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Timothy J. Lundgren

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April 19, 2019

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

Re: MPSC Case No. U-20471

Dear Ms. Kale:

Attached for electronic filing in the above-referenced matter, please find the Petition for Leave to Intervene on behalf the City of Ann Arbor. Thank you for your assistance in this matter.

Very truly yours,
VARNUM

Timothy J. Lundgren

TJL/kc
Enclosures
c. ALJ
All parties of record.

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application of)	
DTE ELECTRIC COMPANY for)	
approval of its Integrated Resource Plan)	Case No. U-20471
pursuant to MCL 460.6t, and for other relief.)	
_____)	

PETITION FOR LEAVE TO INTERVENE OF THE CITY OF ANN ARBOR

The City of Ann Arbor ("Ann Arbor"), by its attorneys Varnum LLP, hereby files this Petition with the Michigan Public Service Commission ("Commission") for leave to intervene in and become a party to the above-titled proceedings pursuant to R 460.17201 (Rule 201) of the Commission's Rules of Practice and Procedure and the Michigan Administrative Procedures Act, MCL § 24.101 *et seq.* In support of this Petition, Ann Arbor states as follows:

1. Ann Arbor is a Michigan municipal corporation that purchases power from DTE Electric Company ("DTE") and also supplies power to DTE from two hydroelectric power generation facilities, the Barton Dam and the Superior Dam (the "Hydro Facilities"). The Hydro Facilities provide clean and renewable energy and capacity to DTE.
2. Ann Arbor has recently set a goal of powering 100% of municipal government operations by means of renewable power by 2035.¹
3. Ann Arbor has recently set a goal of reducing community-wide greenhouse gas emissions 25% by 2025 and 90% by 2050, based on emissions levels in 2000.

¹ See: https://www.mlive.com/news/ann-arbor/2018/01/ann_arbors_new_clean-energy_go.html.

4. The Hydro Facilities are small power production facilities of 20 MW or less, and are Qualifying Facilities ("QFs") within the meaning of sections 201 and 210 of the Public Utility Regulatory Policies Act of 1978 ("PURPA"), 16 U.S.C. §§ 796 and 824a-3, 18 C.F.R. §292.101(b)(1).
5. On March 29, 2019, DTE filed an Application, Testimony, and Exhibits seeking approval of its Integrated Resource Plan ("IRP") pursuant to MCL 460.6t, and for other relief (the "Application"). In its Application, DTE describes being "in the midst of a fundamental transformation of its resource portfolio." This transformation includes retirement of coal plants, and the addition of a variety of new resources, which apparently have yet to be precisely determined, but includes additional renewable resources for DTE's Voluntary Green Pricing ("VGP") program.
6. As an intervenor in this case, Ann Arbor will take the position that DTE's plans for its IRP generally, and its VGP program specifically, should adequately account for the known demand of its existing customers, including Ann Arbor, for renewable energy; and that DTE's plan as filed needs to reflect a much more significant investment in renewable energy in order to increase supply and eventually lower price, reducing barriers to accessing green power so that Ann Arbor can meet its public policy objectives in a cost effective and timely manner.
7. Ann Arbor intends to participate in these proceedings to the extent necessary to protect its interests as both a supplier to, and purchaser from DTE of renewable energy. These interests of Ann Arbor in this proceeding cannot be adequately represented or protected by any other party.

8. Ann Arbor meets the criteria for intervention as of right. The Commission has long recognized a two-prong test for standing of right that requires a prospective intervenor to show (i) that it will suffer an injury in fact, and (ii) that the interests allegedly endangered are within the zone of interests to be protected or regulated by the statute or constitutional guarantee in question. See *In re Application of The Detroit Edison Co for Authority to Increase its Rates*, Case Nos. U-15768, U-15751 (January 11, 2010); *Association of Data Processing Service Organizations, Inc v Camp*, 397 US 150; 90 S Ct 827; 25 L Ed 2d 184 (1970); *Drake v The Detroit Edison Company*, 453 F Supp 1123, 1127 (WD Mich, 1978) ("*Drake*").

9. Ann Arbor meets the criteria for intervention for several reasons. First, because its Hydro Facilities are part of the subject matter of this proceeding.² As a current supplier to DTE which intends to continue supplying the utility with renewable energy, Ann Arbor will suffer an injury if DTE's future resource portfolio as determined in this proceeding is not inclusive of baseload renewable generation, and does not recognize the existing rights of current suppliers. Furthermore, as a current supplier intending to participate in future DTE RFPs, Ann Arbor is one of the parties recognized in MCL 460.6t(7) as having a right to participate in the utility's IRP proceeding. In addition, Ann Arbor meets the criteria for intervention as a customer of DTE and purchaser of renewable energy, which has an interest in DTE's plans for obtaining renewable energy to satisfy Ann Arbor's renewable energy municipal goals and community-wide greenhouse gas emission goals. As both a supplier and a customer, Ann Arbor is thus, also within the zone of interests of the statute governing this proceeding.

² See, for example, Exhibit A-3, p. 63.

10. Even if Ann Arbor did not satisfy the test for intervention as of right, Ann Arbor should be permitted to intervene under the Commission's permissive intervention standards. As the Commission has noted, "the Commission's discretion to grant leave to intervene is broader than the two prong test. As recognized in prior Commission orders, the requirements for standing before the Commission are not as strict as those applied by the courts. Unlike a court of law, an administrative agency can allow intervention whenever the resulting delay will likely be outweighed by the benefit of the intervenor's participation." *In re Michigan Consolidated Gas Co*, Case No. U-10150, at 5 (December 8, 1992) (finding that discretionary intervention was appropriate, and "a detailed discussion of the two-prong test is unnecessary"). Furthermore, the Commission has recently stated that, "[t]he granting of permissive intervention without satisfying the two-pronged test is a long-established Commission practice." *In re DTE Gas Co*, Case No. U-17332, at 4 (May 13, 2014).
11. The Commission has said that, "permissive intervention is appropriate where the intervenor's participation will provide a benefit that outweighs any resulting delay or expense. Permissive intervention has also been granted where a proceeding 'raises novel questions and important issues of policy' and the intervenor will 'bring a unique perspective' to the case." *In re. the application of DTE Electric Co*, Case No. U-17319 (March 6, 2014) at 10.
12. As both a supplier and a purchaser of renewable energy, with an interest in the growth and development of DTE's VGP program, Ann Arbor has a unique perspective and information to provide that is not available from other parties.

13. Ann Arbor reserves the right to take other positions and/or seek other relief based on a review of the various filings, the responses to discovery, or positions taken by DTE or other parties in this proceeding.

WHEREFORE, Ann Arbor respectfully requests that the Commission:

- a. Grant Ann Arbor's Petition for Leave to Intervene; and
- b. Grant such other and further relief as is deemed lawful and appropriate.

Respectfully submitted,
Varnum, LLP
Attorneys for the City of Ann Arbor

April 19, 2019

By: _____
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STATE OF MICHIGAN

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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 19th day of April, 2019, she served a copy of the City of Ann Arbor's Petition for Leave to Intervene upon those individuals listed on the attached Service List via email at their last known addresses.

Kimberly J. Champagne

SERVICE LIST
MPSC CASE NO U-20471

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