correct burden of proof for DTE, by failing to address or adequately consider omitted cost categories identified by the Attorney General, by failing to apply the Commission's own standard for reviewing special contracts, and by approving the Google contracts despite DTE's inability to meet that standard.

The Attorney General seeks rehearing as to the Commission's assessment of the "Claimed Net Benefit Amount" on pages 116 through 121 of the Order. As an initial matter, the Commission erred in its order by suggesting an incorrect burden of proof on this topic, claiming that "no party showed that approval of the special contracts would result in an aggregate net cost over that same time period."[2] Under Michigan law it is DTE, not the Attorney General, that has the burden of proof in seeking approvals from the

[2] MPSC Case U-22058, October 1, 2026, Order at 116. The Commission makes the same error in other parts of this discussion section, for example on page 117 asserting that "neither MNS nor ABATE produced evidence showing that… approval of the special contracts results in an aggregate cost…."

Commission.[3] As such, DTE has the burden of presenting sufficient analysis to support its cost and benefits projections.

DTE failed to meet its burden of proof here by failing to include in its analysis known categories of transmission costs identified by the Attorney General in briefing.[4] The Attorney General is not required to prove an "aggregate net cost," as the Commission incorrectly suggests. The Commission's erroneous determination on that point is thus contrary to law, arbitrary, and capricious. Other intervenors also identified flaws in DTE's cost/benefit analysis.[5] For example, ABATE presented calculations showing the potential for a "net present value *cost* to existing customers of $129.55 million" from DTE's planned treatment of the CCCT following the conclusion of Google's contract term,[6] even under DTE's analysis omitting certain transmission costs. The Commission's order references ABATE's argument on

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[3] As explained in the Attorney General's Initial Brief at 4 – 5, DTE bears the burden of proving, by a preponderance of the evidence, that its proposed special contracts, including the terms of those contracts, and other requested relief are reasonable and prudent. In administrative cases, a party seeking relief must prove their claim by a preponderance of the evidence. *Dillon v Lapeer State Home & Training School,* 364 Mich 1, 8 (1961); *BCBSM v Governor,* 422 Mich 1, 88-89 1985). In Commission cases, a utility has the burden of proof by a preponderance of the evidence. *In re Michigan Gas Utilities Co,* MPSC Case No. U-7484, Opinion & Order August 30, 1983, p. 10; *In re Detroit Edison Co,* MPSC Case No. U-8030-R, Opinion & Order, July 9, 1987, pp. 16-17. Given the nature of the burden of proof, the Commission may reject even uncontradicted evidence. *Woodin v Durfee*, 46 Mich 424, 427, 9 NW 457 (1881). *Accord, Yonkus v McKay*, 186 Mich 203, 211, 152 NW 1031 (1915); *Cuttle v Concordia Mut Fire Ins Co*, 295 Mich 514, 519, 295 NW 246 (1940). When the burden of proving a fact falls on one party, the other party does not have the burden of proving the opposite fact. *S C Gary, Inc v Ford Motor Co,* 92 Mich App 789, 803-804 (1979).

[4] *See, e.g.*, Attorney General's Initial Brief at 8 – 9 (describing the omitted cost categories and DTE's confirmation of those omissions).

[5] MNS also identified in briefing problems with DTE's cost and benefit analysis such as concerning its use of avoided costs. *See, e.g.*, MNS's Initial Brief at 5 – 13. ABATE also disputed the accuracy and sufficiency of DTE's cost and benefit analysis on multiple points. *See, e.g.*, ABATE's Initial Brief at 3 – 7.

[6] *See, e.g.*, ABATE's Initial Brief at 5.

this point in passing, but does not directly address it and erred by failing to meaningfully engage with this clear concern.[7]

As a further point of error, the Commission does not appear to address, and certainly does not adequately engage with, the Attorney General's undisputed arguments that both DTE and MPSC Staff omitted certain categories of known transmission costs from their cost/benefit analyses.[8] The Commission's failure to address the AG's identified transmission cost categories is particularly problematic because it demonstrates a departure from historical Commission treatment of special contract reviews. In MPSC Case U-10646, the Commission's March 23, 1995, Order at page 21 set forth that the burden of a utility seeking ratemaking[9] through special contract approval:

> [R]equire[s], at a minimum, a clear, convincing, and unequivocal demonstration either (1) that the contract prices and terms are justified on the basis of the cost of service, or (2) that the benefits for other (non-participating) ratepayers are substantial and have a value that outweighs the costs that are not recovered from contract customers. Either showing would require support from a cost-of-service study that identifies and quantifies all costs incurred under the contracts.

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[7] MPSC Case U-22058, October 1, 2026, Order at 118.

[8] *See, e.g.*, Attorney General's Reply Brief at 28 (observing that MPSC Staff's analysis improperly excluded the same transmission cost categories omitted by DTE); *See also, e.g.* Attorney General's Initial Brief at 8 – 9 (describing the omitted cost categories and DTE's confirmation of those omissions).

[9] The present Order appears to acknowledge the impact of the special contracts on ratemaking treatment. For example, the Commission explicitly accepts a rate increase for at least some customers: on page 137, FN 19, it states that "The Commission's references to prohibiting cost shifting to 'other customers' do not include customers who do not pay power supply costs (such as choice customers). ***As noted above, the Staff found that these customers will pay more as a result of the conditional approval of the special contracts***. 3 Tr 861-863; Staff's initial brief, p. 4" (emphasis added).

The Commission again emphasized this standard in its March 25, 2017, Order in MPSC Case U-18224:

> [T]he contracts are the product of Detroit Edison's negotiations. It follows that Detroit Edison should assume full responsibility for negotiating the discounted prices and that its shareholders should expect to absorb much, if not all, of any revenue shortfall caused by the pricing and other contract provisions that the utility negotiates. Therefore, unless Detroit Edison can make a compelling showing why a different ratemaking treatment is justified, the Commission will not permit Detroit Edison to reallocate the costs of serving contract customers to other ratepayer classes. To make a compelling showing for a different treatment, Detroit Edison would bear a substantial burden. This burden would require, at a minimum, a clear, convincing, and unequivocal demonstration either (1) that the contract prices and terms are justified on the basis of the cost of service, or (2) that the benefits for other (non-participating) ratepayers are substantial and have a value that outweighs the costs that are not recovered from the contract customers. Either showing would require support from a cost-of-service study that identifies and quantifies all costs incurred under the contracts. In addition, both showings would require Detroit Edison to demonstrate that its service provided in conjunction with the contracts has not, and will not in the future, impede the development of competition in its service territory.[10]

The Commission in that U-18224 order continued by emphasizing that "[i]t is clear to the Commission that a utility must make a 'compelling showing' to justify the requested ratemaking treatment through one of two options and that "[*e*]*ither showing would require support from a cost-of-service study that*

[10] March 25, 2017, Order in MPSC Case U-18224, at 113.

identifies and quantifies all costs incurred under the contracts."[11] It further stressed that "There is no exception to this requirement."[12]

By excluding costs such as the transmission cost categories referenced above, DTE failed to meet its burden for making a "compelling showing" supported by a "cost-of-service study that ***identifies and quantifies all costs incurred under the contracts***."[13] (emphasis added). Thus, without a quantification of all costs associated with the Google Data Center—including the acknowledged but omitted transmission cost categories identified by the Attorney General—the Commission's conditional approval presents arbitrary and capricious decision making under its own standard.[14] The Commission's errors here and in applying the incorrect burden of proof[15] have the unintended

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[11] *Id.*
[12] *Id.*
[13] *Id.*
[14] The Commission's order here also appears to apply the *ex parte* standard from MCL 460.6a(3) for the purpose of evaluating the special contracts. MPSC Case U-22058, October 1, 2026, Order at 103 – 107. To the extent the Commission relies on an application of that standard in reviewing approval of the special contracts, such application presents clear error. The *ex parte* standard addresses whether a case may occur without a contested proceeding, and does not present a standard for reviewing special contracts such as described in the MPSC's Case U-18224 Order.
[15] The Commission also erred and acted contrary to law by applying the same incorrect burden of proof in other contexts. On the issue of termination payment calculation, for example, the Commission incorrectly asserted that "the Attorney General failed to provide convincing support" for her recommendation. MPSC Case U-22058, October 1, 2026, Order at 110. Rather, DTE had the burden of proof and failed to meet that burden. *See, e.g.*, Attorney General's Initial Brief at 10 – 15. The Commission made the same mistake in evaluating the Attorney General's recommendation for a higher MBD, incorrectly asserting that "the Attorney General failed to show that an 80% MBD is not sufficiently protective…." MPSC Case U-22058, October 1, 2026, Order at 108. But it is DTE's burden to prove the reasonableness and prudence of requested relief, not the Attorney General's burden to prove the opposite. The Attorney General identified in briefing the errors and shortcomings in DTE's requests on these topics. *See, e.g.*, Attorney General Initial Brief at 5 – 15. The Commission erred in rejecting the Attorney General's recommendations.

consequences of risking cost-shifting from the un-quantified cost categories omitted by DTE and Commission staff in this matter.

Language in the PSA contract might theoretically provide for some remedy to the Commission's errors on this topic. Section 5.1.3 of that agreement includes that:

> If, at any time during the Term, the Commission (a) issues a ruling or order determining that the costs to serve Customer exceed the combined revenues paid or payable to the Company under this Agreement and the applicable Related Agreements, or (b) disallows Company's recovery of costs to the extent attributable to serving Customer, then, in either case, Customer Agrees to comply with any such ruling or order to ensure that Customer pays all costs associated with its service from the Company…[16]

Emphasizing a goal of preventing other customers from subsidizing the data center, the introductory sentence to the contract paragraph 5.1.3 quoted above provides that: "[t]he Parties acknowledge that a goal of this Agreement and Related Agreements is to protect other customers, other customer classes and Company from funding the costs to serve Customer."[17]

On rehearing, the Commission should order further record evaluation of the intervenors' concerns raised as to cost/benefit questions. This should include a direction from the Commission requiring DTE to provide further cost/benefit modelling incorporating the omitted transmission cost categories identified by the Attorney General. The Commission should further order the data center customer to be responsible through the "affordability backstop" for

[16] DTE's Revised Exhibit A-16, pp 8 – 9, ¶ 5.1.3.
[17] *Id*.

additional costs identified in the further record evaluation described in the preceding sentences. Should the Commission decline to adopt this recommendation on rehearing, the contracts should be rejected as DTE did not meet its burden of proof such as under the Commission's standard for special contract review as described above.

B. Cost and Benefit Analysis and "Affordability Backstop." The Commission erred by adopting a contract-long "aggregate" approach for evaluating costs and benefits, causing downstream error as to application of the "affordability backstop."

In briefing, the Attorney General urged the Commission to reject DTE's contract-long (over the entire term of the contracts) "aggregate" approach to evaluating the Google Customer's costs and benefits.[18] As identified in her reply brief:

> The problems and pitfalls with this are clear. DTE wants to offset costs with its various projections of benefits – doing so will allow DTE to claim, seemingly at its discretion, that the projected benefits always outweigh the actual costs. This arrangement would thwart the entire idea that costs of serving this Customer will not be borne by other customers, and is directly analogous to the NEXUS problem, wherein a multi-decade contract with very real, heightened costs, is being "supported" by future benefit projections that never come to fruition.
>
> The Commission should recognize the tenuous nature of any "benefits," of this arrangement, for example DTE's desire to include as part of any benefits its subjective calculation of "avoided costs realized," and should reject DTE's attempts to structure its affordability backstop as real costs offset by benefit projections. This extends to specific areas such as requiring DTE to provide actual

[18] *See*, Attorney General's Reply Brief at 22 (referencing DTE's proposal to the Commission on page 40 of its initial brief that "[t]he customer benefit analysis and the Affordability Backstop both operate over the life of the Contracts because this proceeding approves 20-year contracts and any assessment of costs and benefits must match the same period.").

> calculations for transmission costs to serve the Customer. The risks of cost-shifting are real and DTE's arguments to the contrary should be rejected.[19]

Despite the Attorney General's warnings, the Commission mistakenly and unnecessarily adopted DTE's "aggregation" proposal, for example stating that:

> While there appears to be agreement that the four years of 2035 through 2038 will produce annual net costs to other customers (due to the need to construct the proxy generation resource), the Commission finds that approval of the special contracts does not require an annual demonstration of a net benefit to other customers because the aggregate impact of the special contracts on other customers over the term of the contracts is the key consideration. See, 3 Tr 678; Confidential Exhibit A-5. The Commission finds that the entire contractual period is the relevant consideration in this examination of the public interest.[20]

The Commission's position here presents multiple errors. Its decision to adopt DTE's contract-long "aggregation" approach is at odds with a meaningful application of an "affordability backstop." By presuming to accept periods of net costs, the Commission's order sets the table for DTE to pass on data center costs to other ratepayers in the near-term under the mistaken presumption of a longer-term benefit that has not been adequately supported in this matter (as discussed in Section II.A. above).

This likewise presents potential retroactive rate making issues; neither DTE nor the Commission appears to propose a solution for an instance where

[19] *Id.* at 22 – 23.
[20] MPSC Case U-22058, October 1, 2026, Commission Order at 117.

data center costs are collected from other ratepayers early under an argument of theoretical contract-long benefits, but the Commission later determines DTE's benefits projections to have been drastically flawed. The Attorney General thus requests that on rehearing the Commission reject DTE's contract-long "aggregation" standard for evaluating costs and benefits.

The Commission should further reject the use of "avoided costs realized" in assessing the affordability backstop, as recommended by the Attorney General in her reply brief.[21] "Avoided costs" can be nebulous, subjective, and unsupportable, and the Attorney General identified in briefing the risks of using "avoided costs" in a cost/benefits analysis.[22] Instead, the Commission's evaluation of the affordability backstop should assess only quantifiable cost savings, and should defer recovery of data center costs from other ratepayers and record them with actual cost savings and benefits in a regulatory liability account (addressed further in Section II.C below). These practices will in turn help to avoid the retroactivity issues identified above, as such data center costs can then be properly recovered from the data center or DTE's backstop if necessary, or any net benefits refunded to customers. As identified by the Attorney General in briefing: "such a mechanism will provide a more sound and transparent approach to show that other customers are actually benefiting

[21] Attorney General's Reply Brief at 22 – 26.
[22] *See*, *id*.

and are not being financially disadvantaged by the new large data centers served by the Company."[23]

To the extent not adopting the recommendations described in the preceding two paragraphs on rehearing, the Commission's errors here undercut any justifications of the terms of service or the value of any substantial benefit[24] that the "affordability backstop" might theoretically work to ensure, thus warranting rejection of the contracts.[25]

C. Regulatory Liability Accounting. The Commission erred in rejecting the Attorney General's proposal for regulatory liability accounting to be reconciled annually.

On page 120 of the Order, The Commission's order provides only passing discussion on the topic of regulatory liability accounting as recommended by the Attorney General.[26] Its only provided basis for rejecting the Attorney General's request is that:

> The Commission finds that the issue of regulatory liability accounting in the context of data center special contracts is under dispute in DTE Electric's pending electric rate case, Case No. U-22046, and, because numerous parties are involved in contesting the related issues, a stronger and more comprehensive record is under construction in that proceeding.

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[23] *Id*. at 25.

[24] *See, e.g.*, MPSC Case U-18646 at 113 (including reference to the standard for reviewing special contracts that a utilities' burden "would require, at a minimum, a clear, convincing, and unequivocal demonstration either (1) that the contract prices and terms are justified on the basis of the cost of service, or (2) that the benefits for other (non-participating) ratepayers are substantial and have a value that outweighs the costs that are not recovered from the contract customers.").

[25] The Commission's erroneous conclusions on this topic further emphasize the impacts of its decisions on ratemaking; a contract-long "aggregate" evaluation presents a standard by which the Commission is evaluating allocation of costs to the data center and other customers.

[26] *See, e.g.*, Attorney General's Initial Brief at 24 – 29.

The Commission's reasoning here is vague, arbitrary, and capricious. This finding presents no assessment whatsoever of the record developed in this case. Furthermore, it provides no explanation as to why discussion in the other case would obviate the usefulness of regulatory liability accounting as identified by the Attorney General in briefing. It thus erred in rejecting the Attorney General's recommendation.

The Commission likewise erred by rejecting on pages 133 – 134 of the Order the Attorney General's recommendation for the regulatory liability accounting to entail a benefit/cost reconciliation on an annual basis.[27] The Commission's error here included by failing to address or adequately consider the points raised by the Attorney General in briefing on this subject, namely concerning the potential risks posed by a lengthened rate-case cycle.[28] Nor does the Commission provide any explanation or evaluation of record evidence as to why an annual reconciliation would not be useful.[29] Establishing a regulatory liability account is critically integral for evaluating the Google Data Center's costs and benefits, and for avoiding potential retroactivity issues. The Commission's decision here likewise has the unintended consequence of arbitrarily accepting less ratepayer-protective terms for evaluating the data center's costs and benefits.

[27] *See, e.g.*, Attorney General's Initial Brief at 28 – 29.
[28] *See, e.g.*, Attorney General's Initial Brief at 27 – 29.
[29] MPSC Case U-22058, October 1, 2026, Order at 133 – 134.

The Commission should thus on rehearing adopt the Attorney General's recommendations, as raised in briefing, for regulatory liability accounting with an annual reconciliation.

D. Transmission Cost Tracking.

While the Commission adopted part of the Attorney General's recommendations for transmission cost tracking, it erred by incorrectly providing DTE an exception for transmission project cost tracking by stating that:

> The Commission acknowledges DTE Electric's inability to provide project-by-project information due to the lack of a requirement from MISO for ITC to provide an itemized bill to DTE Electric.[30]

On its face the language of this finding cannot be totally correct; in this very case, DTE has presented breakdowns of transmission project cost estimates provided by ITC.[31] The Commission's finding here is particularly concerning given the omitted transmission cost categories identified by the Attorney General. The Commission should thus rescind this finding on rehearing. The Commission should, at a minimum, direct DTE to work with ITC to capture and report project level costs in order to facilitate the identification of costs pertaining to the data center. This is a problem and a requirement of national scope that is not unique to DTE given the widespread concerns that data center costs could be paid by other customers. ITC should

[30] MPSC Case U-22058, October 1, 2026, Order at 136.
[31] *See, e.g.*, 3 Tr 449 Benyard Direct (including, for example, "Figure 1 Detail of ITC Cost Estimate").

be receptive to such specific cost tracking if requested to do so. Alternatively, DTE could seek relief in this area through an application to FERC for full disclosure and tracking of such costs.

E. DTE as a Cost Backstop. On rehearing, the Commission should order that DTE's backstop include all incremental costs of serving the Google data center as recommended by the Attorney General in briefing.

While the Commission's order provides for some financial backstop by DTE, it erred by not explicitly requiring DTE to backstop all incremental costs as recommended by the Attorney General in briefing.[32] Specifically, the Attorney General recommended that, "if at any time during the term of the PSA, CCAA, or other agreements with the Customer or after the expiration of those agreements, costs related to the Customer exceed any benefits, or there are no longer any offsetting benefits, the Company and not the other customers should be responsible for such costs."[33]

Instead, the Commission describes DTE's obligation as covering "any remaining liability" from "the full amount of the remaining financial exposure associated with [the special contracts]."[34] It thus remains unclear whether the Order is in fact directing DTE to be obligated to prevent all incremental costs from being shifted to Michigan ratepayers, rather than only those that Google would be obligated to cover under the contracts. One potential concern is the outcome if Google attempts to leave service under an asserted "Company Event

[32] *See, e.g.,* Attorney General's Initial Brief at 29 – 30.
[33] *Id*.
[34] MPSC Case U-22058, October 1, 2026, order at 113 – 114.

of Default;" in cross-examination, DTE witness Foley stated that he understood the language of the PSA contract as not providing for applicability of a termination payment in the event of a "Company Event of Default."[35] It is likewise unclear whether DTE's obligations under the Order would include the risk of stranded assets for all longer book-lived incremental resources after the end of Google's contract term.

The Commission should make clear on rehearing that it is the Company, not ratepayers, responsible for Google's costs in circumstances such as described above. Without that clarity, its order has the unintended consequence of presenting unnecessary cost-shifting risks to Michigan ratepayers. The Commission's order further mischaracterizes the Attorney General's recommendation on this topic as reflecting "the same conditions to the instant case as were applied in the December 18 order…."[36] While the Attorney General did acknowledge that her recommendation was "similar" to that condition, the two are not identical. The Commission failed to acknowledge and address that distinction in its Order.

F. Collateral Cap.

The Commission erred in rejecting the Attorney General's recommendation for removing any cap on the customer's collateral

[35] MPSC Case U-22058, 3 Tr 188 (note that there appears to be errata in the transcript here where the word "length" as included should read "language").
[36] *Id*. at 113.

requirement.[37] In briefing, the Attorney General documented clear concerns with a collateral cap,[38] for example identifying that:

> DTE's stance that it will serve as the credit and collateral backstop for any shortfall ignores the very real concerns of what happens to DTE itself, in an instance where it is forced to absorb tremendous amounts of a shortfall or stranded costs related to an early exit or insolvency of the customer. Even though DTE's posture is that its ratepayers would not "cover" such costs out of pocket, the problems and economic impacts reverberating from such a situation would still eventually be borne by ratepayers. If DTE's credit ratings or other financial situation take a significant hit, the customers that make up the Company will be the ones who eventually suffer. Neither DTE's presentation nor its briefing in this case have taken this into consideration. The Company's argument fails to consider the very real risk of eventual subsidization by other customers that its proposal presents, and on that basis should be rejected.[39]

The Commission erred by failing to meaningfully engage with these concerns in its Order. Instead, it attempts to hand-waive away any questions about DTE's ability to absorb a shortfall by asserting that: "The Commission finds that this is a question that cannot be resolved in this special contract case (no matter what the state of the record) as it rests on many widely speculative assumptions, including that Google and its parent company, Alphabet Inc., are bankrupt, an LoC is insufficient, and there is no longer a need for the data center."[40]

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[37] MPSC Case U-22058, October 1, 2026, Order at 113 – 115.
[38] *See, e.g.,* Attorney General's Initial Brief at 15 – 19; Attorney General's Reply Brief at 18 – 21.
[39] Attorney General's Reply Brief at 19.
[40] MPSC Case U-22058, October 1, 2026, Order at 114.

But the Commission draws the wrong conclusion from the uncertainty in DTE's ability to potentially absorb excess costs; the default should be to protect Michigan ratepayers with more stringent credit requirements for Google, rather than give greater leniency to Google and thus pose greater risk to DTE and its other customers. This is especially the case at a time when Alphabet has recently reported negative free cash flow for the first time in its 22 years as a publicly traded company.[41] Not to mention the fact that the Commission itself found that MPSC Staff projected a potential for a gap above the customer's collateral requirement, even under Staff's deficient cost estimates (omitting certain transmission cost categories).[42] And once again, DTE bears the burden of proving the sufficiency of its collateral requirements, not the Attorney General. It failed to meet that burden here, and the Commission erred by conditionally approving the contracts notwithstanding DTE's failure.

The Commission's rejection of uncapping Google's collateral requirement further has the unintended consequence of causing unnecessary cost-shifting risks for Michigan ratepayers. On rehearing, the Commission should instead reject a collateral cap, as recommended by the Attorney General in briefing.

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[41] *See, e.g.*, Stephen Morris, *Alphabet shares tumble in $500bn rout*, FINANCIAL TIMES, October 28, 2026, (accessible at https://www.ft.com/content/eb386156-5bf9-4edd-80f2-803fdee1e33d?syn-25a6b1a6=1).

[42] MPSC Case U-22058, October 1, 2026, Order at 114.

III. Conclusion

For the reasons set forth above, the Commission should grant this Petition and issue an Order granting the Attorney General's requests as set forth herein.

Respectfully submitted,

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PROOF OF SERVICE - U-22058

The undersigned certifies that a copy of the ***Attorney General's Petition for Rehearing*** was served upon the parties listed below by e-mailing the same to them at their respective e-mail addresses on the 30th day of October 2026.

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