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November 2, 2026

Ms. Lisa Felice
Michigan Public Service Commission
7109 W. Saginaw Hwy.
Lansing, MI 48909

Via E-File

RE: MPSC Case No. U-22058

Dear Ms. Felice:

Attached please find the enclosed documents for filing:

- Petition for Rehearing and Clarification by Michigan Environmental Council, Natural Resources Defense Council, and Sierra Club; and
- Proof of Service.

Thank you for your assistance in this matter. If you have any questions, please feel free to contact me.

Sincerely,

Digitally signed by Holly Hillyer
Date: 2026.11.02 13:58:07 -05'00'

Holly L. Hillyer
holly@tropospherelegal.com

CC: Parties to Case No. U-22058

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of **DTE ELECTRIC COMPANY** for approval of special contracts and for other relief.	Case No. U-22058

PETITION FOR REHEARING AND CLARIFICATION

MICHIGAN ENVIRONMENTAL COUNCIL, NATURAL RESOURCES DEFENSE COUNCIL, AND SIERRA CLUB

November 2, 2026

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I. INTRODUCTION

The Michigan Environmental Council (MEC), Natural Resources Defense Council (NRDC), and Sierra Club (collectively, MNS), under Rule 437 of the Rules of Practice and Procedure of the Michigan Public Service Commission (MPSC or Commission), Michigan Administrative Code R 792.10437, and MCL 460.352 and MCL 8.6, file this Petition for Rehearing and Clarification (Petition) relating to the Commission's October 1, 2026, Order granting conditional approval of two Special Contracts[1] for DTE Electric (DTE) to provide electric service to a 1.0 gigawatt (GW) data center facility to be built in Van Buren Township, Michigan by Google LLC (Google). In its Order, the Commission made no findings regarding whether DTE improperly attributed "avoided costs" to Google as part of the "affordability backstop" provision.[2] Rehearing and clarification of this issue is necessary to avoid unintended consequences, namely inaccurate accounting of costs and benefits and unnecessary litigation over this topic in future proceedings. MNS respectfully requests that the Commission grant this Petition and issue a corrected order to address this issue, as more fully explained below.

II. STANDARD FOR REHEARING

MPSC Rule 437(1) states:

> 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

[1] The contracts at issue are entitled the Primary Supply Agreement (PSA) and the Clean Capacity Accelerator Agreement (CCAA).

[2] Case No. U-22058, Order, October 1, 2026, p 19.

> compliance with the decision or order shall specifically set forth the matters relied upon.[3]

It is, of course, well-established that a petition for rehearing is not an opportunity for a party to rehash an argument that the Commission has already rejected, or to simply disagree with the Commission's decision.[4] This Petition does neither, seeking only the Commission's ruling on an issue that was not addressed and that may result in cost-shifting if not resolved by the Commission.

III. ARGUMENT

In support of its application, DTE provided a customer benefit analysis that purported to compare the expected benefits, including "avoided costs," with the expected costs of serving Google.[5] In addition, as part of the "affordability backstop" provision included in the PSA, DTE asserted that it will continue to compare aggregate benefits, including "any avoided costs attributable to Google," with the aggregate costs of serving Google in future proceedings.[6] The affordability backstop analysis will be presented during rate and PSCR proceedings[7] and, if the Commission (1) issues a ruling or order determining that the costs to serve Google exceed the combined revenues paid or payable to DTE or (2) disallows DTE's recovery of costs attributable to Google, Google agrees to comply with any resulting order and, if applicable, reimburse DTE for unrecovered costs.[8] In its Order, the Commission adopted DTE's basic approach. On the customer benefit analysis, the Commission found that "over the term of these special contracts

[3] Mich Admin Code, R 792.10437(1).

[4] See, e.g., U-21534, Order, April 10, 2025, p 25.

[5] Direct Testimony of Aaron Willis, 3 Tr 408

[6] Direct Testimony of Neal T. Foley, 3 Tr 103; Rebuttal Testimony of Neal T. Foley, 3 Tr 143.

[7] Foley Rebuttal, 3 Tr 144, 153.

[8] Foley Direct, 3 Tr 104 (citing PSA Section 5.1.3).

other customers are likely to benefit as a result of their approval."[9] It also required DTE to conduct the affordability backstop analysis in each rate and PSCR proceeding moving forward.[10]

Though related, the customer benefit analysis and the affordability backstop provision serve different functions. The former was used to justify approval of the Special Contracts, while the latter is a forward-looking analysis that purports to ensure that the customer benefits claimed in this proceeding actually materialize. For purposes here, what matters is that "avoided costs" ostensibly attributable to Google is an important element not only of the cost benefit analysis DTE used to support its application, but also of the affordability backstop going forward. In short, how DTE interprets and applies "avoided costs" will have knock-on effects for future proceedings for the life of the Special Contracts.

Through this Petition, MNS does not seek rehearing on the Commission's conditional approval of the Special Contracts, but MNS does seek rehearing and clarification as to whether and how DTE may attribute "avoided costs" to Google moving forward.

A. Petitioners seek clarification on what DTE may attribute as an "avoided cost" to Google as part of the affordability backstop provision.

In its initial brief, MNS raised multiple concerns that applied to both the customer benefit analysis and the "affordability backstop" approach. One of those concerns related to DTE's accounting of "avoided costs." DTE credited Google with "avoided costs" of reducing renewable builds needed to comply with the Renewable Portfolio Standards (RPS) by 250 MW in 2033 and 2034, thus inflating the purported benefit of the Special Contracts.[11] MNS' primary arguments in

[9] Order, p 119.

[10] *Id.* at 133.

[11] MNS Initial Brief, pp 7-11, 14-15, 17-18.

support of its position that DTE should not attribute certain "avoided costs" to Google were: (1) the Special Contracts with Google increase DTE's requirements under the RPS,[12] (2) DTE's compliance with the RPS standards taking into account Google's load heavily draws down DTE's surplus of renewable energy credits (RECs) compared to the last Amended REP proceeding,[13] and (3) as DTE's own witness conceded at hearing, the REC surplus projected by DTE for 2033 and 2034 is due to an assumed 1.8 GW of renewables for the Oracle data center, not Google.[14] MNS thus requested that the Commission find that DTE has not made a showing of "avoided costs" due to Google's load and, moving forward, require a clear showing that any claimed "avoided costs" are directly attributable to the addition of Google.[15]

In its Order, the Commission acknowledged MNS' arguments.[16] However, it made no findings on whether DTE improperly included "avoided costs" in estimating the claimed benefits of the Google load. In the section of the Order discussing "[t]he Claimed Net Benefit Amount," the Commission "addresse[d] some of the criticisms of the company's inputs to the net benefit analysis," but did not address MNS' "avoided costs" argument.[17] In the section of the Order discussing the "Affordability Benefit Analysis," the Commission ordered DTE to provide an "updated analysis of the affordability benefit at each rate and PSCR case based on actual data to the extent possible," but similarly did not address MNS' "avoided costs" argument.[18] MNS thus seeks clarification as to whether DTE improperly included "avoided costs" and when "avoided

[12] *Id.* at 8.

[13] *Id.* at 9.

[14] *Id.* at 9-11.

[15] *Id.* at 17.

[16] Order, pp 68-71.

[17] *Id.* at 119.

[18] *Id.* at 133.

costs" can be included in the affordability backstop provision in future proceedings. MNS rests on the arguments presented in its initial brief.

B. The lack of resolution of this issue will result in unintended consequences, including inaccurate accounting of costs and benefits and unnecessary litigation over this topic in future proceedings.

Resolution of this issue is necessary to ensure that DTE properly conducts the affordability backstop analysis, which will be presented at each PSCR and rate case moving forward. If DTE inflates the benefits and underestimates the costs of the Special Contracts, the affordability backstop will not serve to protect other ratepayers from cost-shifting, as the true impact of Google's load will not be accurate. In other words, if the accounting under the affordability backstop analysis purportedly shows a net benefit when there are actually net costs, the affordability backstop will not trigger to allow the Commission to require Google to repay net costs or to otherwise prevent cost-shifting. Such a situation would be an unintended consequence of the Commission's order, since the Commission explicitly stated that approval is conditioned upon the assumption that Google's costs will not be borne by other customers."[19] Resolution of this issue is necessary to ensure proper accounting of the affordability backstop provision and prevention of further unnecessary litigation over this topic in future proceedings.

IV. RELIEF REQUESTED

For the reasons discussed above, MNS hereby requests that the Commission:

A. Grant MNS' Petition for Rehearing and Clarification;

[19] *Id.* at 137.

B. Find that avoided costs can be credited to Google only upon a showing that such cost avoidance is directly attributable to the addition of Google; and

C. Find that no such showing has been or could be made with regards to the 250 MW of renewable energy builds in 2033 and 2034 that DTE claims are avoidable.

V. CONCLUSION

For the reasons stated herein, MNS respectfully requests that the Commission grant its petition for rehearing and clarification and amend the October 1, 2026, order.

Respectfully submitted,

Troposphere Legal
Counsel for MNS

Date: November 2, 2026

By: Digitally signed by Holly Hillyer Date: 2026.11.02 13:57:45 -05'00'

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STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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Proof of Service

On the date below, an electronic copy of **Petition for Rehearing and Clarification by Michigan Environmental Council, Natural Resources Defense Council, and Sierra Club** was served on the following:

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The statements above are true to the best of my knowledge, information and belief.

Troposphere Legal
Counsel for MNS

Date: November 2, 2026

By Natasha L. Fowles Digitally signed by Natasha Fowles Date: 2026.11.02 13:57:23 -05'00'

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