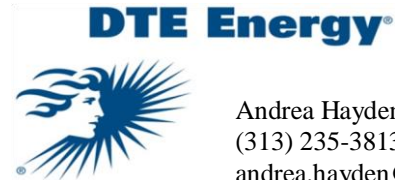


DTE Electric Company
One Energy Plaza, 1635 WCB
Detroit, MI 48226-1279



Andrea Hayden
(313) 235-3813
andrea.hayden@dteenergy.com

November 13, 2018

Honorable Kandra Robbins
Administrative Law Judge
Michigan Public Service Commission
7109 West Saginaw Highway
Lansing, Michigan 48917

RE: In the matter, on the Commission's own motion, to require **DTE ELECTRIC COMPANY** and **DTE GAS COMPANY** to show cause why these companies should not be found in violation of the Consumer Standards and Billing Practices for Electric and Natural Gas Service, R 460.101 *et seq.*
MPSC Case No. U-20084

Dear Judge Robbins:

Pursuant to Rule 431, R 792.10431, attached for electronic filing in the above captioned matter is DTE Electric Company's Motion for Entry of Contested Settlement Agreement, Executed Settlement Agreement and Proof of Service.

Thank you for your assistance in this matter. If you have any questions, please do not hesitate to contact me.

Very truly yours,

Andrea Hayden

AH/rsf
Enc.
cc: Service List

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission's own motion,)
to require **DTE ELECTRIC COMPANY** and)
DTE GAS COMPANY to show cause why these) Case No. U-20084
companies should not be found in violation of the)
Consumer Standards and Billing Practices for)
Electric and Natural Gas Service, R 460.101 et seq.)

MOTION FOR ENTRY OF CONTESTED SETTLEMENT AGREEMENT

DTE Electric Company and DTE Gas Company ("DTE" or the "Companies") hereby move the Michigan Public Service Commission ("MPSC" or "Commission") to approve and enter a Settlement Agreement ("Agreement") between DTE the Michigan Public Service Commission Staff ("Staff"), and the Michigan Attorney General ("AG") (collectively, the "Joint Parties"), and to close the above-captioned case. In support of this motion, the DTE states as follows:

1. On February 5, 2018, the Commission issued an Order in Case No. U-20084 requiring DTE to file testimony regarding the extent and nature of improper shutoffs related to the implementation of the Companies' Customer Billing System (C360) that occurred from January 2017 to February 2018 and show why DTE should not be found in violation of the Commission's Consumer Standards and Billing Practices for Electric and Natural Gas Service, Mich Admin Code, R 460.101 et seq. (referred to hereafter as the "Billing Rules")
2. On February 23, 2018, DTE filed its testimony with supporting exhibits as required by the Commission Order, and on that same day the Residential Customer Group ("RCG") filed a Petition to Intervene.
3. On March 1, 2018, DTE filed objections to RCG's Petition. A prehearing conference was held on March 2, 2018 and RCG's Petition to intervene was granted and a schedule was established for this proceeding.

4. On July 16, 2018, Staff and RCG filed direct testimony and exhibits. RCG also filed testimony on July 17, 18, 19, 21, 22, and 23, 2018.

5. On July 22, 2018, RCG filed a Motion for Extension of Time for Filing Testimony Out of Time. Staff and DTE opposed the motion, and at the hearing held on July 27, 2018, RCG's motion was denied.

6. On August 13, 2018, DTE, Staff and RCG each filed rebuttal testimony.

7. By agreement of the parties and the ALJ, the hearing scheduled in this matter was adjourned to provide the parties an opportunity to discuss settlement.

8. On November 7, 2018, the date scheduled for the hearing in this matter (after two adjournments), additional settlement discussions were held and DTE, Staff, the AG, and representatives present for RCG reached an agreement. The settlement was entered on the record with the condition that RCG required 48 hours to obtain board approval. If board approval was not obtained, DTE, Staff and the AG stated they would file a motion for entry of a contested settlement agreement.

9. On November 9, 2018, RCG's counsel reported that RCG's board did not approve the Agreement. As such, the Joint Parties executed and filed the Agreement, attached as Exhibit A, pursuant to the Commission's Rules of Practice and Procedure Rule 792.10431 (Rule 431).

10. Rule 431 provides that "[a]ll parties to proceedings before the commission are encouraged to enter into settlements when possible and the provisions of these rules shall not be construed in any way to prohibit settlements."

11. Rule 431 authorizes the Commission to approve a settlement agreement, even where a party objects to the settlement agreement, if:

- a. Under subsection 5(a), “[t]he objecting party . . . ha[s] been given a reasonable opportunity to present evidence and arguments in opposition to the settlement agreement”;
- b. Under subsection 5(b), “[t]he commission finds that the public interest is adequately represented by the parties who entered into the settlement agreement”;
- and
- c. Under subsection 5(c), “[t]he commission finds that the settlement agreement is in the public interest, represents a fair and reasonable resolution of the proceeding, and, if the settlement is contested, is supported by substantial evidence on the record as a whole.”

11. The Joint Parties submit to the Commission that their Agreement satisfies the requirements of Rule 431 and that the Agreement should be approved.

12. The Joint Parties submit that no “substantial right” of RCG’s is affected by accepting and approving the Settlement Agreement because this is an enforcement action initiated by the Commission, and as such, the Agreement preserves the rights of individual customers.

13. The public interest is adequately represented by the Joint Parties, which include the DTE, the Commission Staff, and the AG. The Court of Appeals has held that Staff’s participation and concurrence in a settlement agreement protects ratepayers’ side in the public interest. See *Attorney General v Public Service Comm*, 237 Mich App 82, 93–94; 602 NW2d 225 (1999). The AG represents the public’s interest as well.

24. The Agreement is in the public interest, and it represents a fair and reasonable resolution of the proceeding.

WHEREFORE, the Joint Parties respectfully requests approval of the Settlement Agreement attached as Exhibit A.

DTE ELECTRIC COMPANY

By: _____

Andrea E. Hayden
DTE Electric Company
1635 WCB
One Energy Plaza,
Detroit, MI 48226
(313) 235-3813

Dated: _____, 2018

EXHIBIT A

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission's own motion,)
to require **DTE ELECTRIC COMPANY** and)
DTE GAS COMPANY to show cause why these) Case No. U-20084
companies should not be found in violation of the)
Consumer Standards and Billing Practices for)
Electric and Natural Gas Service, R 460.101 et seq.)

SETTLEMENT AGREEMENT

Pursuant to Section 78 of the Administrative Procedures Act of 1969 ("APA"), as amended, MCL 24.278 and Rule 431 (R 792.10431) of the Rules of Practice and Procedure before the Michigan Public Service Commission ("MPSC" or "Commission"), the undersigned parties agree as follows:

This Settlement Agreement ("Settlement Agreement") between DTE Electric Company ("DTE Electric") and DTE Gas Company ("DTE Gas") collectively the "DTE" or "the Companies", the Attorney General ("AG"), the Residential Customer Group ("RCG"), and the Michigan Public Service Commission Staff ("Staff"), (collectively, the "Parties") is intended by the Parties as a final settlement and satisfaction of the issues related to the Commission's Order to Show Cause opening Docket No. U-20084.

On February 5, 2018, the Commission issued an Order in Case No. U-20084 requiring DTE to file testimony regarding the extent and nature of improper shutoffs related to the implementation of the Companies' Customer Billing System (C360) that occurred from January 2017 to February 2018 and show why DTE should not be found in violation of the Commission's Consumer Standards and Billing Practices for Electric and Natural Gas Service, Mich Admin Code, R 460.101 et seq. (referred to hereafter as the "Billing Rules")

DTE filed testimony with supporting exhibits on February 23, 2018 pursuant to the

Commission's Order. DTE's pre-filed testimony stated that 4,184 improperly noticed shutoffs occurred from January 1, 2017 through February 5, 2018 due to a defect in the C360 system. Of those, DTE's testimony stated that 99.5% were accounts in arrears and subject to shutoff for non-payment who had received at least one form of notice, but did not receive the duplicate notice required by the Commission's Billing Rules. DTE's pre-filed testimony also stated that service was restored to all customers that DTE identified as shut off without proper notice, from go-live of the C360 system to February 28, 2018, and all deposits and reconnect fees charged to those customers, along with applicable interest, have been refunded or credited to the customer's account. In response to this defect, DTE's pre-filed testimony stated that the Companies have also implemented a shutoff verification process for non-payment as well as an AMI meter exchange customers.

During the course of its investigation regarding potential violations of the Commission's Billing Rules, Staff also identified potential noncompliance with Rule 460.113 related to estimated bills. Staff also reviewed additional related issues raised by the intervenors regarding meter transmissions under DTE's Non-Transmitting Meter Provision (DTE Electric tariff C5.7) (customers taking service under this tariff are referred to as "opt-out" customers, and the associated meters as "opt-out" meters).

Pursuant to this Settlement Agreement, the Parties agree as follows:

1. DTE has refunded and will continue to refund any deposits and reconnect fees, including any applicable interest, to any customers that are currently known to the Company or may become known to the Companies, as having been improperly shutoff or that may be identified through the audit process described in Paragraph 2 below.

2. Within 30 days of the date of this settlement, DTE agrees to convene a meeting with the Commission Staff regarding the process and the plan to lessen and eventually eliminate

customers who have received consecutive estimates over a three-month period. DTE shall file semi-annual reports in this docket for two years containing the following information: (i) the number of customers who were consecutively estimated for 3 to 6 months, 7 to 9 months, 10 to 12 months, and over 12 months, and the reason that consecutive estimations were required; (ii) the total number of customers communicated with under the proposed communication and escalation process. All reports required to be filed under this paragraph shall be submitted on the first Monday in April and on the first Monday in October until the final required filing is submitted in October 2020. DTE shall remove from all pending and future general rate cases amounts associated with meter estimation related write-offs.

3. DTE Electric agrees to replace the meters of all electric customers currently electing service under the Company's Non-Transmitting Meter Provision (DTE Electric tariff C5.7), with digital meters that are not capable of transmitting any signals. DTE Electric will complete the replacement by December 2019, provided that the opt-out customers grant the Company access to facilitate the replacement. Before replacing an electric opt-out customer's meter, DTE Electric will test the existing meter to determine if the radios are enabled and/or broadcasting. If the on-site tests, or other information available to DTE Electric, indicate that either one of the radios in the opt out customer's meter is still sending a signal, all monthly opt-out fees paid to date by the customer will be refunded including interest per the Billing Rules. No fee will be assessed to the opt-out customer for the meter replacement and DTE Electric will record a one-time credit as Contribution in Aid of Construction in the amount of \$750,000 to offset the installation costs of the digital meters. The remaining current customers that do not have an AMI meter, and who elect to take service under DTE Electric's Non-Transmitting Meter Provision (DTE Electric tariff C5.7) will receive digital meters non-transmitting meters. DTE shall prepare

quarterly reports on the progress of the meter replacement. The reports shall be filed in this docket each quarter beginning with the first quarter of 2019 until the meter replacements are complete.

4. DTE will engage, at DTE's option, either its internal audit team or a third-party auditing firm to conduct semi-annual audits of the following areas:

- a. The Companies' internal shut-off processes and procedures to assess whether shut-offs are being conducted in accordance with the Commission's Billing Rules and DTE's internal policies.
- b. The Companies' customer billing practices to assess whether customer defects are remediated timely and whether such practices comply with the Commission's Billing Rules.

The Company will conduct five audits, beginning in 2018 through 2020. DTE will submit an audit report in this docket within 30 days following the completion of each audit. The cost of any third-party auditing firm will be born by DTE and not recovered from ratepayers.

5. DTE will engage, at DTE's option, either its internal audit team or a third-party auditing firm to conduct a one-time audit of the management practices and the organizational structure of its Executive Consumer Affairs Center (ECAC) to assess the effectiveness of ECAC operations and evaluation of key business processes compared to industry best practices. The audit report will include potential improvements to increase the effectiveness and efficiency of DTE's policies and procedures for compliance with relevant Billing Rules. The cost of any third-party auditing firm will be born by DTE and not recovered from ratepayers.

6. Any internal audit performed in this Agreement will be completed in accordance with standards established by the Institute of Internal Auditors and will include sampling and other appropriate audit procedures. The audit workplan prepared by DTE will be submitted to Staff for review and comment prior to execution or initiation of the audit.

7. DTE will host quarterly meetings with Staff to provide updates on customer service operations and customer complaints. As part of the quarterly meetings, DTE will provide the findings of the semi-annual audits, the progress on the timing for the resolution of customer complaints, and the current level of consecutive bill estimates. Notice of the time and date of the meetings will be provided to the Parties.

8. DTE will pay a fine to the State of Michigan in the amount of \$840,000 within 90 days of issuance of a Commission Order approving this Settlement Agreement.

9. DTE will document and track the costs under this Agreement that will not be recovered in rates, as set forth in paragraphs 2 (consecutive estimate write-offs), 3 (CIAC credit), 4 (external audit costs), 5 (external audit costs) and 8 (fine) of this Agreement. DTE will provide this information to the Parties with an attestation that such costs are not being recovered from rate payers.

10. This Settlement Agreement is entered into for the sole and express purpose of reaching a compromise among the Parties. All offers of settlement and discussions relating to this Settlement Agreement are considered privileged under MRE 408. No Party hereto shall offer this Settlement Agreement as evidence in any action or proceeding, except that it may be offered and received in evidence solely to enforce this Settlement Agreement. This Settlement Agreement shall not preclude any remedy available to any customer who has a pending complaint or who may yet file a complaint at the Commission. This Agreement does not create any rights or remedies against DTE or limit defenses of DTE for or against any person not a party to this Agreement.

11. This Settlement Agreement is not severable. Each provision of this Settlement Agreement is dependent upon all other provisions of this Settlement Agreement, including the attachments. Failure to comply with any provision of this Settlement Agreement, including commitments phrased in firm language (such as “shall” or “will”) in the attachments, constitutes

failure to comply with the entire Settlement Agreement. If the Commission rejects or modifies this Settlement Agreement, this Settlement Agreement shall be deemed to be withdrawn, and shall not constitute any part of the record in this proceeding or be used for any other purpose, and shall not operate to prejudice the pre-negotiation positions of any party.

12. This Settlement Agreement is reasonable, in the public interest, and will reduce the time and expense of the Commission, its Staff, and the Parties.

13. The Parties agree to waive Section 81 of 1969 PA 306 (MCL 24.281), as it applies to the issues in this proceeding, if the Commission approves this Settlement Agreement without modification.

14. This Settlement Agreement may be executed in any number of counterparts, each considered an original, and all counterparts that are executed shall have the same effect as if they were the same instrument.


IN WITNESS WHEREOF, the Parties have caused this Settlement Agreement to be duly executed by their respective authorized officers as of the date first written below.

DTE ELECTRIC COMPANY

By: Andrea Hayden
Digitally signed by Andrea Hayden
Date: 2018.11.13 09:20:00 -05'00'
Andrea E. Hayden
DTE Electric Company
One Energy Plaza,
Detroit, MI 48226
(313) 235-3813

Dated: _____, 2018

MICHIGAN PUBLIC SERVICE COMMISSION STAFF

By: 
Daniel Sonneveldt
Assistant Attorney General
7109 West Saginaw Hwy, 3rd Fl
Lansing, MI 48917
(517) 241-6680

Dated: _____, 2018

ATTORNEY GENERAL

By: Michael Moody
Digitally signed by Michael Moody
Date: 2018.11.12 14:47:11 -05'00'
Michael Moody
525 W. Ottawa Street
P.O. Box 30755
Lansing, MI 48909
(517) 373-1123

Dated: _____, 2018

RESIDENTIAL CUSTOMER GROUP

By: _____
Don L. Keskey
University Office Place
333 Albert Avenue, Suite 425
East Lansing, MI 48823

Dated: _____, 2018

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission's own motion,)
to require **DTE ELECTRIC COMPANY** and)
DTE GAS COMPANY to show cause why these)
companies should not be found in violation of the)
Consumer Standards and Billing Practices for)
Electric and Natural Gas Service, R 460.101 et seq.)

Case No. U-20084

PROOF OF SERVICE

STATE OF MICHIGAN)
) ss.
COUNTY OF WAYNE)

ESTELLA BRANSON, being duly sworn, deposes and says that on the 13th day of November, 2018, she served a copy of DTE Electric Company's Motion for Entry of Contested Settlement Agreement and Executed Settlement Agreement via electronic mail upon the persons referred to in the attached service list.

ESTELLA BRANSON

Subscribed and sworn to before
me this 13th day of November, 2018.

Lorri A. Hanner, Notary Public
Wayne County, MI
My Commission Expires: April 20, 2020
(Acting in Wayne County)

SERVICE LIST
MPSC CASE No. U-20084

ADMINISTRATIVE LAW JUDGE

Honorable Kandra Robbins
Administrative Law Judge
7109 W. Saginaw Highway
Lansing, MI 48917
robbinsk1@michigan.gov

Susan Lesnek
46151 Bloomcrest Drive
Northville, MI 48167
dbuening@sbcglobal.net

ATTORNEY GENERAL

Michael Moody
Assistant Attorney General
Special Litigation Unit
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Lansing, MI 48909
moodym2@michigan.gov

RESIDENTIAL CUSTOMER GROUP (RCG)

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donkeskey@publiclawresourcecenter.com
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MPSC STAFF

Daniel Sonneveldt
7109 W. Saginaw Highway, 3rd floor
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sonneveldtd@michigan.gov