

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.

MPSC No. U-22061

The Attorney General's Initial Brief

Respectfully submitted,

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Dated: October 6, 2026

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I. Introduction

DTE Electric Company (“DTE Electric,” “DTE,” or the “Company”) seeks approval of amendments to its Rate Schedule D11 (“Rate D11”) and associated relief. Namely, the Company is seeking approval of Rate D11 terms that would apply to certain large load customers (referenced herein as the “Large Load Provisions”). For ease of reference, the Attorney General provides the following summary of her recommendations in this brief:¹

- **Direct Assignment.**
 - The Attorney General’s recommended approach for addressing cost-shifting risks is a direct assignment framework whereunder the Commission directly assigns any incremental production, transmission, and distribution costs of serving each new large load customer to that customer, while also requiring large load customers to contribute their fair share of embedded system costs. The details and parameters of a direct-assignment framework are being presented in greater detail in DTE’s ongoing electric rate case.
 - Complementing a broader direct-assignment framework, the Attorney General recommends that as part of its order the Commission require that DTE make a filing before each new large load customer commences service, to be supported by cost modeling demonstrating how the costs

¹ To the extent not addressing any topic or issue herein, the Attorney General does not waive her ability to address such topics or issues in reply to other parties’ briefs or in further pleadings in this matter.

caused by that customer will not be borne by other customers. The Attorney General further recommends that the review of such applications occur as contested case proceedings.

- **Revenue guarantee provisions.**

- **MBD.** The Attorney General recommends that the Commission require the minimum billing demand (“MBD”) figure included in DTE’s proposed Large Load Provisions be set at 90 percent rather than 80 percent of contract capacity.
- **MMC.** The Attorney General recommends that the Commission require DTE to modify its proposed minimum monthly charge (“MMC”) so that it recovers sufficient revenue to reflect the fixed costs recovered through energy and rider charges, and further require the Company to clarify the extent of that recovery.
- **Termination Fee.** The Attorney General recommends that the Commission require that the duration component of the termination fee calculation should be equal to the time remaining in the contract term (inclusive of any contract extension period) if that time remaining exceeds two years, and a minimum duration component of two-years thereafter. The Attorney General further recommends that the termination fee be calculated by multiplying the MMC (as addressed in the preceding recommendation), rather than only the MBD piece of MMC, by the duration component.

- **Minimum Contract Term.** The Attorney General recommends that the Commission require a minimum contract term of 20 years, rather than 15 years as proposed by DTE.
- **CIAC.** The Attorney General recommends that the Commission require that the Large Load Provisions not provide for any CIAC allowance. The Attorney General recommends that the correct approach on this issue is direct assignment of interconnection costs (with no CIAC allowance), but acknowledges that the Commission may prefer such a recommendation be instead addressed in DTE's ongoing rate case.
- **Collateral Requirements.**
 - The Attorney General recommends that the Commission order that the required collateral amount set forth in DTE's proposed Large Load Provisions may only be modified via review and approval by the Commission in a contested proceeding.
 - The Attorney General recommends that the Commission order that parent guarantees be excluded as a default form of collateral under the Large Load Provisions, limiting the default forms to an irrevocable letter of credit or cash. While DTE may retain discretion over whether to require a cash deposit or irrevocable letter of credit for collateral, in the event of large load customer default where collateral is insufficient and results in the Company incurring stranded asset costs, the Commission

should not permit cost recovery for these stranded assets from other customers.

- **Termination Notice.** The Attorney General recommends that the Commission order DTE to implement in the Large Load Provisions a four-year notice requirement for both early termination and non-renewal.
- **No Capacity Reductions.** The Attorney General Recommends that the Commission order DTE to include in the Large Load Provisions language making explicit that reductions to contract capacity are not permitted.
- **Administrative Fee.** The Attorney General recommends that the Commission order DTE to implement in the Large Load Provisions a requirement that any administrative fee be reconciled to the actual costs the Company incurs in evaluating a prospective large load customer.

II. Applicable Law

A. Burden of Proof

DTE bears the burden of proving, by a preponderance of the evidence, that its proposals for Tariff LP amendments are reasonable and prudent. In administrative cases, a party seeking relief must prove their claim by a preponderance of the evidence.² In Commission cases, a utility has the burden of proof by a preponderance of the evidence.³ Given the nature of the burden of proof, the Commission may reject

² *Dillon v Lapeer State Home & Training School*, 364 Mich 1, 8; 110 NW2d 588 (1961), and *BCBSM v Governor*, 422 Mich 1, 88-89; 367 NW2d 1 (1985).

³ *In re Michigan Gas Utilities Co*, MPSC Case No. U-7484, Opinion & Order August 30, 1983, p. 10, and *In re Detroit Edison Co*, MPSC Case No. U-8030-R, Opinion & Order, July 9, 1987, pp. 16-17.

even uncontradicted evidence.⁴ When the burden of proving a fact falls on one party, the other party does not have the burden of proving the opposite fact.⁵

III. Argument

A. Direct Assignment.

A fundamental flaw with several of DTE's proposals here is a failure to meaningfully engage with the cost-shifting risks presented by the large load customers at issue. More specifically, DTE provided little-to-nothing beyond benchmarking in purported rationale for critical tariff terms concerning minimum revenue recovery.⁶ In maybe the most egregious example, the Company asserted in a discovery response that any analysis of large load revenues stemming from its proposals "is not relevant to the Large Load Provision tariff changes presented in the Company's Application and is beyond the scope of the present proceeding."⁷ To the contrary, it is axiomatic that the expected revenues and costs of serving large load customers are crucial to understanding the sufficiency of tariff provisions for serving those customers.

In short, the Company has not met its burden of proof to show whether and how many of these terms—as addressed individually below—are reasonable and prudent to protect other ratepayers from subsidizing large load customer costs. Establishing sufficiently protective terms for ratepayers is especially important given

⁴ *Woodin v Durfee*, 46 Mich 424, 427; 9 NW 457 (1881). *Accord*, *Yonkus v McKay*, 186 Mich 203, 211; 152 NW 1031 (1915), and *Cuttle v Concordia Mut Fire Ins Co*, 295 Mich 514, 519; 295 NW 246 (1940).

⁵ *S C Gary, Inc v Ford Motor Co*, 92 Mich App 789, 803-804; 286 NW 2d 34 (1979).

⁶ *See, e.g.*, Exhibit AG-NS-26, p. 4 (including discovery response labelled AGDE-1.5d); *See also, e.g.*, AG-NS-27 (including discovery response labelled AGDE-1.8).

⁷ Exhibit AG-NS-28, p. 1 (discovery response labelled as No. AGDE-1.11).

the size and scale of costs of the large load customers at issue; for example, the customers at issue in DTE's data center contract application cases U-21990 and U-22058 are several times larger in capacity than the next-largest customers taking service on Rate D11, and more than ten times larger than the median customer taking service on that rate.⁸

The Attorney General's recommended approach for addressing these cost-shifting risks is a direct assignment framework whereunder the Commission directly assigns any incremental production, transmission, and distribution costs of serving each new large load customer to that customer, while also requiring large load customers to contribute their fair share of embedded system costs.⁹ The Attorney General's witness Havumaki identified in testimony some of the ways in which the specific categories of tariff terms proposed by DTE are not sufficient on their own to adequately mitigate cost-shifting risk:

Q. Why does the risk of cost-shifting persist in spite of the Large Load Provisions?

A. Because individual customer costs may exceed the revenues provided through minimum bills. Further, even with a contract term of fifteen years, new assets added to serve large loads may persist far longer than the large loads themselves, potentially causing certain system assets to be stranded. As I discussed earlier in my testimony, collateral provides a critical backstop against cost-shifting and stranded assets; but even collateral can fail, so some risk associated with new large load customers is ultimately unavoidable.¹⁰

⁸ See Exhibit AG-NS-19, pp. 1 – 3 (discovery responses labelled NRDCSCDE-2.8a – c).

⁹ See, 2 Tr., Havumaki Direct at 336:3 – 338:3.

¹⁰ *Id.* at 337:18 – 338:4.

All of that being said, the Attorney General acknowledges that the Commission elsewhere has indicated a perspective that rate cases are the appropriate forum to address direct-assignment recommendations; the details and parameters of a direct-assignment framework are being presented in greater detail in DTE's ongoing electric rate Case U-22046.

Complementing a broader direct-assignment framework, the Attorney General recommends that as part of its order the Commission require that DTE make a filing before each new large load customer commences service, to be supported by cost modeling demonstrating how the costs caused by that customer will not be borne by other customers.¹¹ The Attorney General further recommends that review of such applications occur as contested case proceedings.

B. Revenue Guarantee Provisions.

During the pendency of the Commission's review concerning a direct-assignment framework, there are specific tariff provisions that can be adjusted to better protect against cost shifting and which can serve (along with the Attorney General's other recommendations herein) as baseline terms when evaluating the contours of a direct-assignment framework. Similarly, given DTE's dearth of analysis in this matter for evaluating large load costs and revenues (as identified in Section III.A above), combined with the tremendous cost-shifting risk these large load customers pose, the Commission should err on the side of a cautious and conservative approach for the tariff terms guaranteeing minimum revenues.

¹¹ *Id.*

- i. ***MBD.*** *The Commission should require that the Large Load Provisions include a 90 percent Minimum Billing Demand (“MBD”) figure.*

In its application, DTE proposed an MBD of 80 percent of contract capacity.¹² During the ramp period, the minimum would apply to the customer’s committed load ramp; thereafter, it would apply to 80 percent of the contracted capacity.¹³ The Company’s principal justification for that figure is that the same percentage was used in Consumers Energy Company’s large load tariff case U-21859.¹⁴ However, as the Attorney General argued in that case, Consumers Energy Company failed to present sufficient evidence as to why an 80 percent MBD, as opposed to a higher percentage, would work to guarantee adequate cost recovery for protecting against cost shifting.¹⁵

The Attorney General’s witness Havumaki further identified in testimony multiple reasons for departing from Case U-21859 on this topic.¹⁶ He noted that the Company’s monthly minimum charge proposal is deficient and risks under-recovering the fixed costs associated with serving large load customers, which could result in cost-shifting.¹⁷ More specifically, he noted that DTE will make capital investments to serve large load customers at full capacity, so setting the MBD at any level under 100 percent of contract capacity creates some risk of cost-shifting.¹⁸ Witness Havumaki thus recommended that the Commission order DTE to set the

¹² See, 2 Tr., Havumaki Direct at 328:14 – 329:6.

¹³ See, *Id.*

¹⁴ *Id.*

¹⁵ See, e.g., MPSC Case No. U-21859, November 6, 2025, Commission Order at 74 (“The Attorney General argues that Consumers’ proposals regarding the MBD and exit fee are unreasonable, and she notes that the company failed to engage with several topics.”).

¹⁶ 2 Tr., Havumaki Direct at 329:7 – 330:5.

¹⁷ *Id.*

¹⁸ *Id.*

MBD at 90 percent of contract capacity, which is more protective of other consumers and consistent with practices adopted in other jurisdictions that have minimum billing demand provisions of 90 percent or higher.¹⁹ The Attorney General likewise recommends here the Commission order DTE to include a 90 percent MBD, rather than 80 percent, in the Large Load Provisions.

- ii. **MMC.** *The Commission should order that DTE’s proposed minimum monthly charge (“MMC”) calculation be modified to ensure it recovers sufficient revenue.*

The Attorney General’s witness Havumaki identified problems with DTE including only MBD revenues in its proposed MMC calculation.²⁰ He noted that the Company appears to recover a portion of its fixed costs through energy rates and riders, and that in separate discovery responses DTE confirmed that it recovers a portion of its production revenue requirement through energy charges and that it recovers some of its base rate costs through various riders.²¹ Yet the Company also stated that “there is no specific assignment of fixed or variable costs to demand or energy charges,”²² and that “there is no specific assignment of fixed (or variable) costs to these riders.”²³

¹⁹ *Id.* (citing to, e.g., Kentucky Public Service Commission’s March 18, 2025, Order in KPSC Docket No. 2024-00305 at 3, accessible at https://psc.ky.gov/pscscf/2024%20Cases/2024-00305//20250318_PSC_ORDER.pdf (90% MBD term), and the Public Service Commission of Wisconsin’s May 21, 2026, Order in PSCW Docket 6630-TE113 at 26 – 27, accessible at <https://apps.psc.wi.gov/ERF/ERFview/viewdoc.aspx?docid=591873> (100% MBD for transmission service)).

²⁰ *Id.* at 330:11 – 331:9.

²¹ *Id.* (citing to Exhibit AG-NS-6, pp. 1 – 2, which include discovery responses labelled AGNSDE-1.7b – c).

²² *Id.*

²³ *Id.*

The Attorney General thus recommends, as did witness Havumaki, that the Company should clarify the extent to which the costs of production, transmission, and distribution infrastructure are recovered through energy rates and through riders.²⁴ It should also modify its minimum monthly charge to ensure that it recovers sufficient revenue from large load customers to fairly defray the costs of serving them and prevent cost-shifting to other customers.²⁵ There is likewise Commission precedent for inclusion of MMC components beyond MBD; in MPSC Case U-21986, the Commission recently approved a large load tariff with an additional MMC component for a minimum energy charge.²⁶

iii. ***Termination Fee.*** *The Commission should order a revised termination fee calculation.*

DTE's proposed Large Load Provisions would entail that, if a customer exits before the end of the contract term, the Company would assess a termination fee.²⁷ During the ramp period, the Company proposes to set the termination fee equal to the minimum bills associated with the contracted ramp schedule plus fifteen years of minimum bills at the full contract capacity.²⁸ After the ramp period (including during any contract extension), the Company proposes to assess a termination fee equal to the greater of (i) the total value of minimum bills over the remaining months up to the fifteen-year anniversary of reaching full contract capacity, or (ii) two years of minimum bills.²⁹

²⁴ *Id.* at 331:3 – 331:9.

²⁵ *Id.*

²⁶ MPSC Case No. U-21986, August 27, 2026, Commission Order, pp. 20 – 21.

²⁷ *See*, 2 TR., Havumaki Direct at 332:12 – 334:7.

²⁸ *See, Id.*

²⁹ *See, Id.*

The Attorney General's witness Havumaki identified in testimony several important ways in which DTE's proposed termination fee calculation is not sufficiently consumer protective. For one, if a customer enters into a twenty-year contract, but terminates service in year fifteen, it would only need to pay two years of termination fee at that point, despite having five years remaining in its contract.³⁰ Further, if a customer extends its contract for a five-year period, but terminates service shortly after the start of the extension period, it would only need to pay two years of termination fee at that point, despite having nearly five years remaining in its contract extension.³¹

In contrast, witness Havumaki recommended in testimony that the duration component of the termination fee calculation should be equal to the time remaining in the contract term (inclusive of any contract extension period) if that time remaining exceeds two years, and a minimum duration component of two-years thereafter.³² The Attorney General likewise makes the same recommendation here. This would better track with a customer's expected revenue obligation over the lifespan of their contract term, and would also track more closely with the Commission's November 6, 2025, Order in Case U-21859.³³

As indicated in witness Havumaki's testimony, modifying only the duration-factor for the termination fee calculation would not eliminate the risk of cost-shifting

³⁰ *Id.* (citing Exhibit AG-NS-8, which includes discovery response labelled AGNSDE-1.3).

³¹ *Id.* (citing Exhibit AG-Ns-7, which includes discovery response labelled AGDE-1.7e).

³² *Id.* at 333:12 – 16.

³³ *See, Id.* at 333:1 – 5.

and stranded assets.³⁴ Witness Havumaki thus reiterated the importance of a more comprehensive MMC term (as recommended in Section III.B.ii. above) to ensure full recovery of fixed charges,³⁵ and recommended that the termination fee be calculated by multiplying the MMC by duration,³⁶ rather than using only the MBD component of MMC. The Attorney General makes the same recommendation to the Commission here.

Finally, to the extent the Commission is inclined to include in its order any directions or procedures as to potential termination fee reduction or mitigation, the Attorney General in that case would further recommend that it require any requests for such reduction or mitigation be reviewed on a case-by-case basis through a contested proceeding.

- iv. ***Minimum Contract Term.*** *The Commission should require a minimum contract term of 20 years, rather than the 15-year minimum proposed by DTE.*

Beyond benchmarking to case U-21859,³⁷ DTE provided only vague, conclusory support for its proposal of a 15-year minimum contract term for the Large Load Provisions.³⁸ The Company further admitted in discovery response that it did not

³⁴ *Id.* at 334:1 – 7.

³⁵ *Id.*

³⁶ *See Id.* at 318:3 – 7.

³⁷ *See*, Exhibit AG-NS-27 (including discovery response labelled AGDE-1.8).

³⁸ When asked in discovery for any analysis, studies, or other support, the Company merely referenced back to its application testimony of witness Willis, including that “[t]he Company proposes a fifteen-year minimum contract term following the completion of the ramp period” and that “[t]his term is designed to achieve an appropriate balance of risk mitigation and commercial viability.” Exhibit AG-NS-26, p. 5 (including discovery response labelled AGDE-1.5f).

consider how its 15-year proposal would compare to potential longer-term investments to serve large load customers.³⁹

The company has thus failed to meet its burden of proof to show how its proposed 15-year minimum contract term is reasonable and prudent to sufficiently protect against cost-shifting risk. As the Attorney General and others argued in MPSC Case U-21859—the matter to which DTE attempts to benchmark here—a 20-year contract term is more in line with the expected useful life of potential incremental investments needed to serve the large load customers at issue, and has precedent in at least one other jurisdiction.⁴⁰ In fact, even a 20-year minimum contract term presents an inherent stranded asset risk given that the required incremental assets may persist longer than that minimum term.⁴¹ And as DTE has not presented in this case a careful evaluation of the potential revenues and costs associated with large load customers, the Commission should take a cautious approach in prescribing default tariff provisions.

The Commission should thus require DTE to include a 20-year minimum contract term requirement in the Large Load Provisions rather than the Company’s proposal for a 15-year minimum term.

v. ***CIAC.*** *The Commission should require that the Large Load Provisions not provide for any CIAC allowance.*

³⁹ Exhibit AG-NS-27 (including discovery response labelled AGDE-1.8).

⁴⁰ See, e.g., MPSC Case U-21859, November 6, 2025, Order at 22 (the order describing points presented in the testimony of MNSC witness Caroline Palmer as that “a 15-year contract term is not appropriate because it does not match the lifespan of the typical resources which will be used to serve this load such as self-builds (30-year depreciation schedule) and PPAs (15- to 25-year terms)”).

⁴¹ See, 2 Tr., Havumaki Direct at 336:18 – 227:4 (including that “even with a contract term of fifteen years, new assets added to serve large loads may persist far longer than the large loads themselves, potentially causing certain system assets to be stranded”).

In its application, DTE proposes that large load customers receive a CIAC allowance equal to two times their expected distribution revenue based on the full contract capacity and prevailing rates.⁴² However, DTE has failed to meet its burden of proving the reasonableness and prudence of its proposed CIAC allowance; among other reasons, the Company has expressed a lack of concern in this case for the relative revenues and costs associated with serving large loads (as addressed in Section III.A. above).⁴³ DTE's application testimony likewise presents only a conclusory assertion of reasonability for its CIAC proposal.⁴⁴ And the Company provided no supporting analysis, studies, or other support when asked in discovery, such as any comparison to a smaller CIAC allowance, instead merely referencing back to its application testimony.⁴⁵ Thus, DTE has not presented sufficient evidentiary support for requesting any particular CIAC allowance in this case. Without any analyses concerning large load revenues and costs or how the CIAC allowance would impact those evaluations, the Company has not met its burden of proving how its proposed CIAC allowance sufficiently prevents against risks of cost shifting.

Attorney General witness Havumaki likewise identified in his testimony that the Company has not shown that a CIAC allowance is warranted and that granting

⁴² See, 2 TR., Havumaki Direct at 334:9 – 11.

⁴³ To provide further example specific to this topic, the Company admitted in discovery responses it had not prepared estimates of interconnection costs, and further asserted that questions on this topic were “not relevant to the Large Load Provision tariff changes presented in the Company’s Application and [] beyond the scope of the present proceeding. Exhibit AG-NS-31, pp. 1 – 3 (including discovery responses labelled AGDE-1.14a-c).

⁴⁴ See, 2 Tr. Willis Direct at 34:20 – 35:2 (“This will ensure that the CIAC allowance is sized to the expected distribution revenue of the customer and that investments initially supported by other customers are reasonably recovered from the large load customer.”).

⁴⁵ Exhibit AG-NS-26, p. 6 (discovery response labelled AGDE-1.5n).

any allowance for CIAC risks shifting a portion of interconnection costs onto other customers.⁴⁶ He further noted that DTE's proposal is inconsistent with the outcome of Case U-21859.⁴⁷ Thus, the Attorney General recommends that the Commission require that the Large Load Provisions not provide for any CIAC allowance. The Attorney General recommends that the correct approach on this issue is direct assignment of interconnection costs (with no CIAC allowance), but acknowledges that the Commission may prefer such a recommendation be instead addressed in DTE's ongoing rate case.

C. Collateral Requirements.

As the Attorney General's witness Havumaki noted in testimony, the collateral requirements of the Large Load Provisions are important because collateral is what ensures large load customers satisfy their financial obligations to the Company.⁴⁸ The other terms and conditions in the Large Load Provisions that are intended to protect consumers are only as good as the collateral that that customer is made to provide.⁴⁹

- i. DTE's proposal to retain sole discretion in modifying required collateral amounts is neither reasonable nor prudent.*

As a starting point, the Large Load Provisions as proposed by DTE make the default collateral requirement equal to the termination fee, which would reduce annually with the customer's remaining financial obligation.⁵⁰ DTE also requests to retain the option to require a lesser amount of collateral from some customers at the

⁴⁶ 2 Tr., Havumaki Direct at 334:12 – 19.

⁴⁷ *Id.*

⁴⁸ *Id.* at 327:8 – 12.

⁴⁹ *Id.*

⁵⁰ *See, Id.* at 325:5 – 326:2.

Company's sole discretion, which it states it will exercise on a case-by-case basis based on the risk profile of each customer.⁵¹ The eligible forms of collateral per DTE's proposal include a letter of credit, cash, a parent guarantee, or a combination thereof.⁵² The tariff as proposed would give DTE sole discretion over the composition of the collateral.⁵³

DTE further stated in its case that it intends to determine the precise form and structure of the collateral based on the customers' creditworthiness including the credit rating of the customer and/or its parent Company.⁵⁴ However, DTE appears to not have specific criteria for determining creditworthiness and collateral requirements.⁵⁵ The Attorney General asked the Company in discovery to explain whether it intended to apply specific standardized criteria for determining collateral requirements, to which it responded: "[t]he Company will assess credit and collateral requirements for each customer, there is no specific 'standardized criteria.'"⁵⁶

The vagueness of the Company's discovery response on this topic is unacceptable for any reasonable and prudent collateral standard; especially given the size of the customers and associated cost-shifting risks at issue, the Commission should not grant DTE unilateral discretion to adjust collateral amounts. As noted by the Attorney General's witness Havumaki in testimony, DTE should not have sole discretion over the amount of collateral required because this decision has major

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ Exhibit AG-NS-5, p. 1 (discovery response labelled AGNSDE-1.2a).

financial implications for ratepayers.⁵⁷ In the case that collateral is drawn upon and the amount is insufficient to cover the remaining incremental costs, other customers may ultimately be responsible for the shortfall.⁵⁸ Allowing DTE to reduce the amount of collateral without Commission approval will expose customers to undue risk.⁵⁹

Granting DTE such discretion would also be inconsistent with the Commission's directions regarding collateral as set forth in its November 6, 2025, order in Case U-21859.⁶⁰ There, the Commission ordered that any variation from a default set of collateral requirements under a large load tariff would require a showing that the variation is "reasonable and prudent," and that such variation would not burden other customers with the risk of stranded costs.⁶¹

Thus, while the Attorney General recommends a default required collateral amount tracking with the full termination fee,⁶² she further recommends that any requests to modify the amounts of collateral required should be subject to Commission review on a case-by-case basis through a contested proceeding.

ii. The Commission should not permit a parent guarantee as a default form of collateral.

As noted above, DTE's proposed collateral provisions would include a parent guarantee as an eligible form of collateral, and would give DTE sole discretion over the composition of the collateral. However, as identified by Attorney General witness Havumaki in testimony, parent guarantees should not be included as a default form

⁵⁷ 2 Tr., Havumaki Direct at 327:1 – 7.

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ 2 Tr., Havumaki Direct at 326:3 – 18.

⁶¹ *Id.*

⁶² *See, Id.* at 327:13 – 17.

of collateral for customers taking service under the Large Load Provisions because of uncertainty regarding the credit quality of large load customers, as discussed by the Commission in its order in Case U-21859.⁶³ Parent guarantees might expose the Company and its customers to undue risk if the parent company does not remain financially healthy.⁶⁴ Likewise the Commission in its November 6, 2025, order in Case U-21859 excluded a parent guarantee from the default forms of collateral under a large load tariff.⁶⁵

The Attorney General thus adopts witness Havumaki's recommendations that the default forms of collateral be limited to an irrevocable letter of credit and/or cash, and that the Commission exclude parent guarantees from the default set of acceptable collateral forms.⁶⁶ The Attorney General further adopts witness Havumaki's recommendation that, while DTE may retain discretion over whether to require a cash deposit or irrevocable letter of credit for collateral, in the event of large load customer default where collateral is insufficient and results in the Company incurring stranded asset costs, the Commission should not permit cost recovery for these stranded assets from other customers.⁶⁷

Finally, to the extent the Commission is inclined to allow any variation from the default form of collateral, the Attorney General recommends it require that any

⁶³ *Id.* at 327:20 – 328:6.

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Id.* at 328:7 – 11.

such request for a variation be reviewed on a case-by-case basis through a contested proceeding.

D. Termination Notice.

The Attorney General recommends that the Commission order DTE to implement in the Large Load Provisions a four-year notice requirement for both early termination and non-renewal. In contrast, DTE's proposals for its large load tariff would require two years' advance notice of contract termination, and would automatically extend the contract term by five years if three years' advance notice is not given before the end of the original contract term.⁶⁸ The Attorney General's witness Havumaki identified in testimony that DTE's two-year termination notice proposal would be at odds with the Commission's direction for a four-year notice requirement in its November 6, 2025, Order in Case No. U-21859 (the same four-year notice for either terminating service early or at the end of the contract term).⁶⁹

As noted by witness Havumaki, DTE's proposal for a two-year termination notice requirement results in a greater risk to other customers than the Commission's direction for four-years of notice in Case U-21859.⁷⁰ Further, there is no clear reason why the notice requirement for early termination should differ from the notice requirement for not extending the contract at the end of the term, which is itself a form of service termination.⁷¹ The Attorney General thus recommends that the

⁶⁸ *Id.* at 331:11 – 14.

⁶⁹ *Id.* at 331:15 – 332:11.

⁷⁰ *Id.*

⁷¹ *Id.*

Commission require here a standardized four years' notice for both termination of service and notice for declining contract extension.

E. Capacity Reductions.

As noted by Attorney General witness Havumaki, DTE's proposed Large Load Provisions do not include any allowance for capacity reductions, a point that the Company clarified in discovery.⁷² The Attorney General here adopts the recommendation of witness Havumaki that the Company be required to add language to its Large Load Provision to make it explicit that contract capacity reductions are not allowed.⁷³

To the extent the Commission is inclined to allow for any capacity reductions, the Attorney General would in that case recommend that the Commission require any such requests for capacity reductions be reviewed on a case-by-case basis through a contested proceeding.

F. Administrative Fee.

On the topic of an administrative fee, DTE proposed a fixed, tiered administrative fee of \$100,000 for customers with contracted capacity of less than 200 MW, and \$250,000 for customers with contracted capacity of 200 MW or greater.⁷⁴ In contrast, the Commission's November 6, 2025, order in Case No. U-21859 directed administrative fee terms whereby a fee of \$100,000 would be charged up front to the

⁷² *Id.* at 330:6 – 10 (citing to the Company's discovery response labeled NRDCSCDE-1.12 as shown in Exhibit AG-NS-2: "[n]o, customers on the large load provision cannot reduce their contract capacity during the contract term.").

⁷³ *Id.* at 330:8 – 10

⁷⁴ *See*, 2 Tr., Havumaki Direct at 335:1 – 336:2.

applicant but requiring that the fee be reconciled to the actual costs incurred in performing the studies necessary to develop the customer's project proposal, with no cap — allowing for refunds if actual costs are lower and further payments if they are higher.⁷⁵ The Commission's stated purpose in that order was to ensure that the actual costs of responding to large load inquiries are recovered from the applicant rather than borne by existing ratepayers.⁷⁶ DTE's proposed administrative fee does not include a reconciling mechanism.⁷⁷

The Attorney General's witness Havumaki thus recommended a requirement that DTE's proposed administrative fee be reconciled to the actual costs incurred by the Company in evaluating a prospective large load customer.⁷⁸ The Attorney General makes the same recommendation here. As noted by witness Havumaki, the Company may retain an initial upfront charge, but any amount collected should be trued up to actual cost—with refunds where actual costs are lower and additional payment where they are higher—so that the costs of evaluating prospective large load customers are neither over-recovered from those customers nor shifted to other ratepayers.⁷⁹

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Id.*

IV. Conclusion

The Attorney General respectfully requests that the Commission adopt her recommendations as set forth above.

Respectfully submitted,

Dana Nessel
Attorney General

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PROOF OF SERVICE - U-22061

The undersigned certifies that a copy of the *Attorney General's Initial Brief* was served upon the parties listed below by e-mailing the same to them at their respective e-mail addresses on the 6th day of October 2026.

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