STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion, regarding the regulatory reviews, revisions, determinations, and approvals necessary for **DTE ELECTRIC COMPANY** to fully comply with Public Act 295 of 2008.	)	Case No. U-18232

At the July 18, 2019 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. Sally A. Talberg, Chairman
Hon. Norman J. Saari, Commissioner
Hon. Daniel C. Scripps, Commissioner

OPINION AND ORDER

History of Proceedings

On March 29, 2018, DTE Electric Company (DTE Electric) filed an application for Commission approval of its renewable energy plan (REP) in this case pursuant to 2008 PA 295 (Act 295), as amended by 2016 PA 342 (Act 342). DTE Electric's application seeks approval to amend its current REP, approved by the Commission in the September 23, 2016 order in Case No. U-18111. DTE Electric describes its proposed REP as follows:

1. The proposed REP will maintain a renewable energy surcharge of $0.00 per meter, and the company will maintain a regulatory liability of a projected $63.9 million by 2029,

such that a regulatory asset does not accrue. DTE Electric's application, p. 3; 2 Tr 122, 133-134, 138-139.

2. The proposed REP is compliant with the renewable energy credits (RECs) requirements of Section 28 of Act 295, as amended by Act 342, MCL 460.1028, in that the company will maintain an amount of RECs necessary through the 20-year plan period, ending in 2029.

3. The company proposes to meet renewable energy portfolio standard (RPS) compliance requirements through company-owned, competitively bid, and Commission-approved renewable generation that does not include RECs from contracts entered into pursuant to the Public Utility Regulatory Policies Act of 1978, 16 USC 2601 *et seq.*, 16 USC 824a-3 (PURPA). Specifically, compliance will be achieved with 1,456 megawatts (MW) of company-owned wind generation and 77 MW of company-owned solar generation by 2022, which is an increase from the 841 MW in total renewable generation approved in the company's current REP (Case No. U-18111). 2 Tr 120, 126, 129-131.

4. The incremental cost of compliance (ICC) from 2017 through 2022 is projected at $95.5 million, and the proposed plan assumes that the Commission Staff's (Staff's) transfer price schedule is approved in Case No. U-18242.[1] 2 Tr 125-126; Exhibit A-2.

5. The proposed REP includes two pilot solar programs paired with battery storage, microgrid technology, and/or electric vehicle charging totaling less than 15 MW. 2 Tr 124.

[1] The Commission issued an order approving a settlement agreement inclusive of the Staff's transfer price schedule on May 17, 2018, in Case No. U-18242. *See*, May 17, 2018 order in Case No. U-18242, p. 2.

6. The proposed REP includes a voluntary green pricing (VGP) program, the revenue from which is treated as an offset to the ICC and the renewable generation from which is not counted towards the 15% RPS. The company modeled for approximately 300 MW of new wind capacity to be dedicated to a large customer VGP program. 2 Tr 122-123.

Also in its application, DTE Electric proposed a mechanism in this case to refund overcollections associated with a renewable energy surcharge approved in Case No. U-13808. DTE Electric's application, p. 3. This refund of $1,443,141[2] originates from a five-cent per meter charge approved in the November 23, 2004 order in Case No. U-13808 that was subsequently reversed by the Court of Appeals. The Commission then directed DTE Electric in its March 8, 2012 order in Case No. U-16356 to refund the revenue collected, with interest, in its next general rate case. The company inadvertently omitted the refund in its rate case, and proposes to include the refund in the present case and issue a one-time refund on a per customer basis on the first day of the month following a final order in this case. 2 Tr 51-54.

A prehearing conference was held on May 15, 2018, before Administrative Law Judge Sharon L. Feldman (ALJ), at which the ALJ granted leave to intervene to the Michigan Environmental Council (MEC); Soulardarity; Great Lakes Renewable Energy Association (GLREA); Environmental Law & Policy Center (ELPC); Cypress Creeks Renewables, LLC (Cypress Creek); Geronimo Energy; and Ranger Power, LLC (Ranger Power). The Staff also participated in the proceeding.

[2] The refund reflects the amount calculated inclusive of interest as of January 2019 with the refund increasing to reflect additional interest accumulated if the refund is issued later than the date anticipated by DTE Electric. Proposal for Decision (PFD), p. 7, citing 2 Tr 51-54; Exhibit A-27.

On June 27, 2018, DTE Electric filed revised testimony and exhibits, and on July 18, 2018, the Staff, Soulardarity, GLREA, and Cypress Creek filed testimony and exhibits. DTE Electric and Geronimo Energy filed rebuttal testimony on August 15, 2018. An evidentiary hearing was held on August 28, 2018, at which the testimony and sponsored exhibits of all parties were bound into the record pursuant to agreement by all parties, and additional exhibits were presented by Cypress Creek. Initial briefs were filed on September 25, 2018, by DTE Electric, the Staff, GLREA, Soulardarity, Geronimo Energy, Cypress Creek, and Ranger Power. On October 16, 2018, DTE Electric, GLREA, Soulardarity, Geronimo Energy, and Cypress Creek filed reply briefs. The record in this matter consists of 226 pages of testimony and 76 exhibits. On May 21, 2019, the ALJ issued a PFD in this matter. DTE Electric and Geronimo Energy filed exceptions to the PFD on June 18, 2019, and on July 2, 2019, GLREA and Cypress Creek, filed replies to exceptions.

On May 7, 2019, DTE Electric filed an application in this docket requesting *ex parte* review and approval of the Isabella Wind Farms build-transfer contracts with Isabella Wind, LLC (Isabella Wind). The build-transfer contracts require Isabella Wind to design, engineer, construct, install, start-up, and test the Isabella Wind Farms. Upon completion of these activities, DTE Electric will purchase the facilities. The wind farms, known as Isabella I and Isabella II, will be sited in Isabella County, and will result in a total of 383 MW of DTE Electric-owned renewable energy capacity. Isabella I will provide 197 MW, and Isabella II will provide 186 MW. Isabella I and Isabella II will supply energy for the company's Large Customer Voluntary Green Pricing (LC-VGP) pilot program that was approved in Case No. U-20343 on January 18, 2019, and any unsubscribed portions will be utilized for RPS compliance. As of May 1, 2019, DTE Electric has signed agreements with six full-service customers for the pilot

program, totaling 371 MW. The commercial operation date for the wind farms will be on, or before, November 1, 2020.

The contracts were the result of a request for proposals (RFPs), which DTE Electric developed in consultation with the Staff. The bidding criteria used by the company for the RFP included scoring for experience, safety and quality, project feasibility, proposed technology, pricing, contract terms and conditions, scope and specifications, financial strength, and creditworthiness. The closed-bid RFP was issued on May 29, 2018. By the due date of July 12, 2018, DTE Electric received eleven proposals from seven developers, including Isabella Wind. Utilizing an evaluation scorecard developed in consultation with the Staff, DTE Electric entered into and completed negotiations with Isabella Wind. The executed contracts are the result of the negotiations.

Additionally, on June 18, 2019, DTE Electric filed an application (June 18 application) requesting *ex parte* approval of a build-transfer contract between DTE Electric and Gichi Noodin Wind Farm, LLC, for the Fairbanks Wind Park. DTE Electric explains that approval of this contract will allow the company to advance construction of 72.45 MW of the 225 MW of future wind-build proposed for construction in 2021, enabling the company to take advantage of 100% of the federal production tax credit (PTC). The estimated installed cost for the 72.45 MW Fairbanks Wind Park is $2,000 per kilowatt (kW). DTE Electric states that approval will not impact the revenue recovery mechanism. The company notes that the build-transfer contract may be needed to supply renewable energy to DTE Electric's LC-VGP program for which the company has identified 40 additional large customers interested in participating, and that generation from Isabella I and Isabella II may not be sufficient to meet the demand of the program. Therefore, according to DTE Electric, the Fairbanks Wind Park will first be used for

RPS compliance and, if needed, a portion of the generation will be used to supply the LC-VGP. June 18 application, pp. 2-4.

With its application, DTE Electric also requested *ex parte* approval of the following:

> a) the associated wind-powered generating facilities' transfer prices, which are combined energy and capacity price projections, set forth in Exhibit A-4 filed in Case No. U-20172 for recovery under the Company's Power Supply Cost Recovery ("PSCR") process under MCL 460.6j; b) the capacity charges, which are included in the transfer prices, set forth in Exhibit A-4 filed and approved in Case No. U-20172 for the associated Fairbanks Wind Park wind-powered generating facilities for purposes of MCL 460.6j(13)(b); c) the recovery of the remainder of incremental costs associated with the Fairbanks Wind Park wind-powered generating facilities which are engineered, procured and constructed under the Contract through DTE Electric's Revenue Recovery Mechanism as an Incremental Cost of Compliance with the Renewable Energy Standards under the Company's Amended Renewable Energy Plan; d) assurance that the full costs of the Fairbanks Wind Park will be recovered through the combined application of the transfer price mechanism for PSCR recovery, application of the Revenue Recovery Mechanism surcharges under Act 295, and other mechanisms as determined by the Commission to recover these costs after the renewable energy plan period in accordance with MCL 460.1047(6); and e) any additional approvals that the Commission may deem necessary under Act 295 or MCL 460.6j.

Id., pp. 1-2.

The Commission finds it reasonable to address these *ex parte* applications in tandem with the company's REP application.

I. DTE Electric Company's Renewable Energy Plan

A. Proposal for Decision, Exceptions, and Replies to Exceptions

The PFD includes a thorough overview of the record that will not be repeated here. PFD, pp. 2-20. In the PFD, the ALJ addressed the following issues related to DTE Electric's REP: (1) the reasonableness and prudence of the proposed REP, (2) the solar pilot program, (3) the combined renewable energy and energy waste reduction (EWR) goal, (4) the Green Currents balance, (5) the refund associated with Case No. U-13808, and (6) community outreach. PFD, pp. 33-50.

1. The Reasonableness and Prudence of the Proposed Renewable Energy Plan

In her analysis, the ALJ first set out the legal standard for evaluating a rate-regulated utility's REP, explaining that MCL 460.1022 (Section 22) requires that a utility's REP must be reasonable and prudent and consistent with the purpose and goals of the statute. PFD, pp. 30-32, citing Section 22(5). The ALJ explained that DTE Electric bears the burden of proving by a preponderance of the evidence that its proposed REP, which in this case, consists of primarily company-owned wind generation, is reasonable and prudent under Section 22. *Id*., p. 34. The ALJ found that DTE Electric failed to meet its burden of proof and that its proposed REP is not reasonable and prudent for multiple reasons. *Id*., pp. 34-41.

First, the ALJ found that DTE Electric provided inadequate support for its plan to rely on company-owned renewable generation as opposed to purchases from third parties. *Id*., p. 34. The ALJ explained that the only support for the company's plan came from a single witness who explained that DTE Electric would use competitive bidding for all major renewable energy contracts, the company is an experienced leader with respect to wind park operations, and the company's forecasts show wind energy to be the most cost-effective in achieving RPS compliance. *Id*., pp. 34-35, citing 2 Tr 129.

Second, DTE Electric failed to present analysis of alternatives to its plan according to the PFD. *Id*., pp. 35-37, 43-45. Citing the parties' exhibits, the ALJ stated that DTE Electric conceded that it had no documents evaluating the purchases of unbundled RECs or purchases of RECs from PURPA qualifying facilities (QFs) beyond what was shown on Line 5 of its Exhibit A-4, and that the company did not forecast the long-term availability or cost of RECs. *Id*., p. 35, citing Exhibits A-4, CCR-1, CCR-2, CCR-3, and CCR-4. The ALJ considered DTE Electric's lack of analysis of third-party alternatives to be a "fatal flaw." *Id*., p. 43. Explaining further, the

ALJ stated that DTE Electric's arguments about "uncertainty" surrounding PURPA avoided cost determinations in Case No. U-18091 lacked analysis and credibility given that DTE Electric should have some understanding of its own avoided costs and that there was no evidence in the record to suggest that this information is highly sensitive. *Id*., p. 43. Thus, according to the ALJ, the company's "inability to forecast" with respect to RECs from QFs arises from its own failure to reasonably investigate the market or hold a competitive solicitation for renewable energy or RECs. *Id*.

The ALJ was also skeptical of DTE Electric's claim that if PURPA contracts proved to be cost-effective the company would consider negotiating for the RECs associated with QFs, because the company failed to show how this consideration could be worked into its all-company-owned plan. *Id*., pp. 43-44. The ALJ went on to explain that the proposed REP should be rejected for its lack of alternative analysis because of the Commission's limited role in REP proceedings; being that the Commission may only approve an REP with changes agreed to by the company or reject the plan. *Id*., p. 44, citing Section 22(3). Given DTE Electric's objection to accepting any changes to its proposed REP:

> approval of DTE Electric's amended renewable energy plan will require the Commission to find that portion of DTE Electric's power supply costs reasonable and prudent for the next decade, foreclosing any later and closer analysis of DTE Electric's power supply alternatives and foreclosing further purchasing of QF power to meet renewable energy needs for that same decade.

Id., p. 45.

Third, the ALJ found DTE Electric's assertions supporting its proposed REP unpersuasive. *Id*., p. 38. Referring to DTE Electric's testimony where the company touted its performance in wind turbine operations and stated that the company is a "leader in renewable energy project development, construction, and operations," the ALJ found that these claims are:

> relative and neither specific nor measurable and do not constitute an express representation upon which the Commission could reasonably rely. The "facts" upon which DTE Electric's witness relied for the opinions supporting its plan to meet all new renewable energy requirements exclusively through company-owned assets are not in evidence. Because DTE Electric has failed to support a critical and central element of its renewable energy plan with evidence of a kind a reasonably prudent person would rely upon in the conduct of their affairs, it has failed to prove that its plan is reasonable and prudent.

Id.

Fourth, the PFD determined that in its attempt to support its company-owned only REP, DTE Electric misinterpreted Act 342 and a previous order by the Commission. *Id*., pp. 39-41. The ALJ explained that prior to amendment by Act 342, Act 295 provided that no more than 50% of an electric provider's RECs could come from renewable generation owned by the electric provider, and that Act 342 eliminated this provision. *Id*., p. 39, citing Section 33 of Act 295, formerly MCL 460.1033, and Section 28 of Act 342, MCL 460.1028(3). According to the ALJ, DTE Electric mistakenly interprets the elimination of the 50% limit to mean that the company has "unfettered discretion to choose to pursue only company-owned renewable generation." *Id*. This is in error, as the ALJ explained, because Section 22 requires any REP to be reasonable and prudent. *Id*., p. 40. Further, the ALJ noted that DTE Electric relied on the Commission's determination in Case No. U-18091 that QFs are not required to include RECs in PURPA contracts to support its failure to assume the use of any PURPA RECs in its proposed REP. According to the ALJ, this was in error because the Commission's determination as to a QF's RECs was relative to the PURPA standard offer and did not endorse an REP relying only on company-owned generation. *Id*., pp. 40-41.

In her analysis, the ALJ referenced the February 7, 2019 order in Consumers Energy Company's (Consumers') REP proceeding, Case No. U-18231 (February 7 order), where the Commission heard similar arguments from Consumers as to why it failed to consider using

bundled or unbundled RECs from third parties, including QFs. PFD, p. 41. In that case, the administrative law judge rejected Consumers' proposed REP on the basis that its analysis of RECs from PURPA QFs, which included two forecasted scenarios where the company assumed the company did not build its own renewable generation and one scenario where it did, was inadequate. While the Commission agreed that Consumers' analysis was inadequate in Case No. U-18231, the Commission did not find Consumers' failure to be a fatal flaw because: (1) past Commission orders did not mandate rejection of the plan, and (2) a recognition of continued uncertainty regarding PURPA avoided costs and Consumers' purchase obligations. *Id*., pp. 41-42, citing the February 7 order, pp. 4-5, 21-26. Also noted by the ALJ was the Commission's expectation in the February 7 order for Consumers to explore incorporation of RECs from QFs as its PURPA issues are resolved. *Id*., p. 42, citing the February 7 order, pp. 24-25. In drawing the comparison between Consumers' inadequate analysis and DTE Electric's lack of analysis with respect to renewable energy purchases from third-parties, the ALJ distinguished DTE Electric's "failure to present any analysis of third-party alternatives [as] a 'fatal flaw' warranting rejection of the company's plan." *Id*., p. 43.

Thus, for the reasons set forth above, the ALJ concluded that DTE Electric's proposed REP consisting of only new company-owned renewable generation to meet RPS compliance was not reasonable and prudent.

DTE Electric takes exception to the PFD for multiple reasons. First, the company argues that contrary to the ALJ's findings, the company provided sufficient evidence to prove the reasonableness and prudence of its proposed REP. DTE Electric's exceptions, pp. 3-4. DTE Electric explains that the ALJ's reference to one paragraph of testimony provided by company witness, Terri Schroeder, as the sole support for the company's REC requirement disregards

other testimony and exhibits that the company provided. *Id*., p. 4. The company points to other portions of the record where Ms. Schroeder testified that: (1) wind was the most cost-effective option for RPS compliance, (2) the information DTE Electric used to generate its forecasts came from the National Renewable Energy Lab-Annual Technology Baseline, (3) the installed capital costs for future wind assets is $1,677 per kW in 2021 and $1,817 per kW in 2022, (4) the plan includes operations and maintenance and ongoing capital costs that are based on the company's experience and benchmarking, and (5) for company wind projects and power purchase agreements (PPAs) that are operational at the time this REP filing was made, the forward looking capacity factor projections are consistent with the approved REP in Case No. U-18111. *Id*., citing 2 Tr 126-129.

The company also disagrees with the ALJ's conclusion that it did not support its experience with wind parks with facts and evidence. The company asserts that it has operated wind parks for the past six years, a fact that was recognized by the Commission in its February 2019 MPSC Report, Appendix G. *Id*., p. 5, citing 2 Tr 129 and Exhibit A-3. DTE Electric finds the ALJ's criticism of the company's experience unfair given that, according to DTE Electric, the ALJ accepted without question Cypress Creek's unsupported testimony that Cypress Creek had plans to develop solar QFs at anticipated full avoided costs. *Id*., citing 2 Tr 201-208.

Turning again to the reasonableness and prudence of its proposed REP, DTE Electric recounts testimony explaining that its proposed plan meets the goals and purposes set out in MCL 460.1001 and that the plan will contribute at least 15% to the 35% goal in MCL 460.1001(3). *Id*., pp. 5-6, citing 2 Tr 120, 139-140. DTE Electric states that the Staff also provided support for the company's plan by testifying that DTE Electric is on track to comply

with Act 342 and that the cost of the proposed REP presented by DTE Electric is reasonable and prudent. *Id*., p. 6.

Second, DTE Electric avers that its approach of utilizing company-owned assets only is reasonable and that the ALJ mischaracterized the company's position as using "unfettered discretion to pursue only company-owned renewable generation." *Id*., p. 7, citing PFD, pp. 39-40. DTE Electric states that it never made such a claim, but merely pointed out the change in the law that has now made the option of company-owned only generation possible. *Id*. DTE Electric argues that the Legislature's removal of the 50/50 requirement is not meaningless, the Commission has an obligation to comply with statutes, and the Michigan Supreme Court has held that agencies cannot alter or create law. *Id*., citing *Dearborn Twp v Tail*, 334 Mich 673, 684; 55 NW2d 201 (1952) and *In re Complaint of Rovas Against SBC Michigan*, 482 Mich 90, 98; 754 NW2d 259 (2008). Thus, DTE Electric contends that there is no merit to the ALJ's recommendation to reject the company's plan. *Id*.

DTE Electric also takes issue with the ALJ's finding that the company did not justify "putting all its eggs in one basket" and her analogy to the January 31, 1989 order in Case No. U-8871 regarding Midland Cogeneration Venture (MCV) on page 44 of the PFD. DTE Electric argues that the Court of Appeals overturned the Commission decision that limited the amount of capacity that Consumers could obtain from one project or one fuel type, holding:

> There is no statute or federal authority, however, for the [Commission's] attempt in its [January 31, 1989] order to limit the size of any one QF dealing with Consumers or its final decision to limit the total capacity which may be supplied by any one type of fuel. . . . Although the PSC's stated goal of encouraging a diversity of QFs with a variety of fuel types is laudable, as is its concern that the MCV facility is so large as to crowd out other potential applicants, it is not for the PSC to determine questions of public policy. As noted above, the PSC is entirely a creature of statute and must find its powers and purposes under those statutes.

Id., p. 8, quoting *Consumers Power Co, v Public Service Comm*, 189 Mich App 151, 177 and 179; 472 NW2d 77 (1991). DTE Electric continues that "diversity" of resources is not defined in MCL 460.1001, nor is it the only goal of the statute. *Id*. The company insists that it has proven the cost-effectiveness of its plan to add company-owned wind generation and that wind is a reliable resource, citing to the Commission's February 15, 2019 *Report on the Implementation and Cost Effectiveness of the PA 295 Renewable Energy Standard*. DTE Electric's exceptions, p. 9.

Third, DTE Electric argues that it is not required by statute or Commission order to provide an analysis of alternatives as suggested by the ALJ. *Id*. In fact, the company asserts, the Commission has declined to make "specific directives to the utilities regarding purchasing RECs from QFs" and that judging the reasonableness and prudence of an REP requires a "holistic view of a number of factors." *Id*., pp. 9-10, quoting the February 7 order, pp. 22-23. Further, DTE Electric states that analysis of alternatives is not possible because the company is unable to forecast the long-term quantity of RECs from QFs as QF development is outside DTE Electric's control. *Id*., p. 10. Also, DTE Electric claims that it did not evaluate purchasing unbundled RECs because it is unaware of unbundled RECs available from operational QFs and that purchasing RECs from QFs does nothing to further the goal of promoting additional investment in renewable energy. *Id*.

In response to the ALJ's claim that DTE Electric did not meaningfully refute Cypress Creek's planning for 700 MW of renewable energy, DTE Electric argues that Cypress Creek's testimony on this point was speculative because it was based on what Cypress Creek "anticipates" full avoided costs to be. *Id*., p. 11. Given that DTE Electric's avoided cost proceeding was remanded after the Commission found the hybrid proxy method to no longer be

appropriate to calculate avoided costs, DTE Electric points out that no party provided evidence that the yet-undefined avoided cost would be lower than the cost of the proposed REP. *Id*. According to the company, "the PFD implicitly assumes that the QFs would be willing to sell RECs to the Company at reasonable prices" even though "there is no basis for this assumption in the record." *Id*.

The company also takes exception to the ALJ's criticism of DTE Electric's failure to provide a cost comparison between its plan despite the PFD acknowledging, according to DTE Electric, that the proposed REP established a reliable cost estimate, and estimated avoided costs. *Id*., p. 12. DTE Electric argues that, "the alternative proposals from solar developers such as Cypress Creek would displace DTE Electric's wind farms, so in this case the costs of the Company's proposed wind farms *are* the Company's 'avoided costs.'" *Id*. Thus, DTE Electric claims that the ALJ's criticisms are misguided and insists that it demonstrated on the record that the company is pursuing low-cost renewable energy at credible prices. *Id*., p. 13, citing 2 Tr 126-129, 139-140.

Fourth, DTE Electric takes issue with the ALJ's reliance on the February 7 order, arguing that DTE Electric is essentially seeking the same approval that the Commission granted to Consumers to add company-owned wind. DTE Electric explains that the administrative law judge in Consumers' case recommended rejection of the proposed REP for failure to consider the purchase of RECs from third parties, but that the Commission disagreed that such failure was a basis to reject the self-build wind plan. *Id*., p. 14. The company also points out the Commission's acknowledgment of the uncertainty surrounding PURPA contracts and how it was not reasonable for Consumers to anticipate the Commission's future decisions regarding PURPA

when developing its REP. DTE Electric argues that the same reasoning can be applied in this case and therefore, the Commission should approve its proposed REP. *Id*.

Lastly, DTE Electric adds that there are timing implications surrounding the Commission's decision in this case because if the Commission rejects the company's proposed REP, DTE Electric would have to file a new REP in 2020 with a final order likely being issued in 2021. *Id*., pp. 14-15. The company claims that such delay leads to heightened risk that it will not be able to maintain its 15% RPS portfolio cost-effectively. *Id*., p. 15. For the reasons set out in its exceptions, DTE Electric requests that the Commission approve its proposed REP.

In its exceptions, the Staff states that nothing in the PFD changes the Staff's position of support for DTE Electric's proposed REP and argues that the plan should not be rejected merely for a failure to evaluate possible REC purchases from third parties. Staff's exceptions, p. 2. The Staff goes on to argue that it was impossible for DTE Electric to perform an analysis of REC purchases from QFs because, at the time it filed its REP, the company was still far from a final order setting avoided cost rates in Case No. U-18091. *Id*., pp. 2-3. The Staff opines that DTE Electric met the burden of proof by adequately supporting its proposed REP. However, the Staff requests that if the Commission approves the plan, it should also require DTE Electric to file reports on its pilot solar projects describing the costs incurred, current planning and development status, updates on lessons learned, and how it plans to use such information for future solar development. *Id*., p. 3.

Cypress Creek, Geronimo Energy, and GLREA filed replies to exceptions on July 2, 2019. In its replies to exceptions, Cypress Creek claims that DTE Electric mischaracterized the ALJ's rejection of its REP. According to Cypress Creek, the ALJ found the plan to be unreasonable and imprudent because DTE Electric failed to analyze the purchase of RECs from any source,

not just PURPA QFs, and failed entirely to consider alternatives to company-owned generation. Cypress Creek's replies to exceptions, pp. 2-3. With respect to the PURPA issues raised in DTE Electric's exceptions, Cypress Creek argues that DTE Electric is wrong to assert that its avoided costs are the costs of its proposed wind generation because avoided costs must be approved by the Commission. *Id*., p. 5. Cypress Creek also takes issue with DTE Electric's insistence that MCL 460.1028(3), which permits the company to utilize company-owned generation, automatically makes its decision to do so reasonable and prudent. *Id*., pp. 3-4. Rather, Cypress Creek argues, DTE Electric has a duty to consider all reasonable means for achieving compliance. *Id*., p. 4. Cypress Creek then argues that, contrary to DTE Electric's exceptions to the PFD, the record does support Cypress Creek's offer to convey RECs with full avoided costs and demonstrates DTE Electric's failure to consider alternatives. *Id*., pp. 4-5. Lastly, Cypress Creek also disagrees with the Staff's exceptions that the uncertainty related to PURPA avoided costs in Case No. U-18091 relieves DTE Electric of the need to consider PURPA RECs:

> Based on the record in Case No. U-18091 and the outcome of Case No. U-18090, there is no reason to assume that QF RECs would not be competitively-priced relative to DTE's self-build proposal. DTE did not make any effort to determine how QF RECs may be priced in the market based on currently available information.

Id., p. 7.

Geronimo Energy begins its replies to exceptions by agreeing with the ALJ's conclusions that DTE Electric's proposed REP is unreasonable and imprudent and supported only by opinion evidence from the company. Geronimo Energy's replies to exceptions, pp. 2-3. Geronimo Energy disputes DTE Electric's claims in its exceptions that an analysis of alternatives is not required by statute as being "patently false" because MCL 460.1001(3) states that the investments made to meet the 35% renewable energy and EWR goal must be "the most

reasonable means . . . relative to other resource options." *Id*., p. 3, quoting MCL 460.1001(3). Geronimo Energy also contends that the circumstances under which the Commission approved Consumers' 525 MW of company-owned wind were different from DTE Electric's case. Unlike in Consumers' case, DTE Electric's PURPA avoided cost issues are not ongoing in its IRP proceeding. *Id*., pp. 4-5. Geronimo Energy also rejects DTE Electric's attempts to shift the burden of proof to show its proposed REP is reasonable and prudent by stating in exceptions that no other party put forth alternatives shown to be less expensive than DTE Electric's company-owned wind. *Id*., p. 5. Geronimo Energy asserts that the burden of proof remains with DTE Electric and disagrees with the Staff that the company met that burden. *Id*., pp. 5-6. Lastly, Geronimo Energy states that DTE Electric's claim that rejection of its proposed REP would require the company to file an amended REP in 2020, leading to greater risk that the company will not be able to meet its 15% RPS compliance cost effectively is a red herring. The Commission, according to Geronimo Energy, should judge the proposed REP based on its reasonableness, prudence, and cost-effectiveness, not timing. *Id*., pp. 6-8.

GLREA, in its replies to exceptions, rejects DTE Electric's claim that the Commission must accept or reject the company's proposed REP and, instead, argues that the Commission should amend the plan. GLREA's replies to exceptions, p. 1. GLREA contends that the Commission should not approve the proposed REP without consideration of the ongoing proceedings in DTE Electric's PURPA remand, Case No. U-18091, and its IRP proceeding, Case No. U-20471. *Id*., pp. 1-2. Further, GLREA argues: (1) DTE Electric failed to meet its burden of proof demonstrating its proposed REP is reasonable and prudent; (2) DTE Electric failed to show its company-owned wind generation is cost-effective without comparison to alternatives or that it meets the goals of Act 295, as amended by Act 342; (3) DTE Electric's company-owned only

proposal violates PURPA, discriminates against QFs, and does not establish the company's avoided costs as the cost of its proposed wind projects; and (4) the renewable energy customer surcharge remaining at $0.00 is not relevant to the reasonableness and prudence of the proposed REP. *Id*., pp. 2-7.

2. Solar Pilot Programs

Noting that DTE Electric did not object to the Staff's suggestion that the Commission require the company to file reports including information on the pilot programs' costs, current planning and development status, updates on lessons learned, and a demonstration of how the pilot experience adds value for future solar developments, the ALJ addressed the remaining issue of Soulardarity's request for community solar. PFD, pp. 11, 46. DTE Electric objected to Soulardarity's request that community solar projects be included in the REP, and while the Staff also did not support Soulardarity's request in this proceeding, the Staff explained that it has been directed by the Commission in Case No. U-18351 to explore third-party community energy projects and how such projects could be integrated into utility planning and procurement. *Id*., p. 46. Thus, the ALJ concluded that Soulardarity's concerns regarding community solar are being addressed by the Commission and the Staff in other dockets and "that allowing these processes to proceed is preferable to attempting to impose any requirements on DTE Electric in the context of this case." *Id*.

No party filed exceptions to this issue.

3. Combined Renewable Energy and Energy Waste Reduction Goal

The ALJ recounted that MCL 460.1001(3) sets out a goal that by 2025, at least 35% of the state's electric needs should be met through a combination of EWR and renewable energy. *Id*., p. 47. GLREA and Soulardarity claimed that DTE Electric failed to show that its proposed REP

would meet this goal. However, DTE Electric argued that in meeting the filing requirement for its REP it has provided the relevant information to show that it is meeting the 35% goal. *Id*., citing August 23, 2017 order in Case No. U-18409 (August 23 order), p. 2. The ALJ agreed with DTE Electric that the Commission does not require REPs to demonstrate that the 35% goal will be met and explained that the goal will be examined in the utilities' IRP cases. *Id*., p. 48, citing August 23 order, p. 10.

No party filed exceptions to this issue.

4. Green Currents Balance

The PFD noted that no party objected to DTE Electric's proposal to use the balance remaining from the Green Currents program to offset some of the costs from the solar pilot program, and that the Staff supported the proposal as well. *Id*., p. 48.

No party filed exceptions to this issue.

5. Refund Issue

Similar to the Green Currents balance issue, no party objected to DTE Electric's proposal to issue the refund from Case No. U-13808 in this proceeding, and the Staff and Soulardarity expressed support for the proposal. Thus, the ALJ concluded that the company's proposal is reasonable. *Id*., p. 49.

No party filed exceptions to this issue.

6. Community Outreach

The ALJ recounted that Soulardarity requested that the Commission require DTE Electric to involve its low-income customers and communities of color in its REP planning. The ALJ noted that DTE Electric responded that it is sensitive to the interests of its various customers, but that Soulardarity's request violates *Union Carbide v Pub Serv Comm*, 431 Mich 135; 428 NW2d 322

(1988). *Id*. The PFD noted that the Staff is a resource for customers seeking information; the Commission is holding public hearings in the various IRP proceedings, including DTE Electric's IRP proceeding, Case No. U-20471; and the Commission, at its discretion, can facilitate communication between regulated utilities and their customers. *Id*. Citing the limited scope of the REP proceeding, the ALJ recommended:

> that the Commission acknowledge Soulardarity's concern for an adequate opportunity for community members to voice their concerns to the utility, and indicate that without providing specific relief in this case, the Commission will consider this concern in the exercise of its discretion when future opportunities arise for members of the public to be heard on matters of community interest.

Id., pp. 49-50.

No party filed exceptions to this issue.

B. Discussion

The purpose of Act 295, as amended by Act 342, is:

> [T]o promote the development and use of clean and renewable energy resources and the reduction of energy waste through programs that will cost-effectively do all of the following:
>
> (a) Diversify the resources used to reliably meet the energy needs of consumers in this state.
> (b) Provide greater energy security through the use of indigenous energy resources available within the state.
> (c) Encourage private investment in renewable energy and energy waste reduction.
> (d) Coordinate with federal regulations to provide improved air quality and other benefits to energy consumers and citizens of this state.
> (e) Remove unnecessary burdens on the appropriate use of solid waste as a clean energy source.

MCL 460.1001(2). To further these goals, the Commission is required to review an REP filed by an electric provider pursuant to Act 295, as amended by Act 342. The Commission shall approve the REP if the Commission determines:

> (a) That the plan is reasonable and prudent. In making this determination, the commission shall take into consideration projected costs and whether or not projected costs in prior plans were exceeded.
>
> (b) That the plan is consistent with the purpose and goal set forth in section 1(2) and (3) and meets the renewable energy credit standard through 2021.

MCL 460.1022(5). Notably, Act 342, which added the new IRP requirements, also expanded the RPS requirement to 15% by 2021 and maintained the REP proceedings and cost recovery framework initially set forth in Act 295. *See*, MCL 460.1028.

The Commission has reviewed the record in this matter and will address each issue identified by the ALJ.

1. The Reasonableness and Prudence of the Proposed Renewable Energy Plan

Section 22 requires the Commission to "approve, with any changes consented to by the electric provider, or reject" an electric provider's REP or amendments to its REP. MCL 460.1022(3).

The Commission has reviewed DTE Electric's proposed REP, the record in this matter, and the PFD, and while the Commission agrees with aspects of the PFD, the Commission disagrees that rejection of the entire proposed REP is warranted. The Commission finds that approval of the REP with some changes is appropriate. The Commission agrees with the ALJ that DTE Electric has not sufficiently supported its entire plan to rely exclusively on company-owned generation assets, and to limit participation in the company's RFP to build-transfer contracts only. However, the Commission finds that the near-term company-owned wind projects that will qualify for 100% of the PTC should be approved due to the significant savings resulting from the PTC. These near-term projects include the 197 MW from the Isabella I project, the 186 MW from the Isabella II project, and the 72.45 MW from the Fairbanks Wind Park, as discussed more fully below.

The timing of these projects and their qualification for the PTC play a decisive role in the Commission's determination that these near-term projects are reasonable and prudent and should be approved. The PTC allows the company to take advantage of significant savings that will be passed on to ratepayers. As explained by DTE Electric, "The tax credits reduce the REP costs of compliance effective upon the in-service date of the eligible assets." 2 Tr 64. Renewable generation projects beginning construction before January 1, 2017, qualify for the full 2.4 cents per kilowatt hour tax credit for the first 10 years of the project's operation. 2 Tr 155. As shown in Exhibits A-8 and A-16, the full PTC applied to eligible generation results in a significant decrease to the incremental cost of compliance in the tens of millions of dollars. 2 Tr 64-65, 73, citing Exhibits A-8 and A-16.

The Commission finds that DTE Electric has met the preponderance of the evidence standard in demonstrating the reasonableness and prudence of its plan with respect to these specific company-owned wind generation assets that qualify for the full PTC. The company adequately explained its forecasting methods that were compliant with the Commission's directive in the November 21, 2017 order in Case No. U-18418, the impact of the PTC, and that wind is a cost-effective renewable energy option. 2 Tr 64-65, 127-129. The Commission also finds that DTE Electric complied with the other filing requirements set out in the August 23 order approving filing requirements in Case No. U-18409 and the bidding requirements set out in the August 25, 2009 order in Case No. U-15806. The Staff's review and audit of the RFP process used by the company was also sufficient.

With respect to the company-owned wind generation that is projected to be built farther out in the plan period and will thus, not qualify for the full PTC, the Commission finds that there is insufficient evidence on the record to approve this portion of the proposed REP at this time. The

company has demonstrated the savings that will accompany projects qualifying for 100% of the PTC, but the absence of those savings for company-owned generation raises questions for the Commission as to whether company-owned generation can be cost-effective when compared with alternative sources of generation. DTE Electric is correct that MCL 460.1001 and MCL 460.1022 do not explicitly require a utility to include alternatives to company-owned generation in its REPs. However, the Commission is required to determine whether a plan is "prudent" or cost effective and the Commission finds that in this instance, where the Commission is not convinced by the record that the later planned wind projects are cost-effective, an analysis of alternatives like third-party PPAs would have proven helpful in coming to a determination. This analysis is especially important to such regulatory determinations given the dollar amounts at stake, the dynamic nature of energy markets and technologies, and the potential for cost savings from examining all options, including different technologies and ownership models as part of the company's overall resource portfolio.

DTE Electric did not present an analysis of alternatives and, as the ALJ pointed out, did not adequately explain why it failed to consider any option other than company-owned generation. *See*, PFD, pp. 34-37. This is particularly troubling given past Commission reports that demonstrate that, since 2009, "for each year in which there were both company-owned projects and purchased power agreements, the weighted average cost of the purchased power agreements was lower than the company-owned projects in that respective year." MPSC, *Report on the Implementation and Cost Effectiveness of the PA 295 Renewable Energy Standard*, February 15,

2017, p. 19.[3] As to its reasons for relying on company-owned generation, the company draws comparisons to Consumers' REP in Case No. U-18231, which utilized company-owned wind, and makes claims of uncertainty regarding its PURPA avoided costs. 2 Tr 146-147; DTE Electric's exceptions, pp. 13-14. With respect to PURPA, the Commission finds some merit to the uncertainty argument in that the Commission has not yet issued a final order in DTE Electric's remanded Case No. U-18091 proceeding and, at the time of DTE Electric's REP filing in March 2018, the Commission was months away from issuing its December 20, 2018 order in Case No. U-18091 (December 20 order) basing the company's avoided costs on the new natural gas combined cycle plant approved in Case No. U-18419. December 20 order, pp. 13-14, 17-18. However, DTE Electric could have made an attempt to consider REC purchases associated with PURPA contracts under different scenarios but failed to do so.

This is a distinguishing point between Consumers' Case No. U-18231 and DTE Electric's instant case: Consumers explained why it did not rely on PURPA QFs by presenting two forecasts into evidence showing outcomes if the company relied on PURPA generation without company-owned wind and with company-owned wind. 4 Tr 171-172 and Exhibits A-30 and A-31 in Case No. U-18231. DTE Electric made no such attempt to explain why it did not consider QF generation in its proposed REP. Thus, the Commission is unable to determine at this time that it is reasonable for DTE Electric to ignore PURPA generation in meeting its RPS compliance.

[3] Indeed, while the Commission is unconvinced that costs for the proposed projects are lower than could have been obtained had DTE Electric pursued a more open RFP process, including consideration of third-party PPAs, the timing of the PTC expiration and the limited record in this case ultimately forces the Commission to conclude that the proposed contracts are likely better than what could be obtained through third-party PPAs absent the PTC should the Commission reject the REP as it relates to these specific projects.

Consistent with the ALJ, the Commission's concern with respect to the analysis of alternatives goes beyond PURPA and REC-only purchases. The Commission stresses the need to fully evaluate approving over $95 million in ICC of new renewable generation. Therefore, as part of its approval with changes consented to by the company, the Commission defers a final determination on the proposed renewable generation assets not qualifying for the full PTC until the Commission issues a final order in DTE Electric's IRP proceeding, Case No. U-20471. By statute, the IRP is intended to be a comprehensive look at supply-side resources needed to meet a utility's additional generation capacity needs. *See*, MCL 460.6t(1)(f).

As such, the Commission will examine DTE Electric's proposed renewable generation not approved in this order in the IRP, enabling the Commission to look at the proposed projects along with other renewable technologies with the aid of a fully developed and more robust evidentiary record. The Commission notes the importance of comparing technologies as the renewable energy technology landscape is quickly evolving and the company should consider expanding the inputs to its bidding parameters to be inclusive of these changes. The Commission further notes that once a final decision is reached in the IRP with respect to DTE Electric's proposed REP, the company shall file an amended REP in this docket, Case No. U-18232, reflecting the Commission's approved REP for the purpose of having a final approved REP publicly available for reference when the Commission considers renewable energy contracts filed in the future.

2. Solar Pilot Programs

The ALJ found that DTE Electric's proposed solar pilot programs were reasonable, noting that the company agreed to the reporting requirements requested by the Staff and that Soulardarity's concerns about incorporating community solar into DTE Electric's REP are being

addressed by the Staff elsewhere. Having no exceptions filed on this issue and finding the ALJ's recommendation to be well-reasoned and duly supported, the Commission adopts the PFD's recommendation. DTE Electric shall file an annual report in its next renewable energy reconciliation proceeding and each annual renewable energy reconciliation proceeding thereafter until construction on the solar pilot projects is complete describing the costs incurred, current planning and development status, updates on lessons learned, and how it plans to use the information learned for future solar development. As discussed in the October 5, 2018 order in Case No. U-18352 (October 5 order), the Commission directed the Staff to work with stakeholders to explore the potential for incorporating community solar onto utilities' systems. October 5 order, p. 33. The Commission expects DTE Electric to cooperate with the Staff's efforts and to explore the community solar option and how it could potentially benefit all ratepayers, including low-income customers and communities of color.

3. Combined Renewable Energy and Energy Waste Reduction Goal

The Commission agrees with the ALJ that DTE Electric did demonstrate that its proposed REP would meet the 35% goal set out in MCL 460.1001(3). The Commission clearly set out the filing requirements for REPs in its August 23 order, p. 18. The Commission has reviewed the REC forecasts set forth in DTE Electric's supporting exhibits to its REP, which are required in the filing requirements, and finds that it provided the Commission insight into DTE Electric's ability to meet the 35% goal. Further, on page 10 of the August 23 order, the Commission stated that it will review the broader goals of renewable energy in tandem with EWR and other supply-side resources in the company's IRP proceeding.

4. Green Currents Balance

The Commission finds the proposal set forth by DTE Electric to shift the balance of the Green Currents program, which was directed to be phased out over a 12-month period in the October 5 order, to the solar pilots program to be reasonable. Having no exceptions filed and finding the ALJ's recommendation to be well-reasoned, the Commission adopts DTE Electric's proposal to shift the balance of the Green Currents program to the solar pilots program.

5. Refund Issue

The Commission finds DTE Electric's request to issue the refund from Case No. U-13808 that was inadvertently omitted from the company's last rate case to be reasonable. Having no exceptions filed and finding the PFD's recommendation to be well-reasoned, the Commission authorizes DTE Electric to issue a refund to its ratepayers in the amount of $1,443,141 plus the additional interest that has accrued to the date the refund is issued. The refund shall be a one-time refund on a per customer basis issued on the first day of the month following the issuance of this order.

6. Community Outreach

The Commission appreciates the concerns expressed by Soulardarity and agrees that DTE Electric should make sincere efforts to engage with all of its ratepayers and to inform ratepayers of the utility's actions and plans when appropriate. However, the Commission agrees with the ALJ that there are existing avenues for communication from ratepayers via the Staff and the public hearings and comment period for DTE Electric's IRP proceeding, which is well-suited to gain customer input on supply-side resource planning options like community solar.

II. DTE Electric Company's Applications for *Ex Parte* Approval of the Isabella I and II Wind Contracts and the Fairbanks Wind Contract

DTE Electric's May 7, 2019 application in this case requested approval of two wind contracts, Isabella I and Isabella II, that would supply 197 MW and 186 MW of wind energy, respectively, to the company's LC-VGP pilot program approved in Case No. U-20343. On May 29, 2019, Cypress Creek filed an objection to DTE Electric's application for the Isabella contracts requesting that the Commission reject the application for the following reasons: (1) the request is premature and inappropriate given that the Commission had not yet issued a final order on DTE Electric's REP in this docket at the time the application was filed; (2) the application is unreasonable and imprudent given that the request is said to be consistent with the REP that the ALJ found to be unreasonable based on DTE Electric's company-owned-generation-only approach; (3) DTE Electric should not be able to procure new capacity outside of the IRP process, which takes a more comprehensive look at all of the utility's planned energy and capacity needs as opposed to looking at renewables only in the REP; and (4) approving the application would allow DTE Electric to continue to avoid utilizing third-party renewable energy suppliers, including PURPA QFs, in favor of company-owned generation. Cypress Creek's objections, pp. 3-7. DTE Electric filed a response to Cypress Creek's objections on July 8, 2019, arguing that its Isabella I and II application is timely, is reasonable and prudent, and should be approved in this REP docket, not the IRP. DTE Electric's response, pp. 1-8.

On June 18, 2019, DTE Electric requested *ex parte* approval of the Fairbanks wind contract, a contract for 72.45 MW of renewable generation that DTE Electric seeks to move up to commercial operation in October 2020 in order to qualify the project for 100% of the PTC.

MCL 460.1028(4) provides in part:

> For an electric provider whose rates are regulated by the commission, the electric provider shall submit a contract entered into for the purposes of subsection (3) to the commission for review and approval. If the commission approves the

contract, it shall be considered consistent with the electric provider's renewable energy plan.

MCL 460.1047 provides in part:

(1) Subject to the retail rate impact limits under section 45, the commission shall consider all actual costs reasonably and prudently incurred in good faith to implement a commission-approved renewable energy plan by an electric provider whose rates are regulated by the commission to be a cost of service to be recovered by the electric provider. Subject to the retail rate impact limits under section 45, an electric provider whose rates are regulated by the commission shall recover through its retail electric rates all of the electric provider's incremental costs of compliance during the 20-year period beginning when the electric provider's plan is approved by the commission and all reasonable and prudent ongoing costs of compliance during and after that period. The recovery shall include, but is not limited to, the electric provider's authorized rate of return on equity for costs approved under this section, which shall remain fixed at the rate of return and debt to equity ratio that was in effect in the electric provider's base rates when the electric provider's renewable energy plan was approved.

(2) Incremental costs of compliance shall be calculated as follows:

(a) Determine the sum of the following costs to the extent those costs are reasonable and prudent and not already approved for recovery in electric rates as of October 6, 2008:

(i) Capital, operating, and maintenance costs of renewable energy systems or advanced cleaner energy systems, including property taxes, insurance, and return on equity associated with an electric provider's renewable energy systems or advanced cleaner energy systems, including the electric provider's renewable energy portfolio established to achieve compliance with the renewable energy standards and any additional renewable energy systems or advanced cleaner energy systems, that are built or acquired by the electric provider to maintain compliance with the renewable energy standards during the 20-year period beginning when the electric provider's plan is approved by the commission.

(ii) Financing costs attributable to capital, operating, and maintenance costs of capital facilities associated with renewable energy systems or advanced cleaner energy systems used to meet the renewable energy standard.

The Commission has reviewed the contracts submitted by DTE Electric pursuant to Act 295, as amended by Act 342, and finds that the contracts should be approved as consistent with the company's REP, approved in part, as described in this order. The Commission has reviewed the

supporting testimony and exhibits associated with each wind contract and finds that approval is appropriate. The Isabella I and II contracts, as well as the Fairbanks contract, will provide generation necessary to supply the LC-VGP program or to meet RPS compliance and will qualify for the 100% PTC. The contracts are also no longer premature, as argued by Cypress Creek, because the Commission has approved the portion of DTE Electric's proposed company-owned generation, which will qualify for the full PTC. Additionally, the installed costs associated with the Isabella I and II contracts are estimated to be $1,498 per kW, which is lower than the installed costs projected by DTE Electric in its proposed REP. The Commission notes that the company shall use the Commission-approved return on equity (ROE), rather than the REP-approved ROE for any portions of the Fairbanks, Isabella I, or Isabella II projects that are used to supply the LC-VGP program instead of RPS needs.

While the Commission is granting *ex parte* approval of the Fairbanks wind contract, the Commission notes that its projected installed costs of $2,000 per kW are higher than the projected installed costs that DTE Electric forecasted in its proposed REP. The company attributes this higher cost to siting the wind project in the Garden Peninsula of the Upper Peninsula and construction constraints in 2020. The Commission accepts the reasons cited and finds approval still appropriate given: (1) the qualification for the 100% PTC, which favorably impacts the levelized cost of energy lowering it below the 2021 value assumed in the proposed REP; and (2) the higher capacity rate estimated for the project, which will offset the effect of the higher installed cost. Affidavit in Support of DTE Electric's Application, p. 6. However, because of this higher estimated cost, the Commission directs DTE Electric to report on cost changes associated with the project in this docket and puts DTE Electric on notice that the costs

related to the Fairbanks Wind Park will be closely examined for reasonableness and prudence in the corresponding reconciliation proceeding pursuant to MCL 460.1049.

The Commission notes that pursuant to MCL 460.1028(4), the Commission's approval of the Fairbanks and Isabella I and II contracts signifies the contracts' consistency with the approved portion of DTE Electric's proposed REP, as described above. In the event of an appeal that reverses the Commission's partial approval of the REP or the company's refusal to consent to the changes in its REP as described above, the Commission's approval of the Fairbanks and Isabella I and II wind contracts would be void, as they could not be considered consistent with the utility's REP if the REP is not approved.

The Commission finds that *ex parte* review and approval is appropriate, as the contracts will not affect rates or rate schedules resulting in an increase in the cost of service to customers. *See*, MCL 460.6a(3).

THEREFORE, IT IS ORDERED that:

A. DTE Electric Company's renewable energy plan is approved, in part, as described in this order. The renewable generation assets that do not qualify for 100% of the federal production tax credit proposed by the company will be addressed in DTE Electric Company's integrated resource plan proceeding, Case No. U-20471.

B. DTE Electric Company shall file in its next renewable energy reconciliation proceeding and in each renewable energy reconciliation proceeding thereafter until construction on the solar pilot projects is complete a report regarding its solar pilot program consistent with the Commission's directive in this order.

C. DTE Electric Company's application seeking *ex parte* approval of the Isabella I and Isabella II contracts with Isabella Wind, LLC, and application seeking *ex parte* approval of the

Fairbanks wind contract with Gichi Noodin Wind Farm, LLC, pursuant to Section 28 of 2008 PA 295, as amended by 2016 PA 342, MCL 460.1028(4), are approved.

D. Within 14 days of this order, DTE Electric Company shall file a statement in this docket that it consents to the changes to its renewable energy plan as contained in this order, pursuant to MCL 460.1022(3). Failure to submit such statement within the 14-day time period shall void the Commission's partial approval of the company's renewable energy plan, and would void approval of the Fairbanks wind contract with Gichi Noodin Wind Farm, LLC, and Isabella I and Isabella II contracts with Isabella Wind, LLC, as they would not be considered consistent with an approved renewable energy plan, pursuant to MCL 460.1028(4). If DTE Electric Company does not consent to the changes to its renewable energy plan as set out in this order, the company shall file a revised renewable energy plan in this docket no later than November 1, 2019.

E. DTE Electric Company shall issue a one-time refund on a per customer basis originating from Case No. U-13808 on the first day of the month following the issuance of this order consistent with the Commission's directive in this order.

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

Any party desiring to appeal this order must do so by the filing of a claim of appeal in the appropriate court within 30 days of the 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 mpscedockets@michigan.gov and to the Michigan Department of the Attorney General - Public Service Division at pungp1@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

Sally A. Talberg, Chairman

Norman J. Saari, Commissioner

Daniel C. Scripps, Commissioner

By its action of July 18, 2019.

Barbara S. Kunkel, Acting Executive Secretary

P R O O F O F S E R V I C E

STATE OF MICHIGAN)

Case No. U-18232

County of Ingham)

Brianna Brown being duly sworn, deposes and says that on July 18, 2019 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 18th day of July 2019.

Angela P. Sanderson

Angela P. Sanderson
Notary Public, Shiawassee County, Michigan
As acting in Eaton County
My Commission Expires: May 21, 2024

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