

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of DTE
Electric Company for approval of
amendments to Rate D11 and related
relief.

Case No. **U-22061**
(e-file paperless)

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MICHIGAN PUBLIC SERVICE COMMISSION
STAFF'S INITIAL BRIEF

**MICHIGAN PUBLIC SERVICE
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Table of Contents

I.	INTRODUCTION	1
II.	ARGUMENT	2
A.	The Commission’s recent August 27, 2026 Order in MPSC Case No. U-22059 aligns with Staff witness Higgins’ testimony and recommendation in this instant case.....	2
B.	ABATE witness James R. Dauphinais’ Rebuttal of Staff witness Higgins and broad application of large load rule changes.....	4
C.	The Commission should require the Company to reconcile the administrative fee amount charged to a prospective large load customer.....	5
D.	The Commission should adopt Staff’s recommendations concerning the Collateral and Credit section tariff language.	7
E.	The Company should continue to provide the six cost allocation and rate design studies but using proposed test-year data.....	12
III.	CONCLUSION.....	14

I. INTRODUCTION

On March 18, 2026, DTE Electric Company (Company or DTE) filed its application in this case seeking the Michigan Public Service Commission's (Commission) expedited approval of amendments to Rate Schedule D11 and related relief and for the Commission to find that the Company's Application and relief requested are consistent with the Commission's December 18, 2025 Order ("December 18 Order") in Case No. U-21990. (DTE Application, p 1.) More specifically, the Company is seeking approval of proposed amendments to Rate Schedule D11, collectively referred to as "Large Load Provision" pursuant to the Commission's directive in the December 18 Order.

In support of its application, DTE also filed the direct testimony and exhibits of witness Aaron Willis.

A prehearing was held on April 28, 2026, before ALJ Katherine Talbot. At the hearing, intervenor status was recognized and granted to the Attorney General (AG); Natural Resources Defense Council (NRDC); Sierra Club; Great Lakes Renewable Energy Association (GLREA); The Ecology Center, The Environmental Law & Policy Center, Union of Concerned Scientists, Vote Solar (collectively, Clean Energy Organizations or CEO); the Association for Businesses Advocating Tariff Equity (ABATE); and Gerdau MacSteel, Inc. At the conclusion of the prehearing, a scheduling memorandum was issued that scheduled cross examination on September 8, 2026 through September 10, 2026, with Initial Briefs due September 29, 2026. On August 13, 2026, this case was reassigned to Administrative Law

Judge Sarah Stancati, and a new scheduling memorandum was issued that rescheduled cross examination on September 16, 2026 and September 17, 2026, with Initial Briefs due October 6, 2026.

Staff now files this Initial Brief consistent with the deadline established in the August 18, 2026, scheduling memorandum.

II. ARGUMENT

A. The Commission’s recent August 27, 2026 Order in MPSC Case No. U-22059 aligns with Staff witness Higgins’ testimony and recommendation in this instant case.

In his direct testimony filed on August 4, 2026, Staff witness Johnathon L. Higgins summarized Staff’s recommendations regarding DTE’s proposed amendment to its emergency procedures. This recommendation was based upon a few things. Specifically, he recommended that “if the Commission did not approve the proposed amendment to emergency procedures in MPC Case No. U-22059”, then the Commission should require DTE to amend the large load provisions of rate D11 to include language to address the concerns that the Commission mentioned in its December 18, 2025 Order in Case No. U-21990.¹ (2 TR 345.) That concern, among others was that “the addition of this significant new load will not adversely impact the grid reliability experienced by other customers.” MPSC Case No. U-21990, 12/18/2025 Order, p 41.

¹ MPSC Case No. U-21990, 12/18/25 Order, p 41.

Additionally, Staff witness Higgins' recommendation was also based on the Commission's previous recommendations in MPSC Case No. U-21859 where the Commission noted its concerns with the large load customers and system reliability stating that substantial increase in load associated with data centers and other large load customers has the potential to lead to risks related to system reliability.² (2 TR 343.) Finally, Staff witness Higgins' recommendation was based upon the fact that DTE's proposed amendments to the emergency procedures included broadly applicable language that would apply to the large load tariff being addressed in this instant case. (2 TR 344.) In all, Staff witness Higgins' recommendation was to make sure that the Commission's concerns regarding large load customers and system reliability were addressed.

As noted by Staff witness Higgins, at the time of the filing of his direct testimony, the Commission had not approved DTE's proposed amendments. (2 TR 343-344.) However, the Commission has since issued its directive concerning DTE's proposed amendments in its August 27, 2026 Order in MPSC Case No. U-22059, (August 27 Order) which reads in part, "customers that take service from DTE Electric after October 1, 2025, with capacity of at least 500 MW or customers that take service under the Large Load Provision of Rate Schedule No. D11, will be subject to firm load shedding prior to other customers, provided that such customer load shedding can prevent shedding the firm load of other DTE Electric

² MPSC Case No. U-21859, 11/6/25 Order, p 103.

customers.”³ This amendment to the rate book ensures that any incoming large loads will be made a priority for load shedding if such a need arises, ensuring that average ratepayers are not to be made to shed load in lieu of a customer utilizing a far greater portion of electricity. Since this August 27 Order confirming the changes to the emergency procedures in the rate book apply in this instant case, Staff’s position is now moot because the August 27 Order in U-22059 satisfies Staff’s concerns with DTE’s emergency procedures.

B. ABATE witness James R. Dauphinais’ Rebuttal of Staff witness Higgins and broad application of large load rule changes.

In his rebuttal testimony, ABATE witness Dauphinais disagreed with Staff witness Higgins’ recommendations on the grounds that the amendments to the rate book proposed in U-22059 are overly broad, failing to differentiate large load customers based on the size of their actual firm load in favor of using broadly applicable rules. (2 TR149.) Though the language used is indeed broadly applicable, this is not inherently problematic because Large Load customers should, as a category of ratepayers, be required to shed load in times of intense grid strain before residential and other lower-load ratepayers.

Utilizing this broad, standardized language approach will ensure that any incoming large load will be subject to the same ruleset, and many existing large load customers will experience no alteration to their service as the rule only applies to those taking service after October 1st of 2025. With expectations of increasing

³ MPSC Case No. U-22059, 8/27/26 Order, p 2.

load growth and grid modernization in Company's service territory, having a standardized approach to addressing large load customers and reliability concerns associated with them is a reasonable position. Conversely, analyzing each large load customer on a case-by-case basis would potentially be time-consuming and confusing in the event of an emergency, as each customer would get different treatment and have different expectations put upon them. As well, sunsetting the need for a load shedding priority based on generational capacity possessed by the company is, in Staff's view, inadvisable. Therefore, Staff opines that possessing a set of rules governing what will occur during adverse conditions, even if those rules are only used infrequently, is a preferable position to possessing no standard rules in the event of intense grid strain requiring load shedding. However, as Staff previously stated, this point is now moot, as the Commission has approved the large load provisions in its August 27 Order in case No. U-22059.

C. The Commission should require the Company to reconcile the administrative fee amount charged to a prospective large load customer.

Staff recommended in its direct testimony that the administrative fee amount charged to the customer be reconciled to actual costs upon completion of all projects associated with serving that customer. (2 TR 351.) Staff then recommended that a reconciliation clause which included the following tariff language be added onto the end of the Administrative Fee section:

The administrative fee shall be reconciled to actual costs upon completion of the project.

On the contrary, ABATE witness Dauphinais in his direct testimony recommends that the Commission require the administrative fee to operate as a non-refundable minimum deposit against the actual cost of the studies performed, with any cost in excess of the fee billed to the prospective customer. (2 TR 132.) However, ABATE does not address a situation where the amount of the administrative fee exceeds the cost of the studies performed.

Attorney General, Natural Resources Defense Council, and Sierra Club witness Ben Havumaki in his direct testimony also recommends that the Commission require the administrative fee to be reconciled to the actual costs the Company incurs in evaluating a prospective large load customer, consistent with MPSC Case No. U-21859. (2 TR 335.) He proposes that the Company would retain an initial upfront charge, but that any amount collected should be trued up to actual costs with refunds where actual costs are lower and additional payment where they are higher. (*Id.*) Witness Havumaki explains that this would ensure that the costs of evaluating prospective large load customers are neither over-recovered from these customers nor shifted to other ratepayers. (*Id.*)

Company witness Willis in his rebuttal testimony stands by his initial proposal of a fixed fee approach that is not reconciled. (2 TR 65.) The Company states that the purpose of the administrative fee is in part to dissuade highly speculative interests from potential large load customers and that the fee's ability to dissuade speculation is significantly reduced when the costs are subject to downward reconciliation. (*Id.*) The Company then offers that should the

Commission disagree; it should in the alternative adopt ABATE's recommendation to set the proposed fees as non-refundable with any excess costs being the responsibility of the requesting customer. (*Id.*)

Staff, however, maintains its recommendation that the Commission require the Company to reconcile the administrative fee amount charged to the customer with the actual costs upon completion of all projects associated with serving a prospective large load customer. In support of its recommendation, Staff notes that a reconciliation clause is important because it will protect prospective large customers from being overcharged for costs they did not incur. Another important function is that it will also protect all other ratepayers from subsidizing the projects required to explore serving large load customers. Finally, Staff's recommendation is also consistent with the administrative fee method the Commission recently approved for Consumers Energy Company's Large Load Customer Provision in its November 6, 2025 Order in MPSC Case No. U-21859⁴. For these reasons, Staff's recommendation should be adopted.

D. The Commission should adopt Staff's recommendations concerning the Collateral and Credit section tariff language.

Staff recommended in its direct testimony that the Company's proposed tariff language for the Collateral and Credit section be modified to align with the language approved by the Commission in MPSC Case No. U-21859. (2 TR 352.) To begin, Staff continues to recommend changing the tariff language concerning the

⁴ MPSC Case No. U-21859, 11/6/25 Order, pp 123-124.

amount of collateral to include removing the Company's proposed "sole discretion" language and instead including language that it is subject to Commission review and approval. (*Id.*) Next, concerning acceptable forms of collateral, Staff continues to recommend that they be modified to align with Case No. U-21859. This includes approving one or both of the following forms of collateral, 1) a standby irrevocable letter of credit, and 2) cash and removing a parental guarantee from the tariff language. (*Id.*) In summary, Staff recommended that the following language for the Collateral and Credit section be approved:

COLLATERAL AND CREDIT: The Company shall be entitled to require the customer to provide collateral equal to the termination fee as described above. The required collateral amount may be reduced as the termination fee declines over the term of the contract.

The Collateral Requirement may be provided to the Company in one or both of the following forms:

- a) A standby irrevocable letter of credit ("Letter of Credit") for the full Collateral Requirement.
- b) Cash for the full Collateral Requirement.

The Company may, at its discretion, require a different collateral amount or accept a form of collateral other than described above, subject to Commission review and approval.

Staff then recommended that if the Commission does approve a parent guarantee as an acceptable form of collateral, that the Commission make the same finding as it did in the December 18, 2025 Order in MPSC Case No. U-21990. (2 TR 353.) Specifically, that if there is a failure to pay the Minimum Billing Demand, or in the event of a termination, default, or other event whereby DTE Electric is required to draw on the parental guarantee, if the Company determines that the

specified collateral is not sufficient to cover the full amount of the remaining financial exposure associated with the customer's contract that the Company bear responsibility for any remaining liability. (2 TR 353-354.)

ABATE witness Dauphinais in his direct testimony recommends that the Commission not permit the use of parent guarantees unless DTE seeks and receives approval from the Commission to do so. (2 TR 121.) ABATE also recommends that if the Company proposes to allow the customer to use a parent guarantee, that it must include this information in its ex parte filing for service to that customer and demonstrate the reasonableness and prudence of the alternative collateral provisions. (*Id.*)

Attorney General, Natural Resources Defense Council, and Sierra Club witness Havumaki in his direct testimony also recommends that any modifications to the amount of collateral required should be subject to Commission review on a case-by-case basis, consistent with the Commission's decision in Case U-21859. (2 TR 327.) Witness Havumaki then joins Staff and ABATE in recommending that the Commission exclude parent guarantees as a default form of collateral for customers taking service under the Large Load Provisions. (*Id.*) Witness Havumaki explains that parent guarantees might expose the Company and its customers to undue risk if the parent company does not remain financially healthy. (2 TR 328.)

Finally, Great Lakes Renewable Energy Association witness John Richter recommends that the Commission should order that any tariff approved in this case

address collateral requirements consistent with prior cases. (2 TR 248.) No other parties to this case commented on this issue.

On rebuttal, Company witness Willis points out that concerning the amount of collateral, the Company had the option to pursue a 50% default collateral requirement consistent with Case No. U-21859 but instead proposed 100% to offer expanded protection to its customers. (2 TR 51.) Therefore, the Company argues that approving Company discretion in determining the collateral requirement is reasonable. (*Id.*) Concerning default forms of collateral, the Company states that its proposal is to assess the appropriate form of collateral, which may include cash or a letter of credit should it be deemed necessary to mitigate credit risk, and not to presuppose a parent guarantee (or any other form or quantity) as the expected outcome. (2 TR 52.) The Company then further explains that whether a parent guarantee is ultimately appropriate would continue to be determined case-by-case. (*Id.*) Concerning the Company bearing responsibility for any shortfall in collateral, the Company argues that Case No. U-21990 is not the correct reference point or basis for a recommendation in this case due to it being in the context of a specific contract with specific terms and considerations. (2 TR 53.) Any applicable precedent should come from the Commission Order in Case No. U-21859 and neither that Order nor the resulting tariff includes Staff's language. (*Id.*)

Staff maintains its position that the Company's proposed tariff language for the Collateral and Credit section be modified to align with the language approved by the Commission in Case No. U-21859. This includes removal of the Company's

proposed “sole discretion” language and adding language stating that other collateral amounts are subject to the Commission’s review and approval. The Company’s argument that it could have proposed a collateral amount equal to 50% of the termination fee does not negate the fact that changing the default amount should be subject to the Commission’s review and approval.

Staff also maintains its recommendation that should the Commission approve a parent guarantee as an acceptable form of collateral, that the Commission make the same finding as it did in the December 18, 2025 Order in Case No. U-21990. Specifically, if there is any event whereby DTE Electric is required to draw on the parental guarantee, if the Company determines that the specified collateral is not sufficient to cover the full amount of the remaining financial exposure associated with the customer’s contract that the Company bear responsibility for any remaining liability. Staff notes that the Order in Case No. U-21859 did not contain the language Staff is proposing because the Commission did not approve a parent guarantee as a default form of collateral in the tariff. However, Case No. U-21990 is a relevant case to reference for this issue because even though it was a special contract case, it is the only other case where a parent guarantee was approved by the Commission for large customer collateral. Also, the specific conditions of very large loads, investments and risks are common to both Case U-21990 and the current case, Case No. U-22061. For these reasons the Commission should approve Staff’s recommendations.

E. The Company should continue to provide the six cost allocation and rate design studies but using proposed test-year data.

Staff recommended in direct testimony that the Company continue to be required to provide six cost allocation and rate design studies along with all the data necessary to allow recreation of the proposals as ordered by the Commission in Case No. U-21990. (2 TR 354.) Staff also proposed to modify the six studies to specify that the data used to populate the six studies should be the same data as the Company used to populate its proposed test-year COSS and Rate Design in its currently filed rate case. (*Id.*) Therefore, the six studies should include:

1. One under traditional ratemaking as exemplified by DTE Electric's proposed test-year COSS including the expected full contract capacity of any large load customer(s) on Rate D11.
2. Same as (1), but with the inclusion of a new large load customer rate class.
3. Same as (2), but using 12CP to allocate costs instead of 4CP where 4CP is currently being utilized.
4. One under traditional ratemaking utilizing the proposed test-year COSS without the large load customer(s) in service.
5. One utilizing a direct assignment of costs to a new large load customer rate class, including transmission, generation, and distribution costs.
6. One utilizing a direct assignment of costs to the individual large load customer, again including transmission, generation, and distribution costs.

Staff also recommended that the Company continue to provide a summary exhibit comparing the impacts of these six cost allocation and rate design proposals on all customer classes on a side-by-side basis. (2 TR 355.) As Staff witness Pung testified in his direct testimony, Staff made its proposal to modify the six studies in response to the Company providing studies in MPSC Case No. U-22046 with data

from the Company's previously approved rate case and not its current rate case. (*Id.*)

On rebuttal, Company witness Willis first argues that this issue is being explored in the wrong venue, and that Case No. U-22046 is where it is most appropriate to debate cost of service and rate design issues. (2 TR 66.) He continues arguing that adopting this recommendation would effectively establish additional filing requirements in an otherwise unrelated case. The Company also expressed timing concerns with filing six alternate studies aligned to the proposed test year, pointing out that cost of service and rate design are the final items to be completed and they are dependent upon completed capital, O&M costs and revenue requirement. (2 TR 67.) Finally, the Company proposes that if the Commission adopts Staff's proposal, the six large load cost of service and rate design studies be filed at least one month after the filing of the Company's future rate case. (*Id.*)

In this instant case, Staff maintains its recommendation that the Commission order the Company to provide the six cost allocation and rate design studies as modified above in this case, just as the Commission made in its December 18, 2025 Order to provide six large load cost allocation and rate design studies in Case No. U-21990, which was not a general rate case.⁵ Furthermore, Staff did not make this proposal in the Company's current general electric rate case, MPSC Case No. U-22046, because it had already made the proposal in this case. It is now too late for Staff to make this recommendation in U-22046 and if the Commission does

⁵ MPSC Case No. U-21990, 12/18/25 Order, p 45.

not adopt Staff's recommendation, the Company will not be required to provide these studies in its next general rate case.

Staff does not recommend the Commission approve the Company's alternate proposal to allow filing of the six studies at least one month after the Company's subject future rate case because filing the six large load cost of service and rate design studies one month after the Company files its future rate case does not allow the parties to the case sufficient time to analyze them before the Staff and intervenor initial filing date. For the reasons provided above, Staff recommends the Commission adopt its recommendations as filed in its prefiled direct testimony and this brief.

III. CONCLUSION

For all the reasons presented in Staff's testimony, exhibits, and this initial brief, Staff respectfully requests the ALJ adopt Staff's recommendations into the Proposal for Decision

Respectfully submitted,

**MICHIGAN PUBLIC SERVICE
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PROOF OF SERVICE

STATE OF MICHIGAN)
) ss
COUNTY OF EATON)

Cherie A. R. Shea, being first duly sworn, deposes and says that on **October 6, 2026**, she served a true copy of **Michigan Public Service Commission Staff's Initial Brief** upon the following parties **via email only**:

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Subscribed and sworn to before me
this 6th day of **October, 2026**.



E. M. Fielder-Attia, Notary Public
State of Michigan, County of Jackson
Acting in the County of Eaton
My Commission Expires: 07-09-2031



Cherie A. R. Shea