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August 28, 2026

Lisa Felice
Executive Secretary
Michigan Public Service Commission
7109 West Saginaw Highway
Lansing, MI 48917

RE: In the matter of the Application of **DTE ELECTRIC COMPANY** for approval of
amendments to Rate D11 and related relief
MPSC Case No: U-22061

Dear Ms. Felice:

Attached for electronic filing in the above reference matter is DTE Electric Company's Motion to Strike Rebuttal Testimony and Exhibits of Great Lakes Renewable Energy Association Witness John Richter. Also attached is the Proof of Service.

Very truly yours,

John A. Janiszewski

JAJ/erb
Encl.
cc: Service List

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application of	)	
DTE ELECTRIC COMPANY	)	Case No. U-22061
for approval of amendments to Rate D11	)	
and related relief.	)	

MOTION TO STRIKE REBUTTAL TESTIMONY AND EXHIBITS OF
GLREA WITNESS JOHN RICHTER

DTE Electric Company (“DTE Electric” or “Company”) moves to strike the pre-filed Rebuttal Testimony and Exhibits of John Richter on behalf of the Great Lakes Renewable Energy Association (“GLREA”), pursuant to, inter alia, Rule 792.10432 (“Rule 432”) of the Michigan Public Service Commission’s (“Commission” or “MPSC”) Rules of Practice and Procedure, and the Michigan Rules of Evidence on the grounds that such rebuttal is improper under Michigan Rules and precedent.

I. BACKGROUND

On March 18, 2026, DTE Electric submitted its Application for Approval of Amendments to Rate D11 and Related Relief (“Application”) along with the Direct Testimony and Exhibit of witness Aaron Willis.

On July 24, 2026, 88 days later, GLREA submitted its first discovery request to DTE Electric.¹ On August 4, 2026, GLREA submitted the direct testimony and exhibit of GLREA Witness John Richter. Witness Richter’s 86 pages of direct testimony provide a wide-ranging discussion of data center operational characteristics, critique of DTE Electric’s Large Load Provision presented in the Application and make ten recommendations for Commission action, including

¹ GLREA’s First Discovery Request to DTE Energy was transmitted to DTE Electric at 5:41 p.m. on Friday, July 24, 2026, resulting in consideration of the response period commencing on Monday, July 27, 2026.

recommendations for Commission oversight of the interconnection and operation of new large customers subject to the Large Load Provision. His direct testimony included no substantive exhibits.

On August 25, 2026, GLREA filed 18 pages of Witness Richter’s rebuttal testimony and two new exhibits: (i) Exhibit GLREA-2, comprised of DTE’s entire set of responses to GLREA’s First Discovery Request, and (ii) Exhibit GLREA-3, a technical standard applicable to large electronic load interconnections issued by the Electric Reliability Council of Texas (“ERCOT”), dated November 14, 2025. GLREA Witness Richter confirms that the primary purpose of his rebuttal testimony is to respond to “statements made by DTE Electric *in their discovery responses* to the GLREA and CEO[.]”² (emphasis added).

II. ARGUMENT

A. REBUTTAL TESTIMONY MUST REFUTE EVIDENCE OFFERED BY ANOTHER PARTY AND MAY NOT IMPROPERLY SUPPLEMENT A PARTY’S DIRECT CASE OR INTRODUCE NEW POSITIONS.

Michigan courts have explained that the proper purpose of rebuttal is not to allow a party another chance to present its direct case, but to refute the direct case of another.³ Rebuttal evidence is evidence “given by one party to contradict, repel, explain or disprove evidence produced by the other party and tending directly to weaken or impeach the same”⁴ The Commission has upheld an ALJ’s decision to strike testimony that was “merely broad policy testimony and therefore deficient in not specifically indicating what was being rebutted.”⁵ In other words, appropriate rebuttal is

² GLREA Richter Rebuttal Testimony at 1.

³ *Nolte v Port Huron Bd of Ed*, 152 Mich App 637, 645; 394 N.W.2d 54 (1986) (“The relevance of such rebuttal evidence should be tested by whether it is justified by the evidence which it is offered to rebut.”); *People v Bennett*, 393 Mich. 445, 449; 224 NW2d 840 (1975). (“Rebuttal is limited to the refutation of relevant and material evidence - hence evidence bearing on an issue properly raised in a case.”)

⁴ *Kirk v Ford Motor Company*, 147 Mich App 337, 346; 383 NW2d 193 (1985) (quoting *People v Utter*, 217 Mich 74, 83; 185 NW 830 (1921)).

⁵ In the matter of the application of the Midland Cogeneration Venture Limited Partnership for approval of capacity charges contained in a power purchase agreement with Consumers Power Company, Opinion and Order at 3, Case No. U-8871 (Oct. 13, 1988).

“for the purpose of rebutting specific facts, judgments of the other parties that could not have been reasonably done with your direct case.”⁶

Similarly, Michigan courts have held that “rebuttal testimony [should not be used] to introduce substantive evidence which properly belongs to [the] case in chief.”⁷ This rule “is aimed at preventing an unfair ordering of proofs.”⁸ The Commission has held that “evidence which could have been offered in a party’s main case may be rejected if offered as rebuttal evidence.”⁹ Although the admission of evidence that could have been offered in a party’s direct case may involve discretion, the Commission has repeatedly exercised that discretion to prevent parties from withholding substantive evidence or new proposals until rebuttal, when the opposing party lacks an ordinary opportunity to answer through testimony. For example, the Commission upheld an ALJ decision to strike intervenor testimony offered in rebuttal that purportedly responded to Staff but where the “actual target of . . . rebuttal is [the utility’s] position,” and where the purported rebuttal “represents nothing more than an attempted second bite of the apple.”¹⁰ Hence, rebuttal testimony that could have been presented in a party’s direct testimony is properly excluded when admission would result in an “unfair ordering” of substantive arguments and leave one party with no opportunity to refute the statements.¹¹

⁶ *Id.*

⁷ *People v Dyson*, 106 Mich App 90, 97; 307 N.W.2d 739 (1981).

⁸ *Id.*

⁹ In the matter of the application of The Detroit Edison Company for authority to amend its rate schedules governing the supply of electric energy and to amend other miscellaneous rates, Order Denying Application for Leave to Appeal at 2, Case No. U-7660 (Oct. 30, 1984) (“Detroit Electric Company U-7660 Order”); *see also* In the matter of the application of Wisconsin Electric Power Company for a power supply cost recovery reconciliation proceeding for the 12-month period ended December 31, 2010, Order at 10, Case No. U-16034-R (March 8, 2012) (explaining that it is improper for a party to “divide their proofs in such a way as to prevent the opposition from being able to adequately review and respond to important evidence”).

¹⁰ In the matter of the application of Consumers Energy Company for a financing order approving the securitization of certain regulatory assets and other qualified costs, Opinion and Order at 30, Case No. U-12505 (October 24, 2000) (“Consumers U-12505 Order”).

¹¹ *People v Dyson* at 742.

Finally, the Commission has held that striking rebuttal testimony is proper when such rebuttal testimony offers a “brand-new proposal”¹² or “goes well beyond the scope of the application and seeks new forms of relief.”¹³

**B. GLREA WITNESS RICHTER’S PREFILED REBUTTAL TESTIMONY
CONSTITUTES IMPROPER REBUTTAL AND SHOULD BE STRICKEN.**

GLREA Witness Richter’s rebuttal testimony addresses three discrete topics, but none properly confines itself to contradicting, repelling, explaining, or disproving evidence introduced by another party. Instead, the testimony supplements GLREA’s direct case, repeats positions already presented in direct testimony, and introduces new evidence and requests for relief after DTE Electric’s opportunity to file rebuttal testimony has passed. As an initial matter, Witness Richter concedes on page 1 of his rebuttal testimony that a primary purpose of his rebuttal is to respond to “statements made by DTE Electric in their discovery responses to the GLREA and CEO[.]”¹⁴ GLREA had ample opportunity to pursue discovery and present evidence in its direct testimony. But information produced by a party in discovery is not direct testimony that may be properly rebutted under Michigan law. Although discovery responses may be used as evidence or for impeachment where otherwise appropriate, GLREA cannot transform responses to discovery that it chose to serve shortly before its direct testimony deadline into an automatic opportunity to expand its own affirmative case through rebuttal. The relevant inquiry remains whether the proffered testimony actually contradicts, repels, explains or disproves evidence produced by the other party and tends to weaken or impeach that evidence.¹⁵

¹² In the matter of the application of Consumers Energy Company for authority to increase its rates for the generation and distribution of electricity and for other relief, Order at 314, Case No. U-21585 (March 21, 2025) (affirming ALJ decision to strike testimony offering “brand-new proposal” in rebuttal) (“Consumers U-21585 Order”).

¹³ In the matter of the application of Consumers Energy Company for approval of amendments to gas transportation contracts pursuant to 1929 PA 9, as amended, Order at 8, Case No. U-18010 (Oct. 7, 2019).

¹⁴ GLREA Richter Rebuttal Testimony at 1.

¹⁵ *Kirk v Ford Motor Company*, 147 Mich App 337, 346; 383 NW2d 193 (1985) (quoting *People v Utter*, 217 Mich 74, 83; 185 NW 830 (1921)).

On the first topic addressing UPS ride-through standards, Witness Richter offers extensive new explanatory testimony spanning pages 2 through 12 of his rebuttal. This testimony draws upon DTE Electric’s discovery responses (introduced in full as a new Exhibit GLREA-2), quotes from a purported “scholarly article” published in October 2025 and cites to numerous previously undisclosed industry sources and technical documents including an ERCOT technical standard, “Large Electronic Load Ride-Through Requirements” dated November 14, 2025 (proffered as a new Exhibit GLREA-3). All of the documents and articles and the information contained therein appear to have been available prior to Witness Richter filing direct testimony, and none of this testimony is presented to contradict, explain or disprove any specific evidence presented by DTE Electric or another party. This testimony is clearly intended to introduce new substantive evidence that could—and should—have been presented in his direct testimony.

Witness Richter cites his own prior direct testimony at pages 37-44, together with DTE Electric’s recent discovery responses, as the basis for expanding his earlier testimony on Texas rules and grid reliability concerns.¹⁶ His rebuttal testimony then provides additional technical sources, industry examples, asserted compliance cost evidence, vendor information, and a new remedial proposal in support of the same UPS ride-through concern presented in his direct testimony. No part of this testimony seeks to rebut or disprove prior testimony of DTE Electric or another party and this new evidence could have been presented in Witness Richter’s direct testimony. Witness Richter also offers a new recommendation for the Commission to direct DTE Electric to file a generic Large Load Connection Requirements document within 60 days of the Commission’s order in this proceeding.¹⁷ This is a completely new proposal that is not responsive

¹⁶ GLREA Richter Rebuttal Testimony at 2; FN1 (citing pages 37-44 of his Direct Testimony that discussed the same UPS ride-through topic).

¹⁷ GLREA Richter Rebuttal Testimony at 13.

to DTE Electric or any other party and is also improperly presented as rebuttal.¹⁸ This attempted second bite at the apple to offer new substantive evidence and a brand new proposal in rebuttal is improper and prejudices DTE Electric who now has no opportunity to respond.¹⁹

Turning to Witness Richter's new proposed GLREA Exhibits 2 and 3, GLREA's decision to issue discovery close in time to the established Staff & Intervenor testimony due date does not entitle it to present an expanded direct case during rebuttal. Further, the ERCOT technical document that he proffers as Exhibit GLREA-3 was posted November 14, 2025, long before his direct testimony was submitted on August 4, 2026. Sponsoring these proposed Exhibits in rebuttal serves merely to expand and bolster Witness Richter's own direct testimony rather than rebutting any direct testimony offered by another party, while DTE Electric is afforded no opportunity to respond. Therefore, Witness Richter's testimony regarding the UPS ride-through should be stricken and Exhibits GLREA-2 and GLREA-3 should be excluded as improper rebuttal evidence under Commission and appellate precedent designed to prevent "an unfair ordering of proofs."²⁰

Witness Richter's testimony regarding the appropriate amount of collateral requirements for customers subject to the Large Load Provision (pages 13-17) is also improper rebuttal. Rather than identifying an error in or attempting to weaken the evidence offered by another party, this section of Witness Richter's rebuttal merely summarizes the collateral recommendations made by Staff, ABATE, and the Attorney General and then restates *his own* direct testimony recommendations. Witness Richter explicitly states: "I stand by those alternatives as reasonable and prudent, but specifically recommend #2, using the specific language recommended by Staff."²¹ Witness Richter identifies no Staff or Intervenor evidence that he seeks to contradict, repel,

¹⁸ Consumers U-21585 Order at 314.

¹⁹ Consumers U-12505 Order at 30.

²⁰ *People v Dyson*, 106 Mich App 90, 97; 307 NW2d 739 (1981).

²¹ GLREA Richter Rebuttal Testimony at 17.

explain, or disprove. Instead, after Staff and GLREA filed direct testimony, Witness Richter uses rebuttal to restate *his own* three alternatives presented from his direct testimony and then announce his specific preference for one of those existing alternatives using Staff’s proposed language. Mere agreement with Staff’s concurrently filed recommendation does not constitute rebuttal because it does not weaken, impeach, or otherwise respond adversely to Staff’s evidence. Nor may GLREA use rebuttal to restate or refine its own previously offered alternatives without demonstrating how the testimony contradicts, explains, or disproves evidence offered by another party.

Finally, Witness Richter’s testimony regarding annual reporting (pages 17-18) is also improper rebuttal because it does not contradict, explain, or disprove evidence produced by another party and instead introduces new recommendations and requests for relief. Witness Richter acknowledges ABATE’s recommendation that the Commission direct annual reporting on large-load customer service requests consistent with the Commission’s direction to Consumers Energy in U-21859. But rather than rebutting any aspect of ABATE’s testimony, Witness Richter offers an entirely new “additional annual reporting requirement,” namely that “DTEE should report on every detected large load customer violation of their operating parameters.”²² This new recommendation was not contained in Witness Richter’s direct testimony and constitutes substantive new evidence that “could have been offered in a party’s main case” and is properly “rejected if offered as rebuttal evidence.”²³ DTE Electric has no opportunity to respond to this new recommendation under the procedural schedule of the case. Introducing new recommendations or requests for relief through rebuttal makes no effort to “contradict, repel, explain or disprove evidence produced by the other party and tending directly to weaken or impeach the [evidence].”²⁴

²² GLREA Richter Rebuttal Testimony at 17.

²³ Detroit Electric Company U-7660 Order at 2.

²⁴ *Kirk v Ford Motor Company*, 147 Mich App 337, 346; 383 NW2d 193 (1985) (quoting *People v Utter*, 217 Mich 74, 83; 185 NW 830 (1921)).

Accordingly, Witness Richter's testimony regarding annual reporting and new recommendation to expand the annual reporting recommended by ABATE should be stricken as improper rebuttal.

V. CONCLUSION AND RELIEF REQUESTED

For the reasons stated in this Motion, DTE Electric respectfully requests that the Rebuttal Testimony of GLREA Witness Richter be stricken in its entirety and that proposed pre-filed Exhibits GLREA-2 and GLREA-3 not be accepted into the evidentiary record as pre-filed exhibits sponsored by improperly filed rebuttal testimony.²⁵

DTE ELECTRIC COMPANY

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Dated: August 28, 2026

²⁵ While the Company reserves the right to challenge the admissibility of these documents if offered into evidence during the evidentiary hearing in this proceeding, the Company is taking the more limited position at this time that Witness Richter's Exhibits GLREA-2 and GLREA-3 are improperly presented as pre-filed Exhibits because they are sponsored by improper rebuttal testimony that should be stricken.

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PROOF OF SERVICE

ESTELLA R. BRANSON states that on August 28, 2026, she served a copy of DTE Electric Company's Motion to Strike Rebuttal Testimony and Exhibits of Great Lakes Renewable Energy Association Witness John Richter, in the above-captioned matter, via electronic mail upon the persons listed on the attached service list.

ESTELLA R. BRANSON

MPSC Case No. U-22061

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