

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application of)	
DTE ELECTRIC COMPANY)	
to describe the tariff options available to)	Case No. U-21376
customers with distributed generation systems)	
<u>consistent with MCL 460.1173(3)</u>)	

STIPULATION AND SETTLEMENT AGREEMENT

Pursuant to Section 78 of the Administrative Procedures Act of 1969 (“APA”), as amended, MCL 24.278, and Rule 431 of the Rules of Practice and Procedure Before the Michigan Public Service Commission R 792.10401 et. seq. (“MPSC” or “Commission”), the undersigned parties agree as follows:

1. This Stipulation and Settlement Agreement ("Settlement Agreement") by and among DTE Electric Company (“DTE,” or the “Company”), the Michigan Public Service Commission Staff (“Staff”), Michigan Energy Innovation Business Council / Institute for Energy Innovation, the City of Ann Arbor, the Great Lakes Renewable Energy Association and the Ecology Center / Environmental Law & Policy Center / Vote Solar (individually “Party”; collectively, “the Parties”) is intended by the Parties as a full and final settlement and satisfaction of all issues before the Commission related to this proceeding by all of the Parties, consistent with the encouragement to enter into settlements found in the Rules of Practice and Procedure Before the Commission. See R 792.10431(1).

2. On November 18, 2022, the Commission entered an order in Case No. U-20836 requiring DTE to “file in a new docket the options available to customers with DG systems should DTE Electric decide to cap participation in its current DG program consistent with MCL

460.1173(3)” and directed that “[t]he filing shall be addressed in a contested proceeding allowing for interested parties to weigh in on the proposed tariff options.”

3. On February 16, 2023, the Company submitted its Application, along with the Direct Testimony of Neal T. Foley, in this matter. On April 20, 2023, the Presiding Officer held a Pre-Hearing.

4. On April 21, 2023, the Presiding Officer issued a Scheduling Order that set the scheduling dates for this matter and granted intervenor status for Michigan Energy Innovation Business Council / Institute for Energy Innovation, the City of Ann Arbor, the Great Lakes Renewable Energy Association and the Ecology Center / Environmental Law & Policy Center / Vote Solar.

5. On July 25, 2023, the Presiding Officer issued an order extending the scheduling dates by two months.

6. On July 26, 2023, the Michigan Public Service Commission issued an Order Approving Settlement Agreement in Case No. 21193 (“DTE Electric Company’s Integrated Resource Plan”). Pursuant to that settlement, the Company agreed to, in pertinent part, voluntarily increase its distributed generation cap to 6% of its average in-state peak load for the preceding five calendar years.¹

7. On November 28, 2023, Governor Gretchen Whitmer signed Public Act 235 of 2023 into law, which expanded each electric utility’s distributed generation cap to 10% of its average in-state peak load for the preceding five calendar years and revised the program capacity allocations under subsection (3) of Section 173 of Public Act 295 of 2008.

¹ The Settlement Agreement further provided that “[i]f the Michigan Legislature raises the cap beyond the 6% threshold or eliminates the cap altogether, this provision will no longer be operative.”

8. In an attempt to efficiently resolve the matter, the Parties have agreed to enter into a full settlement of this case and recommend approval by the Commission of the following items set forth in Paragraph 9.

9. The Parties request that the Commission enter an order:

(i) Dismissing this proceeding;

(ii) Directing the Company to refile this matter when (a) the total installed distributed generation capacity is equal to 90% of the Company's prevailing distributed generation cap or (b) the total installed distributed generation capacity attributable to any individual statutory category is equal to 90% of such individual statutory category, whichever occurs first. For the purposes of this agreement, "installed distributed generation capacity" is capacity on Standard Rider No. 16 (net metering), Standard Rider No. 18 (Distributed Generation Program), or their successor tariffs; and

(iii) Directing the Company to report by filing in this docket the information called for in the table appended hereto as Attachment A, in a form and format substantially similar to Attachment A, reflecting data through December 31 of the prior year, on an annual basis, on or about March 31. When 70% of the Company's prevailing distributed generation cap (either in total or on an allocation-category basis) is reached, the aforementioned reporting frequency will increase to quarterly, with filings due March 31, June 30, September 30, and December 31, in each case reflecting data through the end of the previous quarter, and each report will be filed in a form and format substantially similar to Attachment A.

If the Michigan Legislature eliminates the cap altogether, then subparts (ii) and (iii) of this provision will no longer be operative.

10. The Parties further agree that if, while any refiled case is pending, the distributed generation cap applicable to any statutory category prevailing at such time as the Company refiles this matter is reached, the Company will continue to connect eligible electric generators within such statutory category under its prevailing Rider 18 until the refiled case is resolved and a final Commission order is entered, for a period of up to twelve months from the refiling.

11. This Settlement Agreement is entered into for the sole and express purpose of reaching a compromise among the Parties. All offers of settlement and discussions relating to this Settlement Agreement are considered privileged under MRE 408. If the Commission approves this Settlement Agreement without modification, neither the Parties to this Settlement Agreement nor the Commission shall make any reference to, or use this Settlement Agreement or the order approving it, as a reason, authority, rationale, or example for taking any action or position or making any subsequent decision in any other case or proceeding; provided however, such references may be made to enforce or implement the terms of the Settlement Agreement and the Commission Order approving it. Neither this Settlement Agreement nor any Commission Order approving it shall preclude any Party from taking any position with respect to MCL 460.6v and/or PURPA in any pending or future Commission proceeding that is otherwise consistent with this Settlement Agreement. No Party shall appeal a Commission Order approving this Settlement Agreement without modification.

12. This Settlement Agreement is not severable. Each provision of this Settlement Agreement is dependent upon all other provisions of this Settlement Agreement. Failure to comply with any provision of this Settlement Agreement constitutes failure to comply with the entire Settlement Agreement. If the Commission rejects or modifies this Settlement Agreement, this Settlement Agreement shall be deemed to be withdrawn, and shall not constitute any part of the record in this proceeding or be used for any other purpose and shall not operate to prejudice the pre-negotiation positions of any Party.

13. This Settlement Agreement is reasonable and in the public interest and will reduce the time and expense demanded of the Commission, its Staff, and the Parties.

14. The Parties agree to waive Section 81 of 1969 PA 306, MCL 24.281, as it applies to the issues in this proceeding, if the Commission approves this Settlement Agreement without modification.

15. This Settlement Agreement may be executed in any number of counterparts, each considered an original, and all counterparts that are executed shall have the same effect as if they were the same instrument.

IN WITNESS WHEREOF, the Parties have caused this Settlement Agreement to be duly executed by their respective duly authorized officers as of the date first written below.

DTE ELECTRIC COMPANY

By: _____
Print:

Dated: _____, 2023

Its: _____

MICHIGAN PUBLIC SERVICE COMMISSION STAFF

By: _____

Dated: _____, 2023

Print:

Its: _____

**MICHIGAN ENERGY INNOVATION BUSINESS COUNCIL /
INSTITUTE FOR ENERGY INNOVATION**

By: _____
Print:

Dated: _____, 2023

Its: _____

CITY OF ANN ARBOR

By: _____

Dated: _____, 2023

Print:

Its: _____

GREAT LAKES RENEWABLE ENERGY ASSOCIATION

By: _____

Dated: _____, 2023

Print:

Its: _____

**ECOLOGY CENTER / ENVIRONMENTAL LAW AND POLICY CENTER / VOTE
SOLAR**

By: _____
Print:

Dated: _____, 2023

Its: _____

4867-2326-4402, v. 5