S T A T E O F M I C H I G A N

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of **DTE ELECTRIC COMPANY** for reconciliation of its electric investment recovery mechanism for the 13 months ended December 31, 2024.	)	Case No. U-21845

At the July 16, 2026 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. Daniel C. Scripps, Chair
Hon. Katherine L. Peretick, Commissioner
Hon. Shaquila Myers, Commissioner

ORDER

History of Proceedings

On March 28, 2025, DTE Electric Company (DTE Electric) filed an application in this case, with supporting testimony and exhibits, requesting authority to reconcile its electric investment recovery mechanism (IRM)[1] for the 13-month period ended December 31, 2024, pursuant to the December 1, 2023 order in Case No. U-21297 (December 1 order).

A prehearing conference was held on May 14, 2025, before Administrative Law Judge Jonathan F. Thoits (ALJ Thoits), wherein ALJ Thoits acknowledged a notice to intervene filed by

[1] Throughout the years, IRMs have been defined by various persons as infrastructure recovery mechanisms, infrastructure renewal mechanisms, and investment recovery mechanisms. However coined, the Commission considers them interchangeable and meaning the same thing—a regulatory tool designed to track specified, ring-fenced investments.

the Michigan Department of Attorney General (Attorney General) and granted a petition to intervene filed by the Michigan Environmental Council (MEC). DTE Electric and the Commission Staff (Staff) also participated in the proceeding.

On May 21, 2025, ALJ Thoits granted a petition to intervene out of time filed by the Citizens Utility Board of Michigan (CUB).

On September 9, 2025, the Attorney General, MEC, and CUB (filing jointly and identifying collectively as AG-MC) filed testimony and exhibits, as did the Staff, and on September 17, 2025, AG-MC filed revised testimony and exhibits.

On September 22, 2025, ALJ Thoits entered a protective order for use in the matter.

On October 3, 2025, this case was reassigned to Administrative Law Judge Theresa A.G. Staley, hereinafter referred to as the ALJ in the matter.

On October 7, 2025, DTE Electric filed rebuttal testimony and exhibits.

On October 31, 2025, the ALJ conducted an evidentiary hearing, wherein testimony and exhibits were bound into the record and cross-examination took place. On November 25, 2025, DTE Electric, the Staff, and AG-MC filed initial briefs, and on December 16, 2025, DTE Electric and AG-MC filed reply briefs.

On February 11, 2026, the ALJ issued a Proposal for Decision (PFD). On March 4, 2026, AG-MC filed exceptions, and on March 18, 2026, the Staff and DTE Electric filed replies to exceptions.

The record in this case consists of 276 pages of transcript and 45 exhibits admitted into evidence.

Proposal for Decision

The ALJ discussed the background and legal standards applicable to the IRM in this case on pages 2-4 of the PFD, followed by an overview of the record on pages 4-37. The ALJ then identified what she considered to be the real issue in this case as surrounding the company's benefit/cost analysis (BCA) submitted in Case No. U-21860 and the parties' frustration with the actual meaning and purpose of IRM reconciliation proceedings. Specifically, the ALJ stated that:

> [m]any of the issues that have been robustly contested in this case surround a BCA submitted by the Company in its currently-pending Electric Rate Case (Case No. U-21860). While there has been some other back and forth about the Commission's Order in Case No. U-21534 [DTE Electric's 2025 rate case], the real issue surrounds information included as part of the Company's BCA. In fact, the data and information included in that BCA have driven discussions in this reconciliation over a range of matters, even causing the parties to digress into discourse that demonstrates a level of frustration with the other party and their respective witnesses which manifest a level of "passionate advocacy" that is above that which was necessary in a reconciliation case. This frustration would appear to arise out of the meaning and purpose of these IRM reconciliation proceedings as one party considers this a straightforward review of planned costs to actual costs, while the other considers this reconciliation more of a vigorous review that includes elements of the Plan itself, and a detailed review of various alternative spending considerations.

PFD, pp. 37-38.[2] Noting that this matter is neither statutorily governed nor guided, the ALJ thus looked to the Commission's approval of the IRM in the December 1 order and cited orders therein for direction and concluded that an IRM reconciliation proceeding should consist of the reconciliation of planned costs to actual costs. *Id*., p. 39 (citing July 31, 2017 order in Case No. U-18124 (July 31 order), p. 103).

[2] Case No. U-21860 is no longer pending before the Commission. The Commission issued its final decision in the matter on February 19, 2026 (February 19 order), with subsequent errata to correct identified errors in some of the tariff sheets attached to the order.

The ALJ further found that:

> [t]he [December 1] Order did not say that (i) vegetation management or pole/poletop maintenance (PTMM) efforts were required ahead of recloser installation for distribution automation; or (ii) installation of reclosers for safety purposes versus reliability were to be identified and/or required in certain numbers or percentage. Thus, the [December 1] Order does not require these issues to be addressed as part of a reconciliation or other determination of whether the Company acted reasonably and prudently in implementing its 2024 IRM Plan. While these issues may very well have merit, and some are being addressed in the Company's pending Electric Rate Case (Case No. U-21860), they were not contemplated in the initial approval of the Company's IRM; however, conditions of its use continue to evolve. Thus, this PFD finds that the issues in this reconciliation case have been raised in a manner not contemplated by the Commission in Case No. U-21297, and with most exceeding the scope of the purpose of this reconciliation.

PFD, p. 39. The ALJ further reviewed the Commission's decision in Case No. U-21534 (for IRM planning and reconciliation processes to remain the same as those approved in the December 1 order) and found issues raised in Case No. U-21860 to be neither relevant nor within the scope of issues to be considered in the instant case—nor appropriate due to confusion and speculation. PFD, pp. 39-40 (citing January 23, 2025 order in Case No. U-21534 (January 23 order), p. 303).

The ALJ additionally stated that:

> while this PFD agrees with AG-MC's legal analysis of the scope of the Commission's authority to use hindsight in a reconciliation, because this PFD finds that the matters giving rise to the arguments surrounding hindsight (i.e. the critique of the BCA analysis which was undertaken well after this IRM was approved) are outside the scope of these reconciliation proceedings, this PFD makes no recommendation as to that issue.

PFD, pp. 40-41; *see also*, PFD, pp. 30-32 (citing AG-MC's reply brief, pp. 1-3).

In conclusion, the ALJ found this case to involve "a straightforward issue relating to whether the Company spent funds in a manner consistent with its 2024 IRM Plan." PFD, p. 41. Finding that DTE Electric complied with the directives in the December 1 order; that the investments in the 2024 IRM were reasonable and prudent, as the investments were more cost effective than anticipated and allowed the company to install additional reclosers; and that it was unrefuted that the company's implementation of its 2024 IRM plan did not deviate from the approved plan, the ALJ thus recommended that the Commission approve the company's requested $120,000 over-recovery and proposed treatment thereof. *Id*.

<u>Exceptions and Replies to Exceptions</u>

1. Exceptions

In their exceptions, AG-MC object to the ALJ's analysis and conclusion that DTE Electric's 2024 IRM distribution automation investment was reasonable and prudent and should be approved. AG-MC argue that the Commission should disallow "$13.113 million for the unreasonable and imprudent installation of 111 reclosers on 43 unique circuits, consisting of $8.699 million for installing 72 downline reclosers on 28 circuits with deferred maintenance, and $9.721 million for installing 84 reclosers on 31 circuits identified by DTE Electric as cost-ineffective." AG-MC's exceptions, pp. 3-4.

In support of their contentions, AG-MC first set forth the standard of review of an ALJ's decision under MCL 24.281(3) and as stated by prior Commission order and assert that the Commission, when examining this case, should consider that DTE Electric bears the burden of proof to demonstrate that the company's proposals are just and reasonable. AG-MC then address, in greater detail below, six points/arguments: (1) that this appears to be the Commission's first contested, non-statutory IRM reconciliation proceeding; (2) that, in the December 1 order, the Commission ordered an informal plan with both a forum and formal contested reconciliation proceedings to ensure IRM spending is reasonable and prudent; (3) that the IRM planning process provided limited information about the company's spending plans for the five programs in the IRM; (4) that the record in this reconciliation reflects different understandings by the parties of what the Commission meant in the December 1 order by providing parties the opportunity for review of the reasonableness and prudence of the company's expenditures; (5) that the ALJ erroneously concluded that the issues raised by AG-MC exceed the scope of the purpose of this reconciliation; and (6) that the Commission should disallow $13.113 million from the company's 2024 IRM circuit automation investments for reliability reclosers installed on circuits with backlogged maintenance and on circuits that are cost-ineffective. AG-MC's exceptions, pp. 5-30.

As to their first point/argument, AG-MC contend that this is the first contested distribution IRM reconciliation proceeding for any utility in Michigan. AG-MC mention other reconciliation proceedings pursuant to MCL 460.6h, MCL 460.6j, MCL 460.1022, and MCL 460.1049 and also discuss the gas infrastructure IRM first approved for DTE Gas Company (DTE Gas) (then known as Michigan Consolidated Gas Company (Mich Con)) in Case No. U-16999, which was later appealed, affirmed by the Michigan Court of Appeals,[3] and subsequently renewed and modified by future Commission orders. AG-MC state that regulatory reviews of the programs supported by that IRM from 2013-2016 were settled without testimony, intervenors, or a hearing, and when the Commission approved the modified IRM in Case No. U-17999, AG-MC contend that the limited hearing option from when that IRM was first approved in Case No. U-16999 apparently fell away, with just annual IRM reports filed by DTE Gas thereafter. AG-MC also discuss the IRM approval for Consumers Energy Company (Consumers) in Case No. U-18124, with subsequent non-precedential settlements thereafter in Case Nos. U-18424, U-20522, and U-20893. In sum, AG-MC state that they:

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[3] *See*, *In re Application of Mich Consolidated Gas Co to Increase Rates*, unpublished per curiam opinion of the Court of Appeals, issued December 11, 2014 (Docket Nos. 316141 and 316263).

> located no contested proceeding to reconcile actual IRM spending with planned spending. While there have been several settlement agreements of non-statutory IRM reconciliation proceeding[s], none involved testimony or argument, only non-precedential settlement agreements. Moreover, to the extent the Commission's final order in [Case No.] U-16999 and the unpublished appellate decision upholding it are precedential, they confirm that MCL 460.6a requires a "full and complete" hearing before IRM costs may be included in rate base.

AG-MC's exceptions, p. 10.

AG-MC next discuss Case No. U-21297 and the established parameters and process for the subject IRM in this case. Notably, AG-MC recall the process for filing the IRM investment plan at least four months prior to the start of each plan year—to allow for meaningful review, to raise concerns, and to allow for additional collaboration and input on proposed investments—and also the contested reconciliation proceeding to provide additional opportunity for input from interested parties, including input to address equity concerns, and to provide transparency and opportunity for the review of the reasonableness and prudence of company expenditures. *Id*., pp. 10-12 (citing December 1 order, pp. 284-291). AG-MC further note the five approved IRM programs and the spending levels approved for each, highlighting the 4.8 kilovolt (kV) circuit automation program as the focus of this reconciliation, which the Commission "provide[d] little detail" on other than approved spending of $26.406 million in the December 1 order. AG-MC's exceptions, p. 13.

Next, AG-MC discuss details regarding the contents and informal sharing of the 2024 IRM plan applicable to this case. In this discussion, AG-MC note that DTE Electric's 2024 IRM plan from Case No. U-21297 is a 27-page document with a short narrative describing the selection criteria and targets for the company's 4.8 kV circuit automation program and a list of 68 ranked circuits with three reclosers per circuit and a generic cost per recloser provided to the parties on February 7, 2024. They also indicate that a forum for interested persons was held two weeks later, on February 23, 2024,[4] where an 11-page PowerPoint presentation summarizing the plan was read with opportunity for questions and other feedback, including AG-MC's snapshot of the sum of the presentation on the 4.8 kV circuit automation program, and that, at the same time these events were occurring, the company was already executing its automation projects. AG-MC's exceptions, pp. 13-15 (citing 2 Tr 27-28, 39-41, 42-48, 112-113; Exhibit A-10; Exhibit AG-MC-15).

AG-MC thereafter address the different understandings about what the Commission meant by providing "'opportunity for review of the reasonableness and prudence of the company's expenditures'" when the subject IRM was approved in Case No. U-21297. AG-MC's exceptions, p. 15 (quoting December 1 order, p. 290) (emphasis omitted). In this discussion, AG-MC mention how DTE Electric has placed into service $4.1 million more in capital investments than the approved amounts in each of the five programs included in the IRM, notably with $32.843 million in total capital invested on the 4.8 kV circuit automation program during the 13-month period. AG-MC's exceptions, pp. 15-16 (citing PFD, p. 10; Exhibits A-1 to A-7; 2 Tr 86). While the Staff supported the company's request in this case, AG-MC state that testimony on behalf of the Staff merely consisted of a single substantive paragraph, whereas AG-MC's witness reviewed the company's 4.8 kV circuit automation investment and recommended that the Commission "disallow $17.52 million for the unreasonable installation of reliability reclosers on (1) circuits off-cycle for basic maintenance (vegetation management and pole and pole-top maintenance) and (2) cost-ineffective recloser installations as identified by the Company's Benefit Cost Assessment (BCA) presented in Case No. U-21860." AG-MC's exceptions, p. 17 (citing 2 Tr 211-227,

[4] AG-MC acknowledge that their witness did not attend this forum. AG-MC's exceptions, p. 15, n. 53 (citing 2 Tr 47-48).

272-273; Exhibits AG-MC-2 to AG-MC-5). AG-MC refer to further evidence on this in the record, in briefing, and in the PFD. AG-MC's exceptions, p. 17 (citing 2 Tr 23-64, 89-207, 230-262; PFD, pp. 11-36).

AG-MC then assert that the ALJ erroneously concluded that the issues they raised exceed the scope of the purpose of this reconciliation. They argue that the ALJ was wrong "in her analysis of both what the Commission has said and what it has not said related to the IRM and reconciliations, and more fundamentally, in failing to analyze the evidence and arguments regarding the reasonableness and prudence of the Company's automation recloser expenditures during the 13-month IRM period." AG-MC's exceptions, p. 18. AG-MC explain that, contrary to the ALJ's findings and conclusions otherwise, the Commission has not limited non-statutory contested IRM reconciliation proceedings to just a simple comparison of planned costs to actual costs, and AG-MC assert that the December 1 order did not limit the scope of issues that may impact the reasonableness and prudence of the company's IRM investments. *Id.*, pp. 18-30. AG-MC state and argue that:

- Case Nos. U-20522 and U-20893, as cited in the December 1 order, were settlement agreements that prohibit reference or use in another case to support an action, position, or decision, notably with the ALJ as a signatory for Consumers in Case No. U-20522;

- the reference to Case Nos. U-18124, U-20522, and U-20893 in the December 1 order was to support the IRM reconciliation being a contested case proceeding, not to set a standard or scope for the reconciliation or for the processing of the subject IRM to be consistent with those dockets;

- the July 31 order provided for a full reasonableness and prudency review in reconciliation, not simply a reconciliation of planned to actual costs;

- the Commission was clear in the December 1 order that this reconciliation would evaluate the reasonableness and prudence of the company's investments, meaning more than simply reconciling planned to actual costs;

- if this proceeding were limited to simply reconciling planned to actual costs, there would be no need for it to be a contested case proceeding and it would provide ratepayers with no protection against imprudent spending;

- MCL 460.6a(4) requires a full and complete hearing before rates are adjusted and to limit the scope of this proceeding to a comparison of planned to actual costs would undermine the Court of Appeals' rationale for upholding the IRM approved in Case No. U-16999;

- no particular IRM projects were identified in the December 1 order, and just because the Commission did not specify in that order that the company should not waste ratepayer resources in the IRM does not foreclose the Commission from assessing whether the company wasted ratepayer resources in this case;

- the burden is on DTE Electric to prove that its IRM investments were reasonable and prudent;

- this case is not like Case No. U-16999 or power supply/gas cost recovery cases;

- in the December 1 order, the Commission approved the spending level for the 4.8 kV circuit automation program but did not approve a particular number of circuits or reclosers to be installed or measurable reliability or safety benefits to be achieved, thus making this case the first and only opportunity for regulatory review of these decisions;

- the Commission could not and did not limit the scope of this reconciliation in Case No. U-21297;

- it is unclear how the January 23 order supports the ALJ's conclusion in this case about the proper scope of this reconciliation;

- the company's first formal BCA to support circuit automation in Case No. U-21860 does not foreclose the BCA from being relevant in the instant case, as DTE Electric's decision to ignore circuit-level recloser cost-effectiveness until after the conclusion of this IRM was unreasonable and imprudent and shows that the company had the data and capability to analyze the benefits relative to the costs of circuit automation before it installed the first recloser with cost recovery through this IRM;

- internal ambiguity and conflict within the PFD suggests that the ALJ was not entirely clear how to approach the reconciliation analysis in this case—notably with the ALJ concluding that the reconciliation involves whether the company spent funds in a manner consistent with its 2024 IRM plan but also as a straightforward review of planned costs to actual costs;

- neither of these reconciliation analyses set forth by the ALJ, however, is appropriate though because neither considers whether the company's actual decision-making in spending $26.4 million for reclosers in the IRM period was reasonable and prudent;

- there has been no regulatory evaluation of the company's 2024 IRM plan to ensure it is reasonable and prudent;

- there is no approved plan, thus it cannot be unrefuted that the company did not deviate from the approved plan;

- the company did, however, deviate from the plan, as the plan proposed three reclosers generically on each circuit whereas the company installed 0-5 reclosers, including on circuits not included in the plan;

- the 2024 IRM plan deviated from the company's presentation in Case No. U-21297 by shifting from safety-driven reclosers to safety and reliability reclosers driven by reliability data;

- the company planned to install 300 reclosers annually in Case No. U-21297 but installed 229 in 2024; and

- when it executed its 2024 IRM plan, the company failed to prioritize safety, focusing more on reliability reclosers.

AG-MC's exceptions, pp. 18-30.

Finally, AG-MC further address their assertion that the Commission should disallow $13.113 million from the company's 2024 IRM circuit automation investments for reliability reclosers installed on circuits with backlogged maintenance and on circuits that are cost-ineffective. AG-MC, in this regard, reiterate that the ALJ approached this reconciliation with an inappropriately narrow perspective that this case should be limited to comparing planned spending to actual spending and thus did not address the merits of the issues they raised. Incorporating their briefs by reference, AG-MC summarize and argue that:

> the Company installed 72 downline reliability reclosers on 28 circuits that were backlogged for vegetation maintenance or pole/pole-top maintenance (or both), unreasonably incurring $8.699 million. The Company installed 84 downline reliability reclosers on 31 circuits that were cost-ineffective for reliability. In sum, the Commission should disallow $13.113 million for the 111 unique downline reclosers installed on 43 circuits because the Company's decision-making supporting these recloser installations was unreasonable and imprudent.

AG-MC's exceptions, p. 30.

2. Replies to Exceptions

a. The Commission Staff

Responding to AG-MC's objection concerning the scope of this proceeding, the Staff clarifies that its analysis and recommendation for no disallowance aligns with the interpretation of these IRM reconciliation cases as being straightforward reviews with limited scope. Nevertheless, the Staff states that:

> upon reviewing AG-MC's exceptions, Staff can see the potential, under the right circumstances, for certain IRM investments to escape sufficient prudency review under such a "limited scope" paradigm. This is why, in this case, Staff did not actively oppose a broader scope of review for these IRM reconciliations, in which parties may conduct more detailed analysis within one or more spending programs and recommend disallowances, as AG-MC did here. In Staff's opinion, such an approach is consistent with the Commission guidance in Case No. U-21297 . . . .
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> However, in the longer term, Staff's preference is that these more focused kind of prudency reviews be conducted entirely within rate cases, as is the case with non-IRM capital programs. This should make detailed analysis of IRM investments more efficient, as they would be reviewed alongside other distribution investments within the same case, and streamline IRM reconciliation cases. Ensuring such detailed prudency reviews can occur within rate cases, as well as defining the exact scope of these IRM reconciliation cases, will likely require the Commission to promulgate policies, processes, and guidance. Staff and other intervenors can propose such policies, processes, and guidance in future rate cases and other proceedings. Therefore, at this time, Staff's response is to recommend a general long-term goal consisting of two parts: 1) in-depth prudency reviews of IRM projects and spending are conducted exclusively in rate cases; and 2) IRM reconciliation cases are focused on reviewing planned costs to actual costs, and how closely the Company followed its plan.

Staff's replies to exceptions, pp. 3-4 (citing December 1 order, pp. 289-290). Notwithstanding the above, however, the Staff states that it maintains its position in the case in recommending no disallowance and for the Commission to adopt the company's proposal to return $120,000 to customers.

b. DTE Electric Company

DTE Electric asserts that the Commission should adopt the ALJ's well-reasoned PFD, finding this to be a straightforward proceeding to determine whether the company spent designated funds consistent with its 2024 IRM plan and that the company complied with the Commission's directives in the December 1 order. DTE Electric's replies to exceptions, p. 1.

In support of this position, DTE Electric first addresses the standard of review for this part of the process. While acknowledging the Commission's powers under MCL 24.281(3), the company references Mich Admin Code, R 792.10435(3) and (4) (Rule 435(3) and (4)) for how parties are to preserve issues and frame requests in exceptions and argues that AG-MC's exceptions fail to comport with these standards. Specifically, DTE Electric asserts that AG-MC's exceptions:

> repeatedly fail to cite specific findings of fact or conclusions of law by the ALJ to which they purportedly except[,] . . . are replete with extraneous discussions, such as the historical development of gas IRMs and reiteration of arguments made in their Initial Brief and Reply Brief[,] . . . [and] do not express disagreement with the PFD until page 17 and do not cite to the PFD in the manner required in Rule 435(4) until pages 17-18.

DTE Electric's replies to exceptions, pp. 2-3 (footnotes omitted).

Addressing next AG-MC's contention that this appears to be the Commission's first contested, non-statutory IRM reconciliation proceeding, DTE Electric asserts that the Commission should disregard this portion of AG-MC's exceptions as non-conforming under Rule 435, inaccurate, and perplexing considering Case No. U-21918. DTE Electric's replies to exceptions, p. 3 (citing AG-MC's exceptions, pp. 5-10). DTE Electric further contends that the unpublished appeal of Case No. U-16999 does not control the applicable and substantial Commission precedent that gave rise to the company's IRM and notes that:

> the Commission unquestionably provided for a "full and complete" hearing in the instant case and adhered to the directives set forth in its Order in Case No. U-21297 dated December 1, 2023 ("December 1 Order"). The record reflects that interested

> parties, including AG-MC, were afforded a reasonable opportunity to present and cross-examine evidence and present arguments relevant to the specific elements that are the subject of the hearing. AG-MC were granted intervention, performed thorough discovery, filed testimony and exhibits, conducted extensive cross-examination and entered evidence, and filed briefs in which their arguments have been made. APA [Michigan Administrative Procedures Act] contested case requirements have been followed. In contrast to foregoing such opportunities in Case No. U-21918, AG-MC have taken full advantage of their opportunity to participate in this proceeding. Any arguments to the contrary are readily dispelled based on a review of the record. Thus, although debate exists as to the "subject of the hearing," which is a matter effectively addressed by the PFD, AG-MC have no colorable argument that their procedural rights were implicated due to a lack of a "full and complete" hearing.

DTE Electric's replies to exceptions, p. 4.

Addressing AG-MC's next three contentions about what the Commission ordered in the December 1 order as to the process in this case, the IRM planning process and the information provided with regard to the company's spending plans for the five programs in the IRM, and the different understandings about what the Commission meant by opportunity for review of the reasonableness and prudence of the company's expenditures in this case, DTE Electric asserts that the Commission should similarly disregard this portion of AG-MC's exceptions as also non-conforming under Rule 435. DTE Electric's replies to exceptions, p. 4 (citing AG-MC's exceptions, pp. 10-17). DTE Electric avers that:

> [t]his portion of the AG-MC's Exceptions is simply a reiteration of arguments presented in their testimony, Initial Briefs, and Reply Briefs, and is untethered from excepting to the PFD under Rule 435. There is no requirement for the Commission to attempt to unravel and consider such non-conforming arguments. Courts have repeatedly recognized, for example: "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.'"

DTE Electric's replies to exceptions, p. 5 (citations omitted). The company asserts that the Commission should also reject AG-MC's allegations in this portion of their exceptions that the IRM planning process provided limited information about the company's spending plans for the five programs as not only an improper exception under Rule 435 but also as improper considering that AG-MC did not engage in the IRM plan review and forum ordered by the December 1 order. DTE Electric argues that, "[b]ased on their lack of engagement, AG-MC should not be heard to disparage the Commission-ordered IRM Plan reviews and forums, nor criticize the content therein." DTE Electric's replies to exceptions, p. 5.

DTE Electric next asserts that the ALJ correctly concluded that the issues raised by AG-MC exceed the scope of the purpose of this case. The company, in this regard, disagrees with AG-MC's characterization of the December 1 order and argues that the ALJ's "astute and impartial reading of the December 1 Order's reliance on Case Nos. U-18124, U-20522, and U-20893 should be adopted by the Commission." DTE Electric's replies to exceptions, p. 6. DTE Electric states that:

> [t]he Commission intentionally and expressly cited to Case Nos. U-18124, U-20522, and U-20893 when establishing the Company's IRM reconciliation process. December 1 Order, p. 290. The PFD, p. 39, correctly noted that the Case No. U-18124 order, p. 103, indicated that an IRM reconciliation consists of the "reconciliation of planned costs to actual costs . . . ." The PFD further emphasized that although certain parties to Case No. U-18124 advocated for a more robust reasonableness and prudence review, that was not included in the Commission order in Case No. U-18124. PFD, p. 39. This is consistent with the Commission's directive in the December 1 Order, p. 290, that a contested reconciliation proceeding would provide an "opportunity for review of the reasonableness and prudence of the company's expenditures." Indeed, the dispositive question is whether the Company reasonably and prudently implemented the 2024 IRM Plan consistent with the December 1 Order—and the manner to do so is a reconciliation of planned costs to actual costs.
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> The PFD, p. 39, rightly found that the December 1 Order "did not say that (i) vegetation management or pole/poletop maintenance (PTMM) efforts were required ahead of recloser installation for distribution automation; or (ii) installation of reclosers for safety purposes versus reliability were to be identified and/or required in certain numbers or percentage." AG-MC excepts to this finding. PFD, pp. 22-23. However, the December 1 Order does not require these types of issues to be addressed as part of determining whether the Company reasonably and prudently implemented its IRM Plans, which would result in holding the Company to an indiscernible, heightened standard of review that evolves on a case-by-case

> basis. This would be untenable and in contravention to the Commission-recognized value provided by the IRM. *See* December 1 Order, p. 289.

DTE Electric's exceptions, pp. 6-7 (footnote omitted). Here, DTE Electric also notes the Commission's findings and conclusions in the February 19 order as to the significant customer benefits of distribution automation investments, with the company "highlight[ing] the importance of keeping these types of determinations in general rate cases and how improper introduction in IRM reconciliations creates confusion, wastes resources, and is inconsistent with the December 1 Order." DTE Electric's exceptions, p. 7, n. 8.

DTE Electric further argues that AG-MC's assertion that the company's IRM capital expenditures in some way evade a reasonableness and prudence review is an inaccurate insinuation that should be rejected. DTE Electric states that:

> [t]he IRM reconciliation effectively provides an annual review of the Company's planned IRM expenditures, which originally derive in general rate cases at a programmatic level and are refined at the project level IRM Plans, compared to the Company's actual IRM expenditures. This methodical approach provides multiple levels of review, and by the time the process reaches the IRM reconciliation phase only downward adjustments may result. In any event, AG-MC's Exceptions, p. 23, concede that this IRM and proceeding are distinct from the IRM addressed in *ABATE v Pub Serv Comm* (*In re Mich Consol Gas Co*), Case Nos. 316141 and 316263, 2014 Mich App LEXIS 2439 (Mich App Dec 11, 2014). In addition to the IRM reviews in general rate cases, IRM Plans, and IRM reconciliations, AG-MC fail to account for myriad other levels of relevant reviews in the context of the Liberty audit, [performance-based ratemaking], and DSP [distribution system plan cases].
>
> AG-MC seek to alter what is a straightforward reconciliation of the 2024 IRM into a proceeding in which cost recovery is improperly conditioned upon satisfying requirements not set forth in the December 1 Order and the 2025 Distribution Automation BCA that did not exist in the 2024 IRM period. By not engaging in the IRM Plan and forum processes, then cogently attempting to expand the scope of the IRM reconciliation proceeding, AG-MC actions run contrary to the December 1 Order.
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> AG-MC's Exceptions, p. 24, further argue that "[t]he first and only opportunity for regulatory review of the Company's IRM circuit automation decisions – which circuits to prioritize for recloser installation in the 13-months ending December 31,

2024 – is this reconciliation proceeding." This does not reflect the IRM construct established in the December 1 Order. The first opportunity to contest IRM programs and expenditures is the Company's general rate cases. Importantly, this is followed by the IRM Plan review and forum processes established by the December 1 Order, which AG-MC have called meaningless in general rate case briefing. The December 1 Order, p. 289, expressly indicated that the IRM Plan review and forum are intended for interested parties to raise concerns, allow for additional collaboration, and input into the proposed investments. Issues such as prioritization could be raised in the IRM Plan context, but AG-MC have not participated, which is outside the Company's control.

> AG-MC Exceptions, pp. 24-25, reiterate arguments as to why the distribution automation benefit-cost analysis ("BCA") presented in Case No. U-21860 should retroactively [apply] to the Company's 2024 decision-making. The PFD correctly found application of the BCA was outside the scope of this 2024 IRM reconciliation and is most appropriately dealt with in Case No. U-21860. PFD, pp. 39-40.

DTE Electric's replies to exceptions, pp. 7-8.

Lastly, noting again AG-MC's highly critical contentions about an IRM plan process in which they chose not to participate, DTE Electric argues that the ALJ correctly found that the company did not deviate from the approved IRM plan. DTE Electric avers that:

> [t]he record evidence and proper standard of review for this reconciliation proceedings confirm that the Company reasonably and prudently implemented the 2024 IRM consistent with the December 1 Order and 2024 IRM Plan, achieved lower-than-planned unit costs allowing more units to be installed within approved levels, and properly calculated a $0.12 million over-recovery to be returned to customers through a proposed regulatory liability. Staff independently verified the Company's calculations and recommends approval of the reconciliation and refund mechanism. (Staff's Initial Brief, pp. 3-4; see also 2T 272-273).
>
> AG-MC's Exceptions, pp. 28-29, incorrectly argue that deviations occurred based on persistent misperceptions regarding IRM-specific commitments versus counting whole year installations that include general rate case investments outside the IRM. For example, AG-MC argue that "the Company indicated in [Case No.] U-21297 it planned to install 300 reclosers annually, it installed 229 reclosers in 2024." *Id.* The Company installed 229 reclosers in the IRM and another 123 reclosers as part of the general rate case for a total of 352 (T3 763, Table 2).
>
> AG-MC's Exceptions, p. 29, reassert the argument that "the Company installed double the number of reliability (downline) reclosers relative to safety (start-of-circuit) reclosers in 2024 – 154 reliability reclosers and only 75 safety

> reclosers." AG-MC further allege that this information was not available in the IRM Plan. *Id.* This allegation is incorrect, as the information was in fact in the IRM Plan but AG-MC did not meaningfully participate in the IRM Plan review and forum processes to clarify their misunderstandings, collaborate, or provide input. The Company's 2024 IRM Plan, Exhibit A-10, p. 24, indicated the "scope of work for circuit automation includes installing SCADA [supervisory control and data acquisition] enabled reclosers at the station cable poles, sectionalizing points, and switching points as applicable." In general, each circuit will get one cable pole recloser. Therefore, when the Company estimated three reclosers per circuit it meant one cable pole and two other reclosers. Although most circuits only need one cable pole, when applicable, the two other reclosers would be sectionalizing and/or switching points. Presumably, AG-MC could have asked about this information in the context of the IRM Plan review and forum.

DTE Electric's replies to exceptions, pp. 9-10.

Asserting that it demonstrated that its implementation of its 2024 IRM plan and reconciliation of associated costs are reasonable and prudent by a preponderance of the evidence, DTE Electric requests that the Commission approve its reconciliation and proposals as supported by the company in this case. *Id.*, pp. 10-11.

<u>Discussion</u>

The Commission finds that the review of DTE Electric's 2024 IRM expenditures for reasonableness and prudence was, indeed, explicitly deferred to this case. *See*, December 1 order, p. 290. While the December 1 order cited to Case Nos. U-18124, U-20522, and U-20893 when describing the IRM reconciliation process, the intention of citing these cases in the December 1 order was to support the Commission's vision at the time for IRM reconciliations to be contested case proceedings, not just a simple comparison of costs.

Finding this case to thus be the proper forum for the review of DTE Electric's 2024 IRM expenditures for reasonableness and prudence, the Commission agrees with the Staff's position as set forth in the Staff's replies to exceptions that a broader scope of review in this case is consistent with the Commission's guidance from the December 1 order. *See*, Staff's replies to exceptions,

p. 3 (citing December 1 order, pp. 289-290). Nevertheless, the Commission is not convinced that a disallowance is warranted for the investment of reclosers for circuits with deferred vegetation management or pole/poletop maintenance—given the evidence in this case, the lack of a requirement in the December 1 order for the company to do vegetation management or pole/poletop maintenance as a prerequisite to cost recovery, and that there are still benefits of distribution automation investments on fully trimmed circuits—or for the installation of reliability reclosers on circuits subsequently identified and recognized by the company, after the 2024 IRM period, as being cost-ineffective. The Commission thus agrees with the Staff that no disallowance is warranted in this case and that DTE Electric's proposal to return $120,000 to its customers is reasonable and prudent. *See*, Staff's replies to exceptions, p. 4.

Given the clear misalignment and disagreement behind the value of IRMs and the intention of the current IRM reconciliation process, however, along with the Commission's own deep concerns about the future of IRMs in general, the Commission also agrees with the Staff's long-term goal for IRM reconciliation cases, specifically for reasonableness and prudency reviews of expenditures, IRM or otherwise, to be done in rate cases moving forward. Staff's replies to exceptions, pp. 3-4. To the extent future IRM expenditures have not yet been subject to an in-depth review in a corresponding rate case though, the Commission finds IRM reconciliation cases to be the appropriate forum to do such evaluations. This way, the intended value and fairness behind IRMs and the IRM reconciliation process—to ensure approved dollars are only spent for specific reasonable and prudent investments and refunded to customers to the extent not used for that intended purpose—can be maintained.

Finally, the Commission takes this opportunity to express its concerns over the way the IRM process is currently working. In the Commission's initial approval of an IRM for DTE Electric in the December 1 order, it limited the IRM to just two years, expressing the Commission's hope that such a limitation would allow the company to incorporate learnings from the Liberty audit and other proceedings to inform future IRMs. December 1 order, p. 289. Further, in the January 23 order resolving DTE Electric's subsequent rate case, the Commission continued to limit the IRM to two years, continuing to note that "results from the extensive audit conducted in Case No. U-21305 should inform not only the company's overall [DSP] and capital expenditures, but the programs designated for IRM treatment." January 23 order, p. 302. The Commission further stated that it was "not inclined to authorize the substantial increases in IRM spending requested by the company without a demonstration that the company has considered and incorporated, where reasonable and appropriate, the findings and recommendations of the distribution audit." *Id*. Finally, in DTE Electric's most recent general rate case, the Commission again limited any extension to one year, stating that such a limitation would "provide an opportunity to assess whether the reconciliation process is functioning effectively as intended, that the investments are providing the benefits expected, and that input from interested persons is being valued." February 19 order, p. 384. Indeed, in the February 19 order the Commission continued to express its reservations on whether the IRM process was working as intended, cautioning the company that any longer-term IRM would need to "develop and present a comprehensive strategy for implementing effective capital programs, including the development of BCAs to assess cost-effectiveness, as well as strategies for optimizing capital spending in coordination with enhanced vegetation management to maximize the value of investments intended to improve reliability." *Id*., p. 385. The Commission expresses its concern over the ongoing lack of alignment between proposed IRM expenditures and a comprehensive, well-supported distribution strategy and notes that this raises real concerns about whether the IRM process for DTE Electric is working as intended.

THEREFORE, IT IS ORDERED that:

A. DTE Electric Company's application for authority to reconcile its electric investment recovery mechanism for the 13-month period ended December 31, 2024, is approved.

B. DTE Electric Company's net over-recovery of $120,000 shall be returned to its customers through the recording of a regulatory liability to be amortized in a future general rate case for the company filed after the conclusion of this reconciliation case.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26. To comply with the Michigan Rules of Court's requirement to notify the Commission of an appeal, appellants shall send required notices to both the Commission's Executive Secretary and to the Commission's Legal Counsel. Electronic notifications should be sent to the Executive Secretary at LARA-MPSC-Edockets@michigan.gov and to the Michigan Department of Attorney General - Public Service Division at sheac1@michigan.gov. In lieu of electronic submissions, paper copies of such notifications may be sent to the Executive Secretary and the Attorney General - Public Service Division at 7109 W. Saginaw Hwy., Lansing, MI 48917.

MICHIGAN PUBLIC SERVICE COMMISSION

____
Daniel C. Scripps, Chair

____
Katherine L. Peretick, Commissioner

Shaquila Myers

____
Shaquila Myers, Commissioner

By its action of July 16, 2026.

Lisa Felice

____
Lisa Felice, Executive Secretary

PROOF OF SERVICE

STATE OF MICHIGAN)

Case No. U-21845

County of Ingham)

Brianna Brown being duly sworn, deposes and says that on July 16, 2026 A.D. she electronically notified the attached list of this **Commission Order via e-mail transmission**, to the persons as shown on the attached service list (Listserv Distribution List).

Brianna J. Brown

Brianna Brown

Subscribed and sworn to before me
this 16th day of July 2026.

Angela P. Sanderson

Angela P. Sanderson
Notary Public, Shiawassee County, Michigan
As acting in Eaton County
My Commission Expires: May 21, 2030

Service List for Case: U-21845

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