S T A T E O F M I C H I G A N

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion, regarding the regulatory reviews, revisions, determinations, and/or approvals necessary for **DTE ELECTRIC COMPANY** to fully comply with Public Act 295 of 2008.	)	Case No. U-18232

At the July 9, 2020 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. Sally A. Talberg, Chairman
Hon. Daniel C. Scripps, Commissioner
Hon. Tremaine L. Phillips, Commissioner

ORDER

History of Proceedings

Public Act 295 of 2008 (Act 295), as amended by Public Act 342 of 2016 (Act 342), MCL 460.1001 *et seq*., requires all providers of electric service in the state to file renewable energy plans (REPs) with the Commission. Section 22(3) of Act 342, MCL 460.1022(3), directs the Commission to review each electric provider's REP within one year after the effective date (April 20, 2017) of Act 342. In the March 28, 2017 order in Case Nos. U-15825 *et al.*, the Commission assigned this docket number, and a filing date of January 31, 2018, to DTE Electric Company (DTE Electric) for its REP review pursuant to MCL 460.1022(3). In the January 23, 2018 order in this docket, the Commission approved the company's request to extend the filing date to March 30, 2018.

On March 29, 2018, DTE Electric filed an application to amend its REP. On July 18, 2019, the Commission issued an order granting partial approval of the REP (July 18 order). That approval applied to renewable generation assets that qualified for 100% of the federal production tax credit (PTC). The Commission also granted *ex parte* approval of related wind contracts. July 18 order, pp. 31-32. The Commission indicated that renewable generation assets that did not qualify for 100% of the PTC would be addressed in the company's integrated resource plan (IRP) proceeding, Case No. U-20471, with an expectation that DTE Electric would seek another amendment of its REP thereafter. July 18 order, p. 25. On July 31, 2019, DTE Electric filed a consent to the changes to its REP adopted in the July 18 order, pursuant to MCL 460.1022(3).

In the February 20, 2020 order in Case No. U-20471 (February 20 order), the Commission found that the record in the IRP proceeding did not provide the Commission with the evidence necessary to make decisions addressing the unapproved renewable generation assets proposed by DTE Electric. In addition to recommending changes to the IRP, the Commission directed the company to file an application to amend its REP no later than April 1, 2020. On March 5, 2020, the Commission issued an order adopting an expedited schedule, and stated that it would read the record in the REP matter (March 5 order).

On March 31, 2020, DTE Electric filed an application, with supporting testimony and exhibits, for approval of its amended 2020 REP, pursuant to the February 20 and March 5 orders, and Act 295 as amended by Act 342 (REP Application).[1]

A prehearing conference was held before Administrative Law Judge Sharon L. Feldman (ALJ) on April 13, 2020, at which the ALJ granted intervention to Great Lakes Renewable Energy Association (GLREA); Natural Resources Defense Council (NRDC); Environmental

[1] The amended 2020 REP is referred to in this order as the REP.

Law & Policy Center (ELPC), Vote Solar, Ecology Center, and Solar Energy Industries Association (together, the ELPC Group); Soulardarity; Geronimo Energy, LLC (Geronimo); Cypress Creek Renewables, LLC (Cypress Creek); and Pine Gate Renewables, LLC (Pine Gate). The Commission Staff (Staff) also participated. On April 17, 2020, the ALJ adopted a protective order. On April 24, 2020, the ALJ granted the Michigan Department of the Attorney General's late notice of intervention.

On April 28, 2020, testimony was filed by the Staff, GLREA, the ELPC Group, NRDC, Geronimo, Pine Gate, and Soulardarity. On April 29, 2020, NRDC filed revised testimony and Soulardarity filed revised exhibits. On May 8, 2020, rebuttal testimony was filed by DTE Electric, the Staff, and GLREA. On May 13, 2020, NRDC filed confidential supplemental direct testimony, and, on May 15, 2020, filed a revised version of that testimony. On May 14, 2020, DTE Electric filed confidential supplemental rebuttal testimony, and, on May 15, 2020, filed a revised version of that testimony.[2] All of the proffered testimony was bound into the record without cross-examination at a hearing on May 19, 2020.

Initial briefs were filed by DTE Electric, the Staff, GLREA, NRDC, the ELPC Group, Pine Gate, Geronimo, and Soulardarity on June 2, 2020, and reply briefs were filed by the same parties on June 9, 2020. The Staff and NRDC also filed confidential versions of their initial briefs on June 2, 2020.

The record in the REP amendment case consists of 753 pages of transcript (including 15 pages filed confidentially) and 152 exhibits admitted into evidence.

[2] Public versions of these confidential filings were filed on May 15, 2020 (DTE Electric) and May 18, 2020 (NRDC).

Related *Ex Parte* Applications

Wind

On April 30, 2020, DTE Electric filed an application for *ex parte* approval of the Meridian Wind Farm (MWF) Turbine Supply Agreements and Engineering, Procurement, and Construction Contracts (collectively, the MWF Contracts) between DTE Electric and General Electric Company (GE), Vestas-American Wind Technology, Inc. (Vestas), and Barton Malow Company (Barton Malow) (MWF Application). DTE Electric also requests *ex parte* approval of: (1) the associated transfer prices, which are the combined energy and capacity price projections approved in the February 6, 2020 order in Case No. U-20484, for recovery in the power supply cost recovery (PSCR) process under MCL 460.6j; (2) the capacity charges, which are included in those transfer prices, under MCL 460.6j(13)(b); (3) the recovery of the engineering, procurement, and construction (EPC) costs arising from the MWF Contracts through DTE Electric's revenue recovery mechanism as incremental costs of compliance, as needed; and (4) assurance that the full costs of the MWF will be recovered through the combined application of the transfer price mechanism for PSCR recovery, application of the revenue recovery mechanism surcharges under Act 295, and other mechanisms as determined by the Commission in accordance with MCL 460.1047(6). MWF Application, pp. 1-2; *see,* MCL 460.1047(2)(b)(iv), and MCL 460.1049(3)(c). The MWF Application is accompanied by two affidavits, a copy of a report from Navigant Consulting, Inc. (Navigant), and redacted copies of the MWF Contracts.

DTE Electric states that the MWF Contracts provide for GE and Vestas to provide the turbines for, and for Barton Malow to design, engineer, construct, install, start-up, and test, the MWF. The company states that the turbine equipment qualifies for the 80% federal PTC, the PTC value for the life of the project is $142 million, and the project has been approved by the

DTE Energy Board of Directors. The request for proposal (RFP) process is described in the affidavit of Luisa M. Dunlap, Senior Renewable Energy Strategist for DTE Electric. The Turbine Supply Agreement RFP was issued on June 17, 2019, and the EPC RFP was issued on December 9, 2019. The resulting MWF project was evaluated against the wind and solar RFPs issued in September 2019 as described in the application to amend the REP. DTE Electric states that "the estimated installed cost of $1,477 per kW [kilowatt] for the Meridian Wind Farm is significantly lower than the 2021 installed cost of $1,677 per kW assumed within DTE Electric's 2018 Amended REP filing. The Meridian Wind Farm was also the highest scored project when compared to the renewable energy RFP projects." Dunlap affidavit, p. 5.

The MWF will be sited in Mt. Haley and Porter Townships in Midland County, and Jonesfield Township in Saginaw County. The MWF will interconnect in Richland Township in Saginaw County and is anticipated to provide 224.9 megawatts (MW) of renewable energy nameplate capacity, with commercial operation occurring in the fourth quarter of 2021. Commercially sensitive information in the MWF Contracts is redacted but was reviewed by the Staff. DTE Electric states that approval of the MWF Contracts will not result in an increase in the cost of service to customers, and thus may be granted without notice or a hearing under MCL 460.6a(1).

Solar

On May 5, 2020, DTE Electric filed an application for *ex parte* approval of power purchase agreements (PPAs) between DTE Electric and Assembly Solar III, LLC, a subsidiary of Ranger Power (Assembly), and between DTE Electric and River Fork Solar II, LLC, a subsidiary of Ranger Power (River Fork), (collectively, the Solar PPAs), including approval of the renewable energy transfer prices approved in Case No. U-20484 for the energy and capacity associated with

the Solar PPAs, likewise for recovery through the PSCR process under MCL 460.6j (Solar Application). The Solar Application is accompanied by two affidavits, a copy of the Navigant report, and redacted copies of the Solar PPAs.

The Assembly PPA requires Assembly to design, engineer, construct, install, startup, test, and maintain the Assembly project such that it can sell renewable capacity, energy, ancillary services, and renewable energy credits (RECs)[3] to DTE Electric for the 25-year term of the PPA. The Assembly project will be sited in Shiawassee County and is anticipated to provide 79 MW of renewable energy capacity, with commercial operation on or before December 31, 2021. The River Fork PPA requires River Fork to design, engineer, construct, install, startup, test, and maintain the River Fork project such that it can sell renewable capacity, energy, ancillary services, and RECs to DTE Electric for the 25-year term of the PPA. The River Fork project will be sited in Calhoun County and is expected to provide 49 MW of renewable energy capacity, with commercial operation expected on or before December 31, 2022. DTE Electric states that both projects qualify for the 30% investment tax credit (ITC) for solar.

The RFP process used to identify the Solar PPAs is described in the affidavit of David B. Harwood, Director of Renewable Energy Strategy for DTE Electric, and in the evidence supporting the application to amend the REP. DTE Electric explains that the evaluation of the levelized cost of energy (LCOE) for each project was adjusted in order to compare projects with different timeframes, by adding energy and capacity replacement costs for any gap between the proposed term and 35 years, based on published market forecasts. DTE Electric further explains that, in order to compare projects, "adjustment was made to the calculated LCOE on each

[3] RECs are the vehicle for compliance with the renewable portfolio standards and are measured in megawatt-hours (MWh). MCL 460.1039(1); MCL 460.1011(d). Providers receive one REC for each MWh of electricity generated from a renewable energy system.

proposal to reflect the expected increase in pricing due to the rectification of contract exceptions," which ranged from $1-$4 per MWh. Harwood affidavit, p. 6.

The Solar PPAs provide DTE Electric with the option to purchase each facility in the eleventh year of the PPA under terms and conditions set forth in each PPA. DTE Electric states that the LCOE for each project required an adjustment in order to compare the PPAs to a build transfer agreement (BTA). Solar Application, p. 5. DTE Electric is not requesting a financial incentive associated with these PPAs. Commercially sensitive information in the Solar Contracts is redacted but was reviewed by the Staff. DTE Electric states that approval of the Solar Contracts will not result in an increase in the cost of service to customers, and thus may be granted without notice or a hearing under MCL 460.6a(1).

The Commission finds it reasonable to address these *ex parte* applications in tandem with the company's REP application.

Review of the Record

Direct Testimony

DTE Electric Company

In its application, DTE Electric requests that the Commission approve the transfer prices approved in Case No. U-20484 for renewable energy contracts and company-owned renewable energy systems for purposes of recovery through the PSCR process under MCL 460.1047. The company states that all revenue recovery mechanism surcharges will remain at $0.00 for all customer classes. DTE Electric states that it proposes to use the transfer price when it is higher than the LCOE for company-owned renewable energy systems in any year in which the company forecasts that the following year's regulatory liability balance would drop below $20 million. REP Application, p. 4. DTE Electric states that RECs were not used to demonstrate compliance

with MCL 460.1028. *Id.* DTE Electric requests: (1) a determination that the REP is reasonable and prudent; (2) approval of the revenue recovery surcharge of $0.00 per meter for all customer classes; (3) authorization of the regulatory liability; and (4) approval of the necessary accounting authority. REP Application, pp. 4-5.

DTE Electric filed the testimony of seven witnesses.

Terri L. Schroeder, Product Development Manager in Renewable Solutions, presents an overview of the REP. Ms. Schroeder testifies that, in the July 18 order, the Commission found that DTE Electric had not provided information on alternatives such that the Commission could find the two previously-proposed generic wind projects to be prudent; and the Commission also found that the company had not adequately considered the option of purchasing RECs from providers such as qualifying facilities (QFs) making offers pursuant to the Public Utility Regulatory Policies Act of 1978 (PURPA), or from other potential sources of unbundled (without capacity, energy-only) RECs. She further explains that, in the February 20 order, the Commission found that it would review supply-side resource additions as part of this accelerated REP amendment proceeding. Thus, DTE Electric filed the REP Application, which proposes three new projects in place of the two generic wind projects proposed on the previous record.

Ms. Schroeder indicates that DTE Electric proposes one company-owned 224.9 MW wind park (the MWF), and two solar PPAs of about 125 MW combined (the Solar PPAs), which resulted from bid pricing in response to two RFPs issued in September of 2019. Exhibit B-5. All other aspects of the existing approved REP remain in place, and she states that this amended REP will meet the 15% renewable portfolio standard (RPS) through 2029. The company expects to generate or purchase RECs to satisfy Michigan's REC standards through 2029. Exhibits B-1,

B-2. The total incremental cost of compliance forecasted for 2020 through August of 2029 is approximately $54 million. Exhibit B-2.

Ms. Schroeder testifies that the regulatory liability balance could "go negative" as soon as 2022. 4 Tr 342; Exhibit B-20. She explains that:

> The regulatory liability forecast can remain positive by amending the recovery process for Company-owned assets. The Company proposes to transfer to the PSCR up to the approved Transfer Price, not limited by LCOE, for recovery of funds associated with Company-owned renewable energy assets that are not used for MIGreenPower/VGP [voluntary green pricing] programs, as supported by Witness Rivard. The Company will only employ this strategy when it is forecasted that the regulatory liability balance will fall below $20 million in any future year through the REP Plan period.

4 Tr 343. She states that the Commission has approved this recovery method for Consumers Energy Company in the January 23, 2020 order in Case No. U-20483 (January 23 order). Ms. Schroeder testifies that DTE Electric requests approval to use the schedule of transfer prices approved in Case No. U-20484, to be applied to any contracts that are executed and filed for approval concurrent with, or subsequent to, this filing.

Describing the three newly-proposed projects, Ms. Schroeder states:

> Of the replacement projects and resources included in this 2020 Amended REP filing, there is one new wind park in the Plan. The proposed wind farm of nearly 225 MW is expected to commence operation in December 2021, utilizing turbines that were safe harbored by the Company to secure 80% production tax credits. The 2019 turbine supply and engineering, procurement, and construction RFPs resulted in an installed cost of $1,477/kW for this project. The estimated net capacity factor (NCF) for this project is 31%, and the LCOE is expected to be $46-$49/MWh. . . .
>
> [T]here are two new solar farms in the Plan. The plan proposes one solar farm in 2021 that is approximately 75 MW, and one approximately 50 MW solar farm in 2022. The 75 MW facility has an NCF of 23.6% at an estimated levelized PPA price between $47-$50/MWh. The 50 MW facility has an NCF of 23.5% at an estimated levelized PPA price of $49-$52/MWh, based on the RFPs described by Witness Harwood.

4 Tr 347. Ms. Schroeder explains that DTE Electric is not seeking a financial compensation mechanism associated with the Solar PPAs. She states that the company did not select unbundled RECs in place of the PPAs for several reasons, including the fact that the company found that the incremental cost of compliance would increase by $14-$27 million based on two quotes received, and the fact that current prices for qualifying Michigan-based unbundled RECs are in the $4-$7/REC range, which is higher than the $1.60/REC forecasted for this REP. 4 Tr 348. She also explains that in 2019 "a large PURPA contract, with which the Company also had an unbundled REC contract, defaulted, and no replacement RECs were provided to the Company." 4 Tr 349. She provides information on actual prices paid for future contracts for unbundled RECs by DTE Electric. Exhibit B-4, pp. 3-4. She also describes the MIGreenPower program.

Marcus J. Rivard, Principal Market Engineer in Generation Optimization, presents projected expenses for 2020 through August 2029 which would be transferred for recovery through the PSCR mechanism. Exhibit B-17. He describes the historical implementation of transfer prices, and explains the change that the company proposes in this case, consistent with the January 23 order:

> As discussed in more detail by Witness Schroeder, the Company proposes to transfer to the PSCR up to the approved Transfer Price, not limited by LCOE, for Company-owned Renewable Energy Systems in any future year when the Company forecasts that the regulatory liability account balance would fall below $20 million. By applying this rule to the regulatory liability forecasts in this 2020 Amended REP, there are three years – 2021, 2022, and 2023 – in which the Company expects to utilize this PSCR transfer price mechanism for Company-owned wind assets that are not used for voluntary green pricing (VGP) programs, including MIGreenPower (MIGP). From 2024 through 2029, the Company forecasts the regulatory liability to remain above $20 million and would thus utilize the lesser of the approved transfer price or LCOE for each Renewable Energy System. As noted by Witness Schroeder, the proposed change in PSCR transfer price methodology does not change the overall cost of renewable energy in any given year but allows for the costs to be allocated in a manner that will

> reduce the amount and duration of the projected asset position and allow for a zero-dollar surcharge to continue for customers.

4 Tr 382-383.

Patrick D. Kauffman, Principal Supervisor in the Renewable Energy Program in DTE Energy Corporate Services, LLC (DTE Energy), presents capital and operations and maintenance (O&M) expenses associated with implementing the REP, and describes necessary accounting practices associated with the REP, including how REP financial impacts are removed from rate base, and how the PTC is calculated. Exhibits B-6, B-7, and B-8. He also explains his blended return on equity (ROE) calculation. 4 Tr 371-372; Exhibit B-9.

Thomas W. Lacey, Principal Financial Analyst, Regulatory Affairs in DTE Energy, presents the incremental cost of compliance calculations associated with the REP based on the REP surcharge (which he also refers to as the revenue recovery mechanism surcharge) revenues. 4 Tr 391-395; Exhibit B-18. He also testifies regarding the meter count forecast, the pre-tax cost of capital, and the calculation of interest on regulatory liabilities. Exhibits B-36, B-21, and B-20.

Markus B. Leuker, Manager of Corporate Energy Forecasting, presents the sales forecast and customer count projections for 2020-2029. Exhibit B-22. He points out that the forecast was developed prior to the novel coronavirus (COVID-19) pandemic and states that implications for load are currently unknown. Mr. Leuker testifies that he applied accepted industry standards for electricity forecasting, including regression and end-use modeling. He explains the reasons for reflecting a 0.5% decline in residential and small commercial forecasted sales. 4 Tr 412-413.

Sherri L. Wisniewski, Director of Taxation in DTE Energy, presents the deferred taxes, the solar ITC, the PTC, and property tax expense associated with the REP. 4 Tr 420-424; Exhibit B-27. She explains that the ITC reduces the incremental cost of compliance as it is amortized over the booked life of the asset. Exhibit B-18. The PTC calculation is in Exhibit B-8.

Mr. Harwood presents testimony on DTE Electric's RFP process. The company issued two renewable energy open bid RFPs in September 2019, one for wind projects and one for solar projects. The RFPs are Exhibits B-31 and B-32. He testifies that both RFPs solicited proposals for BTAs from any bidder proposing a PPA. 4 Tr 431. Mr. Harwood describes the minimum criteria for proposals, which included commercial operation between January 1, 2021, and December 31, 2023. Wind projects had to be between 100 MW and 200 MW in size, and needed to qualify for the PTC (the percentage would depend on the commercial operation date). Solar projects had to be between 25 MW and 200 MW, and needed to qualify for the 30% ITC. 4 Tr 431-432. Mr. Harwood explains that the RFPs and proposal evaluation methods were developed in consultation with the Staff and are consistent with the December 4 and 23, 2008 orders in Case No. U-15800 in which the Commission adopted guidelines for RFPs.

Mr. Harwood testifies that DTE Electric retained Navigant as an independent procurement advisor and evaluator for the RFPs, and Navigant's report on the process is Exhibit B-33. He states that the company received seven responses to the wind RFP and 50 responses to the solar RFP, and that, because the RFPs encompassed both BTA and PPA structures, many projects were submitted with multiple options, resulting in the evaluation of 186 unique project options. He explains the scoring method, which relied on weighted factors including pricing, feasibility, terms and conditions, technology operability, experience, and developer financial strength. 4 Tr 436. The pricing factor was scored by comparing the LCOE, installed costs, and NCF of each unique proposal.

Mr. Harwood describes how the company compared project options with different timeframes. He testifies that the calculation of the LCOE for each project was adjusted in order to compare PPAs of different lengths, or to compare PPAs to BTAs, stating:

> For example, the Company assumed a 35-year project life on utility owned wind and solar projects and the LCOE for such a project was calculated using the net present value of cost and production estimates over the entire 35-year timeframe. To appropriately compare such a project to a PPA of shorter duration (e.g., 20 years), the LCOE for the PPA must include replacement costs for energy and capacity for the timeframe between the end of the PPA and through year 35. These post-PPA replacements costs (terminal value) were quantified and added to ensure proper comparison between projects with different timeframes. The terminal value was estimated using a variety of prominent published energy and capacity market forecasts.

4 Tr 438; Exhibits B-34, B-35. He also describes adjustments made on the basis of contract exceptions. Mr. Harwood testifies that the MWF was evaluated on the same basis as all other proposed projects, and that Navigant reviewed the scoring for consistency and fairness.

Mr. Harwood states that the volume of responses and complexity of the evaluation was unprecedented for DTE Electric, and that the company eventually considered 34 projects representing 116 unique proposal options. Exhibits B-28, B-29, and B-30 provide summaries of the proposals with commercial operation dates (CODs) in 2021, 2022, and 2023, respectively. The evaluation process identified 10 projects for further consideration for inclusion in the REP and/or the VGP program. Mr. Harwood explains that three projects were incorporated into the REP Application: the MWF is Project #1 on Exhibit B-28, and the two third-party solar PPAs are Project #3 on Exhibit B-28 and Project #33 on Exhibit B-29. He explains that the company safe-harbored turbine equipment and the MWF qualifies for 80% of the PTC, the value of which is reflected in the LCOE. He states that the MWF was the highest scoring project, and, with an estimated LCOE of $46-$49/MWh, was one of the lowest cost projects with a COD in 2021. 4 Tr 446.

The Commission Staff

Merideth A. Hadala, Departmental Analyst in the Renewable Energy Section, describes the background leading to the filing of the REP Application and recommends approval of the REP.

She states that the Staff reviewed the proposed RFPs and bids, and is satisfied that DTE Electric complied with the orders in Case No. U-15800 pertaining to RFP requirements. She concludes that the proposed REP will allow the company to meet the RPS. 4 Tr 490.

Cody S. Matthews, Public Utilities Engineer Specialist in the Renewable Energy Section, testifies that the proposed transfer prices associated with the REP have been correctly calculated and applied, and the prices are reasonable and prudent. He also supports the proposed change to the way DTE Electric applies the transfer price to company-owned, non-VGP renewable energy projects in its PSCR cases. Mr. Matthews explains that the temporary PSCR recovery of the transfer price will prevent the regulatory account from becoming an asset, and the proposal includes applying this method only when the forecasted regulatory liability balance will fall below $20 million. He states that the Commission approved this method in Case No. U-20483, and that the method is consistent with MCL 460.1049, which allows the company to adjust its recovery mechanism to maintain a minimum balance of accumulated reserve so that a regulatory asset does not accrue. 4 Tr 496.

Geronimo Energy, LLC

Betsy Engelking, Vice President of Strategy and Policy, testifies that DTE Electric failed to perform a reasonable review of available PURPA projects (and the RECs available from those projects) that could supply the company's solar energy needs. She observes that DTE Electric apparently had one instance of a failed supplier, and that financial penalties are available to address this type of risk. Ms. Engelking states that the company has a legal obligation to consider QFs in a non-discriminatory manner and may not simply dismiss them as unreliable. She further posits that PURPA projects cannot come to fruition of their own accord in DTE Electric's service territory because the cooperation of the utility is required. She states that the

company has failed to move interconnection projects through its queue, and points out that projects cannot obtain financing in the absence of a PPA. Exhibits GE-2, GE-3. Ms. Engelking testifies that a project proposed by Geronimo has been seeking to obtain a PPA and to interconnect for over two years.

Ms. Engelking states that the maximum size for a PURPA QF project in DTE Electric's territory is 20 MW and that, by requiring a minimum of 25 MW for solar, DTE Electric excluded all PURPA QFs from participating in the solar RFP. 4 Tr 564. She states that, pursuant to the must-purchase obligation in PURPA, a utility is obligated to enter into a PPA with a QF that meets certain requirements set forth in state and federal law. She recommends that DTE Electric include all proposed PURPA projects, regardless of size, in its RFP process.

The Environmental Law & Policy Center Group

Dr. Laura S. Sherman, President of the Michigan Energy Innovation Business Council and the Institute for Energy Innovation, appears as an expert witness on behalf of the ELPC Group. After describing the background of this case, she testifies regarding industry standards for competitive bidding and supports "fair, transparent, all-inclusive RFPs and competitive bidding processes." 4 Tr 715. She testifies that the Commission does not have uniform practices for RFPs, but has opened a stakeholder proceeding to consider competitive bidding practices. She states that the guidelines developed by the Commission in 2008 in Case No. U-15800 do not represent best practices. 4 Tr 724.

Dr. Sherman states that by limiting each of its RFPs to one technology DTE Electric received a less robust response from the market than it would have received had there been less specificity. She opines that the size restrictions limited the competitive response and eliminated consideration of any PURPA QFs, which, she concludes, was discriminatory. Dr. Sherman

states that DTE Electric's requirement of a minimum amount of experience was arbitrary, and may have been included in order to screen out certain bidders. She testifies that the experience requirement resulted in the company screening out 60% of the wind proposals. 4 Tr 722-723.

Dr. Sherman avers that Navigant was not an independent administrator but simply an evaluator working with the company. She notes that DTE Electric had full access to the information about each proposal and full decision-making power. In this scenario, she opines that "it is impossible to guarantee either that Company proposals did not benefit unduly or that the information received by the Company will not be used to benefit its own future proposals." 4 Tr 725. She also finds the non-price evaluation criteria to be vague and subjective, and states that bidders need transparency in order to clearly understand the use of such factors. She finds the bonus point system to be unclear and states that this may have resulted in a benefit to the company-developed MWF. Dr. Sherman states that the adjustment that was made to the LCOE was not adequately explained to potential bidders, and finds it "concerning and telling" that the MWF outscored the other 115 wind and solar proposals. 4 Tr 730.

Natural Resources Defense Council

Douglas B. Jester, a Partner in 5 Lakes Energy LLC, appears as an expert witness on behalf of NRDC. He states that, by including minimum size and other criteria, the two RFPs unduly restricted the pool of potential bidders and applied flawed selection criteria. Mr. Jester testifies that DTE Electric provided no reason for the size restrictions, and notes that DTE Electric has previously acquired wind resources smaller than 100 MW. He also points out that the company selected its own MWF proposal, which is 225 MW and thus 25 MW larger than the maximum 200 MW set for the wind RFP. With regard to solar, Mr. Jester states that only 12 of 70 interconnection requests in DTE Electric's interconnection queue (in Category 5) are larger than

25 MW. 4 Tr 523-524. He avers that the requirement that any PPA bid also provide a BTA option for the project "effectively excluded anyone who wanted to own the project or wanted to sell power from a portion of a project." 4 Tr 524.

Mr. Jester further avers that LCOE/MWh is not useful as a basis for comparing solar projects because it is energy-focused and fails to take account of the capacity credits that are also transferred as part of a PPA. He notes that different solar facilities will produce differing ratios of capacity credits to MWh, and that a proper comparison would account for the avoided cost of alternative capacity or the market value of capacity credits, which could be subtracted from the LCOE/MWh. Mr. Jester adds that storage may also result in a higher LCOE but not necessarily a higher cost, and opines that the use of LCOE/MWh had the effect of excluding solar plus storage in bids. He states that the LCOE/MWh measure also failed to produce a useful comparison of wind to solar for essentially the same reason. Mr. Jester testifies that he could not compute a levelized value of capacity for this case because DTE Electric did not provide sufficient information on the record.

Mr. Jester also criticizes the adjustment used by DTE Electric to account for the difference between BTA projects (which were assumed to have a useful life of 35 years) and PPA projects (which were required to be at least 20 years). Mr. Jester states that the cost adder is highly uncertain and that the company failed to adequately support the calculation of the adjustment. Mr. Jester criticizes the scoring system for lack of transparency, as reflected in Exhibits B-28, B-29, and B-30. Exhibit NRD-8.

Mr. Jester testifies that DTE Electric has demonstrated compliance with the statutory REC requirements, and he supports DTE Electric's proposed approach to the transfer price. However, he concludes that the company has not demonstrated that the MWF is the most reasonable and

prudent resource to use for compliance. He urges the Commission to act to prevent the discrimination against PURPA QFs inherent in the required size limitations "by ordering DTE to offer contracts to any independent power producers that have requested PURPA contracts from DTE to date at the avoided cost established by the RFPs in this case." 4 Tr 541.

Great Lakes Renewable Energy Association

Robert Rafson, a member of GLREA, testifies that DTE Electric has skewed its comparison of the different projects by including extremely high-priced projects (thus inflating the average cost) and by underestimating the LCOE of BTA projects. Mr. Rafson testifies that the RFPs should have included an equal contract life for the BTA and PPA options in order to make a fair comparison of the two, using 35 years for solar and 20 years for wind. He states that DTE Electric has not proven its commitment to maintaining the appropriate mix of renewable energy, and for this reason the REP should be rejected. He criticizes the balance of solar to wind and the dramatic decreases in solar and hydroelectric for 2029 in the REP. Mr. Rafson opines that, in all cases, third-party PPAs are less expensive than BTAs or company-built options and therefore the REP is not reasonable and prudent. 4 Tr 691. He states that GLREA supports a 50/50 ownership/non-ownership split of renewable energy purchases. Finally, Mr. Rafson is critical of the failure of the REP to address net metering, community solar, or economic and environmental justice issues.

John Richter, a member of the Board of Directors and Policy Analyst for GLREA, testifies that capital investment provides the greatest profit for DTE Electric, and that 64% of the new nameplate capacity proposed in the REP is company-owned wind. He states that projects with the least generating capacity allow for greater profit by necessitating additional generating assets or demand-side measures. Mr. Richter notes that the law provides for a financial compensation

mechanism to ensure that utilities profit from PPAs, and that the company could have pursued this option. He states that a wind-based REP will provide less capacity to the grid's resource adequacy than a solar-based REP because wind carries a higher capacity factor, and because solar energy is better correlated with demand than wind.

Mr. Richter finds DTE Electric's financial analysis of the bids to be highly flawed based on the fact that: (1) no capacity value was assigned, which significantly favors wind; (2) a 35-year lifetime for wind facilities is unreasonable, where the industry standard is 20 years; and (3) the forecasted prices used to adjust the proposals were unsupported. 4 Tr 660-661. He posits that the value of capacity is material to the comparison of wind and solar because they are so different, stating "In a fair computation of LCOE, the capacity value generated by each project would be *subtracted* from their LCOE." 4 Tr 663. Mr. Richter further states that the economic lifetime of the facility is not an issue for a PPA because the bidder assumes the financial risk of future failures. Mr. Richter testifies that assuming an unreasonably long life for wind facilities made the LCOE for company-owned wind facilities appear lower than it likely is. Based on making adjustments to DTE Electric's data, he opines that the MWF is overpriced and that the REP should be rejected.

Pine Gate Renewables, LLC

Steven J. Levitas, Senior Vice President for Strategic Initiatives, states that Pine Gate has over 400 MW of solar capacity under development in DTE Electric's service territory. He testifies that the REP discriminates against PURPA QFs. He notes that in the September 26, 2019 order in Case No. U-18091 (September 26 order) the Commission adopted full avoided energy and capacity rates for the company based on the costs associated with the Blue Water Energy Center (BWEC), and also found that DTE Electric does not have a capacity need.

September 26 order, pp. 42-44. He states that DTE Electric can comply with the statutory REC requirements by purchasing bundled or unbundled RECs under MCL 460.1028(3).

Mr. Levitas testifies that, despite needing new capacity, the company chose size limits that excluded QFs and refused to consider standalone PPAs. Mr. Levitas states that the company failed to use an independent administrator, submitted its own project, and set the scoring criteria itself. He notes that the MWF achieved the highest bid score while not having the lowest cost, and expresses concern about the potential for self-dealing. 4 Tr 641-642. Mr. Levitas is critical of the fact that DTE Electric did not separately identify what would be the cost of energy, capacity, and RECs from the new projects. He testifies that, if it is true that there is an insufficient supply of unbundled RECs, then DTE Electric has a capacity need under PURPA and it is not reasonable for the company to plan to meet the need through a company-built project. Mr. Levitas states that DTE Electric has 189 solar energy projects in its interconnection queue which should be pursued. Exhibit PGR-2. He opines that the REP should be rejected based on noncompliance with PURPA.

Soulardarity

Jackson Koeppel, Executive Director of Soulardarity, testifies that the REP fails to meet the requirements of MCL 460.1001 to diversify resources, provide greater energy security through the use of indigenous resources, encourage private investment in renewable energy, and improve air quality. Mr. Koeppel opines that the REP does not adhere to the directives contained in prior Commission orders regarding the consideration of distributed generation (DG) and community solar. He provides evidence of the benefits of DG and community solar, and suggests that Highland Park and the area near the company's River Rouge plant would make suitable locations for these programs. He states that VGP is priced too high for many low-income customers, and

he provides examples of community solar projects in Michigan and Minnesota. Mr. Koeppel avers that a reasonable REP would have a resource portfolio that is diversified in type, size, scale, and location. He urges the Commission to apply the IRP statutory criteria contained in MCL 460.6t to this proceeding because of the connection between the two cases, and to better integrate the growth of DG and community solar into larger resource planning.

John Farrell, Co-Director of the Institute for Local Self-Reliance, testifies as an expert witness on behalf of Soulardarity that bigger is not necessarily better and that solar projects sized between 1 and 20 MW may be the most cost-effective options. He provides evidence in support of the effectiveness of community solar programs and DG, and states that such programs would work well in Michigan.

Rebuttal Testimony

The Commission Staff

Julie K. Baldwin, Manager of the Renewable Energy Section, rebuts the testimony provided by NRDC and GLREA regarding the RFPs and the value of capacity. She states:

> Staff agrees with Mr. Jester that the RFP scope, terminal value assessment, capacity value/LCOE considerations, and scoring system should be examined by the Commission, but in the context of future RFPs. Mr. Jester's testimony highlights the need for the Commission to develop best practices for future RFPs. The Commission has recognized this need and has included competitive procurement in the MI Power Grid initiative. . . . In the context of this RFP, the use of LCOE is not unreasonable; however, in advance of future RFPs, a method for incorporating capacity value should be developed. Compliance with the renewable energy standard is based on retiring renewable energy credits. Generally, when one MWh of renewable energy is generated, one renewable energy credit is created. Therefore, comparing the cost to generate one MWh of renewable energy, or LCOE, between projects, has been a reasonable methodology for selecting bids received in an RFP to provide supply for the renewable energy standard.

4 Tr 502-503 (notes omitted). Ms. Baldwin recommends that the projects included in the REP be considered based on the bid evaluation provided by the company. She notes that the 2021

projects are time sensitive and could likely not be constructed at the bid provided if they had to be re-evaluated at this time. She states that the intervenors' testimony highlights important items for discussion in the MI Power Grid Competitive Procurement Workgroup.

Great Lakes Renewable Energy Association

Mr. Richter rebuts the Staff's recommendations. He states that the REP fails to address the Commission's expectations with respect to comparing the price of company-owned resources to the cost of energy, capacity, or RECs (bundled or unbundled) that could be supplied by QFs. He notes that avoided costs were set in the September 26 order, and finds that the failure to compare the RFP responses to avoided costs is a significant omission. He states that the RFPs were not all source, as there was no analysis of battery storage or other technologies, and he notes the lack of any mention of community solar.

Mr. Richter testifies that the Commission has recognized the value of the capacity provided as a part of REP and VGP compliance programs, and notes that the VGP tariff provides a credit for capacity. He states that the value of capacity should not be excluded in the REP process. He posits that the Staff's limited analysis of the application may be attributable to the current pandemic, but argues that the Commission must ensure that the REP presents a reasonable plan for compliance with the RPS. 4 Tr 684-685.

DTE Electric Company

Adella F. Crozier, Director of Regulatory Affairs for DTE Energy, rebuts the testimony of Pine Gate, Geronimo, and NRDC regarding PURPA issues. She notes that in the September 26 order the Commission found that the company currently has no capacity need, and, in the April 15, 2020 order in Case No. U-20471, the Commission determined that avoided costs will not be re-examined until November 2020, when the company is required to file a PURPA review case.

She states that the new generation proposed in this proceeding is not for the purpose of covering a capacity shortfall but rather for meeting mandated renewable energy requirements. Ms. Crozier testifies that QFs were not intentionally excluded from the RFP process, but that economies of scale dictated the size requirements and larger projects provide a lower LCOE. She states that the company is not required to use PURPA QFs to fill REC requirements and points out that QFs may still contract with the utility. She refutes Pine Gate's assertions about the interconnection process and indicates that Geronimo has elected to suspend PPA discussions, stating "No developers of proposed QF projects that have applied for interconnection have requested to negotiate a PPA at the currently approved avoided cost." 4 Tr 326.

Ms. Schroeder rebuts various witnesses regarding the RFPs, PURPA, and community solar. She testifies that this proceeding is governed by renewable energy laws that are separate from the IRP requirements. She states that DG, net metering, and behind-the-meter renewables were addressed by Mr. Leuker where he explained the adjustments to the sales forecasts. She testifies that these resources do not provide RECs to the utility, or, if they do, they are very costly. "Therefore, new behind-the-meter projects are not considered as supply-side resources in the Company's RPS compliance REP." 4 Tr 358.

Ms. Schroeder testifies that DTE Electric has investigated community solar by reviewing publications, conducting benchmarking calls with peer utilities, and participating in Commission workgroups. She states that the company views community solar as a variant of a VGP program, and that community solar does not generate RECs and thus cannot be used for RPS compliance. Ms. Schroeder explains that the "REC pricing for third-party projects in the REP has long been calculated as the LCOE/PPA price less the approved transfer price, also known as the incremental cost of compliance," which is zero in this case. 4 Tr 362.

Mr. Harwood rebuts various witnesses regarding the RFP criteria. He testifies that the company focused on wind and solar because these are the most viable and cost-effective renewable technologies for Michigan. He also states that nothing within the solar RFP precluded bidding solar plus storage, and several bid proposals included a storage option. 4 Tr 452; Exhibit B-32. He avers that any bidder that preferred to own and operate the project could have signaled that preference through its pricing of the BTA. 4 Tr 453.

Mr. Harwood testifies that the minimum solar project size requirement was not established to circumvent PURPA but rather to take advantage of economies of scale and to keep the number of bids at a manageable level. He avers that it is more efficient to acquire the required RECs through several large projects than through numerous small projects. He objects to criticisms that the criteria were arbitrary, stating that experience, feasibility, and project management are considerations that are common in the industry. Exhibit B-33. He also objects to providing too much detail to bidders: "We believe we get better and more complete bids by sharing the factors we care about but not providing the exact scoring rubric." 4 Tr 457. He notes that DTE Electric's scoresheets have been audited by the Staff. He states that LCOE remains a viable metric for analyzing the economics of a proposal, and is an industry standard. He opines that capacity should not be a factor in the selection process for RPS compliance projects because the Legislature clearly made energy the priority when it selected RECs as the vehicle for compliance in Act 342. 4 Tr 461.

Mr. Harwood further testifies that the company is indifferent to the technology selected because it will earn the same ROE whatever the type of investment. He supports the use of a 35-year asset life as a mode of comparison for all potential projects, stating that this is a prevalent practice in the industry and that utilities are often able to use assets well beyond their design life.

Mr. Harwood supports the selection of the MWF, noting that DTE Electric applied both price and non-price factors to evaluate proposals. Given that the company received 186 unique proposals, he opines that the market response was robust. Mr. Harwood rejects the notion that the company should not be involved in the decision-making process as suggested by the ELPC Group.

Positions of the Parties – Initial and Reply Briefs

DTE Electric Company

DTE Electric states that its REP Application meets the updated REP filing requirements adopted in the August 23, 2017 order in Case No. U-18409, and should be approved under MCL 460.1022(5) because it is reasonable and prudent, is consistent with MCL 460.1001(2) and (3), and will allow the company to meet the REC portfolio requirements of 12.5% in 2019 and 2020, and 15% thereafter. The utility argues that the scope of this case is very narrow, in that it only encompasses approval of the three proposed projects which take the place of the unspecified wind facilities that were not approved in the July 18 order. DTE Electric states that it "has revised its position, and will not presume that it will necessarily own all future facilities." DTE Electric's initial brief, p. 4. DTE Electric posits that the Commission must only decide whether it is reasonable and prudent for the company to acquire the remaining required RECs as proposed. DTE Electric contends that its proposal is reasonable because unbundled RECs are not available in the quantity necessary to meet its near term needs for compliance, and current pricing for unbundled RECs is around $4-$7/REC, which is considerably higher than the $1.60/REC proposed in the REP. 4 Tr 348. DTE Electric posits that it used reasonable assumptions and risks in its sales forecasting. 4 Tr 345-352.

The company proposes to use the approved transfer prices and seeks approval of the new transfer price mechanism described in the testimony in any future year when it forecasts that the regulatory liability account balance will fall below $20 million. The company states that it expects to apply the new method to the PSCR transfer price mechanism in 2021, 2022, and 2023. 4 Tr 382. DTE Electric contends that use of the new transfer price method in 2021-2023 will result in a positive regulatory liability of about $15 million for the 2029 ending balance. Exhibit B-20. DTE Electric supports the blended ROE calculation that it used in the incremental cost of compliance analysis, and notes that it used the ROE approved in Case No. U-20162 in performing this analysis (the most recent rate case, Case No. U-20561, was not completed at that time). 4 Tr 371-372, 391; Exhibits B-9, B-18.

DTE Electric states that, in response to the concerns expressed by the Commission in the July 18 order, the company conducted the RFPs in September 2019. For the MWF, the company states that it has an estimated LCOE of $46-$49/MWh; the turbine supply and EPC contracts have an installed cost of $1,477/kW; and the project has an NCF of 31%. For the Solar PPAs, DTE Electric states that the Assembly PPA has an LCOE of $47-$50/MWh and an NCF of 23.6%; and the River Fork PPA has an LCOE of $49-$52/MWh and an NCF of 23.5%. 4 Tr 347-349, 435-447.

In response to the intervenors, DTE Electric argues that it received a robust response to the two RFPs, demonstrating that the criteria were not overly restrictive. The company contends that developers were given an opportunity to address any bid deficiencies, nothing in the RFPs precluded solar plus storage bids, and no bid was excluded simply because it did not include a BTA option. 4 Tr 451-452. DTE Electric states that two solar plus storage options were shortlisted, showing that that technology was not precluded. 4 Tr 452. The company asserts that

there is no requirement that it hand off the entire responsibility for its RFP to a third-party administrator, and that none of the parties offered evidence showing that any bidder alleged a lack of clarity in the bidding process or was deterred by the requirements. DTE Electric argues that the sharing of every detail of the scoring process could lead to gaming of the system. 4 Tr 456-457. Addressing the 35-year asset life assumption, the company contends that many bidders used 35 years for solar and wind projects (or more) and that this is the most commonly used assumption across the industry. 4 Tr 463-464.

Addressing PURPA, DTE Electric maintains that the minimum size requirement of 25 MW applied to solar was meant to keep the number of bids down, and was used because larger projects tend to have lower costs than smaller ones. 4 Tr 454, 323-325. DTE Electric argues that "these complaints are specious, as QFs may offer, and the Company is obligated to take, their power at the Company's Commission-approved avoided cost rates (most recently set in U-18091) at any time, regardless of an RFP." DTE Electric's reply brief, p. 7. The utility notes that the Commission found that DTE Electric does not currently have a capacity need in the September 26 order, pp. 47-48. DTE Electric contends that it is proposing to build incremental renewable generation to meet the RPS requirements and to supply customer demand for renewable energy, and that the Commission has recognized that the impetus for fulfilling REP and VGP needs is not "capacity need." 4 Tr 325; *see,* February 20 order, p. 27. DTE Electric points out that it requested prices for unbundled RECs from brokers and found that it was unable to acquire sufficient Michigan RECs, and the prices were not as favorable as pursuing new generation. 4 Tr 348-349, 362. Finally, DTE Electric states that this is an REP case and not a case for setting avoided costs:

> Nothing in the PURPA statutes requires DTE Electric to structure its RFPs for a project in such a manner that QFs may bid. Nor does the RFP process restrict the

> utility's responsibility to purchase energy from QFs at Commission-approved avoided-cost rates. QFs do not need to have participated in a RFP for the utility's responsibility to attach.

DTE Electric's reply brief, p. 9.

Noting that the IRP legislation was not enacted as part of Act 342, DTE Electric contends that the IRP statute is a separate law governing a separate proceeding and has no applicability in this REP proceeding which is governed by MCL 460.1022. The company argues that the REP does diversify resources because it includes new wind and solar resources, and encourages private investment because it includes two new PPAs for non-utility-owned solar. MCL 460.1001(2)(a), (c).

Addressing the issue of community solar, DTE Electric states that MIGreenPower is a community renewable energy offering in the VGP program which includes both wind and solar. DTE Electric notes that community solar projects do not generate RECs for the utility but rather for subscribers, and that this proceeding is focused on RPS compliance by the utility. DTE Electric contends that community solar should be addressed in its next IRP case.

DTE Electric seeks approval of the REP, the new transfer price method, and the necessary accounting authority to effectuate the REP.

The Commission Staff

The Staff contends that DTE Electric fulfilled the directives of the Commission from the July 18 order by issuing the RFPs for third-party-owned wind and solar projects. The Staff states that DTE Electric, with the proposed REP, is on track to meet the 15% REC portfolio requirement and the REP should be approved. At the same time, the Staff acknowledges the importance of some of the RFP issues outlined by the intervenors in this case, and urges the

Commission to task the MI Power Grid Competitive Procurement Workgroup with exploring these issues further.

The Staff points to the Commission's admonition to DTE Electric in the July 18 order that, in considering the company's generic wind proposals, approval was precluded by the lack of any analysis of alternative sources of generation on that record. July 18 order, pp. 22-23. The Staff notes that the Commission was put into a similar position in the company's IRP case, where it was necessary to remove all supply-side resource additions and the Commission found that DTE Electric should have issued an RFP for supply-side generation. February 20 order, pp. 13, 28. In the instant case, the Staff highlights the importance of the September 2019 RFPs, which targeted different technologies and different ownership models. The Staff explains that LCOE has traditionally been used as the economic basis for comparing bids because there is a close correlation between the LCOE and the creation of RECs. 4 Tr 503. The Staff urges the Commission to direct the Staff to examine the RFP issues highlighted by the intervenors, including the scope, terminal-value assessment, capacity value versus LCOE considerations, and scoring systems. The Staff expresses concern that, if the Commission rejects the proposed projects in favor of new bids, these beneficial projects will never come to fruition.

The Staff describes the company's RFP response as robust, and disagrees with NRDC's assertion that the RFPs did not allow for a build, operate, and transfer project. The Staff points out that both Solar PPAs include an option for the utility to purchase the project six months after the end of the eleventh contract year (Paragraph 19). The Staff opines that DTE Electric provided a reasonable explanation for the size limits incorporated into the RFPs. The Staff notes that this was DTE Electric's first RFP soliciting bids for PPAs after implementation of Act 342, and argues that the size limit was a reasonable way to keep the number of bids manageable.

The Staff urges the Commission to give the MI Power Grid Competitive Procurement Workgroup the chance to "explore ways to incorporate PURPA QFs into a competitive-bidding framework." Staff's initial brief, p. 23. The Staff advocates exploring this and the intervenors' other RFP issues in a stakeholder setting. The Staff also notes that the Commission has already rejected Pine Gate's argument that statutory RPS requirements give rise to a capacity need that should be met by QFs, pointing to the September 26 order, pp. 46-47. The Staff contends that the company properly evaluated the bids by comparing LCOE, and made appropriate use of Navigant as an independent administrator. The Staff points out that the Commission, in the July 18 order, did not provide a required RFP framework or any bid-evaluation criteria. The Staff agrees that, in future, a method for adjusting bids for capacity value should be incorporated, but contends that this should not prevent approval of the three proposed projects and the REP. Adding that this issue is also well-suited for a stakeholder workgroup, the Staff contends that that is a more appropriate venue than the instant case. "There will be opportunities in the future to improve DTE's competitive-procurement process." Staff's reply brief, p. 2.

The Staff notes that no party opposed the new transfer price method. The Staff states that the contracts submitted for *ex parte* approval will not increase the cost of service to customers. The Staff contends that updating avoided costs should occur in a PURPA case and not in this REP case, and that an REP case is not the appropriate venue to voice concerns about interconnection (which may be appropriate for a complaint case). The Staff supports approval of the REP and the proposal to transfer renewable energy costs to the PSCR through the new transfer price method.

Geronimo Energy, LLC

Geronimo argues that DTE Electric simply posited that unbundled RECs are in short supply, too expensive, and potentially unreliable. 4 Tr 348-349. Geronimo contends that the utility's excuses are anecdotal and unsupported, and that the utility should have solicited RECs as part of its RFP. Geronimo further argues that DTE Electric is overpaying for RECs as a result of ignoring PURPA QFs and their resources. 4 Tr 642-643. Geronimo avers that the company should be using its approved avoided cost rate, rather than the LCOE, "as the basis for comparing QFs." Geronimo's initial brief, p. 4. Geronimo states that PURPA projects require the cooperation of the utility in order to come to fruition, and that DTE Electric has moved one project through its interconnection queue in the last two years. 4 Tr 562-563. Geronimo urges the Commission to demand a more thorough demonstration from the utility that QF projects are not available. Geronimo asserts that the failure to consider PURPA-based alternatives shows a failure to fulfill the requirement of MCL 460.1001(2)(d) to coordinate with federal regulations to provide improved air quality and other benefits. Geronimo also asserts noncompliance with MCL 460.1001(2)(a) and (c) through failure to diversify resources and encourage private investment in renewable energy. Geronimo alleges that DTE Electric practices discrimination in favor of its own resources, in violation of MCL 460.6v(4)(b).

Geronimo argues that the Staff never explains why being the first RFPs for PPAs post-Act 342 is relevant. Regarding the value of capacity, Geronimo contends that the Commission has previously found that the REP statute does not require consideration of capacity, but has not found that capacity could never be considered in a situation where the utility chooses to add capacity. *See,* September 26 order, pp. 46-47; February 20 order, pp. 26-27. Geronimo notes that Mr. Harwood testified that once capacity is acquired, it "must be offered into the annual

resource adequacy auction administered by MISO (Midcontinent Independent System Operator)." 4 Tr 461-462. Geronimo contends that PURPA QFs should "be eligible to participate in at least a significant portion of [DTE Electric's] new resource acquisition." Geronimo's reply brief, p. 7.

With respect to the minimum size issue, Geronimo argues that citing to economies of scale does not explain why the minimum size is just outside the range of QFs rather than starting at 50 MW or 100 MW. Geronimo maintains that QFs of all sizes and technologies should be able to participate in the RFP process. Geronimo urges the Commission to reject the MWF and to require DTE Electric to evaluate unbundled RECs and PURPA QF options.

The Environmental Law & Policy Center Group

The ELPC Group argues that DTE Electric failed to use best practices for its RFPs, leaving the Commission with insufficient information for concluding that the REP is reasonable. The ELPC Group states that the company "failed to use an independent third-party administrator, gave preference to self-developed resources, set discriminatory minimum bid requirements, was not transparent regarding non-price factors, and [the RFP] was not an all-source request." The ELPC Group's initial brief, pp. 1-2. The ELPC Group states that, though the Commission does not have uniform RFP requirements, there are several recognized resources, including the National Association of Regulatory Utility Commissioners (NARUC), which could have been used by DTE Electric to design an effective RFP process. The ELPC Group asserts that the third-party administrator should conduct the RFP and make the resource decisions without input from the client utility.

The ELPC Group favors allowing all sizes and technologies in an RFP, and urges the Commission to address the RFP issues now rather than waiting for a future stakeholder group to

do so. The ELPC Group posits that size and other restrictions resulted in discrimination against QFs and the exclusion of solar plus storage, and that the requirement for experience is arbitrary. The ELPC Group advocates regulatory oversight of non-price factors which can be used to favor certain projects and can be impossible for bidders to assess. The ELPC Group contends that DTE Electric's RFPs were not designed to encourage a competitive response and led to the perception that confidential information might be used by the utility for its own benefit.

The ELPC Group asserts that community solar could be designed in a way that allows the utility to retain the RECs for RPS compliance, and that a Value of Solar analysis should be incorporated into the bidding process. The ELPC Group contends that the quantity of bids does not necessarily demonstrate that an RFP was well-designed, and that intent is not an element of discrimination under PURPA. The ELPC Group argues that the REP should be rejected.

Natural Resources Defense Council

NRDC states:

> The Commission should approve DTE's proposed additions, but should also direct the Company to completely revamp its procurement process going forward, should direct DTE to acquire additional cost-effective renewable resources from the Request for Proposals in this case, should cease *ex parte* approvals of DTE renewable contracts until the Company revamps its process, and should direct the Company to stop discriminating against [QFs].

NRDC's initial brief, p. 1 (note omitted). Like the other parties, NRDC refers to the Commission's finding in the July 18 order that DTE Electric should have provided an analysis of alternatives including PPAs, and urges the Commission to reject the REP for the same failure on this record. "Even though NRDC only takes issue with the Company's resource solicitation and selection process, the shortcomings NRDC identified call into question the reasonableness of DTE's entire plan" *Id.,* p. 4. NRDC contends that the RFP issues should not be postponed for consideration in a non-binding forum while DTE Electric increases its plant in service and pretax

return on rate base via resource additions. NRDC argues that simply expanding the pool of bids and incorporating different ownership models does not ensure that the RFP process is fair and objective. And, while acknowledging that LCOE is a useful tool, NRDC contends that it is incomplete because it fails to account for capacity and thereby undervalues solar.

NRDC avers that the REP continues to rely too heavily on company-owned generation and fails to consider REC purchases through PURPA contracts, thus failing to comply with the MCL 460.1001(2)(c) requirement to encourage private investment in renewable energy. *See,* MCL 460.1022(5)(b). NRDC notes that DTE Electric imposes size restrictions on third-party bids but not on its own projects, and that the Navigant report never concludes that the eligibility thresholds were reasonable or fair. NRDC argues that the minimum size of the wind RFP is inconsistent with previous acquisitions under 100 MW by the company, and the minimum size of the solar RFP excluded QFs. NRDC contends that the RFPs failed to provide an option for projects that begin as a PPA and are later transferred to DTE Electric. NRDC claims that the BTA requirements resulted in the exclusion of nine wind PPA projects. *See,* Exhibit NRD-3.

NRDC further argues that the use of LCOE/MWh to compare project costs results in the exclusion of solar plus storage and a preference for wind. NRDC also criticizes the adjustment that was applied in order to allow a comparison of PPAs of different lengths, and of PPAs to BTAs, finding the calculation of the adder to be questionable. NRDC describes the utility's evaluation process, particularly for non-price factors, as subjective, opaque, and difficult for bidders to assess. NRDC urges the Commission to cease *ex parte* approvals of REP projects until DTE Electric shows that its RFP process does not result in an increase to the cost of service via a bias in favor of company ownership. NRDC further posits that "Ease of administrability is not a valid exception from compliance with PURPA." NRDC's initial brief, p. 18.

NRDC supports use of the new transfer price method, arguing that it will prevent customer surcharges from being used to recover plan costs.

Great Lakes Renewable Energy Association

GLREA argues that the REP cannot be approved because it fails to meet the requirements of MCL 460.1001(2), and fails to implement the directives of the July 18 and February 20 orders. GLREA contends that the RFPs exhibit bias towards company-owned generation and wind generation by ignoring the value of capacity. GLREA posits that the capacity value generated by each project should be subtracted from the LCOE to provide a fair comparison, and that this would illustrate the lower cost of solar. GLREA urges the Commission to consider the contribution to resource adequacy made by resources that are used to fulfill RPS and VGP goals.

GLREA also argues that DTE Electric's assumed 35-year lifetime for both wind and solar projects is unreasonable, positing that the standard lifetime of a commercial wind turbine is 20-25 years. GLREA argues that DTE Electric never explains the precise sources of information on which it based the decision to apply 35 years to both wind and solar projects. *See,* 4 Tr 463-464; Exhibit GLR-6. GLREA contends that the pool of bidders was restricted by requiring the BTA option, and notes the difference between the avoided costs set in Case No. U-18091 and the results of the RFPs.[4]

GLREA contends that in evaluating bids DTE Electric failed to consider the risk of future operating cost overruns associated with company-owned facilities which would be passed on to ratepayers. GLREA contends that PPAs should be preferred because they reduce cost risks for

[4] GLREA states that DTE Electric's Exhibit B-3, which shows projections of the energy output of existing facilities, contains a calculation error with respect to Pinnebog Wind Farm, which caused an understatement of its future output. GLREA indicates that the company acknowledged the error. Exhibit GLR-7.

ratepayers. GLREA also argues that the minimum size limit served to discriminate against QFs and that, by obtaining approval to build its own capacity in this case, DTE Electric preempts QFs from being paid for capacity arising from a capacity need finding in a PURPA case. GLREA urges the Commission to either direct DTE Electric to resubmit its REP in compliance with previous orders and PURPA, "and/or (2) set PURPA avoided cost at the highest LCOE of the bids that DTE has proposed accepting in this REP, and direct DTE to offer that rate to PURPA QFs." GLREA's initial brief, p. 21.

Pine Gate Renewables, LLC

Pine Gate contends that DTE Electric is attempting to use the Michigan RPS requirements to circumvent PURPA. Pine Gate avers that, when a utility has a capacity need, "it may avoid paying QFs for capacity by conducting a competitive solicitation for that capacity need only if expressly authorized to do so by the state commission and/or FERC [Federal Energy Regulatory Commission] and if QFs can participate in the solicitation." Pine Gate's initial brief, p. 8; 4 Tr 634-635. Pine Gate notes that DTE Electric has not sought this type of approval, even though the company appears poised to acquire substantial amounts of additional capacity within the next three years. Pine Gate asserts that the REP is unlawful because it discriminates against QFs and violates PURPA in other ways as well. Pine Gate argues that, given the utility's conclusion that it cannot meet its RPS requirements through the purchase of unbundled RECs, the company must have a capacity need and cannot lawfully fulfill that need while bypassing QFs. Pine Gate further notes that the market prices resulting from the RFPs show that DTE Electric's true avoided costs are considerably higher than the avoided costs set in Case No. U-18091 based on BWEC. Pine Gate notes that a utility can comply with the RPS mandate without acquiring new generation.

Pine Gate contends that the RFPs are flawed because DTE Electric did not use an independent administrator, submitted its own project, did its own evaluation of the bids, and selected the MWF (which is not the lowest cost option). Pine Gate asserts that the REP does not meet the standards of MCL 460.1001(2)(a) and (c) because it fails to promote resource diversification and independent investment. Pine Gate urges the Commission to require DTE Electric to accept bids from QFs, thereby obtaining proof as to whether the pricing is competitive. Pine Gate contends that the company should be directed to pursue QF purchases from its interconnection queue. Pine Gate describes DTE Electric as obstructing the progress of the queue, and urges the Commission to open an investigation on this issue. Pine Gate states that the REP should be rejected; or, it could be conditionally approved, if DTE Electric is directed to accept bids from QFs for capacity, energy, and RECs.

Soulardarity

Soulardarity contends that the REP is not reasonable because it fails to include DG and community solar resources. Soulardarity describes the benefits associated with DG and community solar for both the utility and ratepayers, and the associated advancement of the Legislature's statutory goals for renewable energy including diversified resources and a resilient grid. Soulardarity posits that these benefits "are especially meaningful to low-income and people-of-color communities, which suffer a higher proportion and longer duration of outages, and in which utilities have traditionally underinvested in distribution services and maintenance." Soulardarity's initial brief, p. 8 (note omitted).

Soulardarity argues that the use of DG and community solar also encourages private investment, provides greater energy security, and improves air quality. MCL 460.1001(2). Soulardarity points out that community solar projects already exist in Michigan. While not

currently structured in this way, Soulardarity posits that community solar projects could be set up so that the RECs flow to the associated utility, "making it appropriate for consideration in the REP proceeding." Soulardarity's initial brief, p. 15. Soulardarity supports the arguments of the other intervenors, and contends that the company failed to follow the Commission's direction to explore DG and community solar. *See,* July 18 order, p. 26; February 20 order, p. 62. Soulardarity notes that DTE Electric projects community solar at 0% through 2029, and contends that this is unreasonable and imprudent and the REP should be rejected. However, Soulardarity concludes "[d]espite these failings with the RFP process, Soulardarity agrees with NRDC that DTE could implement some or all of the cost-effective renewable projects that it identified through its RFP process." Soulardarity's reply brief, p. 4.

Discussion

The Renewable Energy Plan

The purpose of Act 295, as amended by Act 342, is:

> [T]o promote the development and use of clean and renewable energy resources and the reduction of energy waste through programs that will cost-effectively do all of the following:
>
> > (a) Diversify the resources used to reliably meet the energy needs of consumers in this state.
> > (b) Provide greater energy security through the use of indigenous energy resources available within the state.
> > (c) Encourage private investment in renewable energy and energy waste reduction.
> > (d) Coordinate with federal regulations to provide improved air quality and other benefits to energy consumers and citizens of this state.
> > (e) Remove unnecessary burdens on the appropriate use of solid waste as a clean energy source.

MCL 460.1001(2). To further these goals, the Commission shall approve an REP if the Commission determines:

> (a) That the plan is reasonable and prudent. In making this determination, the commission shall take into consideration projected costs and whether or not projected costs in prior plans were exceeded.
>
> (b) That the plan is consistent with the purpose and goal set forth in section 1(2) and (3) and meets the renewable energy credit standard through 2021.

MCL 460.1022(5). Section 1(2) of Act 342, MCL 460.1001(2), is quoted above. Section 1(3) of Act 342, MCL 460.1001(3), provides that, as a goal, not less than 35% of Michigan's electric needs should be met through a combination of energy waste reduction and renewable energy by 2025. Notably, Act 342 expanded the RPS requirement to 15% by 2021 and maintained the REP proceedings and cost recovery framework initially set forth in Act 295. All electric utility providers must develop a reasonable and prudent REP that achieves compliance with the 15% REC requirement, based on retail sales, by the end of 2021. MCL 460.1028(1). To comply with the REC standard, electric providers can either: (1) self-build renewable generation resources and generate the RECs themselves; (2) purchase fully bundled RECs; or (3) acquire unbundled RECs in the competitive market. The Commission shall "approve, with any changes consented to by the electric provider, or reject" an electric provider's amendments to its REP. MCL 460.1022(3).

In the July 18 order, p. 23, the Commission expressed concern about the dearth of analysis of alternatives, such as third-party PPAs, presented by DTE Electric on that prior record. In the instant case, DTE Electric has taken steps to address these concerns by: (1) issuing the two September 2019 RFPs; and (2) providing an analysis of the cost of RECs. The Commission agrees with the Staff that the REP proposal demonstrates significant progress, and the Commission finds that DTE Electric has met the preponderance of the evidence standard in demonstrating the reasonableness and prudence of its REP.

The Commission agrees with DTE Electric that this is an REP proceeding governed by the requirements of MCL 460.1022 and not an IRP proceeding, and rejects the notion that it should be applying a different set of laws to this application. The Commission also disagrees with the intervenors who argue that the REP does not comport with MCL 460.1001(2). The REP adds both wind and solar, and the Solar PPAs are offered by third-parties; the Commission finds that this comports with the goals of diversity of resources and encouragement of private investment.

DTE Electric has also taken significant steps towards correcting several of the shortcomings which underlay the Commission's decision to deny approval of the two generic wind projects in the July 18 order. Though each RFP was single-source, the company solicited bids for both wind and solar, and solar plus storage proposals were made and shortlisted. While the Commission would prefer future solicitations to fully include all technologies and to allow for PPA proposals without requiring a BTA option, the Commission acknowledges that it had requested information allowing a comparison between PPAs and company-owned projects in the July 18 order. Furthermore, DTE Electric indicates that no proposal was rejected simply on the basis that the BTA requirement was not met. *See*, July 18 order, p. 23. The Commission finds DTE Electric's requirement for a minimum level of experience to be reasonable, and is satisfied that Navigant played a useful role in providing an independent evaluation of the RFPs. As indicated below, however, the Commission finds that further discussion is warranted on the recommended use of independent bid administrators or firewalls for various utility personnel involved in preparing utility RFPs, responding to RFPs with utility proposals, and evaluating the results of RFPs. The Commission further finds that DTE Electric presented credible evidence regarding the unfavorable pricing of unbundled RECs. 4 Tr 348-349; Exhibit B-4.

While the REP fails to incorporate community solar, the Commission does not find that it should be rejected on that basis. As a result of the October 5, 2018 orders in Case Nos. U-18351 and U-18352, the Commission's Third Party Community Energy Projects Workgroup (3CRE Workgroup) held several workshop events, and the Staff issued a report to the workgroup for comment on September 12, 2019.[5] These discussions have been fruitful. Further, the Commission recognizes that different ownership structures associated with community solar may face legal barriers under the current statutory framework. DTE Electric, in future VGP or IRP filings, is encouraged to take the opportunity to offer a program of this type to customers who are unable or do not wish to install solar but want to take advantage of its benefits, with an emphasis on programs for low-income customers. The Commission will also monitor the progress of the 3CRE Workgroup to ensure that options for community solar continue to be explored.

While troubled by the size limitations in both the wind and solar RFPs, as discussed more fully below, the Commission is not persuaded that the REP must be rejected based on these deficiencies. The Commission notes that the selected solar projects, at 49 MW and 79 MW, are significantly larger than the minimum size of 25 MW, and finds persuasive the fact that the RFP yielded a robust response.

Finally, MCL 460.1022(5)(a) requires that, in deciding whether a proposed REP is reasonable and prudent, the Commission must consider projected costs. The Commission finds that the projected LCOEs for the MWF project and the Solar PPAs are favorable for ratepayers. This is true even without any reduction to the LCOE based on the value of the associated capacity acquisition as some intervenors suggested. For the MWF, the estimated installed cost of

[5] *See,* https://www.michigan.gov/mpsc/0,9535,7-395-93307_93312_93320_94834-484912--,00.html.

$1,477 per kW is significantly lower than the installed cost of $1,677 per kW assumed in the company's 2018 REP amendment case. *See,* July 18 order, p. 11. The LCOE range for all three projects is $46-$52/MWh, which, in concert with the non-price factors, compares favorably to the other bids. *See,* Exhibits B-28, B-29, and B-30. DTE Electric indicates that the PTC has a value of approximately $142 million over the life of the MWF project, which represents a considerable amount of savings. Dunlap affidavit, p. 2.

While the Commission is approving DTE Electric's REP as meeting the requirements of MCL 460.1022, it also acknowledges the validity of a number of the concerns raised by intervenors. Regardless of whether it was intentional, the size limitations for both wind and solar projects had the effect of limiting the pool of projects eligible to respond to the RFPs. The Commission notes that DTE Electric has received approval for three wind projects under the minimum size requirement of 100 MW included in the RFP, including one of the projects approved in the July 18 order that is still awaiting commercial operation. Furthermore, as noted by Mr. Jester, DTE Electric had more than 600 MW of solar resources between 2 MW and 25 MW in its queue at the time it issued the RFP, but the terms of the RFP effectively precluded all of these potential projects – many of which have been in the queue for years – from being considered under terms that could well have been competitive. As DTE Electric considers additional projects to meet other drivers of renewable energy demand – including specifically in its VGP plan filing in August – the Commission strongly encourages the company to find opportunities to allow these projects to be submitted for consideration. While declining to specifically embrace NRDC's proposal to either "condition approval of the REP on DTE's acquisition of additional renewable resources that are incremental to its REP compliance needs," NRDC's initial brief, p. 18, or to "[r]equire DTE to offer PURPA contracts to any QF requesting

a PURPA contract with DTE at the avoided cost established in this case up to the amount necessary to comply with the REC standard in the REP statute," *id.*, p. 21, the Commission nevertheless notes that the pricing approved in today's order provides a useful benchmark for evaluating whether such projects would be beneficial to ratepayers and VGP participants.

Regarding future steps, it is important to recognize that the RFPs were conducted in accordance with the Commission's RFP guidance for REP procurement developed in 2008 in Case No. U-15800 and applied in multiple REP proceedings to date. In addition, based on guidance in the July 18 order partially approving the REP, DTE Electric included in the RFPs the option for bidders to submit PPAs and did not limit the bids to BTA options.

That said, the Commission notes its concern with the central role DTE Electric played in both setting the terms of the RFP, and the fact that the company – and only the company – was privy to the weighting of project selection criteria and the role non-price factors would play in ultimate project selection. While DTE Electric argued that it "would rather learn what a developer views as the most important benefits and characteristics of their project versus receiving a carefully curated bid that was reverse engineered to include just enough to score highly but does not really represent a fully thought out and feasible project," the fact remains that as the only party with access to the scoring criteria, the company could have done just that. 4 Tr 457. In addition, as noted by multiple parties, the self-build MWF that was ultimately selected failed to comport with the parameters DTE Electric itself set in the RFP as it was larger than the maximum size allowed. This is not a reflection on the merits of the project, but rather a concern that DTE Electric alone had insight into how projects would be evaluated, the weighting of the various non-price factors, and ultimately even whether the size restrictions in the RFP were truly binding.

For future solicitations, the Commission expects a process that is both more independent and more robust, informed by stakeholder input through the MI Power Grid Competitive Procurement Workgroup, including better defining the utility's role in RFP development and administration, incorporating best practices from other jurisdictions, and addressing barriers to emerging technologies or business models related to the procurement process. *See*, October 17, 2019 order in Case No. U-20645, p. 7; and April 27, 2018 order in Case No. U-18419, pp. 106, 127. Based on the input from parties to this case, the Commission envisions that the Competitive Procurement Workgroup should explore issues such as: (1) use of third-party bid administrators; (2) use, types, and transparency of price and non-price factors and associated weighting; (3) resource type specification (*e.g.*, wind or solar only) versus all source bidding or explicit allowance for hybrid resources (*e.g.*, solar plus storage); (4) ownership structures; (5) locational considerations (*e.g.*, within or outside regional transmission organization resource zones); (6) consideration of transmission capabilities or limitations and interconnection readiness; and (7) the potential need for utilities to implement protective measures between the employees who are developing an RFP, developing a company-generated bid, and selecting the winning bids. This list of discussion topics is not intended to be exhaustive and the Commission expects to issue an order providing further direction to the Staff and stakeholders as it launches this workgroup later this year. The Commission also recognizes the complexity of these issues and seeks to balance the need to provide clear, upfront expectations to ensure integrity and fairness in bidding processes with a framework that allows utilities to be able to adapt to a quickly evolving energy industry.

Other issues which stakeholders may wish to explore include the use of uniform time-periods in bid requirements and the value assigned to capacity. Capacity, while not technically a driver

for (or measurement of) RPS compliance, is an important consideration when evaluating the overall value to ratepayers of any resource acquisition and therefore should be considered in bid evaluation processes. On a going-forward basis and with renewable energy investments being driven by factors beyond RPS compliance (*e.g.*, cost, sustainability commitments, customer preference, aging infrastructure), it is important to holistically evaluate all attributes of resources, or combinations thereof such as hybrid renewable energy and storage, in order to maximize ratepayer benefit. *See,* 4 Tr 526-530, 718-719. The Commission expects further discussion of bid criteria and analysis related to capacity value and other attributes as part of the Competitive Procurement Workgroup effort. Additionally, as previously stated, the Commission encourages DTE Electric, in its next IRP or VGP applications, to consider opportunities for smaller and/or community-based renewable energy projects as it arranges supplies to meet growing customer demand for the VGP program, to address retiring power plants, and to meet the company's carbon reduction and renewable energy commitments.

Finally, the Commission approves DTE Electric's request to change the transfer price method in order to prevent the accumulation of a regulatory asset in accordance with the RPS law. No party opposed the proposal. The proposed change will not change the overall cost of renewable energy in any given year, but will allow the costs to be allocated in a way that will reduce the amount and duration of the projected asset, and will allow the company to retain the $0 surcharge. *See,* January 23, 2020 order in Case No. U-20483, Exhibit A, pp. 5-6.

Applications for *Ex Parte* Approvals

MCL 460.1028(4) provides in part:

> For an electric provider whose rates are regulated by the commission, the electric provider shall submit a contract entered into for the purposes of subsection (3) to the commission for review and approval. If the commission approves the

contract, it shall be considered consistent with the electric provider's renewable energy plan.

MCL 460.1047 provides in part:

> (1) Subject to the retail rate impact limits under section 45, the commission shall consider all actual costs reasonably and prudently incurred in good faith to implement a commission-approved renewable energy plan by an electric provider whose rates are regulated by the commission to be a cost of service to be recovered by the electric provider. Subject to the retail rate impact limits under section 45, an electric provider whose rates are regulated by the commission shall recover through its retail electric rates all of the electric provider's incremental costs of compliance during the 20-year period beginning when the electric provider's plan is approved by the commission and all reasonable and prudent ongoing costs of compliance during and after that period. The recovery shall include, but is not limited to, the electric provider's authorized rate of return on equity for costs approved under this section, which shall remain fixed at the rate of return and debt to equity ratio that was in effect in the electric provider's base rates when the electric provider's renewable energy plan was approved.
>
> (2) Incremental costs of compliance shall be calculated as follows:
>
> (a) Determine the sum of the following costs to the extent those costs are reasonable and prudent and not already approved for recovery in electric rates as of October 6, 2008:
>
> (i) Capital, operating, and maintenance costs of renewable energy systems or advanced cleaner energy systems, including property taxes, insurance, and return on equity associated with an electric provider's renewable energy systems or advanced cleaner energy systems, including the electric provider's renewable energy portfolio established to achieve compliance with the renewable energy standards and any additional renewable energy systems or advanced cleaner energy systems, that are built or acquired by the electric provider to maintain compliance with the renewable energy standards during the 20-year period beginning when the electric provider's plan is approved by the commission.
>
> (ii) Financing costs attributable to capital, operating, and maintenance costs of capital facilities associated with renewable energy systems or advanced cleaner energy systems used to meet the renewable energy standard.

The Commission has reviewed the MWF Contracts and the Solar PPAs and finds that they should be approved as consistent with the company's REP, as described in this order. The Commission has reviewed the supporting affidavits and exhibits associated with the MWF

Contracts and the Solar PPAs and finds that approval is appropriate. The MWF Contracts will provide generation necessary to meet RPS compliance and will qualify for the 80% PTC; the Solar PPAs will also contribute to RPS compliance and will qualify for the 30% ITC. The Commission notes that, pursuant to MCL 460.1028(4), the Commission's approval of the MWF Contracts and the Solar PPAs signifies the contracts' consistency with the approved REP. In the event of an appeal that reverses the Commission's approval of the REP, the Commission's approval of the MWF Contracts and the Solar PPAs would be void, as they could not be considered consistent with the utility's REP.

The Commission finds that *ex parte* review and approval is appropriate, as the MWF Contracts and the Solar PPAs will not affect rates or rate schedules resulting in an increase in the cost of service to customers. *See*, MCL 460.6a(3).

THEREFORE, IT IS ORDERED that:

A. DTE Electric Company's proposed amended renewable energy plan is approved.

B. DTE Electric Company's request for *ex parte* approval of the Meridian Wind Farm Turbine Supply Agreements and Engineering, Procurement, and Construction Contracts between DTE Electric Company and General Electric Company, Vestas-American Wind Technology, Inc., and Barton Malow Company, pursuant to MCL 460.1028(4), is granted.

C. DTE Electric Company's request for *ex parte* approval of power purchase agreements between DTE Electric Company and Assembly Solar III, LLC, a subsidiary of Ranger Power, and between DTE Electric Company and River Fork Solar II, LLC, a subsidiary of Ranger Power, pursuant to MCL 460.1028(4), is granted.

D. DTE Electric Company's request for accounting authority necessary to carry out the approved renewable energy plan is approved.

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 mpscedockets@michigan.gov and to the Michigan Department of the Attorney General - Public Service Division at pungp1@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

Sally A. Talberg, Chairman

Daniel C. Scripps, Commissioner

Tremaine L. Phillips, Commissioner

By its action of July 9, 2020.

Lisa Felice, Executive Secretary

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

STATE OF MICHIGAN)

Case No. U-18232

County of Ingham)

Brianna Brown being duly sworn, deposes and says that on July 9, 2020 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 9th day of July 2020.

Angela P. Sanderson
Notary Public, Shiawassee County, Michigan
As acting in Eaton County
My Commission Expires: May 21, 2024

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