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November 28, 2017

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

Re: MPSC Case No. U-18255

Dear Ms. Kale:

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

Sincerely yours,

VARNUM

Timothy J. Lundgren

TJL/kc
Enclosures
c. ALJ
All parties of record

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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

No. U-18255

REPLY BRIEF
OF
ENERGY MICHIGAN, INC.

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Table of Contents

I.	INTRODUCTION	2
II.	ARGUMENT	2
	A. Adjustments to the SRM Charge Must be No More Often Than Annual.....	2
	B. The Commission Should Require and Online Public Interconnection Queue List.....	3
	C. DTE’s Retail Access Customer Notification Proposal Should be Rejected.	3
	D. DTE’s Proposal to Place Returning ROA Customers on Interruptible Service Should Be Rejected.....	4
III.	Conclusion and Prayer for Relief.....	5

REPLY BRIEF OF ENERGY MICHIGAN, INC.

I. INTRODUCTION

This Reply Brief is filed on behalf of Energy Michigan, Inc. ("Energy Michigan") by its attorneys, Varnum LLP. Failure to address any issues or positions raised by other parties should not be taken as agreement with those issues or positions.

II. ARGUMENT

A. Adjustments to the SRM Charge Must be No More Often than Annual.

As Constellation NewEnergy, Inc. ("CNE") points out in their Initial Brief, the language of Section 6w(3) expressly requires that the capacity charge be set via a contested case and that it be done by December 1 of each year. See MCL 460.6w(3). This language requires a full contested case with "notice and reasonable opportunity for a full and complete hearing" and must be completed by December 1 of "each year."¹ In addition, the Commission must then provide notice to the public of the new charge: "The Commission shall provide notice to the public of the single capacity charge as determined for each territory." MCL 4460.6w(3). Plainly, the legislature intended that both customers and suppliers have ample notice and opportunity to participate in any proceeding that may change the capacity charge that could apply to them, and that such changes take place within reasonable time frames that would allow for adjustments to be made in the process of contracting for electric supply for the upcoming planning period. For these reasons, as CNE discusses, any capacity charge that is approved for the utility in Case No. U-18248 cannot be changed by the results of this proceeding until the following year, or else it will violate the requirements and timeline laid out in Section 6w(3). See CNE Initial Brief, pp.

¹ The reference to "each year" makes plain that this is not a one-time restriction, but that any resetting of the capacity charge for an upcoming planning year must be done by December 1 on a going-forward basis.

7-9. For this reason, the Commission should reject DTE's assertion that any capacity costs approved in this case will affect the capacity charge applicable for planning year 2018-2019, as that charge must be set by December 1, 2018. See CNE Initial Brief at p. 8, citing DTE's witness at 5 Tr 172.

B. The Commission Should Require an Online Public Interconnection Queue List

Staff have recommended in both DTE's present rate case, and that of Consumers Energy's (U-18322) that the utilities should make available to the public an interconnection queue list. See Staff Initial Brief, pp. 115-118. Energy Michigan supports the creation of a publicly available interconnection queue list. Such transparency would not only be helpful to the Commission and Staff in fulfilling their duties under PURPA and Michigan law to ensure that the utilities are providing fair and non-discriminatory access to the electrical system for independent generators, but it would also assist independent generators in evaluating the need for, and likely timeline to, implementation of additional local generation resources. This would facilitate increased opportunities for adding new generation resources in MISO Zone 7, thereby benefiting electric customers in both Consumers Energy's and DTE's service territories.

C. DTE's Retail Access Customer Notification Proposal Should be Rejected.

Energy Michigan agrees with Staff's critique of DTE's proposal to amend its Retail Access tariff provisions to require retail access customers to notify the utility if they do not intend to return to full service, and to make a demonstration to the utility by providing documentation from their AES. See Staff Initial Brief, pp. 109 – 113. DTE's proposal seeks to usurp the role of the Commission under Section 6w and require that customers make demonstrations to the utility that they have adequate capacity. There is nothing in Section 6w to

support such a scheme, which appears mainly designed to impose undue burdens on customers choosing service from alternative electric suppliers. As Staff notes, DTE's proposal is punitive, illogical, and lacks a basis in law. For these reasons, the Commission should reject DTE's proposed amendments to require customer notification under its retail access tariff.

D. DTE's Proposal to Place Returning ROA Customers on Interruptible Service Should Be Rejected.

Similar to its notification proposals addressed above, DTE proposes new, unlawful and unnecessary burdens on ROA customers by proposing to place returning customers on interruptible service in the event the MISO region experiences a capacity shortfall. Energy Michigan again supports Staff's critique and analysis of DTE's proposal. As Staff points out, there is no logic to DTE's proposal. See Staff Initial Brief, p. 114. DTE argues that if there is a zonal capacity deficiency, its proposal would prevent any incremental additional burden resulting from customers switching suppliers. 5 Tr 195. However, existing customers who are already being served by another supplier within the zone are already being accounted for in terms of their capacity needs, so switching to or from utility service will make no difference whatsoever in the need for capacity within the zone. A switching customer places no additional burden on the zonal requirements, as Staff noted. 9 Tr 2431. Furthermore, there is no basis in Section 6w for the additional burden on customers that DTE is attempting to create. As with its notification proposal, the interruptible service proposal appears to be designed mainly to make electric choice appear to be a more risky and burdensome choice for customers in order to discourage them from seeking service from alternative suppliers. For these reasons, the Commission should reject DTE's proposal to place returning customers on interruptible service in the event of a zonal capacity shortage.

III. CONCLUSION AND PRAYER FOR RELIEF

WHEREFORE, for the reasons set forth above, Energy Michigan respectfully requests:

1) that the Commission determine that any adjustments to the capacity charge for DTE as a result of this case not be effective until the 2019-2020 planning year; 2) that the Commission require the utility to implement an online public interconnection queue list; 3) that the Commission reject DTE's proposal for new retail access customer notification requirements; and 4) that the Commission reject DTE's proposal to place returning customers on interruptible service in the event that there is a zonal capacity shortage.

Respectfully submitted,
Varnum, LLP
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November 28, 2017

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STATE OF MICHIGAN

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Case No. U-18255

PROOF OF SERVICE

STATE OF MICHIGAN)
) ss.
COUNTY OF INGHAM)

Kimberly J. Champagne, the undersigned, being first duly sworn, deposes and says that she is a Legal Secretary at Varnum LLP and that on the 28th day of November, 2017, she served a copy the Reply Brief of Energy Michigan, Inc. and this Proof of Service upon those individuals listed on the attached Service List via email at their last known addresses.

Kimberly J. Champagne

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MPSC CASE NO. U-18255

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