



2 December 2020

Dear Commissioners Scripps, Talberg, and Phillips,

As you know, the inclusion of public health and environmental justice impacts in utility decision making, particularly within Integrated Resource Planning, has been an important goal of the Michigan Environmental Justice Coalition, our members and partners.

In the DTE Integrated Resource Plan (IRP) Case U-20471, we worked with researchers at the University of Michigan and fellow intervenors to argue that health impacts and the associated, quantifiable economic costs of various energy generation methods can and should be considered in integrated resource planning. Administrative Law Judge Wallace adopted this argument in her recommendations.

On 15 May, 2020, advocates met with Michigan Public Service Commissioners regarding COVID-19 protections and the Commission's regulatory scope more broadly. We discussed your decision to reject Judge Wallace's recommendation on this matter. Commissioner Talberg suggested that the Michigan Advisory Council on Environmental Justice (MAC EJ) provided a "near-term practical opportunity" to advance environmental justice and health. We agree that MAC EJ, as an expert body formed on the basis of years of advocacy from environmental justice organizations for the formal inclusion of environmental justice concerns in relevant decision-making, *should* be consulted on this issue. However, we expressed concern that MAC EJ lacks statutory authority over energy regulation. A clear legal process would be needed for environmental justice communities, including key advocates like MAC EJ, to weigh in meaningfully toward the inclusion of public health and environmental justice criteria in energy regulation.

Six months later, we are encouraged that the Commission has taken proactive steps on accounting for environmental justice and public health impacts within integrated resource planning by introducing Case U-20633. This opportunity provides some infrastructure for rule-making on the inclusion of these important considerations. We are furthermore encouraged that the order provides for inter-departmental coordination with the Department of Environment, Great Lakes, and Energy (EGLE).

With that said, the order establishing U-20633 does not provide clear opportunities for environmental justice advocates to participate in the rulemaking process; it also fails to provide meaningful involvement of the public, and those most impacted by the impacts of pollution, cost volatility, shut-offs, or quality of life degradation from dirty energy production. Most significantly,

there is no opportunity to examine the health risk of exposure to COVID-19 in utility shutoffs, which are occurring at the rate of 3000-4000 shutoffs per week in November. We find this disturbing, woefully inadequate and unjust to environmental justice communities who advocated for EJ and public health-based rulemaking, and whose exposure to PM 2.5 makes the risk of death due to COVID-19 higher.

In comments submitted to U-20633 on 6 October, Soulardarity provided the legal rationale and outlined eight recommendations to create robust, inclusive, and meaningful engagement on the matter of environmental justice and public health considerations within energy generation, transmission, and distribution. We urge you to adopt Soulardarity's recommendations; we attach the letter again for your consideration.

One of Soulardarity's recommendations follows Commissioner Talberg's own suggestion that MAC EJ should be specifically requested as the representative of EGLE to provide expertise and recommendations. With Soulardarity and the Abrams Environmental Law Clinic, we wrote to Ms. Regina Strong, EGLE, and members of MAC EJ to request their participation. We additionally attach that letter for your awareness. At the same time, we reiterate the need for robust, accessible opportunities for all environmental justice communities and advocates to weigh in on the rulemaking process.

Michigan Public Service Commission staff will be making life-or-death recommendations in this case. Our Health Impact Assessment work with University of Michigan partners demonstrated the extent to which DTE power plant emissions are responsible for early mortality and other health impacts across Southeast Michigan, particularly in environmental justice communities. Our communities require and deserve to participate in decision-making that impacts their daily lives and wellbeing.

Once again, we urge you to adopt the recommendations of Soulardarity's 6 October letter, and create clear, inclusive and meaningful opportunities for all environmental justice communities and advocates to participate in Case U-20633. Please feel free to reach out to us with questions in this matter. We look forward to submitting our own recommendations to the case when we believe they will be meaningfully considered and integrated into the rulemaking process, and when that opportunity is accessible to all.

Thank you for your consideration of our request.

Sincerely,

Michigan Environmental Justice Coalition

Michigan Environmental Justice Coalition is a Detroit-based 40-member organization committed to environmental justice by working to achieve a clean, healthy and safe environment for Michigan's most vulnerable residents in alignment with the Environmental Justice Principles.



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November 11, 2020

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**Re: Requesting the Engagement of the Michigan Advisory Council on
Environmental Justice in Michigan Public Service Commission Case No. U-
20633**

Dear Members of the Michigan Advisory Council on Environmental Justice, Ms. Strong,
and the Department of Environment, Great Lakes, and Energy,

Michigan Environmental Justice Coalition, Soulardarity and the Abrams Environmental Law Clinic write to request that the Michigan Advisory Council on Environmental Justice (MAC EJ)—working with the Department of Environment, Great Lakes, and Energy (EGLE)—contribute its expertise to Michigan Public Service Commission Case No. U-20633. As directed in the August 20, 2020 Order in Case No. U-20633 (the “August 20, 2020 Order”), the Michigan Public Service Commission (the “Commission”) Staff must file a final report by May 27, 2021 that (1) proposes changes to Michigan’s Integrated Resource Planning (IRP) Parameters to better align resource and distribution planning, and (2) provides recommendations, developed in conjunction with EGLE, for the inclusion of environmental justice and public health in future IRP cases. As EGLE’s expert body on environmental justice and public health, MAC EJ should make recommendations to EGLE on its contribution to the MI Power Grid proceeding and should participate in the MI Power Grid proceedings itself. MAC EJ should also contribute to EGLE’s assessments of proposed utility company plans in future individual IRP proceedings.

To provide further background, the first directive in the August 20, 2020 Order instructs MPSC Staff to develop a proposal to revise Michigan’s IRP Parameters through the MI Power Grid process, which is a multi-year stakeholder initiative established by the Commission to guide the state’s transition to clean, distributed energy. The August 20, 2020 Order commenced Phase II of the MI Power Grid process by directing Staff to form a new workgroup and initiate a series of stakeholder proceedings to identify and discuss possible changes to Michigan’s IRP rules that would better align resource, distribution, and transmission planning.¹ For context, the IRP rules set requirements that utilities must abide by as they develop their IRPs, which are long-term utility plans that lay out the resources that a utility intends to build or acquire to meet foreseeable energy demand. IRP rules vary from state to state but often require utilities to analyze and to consider—among

¹ See U-20633, Order, Aug. 20, 2020, at 5.

other things—clean energy and environmental impacts. Thus, the MI Power Grid stakeholder process presents an opportunity to shape how the Commission oversees electric utility planning and associated electric utility investments in generation for years to come.

The second directive in the August 20, 2020 Order orders MPSC Staff to work with EGLE to incorporate environmental justice and public health considerations into the IRP process—a role that Governor Gretchen Whitmer has reaffirmed as part of her greenhouse gas reduction plan. The August 20, 2020 Order states that Staff must “coordinate with [EGLE] on the inclusion of *public health and environmental justice* considerations in *future integrated resource planning cases* as outlined in [the August 20, 2020 Order].”² Building on this, Governor Whitmer’s September 23, 2020 Executive Directive No. 2020-10—which announced new greenhouse gas reduction goals and a pledge to achieve carbon neutrality by 2050—orders EGLE to “include considerations of *environmental justice and health impacts*”³ in IRP proceedings before the Commission. And finally, at a October 21, 2020 MI Power Grid stakeholder meeting, Commission Staff stated that considerations of environmental justice and public health were “something that EGLE [was] taking the lead on.” The Commission also stated that environmental justice and public health were considerations that it would “continue to update the [Advanced Planning Workgroup] in and incorporate into our work as we go forward.” Thus, under the August 20, 2020 Order and Executive Directive No. 2020-10, ELGE must weigh in on environmental justice and public health matters in future IRP cases, and MPSC Staff is expecting EGLE to play the leading role on environmental justice and public health in the MI Power Grid proceedings concerning Michigan’s IRP Parameters.

MAC EJ has special expertise in matters relating to environmental justice and public health that would be valuable to EGLE as the Department works to comply with the Order and Executive Directive to coordinate input with the Commission in future IRP discussions. As you know, MAC EJ consists of twenty-one leading experts throughout the state, including professors, academics, business leaders, nonprofit leaders, community organizers, and grassroots activists who are well-versed in topics relating to energy justice, distributed generation, energy waste reduction, community health, epidemiology, public health, and more. Furthermore, MAC EJ pulls together representatives from diverse regions within Michigan who would be more attuned to the specific environmental justice issues confronting their communities that might not otherwise come to the Commission’s or EGLE’s attention. MAC EJ members come from Ann Arbor, Brimley, Dearborn, Detroit, Farmington Hills, Flint, Grand Rapids, Northport, Royal Oak, and Saint Joseph.

EGLE cannot earnestly and adequately address environmental justice and public health issues without input from an expert body like MAC EJ. For example, MAC EJ should advise EGLE of the value of health impact assessments in the IRP process:

² *Id.* (emphases added).

³ Mich. Exec. Directive No. 2020-10 (Sept. 23, 2020) (emphasis added).

Requiring utilities to incorporate adverse health impacts into their calculations would force utilities to consider fully costs that could affect their final generation decisions and would protect public health and promote environmental justice more than would be the case otherwise. Likewise, in the MI Power Grid process and future IRP cases, MAC EJ could push for greater consideration of the many environmental, economic, and wellness benefits that renewable resources and distributed generation create for low-income and minority communities. In particular, replacing fossil fuel plants with distributed solar can result in lower emissions and improved air quality in low-income and minority communities because utilities have situated fossil fuel power plants in these communities historically. Distributed generation resources also increase local grid resiliency and reliability, which protects low-income, minority communities that large-scale power outages affect disproportionately. And yet another relevant consideration is that communal resources like community solar make renewable energy more accessible to low-income renters and homeowners. These communities should have access to the benefits of renewable energy like everyone else; they are even more entitled to the benefits than others because they have shouldered the public health burdens of the dirty energy system for too long. Souldarity and others have raised these concerns before the MPSC in multiple MPSC proceedings—including but not limited to two DTE rate cases, two DTE Renewable Energy Plan cases, DTE’s most recent IRP, and the MPSC’s COVID-19 proceedings—as well as during multiple stakeholder discussions during the past three years, and the Commission has not yet made DTE change its plans in order to consider—let alone even address and improve—public health and address environmental justice better. The Commission and EGLE must fully and properly engage all of these issues—and more—in order to satisfactorily meet their duties to consider environmental justice and public health. MAC EJ, with its deep expertise on such matters, is well-situated to apprise the Commission and EGLE of the environmental justice and public health concerns faced by impacted communities.

Serious engagement from MAC EJ in Case No. U-20633 is essential for ensuring that future IRPs and utility company actions will address public health and environmental justice meaningfully. MAC EJ’s special expertise in environmental justice and public health would benefit the MI Power Grid discussions and future IRP cases enormously. Accordingly, we urge MAC EJ to participate in Case No. U-20633 and to advise EGLE on the positions that EGLE takes in the MI Power Grid stakeholder proceedings and in future IRP cases. Thank you for your consideration of this matter.

Sincerely,



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October 6, 2020

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Re: Comments regarding the Scope of the Advanced Planning Workgroup (U-20633) in light of the September 24, 2020 Stakeholder Meeting

Dear Ms. Simpson and Ms. Rogers,

We write on behalf of Highland Park-based Soulardarity, which intervenes frequently in DTE Electric’s contested cases, and its Executive Director Jackson Koeppel, who testifies regularly in those proceedings.

To comply with the Commission’s August 20, 2020 order in Case No. U-20633 that initiated this stakeholder process and with Governor Whitmer’s Executive Order 2020-10, MPSC staff must include as part of this stakeholder process robust consideration and discussion of environmental justice and public health issues and include coordination with the Department of Environment, Great Lakes, and Energy (EGLE). According to the August 20, 2020 order of the MPSC in Case No. U-20633, MPSC staff has an obligation to “coordinate with EGLE on the inclusion of public health and environmental justice considerations in future integrated resource planning cases” and to “include a status update and any related recommendations [regarding those concerns] in the May 27, 2021 report outlined in this order.”¹ As the Commission noted in that Order, future integrated resource plans (IRP) proceedings must include considerations of public health and environmental justice. In addition, this Workgroup has an obligation to develop procedures that help utilities progress toward Governor Whitmer’s goals of reducing utility sector greenhouse gas emissions by 28% below 2005 levels by 2025 and of achieving carbon neutrality by 2050.² Systematic inclusion of environmental justice and public health considerations during Workgroup proceedings will help ensure that the Workgroup’s final recommendations achieve the Governor’s goals.

Soulardarity and other intervenors have repeatedly stated in proceedings before the MPSC that the Commission and Staff should systematically and robustly incorporate issues of environmental justice and public health into all utility planning and approval processes. For example, in DTE’s 2018 IRP proceeding, Soulardarity noted that DTE’s Community Impact planning principle did not assess the health impacts of fossil fuel generation which resulted in an underestimate of the negative effects of fossil fuel energy

¹ U-20633, Order Opening Docket, August 20, 2020, at 5.

² Mich. Exec. Order No. 2020-10 (Sep. 23, 2020).

production on low-income, people-of-color communities, as well as an underestimate of the potential benefits that distributed and community renewable energy would provide to these communities.³ Other intervenors in the IRP proceeding, namely Michigan Environmental Council, Natural Resources Defense Council and Sierra Club, submitted testimony which provided explicit costs to utilities and the public of ignoring public health and environmental justice concerns in IRP proceedings.⁴ Public health and environmental justice advocates filed similar comments.⁵ In DTE’s 2020 rate case, Soulardarity expressed concerns that DTE’s proposed Fixed Bill Pilot would encourage greater energy use among high-income consumers, which would increase pollution from energy generation, ultimately harming low-income, people-of-color communities.⁶ As an additional example, in DTE’s 2020 Renewable Energy Plan (REP) case, Soulardarity argued that DTE failed to consider all of the benefits of community solar, including public health benefits, and thus improperly excluded community solar from its REP.⁷

Consistent with Soulardarity’s recommendations, the Commission has stated that it will consider environmental justice and public health issues in future proceedings and, more specifically, has ordered this Workgroup to consider these issues and to develop recommendations addressing these issues. In its order recommending changes to DTE’s filed IRP, the Commission stated that it “expects to coordinate with EGLE on the inclusion of public health and environmental justice considerations” in future IRP proceedings and that the Commission “anticipates additional guidance” regarding public

³ U-20471, Initial Brief of Soulardarity, October 29, 2019 at 29 – 30.

⁴ U-20471, Initial Brief on Behalf of Michigan Environmental Council, Natural Resources Defense Council, and Sierra Club, October 29, 2019 at 191 (citing U-20471, Direct Testimony of George Thurston and U-20471, Direct Testimony of Kindra Weid).

⁵ U-20471, Public Comments of Barbara A. Israel, DrPH, Department of Health Behavior and Health Education, University of Michigan School of Public Health; Michelle Martinez, MS, Michigan Environmental Justice Coalition; Angela G. Reyes, MPH, Detroit Hispanic Development Corporation; Kathryn Savoie, PhD, Ecology Center; Amy J. Schulz, PhD, Professor, Department of Health Behavior and Health Education; University of Michigan School of Public Health; Felix Valbuena, MD, Community Health and Social Services (CHASS); and Guy Williams, Detroiters Working for Environmental Justice, Docket No. U-20471-0723, February 19, 2020. *See also* Carina Gronlund et al., University of Michigan, Graham Sustainability Institute, Catalyst Grant Final Project Report, June 2020, <http://graham.umich.edu/media/files/EmOpps-CW-19-Gronlund-Report-Final-Web.pdf> (proving preliminary Health Impact Assessment findings for DTE’s IRP); Laura Grier et al., University of Michigan School for Environment and Sustainability (SEAS) in Partnership with the Michigan Environmental Justice Coalition (MEJC), *Assessing the State of Environmental Justice in Michigan*, July 2019, <https://seas.umich.edu/sites/all/files/Final-Draft-Executive-Summary.pdf>; University of Michigan School for Environment and Sustainability, Screening Tool for Environmental Justice in Michigan, <https://umich.maps.arcgis.com/apps/webappviewer/index.html?id=dc4f0647dda34959963488d3f519fd24>.

⁶ U-20561, Initial Brief of Soulardarity, January 14, 2020, at 23.

⁷ U-18232, Initial Brief of Soulardarity, June 2, 2020, at 24.

health issues from the Michigan Advisory Council for Environmental Justice (MAC EJ).⁸ In its order approving DTE's REP, the Commission stated that it will "monitor the progress of the [Third Party Community Energy Projects Workgroup] to ensure that options for community solar continue to be explored."⁹ Finally, as has been stated, the Commission ordered this Workgroup to coordinate with EGLE on environmental justice and public health issues throughout the stakeholder process.¹⁰ Given the Commission's requirement to include public health and environmental justice issues in utility proceedings, MPSC staff has a responsibility to incorporate these issues into this Workgroup's discussions.

In addition to the legal requirement to do so, this Workgroup should prioritize environmental justice and health equity concerns because discussion and analysis of many of the Workgroup's other planned topics including non-wire alternatives, forecasting of distributed generation, and development of diverse generation will be incomplete without the consideration of the impact those topics have on the health and economic well-being of low-income, people-of-color populations.

Staff should consider the needs of low-income, people-of-color communities when planning for non-wire alternatives. For example, energy waste reduction programs that improve home insulation and reduce energy costs have the potential to reduce the energy burden faced by low-income, people-of-color communities.

Additionally, Staff must account for the need to increase access for low-income, people-of-color communities to clean energy generation in its discussions of forecasting distributed generation. When planning for distributed generation, Staff should include consideration of widespread adoption of community solar given its potential to reduce harmful pollution and increase energy democracy within communities.

The Workgroup must also consider environmental justice and health issues in its discussion of generation diversity. The Commission Staff's stated definition of diversity as variety, balance, and disparity fails to ensure that all income and race populations in Michigan have access to diverse electric generation, including distributed generation. Michigan's minority populations are heavily concentrated in Detroit and other urban areas. In addition, air pollution caused by some forms of electricity generation tends to disproportionately affect low-income, minority populations in urban areas. The Workgroup cannot simply consider whether Michigan utilities are increasing the number and spread of diverse generation facilities, although this is an important goal. It must also consider whether vulnerable populations that have experienced disproportionate exposure to the harmful effects of dirty energy generation are receiving equitable access to diverse generation. Staff should embrace a broader understanding of "diversity" in

⁸ U-20471, Order, February 20, 2020, at 46 – 47.

⁹ U-18232, Order, July 9, 2020, at 41.

¹⁰ U-20633, Order Opening Docket, August 20, 2020, at 5.

this context. For example, diversity should also consider different sizes (e.g., considering distributed generation and community solar along with utility-scale solar) and ownership structures (e.g., utility-owned, community-owned, and resident-owned). In the article cited in the Staff's presentation which defined diversity as variety, balance, and disparity, the author, Stirling, explicitly acknowledged that his definition of diversity cannot account for all aspects of a system. He wrote that "these other aspects may to some extent be independent from diversity but will also interlink in various ways" and that "any useful framework for analyzing diversity should ideally allow for ready articulation of these kinds of wider aspects."¹¹ As the Workgroup develops its definition of and criteria for generation diversity, it must consider other "aspects" such as the high concentration of low-income, people-of-color populations near dirty energy generation facilities. Even if one views the Commission as an economic regulator in the narrowest sense, ignoring public health and environmental justice concerns results in quantifiable economic costs to the public. The Commission and its Staff must account for these costs in order to protect fully the economic well-being of Michigan residents.

Despite the directive from the MPSC that this Workgroup must consider environmental justice and public health issues and despite the advantages that incorporating these issues into utility planning will have, including improving energy outcomes for all Michigan residents, MPSC Staff stated during the September 24 Stakeholder Session that EGLE would address environmental justice and public health rather than this Workgroup. This stance contravenes the August 20 MPSC order, which directs MPSC Staff to "coordinate *with* EGLE on the inclusion of public health and environmental justice considerations."¹² Workgroup participants can and should have the opportunity to work with MPSC Staff and EGLE on the development and incorporation of these considerations, just as they are working with MPSC Staff on the other topics covered in this stakeholder process. MPSC and EGLE staff must coordinate on the development of methods by which future planning processes address the critical issues of public health and environmental justice in order to develop a comprehensive and systematic approach to resolving these issues. In addition, given that the MPSC anticipates using input from the MAC EJ in future IRP proceedings,¹³ this Workgroup should work directly with the Council regarding environmental justice and public health issues so as to better coordinate the overall effort to protect Michigan's low-income, people-of-color communities with regard to energy justice.

Based on the above information, Soulardarity recommends the following to the Advanced Planning Workgroup:

¹¹ Andy Stirling, *A General Framework for Analyzing Diversity in Science, Technology, and Society*, 4(15) *J. of the Royal Society* 707, 711 (2007).

¹² *Id.* (emphasis added).

¹³ See U-20471, Order, February 20, 2020, at 47.

1. **Staff should include specific opportunities for Stakeholders to comment about the environmental justice and public health implications of topics addressed by the Workgroup.**
2. **Staff should invite experts in environmental justice and public health to give presentations during Workgroup Stakeholder meetings.**
3. **Staff should solicit input from members of environmental justice communities on proposals that implicate environmental justice and public health.**
4. **Staff should work directly with the Michigan Advisory Council for Environmental Justice on developing recommendations for the May 2021 report.** Avenues for collaboration include inviting members of the Council to give presentations during stakeholder meetings, ensuring that a Council member is able to be present and participate at all stakeholder meetings, allowing time for Council members to comment on draft Workgroup reports, and asking Council members to submit their own recommendations regarding Workgroup topics. Workgroup members should have the opportunity to engage with MACEJ directly as part of this process.
5. **Both MPSC and EGLE staff should engage with Workgroup participants directly in order to develop recommendations on environmental justice and public health for the May 2021 report.** As above, avenues for collaboration include inviting members of EGLE to give presentation during stakeholder meetings, ensuring that a member of EGLE is present and able to participate at all stakeholder meetings, allowing time for EGLE staff to comment on draft Workgroup reports, and asking EGLE staff to submit their own recommendations regarding Workgroup topics. Workgroup members should have the opportunity to engage with EGLE staff directly as part of this process.
6. **Staff should provide sufficient time and opportunity for members of EGLE, MAC EJ, environmental justice communities, other stakeholders, and the general public to comment directly on a draft version of the final Workgroup report.**
7. **During the Workgroup proceedings, Staff should develop a set of factors related to environmental justice and public health by which the Commission will treat as determinative criteria for assessing utilities' IRPs.** Factors should include: reducing pollution produced by fossil fuel generation that disproportionately affects low-income, people-of-color communities; increasing reliability and safety for customers who have been disproportionately harmed by downed or malfunctioning lines; increasing energy democracy, or the ability for individuals to exercise control over the source of their electricity; increasing energy affordability for low-income, people-of-color customers; and addressing the unique needs of low-income, people-of-color communities with respect to energy waste reduction and demand response programs. Staff must ensure that each factor includes quantifiable measures and that utilities address and account for these quantified factors in their IRPs, instead of

using vague and poorly defined environmental justice and public health factors as utilities have done in past IRP proceedings.¹⁴

8. **The Commission should conduct a Value of Solar proceeding.** When conducting this stakeholder process, the Staff should address how and when the costs and benefits of distributed generation and community solar should be weighed in utility planning. As Soulardarity explained in depth in its briefing in DTE’s 2020 REP case,¹⁵ one means to ensure that the costs and benefits of distributed generation and community solar are fully and fairly weighed from the perspective of the people of Michigan – rather than the perspective of utilities and their shareholders – would be to conduct a Value of Solar proceeding as has been done in other states. Currently, Michigan utilities weigh the impacts of these resources in ways that disregards many of these resources’ unique benefits and amplify without adequate analysis purported costs. Some of these unaccounted-for benefits include increased grid reliability and resiliency, energy waste reduction, and community engagement, topics directly relevant to the scope of this process as set by the Commission. Therefore, Staff should include in this process a structured consideration of whether and how to conduct a value-of-solar proceeding to determine how the actual benefits and value of distributed solar should be accounted for in future utility planning processes.

Thank you for the opportunity to submit these comments and for considering the important changes that we recommend. We look forward to participating in future stakeholder meetings of the Advanced Planning Workgroup.

Sincerely,



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¹⁴ U-20471, Initial Brief of Soulardarity, October 29, 2019 at 24 – 42 (arguing that DTE provided incomplete and inadequate definitions of the planning principles (which included “Community Impact, Clean, Reliability, Flexible and Balanced, and Reasonable Risk”) and did not justify the proposed flexible pathways with the planning principles sufficiently); *see also* U-20471, Reply Brief of Soulardarity, November 19, 2019 at 5 – 7, 18 – 19 (arguing that DTE did not account adequately for the public health impacts of its resource decisions and that DTE applied the planning principles in an unclear way).

¹⁵ U-18323, Initial Brief of Soulardarity, June 2, 2020 at 29 – 30.