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March 25, 2019

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-20162

Dear Ms. Kale:

Attached for electronic filing in the above-referenced matter, please find the Exception of Energy Michigan, Inc. and Proof of Service. Thank you for your assistance in this matter.

Very truly yours,
VARNUM

Timothy J. Lundgren

TJL/daf
Enclosures
c. All parties of record.

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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) Case No. U-20162
distribution and supply of electric energy,)
and for miscellaneous accounting authority)
_____)

EXCEPTION OF ENERGY MICHIGAN, INC.

Pursuant to Rule 435 of the Commission's Rules of Practice and Procedure before the Commission, R 792.10435, and in accordance with the schedule set by the Administrative Law Judge ("ALJ") in this proceeding, Energy Michigan, Inc. ("Energy Michigan") submits this Exception to the Proposal for Decision ("PFD") issued in this case on March 7, 2019.

The PFD makes recommendations in response to DTE Electric Company's ("DTE's") Application to increase rates, filed on July 6, 2019. Energy Michigan provides the following Exception to the PFD.

I. EXCEPTION TO THE PFD

A. Energy Michigan Takes Exception to the PFD's Recommendation That Changes to the Meter Data Acquisition Tariff Provisions be Addressed in a Separate Proceeding.

In this proceeding, Energy Michigan recommended changes to DTE's customer meter data rules in the EC2 tariff to ensure that customers and suppliers have access to needed data. Mr. Alex Zakem testified that the current tariff is "vague to the point of difficulty in reasonably determining (a) what the standards are to which DTE must perform and (b) whether DTE has reasonably met such standards." 7 Tr 3094. The central issue, as Mr. Zakem noted, is that "the principle of equal, non-discriminatory services relating to data reporting should be reflected in the EC2 tariff." 7 Tr 3096. An AES should not have to rely on the good will of a competitor,

with not performance standard in place, in order to get timely and accurate customer a data. In its Testimony and briefs, Energy Michigan demonstrated that despite DTE's discussion of various methods that Electric Choice customer and AES supposedly can receive hourly load data, in fact there is nothing to ensure that such options are actually reasonable and workable for customers and AESs in the absence of a performance standard set in the utility's tariff. As Energy Michigan noted in its Initial Brief, all that DTE provides its customers is an ability to "request" their data and have it provided in whatever format DTE determines. There is no ability to require the utility to provide it, nor any timelines nor standards that apply.

Staff did not object to the changes proposed by Energy Michigan. However, the Administrative Law Judge fails to address this issue substantively, instead recommending that these tariff issues be addressed "as part of the ongoing proceeding in Case No. U-18485." PFD, p. 298. The ALJ asserts that in the U-18485 proceeding, the parties "were directed to specifically address several of the issues Energy Michigan raises here." *Id.* The problem with the ALJ's proposal is that Energy Michigan has already been participating in the U-18485 proceeding to make clear that the "third parties" referred to in that proceeding do not include AESs. The U-18485 proceeding is focused on data access for "third parties" and an Alternative Electric Supplier ("AES") is not a "third party" for purposes of that tariff and proceeding. For the customer on Electric Choice, the AES is the supplier of energy, and so stands in the same relationship as the utility to the full service customer – *i.e.*, it is the second party in the contractual relationship, not a "third party." It would therefore lead to confusion of the issues if matters of supplier access to customer data were to be folded into a proceeding where Energy Michigan has been making the point that AES's are not third parties and should not be addressed in the tariff revisions being dealt with there.

Moreover, the docketed proceeding in Case No. U-18485 is not a contested case proceeding, pursuant to chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287. Therefore, Energy Michigan would lose the benefits of a contested proceeding, where evidence can be submitted and tested, if it is required to attempt to advance the issue in U-18485 rather than the general rate case. Furthermore, although both Energy Michigan and the Retail Energy Supply Association made filings in the docket on July 20, 2018 and July 2, 2018, respectively, seeking clarification of the definition of "third parties," the Commission never responded to those filings, nor acknowledged in any of its two subsequent orders, dated October 24, 2018 and January 18, 2019, respectively, that those filings were even made. Therefore, Energy Michigan submits that the proceeding in Case No. U-18485 is not a viable proceeding in which to decide these tariff issues.

For all of these reasons, a general rate case is an appropriate place to review and revise a utility's tariffs. Energy Michigan has already submitted a markup of the tariff needed to make the changes recommended here. There is no need to shift this issue to another proceeding. This is particularly the case where the other proceeding is dealing with an unrelated issue and it would lead to confusion of the issues to integrate this additional matter there.

Respectfully submitted,

Varnum LLP
Attorneys for Energy Michigan, Inc.

March 25, 2019

By: _____
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Case No. U-20162

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 25th day of March, 2019, she served a copy of the Exception 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.

Deliah A. Fowler

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MPSC CASE NO. U-20162

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