

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion,)	
of the investigation into the response of)	
DTE ELECTRIC COMPANY)	Case No. U-20169
to recent storm damage in its service territory.)	
_____)	

At the January 18, 2019 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Sally A. Talberg, Chairman
Hon. Norman J. Saari, Commissioner

ORDER

On May 17, 2018, the Commission issued an order opening this docket to investigate DTE Electric Company's (DTE Electric) response to a severe wind storm that occurred in its service territory on May 4, 2018, leaving over 300,000 customers without power (May 17 order). In the May 17 order, the Commission discussed the severity of the outage, which resulted in at least one fatality, noting that this was not the company's first major outage event in 2018; and that prior investigations were conducted concerning weather-related events, including one that commenced in March of 2017.¹ Given its ongoing concerns over the safety and reliability of DTE Electric's distribution system, the Commission directed DTE Electric to file a detailed report in this docket

¹ See, the August 23, 2017 order in Case No. U-18346 in which the Commission discusses the storm report filed by DTE Electric and orders the company to work in conjunction with the Commission Staff (Staff) to explore and expedite potential improvements and changes to its storm preparation and response.

by June 29, 2018. May 17 order, pp. 2-6. The Commission further directed the Staff to file an evaluation of DTE Electric's report in this docket by August 10, 2018, and invited all interested persons to file comments on DTE Electric's report and/or the Staff's evaluation in this docket by September 7, 2018. *Id.*, pp. 5-6. The Commission concluded by stating that it would "thereafter examine the compliance and enforcement issues presented by the reports." *Id.*, p. 6.

Subsequent to the May 17 order, but prior to DTE Electric's and the Staff's reports being filed, a number of DTE Electric customers filed comments; thereafter, one additional customer filed a comment. *See*, comments filed on May 18, 21, 22, 23, 25, and 31; June 5, 11, and 12; and September 6, 2018. On June 29, 2018, DTE Electric filed its report (DTE Electric's report). The Staff filed its report on August 10, 2018 (Staff's report), to which DTE Electric responded on September 7, 2018 (September 7 report).

In its September 7 report, DTE Electric states that the company is "committed to improving its processes to ensure . . . safe, reliable, and affordable electric service [involving] four main components: tree trimming, system maintenance, wire down response and system improvements/upgrades." September 7 report, p. 20. Pursuant to these goals, DTE Electric asserts that it is committed to reducing its preventive maintenance backlog for critical assets but is supplementing its time-based maintenance with condition-based predictive programs that may put assets off the maintenance time cycle, such as deferring or cancelling planned work on assets that will be replaced or decommissioned within three years. The company notes that condition-based maintenance is a well-accepted industry practice. *Id.*, pp. 6-7. In addition, the company follows a consistent time-frame pole inspection regime that includes infrared surveys, foot patrols, and pole top inspections. *Id.*, p. 8. DTE Electric also reports that it has added "risk weighting" to its tree trimming program and adopted specifications that increase the clearance between conductors and

vegetation to reduce outages and hazards that occur due to overgrown vegetation. *Id.*, p. 11.

Finally, the company is scheduled to begin a concept pilot project to address accessibility and reliability issues related to Detroit's rear-lot distribution system,² which is often adjacent to alleyways that the City of Detroit no longer maintains, has been encroached upon by fences, sheds, and discarded items, and become overgrown with excessive vegetation. *Id.*, p. 15.

On January 11, 2019, DTE Electric and the Staff entered into a settlement agreement focused on safety and reliability, attached to this order as Exhibit A. In the agreement, DTE Electric acknowledged the Staff's recommendations related to the company's potential violations of the Michigan Administrative Code.³ The Staff, after reviewing DTE Electric's September 7 report and to resolve the issues raised in this docket, withdrew its recommendations of potential violations. Settlement Agreement, p. 3.

As summarized below, the parties agreed that DTE Electric shall:

1. Provide additional first responder personnel as necessary to meet timeframes set forth in Mich Admin Code, R 460.723(1) and (2);
2. Participate in a statewide initiative coordinated by the Staff and involving all Michigan utilities to jointly improve downed wire response processes;
3. Develop and implement a process to track causes of downed wires;
4. Contract with the National Energy Foundation (NEF) to deliver education to kindergarten through fifth grade students, as well as provide additional funding to the NEF, and to the Michigan Fire Service Instructors Association to

² See, the Staff's report, pp. i-ii. The 4.8 kilovolt (kV) system is, for the most part, an ungrounded ringed system equipped with ground alarm capabilities at some of its substations that do not always activate safety devices, resulting in wires remaining energized.

³ See, the Staff's report, pp. 7-10. Recommended potential violations relate to the utility's responsibilities to reduce hazards to its customers, employees, and the public; to construct, install, maintain, and operate equipment to appropriate standards; to adopt a program to maintain adequate line clearance; and to timely respond to a request to relieve a non-utility employee guarding a downed wire.

purchase electrical safety equipment and provide training to local fire departments in DTE Electric's service territory;

5. Explore potential opportunities to partner with civil infrastructure renewal projects to eliminate rear-lot distribution construction and associated hazards;
6. File an annual report in this docket that includes all of the following:
 - a. A discussion of the improvements made to DTE Electric's downed wire response times, the total number of downed wires, and number of first responders trained. For each storm having over 50,000 outages, the company shall provide the number of first responders, including the number of Secure First and Wire Guard personnel deployed and a graph of the reported downed wires per hour/day during the storm and the average downed wire response time for the storm;
 - b. A one-time report describing the company's plan to develop and implement a process to track the causes of downed wires;
 - c. The first two annual reports will describe how many students received training and education on the hazards of electricity under the NEF contract and how many fire departments in the company's service territory received training;
 - d. The findings and conclusions of the audit process to validate the quality of securing downed wires as described in DTE Electric's September 7 report;⁴
 - e. Estimated target backlog percentage and other progress toward reducing the company's distribution maintenance backlog; and
 - f. Proof of concept pilot findings to address accessibility and reliability issues related to rear-lot overhead construction as discussed in the September 7 report and in response to the Staff's #5 recommendation to the company.⁵

⁴ See, the September 7 report, p. 5, wherein DTE Electric states, "As a means of continuous improvement DTE Electric implemented a more extensive audit process in May 2018, this is accomplished by having field supervisors and experienced employees randomly audit the field work of Secure First teams to detect and immediately address any concerns."

⁵ See, Staff's report, p. 11, item 5, wherein the Staff recommends that DTE Electric consider alternatives to rear-lot construction on the 4.8 kV system in Detroit and work to make encroached-upon easements and unmaintained alleyways accessible for vegetation management and other system maintenance and improvements. See also, the September 7 report, p. 15, item 5, wherein DTE Electric discusses that the company is evaluating alternatives to rebuilding existing rear-lot overhead construction, based on combinations of front-lot/rear-lot and overhead/underground construction.

The Commission has reviewed the settlement agreement and finds that the public interest is adequately represented by the parties who entered into the settlement agreement. The Commission further finds that the settlement agreement is in the public interest, represents a fair and reasonable resolution of the proceeding, and should be approved.

THEREFORE, IT IS ORDERED that:

A. The settlement agreement, attached as Exhibit A, is approved.

B. Pursuant to the approval of the settlement agreement, DTE Electric Company shall continue its commitments to safety and reliability as set forth in its September 7, 2018 report and discussed in this order, above.

C. DTE Electric Company shall file an annual report in this docket within 120 days after the end of each calendar year, beginning with and including calendar year 2019 and ending with the final report to be filed no later than April 29, 2024.

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 pungpl@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

Norman J. Saari, Commissioner

By its action of January 18, 2019.

Kavita Kale, Executive Secretary

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission's own motion,)	
Of the investigation into the response of)	
DTE ELECTRIC COMPANY)	
To recent storm damage in its service territory)	Case No. U-20169
_____)	

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" or the "Company") and the Michigan Public Service Commission Staff ("Staff"), (collectively, the "Parties") is intended by the Parties as a final settlement and satisfaction of the Commission's investigation opened in Docket No. U-20169.

On May 17, 2018, the Commission issued an Order in Case No. U-20169 requiring DTE Electric to file a report detailing the performance of the Company's system during and after the May 4, 2018 windstorm. The report was to include a discussion on why outages occurred, how the utility responded, and whether changes should be implemented to reduce the potential for massive power outages, injury, or death. The Commission also ordered that the report provide the Company's efforts to ensure compliance with Administrative Rules 460.3801, 460.3501, 460.3504, 460.721, 460.3502, and 460.813 including a description of DTE Electric's internal safety protocols, and an analysis of compliance with those protocols. The Order required Staff to

file an evaluation of DTE Electric's report by August 10, 2018 and allowed for comments on each report to be filed in the docket no later than September 7, 2018.

DTE Electric filed its report on June 29, 2018 pursuant to the Commission's Order. As required by the Commission's Order, DTE's report discussed in detail the nature and impact of the windstorm, the Company's response to outages caused by the storm, and the Company's response and safety protocols. The report also discussed the initiatives DTE Electric is undertaking to improve prevention of downed wires, education on the dangers of downed wires, and responsiveness of the Company's public protection program.

Subsequently, as required by the Commission's Order, on August 10, 2018, Staff filed a report providing the findings of their investigation into DTE Electric's response to the May 4th windstorm and the Company's compliance with Administrative Rules 460.3801, 460.3501, 460.3504, 460.721, 460.3502, and 460.813 required by the Commission Order. Staff identified potential violations of Administrative Rules 460.3801, 460.3501, 460.3505, and 460.723 related to the wire down response procedures, adherence to the Company's preventative maintenance program, vegetation management, and wire down relief requests. The Staff's report made nine recommendations to DTE Electric ("Company Recommendations") regarding the Company's public protection program, system maintenance, and tree trimming program, and four recommendations to the Commission ("Commission Recommendations") regarding potential improvements to DTE Electric's distribution system and potential violations of the above noted Administrative Rules.

On September 7, 2018, DTE Electric filed comments on Staff's report. The comment report provided additional information regarding DTE Electric's public protection program, system maintenance cycles, and tree trimming schedule; clarified certain points made in the

Company's initial June 29, 2018 report; and responded to each of Staff's Company and Commission Recommendations.

DTE Electric acknowledges Staff's initial recommendations related to potential violation of Administrative Rules 460.3801, 460.3501, 460.3505, and 460.723. After reviewing the Company's September 7, 2018 comments, and for purposes of resolving the issues raised in this docket, Staff withdraws its recommendation that DTE Electric is in potential violation of Administrative Rules 460.3801, 460.3501, 460.3505, and 460.723. The Staff acknowledges that in the September 7, 2018 comments the Company commits to working to improve its response times and processes, and the Staff recommends that the Commission order DTE Electric to implement the Company commitments outlined in the September 7, 2018 comments, as well as certain additional requirements set forth below.

Therefore, for purposes of resolving the issues raised in this docket, the Parties agree as follows:

1. DTE Electric shall provide additional first responder personnel as necessary to meet the response times set forth in R 460.723(1) and (2) with a goal of meeting or exceeding the response times required by the rules.

2. DTE Electric shall participate in a statewide initiative coordinated by Staff and involving all Michigan electric utilities to jointly improve the overall downed wire response process.

3. DTE Electric shall develop and implement a process to track the causes of wire downs.

4. DTE Electric will contract with the National Energy Foundation (NEF) to develop and deliver education to students in grades kindergarten to fifth grade. The Company anticipates that this effort will cost approximately \$625,000 in 2019. DTE will provide an additional \$100,000

towards the education program in 2020. DTE will also provide funding of \$175,000 by the end of year 2019 to the Michigan Fire Service Instructors Association to purchase electrical safety equipment and provide training to local fire departments within the Company's service territory.

5. DTE Electric agrees to explore potential opportunities to partner with civil infrastructure renewal projects (for example, road or sewer construction projects) to eliminate the percentage of rear-lot construction and hazards associated with the rear lot construction. The Company shall report its findings on this effort to Staff.

6. DTE Electric shall file an annual report in Docket No. U-20169 that includes the following:

- a. A discussion of the improvements made to the Company's wire down response times. In particular, the report shall provide the total number of wire downs, the total number of secured wire downs, and the number of first responder personnel trained. For each storm with over 50,000 outages, the Company shall provide the number of first responders including the number of Secure First and Wire Guard personnel deployed, a graph of the reported downed wires per hour/day during the storm and the average wire down response time for the storm.
- b. A one-time report describing the Company's plan to develop and implement a process to track the causes of wire downs.
- c. For the first two annual reports, the Company will describe how many students received training and education on the hazards of electricity under the NEF contract and how many Fire Departments in the Company's service territory received training.

- d. The findings and conclusion of the audit process to validate quality of securing downed wires as described by the Company in its September 7, 2018 report.
- e. The Company's progress in reducing its distribution system maintenance backlog. The report should include an estimated target backlog percentage that the Company believes can be achieved.
- f. The proof of concept pilot findings to address accessibility and reliability issues related to rear-lot overhead construction as discussed in DTE Electric's September 7, 2018 report and in response to Staff's Company Recommendation #5.

The report shall be filed within 120 days after the end of each calendar year, beginning with and including calendar year 2019 and ending with calendar year 2023 (with the last report to be filed on April 29, 2024).

7. 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. This Settlement Agreement and its provisions shall not be offered as evidence in any action or proceeding as an admission of liability or concession of any nature on the part of any Party except that it may be offered and received in evidence solely to enforce this Settlement Agreement.

8. 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. 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.

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

10. 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.

11. 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**
Andrea E. Hayden
DTE Electric Company
One Energy Plaza,
Detroit, MI 48226
(313) 235-3813

Digitally signed by
Andrea Hayden
Date: 2019.01.11 14:44:23
-05'00'

Dated: _____, 2019

MICHIGAN PUBLIC SERVICE COMMISSION STAFF

By: **Emily A. Jefferson**
Emily A. Jefferson (P81040)
Assistant Attorney General
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Digitally signed by Emily A.
Jefferson
Date: 2019.01.11 14:18:44 -05'00'

Dated: January 11, 2019


PROOF OF SERVICE

STATE OF MICHIGAN)

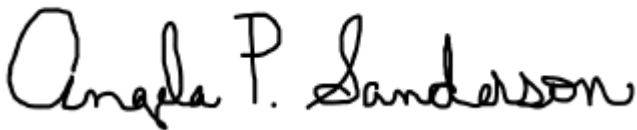
Case No. U-20169

County of Ingham)

Brianna Brown being duly sworn, deposes and says that on January 18, 2019 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 18th day of January 2019.



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

Service List for Case: U-20169

Name

Email Address

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Tri-County Electric Co-Op
Citizens Gas Fuel Company
Consumers Energy Company
SEMCO Energy Gas Company
Superior Energy Company
Upper Peninsula Power Company
WEC Energy Group
Upper Peninsula Power Company
Midwest Energy Coop
Midwest Energy Coop
Alger Delta Cooperative
Cherryland Electric Cooperative
Great Lakes Energy Cooperative
Great Lakes Energy Cooperative
Great Lake Energy Cooperative
Stephson Utilities Department
Ontonagon County Rural Elec
Presque Isle Electric & Gas Cooperative, INC
Thumb Electric
Bishop Energy
AEP Energy
CMS Energy
Just Energy Solutions
Constellation Energy
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Constellation New Energy
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MidAmerican Energy
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Spartan Renewable Energy, Inc. (Wolverine Power Marketing Corp)
 City of Escanaba
 City of Crystal Falls
 Lisa Felice
 Michigan Gas & Electric
 City of Gladstone
 Integrys Group
 Lisa Gustafson
 Tim Hoffman
 Interstate Gas Supply Inc
 Thomas Krichel
 Bay City Electric Light & Power
 Lansing Board of Water and Light
 Lansing Board of Water and Light
 Marquette Board of Light & Power
 Premier Energy Marketing LLC
 City of Marshall
 Doug Motley
 Marc Pauley
 City of Portland
 Alpena Power
 Liberty Power
 Wabash Valley Power
 Wolverine Power
 Lowell S.
 Integrys Energy Service, Inc WPSES
 Realgy Energy Services
 Volunteer Energy Services
 First Energy Solutions
 Hillsdale Board of Public Utilities
 Michigan Gas Utilities/Upper Penn Power/Wisconsin
 Michigan Gas Utilities/Qwest
 Direct Energy
 Direct Energy
 Direct Energy
 Direct Energy
 Realgy Corp.
 Jim Weeks
 Indiana Michigan Power Company
 Santana Energy
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