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January 31, 2019

Ms. Kavita Kale
Executive Secretary
Michigan Public Service Commission
7109 W. Saginaw Highway
P.O. Box 30221
Lansing, Michigan 48909

Re: MPSC Case No. U-20162

Dear Ms. Kale:

Attached for electronic filing in the above-referenced matter, please find the Reply Brief of Energy Michigan, Inc. Thank you for your assistance in this matter.

Sincerely yours,

VARNUM

Timothy J. Lundgren

TJL/kc
Enclosures
c. All parties of record.

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of)
DTE ELECTRIC COMPANY for)
authority to increase its rates, amend its)
rate schedules and rules governing the)
distribution and supply of electric energy,)
and for miscellaneous accounting authority)
_____)

Case No. U-20162

REPLY BRIEF
OF
ENERGY MICHIGAN, INC.

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REPLY BRIEF OF ENERGY MICHIGAN, INC.

I. INTRODUCTION

This Reply Brief is filed on behalf of Energy Michigan, Inc. (“Energy Michigan”)¹ by its attorneys, Varnum LLP. Failure to address any issues or positions raised by other parties should not be taken as agreement with those issues or positions. In particular, Energy Michigan continues to support the changes it advocated for in its Initial Brief to the DTE EC2 tariff, both with respect to the customer meter data rules, and with respect to the return to service requirements. As Energy Michigan has no additional arguments to make on those issues they will not be repeated here.

II. ARGUMENT

A. DTE's Method for Adjusting its Calculation of Capacity Cost Based on a Net Net Deduction Should Again be Rejected

As Energy Michigan explained in its Initial Brief, DTE's calculation of capacity cost is inconsistent with prior Commission precedent and should be corrected. In its Initial Brief, DTE

¹ The comments expressed in this filing represent the position of Energy Michigan as an organization, but may not represent the views of any particular member of Energy Michigan.

explains that the methodology for calculating capacity cost that it proposed in U-18248 included an adjustment based on "Net Energy Sales net of fuel costs" rather than "Gross Energy Sales net of fuel."² DTE further admits that the Commission rejected DTE's adjustment.³ In fact, the Commission weighed DTE's proposed "net net" approach and came to the following conclusion:

However, the statute says nothing about making this determination on an annual net net basis. The statute says "subtract all non-capacity-related electric generation costs . . . net of projected fuel costs, from all of the following: (i) All energy market sales. (ii) Off-system energy sales. (iii) Ancillary services sales." MCL 460.6w(3)(b). The plain language of the statute provides no support for DTE Electric's proposed interpretation.⁴

Instead, the Commission plainly held that the methodology for the adjustment proposed by Energy Michigan's witnesses was correct and best aligned with the statutory requirements: "The Commission finds that Energy Michigan is the only party that attempted to calculate the actual amounts associated with the required subtractions under Section 6w(3)(b) in the way that the statute requires."⁵

Therefore, while DTE attempts to make it appear in its Initial Brief that the Commission in its Order in U-18248 affirmed the DTE methodology, in actual fact the methodology used for the adjustment at issue here was the one advocated by Energy Michigan's witnesses Mr. Rob Jennings and Mr. Ralph Smith, while the DTE methodology was rejected, as we have seen: "For all of these reasons, the Commission finds that the methodology for establishing the state reliability charge supported by the Jennings and Smith testimony is reasonable, appropriate, and

² DTE Initial Brief, p. 115.

³ *Ibid.*

⁴ Order on November 21, 2017, Case No. U-18248, pp. 66.

⁵ *Ibid.*

consistent with Section 6w."⁶ In its April 18, 2018 Order in Case No. U-18255, the Commission noted the discussion rehearsed above, and affirmed the Staff's proposal, not as DTE suggests because no one proposed an updated number, but for the simple reason that it accorded with the previous order and therefore with the statutory requirements: "the Commission approves the Staff's proposal regarding gross energy sales net of fuel costs, because it accords with the November 21 order, pp. 66-69."⁷

As Energy Michigan pointed out in its Initial Brief, DTE in its testimony explains how it calculates its adjustment, but not why, given that it is knowingly flying in the face of recent and repeated Commission precedent.⁸ Once again, in its Initial Brief, DTE fails to explain why it believes the change it is proposing is consistent with the requirements of Section 6w, or why the current method should be replaced by DTE's method for calculating the adjustment despite the Commission's reasoned analysis and rejection of DTE's proposal in favor of Energy Michigan's approach in its November 21 Order in U-18248 on pp. 66-69. In short, DTE has failed to substantiate or support the basis for the change it proposes, and it therefore should be rejected.

Finally, as Mr. Zakem discusses and Energy MI noted in its Initial Brief, it will be necessary for the Commission to ensure that the consequences of correcting the adjustment in DTE's capacity calculations from that which the utility has proposed to that which the Commission has actually required in its previous orders be made. These changes must be carried through to the final rate design that the Commission orders in this proceeding and reflected in the

⁶ *Id.* at 69.

⁷ April 18, 2018 Order in Case No. U-18255, p. 63 (emphasis added).

⁸ Energy Michigan, Initial Brief, pp. 3-4.

final charges to separate capacity and non-capacity elements of the rates.⁹ Energy Michigan also supports the recalculation performed by Staff for this purpose.

III. CONCLUSIONS AND PRAYER FOR RELIEF

WHEREFORE, Energy Michigan hereby respectfully requests that the Commission do the following:

- 1) Reject DTE's calculation of capacity cost as proposed and accept the corrected calculations as discussed here and in Energy Michigan's Initial Brief and Testimony and Exhibits.
- 2) Accept Energy Michigan's changes to DTE's customer meter data requirements in the EC2 Tariff, as discussed in Energy Michigan's Initial Brief and set forth in Energy Michigan's Exhibit EM-5.
- 3) Accept Energy Michigan's proposed modifications to DTE's proposed changes to the return to service tariff requirements, as discussed in Energy Michigan Initial Brief and set forth in Energy Michigan's Exhibit EM-4.

Respectfully submitted,

Varnum LLP
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January 31, 2019

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⁹ See 7 Tr 3086-3087.

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Case No. U-20162

PROOF OF SERVICE

STATE OF MICHIGAN)
) ss.
COUNTY OF INGHAM)

Kimberly J. Champagne, the undersigned, being first duly sworn, deposes and says that she is a Legal Secretary at Varnum LLP and that on the 31st day of January, 2019, she served a copy of the Reply Brief of Energy Michigan, Inc. and this Proof of Service upon those individuals listed on the attached Service List via email at their last known addresses.

Kimberly J. Champagne

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