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March 3, 2025

Lisa Felice
Executive Secretary
Michigan Public Service Commission
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RE: In the matter of the Application of **DTE ELECTRIC COMPANY** for authority to increase its rates, amend its rate schedules and rules governing the distribution and supply of electric energy, and for miscellaneous accounting authority
MPSC Case No. U-21534

Dear Ms. Felice:

Attached for electronic filing in the above captioned matter is DTE Electric Company's Answer Opposing the Michigan Energy Innovation Business Council, the Institute for Energy Innovation and Advanced Energy United's Petition for Rehearing. Also attached is the Proof of Service.

Very truly yours,

Andrea E. Hayden

AEH/erb
Attachments

cc: Service List

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)
distribution and supply of electric energy,)
and for miscellaneous accounting authority)
_____)

Case No. U-21534

DTE ELECTRIC COMPANY'S

ANSWER OPPOSING MEIU'S PETITION FOR REHEARING

Dated: March 3, 2025

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I. INTRODUCTION AND LEGAL STANDARD

On January 23, 2025, the Commission issued a final order in Case No. U-21534 (“January 23 Order”). On February 10, 2025, the Michigan Energy Innovation Business Council, Institute for Energy Innovation, and Advanced Energy United (collectively “MEIU”) filed a Petition for Rehearing (“Petition”) pursuant to Rule 437 of the Commission’s Rules of Practice and Procedure, R 792.10437, which provides:

“(1) A petition for rehearing after a decision or order of the commission shall be filed with the commission within 30 days after service of the decision or order of the commission unless otherwise specified by statute. A petition for rehearing based on a claim of error shall specify all findings of fact and conclusions of law claimed to be erroneous with a brief statement of the basis of the error. A petition for rehearing based on a claim of newly discovered evidence, on facts or circumstances arising subsequent to the close of the record, or on unintended consequences resulting from compliance with the decision or order shall specifically set forth the matters relied upon. The petition shall be accompanied by proof of service on all other parties to the proceeding.”

Rule 437 is the same as former Rule 403 of the Commission’s Rules of Practice and Procedure, R 460.17403, and rehearing practice is well established. The Commission stated at page 2 of its December 18, 2003 Order Denying Rehearing in Case No. U-13350:

Rule 403 of the Commission’s Rules of Practice and Procedure, 1999 AC, R 460.17403, provides that a petition for rehearing may be based on claims of error, newly discovered evidence, facts or circumstances arising after the hearing, or unintended consequences resulting from compliance with the order. A petition for rehearing is not merely another opportunity for a party to argue a position or to express disagreement with the Commission’s decision. Unless a party can show the decision to be incorrect or improper because of errors, newly discovered evidence, or unintended consequences of the decision, the Commission will not grant rehearing.

Further guidance is provided by MCR 2.119(F)(3), which states:

Generally, and without restricting the discretion of the court, **a motion for rehearing or reconsideration which merely presents the same issues ruled on by the court, either expressly or by reasonable implication, will not be granted.** The moving party must demonstrate a palpable error by which the court and the

parties have been misled and show that a different disposition of the motion must result from correction of the error. (Emphasis added).

See also, Cason v Auto Owners Ins Co, 181 Mich App 600, 609-10; 450 NW2d 6 (1989) (“**A motion which merely presents the same issues as ruled on by the Court, either expressly or by reasonable implication, will not be granted**”); *Sargent v AM Eckhouse, DO, PC*, 171 Mich App 703, 706; 430 NW2d 763 (1988).

DTE Electric Company (“DTE Electric” or the “Company”) now files this Answer Opposing MEIU’s Petition. DTE Electric realizes that the Commission is familiar with this case and therefore will attempt to avoid belaboring matters. DTE Electric incorporates and relies on its testimony, exhibits, and briefs.¹ The Company’s Answer Opposing MEIU’s Petition is being timely filed pursuant to Rule 437(2) of the Commission’s Rules of Practice and Procedure, R 792.10437(2).

II. DISCUSSION

A. The Commission’s Resolution of the Issues Implicitly, and Properly, Rejected MEIU’s Proposals.

MEIU’s Petition should be denied because it fails to state a valid basis to grant rehearing. MEIU’s Petition, pp 3-5, asserts that the Commission committed three errors of “omission” by not explicitly addressing MEIU’s proposals. DTE Electric previously responded to the issues raised in MEIU’s Petition through the Company’s proposals for Rate Schedule D3.11 as an optional time-of-use (“TOU”) rate for commercial customers and Rate Schedule D14 as an optional time-of-use rate for primary customers (DTE Electric Initial Brief, pp 314-321; DTE Electric Reply Brief, pp 128-136). The Company further responded to MEIU’s proposal to create a third new TOU rate

¹ DTE Electric maintains all of its appellate and other rights.

schedule for Rate Schedule D4 (DTE Electric Initial Brief, pp 314-15, 317-21; Reply Brief, pp 128-36).

The Commission relevantly ordered that “DTE Electric Company’s Rate Schedule D14 time-of-use rate is approved without a cap on the number of customers or total contract demand” (January 23 Order, p 469). The Commission’s voluminous January 23 Order, p 5, held that only the arguments and evidence necessary for a reasoned analysis of the disputed issues would be specifically addressed:

Despite the voluminous record and the number and complexity of issues presented in this case, legislation requires that the Commission reach a final decision in this matter within a 10-month time frame. MCL 460.6a(5). As a result, it is noted that not all of the material presented in this case will be expressly discussed in this order. The various parties’ summaries of the evidence and arguments in support of their respective positions are fully set forth in the evidentiary record. **While the Commission has considered the entire record in arriving at its findings and conclusions expressed in this order, only the arguments and evidence necessary for a reasoned analysis of the disputed issues will be specifically addressed in this order.** (Emphasis added).

This context reflects that the Commission did not make errors of omission as MEIU suggests. Instead, the Commission implicitly rejected MEIU’s competing proposals. MEIU did not present anything that merited further discussion, and still does not do so. MEIU instead just vaguely asks for further details without providing any reason for the Commission to deviate from the decisions that the Commission already made, or anything new or unintended that the Commission should consider. Thus, the Commission would be justified in simply denying MEIU’s Petition for Rehearing under the standard of review for Rule 437 outlined above.²

² It is similarly well-established in case law that: “It is not sufficient for a party ‘simply to announce a position or assert a claim of error and then leave it up to this Court to discover and rationalize the basis for his claims, or unravel and elaborate for him his arguments, and then search for authority to sustain or reject his position.’” *Wilson v Taylor*, 457 Mich 232, 243; 577 NW2d 100 (1998), quoting *Mitcham v Detroit*, 355 Mich 182, 203; 94 NW2d 388 (1959). See also, *Gross v General Motors Corp*, 448 Mich App 147,

For completeness and to the extent that the Commission may wish to analyze MEIU's Petition, the Company notes, without waiving its objection, that MEIU first complains that the January 23 Order "is devoid of any mention, let alone determination, of MEIU's requested Schedule D4.1," and MEIU seeks "a determination of this issue, preferably by adopting MEIU's recommendation that DTE be directed to adopt a D4 rate that mirrors MEIU's Schedule D4.1" (Petition, p 3).

The context of the Commission's discussion plainly included MEIU's proposed modifications to the Company's proposed Rate Schedules D3.11 and D14 (January 23 Order, pp 426-30).³ The Commission ultimately approved both proposals, but was persuaded by MEIU to not cap the number of customers or total contract demand on either Rate Schedule. The Commission further directed additional modifications to Rate Schedule D14. Hence, it is clear that the Commission in fact considered the relevant evidence related to commercial and industrial ("C&I") TOU proposals (January 23 Order, pp 429-30, 469).

Contrary to MEIU's arguments, the Commission thoroughly reviewed the record in this case, properly weighed the evidence, and issued a lawful order. MEIU's Petition merely repeats the same arguments already heard by the Commission and fails to state a valid basis to grant rehearing.

The Commission's decision implicitly rejected MEIU's additional alternative proposals, and there is nothing more that merits discussion on this topic. To the extent that the Commission

161-62, n 8; 528 NW2d 707 (1995) ("Failure to properly brief an issue on appeal constitutes abandonment of the question"); *Isagholian v Transmerica*, 208 Mich App 9, 14; 527 NW2d 13 (1994).

³ MEIU witness Barnes proposed that the Commission should instead establish C/I TOU rates that (1) "modif[y] the Company's proposal by creating a TOU corollary for Rate Schedule D4 in addition to those proposed for Rate Schedules D3 and D11"; (2) the C/I TOU rates should have a common on-peak pricing period of 1:00 – 5:00 PM weekdays, which would change the Company's proposed on-peak period for D14; and (3) the Company's proposed enrollment caps should be eliminated (Barnes, 6T 4160).

may wish to provide further clarity, however, MEIU's proposed Schedule D4.1 should be rejected as the Company explained previously (e.g., DTE Electric Initial Brief, pp 318-20; Reply Brief, pp 129-34). As further explained above, the Company is unable to articulate a specific response as MEIU has not articulated a specific concern.

MEIU's Petition next argues that the Commission did not make a determination on MEIU's requested implementation schedule for Rate Schedule D14, and requests "an implementation schedule for TOU Rate D14 that is either MEIU's recommended three-month schedule or one that is commensurate with that approved for Rate Schedule D3.11" (Petition, pp 3-4).

The Commission rejected MEIU's proposed implementation schedule for Rate Schedule D3.11, stating that "the Commission finds three months for implementation of the rate to be insufficient given DTE Electric's assertion regarding the necessary design, development, and testing activities needed to be completed. DTE Electric's initial brief, p. 320. The Commission directs DTE Electric to complete the implementation of the revised Rate Schedule D3.11 as described in this order no later than June 1, 2025, to allow it to be available to customers during the summer peak period of 2025" (January 23 Order, p 422. See also, p 468).

The Commission should reject MEIU's request to grant rehearing for purposes of establishing an implementation schedule for TOU Rate Schedule No. D14 of either three months or commensurate with the schedule approved for Rate Schedule No. D3.11. As reflected in the Rate Schedule No. D14 tariff, Sheet No. D-48.11 (Attachment B to the January 23 Order, p 79), the Commission expressly adopted an effective date of December 31, 2025 for Rate Schedule No. D14. Moreover, on February 18, 2025, the Commission issued a Second Erratum to the January 23 Order for inclusion of corrected tariff sheets. Despite including a corrected tariff sheet for Rate Schedule No. D14, the Second Erratum did not change the effective date of December 31, 2025.

The Commission thoroughly reviewed the record and properly weighed the evidence regarding this issue, and decided to adopt an effective date of December 31, 2025 for Rate Schedule No. D14. Thus, MEIU's Petition fails to set forth a valid basis to grant hearing.

MEIU's third alleged error of omission asserts that the January 23 Order "only briefly references MEIU's requested development of rate comparison tools [citing January 23 Order, p 420], and neither discusses nor makes any findings regarding that recommendation," and MEIU requests that the Commission "issue a corrected order that adopts MEIU's position and requires DTE to provide TOU rate comparison reports to those C&I customers potentially interested in switching to a TOU rate" (Petition, p 5).

The Company disagrees, observing that the Commission acknowledged MEIU's proposal for additional rate comparison tools and chose not to approve the proposal (January 23 Order, p 420). The Company further recounts that this recommendation is connected to MEIU's previously discussed three-month rate implementation proposal, which the Commission did not adopt.⁴ As indicated above, DTE Electric's Initial Brief, p 320, reflects that the proposals are unreasonable because three months is not enough time for all of the necessary design, development, and testing activities. In the context of various proposals, the Company's Director – Customer Service Operations explained that actual implementation timing would depend on the Commission's directives, but would likely require significant modifications to the Customer Relationship and Billing ("CR&B") back-end and front-end systems, customer-facing channels such as the web, system integrations, and reporting (Hatsios, 6T 2326-27).

⁴ MEIU witness Barnes proposed that the "C/I TOU rates should be made available for customer enrollment within three (3) months of the Commission's final order in this case," and also that the Company in that same time develop a C/I rate modeling tool that produces standardized reports for customers (Barnes, 6T 4160).

MEIU does not further support its proposal or offer any explanation about how the proposal's nature and timing would be affected by the rate modifications and implementation schedule that the Commission ordered. The Company cannot respond specifically in this context as indicated above but maintains its disagreement with MEIU for the reasons explained previously. The Company further objects generally that MEIU's vague proposal would create significant additional burdens, which would require corresponding time and effort to address with no apparent benefit. Notably, MEIU does not suggest any benefits that would justify doing such a thing. Therefore, to the extent that the Commission should decide to address this issue, MEIU's proposal should be rejected.

Finally, MEIU's Petition, pp 5-6, asks the Commission to correct page 428 of the January 23 Order because it attributes a position of the Great Lakes Renewable Energy Association ("GLREA") to MEIU. Although the Company concedes that the cited portions of the Company's Reply Brief, pp 135-36, were directed to GLREA, MEIU has not provided a valid basis to grant rehearing based on this issue. The misattribution between MEIU and GLREA in the January 23 Order is not an error regarding a finding of fact or conclusion of law pursuant to Rule 437, nor did the misattribution materially affect the Commission's findings of fact and conclusions of law on this issue. MEIU's presently asserted minor inaccuracies make no material difference in the context of the entire discussion of the Company's proposals, including MEIU and GLREA's criticisms and proposed alternatives. On the merits, the dispositive point remains that the alternative proposals at issue (e.g., recovery of all capacity costs during on-peak periods, and mandated TOU rates) should be rejected, and even MEIU does not contend otherwise.

III. REQUEST FOR RELIEF

Based on the foregoing, DTE Electric respectfully requests that the Michigan Public Service Commission deny MEIU's Petition for Rehearing.

Respectfully submitted,

DTE ELECTRIC COMPANY
Legal Department

Dated: March 3, 2025

By: _____
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STATE OF MICHIGAN

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Case No. U-21534

PROOF OF SERVICE

STATE OF MICHIGAN)
) ss.
COUNTY OF WAYNE)

ESTELLA R. BRANSON states that on March 3, 2025, she served a copy of DTE Electric Company’s Answer Opposing the Michigan Energy Innovation Business Council, the Institute for Energy Innovation and Advanced Energy United’s Petition for Rehearing in the above captioned matter, via electronic mail, upon the persons listed on the attached service list.

ESTELLA R. BRANSON

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MPSC Case No. U-21534

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