

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of)	
DTE ELECTRIC COMPANY for approval of its)	
integrated resource plan pursuant to)	Case No. U-20471
MCL 460.6t and for other relief.)	
_____)	
)	
In the matter, on the Commission's own motion,)	
establishing the method and avoided cost calculation)	
for DTE ELECTRIC COMPANY to fully)	Case No. U-18091
comply with the Public Utility Regulatory Policies)	
Act of 1978, 16 USC 2601 <i>et seq.</i>)	
_____)	
)	
In the matter, on the Commission's own motion,)	
regarding the regulatory reviews, revisions,)	
determinations, and approvals necessary for)	Case No. U-18232
DTE ELECTRIC COMPANY to fully)	
comply with Public Act 295 of 2008.)	
_____)	

At the April 15, 2020 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Sally A. Talberg, Chairman
Hon. Daniel C. Scripps, Commissioner
Hon. Tremaine L. Phillips, Commissioner

ORDER

History of Proceedings

On March 29, 2019, DTE Electric Company (DTE Electric) filed an application, with supporting testimony and exhibits, for approval of an integrated resource plan (IRP) pursuant to:

(1) Section 6t of 2016 PA 341 (Act 341), MCL 460.6t; (2) the November 21, 2017 order in Case No. U-18418, Exhibit A, which approved the Michigan Integrated Resource Planning Parameters (MIRPP); (3) the December 20, 2017 order in Case No. U-18461, Attachment A, which approved the Integrated Resource Plan Filing Requirements (IRP Filing Requirements); and (4) the IRP requirements specific to DTE Electric set out in the April 27, 2018 order in Case No. U-18419 addressing requests for certificates of need, pp. 78, 80, 115-116, 120, and 126-127. Application, pp. 2-6. DTE Electric filed revised testimony on June 28 and July 17, 2019.

On April 26, 2019, a prehearing conference was held before Administrative Law Judge Sally L. Wallace (ALJ), at which intervention was granted to the Michigan Department of the Attorney General (Attorney General); the Association of Businesses Advocating Tariff Equity (ABATE); Energy Michigan, Inc.; Environmental Law and Policy Center/Ecology Center/Solar Energy Industries Association/Union of Concerned Scientists/Vote Solar (collectively, ELPC *et al.*); Great Lakes Renewable Energy Association (GLREA); Michigan Energy Innovation Business Council/Institute for Energy Innovation (together, MEIBC/IEI); Michigan Environmental Council (MEC)/Natural Resources Defense Council (NRDC)/Sierra Club (SC) (collectively, MEC/NRDC/SC); City of Ann Arbor (Ann Arbor); Geronimo Energy (Geronimo); Soulardarity; ITC Transmission Company, d/b/a ITC*Transmission*; Cypress Creek Renewables; Convergen Energy; Midland Cogeneration Venture Limited Partnership; Heelstone Development; and the Michigan Public Power Agency. The Commission Staff (Staff) also participated.

On April 29, 2019, the ALJ entered a protective order.

On June 20, 2019, the Commission held a public hearing in Detroit at Wayne County Community College and received public comment.

On July 8, 2019, DTE Electric filed a stipulation and agreement by all parties to extend the schedule for the proceedings by 28 days and waive the statutory deadlines in MCL 460.6t(7); and a revised schedule was adopted on July 9, 2019.

On August 28, 2019, the Department of Environment, Great Lakes, and Energy (EGLE) filed an Advisory Opinion (Advisory Opinion) concerning potential decreases in emissions of sulfur dioxide, oxides of nitrogen, mercury, and particulate matter resulting from the IRP, in accordance with MCL 460.6t(7).

Evidentiary hearings were held on October 2-4 and 7-9, 2019. The ALJ issued a Proposal for Decision (PFD) on December 23, 2019, based on a record consisting of 3,385 pages of transcript and 438 exhibits admitted into evidence (some of which were filed confidentially).

On February 20, 2020, the Commission issued a 300-day order in this case under MCL 460.6t(7) (February 20 order), in which the Commission recommended changes to the IRP, and directed the utility to make filings in dockets addressing the company's renewable energy plan (REP) and compliance with the Public Utility Regulatory Policies Act of 1978, 16 USC 824a-3 (PURPA).

On March 6, 2020, comments were filed by Ann Arbor, the Attorney General, GLREA, MEC/NRDC/SC, MEIBC/IEI, Soulardarity, ELPC *et al.*, the Staff, Energy Michigan, and Geronimo.

On March 6, 2020, EGLE filed an addendum to the Advisory Opinion (Addendum).

On March 23, 2020, DTE Electric filed its MCL 460.6t(7) Incorporation of Commission Changes to its Integrated Resource Plan (revised IRP). Some of the attachments to the revised IRP were filed pursuant to the protective order.

Applicable Law

MCL 460.6t(3) sets forth when an electric utility must file its first IRP and provides as follows:

Not later than 2 years after the effective date of the amendatory act that added this section, each electric utility whose rates are regulated by the commission shall file with the commission an integrated resource plan that provides a 5-year, 10-year, and 15-year projection of the utility's load obligations and a plan to meet those obligations, to meet the utility's requirements to provide generation reliability, including meeting planning reserve margin and local clearing requirements determined by the commission or the appropriate independent system operator, and to meet all applicable state and federal reliability and environmental regulations over the ensuing term of the plan. The commission shall issue an order establishing filing requirements, including application forms and instructions, and filing deadlines for an integrated resource plan filed by an electric utility whose rates are regulated by the commission. The electric utility's plan may include alternative modeling scenarios and assumptions in addition to those identified under subsection (1).

In compliance with MCL 460.6t(1)-(3), the Commission adopted the MIRPP and the IRP Filing Requirements.

MCL 460.6t(5) governs the contents of the IRP, and provides that an electric utility's IRP must include the following:

- (a) A long-term forecast of the electric utility's sales and peak demand under various reasonable scenarios.
- (b) The type of generation technology proposed for a generation facility contained in the plan and the proposed capacity of the generation facility, including projected fuel costs under various reasonable scenarios.
- (c) Projected energy purchased or produced by the electric utility from a renewable energy resource. If the level of renewable energy purchased or produced is projected to drop over the planning periods set forth in subsection (3), the electric utility must demonstrate why the reduction is in the best interest of ratepayers.
- (d) Details regarding the utility's plan to eliminate energy waste, including the total amount of energy waste reduction expected to be achieved annually, the cost of the plan, and the expected savings for its retail customers.

(e) An analysis of how the combined amounts of renewable energy and energy waste reduction achieved under the plan compare to the renewable energy resources and energy waste reduction goal provided in section 1 of the clean and renewable energy and energy waste reduction act, 2008 PA 295, MCL 460.1001. This analysis and comparison may include renewable energy and capacity in any form, including generating electricity from renewable energy systems for sale to retail customers or purchasing or otherwise acquiring renewable energy credits with or without associated renewable energy, allowed under section 27 of the clean and renewable energy and energy waste reduction act, 2008 PA 295, MCL 460.1027, as it existed before the effective date of the amendatory act that added this section.

(f) Projected load management and demand response savings for the electric utility and the projected costs for those programs.

(g) Projected energy and capacity purchased or produced by the electric utility from a cogeneration resource.

(h) An analysis of potential new or upgraded electric transmission options for the electric utility.

(i) Data regarding the utility's current generation portfolio, including the age, capacity factor, licensing status, and remaining estimated time of operation for each facility in the portfolio.

(j) Plans for meeting current and future capacity needs with the cost estimates for all proposed construction and major investments, including any transmission or distribution infrastructure that would be required to support the proposed construction or investment, and power purchase agreements.

(k) An analysis of the cost, capacity factor, and viability of all reasonable options available to meet projected energy and capacity needs, including, but not limited to, existing electric generation facilities in this state.

(l) Projected rate impact for the periods covered by the plan.

(m) How the utility will comply with all applicable state and federal environmental regulations, laws, and rules, and the projected costs of complying with those regulations, laws, and rules.

(n) A forecast of the utility's peak demand and details regarding the amount of peak demand reduction the utility expects to achieve and the actions the utility proposes to take in order to achieve that peak demand reduction.

(o) The projected long-term firm gas transportation contracts or natural gas storage the electric utility will hold to provide an adequate supply of natural gas to any new generation facility.

MCL 460.6t(6) sets out certain additional requirements in the event the utility proposes to add supply-side resources:

Before filing an integrated resource plan under this section, each electric utility whose rates are regulated by the commission shall issue a request for proposals to provide any new supply-side generation capacity resources needed to serve the utility's reasonably projected electric load, applicable planning reserve margin, and local clearing requirement for its customers in this state and customers the utility serves in other states during the initial 3-year planning period to be considered in each integrated resource plan to be filed under this section. An electric utility shall define qualifying performance standards, contract terms, technical competence, capability, reliability, creditworthiness, past performance, and other criteria that responses and respondents to the request for proposals must meet in order to be considered by the utility in its integrated resource plan to be filed under this section. Respondents to a request for proposals may request that certain proprietary information be exempt from public disclosure as allowed by the commission. A utility that issues a request for proposals under this subsection shall use the resulting proposals to inform its integrated resource plan filed under this section and include all of the submitted proposals as attachments to its integrated resource plan filing regardless of whether the proposals met the qualifying performance standards, contract terms, technical competence, capability, reliability, creditworthiness, past performance, or other criteria specified for the utility's request for proposals under this section. An existing supplier of electric generation capacity currently producing at least 200 megawatts of firm electric generation capacity resources located in the independent system operator's zone in which the utility's load is served that seeks to provide electric generation capacity resources to the utility may submit a written proposal directly to the commission as an alternative to any supply-side generation capacity resource included in the electric utility's integrated resource plan submitted under this section, and has standing to intervene in the contested case proceeding conducted under this section. This subsection does not require an entity that submits an alternative under this subsection to submit an integrated resource plan. This subsection does not limit the ability of any other person to submit to the commission an alternative proposal to any supply-side generation capacity resource included in the electric utility's integrated resource plan submitted under this section and to petition for and be granted leave to intervene in the contested case proceeding conducted under this section under the rules of practice and procedure of the commission. The commission shall only consider an alternative proposal submitted under this subsection as part of its approval process under subsection (8). The electric utility submitting an integrated resource plan under this section is not required to adopt any proposals submitted

under this subsection. To the extent practicable, each electric utility is encouraged, but not required, to partner with other electric providers in the same local resource zone as the utility's load is served in the development of any new supply-side generation capacity resources included as part of its integrated resource plan.

MCL 460.6t(7) explains both the procedure to be followed in the review and amendment of an IRP, and how the Commission may use the advisory opinion provided by EGLE¹ in an IRP proceeding. MCL 460.6t(7) states:

Not later than 300 days after an electric utility files an integrated resource plan under this section, the commission shall state if the commission has any recommended changes, and if so, describe them in sufficient detail to allow their incorporation in the integrated resource plan. If the commission does not recommend changes, it shall issue a final, appealable order approving or denying the plan filed by the electric utility. If the commission recommends changes, the commission shall set a schedule allowing parties at least 15 days after that recommendation to file comments regarding those recommendations, and allowing the electric utility at least 30 days to consider the recommended changes and submit a revised integrated resource plan that incorporates 1 or more of the recommended changes. If the electric utility submits a revised integrated resource plan under this section, the commission shall issue a final, appealable order approving the plan as revised by the electric utility or denying the plan. The commission shall issue a final, appealable order no later than 360 days after an electric utility files an integrated resource plan under this section. Up to 150 days after an electric utility makes its initial filing, the electric utility may file to update its cost estimates if those cost estimates have materially changed. A utility shall not modify any other aspect of the initial filing unless the utility withdraws and refiles the application. A utility's filing updating its cost estimates does not extend the period for the commission to issue an order approving or denying the integrated resource plan. The commission shall review the integrated resource plan in a contested case proceeding conducted pursuant to chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287. The commission shall allow intervention by interested persons including electric customers of the utility, respondents to the utility's request for proposals under this section, or other parties approved by the commission. The commission shall request an advisory opinion from the department of environmental quality regarding whether any potential decrease in emissions of sulfur dioxide, oxides of nitrogen, mercury, and particulate matter would reasonably be expected to result if the integrated resource plan proposed by the electric utility under subsection (3) was approved and whether the integrated resource plan can reasonably be

¹ Under Executive Order 2019-06, the Michigan Department of Environmental Quality became EGLE, effective April 22, 2019.

expected to achieve compliance with the regulations, laws, or rules identified in subsection (1). The commission may take official notice of the opinion issued by the department of environmental quality under this subsection pursuant to R 792.10428 of the Michigan Administrative Code. Information submitted by the department of environmental quality under this subsection is advisory and is not binding on future determinations by the department of environmental quality or the commission in any proceeding or permitting process. This section does not prevent an electric utility from applying for, or receiving, any necessary permits from the department of environmental quality. The commission may invite other state agencies to provide testimony regarding other relevant regulatory requirements related to the integrated resource plan. The commission shall permit reasonable discovery after an integrated resource plan is filed and during the hearing in order to assist parties and interested persons in obtaining evidence concerning the integrated resource plan, including, but not limited to, the reasonableness and prudence of the plan and alternatives to the plan raised by intervening parties.

Following the requirements set forth in MCL 460.6t(5) and (7), MCL 460.6t(8) states that the Commission shall approve the IRP if it determines all of the following:

- (a) The proposed integrated resource plan represents the most reasonable and prudent means of meeting the electric utility's energy and capacity needs. To determine whether the integrated resource plan is the most reasonable and prudent means of meeting energy and capacity needs, the commission shall consider whether the plan appropriately balances all of the following factors:
 - (i) Resource adequacy and capacity to serve anticipated peak electric load, applicable planning reserve margin, and local clearing requirement.
 - (ii) Compliance with applicable state and federal environmental regulations.
 - (iii) Competitive pricing.
 - (iv) Reliability.
 - (v) Commodity price risks.
 - (vi) Diversity of generation supply.
 - (vii) Whether the proposed levels of peak load reduction and energy waste reduction are reasonable and cost effective. Exceeding the renewable energy resources and energy waste reduction goal in section 1 of the clean and renewable energy and energy waste reduction act, 2008 PA 295, MCL 460.1001, by a utility shall not, in and of itself, be grounds for determining that the proposed levels of

peak load reduction, renewable energy, and energy waste reduction are not reasonable and cost effective.

(b) To the extent practicable, the construction or investment in a new or existing capacity resource in this state is completed using a workforce composed of residents of this state as determined by the commission. This subdivision does not apply to a capacity resource that is located in a county that lies on the border with another state.

(c) The plan meets the requirements of subsection (5).

MCL 460.6t(9) addresses circumstances where the Commission denies an IRP, and provides for additional proceedings as follows:

(9) If the commission denies a utility's integrated resource plan, the utility, within 60 days after the date of the final order denying the integrated resource plan, may submit revisions to the integrated resource plan to the commission for approval. The commission shall commence a new contested case hearing under chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287. Not later than 90 days after the date that the utility submits the revised integrated resource plan to the commission under this subsection, the commission shall issue an order approving or denying, with recommendations, the revised integrated resource plan if the revisions are not substantial or inconsistent with the original integrated resource plan filed under this section. If the revisions are substantial or inconsistent with the original integrated resource plan, the commission has up to 150 days to issue an order approving or denying, with recommendations, the revised integrated resource plan.

MCL 460.6t(11) concerns the approval of costs associated with an approved IRP:

In approving an integrated resource plan under this section, the commission shall specify the costs approved for the construction of or significant investment in an electric generation facility, the purchase of an existing electric generation facility, the purchase of power under the terms of the power purchase agreement, or other investments or resources used to meet energy and capacity needs that are included in the approved integrated resource plan. The costs for specifically identified investments, including the costs for facilities under subsection (12), included in an approved integrated resource plan that are commenced within 3 years after the commission's order approving the initial plan, amended plan, or plan review are considered reasonable and prudent for cost recovery purposes.

MCL 460.6t(20)-(21) address the review of an IRP, as follows:

(20) An electric utility shall file an application for review of its integrated resource plan not later than 5 years after the effective date of the most recent

commission order approving a plan, a plan amendment, or a plan review. The commission shall consider a plan review under the same process and standards established in this section for review and approval of an integrated resource plan. A commission order approving a plan review has the same effect as an order approving an integrated resource plan.

(21) The commission may, on its own motion or at the request of the electric utility, order an electric utility to file a plan review. The department of environmental quality may request the commission to order a plan review to address material changes in environmental regulations and requirements that occur after the commission's approval of an integrated resource plan. An electric utility must file a plan review within 270 days after the commission orders the utility to file a plan review.

In the February 20 order, the Commission recommended incorporation of all of the following changes to DTE Electric's IRP filed in this docket:

- Select a single pathway as part of an overall plan;
- Supplement the record with the RFP [request for proposals] and responses that are required by Section 6t(6);
- Remove all unapproved supply-side resources from the defined PCA [proposed course of action] and modeling starting point;
- Include EWR [energy waste reduction] levels of 1.75% in 2020, prorated based on the date of the final order in this case, and 2.0% in 2021;
- Revise DR [demand response-] -related tariff language as described herein and remove proposed DR pilots other than the BYOD [Bring-Your-Own-Device] and EPRI [Electric Power Research Institute] pilots;
- Revise the rate impact analysis to reflect the decisions in this order; and
- Include the reporting requirements proposed by the Staff.

February 20 order, p. 97.

Addendum

EGLE's Addendum notes that on November 22, 2019, the U.S. Environmental Protection Agency (EPA) issued a proposal to revise the 2015 Steam Electric Power Generating Effluent

Limitations Guidelines (ELGs) for two waste streams. In the Advisory Opinion, EGLE opined that DTE Electric’s IRP, as proposed, could reasonably be expected to achieve compliance with state and federal environmental laws and rules as identified in the MIRPP. In the Addendum, EGLE states that, based on the proposed ELG revisions, “compliance may look different than proposed in the IRP.” Addendum, p. 1. EGLE cites to the EPA’s proposal to delay certain compliance dates, and states, “The proposed revisions also have an allowance that electric generating units that decommission by December 31, 2028, need not comply with the more costly and restrictive requirements of the 2015 ELGs, based on a cost evaluation that takes into consideration the remaining useful lifespan of these facilities.” *Id.* EGLE states that this is of note with respect to the Belle River Units 1 and 2, which are, in the original IRP, proposed for retirement in 2029 and 2030, respectively. EGLE notes that the proposed revisions may be subject to further change and may not be finalized for several months.

Comments

Ann Arbor comments that a revised IRP that is limited in scope does not comply with the Section 6t(3) requirement that the plan provide for an “integrated” 5-year, 10-year, and 15-year outlook. Ann Arbor expresses concern that an IRP that includes only demand-side resources will hamper the city’s efforts to do its own planning and meet its own clean energy requirements and goals. Ann Arbor also opines that the Commission should have denied the IRP so that parties would be able to participate in a contested case and comment on any revised plan. The city requests that the Commission provide for a limited comment period after the revised IRP is filed, and before a final order is issued, noting that Section 6t(7) does not set a limit on the comment timeline but only refers to allowing “at least” 15 days after the 300-day order for comments.

Ann Arbor argues that the Commission’s findings with respect to the RFP requirement,

distributed generation, EWR, battery storage, and the Michigan Environmental Protection Act (MEPA) are correct; but that the Commission erred in not determining DTE Electric's capacity need. The city states that by mandating the accelerated REP proceeding while putting off the PURPA proceeding, the Commission is allowing DTE Electric's "shell game" regarding its capacity position to continue, and is discriminating against PURPA qualifying facilities (QFs). Ann Arbor's comments, p. 10. Ann Arbor asks the Commission to reconsider the timing and not defer a capacity determination until after the approval of new supply-side resources.

GLREA's comments express support for the Commission's findings and recommendations in the February 20 order.

MEC/NRDC/SC note that in the March 5, 2020 order in Case No. U-20373, Exhibit A, p. 6, the Commission approved a settlement agreement in which the parties agreed that the instant case shall control the issue of applicable EWR levels. MEC/NRDC/SC propose that the Commission direct DTE Electric to file an EWR plan amendment for the new savings levels in order to facilitate program design.²

MEC/NRDC/SC contend that the Commission erred in making any conclusions under MEPA with respect to environmental impairment, because the record in this proceeding is indeterminate on these issues and does not support the Commission's findings on the lack of impairment and feasible alternatives. MEC/NRDC/SC argue that the Advisory Opinion does not actually find that there will be no impairment associated with the IRP, and that the Commission's findings on this issue cannot be reconciled with the remainder of the Commission's IRP analysis, in light of the many ways in which the IRP was found lacking.

² DTE Electric indicates in the revised IRP that it will file an application by June 1, 2020.

MEC/NRDC/SC further argue that the Commission should put a stop to accelerated proceedings because of the strain they put on the parties' ability to participate. They request that the future PURPA case not be expedited. Finally, for similar reasons, MEC/NRDC/SC ask that the Commission require DTE Electric to provide all parties with its workpapers and modeling input and output files along with its IRP changes, and give the parties an opportunity to comment or provide testimony on the filed changes. MEC/NRDC/SC contend that material issues of fact will be at issue with any revised IRP filed by the utility, and new evidence and argument should be allowed.

MEIBC/IEI comment that the Commission should have rejected DTE Electric's ownership model for its supply-side resources, rather than leave this to be adjudicated again in another proceeding. They also ask that the Commission institute an accelerated proceeding on best practices for RFPs (prior to the REP proceeding), stating that the Commission's RFP parameters are 12 years old. MEIBC/IEI contend that the Commission erred in not making a finding on DTE Electric's capacity need prior to allowing the company to have the opportunity to get new supply-side resources approved. They object to the fact that the PURPA review will occur several months after the REP case. MEIBC/IEI argue that this "discriminatory timeline . . . is administratively unjust and unreasonable to QFs, and a violation of both state and federal laws pertaining" to PURPA. MEIBC/IEI's comments, p. 8. They ask that the Commission amend the timing of these proceedings and hold an accelerated PURPA proceeding.

Soulardarity comments that the IRP legislation is in need of reform, because the statute provides "limited procedural options that are unrealistic and unattainable in the event that the Commission identifies serious flaws" in an IRP. Soulardarity's comments, p. 2. Soulardarity opines that if the Commission chooses to pass aspects of the IRP process on to other

proceedings, the IRP's statutory criteria should be applied in those proceedings. Soulardarity points out that Section 6t does not contemplate the approval of parts of an IRP in other proceedings, and argues that the Commission's pragmatic response to this poor filing does not yield an integrated solution. Soulardarity argues that the Legislature should amend the statute, at a minimum, to require that a utility receive an approved IRP rather than be allowed to operate without one; to add public health considerations; and to improve the procedural options.

ELPC *et al.* agree with the February 20 order's decisions regarding selection of a single pathway, the RFP requirement, EWR, and the starting point for the modeling. They argue that, in order to prevent discrimination against QFs, the Commission should not allow the construction of any renewable resources without a competitive solicitation that is open to QFs, because all resources used to meet renewable portfolio requirements are also sources of capacity. They also request an additional comment period after DTE Electric files its response.

The Staff comments that DTE Electric conducted two bidding events in September 2019 and expresses concern that the development of these projects will be hampered, as will "associated investment of the Michigan market." Staff's comments, p. 5. The Staff states:

Staff recommends the Commission consider approving the Company's IRP inclusive of the time sensitive renewable projects contingent upon the Company agreeing to file and obtain approval of those contracts in this case. In the alternative, Staff is supportive of the Commission's expedited schedule established in U-18232 and recommends that the Company file an amended renewable energy plan (REP), pursuant to 2008 PA 295 (Act 295), as amended by 2016 PA 342 (Act 342, and file for approval expeditiously in that case similar to other REP cases such as: *In re Consumers Energy*, Case Nos. U-18231 (February 7, 2019) and *In re Consumers Energy*, U-18345 (June 15, 2017 Order) and *In re Detroit Edison*, U-15806 (9/13/2011).

Staff's comments, p. 5. The Staff recommends that a previous RFP be submitted in this docket "without need for reopening the record," with an aggregated summary of the resulting bid

information, and approval of the time sensitive supply-side resources in this IRP or an expedited REP case. Staff's comments, p. 7.

Energy Michigan agrees with the Commission's findings on transmission, but argues that the Commission should have made a determination on capacity need in light of the extensive record on that issue. Energy Michigan contends that the REP proceeding should not precede a capacity need determination, and that reviewing capacity after REP resources have been approved is discriminatory to QFs. Energy Michigan asks the Commission to reconsider the timing and to schedule the PURPA review either before or at the same time as the REP review.

Geronimo objects to the procedural aspects of how the Commission proposes to resolve the problem of supply-side resources. Geronimo notes that the Commission has found that DTE Electric has no near term capacity need, and posits that this could mean that any spending on capacity to satisfy REP goals is not warranted. Geronimo argues that it would be important to understand capacity need prior to considering proposed acquisitions. Geronimo asks that the Commission reconsider the timing of the REP and PURPA reviews and review capacity need either before, or simultaneously with, the REP review, lest the timing result in discrimination against QFs.

The Attorney General supports the Commission's recommended changes contained in the February 20 order.

Revised IRP Filing

In the revised IRP, DTE Electric states that it "accepts and hereby incorporates the Commission's recommended changes to its [IRP]." Revised IRP, p. 1. DTE Electric addresses the seven requirements set out on page 97 of the February 20 order as follows (see page 10, above).

The company indicates that it selects pathway A in Exhibit A-5, revised to incorporate the Commission's recommendations regarding EWR levels and the removal of unapproved supply side starting point resources through 2034. These changes are shown in Attachments A, B, C, and D of the revised IRP.

DTE Electric includes an RFP issued in September 2019 as Attachment E and a summary of the results of that RFP as Attachment F of the revised IRP, and indicates that the RFP in Attachment E was already provided to the parties on September 30, 2019, in response to MECDE 12.39.³

The company indicates that it has removed all unapproved supply-side resources from the defined PCA and modeling starting point, as shown on Attachment A.

DTE Electric states that it has revised the IRP to include an EWR level of 1.75% for 2020, prorated based on the date of the final order in the company's revised EWR plan case, and 2.0% for 2021, assuming DTE Electric receives a final order in its upcoming revised EWR plan before January 1, 2021, as shown on Attachment G of the revised IRP. DTE Electric states that it will file a revised EWR plan by June 1, 2020, and will request an expedited schedule for that proceeding, and adds "DTE Electric will begin implementing the recommended levels of EWR once the Company has an EWR plan order approving the new levels of EWR and associated costs." Revised IRP, p. 4.

DTE Electric states that it will revise DR-related tariff language as recommended by the Commission and will include those revisions in its next rate case, to be filed in the summer of

³ The proof of service for that discovery response is located in the docket as filing #U-20471-0461. The RFP itself is not in the record.

2020; and that it has removed the unapproved DR pilots and their associated costs from the revised IRP as shown in Attachment H.

The company has revised the rate impact analysis to reflect the selection of a single pathway, removal of all unapproved supply-side resources from the defined PCA, revised EWR levels, and removal of the unapproved DR pilots, as shown in Attachment I. The company also attached a copy of the April 25, 2019 BWEC [Blue Water Energy Center] Interim Status Report in Attachment J.

Finally, DTE Electric has included the reporting requirements proposed by the Staff and adopted by the Commission, and agrees to communicate with the Staff in a timely manner when there is a significant change to the cost, timing, or size of any expected resource addition.

Revised IRP, p. 5.⁴

Discussion

MCL 460.6t(7) provides, “If the electric utility submits a revised integrated resource plan under this section, the commission shall issue a final, appealable order approving the plan as revised by the electric utility or denying the plan.” In light of the fact that DTE Electric accepted all of the Commission’s recommendations and filed a revised plan that reflects the recommendations, the Commission finds that the revised IRP should be approved. The shortcomings of the original IRP filing are described and addressed in detail in the February 20 order. Those shortcomings led the Commission to require that additional content, including all

⁴ DTE Electric also indicates that it will, within 90 days of the February 20 order, convene a technical conference with interested stakeholders for the purpose of identifying and evaluating alternative modeling software for use in developing IRPs, and will, within 120 days from the date of that order, file a report on the results of the conference in this docket. The Commission notes that the technical conference is not likely to be held in-person.

unapproved supply-side renewable resources, be removed from the starting point for the modeling and from the defined PCA. The revised IRP excludes this content. Additionally, the revised IRP contains a copy of an RFP and a summary of the associated results.

The Commission is not approving any supply-side renewable generation resources with this order. Thus, the Commission finds that the elements of the revised IRP that remain represent the most reasonable and prudent means of meeting the energy and capacity needs that are addressed by the revised IRP. MCL 460.6t(8)(a). The Commission has examined the appropriate balance of the factors listed in Section 6t(8)(a)(i)-(vii) and finds that resource adequacy and capacity should be viewed from a fleet-wide perspective. The revised IRP includes all of DTE Electric's existing supply-side and demand-side resources, its new expanded EWR targets and proposed expansions to DR, and its already-approved renewable resources, and the Commission finds that the revised IRP meets the needs presented by customer load and resource adequacy requirements. The Commission's order, based on the statutory provisions and evidentiary record, provides for upfront cost approvals for the utility's investments in the next three years and the revised IRP reflects this near-term approach. Based upon the record in this case and to provide clarity over the longer term, the Commission directed the company to take additional steps⁵ to file an expedited update to its REP⁵ to consider additional renewable resources to meet statutory requirements under MCL 460.1022, and to file its next IRP earlier than the statutory five-year term contained in Section 6t(20). The Commission's decision herein strengthens the reliability outlook for DTE Electric's customers by adding EWR and DR resources. The Commission also finds that the revised IRP contributes to the utility's ability to continue to meet

⁵ See, July 18, 2019 order in Case No. U-18232.

its planning reserve margin requirement (PRMR) and local clearing requirement (LCR) over the long term.⁶

The revised IRP also addresses DTE Electric's plans for compliance with applicable state and federal environmental laws and regulations; contains information on commodity price risks, including coal and natural gas prices; and includes plans for protecting the diversity of generation supply. The Commission notes that Phase 2 of MI Power Grid, which will be implemented later in 2020, will include development of criteria regarding diversity of generation supply to more fully address this in IRPs and other cases going forward. The Commission observes that the additional demand-side resources approved as part of the revised IRP add to the diversification of DTE Electric's overall portfolio. The levels of peak load reduction and EWR contained in the revised IRP are reasonable and cost effective, and the Commission has approved DTE Electric's proposed DR and EWR costs. February 20 order, p. 88; MCL 460.6t(11).

As was discussed extensively in the February 20 order, the revised IRP does not address competitive pricing. The Commission has taken steps to ensure that this is addressed in the expedited REP case. February 20 order, pp. 20-29, 98.

The Commission finds that DTE Electric showed that, to the extent practicable, it would be using a Michigan workforce for construction and investment activities. MCL 460.6t(8)(b). And finally, the Commission finds that the revised IRP meets the requirements of Section 6t(5) for those elements of the plan that are addressed herein. MCL 460.6t(8)(c).

Turning to the comments, the Commission is not persuaded that the timing of the REP and PURPA proceedings set for 2020 should be reconsidered. It is important to remember that the

⁶ DTE Electric is required, under MCL 460.6w, to annually demonstrate to the Commission that it has sufficient electric capacity to meet its PRMR and LCR as determined by the Commission for four years into the future.

REP falls under a separate statutory scheme which has its own trajectory. *See*, MCL 460.1022. Notwithstanding an approved IRP, and in light of the utility's existing partially-approved REP, the Commission must still evaluate new renewable supply-side resources under the applicable REP provisions. And, again, due to the uncertainty in the record in the instant proceeding related to future REP compliance, plans for meeting voluntary green pricing commitments, and the potential impact on long-term capacity need, the Commission found it necessary to accelerate the time previously set for DTE Electric's next avoided cost review, which took place more recently than the REP approval proceeding. *See*, September 26, 2019 order in Case No. U-18091, p. 58. That is, rather than the regular two-year cycle for the avoided cost review, the Commission will initiate this review approximately one year from the date of the Commission's most recent determination of capacity need and avoided costs with the avoided cost review proceeding to commence after final approval of an REP. This sequence of regulatory proceedings does not impede a QF's right to contract with the utility at the existing avoided cost rates, or absolve the utility from its obligation to take power from such facilities under PURPA at any point in time.

Likewise, the Commission's decision on MEPA issues was based on the complete record developed in this matter regarding compliance with all relevant state and federal environmental laws and regulations, as well as the Advisory Opinion. February 20 order, pp. 41-47. The Commission appreciates the Addendum supplied by EGLE alerting the Commission to potential future changes in federal regulation of ELGs, but notes that the proposed rule has not yet been adopted, and does not change the decisions made herein or in the February 20 order. These potential changes will be considered, going forward, as part of any retirement analysis.

The Commission acknowledges the potential usefulness of another comment period, but finds that the statutory deadlines make this unworkable. Indeed, no commenter explained exactly how a post-revised-filing comment period could be accommodated within the tight timeline set by statute. Under the dictates of MCL 460.6t(7), the Commission received the revised IRP on March 20, 2020, and must issue this order no later than April 15, 2020, less than one month later.

The Commission acknowledges the tremendous strain placed on all parties by accelerated proceedings, but finds that timely resolution of the additional issues raised through this process is necessary. Statutory deadlines and the desires of the parties also often play a role in decisions to expedite a matter.

Regarding MEIBC/IEI's request for an accelerated proceeding addressing best practices for RFPs, the Commission notes that this effort is underway in the Competitive Procurement workgroup associated with MI Power Grid.⁷ *See*, October 17, 2019 order in Case No. U-20645, p. 7.

Finally, Soulardarity makes the important point that the IRP, as laid out in Section 6t, is intended to be an all-inclusive proposition that allows for holistic planning, and is not meant to be addressed piecemeal in other proceedings. The Commission agrees. The Legislature certainly envisioned, for example, that the post-Act 342 REP review would be concluded prior to the conclusion of an IRP proceeding, since those reviews had to be filed within one year of the effective date of the act, while IRPs needed to be filed within two years of that date. MCL

⁷ *See*, https://www.michigan.gov/mpsc/0,9535,7-395-93307_93312_93593_95590_95595_95689-508668--,00.html. The Commission originally envisioned scheduling activities for this workgroup in the second quarter of 2020. This may need to be revised in light of current circumstances.

460.1022(3); MCL 460.6t(3). The Commission has taken a cautious approach with respect to DTE Electric's filings in both Case Nos. U-18232 and U-20471, leading to approvals of a limited set of investments – only those shown to meet statutory requirements and be beneficial to ratepayers. The Commission requires competent, material, and substantial evidence on the record as a whole in order to make decisions. Mich Const 1963, Art. 6, § 28; MCL 24.285. The Commission anticipates that the IRP process will continue to evolve with the lessons learned from this and other IRP proceedings and the guidance set forth for filing the utility's next case under Section 6t.

THEREFORE, IT IS ORDERED that:

- A. DTE Electric Company's revised integrated resource plan is approved.
- B. DTE Electric Company shall file an application for an integrated resource plan no later than September 1, 2023.

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, under 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

Daniel C. Scripps, Commissioner

Tremaine L. Phillips, Commissioner

By its action of April 15, 2020.

Lisa Felice, Executive Secretary

PROOF OF SERVICE

STATE OF MICHIGAN)

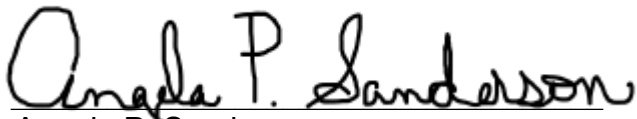
Case No. U-20471 *et al.*

County of Ingham)

Brianna Brown being duly sworn, deposes and says that on April 15, 2020 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 15th day of April 2020.



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

Service List for Case: U-20471

Name	Email Address
Amit T. Singh	singha9@michigan.gov
Brian W. Coyer	bwcoyer@publiclawresourcecenter.com
Bryan A. Brandenburg	bbrandenburg@clarkhill.com
Cassandra R. McCrae	cmccrae@earthjustice.org
Christopher M. Bzdok	chris@envlaw.com
Courtney F. Kissel	ckissel@dykema.com
Daniel E. Sonneveldt	sonneveldtd@michigan.gov
David S. Maquera	maquerad@dteenergy.com
Don L. Keskey	donkeskey@publiclawresourcecenter.com
DTE Energy Company	mpscfilings@dteenergy.com
Heather M.S. Durian	durianh@michigan.gov
Jason T. Hanselman	jhanselman@dykema.com
Jean-Luc Kreitner	jkreitner@elpc.org
Jennifer U. Heston	jheston@fraserlawfirm.com
Joel B. King	kingj38@michigan.gov
John A. Janiszewski	jjaniszewski@dykema.com
Jon P. Christinidis	jon.christinidis@dteenergy.com
Justin K. Ooms	jkooms@varnumlaw.com
Laura A. Chappelle	lachappelle@varnumlaw.com
Lauren D. Donofrio	lauren.donofrio@dteenergy.com
Lydia Barbash-Riley	lydia@envlaw.com
Lydia Barbash-Riley	lydia@envlaw.com
Margrethe Kearney	mkearney@elpc.org
Mark N. Templeton	templeton@uchicago.edu
Megan E. Irving	megan.irving@dteenergy.com
Michael J. Pattwell	mpattwell@clarkhill.com
Nicholas Leonard	nicholas.leonard@glelc.org
Nicholas Schroeck	schroenj@udmercy.edu
Nolan J. Moody	nmoody@dickinson-wright.com
Peter H. Ellsworth	pellsworth@dickinson-wright.com
Raghava Murthy	rmurthy@earthjustice.org
Rebecca J. Boyd	rebecca.j.boyd@gmail.com
Richard J. Aaron	raaron@dykema.com
Robert A. Weinstock	rweinstock@uchicago.edu
Sally Wallace	wallaces2@michigan.gov
Shannon W. Fisk	sfisk@earthjustice.org
Stephen A. Campbell	scampbell@clarkhill.com
Timothy J. Lundgren	tjlundgren@varnumlaw.com
Tracy Jane Andrews	tjandrews@envlaw.com

Service List for Case: U-18091

Name	Email Address
Amit T. Singh	singha9@michigan.gov
Brian W. Coyer	bwcoyer@publiclawresourcecenter.com
Christopher M. Bzdok	chris@envlaw.com
Don L. Keskey	donkeskey@publiclawresourcecenter.com
DTE Energy Company	mpscfilings@dteenergy.com
Heather M.S. Durian	durianh@michigan.gov
Jennifer U. Heston	jheston@fraserlawfirm.com
Joel B. King	kingj38@michigan.gov
John W. Sturgis	jwsturgis@varnumlaw.com
Jon P. Christinidis	jon.christinidis@dteenergy.com
Justin K. Ooms	jkooms@varnumlaw.com
Laura A. Chappelle	lachappelle@varnumlaw.com
Margrethe Kearney	mkearney@elpc.org
Martin Snider	sniderm@michigan.gov
Spencer A. Sattler	sattlers@michigan.gov
Steven E. Kurmas	kurmass@dteenergy.com
Thomas J. Waters	twaters@fraserlawfirm.com
Timothy J. Lundgren	tjlundgren@varnumlaw.com
Timothy J. Lundgren	tjlundgren@varnumlaw.com
Toni L. Newell	tlnewell@varnumlaw.com

Service List for Case: U-18232

Name	Email Address
Amit T. Singh	singha9@michigan.gov
Brian W. Coyer	bwcoyer@publiclawresourcecenter.com
Christopher M. Bzdok	chris@envlaw.com
Don L. Keskey	donkeskey@publiclawresourcecenter.com
DTE Energy Company	mpscfilings@dteenergy.com
Jeffrey Hammons	jhammons@elpc.org
Jennifer U. Heston	jheston@fraserlawfirm.com
Jennifer U. Heston	jheston@fraserlawfirm.com
Laura A. Chappelle	lachappelle@varnumlaw.com
Lauren D. Donofrio	lauren.donofrio@dteenergy.com
Lydia Barbash-Riley	lydia@envlaw.com
Lydia Barbash-Riley	lydia@envlaw.com
Margrethe Kearney	mkearney@elpc.org
Margrethe Kearney	mkearney@elpc.org
Margrethe Kearney	mkearney@elpc.org
Margrethe Kearney	mkearney@elpc.org
Mark N. Templeton	templeton@uchicago.edu
Robert A. Weinstock	rweinstock@uchicago.edu
Sharon Feldman	feldmans@michigan.gov
Spencer A. Sattler	sattlers@michigan.gov
Timothy J. Lundgren	tjlundgren@varnumlaw.com

GEMOTION DISTRIBUTION SERVICE LIST

kadarkwa@itctransco.com	ITC
tjlundgren@varnumlaw.com	Energy Michigan
lachappelle@varnumlaw.com	Energy Michigan
awallin@cloverland.com	Cloverland
bmalaski@cloverland.com	Cloverland
mheise@cloverland.com	Cloverland
vobmgr@UP.NET	Village of Baraga
braukerL@MICHIGAN.GOV	Linda Brauker
info@VILLAGEOFCLINTON.ORG	Village of Clinton
jgraham@HOMEWORKS.ORG	Tri-County Electric Co-Op
mkappler@HOMEWORKS.ORG	Tri-County Electric Co-Op
psimmer@HOMEWORKS.ORG	Tri-County Electric Co-Op
frucheyb@DTEENERGY.COM	Citizens Gas Fuel Company
mpscfilings@CMSENERGY.COM	Consumers Energy Company
jim.vansickle@SEMCOENERGY.COM	SEMCO Energy Gas Company
kay8643990@YAHOO.COM	Superior Energy Company
christine.kane@we-energies.com	WEC Energy Group
jlarsen@uppc.com	Upper Peninsula Power Company
dave.allen@TEAMMIDWEST.COM	Midwest Energy Coop
bob.hance@teammidwest.com	Midwest Energy Coop
tharrell@ALGERDELTA.COM	Alger Delta Cooperative
tonya@CECELEC.COM	Cherryland Electric Cooperative
bscott@GLEENERGY.COM	Great Lakes Energy Cooperative
sculver@glenergy.com	Great Lakes Energy Cooperative
kmarklein@STEPHENSON-MI.COM	Stephenson Utilities Department
debbie@ONTOREA.COM	Ontonagon County Rural Elec
ddemaestri@PIEG.COM	Presque Isle Electric & Gas Cooperative, INC
dbraun@TECMI.COOP	Thumb Electric
rbishop@BISHOPENERGY.COM	Bishop Energy
mkuchera@AEPENERGY.COM	AEP Energy
todd.mortimer@CMSENERGY.COM	CMS Energy
jgoodman@commerceenergy.com	Just Energy Solutions
david.fein@CONSTELLATION.COM	Constellation Energy
kate.stanley@CONSTELLATION.COM	Constellation Energy
kate.fleche@CONSTELLATION.COM	Constellation New Energy
mpscfilings@DTEENERGY.COM	DTE Energy
bgorman@FIRSTENERGYCORP.COM	First Energy
rarchiba@FOSTEROIL.COM	My Choice Energy
greg.bass@calpinesolutions.com	Calpine Energy Solutions
rabaey@SES4ENERGY.COM	Santana Energy
cborr@WPSCI.COM	Spartan Renewable Energy, Inc. (Wolverine Power Marketing Corp)
cityelectric@ESCANABA.ORG	City of Escanaba
crystalfallsmgr@HOTMAIL.COM	City of Crystal Falls
felichel@MICHIGAN.GOV	Lisa Felice
mmann@USGANDE.COM	Michigan Gas & Electric
mpolega@GLADSTONEMI.COM	City of Gladstone

GEMOTION DISTRIBUTION SERVICE LIST

rlferguson@INTEGRYSGROUP.COM

lrgustafson@CMSENERGY.COM

daustin@IGSENERGY.COM

krichel@DLIB.INFO

cityelectric@BAYCITYMI.ORG

Stephen.serkaian@lbwl.com

jreynolds@MBLP.ORG

bschlansker@PREMIERENERGYLLC.COM

ttarkiewicz@CITYOFMARSHALL.COM

d.motley@COMCAST.NET

mpauley@GRANGERNET.COM

ElectricDept@PORTLAND-MICHIGAN.ORG

gdg@alpenapower.com

dbodine@LIBERTYPOWERCORP.COM

leew@WVPA.COM

kmolitor@WPSCI.COM

ham557@GMAIL.COM

BusinessOffice@REALGY.COM

landerson@VEENERGY.COM

cmcarthur@HILLSDALEBPU.COM

mrzwiers@INTEGRYSGROUP.COM

Teresa.ringenbach@directenergy.com

christina.crable@directenergy.com

angela.schorr@directenergy.com

ryan.harwell@directenergy.com

johnbistranin@realgy.com

kabraham@mpower.org

mgobrien@aep.com

mvorabouth@ses4energy.com

suzy@megautilities.org

tanya@meagautilities.org

hvester@itctransco.com

lpage@dickinsonwright.com

Deborah.e.erwin@xcelenergy.com

mmpeck@fischerfranklin.com

CANDACE.GONZALES@cmsenergy.com

JHDillavou@midamericanenergyservices.com

JCAltmayer@midamericanenergyservices.com

LMLann@midamericanenergyservices.com

karl.j.hoesly@xcelenergy.com

kerri.wade@teammidwest.com

dixie.teague@teammidwest.com

meghan.tarver@teammidwest.com

Karen.wienke@cmsenergy.com

Michael.torrey@cmsenergy.com

Integrys Group

Lisa Gustafson

Interstate Gas Supply Inc

Thomas Krichel

Bay City Electric Light & Power

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.

Realgy Energy Services

Volunteer Energy Services

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Direct Energy

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Realgy Corp.

Katie Abraham, MMEA

Indiana Michigan Power Company

Santana Energy

MEGA

MEGA

ITC Holdings

Dickinson Wright

Xcel Energy

Matthew Peck

Consumers Energy

MidAmerican Energy Services, LLC

MidAmerican Energy Services, LLC

MidAmerican Energy Services, LLC

Northern States Power

Midwest Energy Coop

Midwest Energy Coop

Midwest Energy Coop

Consumers Energy

Consumers Energy

GEMOTION DISTRIBUTION SERVICE LIST

croziera@dteenergy.com

stanczakd@dteenergy.com

Michelle.Schlosser@xcelenergy.com

dburks@glenergy.com

kabraham@mpower.org

shannon.burzycki@wecenergygroup.com

kermann@atcllc.com

handrew@atcllc.com

mary.wolter@wecenergygroup.com

phil@allendaleheating.com

DTE Energy

DTE Energy

Xcel Energy

Great Lakes Energy

Michigan Public Power Agency

Michigan Gas Utilities Corporation

American Transmission Company

American Transmission Company

UMERC, MERC and MGU

Phil Forner