



201 North Washington Square • Suite 910
Lansing, Michigan 48933
Telephone 517 / 482-6237 • Fax 517 / 482-6937 • www.varnumlaw.com

Timothy J. Lundgren

tjlundgren@varnumlaw.com

June 29, 2018

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

Re: MPSC Case No. U-18352

Dear Ms. Kale:

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

Sincerely yours,

VARNUM

Timothy J. Lundgren

TJL/daf

Enclosures

c. All parties of record.

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter, on the Commission's own motion,)
regarding the regulatory reviews, revisions,)
determination and/or approvals necessary for)
DTE ELECTRIC COMPANY to comply)
with Section 61 of 2016 PA 342.)
_____)

Case No. U-18352

INITIAL BRIEF OF ENERGY MICHIGAN, INC.

Tim Lundgren
Laura Chappelle
Varnum, LLP
Attorneys for Energy Michigan, Inc.
201 N. Washington Square, Suite 910
Lansing, MI 48933
(517) 482-6237

Contents

I. INTRODUCTION.....1

II. ARGUMENT.....1

A. Background1

**B. Energy Michigan Shares Others' Concerns About the Limited
 Amount of Capacity and Sourcing Options for Customers in DTE's
 VGP Proposal.....3**

III. CONCLUSIONS AND PRAYER FOR RELIEF.....5

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter, on the Commission's own motion,)
regarding the regulatory reviews, revisions,)
determination and/or approvals necessary for)
DTE ELECTRIC COMPANY to comply)
with Section 61 of 2016 PA 342.)
_____)

Case No. U-18352

INITIAL BRIEF OF ENERGY MICHIGAN, INC.

I. INTRODUCTION

This Initial 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. Background

Energy Michigan is appreciative of the open and thorough process that the Michigan Public Service Commission ("Commission") has provided for implementing the requirements of Section 61 of PA 342 of 2016 ("Section 61"). As the Commission has noted, while the statutory language in Section 61 provided helpful guidance for implementation of voluntary green pricing programs, it was incomplete in the sense that the Legislature did "not provide any detail concerning the elements these green pricing programs should include or how the Commission should evaluate green pricing proposals." Order No. U-18352, dated March 28, 2017 ("March 28 Order"), pp. 1-2. The Commission, through its March 28 Order, provided an opportunity for interested parties to submit comments regarding the voluntary green pricing programs that

regulated electric providers would be offering. The level of interest in this topic could be seen by the numerous companies, organizations, and other commenters who provided input via this public comment process initiated by the Commission. The Commission's July 12, 2017 Order consolidated the Commission's views on those comments and what the Commission intended for the utilities to include in their filings.

Section 61 requires that DTE "offer its customers the opportunity to participate" in a voluntary green pricing ("VGP") program; that the "the customer may specify . . . the amount of electricity attributable to the customer that will be renewable energy"; and that "[t]he customer is responsible for any additional costs incurred and shall accrue any additional savings realized by the electric provider." MCL 46.1061. In addition to these requirements, the Commission's July 12, 2017 Order ("Order" or "July 12 Order") added several other criteria that utilities should meet in their filings, including making offers available to different customers with different preferences and objectives (Order, p. 13), and ensuring that programs are cost effective by showing that their costs are reasonable and transparent, that the fees for marketing and administration are reasonable, and that the accounting is clear and based on cost of service principles (Order, p. 14.). In addition to these criteria, the Commission noted that the utility's filing should "innovate and experiment in order to meet customer needs" (Order p. 3), should provide location options (Order, p. 5), should not establish pre-set limits on the amount of renewable energy to be obtained under the Act 61 program (Order, p. 8), should explore opportunities for collaboration with interested commercial and industrial customers who may be interested in independently contracting with third-party renewable energy providers (Order, p. 12), and should provide the ability for large customers to aggregate load from multiple locations (Order p. 12).

DTE's proposed program does not meet either the statutory requirements, nor those the Commission elaborated in its July 12 Order, as discussed below.

B. Energy Michigan Shares Others' Concerns About the Limited Amount of Capacity and Sourcing Options for Customers in DTE's VGP Proposal.

In the Direct Testimony of Staff witness Ms. Katie Trachsel, MPSC Staff expressed concerns about the narrowness of DTE's VGP proposal. See 2 Tr 132. Staff witness Ms. Trachsel notes that DTE is effectively offering only a single option, as it will be phasing out the only other program it currently has. *Id.* Striking a similar note, the testimony of Ms. Caitlin Marquis, testifying on behalf of the Michigan Energy Innovation Business Council ("Michigan EIBC"), Institute for Energy Innovation, and Advanced Energy Economy, highlighted what commercial and industrial customers who are participating in such programs offered by other utilities across the country are seeking from those programs. See especially 2 Tr 210-218. Key to successful programs for commercial and industrial buyers are the principles that Ms. Marquis highlights as the "Renewable Energy Buyer's Principles." 2 Tr 210-211. And central to most of these principles are the ideas of "choice" and "competitiveness." These principles are absent from what DTE has proposed, which focuses solely on utility-owned projects, at locations pre-selected by the utility, at prices set by the utility, and available through a single program.

In the Comments that Energy Michigan, submitted to the proceeding in Case No. U-18349, which preceded this contested case, Energy Michigan presented a model which better reflected the Buyer's Principles that Ms. Marquis has highlighted. In its July 12 Order, the Commission took note of Energy Michigan's proposal, citing it as follows:

On the utility side, the utility would establish a standard contract for suppliers and generators participating in the program, and the suppliers and generators would provide cost and sourcing information to the utility to offer to its customers. From the customer perspective, the process could work as follows: (1) the utility would create a green product web page where suppliers of green products would list their price, type and

source; (2) the customer would direct the utility through the website to source the product of the customer's choosing; (3) the utility would source the customer's purchase from the designated provider; and (4), the customer would see the price and product option on their bill.

Order, pp. 4-5, quoting Energy Michigan's comments, pp. 2-3. This is the type of program that Mr. John Domagalski, testifying on behalf of Energy Michigan, is recommending in his Direct Testimony. 2 Tr 203. In her Rebuttal, DTE's witness Ms. Terri L. Schroeder appears to confuse this suggested program with either self-generation or Retail Open Access service. It is, of course, neither of those, as it would be offered by the utility through a utility tariff. This also was explained in the Comments that were filed by Energy Michigan: "This is not a customer choice program where a customer could switch suppliers, as the utility would remain the supplier. Rather, it is a utility product choice program where the customer chooses options for supply from a utility-provided menu of sources." Energy Michigan comments, p. 3.

Furthermore, Energy Michigan shares Staff's and other parties' concerns regarding the limitations in both the capacity and options for purchases contained in DTE's VGP proposal. 2 TR 134. The limited program options, including the lack of additional sourcing options, renders DTE's proposed program incapable of meeting the new statutory requirements. As Mr. Domagalski testified, "the sole program that DTE is now proposing had already been approved by the MPSC when the legislature mandated that electric providers offer customers opportunities to participate in voluntary green pricing programs. Had the legislature considered existing programs such as DTE's pilot to have been sufficient, there would have been no need for inclusion of the requirement within the law." 2 Tr 201.

Energy Michigan continues to believe that a program that offers a variety of third-party and utility-owned options to customers not only is most likely to meet the needs of commercial

and industrial customers, but would be more responsive to the requirements of Section 61 and the requirements in the Commission's July 12 Order.

III. CONCLUSIONS AND PRAYER FOR RELIEF

WHEREFORE, for the reasons discussed herein, Energy Michigan respectfully requests that the Commission instruct DTE to work with its customers and to develop a new program that would better meet the needs of those customers, particularly the commercial and industrial customers, and which would provide customers with increased choice and options for types of renewable generation, locations of resources, and even ownership of the generating assets.

Respectfully submitted,

Varnum LLP
Attorneys for Energy Michigan, Inc.

June 29, 2018

By: _____

Timothy J. Lundgren (P62807)
Laura A. Chappelle (P42052)
The Victor Center
201 N. Washington Square, Ste. 910
Lansing, MI 48933
517/482-6237

13675724_1.docx

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission's own motion,)
regarding the regulatory reviews, revisions,)
determination and/or approvals necessary for)
DTE Electric Company to comply)
with Section 61 of 2016 PA 342)
_____)

Case No. U-18352

PROOF OF SERVICE

STATE OF MICHIGAN)
) ss.
COUNTY OF KENT)

Deliah A. Fowler, the undersigned, being first duly sworn, deposes and says that she is a Legal Secretary at Varnum LLP and that on the 29th day of June, 2018, she served a copy of the Initial Brief of Energy Michigan, Inc., upon those individuals listed on the attached Service List via email at their last known addresses.

Deliah A. Fowler

SERVICE LIST
MPSC CASE NO. U-18352

Administrative Law Judge

Honorable Martin D. Snider
7109 W. Saginaw Highway
Lansing, MI 48917
sniderm@michigan.gov

Counsel for DTE Electric Company

Andrea Hayden
DTE Electric Company
One Energy Plaza, 688 WCB
Detroit, MI 48826
andrea.hayden@dteenergy.com
mpscfilings@dteenergy.com

**Counsel for Michigan Public
Service Commission**

Amit T. Singh
Steven D. Hughey
7109 W. Saginaw Hwy., 3rd Floor
Lansing, MI 48919
singha9@michigan.gov
hugheys@michigan.gov

**Counsel for Environmental Law & Policy
Center**

Margrethe K. Kearney
Environmental Law & Policy Center
1514 Wealthy St. SE, Suite 256
Grand Rapids, MI 49506
mkearney@elpc.org

Rachel Granneman
Environmental Law & Policy Center
35 E. Wacker Drive, Suite 1600
Chicago, IL 60601
rgranneman@elpc.org

**Counsel for Michigan Environmental
Council**

Christopher M. Bzdok
Lydia Barbash-Riley
Olson, Bzdok & Howard
420 E. Front St.
Traverse City, MI 49686
chris@envlaw.com
lydia@envlaw.com
karla@envlaw.com
kimberly@envlaw.com
marcia@envlaw.com