

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of	)	
DTE ELECTRIC COMPANY for approval of tolling	)	
agreements along with related relief.	)	Case No. U-22060
_____	)	

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

On May 8, 2026, DTE Electric Company (DTE Electric) filed an application in this case (May 8 application), with a supporting affidavit and exhibits, requesting *ex parte* approval of the company's KCE MI 2 Energy Storage System Tolling Agreement (KCE MI 2 TA) and Redstart Energy Storage System Tolling Agreement (Redstart TA) (collectively, the TAs). DTE Electric also requested that the Commission find that the TAs are consistent with the December 18, 2025 order in Case No. U-21990 (December 18 order) and all other applicable laws.

As background, on November 3, 2025, DTE Electric filed an application in Case No. U-21990 (November 3 application), with supporting testimony and exhibits, for *ex parte* approval of special contracts for electric service in which DTE Electric requested approval of a primary supply agreement (PSA) and an energy storage agreement (ESA) (together, the Special Contracts) with Green Chile Ventures LLC (GCV). In the December 18 order, the Commission approved the

Special Contracts subject to DTE Electric's acceptance of certain conditions. *See*, December 18 order, pp. 43-45. On January 15, 2026, the company filed a letter in Case No. U-21990 accepting the conditions set forth in the December 18 order.

DTE Electric's May 8 application seeks approval of the TAs intended to fulfill the Special Contracts approved in the December 18 order. The December 18 order authorized DTE Electric to deploy 1.383 gigawatts (GW) of energy storage resources to be fully funded by GCV as set forth in the Special Contracts. December 18 order, pp. 43-45. DTE Electric explains that the TAs constitute 300 megawatts (MW) of third-party-owned projects under the Special Contracts. May 8 application, p. 2. The company states that it intends to file additional company-owned projects to fulfill the remaining capacity needed to support the approved Special Contracts. *Id.*, p. 4.

Specifically, the May 8 application seeks approval of the KCE MI 2 TA and Redstart TA to fulfill the ESA. As detailed in the affidavit of Luisa M. Dunlap, Director of Renewable Energy Development, in support of the May 8 application, the KCE MI 2 TA is between DTE Electric and KCE MI 2, LLC (KCE MI 2), which is a wholly owned subsidiary of Key Capture Energy, LLC. The KCE MI 2 TA requires KCE MI 2 to design, engineer, construct, install, startup, test, and maintain the KCE MI 2 Project, which will be sited in Calhoun County, Michigan, and has a commercial operation date (COD) expected in the fourth quarter of 2028. The KCE MI 2 Project is anticipated to provide 100 MW of dispatchable energy storage capacity. *Id.*, affidavit of Ms. Dunlap, pp. 3-4. Under the KCE MI 2 TA, DTE Electric is authorized to utilize the KCE MI 2 Project for the 15-year term of the contract and receive the associated benefits of capacity, energy, ancillary services, and renewable energy credits (RECs). May 8 application, pp. 2-3.

Per the company, the Redstart TA is between DTE Electric and Redstart Energy Storage LLC (Redstart Energy Storage), a wholly owned subsidiary of Copenhagen Infrastructure IV, a fund

managed by Copenhagen Infrastructure Partners. The Redstart TA requires Redstart Energy Storage to design, engineer, construct, install, start up, test, and maintain the Redstart Project, which has a COD expected in the first quarter of 2028. The Redstart Project is anticipated to provide 200 MW of dispatchable energy storage capacity. Under the Redstart TA, DTE Electric is authorized to utilize the Redstart Project for the 15-year term of the contract and receive the associated benefits of capacity, energy, ancillary services, and RECs. May 8 application, p. 3.

DTE Electric states that the TAs were competitively sourced through its 2025 Energy Storage Request for Proposals (RFP) that adhered to the Competitive Procurement Guidelines for Rate-Regulated Electric Utilities and the terms of the integrated resource plan (IRP) settlement agreement in Case No. U-21193, approved by the Commission in the July 26, 2023 order in that case. May 8 application, p. 3. DTE Electric avers that, although the RFP was intended for storage needs arising from the IRP settlement agreement, additional viable projects were identified in the RFP responses that could support the ESA. *Id.* The company clarifies that it first selected the highest scoring projects from the RFP to meet its needs under the IRP settlement agreement, then selected the cost competitive TAs for deployment under the ESA from the remaining projects bid into the RFP. *Id.*

DTE Electric states that the blended levelized cost of storage (LCOS) of the TAs is \$15.30 per kilowatt (kW)-month. *Id.*, p. 4. DTE Electric further states that it consulted with the Commission Staff (Staff) on April 28, 2026 to provide an overview and review of the TAs. *Id.*, affidavit of Ms. Dunlap, p. 10. DTE Electric confirms that the TAs will be fully paid for by GCV under the ESA and, therefore, will not increase rates or cost of service for other customers. *Id.* DTE Electric acknowledges that, pursuant to the December 18 order, cost recovery methods regarding the ESA will be fully addressed and decided in future rate cases. May 8 application, p. 4.

Notice of Intervention and Answer

On May 15, 2026, the Michigan Department of Attorney General (Attorney General) filed a notice of intervention and request for a contested proceeding in this case (notice and request) pursuant to MCL 24.271. In the notice and request, the Attorney General asserts her right to intervene in any administrative proceeding when, in her own discretion, she deems it in the public interest to do so. Notice and request, p. 2 (citing MCL 14.28). Citing several cases representing the Attorney General's right to intervene in actions concerning the public, the Attorney General argues that, in this case, a large number of Michiganders who are customers of DTE Electric will be impacted by the actions taken in this case, and, thus, the Attorney General's intervention is required to represent those interests. Notice and request, pp. 2-3.

The Attorney General contends that DTE Electric: (1) has made only a minimal attempt to justify the *ex parte* approval of the TAs at issue by relying on conclusory statements that approval will not increase rates, (2) failed to show that the TAs are consistent with any terms set forth in the December 18 order for meeting the *ex parte* standard, (3) failed to meet the statutory standard for *ex parte* approval because the company did not assert that its request presents an alteration or amendment in rates or rate schedules, and (4) presented heavily redacted contracts that raise serious concerns as to the transparency of the Commission's decision-making. The Attorney General maintains that the Commission should not approve the May 8 application without an evidentiary record and should use its broad discretion to convert this matter to a contested proceeding. Notice and request, pp. 4-8.

On June 9, 2026, DTE Electric filed an answer opposing the Attorney General's notice of intervention and request to convert this matter to a contested proceeding. The company argues that the Attorney General is merely rehashing her disagreement with the Commission's

determinations in the December 18 order and asks the Commission to deny the Attorney General's notice and request. Answer, pp. 2-3. DTE Electric asserts that: (1) the Commission has the authority to approve the Special Contracts as well as the TAs at issue here to fulfill the Special Contracts' ESA, (2) the Attorney General again relies on an erroneous interpretation of MCL 460.6a(3) to argue that this matter should be converted to a contested proceeding, (3) the Attorney General's repeated disagreement with the December 18 order is not a basis for a contested proceeding, (4) the Staff was provided with unredacted copies of the Special Contracts and was provided with an overview and review of the TAs here, (5) the Attorney General's reliance on the May 18, 2023 order in Case No. U-21189 is misplaced and inapplicable to the instant case, and (6) the Attorney General does not have unilateral authority to convert this matter into contested proceeding. Answer, pp. 7-11.

Discussion

The Commission has reviewed the May 8 application and supporting affidavit and exhibits and finds that the TAs are consistent with the December 18 order and the terms of the ESA and should be approved.

DTE Electric's submission of the TAs intended to fulfill the ESA for *ex parte* review and approval is consistent with the December 18 order. DTE Electric's November 3 application in Case No. U-21990, as reflected in the supporting testimony of Neal Foley, p. 15, in that case, confirmed that the company would submit each energy storage project deployed under the ESA to the Commission for review and approval prior to construction. Applications for approval of projects and contracts that do not result in an increase in the cost of service, including those intended to fulfill special contracts, are routinely addressed through *ex parte* proceedings before the Commission. *See generally*, June 11, 2026 order in Case No. U-21816; March 27, 2026 order

in Case No. U-21193; August 7, 2025 order in Case No. U-21090; December 5, 2025 order in Case No. U-21285.

With respect to the ESA, the conditions set forth in the December 18 order remain applicable and the Commission makes clear that no cost allocation or cost recovery methods are approved as a result of this *ex parte* order. As to cost recovery of the TAs, the Commission will review such costs in the appropriate rate case. The Commission further finds that *ex parte* review and approval are appropriate because approval of the TAs is consistent with the December 18 order and will not result in an increase in the cost of service to customers. *See*, MCL 460.6a(3).

As to the Attorney General's notice of intervention and request for a contested proceeding in this matter, the Commission has reviewed the Attorney General's filing and the arguments therein and finds that the request for a contested proceeding should be denied. The Commission finds that the Attorney General's arguments in favor of a contested proceeding are largely repetitive of her arguments made in disagreement with the December 18 order as set forth in her January 20, 2026 Motion to Reopen Proceeding and January 27, 2026 Notice of Intervention and Motion Requesting a Contested Proceeding filed in Case No. U-21990.

In her instant request, the Attorney General states that she has identified multiple reasons why *ex parte* relief should not be granted and notes that her argument is being considered in her appeals of the December 18 order and the March 27, 2026 order in Case No. U-21990 (March 27 order) pending before the Michigan Court of Appeals. However, presently and unless otherwise decided by the Michigan Court of Appeals, the March 27 order denying the Attorney General's motion to reopen the proceeding and for a contested proceeding remains in effect and the rationale therein applies here. *See*, March 27 order, pp. 19-31. Additionally, the Attorney General raised a substantially similar notice of intervention and request to intervene in response to DTE Electric's

February 25, 2026 application in Case No. U-22054 (February 25 application) for *ex parte* approval of the Coldwater River Tuscola II TAs and the Isabella Energy Center and Meridian Energy Center Projects to fulfill the ESA. In the April 30, 2026 order in Case No. U-22054 (April 30 order), which approved the February 25 application, the Commission denied the Attorney General's request to convert the matter to a contested proceeding and the notice of intervention as moot. April 30 order, p. 14. In the April 30 order, the Commission found, as is the case here, that the Attorney General merely repeated her disagreement with the December 18 order and that the Attorney General does not possess the authority under MCL 14.28 to unilaterally convert an *ex parte* matter into a contested case. April 30 order, pp. 12-14.

Because it is also applicable in this case, the Commission repeats its reliance on the March 27 order that was set forth in the April 30 order. In the March 27 order, the Commission found as follows:

[t]urning to the Attorney General's assertion of intervention and associated motion for a contested case addressing the Contracts, the Commission finds that it must also be denied. MCL 14.28 provides that the Attorney General "may, when in [her] own judgment the interests of the state require it, intervene in and appear for the people of this state in any other court or tribunal, in any cause or matter, civil or criminal, in which the people of this state may be a party or interested." MCL 14.28 (emphasis added). MCL 14.101 provides that:

[t]he attorney general of the state is hereby authorized and empowered to intervene in any action heretofore or hereafter commenced in any court of the state whenever such intervention is necessary in order to protect any right or interest of the state, or of the people of the state. Such right of intervention shall exist at any stage of the proceeding, and the attorney general shall have the same right to prosecute an appeal, or to apply for a re-hearing or to take any other action or step whatsoever that is had or possessed by any of the parties to such litigation.

MCL 14.101 (emphasis added). As the above discussion demonstrates, the definition of "party" in Rule 402(k) [Mich Admin Code, R 792.10402(k)] does not accord a status to the Attorney General that is different from any other entity seeking intervention. While the Attorney General may intervene by right in any

contested case before the Commission, that does not also mean that any proceeding in which the Attorney General seeks to participate therefore becomes a contested case. Rather, the discretion of whether to transition a proceeding that could otherwise proceed on an *ex parte* basis to a contested case belongs to the Commission under Rule 415 [Mich Admin Code, R 792.10415].

In its wisdom, the Michigan Legislature drafted Section 6a of Public Act 304 of 1982, as amended, to state that “[a] gas utility, electric utility, or steam utility shall not increase its rates and charges or alter, change, or amend any rate or rate schedules, the effect of which will be to increase the cost of services to its customers, without first receiving commission approval as provided in this section[,]” and that “[a]n alteration or amendment in rates or rate schedules applied for by a public utility that will not result in an increase in the cost of service to its customers may be authorized and approved without notice or hearing.” MCL 460.6a(1), (3), respectively . . . the quoted language authorizes the Commission to conduct proceedings which will not affect the rates or rate schedules or the cost of service for the utility’s customers on an *ex parte* basis. “*Ex parte*” means “[o]n one side only; by or for one party; done for, in behalf of, or on the application of, one party only.” See, “*Ex parte*.” The Law Dictionary, <https://thelawdictionary.org/ex-parte/> (accessed March 16, 2026). Such treatment involves the applicant utility as the single party seeking authorization for a change in rates or rate schedules for a single potential customer whose proposed rates, terms, and conditions will not impact the utility’s existing customers. In *Attorney General v Liquor Control Comm*, 65 Mich App 88, 92-93; 237 NW2d 196 (1975), the Michigan Court of Appeals first recognized the authority of the Attorney General to intervene and represent the public interest in administrative proceedings. That holding has never been extended to allow the Attorney General to force a proceeding to become a contested proceeding (through intervention) where statutory authority allows the tribunal to dispense with notice and a hearing, and the Attorney General provides no legal authority to do so. This ruling is dispositive and the petition to intervene is moot.

March 27 order, pp. 29-30.

The Commission’s findings and conclusions regarding the Attorney General’s notice of intervention in the March 27 order and April 30 order are directly applicable to this case as the Attorney General cannot, once again, rely on MCL 14.28 to convert a properly *ex parte* matter into a contested proceeding. The Commission has found that the request for a contested hearing should be denied in such circumstances, and, as such, the Commission finds that the Attorney General’s notice of intervention should likewise be denied as moot.

THEREFORE, IT IS ORDERED that:

A. The May 8, 2026 application filed by DTE Electric Company seeking *ex parte* approval of the KCE MI 2 Energy Storage System Tolling Agreement and Redstart Energy Storage System Tolling Agreement, is approved.

B. The Michigan Department of Attorney General's request to convert this matter into a contested proceeding is denied and her notice of intervention in this proceeding is denied as moot.

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 sheacl@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, Commissioner

By its action of July 16, 2026.

Lisa Felice, Executive Secretary

PROOF OF SERVICE

STATE OF MICHIGAN)

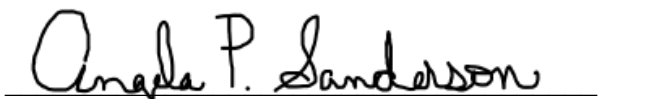
Case No. U-22060

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 Brown

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


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

Service List for Case: U-22060

Name	On Behalf Of	Email Address
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