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October 31, 2025

Lisa Felice
Executive Secretary
Michigan Public Service Commission
7109 West Saginaw Highway
Lansing, MI 48917

RE: In the matter of the Application of DTE Electric Company for Approval of Special
Contacts
MPSC Case No. U-21990

Dear Ms. Felice:

Attached for electronic filing in the above referenced matter is DTE Electric's Application for *ex parte* Approval of special contracts for electric service, Direct Testimony and Exhibits of Witnesses, Kevin L. Bilyeu and Neal T. Foley. Also attached is the Proof of Service.

Very truly yours,

Andrea E. Hayden

AEH/erb
Attachments

cc: Service List

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application of _____)
DTE ELECTRIC COMPANY)
for Approval of Special Contracts _____)

Case No. U-21990

**DTE ELECTRIC’S APPLICATION FOR *EX PARTE* APPROVAL OF SPECIAL
CONTRACTS FOR ELECTRIC SERVICE**

DTE Electric Company (“DTE Electric” or the “Company”) respectfully files this Application, with supporting Testimony and Exhibits, requesting the Michigan Public Service Commission (“MPSC” or the “Commission”) to grant expedited *ex parte* approval of the Company’s Primary Supply Agreement (“PSA”) and Energy Storage Agreement (“ESA”) (collectively, the “Special Contracts”) with Green Chile Ventures LLC (the “Customer”). In support of the relief requested in this Application, DTE Electric states as follows:

1. DTE Electric is a corporation organized and existing under and by virtue of the laws of the State of Michigan, with its principal office at One Energy Plaza, Detroit, Michigan 48226. DTE Electric is owned by DTE Electric Holdings, LLC, which is a wholly-owned subsidiary of DTE Energy, providing retail electric service to customers located in Michigan. The Company is a public utility and Electric Provider, as defined under MCL 460.1005(a)(i), with more than 1,000,000 retail customers in Michigan and is subject to the jurisdiction of the Commission per various provisions of Public Act 419 of 1919, as amended, MCL 460.51 *et seq.*; Public Act 3 of 1939, as amended, MCL 460.1 *et seq.*

2. DTE Electric presently serves its electric customers under schedules of rates and charges contained in the Company’s Commission-approved tariffs.

3. Customer (Green Chile Ventures LLC) is a subsidiary of Oracle Corporation, a global technology company that provides cloud computing services, enterprise software, and database and hardware technology that supports organizations worldwide. Customer plans to lease, operate, cause to be constructed, and commission a data center facility in DTE Electric's service territory located at or near Saline, Michigan (the "Facility"). The Facility's maximum load is approximately 1.4 gigawatts ("GW") and is scheduled to begin materializing in January 2027 with max load being achieved by December 2027.

4. Following extensive negotiations between the Company and Customer, the parties executed the Special Contracts that will become effective upon Commission approval in this case. The Special Contracts are included as Exhibit A-1 and Exhibit A-2 to Company Witness Neal Foley's Direct Testimony.

5. The Special Contracts establish a balanced and protective framework that includes appropriate safeguards and minimizes the risks associated with serving large load customers. The framework reflects a reasonable and appropriate balance between the advantages of serving a new large load customer and protecting existing customers from risk and potential cost subsidies. The Special Contracts work in tandem to meet Customer's unique needs responsibly.

6. Pursuant to the proposed PSA Special Contract, DTE Electric will provide Customer electric service under Rate Schedule D11 ("D11") for approximately 19 years, commencing upon Commission approval of the PSA and concluding on February 28, 2045. Importantly, the PSA includes enhanced protections not included in Rate Schedule D11 to ensure a long-term commitment to DTE Electric, mitigate potential stranded asset risks, and protect existing customers from potential cost subsidies. In addition to the long-term commitment, the Special Contracts include the following protective provisions: increased minimum billing demand

requirements, an extended contract term, termination payment, and credit and collateral requirements. Witness Foley provides more detailed information regarding these enhanced protections.

7. As detailed in the testimony of Witness Foley, the Special Contracts generate an affordability benefit for existing customers through two specific mechanisms: (1) PSA D11 Charges and (2) PSA Power Supply Cost Recovery (“PSCR”) Surcharge provisions. Taking service under D11 requires that Customer contribute to fixed system costs. Customer will contribute to existing fixed costs through D11 that would otherwise be recovered from existing customers. Furthermore, Customer is responsible for all applicable surcharges, including the PSCR Surcharge. Through the PSCR mechanism, Customer will contribute to the Company’s existing renewable energy assets and transmission infrastructure, any future renewable deployments or transmission cost increases, and incremental fuel and purchased power costs required to serve Customer.

8. Pursuant to the proposed ESA Special Contract, the Company will develop an energy storage project portfolio up to Customer’s maximum load. The Customer bears all energy storage portfolio costs during the 15-year recovery period of each project. The ESA specifically stipulates that no energy storage portfolio costs will be passed to other customer classes. In exchange for bearing all costs, the Customer receives 100% of incremental Midcontinent Independent System Operator’s (“MISO”) market revenues, net of charging costs, that the energy storage assets generate in the open market to offset development costs.

9. Commission approval of the Special Contracts will not impact existing rates or increase the Company’s cost of service for existing customers. Instead, the proposed Special Contracts govern how the Company will serve the Customer’s future load and how an energy storage

portfolio will be deployed under the ESA. Moreover, the Company estimates that the impact of the Customer's new load will decrease the cost of service across all of its customer classes.

10. MCL 460.6a(3) states, in part: "An 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." The approvals requested in this Application will not result in an alteration or amendment in rates or rate schedules and will not increase the cost of services to the Company's customers. The Testimony of Witness Foley provides more detailed information regarding the customer protections included in the Special Contracts and explains how the Special Contracts will not increase the Company's cost to serve existing customers. The approvals sought in this Application therefore "may be authorized and approved without notice or hearing." MCL 460.6a(3). Thus, approval of this Application without notice or hearing is lawful and appropriate. Furthermore, the testimony of DTE Electric Witness Bilyeu addresses the impacts of the Customer's load on the Company's Renewable Portfolio Standard ("RPS") obligations set forth in Public Act 295 of 2008, as amended by Public Act 235 of 2023, MCL 460.1001 *et seq.*

11. In addition to its request for *ex parte* treatment, the Company respectfully requests an expedited review of this Application with the issuance of a Commission order prior to the conditions precedent deadlines set forth in the Special Contracts which were established based on the Customer's ramp schedule.

WHEREFORE, for the reasons stated above, DTE Electric Company respectfully requests that the Michigan Public Service Commission:

A. Grant DTE Electric's request for review of the Special Contracts on an expedited *ex parte* basis;

B. Determine that the Special Contracts are reasonable and prudent and enter an order approving the Special Contracts; and

C. Grant DTE Electric such further additional relief as the Commission may deem appropriate.

DTE ELECTRIC COMPANY

By: _____
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Dated: October 31, 2025

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application of)
DTE ELECTRIC COMPANY)
for Approval of Special Contracts_____)

Case No. U-21990

QUALIFICATIONS
AND
DIRECT TESTIMONY
OF
NEAL T. FOLEY

DTE ELECTRIC COMPANY
QUALIFICATIONS AND DIRECT TESTIMONY OF NEAL T. FOLEY

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1 **Q1. What is your name, business address and by whom are you employed?**

2 A1. My name is Neal Foley. My business address is: One Energy Plaza, Detroit,
3 Michigan 48226. I am employed by DTE Electric Company (“DTE Electric” or
4 “Company”).

5

6 **Q2. On whose behalf are you testifying?**

7 A2. I am testifying on behalf of DTE Electric.

8

9 **Q3. What is your educational background?**

10 A3. I received a Bachelor of Science in Aerospace Engineering and a Bachelor of
11 Science in Mechanical Engineering from the University of Michigan. I also
12 received a Master of Science in Systems Engineering from Johns Hopkins
13 University and a Master of Business Administration from Georgetown University.

14

15 **Q4. Please summarize your professional experience.**

16 A4. In 2007, I was employed by Lockheed Martin Corporation as a Satellite Operations
17 Engineer. In 2008, I was hired by Booz Allen Hamilton as an Associate Consultant
18 in its Federal consulting practice. In 2012, I was hired by Deloitte as a Manager of
19 Financial Analysis in its Federal consulting practice. In 2014, I was hired by
20 McKinsey & Company as an Associate Consultant, ultimately being promoted to
21 Engagement Manager before my departure in 2017. In 2017, I was hired by DTE
22 Energy Company as Manager of Corporate Strategy. In this role, I was broadly
23 responsible for tracking and assessing utility industry trends, executing analyses to
24 better understand the economic impacts of emerging technologies and business
25 models, and leading strategic initiatives for the Company. In December 2020, I was

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1 promoted to Director of Regulatory Affairs where I was responsible for the
2 management of regulatory activities related to DTE Electric's Load Research,
3 Tariffs, Pricing, and Rate Design. In December 2024, I started my current role as
4 Director of Electric Marketing for DTE Electric.

5

6 **Q5. Have you previously sponsored testimony before the Michigan Public Service**
7 **Commission ("MPSC" or "Commission")?**

8 A5. Yes. I have sponsored testimony and exhibits before the MPSC in the following
9 DTE Electric cases:

10	<u>Case No.</u>	<u>Description</u>
11	U-20836	DTE 2022 Electric Rate Case
12	U-21376	DTE 2023 Distributed Generation Tariff Options
13	U-21297	DTE 2023 Electric Rate Case
14	U-21534	DTE 2024 Electric Rate Case
15	U-21860	DTE 2025 Electric Rate Case

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1 **Purpose of Testimony**

2 **Q6. What Commission action is the Company seeking through the instant case?**

3 A6. The Company is seeking the Commission's ex parte approval of two special
4 contracts that will govern how the Company serves a new, large data center.
5 Specifically, the Company is seeking approval of the following special contracts
6 that have been executed between the Company and Green Chile Ventures LLC
7 ("the Customer").

8 • Primary Supply Agreement ("PSA")

9 • Energy Storage Agreement ("ESA")

10

11 Taken together, the PSA and ESA are referred to as the "the Contracts" throughout
12 my testimony.

13

14 **Q7. Can you summarize the Contracts that are being proposed for approval?**

15 A7. Yes. The PSA stipulates that the Customer will receive electric service under the
16 Company's Rate Schedule D11 ("D11") which is the Company's Primary Supply
17 Rate. The PSA also establishes additional protections for the Company's other
18 customers that are not included in Rate Schedule D11.

19

20 The ESA allows the Company to develop a portfolio of energy storage projects and
21 recover from the Customer the full cost of these projects. The costs of the energy
22 storage projects developed to fulfill the ESA with the Customer will not be passed
23 on to the Company's other customers. Any incremental Midcontinent Independent
24 System Operator's ("MISO") market revenues that are generated by this portfolio
25 of projects will be credited to the Customer to offset the cost of these assets.

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1 **Q8. What is the purpose of your testimony?**

2 A8. The purpose of my testimony is to generally describe and support the structure and
3 provisions of the Contracts, including the associated pricing, how the Contracts
4 address any risks of stranded assets, and customer affordability impacts.
5

6 As such, my testimony includes the following sections:

- 7 1. Overview of the customer
8 2. Proposed PSA
9 3. Proposed ESA
10 4. Maintaining Resource Adequacy
11 5. Benefits to other customers
12 6. Incremental costs and stranded cost mitigation
13 7. Regulatory treatment
14

15 **Q9. Are you sponsoring any exhibits in this proceeding?**

16 A9. Yes. I am sponsoring the following exhibits:

<u>Exhibit</u>	<u>Description</u>
18 Exhibit A-1	Primary Supply Agreement
19 Exhibit A-2	Energy Storage Agreement

20

21 **Q10. What was your involvement in the preparation of the Contracts?**

22 A10. I was involved in the development of the key terms included in these Contracts, as
23 discussed throughout my testimony.

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1 **Overview of the customer**

2 **Q11. Can you describe the Customer?**

3 A11. Yes. The Customer (Green Chile Ventures LLC) is a subsidiary of Oracle
4 Corporation, a well-known technology company that is among the top 20 largest
5 companies in the world by market capitalization. The Customer intends to build a
6 data center that will be engaged in the management, storage, processing, and
7 distribution of data.

8

9 **Q12. Where will the data center be located?**

10 A12. The data center will be located in Southeast Michigan, within the Company's
11 service territory. It will be developed on roughly 250 acres, and the Customer has
12 secured all necessary local approvals to move forward with construction at the site.

13

14 **Q13. What is the planned Customer load at the facility and when will the load**
15 **materialize?**

16 A13. The maximum load at the facility is approximately 1.4 GW ("max load" or
17 "contract capacity"). The Customer's load is planned to begin materializing in
18 January 2027¹, with max load being achieved by December 2027 ("load ramp" or
19 "Customer Committed Capacity Ramp"). Later in my testimony, I describe the
20 Customer's ability to adjust the timing of the load ramp and the date by which they
21 achieve their max load ("Load Ramp Completion Date").

¹ Load to support construction of the site could materialize before January 2027.

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1 **Q14. Will serving the Customer's load have an impact on the Company's**
2 **obligations under the State of Michigan's Renewable Portfolio Standard**
3 **("RPS")?**

4 A14. Yes. In his direct testimony, Company Witness Bilyeu describes the impacts of the
5 Customer's load on the Company's obligations under the State of Michigan's RPS,
6 and the Company's plan for compliance.

7
8 **Q15. Will serving the Customer's load have an impact on the Company's Energy**
9 **Waste Reductions ("EWR") targets?**

10 A15. Yes. By serving the Customer's load, the Company's targeted EWR savings will
11 increase, consistent with applicable laws and regulations. For example, the amount
12 of MWh savings that must be captured to achieve an overall level of savings (e.g.,
13 2%) will increase once the Customer's load materializes. Under the terms of the
14 PSA the customer intends to work with the Company to achieve the targeted
15 savings. The Company's next EWR plan will address these changes.

16

17 **Primary Supply Agreement - overview**

18 **Q16. Can you provide an overview of the PSA?**

19 A16. Yes. The PSA governs the obligations of the Company and the Customer as it
20 relates to the electric service that the Customer will receive.

21

22 At a high level, the PSA requires that the Customer take service on D11, including
23 all associated surcharges, and includes additional terms that are not currently
24 included in Rate Schedule D11.

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1 **Q17. Is the Customer eligible for service under the Company's current D11 rate**
2 **structure without a special contract?**

3 A17. Yes. The Customer is eligible for service under D11 as currently offered in the
4 Company's Rate Book. However, the PSA includes additional terms designed to
5 ensure a long-term commitment to the Company, mitigate the potential for stranded
6 assets, and protect the Company's other customers from financial risk. These
7 additional terms reasonably and prudently account for the size of the Customer.

8

9 **Q18. What are the terms of the PSA between the Company and the Customer that**
10 **differ between a standard contract under the Company's D11 rate?**

11 A18. The terms of the PSA that differ from the D11 rate are the following:

- 12 • Contract duration
- 13 • Pricing and ability to change rates
- 14 • Minimum Billing Demand (MBD)
- 15 • Load ramp flexibility
- 16 • Termination payment
- 17 • Credit and collateral requirements

18

19 I will describe each of these elements in the following sections of my testimony.

20

21 **Primary Supply Agreement – contract duration**

22 **Q19. What is the contract duration of the PSA?**

23 A19. The PSA contract duration is approximately 19 years, starting at the time the
24 Company receives Commission approval of the PSA and running through February
25 28, 2045.

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1 The Customer has the option to extend the PSA two times, with each renewal
2 effective for ten years (i.e., up to twenty total years of optional renewal).

3

4 **Q20. Is the PSA contract duration beneficial to the Company's other customers?**

5 A20. Yes. The PSA contract duration is much longer than the Company typically requires
6 for large industrial customers. For comparison, the standard agreement for a new
7 customer under D11 over 1 MW of peak demand is five years.

8

9 A roughly 19-year PSA contract duration represents a significant commitment on
10 behalf of the Customer to the Company and its other customers. It ensures that the
11 Customer will make their proportionate contribution to the Company's system costs
12 for a longer period than the Company normally requires of its customers.

13

14 **Primary Supply Agreement – pricing and ability to change rates**

15 **Q21. How is electric service pricing structured under the PSA?**

16 A21. Under the PSA, the Customer agrees to take service on D11 and pay all applicable
17 surcharges. Importantly, under this arrangement the Customer will be subject to the
18 Power Supply Cost Recovery ("PSCR") Surcharge.

19

20 **Q22. Can the Customer change rate schedules under the PSA?**

21 A22. Under the PSA, the Customer can only change rate schedules under the following
22 conditions:

- 23 • The Customer must request a rate schedule change 24 months in advance of
24 the rate schedule change taking effect;

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- 1 • The Customer cannot request a rate schedule change until 24 months after
- 2 their Load Ramp Completion Date;
- 3 • The Customer can only change to a rate schedule that is approved by the
- 4 Commission after the PSA became effective; and
- 5 • The Customer can only change to a rate schedule that is not cross subsidized
- 6 by any other customer group, as determined by the MPSC.

7

8 **Q23. Are the PSA pricing and ability to change rate schedule terms reasonable?**

9 A23. Yes. D11 is a cost-based rate that will ensure that the Customer makes their

10 proportionate contribution to the Company's fixed system costs. Being subject to

11 the PSCR mechanism ensures that the Customer makes their proportionate

12 contribution both to incremental fuel and purchased power costs that they are

13 introducing, and to the fixed costs of renewable energy assets and transmission

14 costs that are recovered through that mechanism.

15

16 The limitations on rate schedule switching in the PSA are also reasonable. The

17 notice period ensures that any rate schedule change can be appropriately

18 incorporated through a subsequent rate case. The limitation that the rate schedule

19 be newly approved and not cross-subsidized provides the Commission with

20 appropriate oversight of the types of future rates that the Customer may be eligible

21 for to ensure any potential future rate change would not negatively impact other

22 customers.

23

24 **Primary Supply Agreement – Minimum Billing Demand**

25 **Q24. How is Minimum Billing Demand ("MBD") structured under the PSA?**

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1 A24. Under the PSA, the Customer agrees that the minimum demand for a given billing
2 period will be 80% of the contract capacity applicable for that billing period. In
3 practice, this means the Customer's Minimum Monthly Charge ("MMC") for a
4 given billing period will be calculated using an 80% MBD as applied to the
5 customer's contracted load ramp capacity during the specific billing period. The
6 MMC will increase during the Customer's load ramp and then will be held constant
7 at the contracted capacity once the max load is achieved, notwithstanding changes
8 to the D11 rate.

9

10 **Q25. How will the MBD be applied?**

11 A25. On D11, the Customer is subject to three demand charges:

- 12 • Power Supply Capacity Demand Charge
- 13 • Power Supply Non-Capacity Demand Charge
- 14 • Distribution Demand Charge

15

16 The first two demand charges (Power Supply Capacity and Power Supply Non-
17 Capacity) are typically calculated based on the billing period's on-peak billing
18 demand as defined in D11. Under D11 these charges would also typically be subject
19 to a 65% ratchet; however, this term is superseded by the 80% MBD agreed to in
20 the PSA.

21

22 The third demand charge (Distribution) is typically calculated based on the max
23 demand measured during the previous 12 months as defined in Rate Schedule D11.
24 Under D11 this charge would also typically be subject to the greater of actual

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1 maximum demand or 50% of contract capacity; however, this term is superseded
2 by the 80% MBD agreed to in the PSA.

3

4 Under the PSA, the Company will calculate all three demand charges using the
5 greater of:

- 6 • 80% of the contract capacity applicable for the billing period; or
7 • The customer's actual billing demand if greater than 80% of the contract
8 capacity applicable for the billing period.

9

10 **Q26. Is the MMC impacted if the Customer's load does not fully materialize?**

11 A26. No. Even if the customer's usage does not ramp to the max load (i.e., roughly 1.4
12 GW) agreed to in the PSA, the MMC will be calculated based on contract capacity.
13 While the timing of the Customer's load ramp can be delayed, the max load cannot
14 be reduced during the term of the PSA.

15

16 **Q27. Does the MBD provide adequate protection for the Company's other**
17 **customers?**

18 A27. Yes. The MBD term ensures that the Company will collect from the Customer a
19 minimum amount of revenue regardless of the Customer's actual demand. As
20 described later in my testimony, this helps ensure a minimum level of affordability
21 benefit will be realized by the Company's other customers. Through the PSA the
22 Company is committing to make available the max load to the Customer for the life
23 of the contract. The MBD likewise commits the Customer to pay for that capacity
24 through D11 demand charges.

25

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1 **Primary Supply Agreement – load ramp flexibility**

2 **Q28. Can the Customer adjust the timing of when their load will materialize or**
3 **when they must achieve max load?**

4 A28. Yes. The Customer can delay the Customer Committed Capacity Ramp or any
5 increase in the scheduled ramp by up to 12 months in the aggregate but cannot
6 adjust the max load that the Company has committed to serve. In practice, this
7 means that the Customer could achieve their max load as late as December 2028 if
8 the Customer elects to delay by the maximum 12 months allowed in the PSA.

9

10 **Primary Supply Agreement – termination payment**

11 **Q29. Can you explain the termination payment under the PSA?**

12 A29. Yes. The termination payment was designed such that the Company will recover at
13 least 10 years of Minimum Monthly Charges. If the PSA is terminated before the
14 tenth anniversary of the Load Ramp Completion Date, the Customer will be subject
15 to a termination payment based on the MBD multiplied by the greater of 1) the
16 number of months from the early termination date to the tenth anniversary of the
17 Load Ramp Completion Date or 2) 24 months. If the PSA is terminated after the
18 tenth anniversary of the Load Ramp Completion Date, the customer is subject to a
19 termination payment equal to 24 months of Minimum Monthly Charges.

20

21 **Q30. Does the termination payment benefit the Company's other customers?**

22 A30. Yes. The termination payment represents a long-term commitment by the Customer
23 of at least 10 years to contribute to the Company's overall system costs, thereby
24 reducing the cost responsibility of the Company's other customers.

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1 **Primary Supply Agreement – credit and collateral requirements**

2 **Q31. Does the PSA include credit and collateral requirements?**

3 A31. Yes. The PSA includes credit and collateral requirements through a parent guaranty
4 and, as necessary based on the parent's credit rating, a letter of credit designed to
5 protect the Company and its customers in the event of Customer default.
6

7 **Energy Storage Agreement - overview**

8 **Q32. Can you provide an overview of the ESA between the Company and the**
9 **Customer?**

10 A32. Yes. The ESA governs the obligations of the Company and the Customer related to
11 the deployment and cost recovery of energy storage projects. Later in my testimony
12 I will discuss why the Company has decided to deploy energy storage to maintain
13 resource adequacy.
14

15 At a high level, the ESA allows the Company to develop a portfolio of energy
16 storage projects up to the Customer's max load (i.e., roughly 1.4 GW). The
17 Customer will pay the full cost (i.e., revenue requirement) of the portfolio of
18 projects and will receive the full value of any incremental capacity, energy, and
19 ancillary service MISO market revenues that are generated by the assets.
20

21 **Q33. What are the key terms of the ESA between the Company and the Customer?**

22 A33. The key terms of the ESA are the following:

- 23 • Contract duration
- 24 • Energy storage portfolio build
- 25 • Pricing and annual reconciliation

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- 1 • Market credits
- 2 • Termination and termination payment
- 3 • Credit and collateral requirements
- 4

5 **Energy Storage Agreement – contract duration**

6 **Q34. What is the contract duration of the ESA?**

7 A34. The ESA contract duration is dictated by the timing of energy storage projects that
8 the Company will develop under the ESA. Specifically, the ESA allows the
9 Company to recover from the Customer the costs of each individual project within
10 the portfolio over a 15-year period, starting at the Commercial Operation Date
11 (“COD”) of the individual project.

12
13 As such, the ESA will be in effect until the fifteenth anniversary of the “last” project
14 in the portfolio (i.e., the project with the latest COD). The ESA can be extended by
15 mutual consent of the Company and the Customer.

16

17 **Q35. Does the ESA contract length offer adequate protection against stranded asset**
18 **risk to the Company’s other customers?**

19 A35. Yes. The depreciable life of DTE owned energy storage assets is 15 years.
20 Likewise, the Company intends to enter into 15-year Tolling Agreements (“TA”)
21 with third parties to execute on the third-party owned portion of the portfolio. As
22 such, allowing for a 15-year recovery period of each individual project ensures that
23 the Customer will be paying for the full cost of the asset over the recovery period
24 or, in the case of TAs, the entire contract length. This ensures that the deployment

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1 of energy storage under the ESA will not impact the rates of the Company's other
2 customers during the life of the ESA, and mitigates the risk of stranded assets.

3

4 **Energy Storage Agreement – portfolio build**

5 **Q36. What obligations does the Company have related to the deployment of energy**
6 **storage under the ESA?**

7 A36. Under the ESA, the Company can develop a portfolio of energy storage assets up
8 to the max load of the Customer through a combination of self-build projects, Build
9 Transfer Agreements ("BTAs"), and third-party TAs.

10

11 **Q37. Will the Company submit energy storage projects deployed under the ESA to**
12 **the Commission for review and approval?**

13 A37. Yes. The Company will submit each project to the Commission for review and
14 approval prior to construction. In each project filing, the Company will clearly
15 identify if the project is being built under the ESA so such projects can be tracked
16 and accounted for appropriately.

17

18 As I describe later in my testimony, the Company is confident it has a pipeline of
19 projects sufficient to meet the targeted level of energy storage deployment.

20

21 **Energy Storage Agreement – pricing and annual reconciliation**

22 **Q38. What is the Customer pricing structure under the ESA?**

23 A38. Under the ESA, the Customer will pay for the full cost of the energy storage
24 portfolio during the 15-year recovery period of each project. For each DTE owned
25 project in the portfolio, the Company will calculate a 15-year revenue requirement

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1 in the same manner that a revenue requirement is calculated in a general rate case.

2 The revenue requirement will include, for example:

- 3 • Allowance for Funds Used During Construction (“AFUDC”) accumulated
- 4 during the construction of the project
- 5 • Depreciation
- 6 • The Company’s prevailing authorized rate of return
- 7 • Amortization of Investment Tax Credits (“ITC”) generated by the
- 8 construction of the site
- 9 • O&M
- 10 • Property Tax
- 11 • Insurance

12

13 For third party TAs, the revenue requirement will be equal to the annual cost of the
14 TA plus any authorized financial incentive under MCL 460.1028.

15

16 For billing purposes, the annual project revenue requirement of each project will be
17 evenly divided into the number of billing periods applicable to that year to
18 determine the billing period project charge². The summation of individual project
19 billing period charges will be invoiced to the customer.

20

21 **Q39. When will the revenue requirement be determined for an individual project**
22 **for the purposes of billing the Customer?**

23 A39. For the purposes of billing the Customer, the revenue requirement for Company
24 owned projects will first be calculated when the project achieves COD. At that time

² In general, the applicable billing periods during a year will be 12, but could vary in the first and final calendar years of the 15-year recovery period since project CODs could happen mid-year.

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1 the Company will provide the Customer with a projection of the 15-year revenue
2 requirement which will generally be based on actual construction capital costs and
3 a projection of lifetime O&M costs.

4

5 For third party TAs, the cost will first be calculated when the Company enters into
6 the TA.

7

8 **Q40. Are the Customer project charges fixed for the life of the 15-year project**
9 **recovery period?**

10 A40. No. At the end of each calendar year, the Company will perform a cost
11 reconciliation for each project in the energy storage portfolio. That reconciliation
12 will compare the amount charged to the Customer during the previous calendar year
13 to the actual costs of the project. Any over recovery or under recovery will be
14 incorporated into the subsequent year's Customer charges.

15

16 Under this approach, the Customer pays the actual costs of the energy storage
17 portfolio.

18

19 **Q41. Will the Commission and other stakeholders have an opportunity to review**
20 **the reconciliation?**

21 A41. Both the costs of the energy storage projects and the associated Customer charges
22 will be addressed in the Company's future general rate cases. At that time, the
23 Commission and other stakeholders will have the opportunity to review the costs
24 and Customer revenues associated with the energy storage portfolio developed
25 under the ESA.

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1 **Q42. Does the ESA pricing and annual reconciliation provide adequate protection**
2 **for the Company's other customers?**

3 A42. Yes. The ESA pricing and associated reconciliation process ensure that the
4 Customer fully pays for the actual costs of the energy storage portfolio. In this way,
5 the ESA prevents cross subsidization of the energy storage portfolio and mitigates
6 the risk of stranded assets.

7

8 **Energy Storage Agreement – market credits**

9 **Q43. What type of market credits will the Customer be provided under the ESA?**

10 A43. The Customer will be credited with any incremental MISO capacity, energy, and
11 ancillary services revenues that are generated by the energy storage portfolio net of
12 all market charges associated with the energy storage portfolio.

13

14 **Q44. What do you mean by “incremental” credits?**

15 A44. Some of the energy storage projects that the Company will deploy under the ESA
16 may be co-located with existing renewable assets. A co-located energy storage asset
17 shares an interconnection with an existing renewable generation asset. In these
18 cases, the capacity accreditation of the existing renewable generation may be
19 reduced based on the allocation of the interconnection limit between the assets.

20

21 To account for this, the Company will deduct from the credits provided to the
22 Customer an amount that will make-whole the existing renewable generation asset
23 had the energy storage asset not been constructed on the same site. Thus, the
24 customer will only receive the “incremental” capacity credits generated at any co-
25 located sites.

Line
No.

1 **Q45. Who will manage the operations of the energy storage assets and their**
2 **participation in the MISO market?**

3 A45. The Company will operate and manage the storage projects (both Company owned
4 and third party owned) accordingly through participation in the MISO wholesale
5 markets. The energy storage assets will be operated in a manner similar to other
6 Company resources.

7
8 **Q46. How will the Company determine the amount of market credits to provide the**
9 **Customer?**

10 A46. The Company will utilize the MISO settlements process to determine the amount
11 of market credits to provide to the customer. The MISO settlements process allows
12 for market revenues and charges to be identified by their source. As such, the
13 Company will be able to determine the specific market revenues and charges that
14 were generated by the energy storage portfolio.

15
16 The Company highlights that any energy credits provided to the customer will be
17 net of charging costs for the energy storage project.

18
19 **Q47. How will the market credits be provided to the Customer?**

20 A47. The market credits will be provided to the Customer through their monthly invoice.

21
22 **Q48. Will the Company recover from the Customer the incremental costs of**
23 **Company activities associated with being the MISO Market Participant for**
24 **the energy storage assets?**

Line
No.

1 A48. Yes. The Company will recover its incremental costs related to the management of
2 the energy storage portfolio assets in the MISO wholesale energy and capacity
3 markets through an administrative fee applied to the Customer's monthly invoice.
4

5 **Energy Storage Agreement – termination and termination payment**

6 **Q49. Can the Customer voluntarily terminate the ESA?**

7 A49. No. The Customer cannot voluntarily terminate the ESA. If the ESA is terminated
8 through a customer default, the Customer is obligated to pay the Company a
9 termination payment.
10

11 **Q50. How is the termination payment calculated?**

12 A50. The termination payment is set equal to the unrecovered portion of the 15-year
13 revenue requirement for each project in the portfolio. In other words, the
14 termination equals the remaining amount that the Company would have collected
15 had the agreement not been terminated.
16

17 **Q51. How does the termination payment protect the Company's other customers?**

18 A51. The termination payment is designed to collect whatever amounts would have
19 otherwise been collected had the ESA not been terminated. As such, the costs of all
20 energy storage projects would be fully recovered from the Customer, mitigating the
21 risk of stranded assets for these projects.
22

23 **Energy Storage Agreement – credit and collateral requirements**

24 **Q52. Does the ESA include credit and collateral requirements?**

Line
No.

1 A52. Yes. The ESA includes credit and collateral requirements through a parent guaranty
2 and, if necessary based on the parent's credit rating, a letter of credit designed to
3 protect the Company and its customers in the event of Customer default.
4

5 **Maintaining Resource Adequacy**

6 **Q53. What is resource adequacy?**

7 A53. Resource adequacy is the ability of the electric system to meet the energy needs of
8 electricity consumers. This means having sufficient resources to meet projected
9 electric demand³.
10

11 **Q54. What are the Company's resource adequacy requirements?**

12 A54. MISO, under its Federal Energy Regulatory Commission ("FERC") approved
13 tariff, has resource adequacy requirements to ensure adequate resources are
14 available to meet demand. The Company is also required to submit annual
15 demonstrations to the MPSC showing that it has sufficient resources to meet
16 capacity obligations four years into the future.
17

18 **Q55. How does the Company demonstrate resource adequacy?**

19 A55. MISO establishes a Planning Reserve Margin ("PRM"), which is defined as the
20 amount of capacity above the expected weather-normalized peak demand necessary
21 to meet the industry standard of a single day in ten years loss-of-load event. The
22 PRM is added to the Company's coincident peak demand to calculate its Planning
23 Reserve Margin Requirements ("PRMR"). The Company demonstrates resource
24 adequacy by ensuring it has adequate resources to meet or exceed the PRMR.

³ <https://www.ferc.gov/reliability-explainer>

Line
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1 **Q56. How will the Customer's load impact the Company's PRMR?**

2 A56. The Customer's load will increase the Company's PRMR. As the Customer's load
3 increases to the max load of approximately 1.4 GW, the Company's coincident
4 peak demand and PRMR will also increase.

5

6 **Q57. Would the Company be able to meet the increased PRMR with its existing
7 resources?**

8 A57. No, the Company projects it would not have sufficient existing resources in all
9 seasons to meet the higher PRMR from the incremental Customer demand. The
10 Company determined that it could meet the increased PRMR through the
11 deployment of incremental energy storage resources under the ESA. Adding
12 additional capacity resources ensures that the Company will have sufficient
13 capacity to meet MISO's resource adequacy requirements.

14

15 **Q58. Why did the Company select energy storage as the resource type to ensure
16 resource adequacy?**

17 A58. Energy storage was selected as the resource type because it is a dispatchable
18 resource that provides high-capacity accreditation under MISO's Direct Loss of
19 Load ("DLOL") methodology⁴. For example, in summer 2030, storage has an
20 expected DLOL accreditation percentage of 96.12% compared to only 10.52% and
21 4.80% for wind and solar, respectively. Energy storage is also cost-competitive and
22 can be developed and placed in service on a timeline that supports the Customer
23 Committed Capacity Ramp.

24

⁴ MISO 2024 Regional Resource Assessment, November 6, 2024, Appendix 5: DLOL by fuel class (%)
<https://cdn.misoenergy.org/20241106%20RASC%20Item%2010%202024%20RRA%20Update658159.pdf>

Line
No.

1 **Q59. Do the energy storage portfolio assets being developed under the ESA impact**
2 **the targeted storage build contemplated in the Company’s 2022 Integrated**
3 **Resource Plan (“IRP”) settlement?**

4 A59. No, the energy storage portfolio assets being developed under the ESA do not
5 impact the targeted storage build contemplated in the IRP Settlement that was
6 approved by the Commission through its July, 26, 2023, Order in Case No. U-21193
7 (“July 2023 Order”). That settlement agreement included 780 MW of energy
8 storage deployment between 2025 and 2028. The approximately 1.4 GW that the
9 Company intends to deploy under the ESA is in addition to this amount.

10

11 **Q60. How will energy storage projects be selected for development under the ESA?**

12 A60. The Company intends to select projects that were bid into the Company’s 2025
13 Energy Storage Request for Proposal (“RFP”). The Company issued the 2025
14 Energy Storage RFP on May 9, 2025, with proposal responses due on June 25,
15 2025. Although the 2025 Energy Storage RFP was intended for the IRP Settlement
16 storage needs discussed above, additional viable projects were identified in the RFP
17 responses that could support the ESA. The RFP was conducted under a competitive
18 procurement process that followed the MPSC’s Competitive Procurement
19 Guidelines for Rate-Regulated Electric Utilities and the terms of the 2022 IRP
20 Settlement Agreement.

21

22 The Company first selected the highest scoring projects from the RFP to meet its
23 IRP Settlement needs. The Company intends to select the energy storage projects
24 to be deployed under the ESA from the remaining viable projects identified in the
25 RFP. This process prioritizes the Company’s other customers and the build plan

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1 presented in the IRP Settlement and ensures that the Company's other customers
2 are not adversely impacted by the selection of additional energy storage projects
3 from this RFP.

4

5 **Q61. Will the energy storage projects deployed under the ESA be Company owned,**
6 **third party owned, or a combination of both?**

7 A61. The energy storage projects under the ESA will be a combination of Company
8 owned and third party owned. While these projects are incremental to the targeted
9 storage build contemplated in the IRP Settlement, the IRP Settlement Agreement
10 stipulated that additional energy storage projects should be allocated consistent
11 with the allocation for the PCA build between Company owned (approximately
12 65%) and third party owned projects (approximately 35%)⁵. The Company intends
13 to select projects that are consistent with the ownership split identified in the IRP
14 Settlement Agreement.

15

16 **Q62. What are the impacts of the Customer load on the Company's long-term**
17 **generation plan?**

18 A62. The Company's long-term generation plan is determined by its IRP process. The
19 IRP Settlement Agreement approved by the Commission through its July 2023
20 Order stipulated that the Company must file its next IRP by December 2026. The
21 resources necessary to meet the Company's long-term energy and capacity needs
22 will be determined in the Company's 2026 IRP filing.

⁵ Section 13 of IRP Settlement (<https://mi-psc.my.site.com/sfc/servlet.shepherd/version/download/0688y000008puPjAAI>)

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1 **Q63. Does the Company plan to delay the retirement of Monroe Power Plant to**
2 **serve the Customer?**

3 A63. No, the Company does not plan to delay the retirement of Monroe Power Plant to
4 serve the Customer. Per the IRP Settlement Agreement approved by the
5 Commission through its July 2023 Order, the planned retirement date for Units 3
6 and 4 is 2028 and for Units 1 and 2 is 2032.

7

8 **Benefits to other customers**

9 **Q64. Will the Company's other customers benefit from the Contracts?**

10 A64. Yes, the proposed Contracts will deliver an affordability benefit to the Company's
11 other customers.

12

13 **Q65. How are the Contracts generating an affordability benefit for the Company's**
14 **other customers?**

15 A65. The proposed Contracts ensure an affordability benefit for the Company's other
16 customers by spreading the Company's fixed costs of generation and distribution
17 over a larger customer base. This occurs in two ways:

18 • PSA D11 charges. By taking service on D11, the Customer will be
19 contributing to the fixed costs of the Company's system (e.g., existing
20 generation resources, distribution system, etc.). Since all incremental
21 capacity resources needed to ensure resource adequacy (i.e., energy storage
22 deployed under the ESA) will be fully recovered from the Customer through
23 the ESA, the Customer will be contributing to *existing* fixed costs through
24 D11 that would otherwise be recovered from the Company's other
25 customers.

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1 • PSA PSCR mechanism. The Company's renewable asset and transmission
2 costs are recovered through the PSCR mechanism. The associated surcharge
3 is recovered on a volumetric (i.e., per kWh) basis. As such, by being subject
4 to the PSCR and being a particularly large energy user, the Customer will
5 make a contribution to the Company's *existing* renewable and transmission
6 costs. These fixed costs would have otherwise been allocated to Company's
7 other customers. Similarly, being subject to the PSCR also ensures that the
8 Customer will make a contribution to any *future* renewable deployments or
9 transmission cost increases. Like above, the Customer will be covering a
10 portion of existing costs that would otherwise be allocated to the
11 Company's other customers. Being subject to the PSCR also ensures the
12 Customer contributes to the incremental fuel and purchased power needed
13 to serve their load.

14

15 Importantly, the ESA insulates the Company's current customers from the costs
16 of the increased capacity needed to serve the Customer since the Customer is
17 paying the costs of the energy storage portfolio that the Company will develop
18 to ensure resource adequacy. This ensures that the Company's other customers
19 are not responsible for incremental system costs and can fully realize the
20 affordability benefits described above.

21

22 **Q66. How will the Company's other customers realize these benefits?**

23 A66. These benefits would flow to other customers through the Cost of Service (CoS)
24 process within a future general rate case. Using current CoS allocation methods
25 updated with the Customer's load, the Company estimates the Customer will be

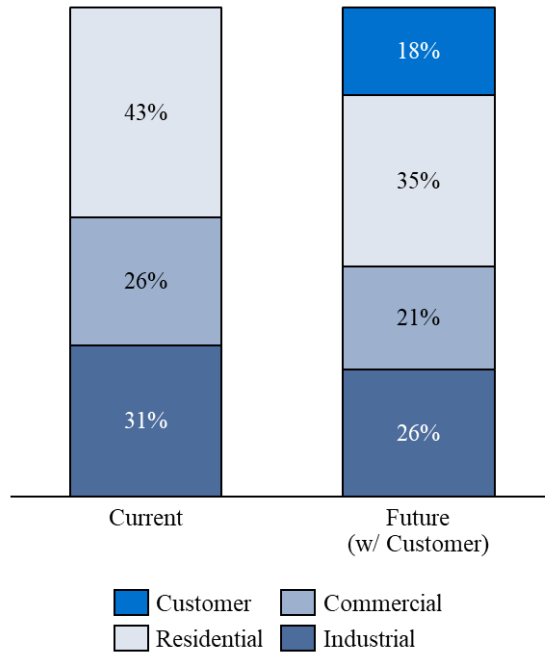
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1 responsible for approximately 18% of total costs. See Figure 1 below for a
2 breakdown by customer class.

3

4

Figure 1 Estimated Cost of Service Class Cost Responsibility



5

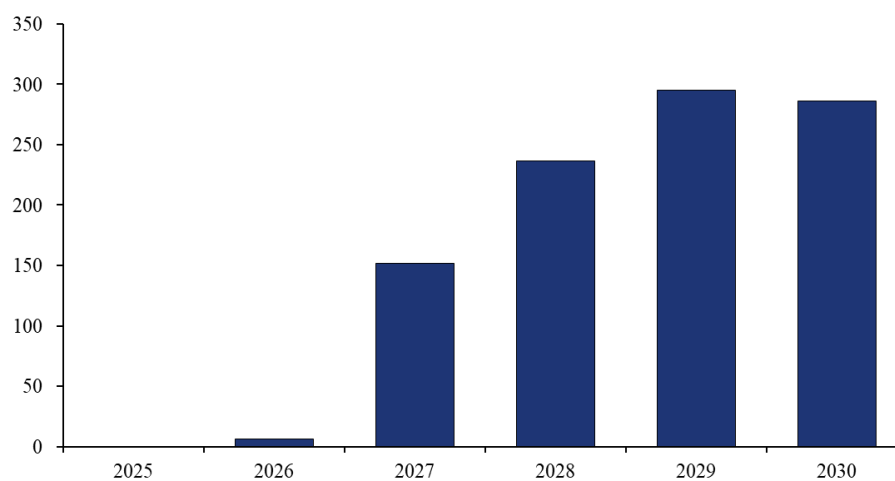
6 **Q67. How large does the Company estimate that the affordability benefit will be?**

7 A67. Figure 2 below captures the Company's estimate of the affordability benefits that
8 will be realized by its other customers.

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1

Figure 2 Estimated Total Affordability Benefit (\$ million)



2

3 **Q68. What is accounted for in the Company's estimate of total affordability benefit?**

4 A68. The Company's estimate of total affordability benefit includes Customer revenues,
5 additional fuel and purchased power costs incurred to serve the Customer's load,
6 estimated distribution and transmission upgrade costs, incremental impacts to the
7 Renewable Portfolio Standard compliance as discussed by Company Witness
8 Bilyeu⁶, and sales migration to Retail Open Access.

9

10 **Q69. How will this affordability benefit impact customer rates?**

11 A69. Customer rates are determined through a general rate case. During a rate case, a
12 number of factors are considered, including changes to the Company's load,
13 proposed capital expenditures, changes to Operations and Maintenance costs, etc.
14 Because of the significant addition of load, customer rates will be lower than they
15 otherwise would have been had the Company not served the Customer. All else

⁶ For affordability modeling purposes, the Company assumed ~1,800 MW of incremental solar generation deployment which is the midpoint of the two buildout scenarios discussed by Company Witness Bilyeu (i.e., 443 MW of solar generation deployment and 3,247 MW of solar generation deployment)

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1 equal (i.e., there are no other changes to rate inputs) the affordability benefit of
2 adding this new customer will reduce existing customer rates.

3

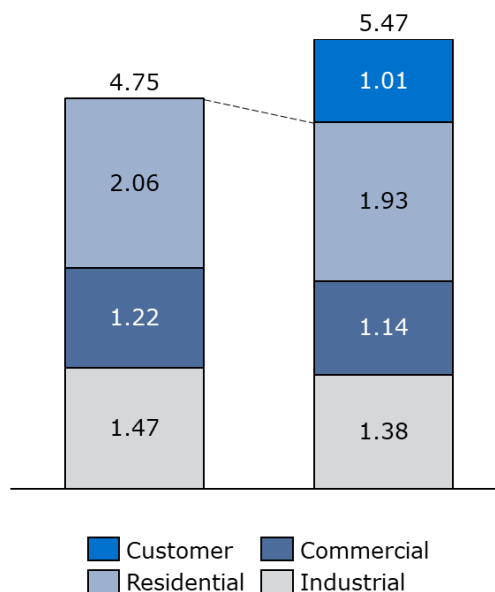
4 **Q70. Has the Company estimated the impact on the cost of service to its other**
5 **customers of serving the Customer?**

6 A70. Yes. The Company estimates that the cost of service to its other customers will
7 decrease if it serves the Customer. Figure 3 below highlights that, while overall
8 Company costs will increase (as discussed later in my testimony), the cost of
9 service will decrease across all customer classes given the contribution to the
10 Company's costs that the Customer is making. This is consistent with the estimated
11 total affordability benefit described earlier in my testimony.

12

13

Figure 3 Estimated Cost of Service Responsibility



14

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No.

1 **Q71. Are there other benefits that will be realized through the Contracts?**

2 A71. Yes. Serving a Customer of this size and type brings a variety of benefits beyond
3 the affordability benefit described above. These include:

- 4 • Local capital investment. The Customer will be making a multi-billion
5 capital investment to construct, operate, and maintain their facilities;
- 6 • Construction jobs. An estimated 2,500 temporary construction jobs will be
7 created during the construction of the facility;
- 8 • Permanent on-site jobs. An estimated 450 well-paying permanent jobs will
9 be created to support the Customer's facility; and
- 10 • Additional tax revenue. The Customer and the operation of their facility will
11 generate additional revenue for all applicable taxing jurisdictions (e.g., state
12 and township)

13

14 **Incremental costs and stranded cost mitigation**

15 **Q72. Can you summarize the incremental costs that the Company expects to incur**
16 **by serving the Customer?**

17 A72. Yes. The Company expects there to be five types of incremental costs that it will
18 incur by serving the Customer. Those are:

- 19 • ESA energy storage portfolio. As discussed previously in my testimony, the
20 Company intends to deploy a portfolio of up to roughly 1.4 GW of energy
21 storage assets to maintain resource adequacy;
- 22 • Fuel and purchased power. The Company expects that overall fuel and
23 purchased power costs will increase due to the energy usage of the
24 Customer;

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- 1 • Transmission upgrades. Based on initial estimates provided by the
- 2 Company's transmission provider, the Company expects that
- 3 approximately \$200 million of capital investment will be needed to upgrade
- 4 the transmission system to both connect the customer's facility and deploy
- 5 the energy storage portfolio under the ESA. The Company expects this to
- 6 initially equate to an approximately \$30 million per year revenue
- 7 requirement for the Company, which will decrease over time as the
- 8 investment is depreciated;
- 9 • New industrial substation. The Company intends to build a new industrial
- 10 substation to serve the customer. It expects that approximately \$300 million
- 11 of capital investment will be needed to construct the substation. The
- 12 Company expects this to initially equate to an approximately \$35 million
- 13 per year revenue requirement for the Company, which will decrease over
- 14 time as the investment is depreciated; and
- 15 • Incremental renewable generation for RPS compliance. As discussed by
- 16 Company Witness Bilyeu, the Company expects that incremental renewable
- 17 generation will be needed for it to remain compliant with the State of
- 18 Michigan's RPS requirements. The Company expects that the amount of
- 19 renewable generation to be deployed will be determined in the Company's
- 20 next IRP filing.

21

22 **Q73. How will transmission upgrade costs be recovered from the Company's**
23 **customers?**

24 A73. The Company is not proposing to change the way in which transmission costs are
25 recovered from its customers. Currently, the Company's transmission provider

Line
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1 allocates costs to the Company based on FERC approved allocation methods, which
2 the Company then allocates to its customers based on Commission-approved
3 allocation methods. These costs are recovered through the PSCR mechanism.

4
5 The Company highlights that transmission cost upgrades were considered when it
6 estimated the total affordability benefit presented previously in my testimony.

7

8 **Q74. How will the costs of the new industrial substation needed to serve the**
9 **Customer be recovered?**

10 A74. Typically, the Customer would pay, through a Contribution in Aid of Construction
11 (CIAC) payment, for the cost of the infrastructure needed for grid interconnection
12 less an allowance based on the Customer's load ("a CIAC allowance"). If the actual
13 costs of the new industrial substation exceeded the CIAC allowance, the Customer
14 would be responsible for paying for the difference through the CIAC payment.

15

16 In this case, the Customer's CIAC allowance would be approximately \$760 million,
17 far exceeding the expected cost of the new industrial substation. Said differently,
18 under the approved CIAC policy, the Customer would not be directly responsible
19 for any costs related to the new industrial substations, and instead the capital would
20 be proposed to be added to the Company's rate base with the associated costs
21 allocated according to approved methods. The Company is not proposing to change
22 the current CIAC policy.

23

24 However, the Customer's landlord has agreed to pay a \$40 million non-refundable
25 construction advance to help offset the costs of the new industrial substation. The

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1 Company will propose adding the net cost (i.e., actual costs less the \$40 million
2 construction advance) to its rate base for recovery in a future rate case.

3

4 The Company highlights that new industrial substation costs were considered when
5 it estimated the total affordability benefit presented previously in my testimony.

6

7 **Q75. Do the Contracts ensure that the Customer offsets these costs?**

8 A75. Yes. The table below summarizes the method by which the Customer will offset
9 each of these incremental costs.

10

11

Table 1 Customer Contribution Method to Incremental Costs

Incremental Cost Type	Customer Contribution Method
ESA energy storage portfolio	Customer pays full cost of the portfolio through the ESA
Fuel and purchased power	Customer is subject to the PSCR mechanism where fuel and purchased power are recovered
Transmission upgrades	Customer is subject to the PSCR mechanism where transmission costs are recovered
New industrial substation	Customer is subject to D11 which appropriately allocates all system costs to customer classes; additionally, Customer's landlord is making a \$40 million non-refundable contribution to the cost of the substation
Incremental renewable generation for RPS compliance	Customer is subject to the PSCR mechanism where renewable generation costs are recovered

Line
No.

1 **Q76. When these costs are considered, will serving the Customer still result in an**
2 **affordability benefit to the Company's other customers?**

3 A76. Yes. The Company's estimate of total affordability benefit considers these
4 incremental costs. Through the Contracts, the Customer is offsetting the
5 incremental costs that it is introducing, allowing for an affordability benefit to be
6 realized by the Company's other customers.

7

8 **Q77. Do the Contracts provide adequate protections against stranded costs?**

9 A77. Yes. As it relates to ESA energy storage portfolio costs, the Customer is responsible
10 for the full cost of the energy storage portfolio deployed under the ESA. The
11 Customer's responsibility for these costs cannot be reduced or eliminated, and the
12 credit requirements under the ESA protects against the risk of Customer default.

13

14 As it relates to fuel and purchased power, incremental costs will be appropriately
15 recovered from the customer regardless of their usage. If the Customer's usage is
16 zero, then incremental fuel and purchased power costs will also be zero. In this
17 case, the Company would not recover anything from the Customer since the
18 Customer's volumetric charges, including the PSCR factor, would also be zero. If
19 the Customer's usage is more than zero, then incremental fuel and purchased power
20 costs will also be more than zero. The Company would recover these costs through
21 the PSCR which is recovered volumetrically based on Customer usage.

22

23 Regarding other types of costs (i.e., transmission, industrial substation, and
24 renewable generation), the Customer is subject to an 80% MBD in the PSA, which
25 they are responsible for regardless of their actual usage. Under prevailing D11 rates,

Line
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1 this equates to approximately \$230 million per year of *minimum* cost recovery from
2 the Customer per year. Given that the PSA ensures the Customer pays this amount
3 for at least 10 years after achieving their max load, the Company will at a minimum
4 collect roughly \$2.3 billion from the Customer, *even if the Customer's load is zero*.

5
6 If the Customer's load does not materialize, the only stranded asset risk will be
7 related to the deployment of capital for transmission upgrades, the new industrial
8 substation, and any renewable generation deployment to maintain compliance with
9 the Company's RPS requirements. The risk of stranded asserts is effectively
10 mitigated given the minimum level of cost recovery from the Customer that is
11 agreed to in the PSA. Further, the credit requirements under the PSA protect against
12 the risk of Customer default and helps ensure the Company recovers this minimum
13 amount from the Customer.

14

15 **Regulatory treatment**

16 **Q78. Would Commission approval of the Contracts increase the Company's cost of**
17 **service or customer rates?**

18 A78. No. Commission approval of the proposed Contracts does not increase the
19 Company's cost of service or customer rates. Instead, the proposed Contracts
20 govern how the Customer's future load will be served and how an energy storage
21 portfolio will be deployed under the ESA. Moreover, as discussed in the
22 affordability section above, the additional revenues that the Customer will pay
23 under the PSA and subscription fee under the ESA will more than offset any
24 potential cost of service or customer rate increase.

25

Line
No.

1 **Q79. Will the Contracts be reflected in future regulatory filings?**

2 A79. Yes. If approved, the Contracts would be reflected in future general rate cases and
3 PSCR (plan and reconciliation) cases.

5 **Q80. How will the PSA and ESA be incorporated into future rate cases?**

6 A80. The Contracts will be incorporated into future general rate cases in several ways,
7 including:

- 8 • The Customer's expected load will be incorporated into the Company's load
9 forecast that is used, for example, to determine present revenues, determine
10 cost allocations, and calculate rates;
- 11 • The Company owned energy storage portfolio projects developed under the
12 ESA will be proposed to be added to the Company's rate base as those
13 projects will be owned by the Company; and
- 14 • The amounts collected from the Customer through the ESA will be
15 incorporated to offset the additional rate base costs from the energy storage
16 portfolio deployed under the ESA.

17

18 The energy storage portfolio project costs that are added to the Company's rate base
19 will be fully offset by the amounts collected from the Customer through the ESA.
20 The Company will work with MPSC Staff to determine how to account for the
21 Customer revenues to ensure that there is no shifting of costs from one customer
22 class to another.

23

24 **Q81. How will the PSA and ESA be incorporated into future PSCR plans and**
25 **reconciliation cases?**

Line
No.

1 A81. As described above, the portfolio of energy storage projects developed by the
2 Company under the ESA will be managed by the Company as the MISO Market
3 Participant. As such, the energy storage portfolio will generate MISO revenues that
4 would be reflected in future PSCR plan and reconciliation filings.

5

6 **Q82. Does this complete your direct testimony?**

7 A82. Yes, it does.

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application of)
DTE ELECTRIC COMPANY)
for Approval of Special Contracts_____)

Case No. U-21990

EXHIBITS

OF

NEAL FOLEY

SCHEDULE DESIGNATION D11 PRIMARY SUPPLY AGREEMENT

This Primary Supply Agreement (this “**Agreement**”) is entered into on this 22nd day of October, 2025 (“**Contract Date**”), by and between:

- (1) **DTE Electric Company**, a corporation organized under the Laws of the State of Michigan with an address of One Energy Plaza, Detroit, Michigan 48226 (“**Company**”); and
- (2) **Green Chile Ventures LLC**, a Delaware limited liability company with an address of [REDACTED] (“**Customer**”).

Company and Customer are referred to herein collectively as the “**Parties**” and each individually as a “**Party**”. Capitalized terms shall have the meaning set forth in Exhibit C.

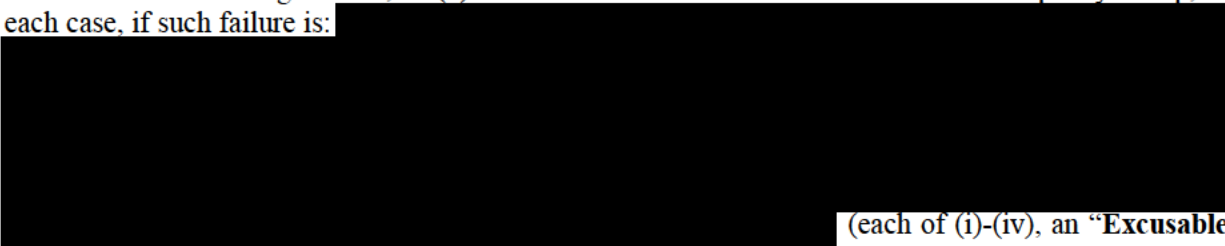
RECITALS

WHEREAS:

- (A) Company is a regulated electric utility that provides retail electric service within the State of Michigan;
- (B) Customer intends to lease and operate, and cause to be constructed and commissioned, a data center facility (the “**Facility**”) in Company’s electric service territory located at or near Saline, Michigan (the “**Data Center Location**”), for which RD Michigan Property Owner 1 LLC (“**RD Michigan**”) is the developer, land owner and lessor (RD Michigan together with any successors or assigns during the Term, “**Landlord**”);
- (C) Customer desires that Company, through itself or one or more Affiliates, design, engineer, procure, construct, upgrade, extend, commission, operate and maintain certain generation and distribution electric facilities (the “**Electric Facilities**”) necessary to provide electric capacity and energy for the Facility (the “**Electric Service**”) at the Data Center Location;
- (D) Landlord and Company will enter into the Line Extension Agreement to construct distribution system upgrades necessary to provide service to the Facility;
- (E) Customer desires to receive and take Electric Service from Company in an average monthly maximum electrical demand in accordance with the commitments set forth in Exhibit A-1 hereto (the “**Customer Committed Capacity Ramp**”) to serve the Facility at the Data Center Location;
- (F) To serve the electric capacity and energy needs of the Facility, Customer desires to procure energy storage capacity from one or more energy storage projects developed by Company under the Energy Storage Agreement;
- (G) Company is willing to (i) provide such Electric Service to the Data Center Location in accordance with the terms of this Agreement and the Company’s Rate Book (as defined below), (ii) develop and/or procure energy storage capacity on behalf of Customer in accordance with the Energy Storage Agreement, and (iii) construct and operate the applicable distribution system upgrades on behalf of Landlord in accordance with the Line Extension Agreement; and

- (H) To the extent Company agrees to terms for the provision of Electric Service that differ from Company's Rate Book, this Agreement must be approved by the Michigan Public Service Commission, or its successor ("Commission").

NOW, THEREFORE, the Parties enter into this Agreement subject to the terms and conditions as set forth herein, and in consideration of the mutual covenants and promises contained herein and intending to be legally bound, do hereby agree as follows:

1. **Provision of Electric Service.** Except as otherwise provided herein, Company shall provide Electric Service and Customer will receive Electric Service at the Facility at the Data Center Location in accordance with this Agreement, Company's Rate Book for Electric Service ("**Company's Rate Book**"), and under the Rate Schedule, as such Rate Schedule may be (a) amended, or (b) changed in accordance with Section 5.1.1. To the extent there is any conflict or inconsistencies between the Company's Rate Book, applicable Law, this Agreement and/or the Rate Schedule, any conflict or inconsistency shall be resolved in the following order of precedence: (i) applicable Law; (ii) this Agreement, (iii) Company's Rate Book, and (iv) the Rate Schedule. All energy purchased by Customer will be used solely for the energy needs of the Facility. Resale of energy purchased under this Agreement is prohibited.
2. **Customer Electric Demand Requirements**
 - 2.1. Customer Committed Capacity Ramp. Company agrees to provide the Electric Service within the Customer Committed Capacity Ramp set forth in Exhibit A-1 to Customer by the dates set forth in Exhibit A-1 to serve the Facility at the Data Center Location; provided that (a) the dates by which each phase of the Customer Committed Capacity Ramp shall be achieved shall be adjusted equitably to account for the time required for the Parties to negotiate and reach mutual agreement on amendments to this Agreement and to the extent applicable, the Energy Storage Agreement in accordance with Sections 4.4.1 and 4.4.2, if applicable, and (b) Customer shall have the right on thirty (30) days' prior Notice to Company prior to the implementation of any increase in the Customer Committed Capacity Ramp, to delay the implementation of any increase in the Customer Committed Capacity Ramp, with such delays to the Customer Committed Ramp totaling no more than twelve (12) months in the aggregate, subject to Section 5.5.2 ("**Ramp Grace Period**").
 - 2.2. Energization. Company agrees to provide Electric Service as of the Commencement Date in accordance with the terms of the Energization Schedule set forth in Exhibit A-2.
 - 2.3. Failure to Deliver. Company shall not have any liability for (a) failure to provide Electric Service to Customer under this Agreement, or (b) failure to achieve the Customer Committed Capacity Ramp, in each case, if such failure is:  (each of (i)-(iv), an "**Excusable Event**").
 - 2.4. Energy Storage Project Availability.
 - 2.4.1. If at any time after the Effective Date and before Company achieves the Contract Capacity under the Energy Storage Agreement, the Energy Storage Agreement is terminated under Sections 1.5,

3.4, 4.6, 6 or 7 of the Energy Storage Agreement, then the Parties shall meet and confer within ten (10) Business Days to negotiate in good faith (i) a mutually agreeable adjustment to the Customer Committed Capacity Ramp, and/or (ii) the details of a pass-through mechanism by which Customer shall reimburse Company for the incremental cost of providing Electric Service to the Facility in accordance with the Customer Committed Capacity Ramp; provided, however, that the obligation to negotiate in good faith shall not require Company to agree to any solution under clause (i) or (ii) that could reasonably be expected, in Company's reasonable judgment, to put Company's system at risk, including any risk to its safety, reliability, security, or integrity. Such adjustment and/or reimbursement shall be based on Company's ability to use commercially reasonable efforts to provide Electric Service from alternate sources as a result of the termination, lack of approval, or modification of the Energy Storage Agreement.

2.4.2. If the Parties, acting in good faith, are unable to reach mutual agreement on an adjustment to the Customer Committed Capacity Ramp, and/or, the details of a pass-through mechanism in accordance with Section 2.4.1 within thirty (30) calendar days after such meeting, or such later date as may be agreed by the Parties in writing (the "**ESPA Negotiation Period**"), then Company shall provide Customer with a revised Customer Committed Capacity Ramp (the "**Revised Ramp Schedule**") reflecting the Electric Service that Company determines, in its sole discretion, it is capable of providing to Customer notwithstanding the termination of the Energy Storage Agreement. Upon no more than thirty (30) calendar days' Notice after the end of the ESPA Negotiation Period, Customer shall notify Company that Customer is electing either to (i) allow this Agreement to remain in effect with Company's delivery obligations governed by the Revised Ramp Schedule, or (ii) terminate this Agreement by providing Notice to Company, at which time this Agreement shall terminate and cease to be of any force or effect with no further obligation or liability to any Party except (i) for any Termination Payment owed by Customer under this Agreement pursuant to Section 7.4, and (ii) to the extent provided in the Energy Storage Agreement (including, if applicable, any Termination Payment (as defined in the Energy Storage Agreement) owed by Customer for terminating the Energy Storage Agreement). For the avoidance of doubt, in the event that the Parties (x) convene pursuant to Section 2.4.1 due to a termination of the Energy Storage Agreement as set forth in Section 2.4.1, and (y) this Agreement is terminated in accordance with this Section 2.4.2, then any Termination Payment owed by Customer pursuant to Section 7.4 shall be calculated as of the date that the Energy Storage Agreement was originally terminated. If Customer does not terminate this Agreement within thirty (30) days of the end of the ESPA Negotiation Period, then (a) this Agreement shall remain in full force and effect, subject to the Revised Ramp Schedule, and (b) the Customer Committed Capacity Ramp set forth on Exhibit A-1 as of the date hereof shall no longer be in effect and the Revised Ramp Schedule shall become the Customer Committed Capacity Ramp for purposes of this Agreement.

3. **Term**

- 3.1. Term. The term (the "**Initial Term**") of this Agreement shall commence upon the Commencement Date and shall continue until 11:59 p.m. EPT on February 28, 2045.
- 3.2. Renewal Term. Customer may notify Company of its election to extend the Initial Term of this Agreement for an additional ten (10) year term up to two (2) times (each ten (10) year extension term, a "**Renewal Term**") by providing Notice to Company at least twenty-four (24) months prior to the end of the Initial Term or first Renewal Term, as applicable ("**Renewal Notice**"). Company shall notify Customer of the rate schedule pursuant to which Company can provide Electric Service to Customer for such Renewal Term and any general terms and conditions of Company's Rate Book (or any successor thereto) or terms of this Agreement that would need to be modified to be consistent with the new rate schedule no later than twenty-three (23) months prior to the beginning of such Renewal Term. Customer shall have thirty

(30) calendar days thereafter to elect to extend this Agreement for such Renewal Term subject to the rates and general terms and conditions of the new rate schedule and Rate Book (or successor thereto) and this Agreement, which election period may be extended by agreement of the Parties. The Initial Term together with any Renewal Term shall be the “**Term**” of this Agreement. The Initial Term or a Renewal Term may be terminated earlier in accordance with the provisions of this Agreement.

4. **Conditions Precedent.**

4.1. With the exception of the obligations under this Section 4, each Party’s performance of its respective obligations under this Agreement are specifically conditioned on completion of the items listed below pursuant to the terms set forth in this Section 4 (the “**Conditions Precedent**”):

4.1.1. The Commission shall approve of this Agreement and the Energy Storage Agreement in accordance with Section 4.4 by no later than December 5, 2025;

4.1.2. Customer shall provide Customer Credit Support in form and substance as required pursuant to Section 8 and Schedule 8 within thirty (30) calendar days following the Commission Approval Date, or as mutually agreed by the Parties in writing;

4.1.3. Company’s board of directors approves this Agreement and Company delivers Notice to Customer of such approval no later than October 31, 2025; and

4.1.4. Company and Landlord shall enter into the Line Extension Agreement no later than October 31, 2025.

4.2. Conditions Precedent Deadline. The date the Conditions Precedent are satisfied shall be referred to herein as the “**Effective Date**”.

[REDACTED]

[REDACTED]

[REDACTED]

4.3. Application. Company will apply to the Commission for approval of this Agreement and the Energy Storage Agreement on or before October 31, 2025, subject to extension by written agreement of the

Parties (including agreement by electronic mail) or, to the extent applicable, a later date with respect to an amendment to this Agreement pursuant to Section 4.4.1.1(a) or Section 4.4.2.3(a). Each Party agrees to notify the other Party of any significant developments in obtaining such Commission approval. Each Party shall use reasonable efforts to obtain such required approval and shall exercise due diligence and shall act in good faith to cooperate with and assist the other Party in acquiring such Commission approval.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

5. Fees for Electric Service

5.1. Rate.

- 5.1.1. Customer agrees to pay for the Electric Service beginning on the Commencement Date in accordance with the Rate Schedule. After the second (2nd) anniversary of the Load Ramp Completion Date, Customer may seek to change the Rate Schedule applicable under this Agreement to a new qualifying rate schedule from Company's Rate Book; provided that: (a) Customer provides not less than twenty-four (24) months' Notice to Company of its intent to change the Rate Schedule, (b) the Facility meets the eligibility requirements, as set forth in Company's Rate Book, to receive Electric Service under such rate schedule, (c) the new rate schedule was approved by the Commission after the Contract Date, (d) Customer's new rate schedule shall not be cross-subsidized by any other customer of Company, and (e) Customer's new rate schedule shall not otherwise be a rate schedule that Customer is prohibited from taking service pursuant to Section 6.6.2 of this Agreement.

5.1.2. Notwithstanding the foregoing process for the Parties' acceptance of Commission approval of this Agreement and the Energy Storage Agreement, at all times that this Agreement is in effect, Customer reserves all rights available to it to challenge before the Commission and on appeal any increases or changes to the rates or terms and conditions applicable to Customer that may be proposed to Company's Rate Book or the Rate Schedule (or any rate schedule pursuant to which Customer receives service subject to this Agreement) after the Contract Date.

5.2. Minimum Monthly Charge. If for any billing period Customer's Monthly On-Peak Billing Demand is less than or equal to (i) eighty percent (80%), multiplied by (ii) the applicable Customer Committed Capacity Ramp (in kW), then Company shall invoice Customer based on Customer's usage for the billing period at the prevailing monthly rates for "Full Service Customers" set forth in Customer's Rate Schedule in effect on the date that such invoice is calculated, except that any Demand Charges set forth in such Rate Schedule shall be calculated using: the lesser of (A) eighty percent (80%), multiplied by the applicable Customer Committed Capacity Ramp (in kW) in such billing period, or (B) the maximum capacity Company was actually capable of providing Customer in such billing period (in kW) (the "**Minimum Monthly Charge**"); provided that Customer may, in accordance with Section 2.1, by Notice prior to the implementation of any increase in the Customer Committed Capacity Ramp, delay the implementation of any increase in the Customer Committed Capacity Ramp in accordance with the terms of the Ramp Grace Period.

5.3. Effect of Exceeding Customer Committed Capacity Ramp.

[REDACTED]

[REDACTED]

[REDACTED]

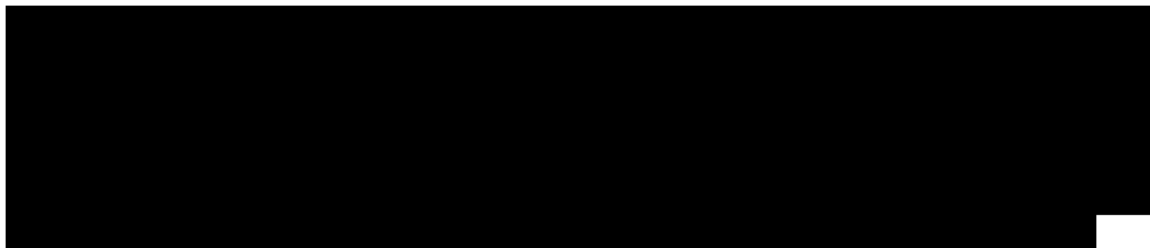
[REDACTED]

- 5.3.3. If at any time during the Term, Company receives an emergency notice, alert, or declaration from MISO of a potential capacity shortage (“**MISO Notice**”), then Company shall promptly upon receipt provide Notice to Customer in accordance with Section 19.1 of such MISO Notice, and Customer shall use commercially reasonable efforts to ensure that Customer’s Half-Hour Demand does not exceed the Customer Committed Capacity Ramp for any 30-minute interval during such defined period of time. Company shall have no obligation to use commercially reasonable efforts to accommodate Customer’s demand to the extent it exceeds the Customer Committed Capacity Ramp in any such 30-minute interval; provided that Customer received a MISO Notice from Company. Notwithstanding anything in this Section 5.3.3, the emergency electrical procedures in the Company’s Rate Book shall apply at all times.
- 5.4. Interim Procurement Cost Pass-Through. If at any time during the Term, Company determines it is necessary to source additional capacity from the market to provide Electric Service to Customer in accordance with the Customer Committed Capacity Ramp (such amount (in MW), the “**Shortfall Capacity**”), then Customer shall pay to Company, for each MW of such Shortfall Capacity, the Shortfall Capacity Rate, as invoiced in accordance with Section 6.1.
- 5.5. Operational Parameters.

[REDACTED]

[REDACTED]

[REDACTED]

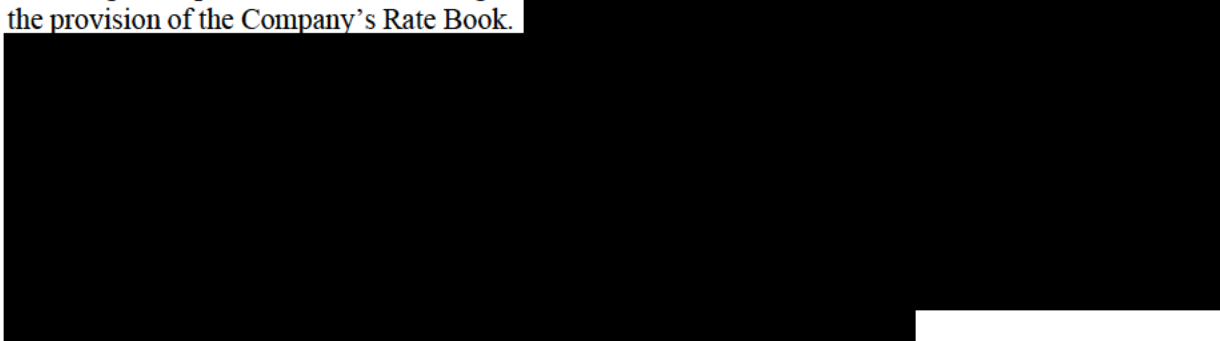


5.5.4. Right to Suspend Service. Company reserves the right at all times to temporarily suspend service to Customer pursuant to Mich. Admin Code R 460.136 if Customer fails to comply with the Operating Procedures at any time during the Term.

5.5.5. No Company Liability. Company shall have no liability to Customer for any damages to Customer equipment or property due to Customer load transients.

6. **Invoicing and Payment; Taxes**

6.1. Invoicing. Except as set forth in this Agreement, Company shall invoice Customer in accordance with the provision of the Company's Rate Book.



6.2. [Reserved]

6.3. No Right to Setoff. Both Customer and Company agree that neither shall have the right to offset any amounts that may be owed to the other Party under this Agreement against any amounts owed under any other contract or work order between Customer and Company or any of their respective wholly owned Affiliates, unless such offsetting is mutually agreed upon in writing. No payment of any amount, whether disputed or undisputed at the time of payment, shall waive any rights of Customer, including the right to later contest such payment and obtain reimbursement in accordance with Section 6.1.

6.4. Sales Tax.

6.4.1. Customer shall be responsible for all sales and use taxes imposed by any state, or local governmental entity ("**SUT Taxes**") on any amounts payable by Customer hereunder; and to the extent Company is required to pay any SUT Taxes, Customer shall reimburse Company in connection with its payment of such taxes. In the event part or all of the services under this agreement are subject to any exemption of SUT Taxes, Customer may furnish Company with an exemption certificate or other sufficient evidence of such exemption and Company will not charge any such exempted SUT Taxes to Customer, as applicable. Notwithstanding the previous sentence and except as may be included in Customer's Rate Schedule or as otherwise set forth in this Agreement and/or the Energy Storage Agreement, Customer shall not be responsible to pay any

taxes imposed on, or with respect to, Company's income, revenues, margin, gross receipts, personnel, or real or personal property, or other assets.

6.4.2. Customer shall control the handling and resolution of any proposed assessment or other dispute with any governmental authority related to the taxability of the transactions contained herein.

6.5. Environmental Levies. DTE shall not invoice Customer in a discriminatory manner for taxes, fees, or charges related to carbon emissions ("**Environmental Levies**"). To the extent any Environmental Levies are imposed on DTE customers in the future, such Environmental Levies shall be billed to all applicable customers, including Customer, in accordance with Company's Rate Book.

6.6. Representations and Warranties For Michigan Sales Tax Exemption.

6.6.1. Company represents and warrants that as of the Contract Date the Company is subject to and operating under the regulatory framework set forth in Section 51 of the Clean and Renewable Energy and Energy Waste Reduction Act, of 2008 PA 295 MCL 460.1051 (the "**Clean Energy Act**").

6.6.2. Company represents and warrants that the Facility is not receiving Electric Service under any of the following rates:

6.6.2.1. The long-term industrial load rate established under section 10gg of 1939 PA 3 (MCL 460.10gg) unless the designated power supply resource on which the long-term industrial load rate is based was placed in operation after January 1, 2024 and the rate is at least equivalent to the average industrial rate charged to other industrial customers of the electric utility that serves the facility;

6.6.2.2. A tariff rate approved in Michigan Public Service Commission Case No. U-21160, U-22163, or U-21646; or

6.6.2.3. A rate that causes residential customers to subsidize the costs incurred to provide electric service to the facility.

7. **Default; Termination**

7.1. Default. A Party shall be in default under this Agreement upon the occurrence of any of the following events (such Party, the "**Defaulting Party**" and each such event, an "**Event of Default**"):

7.1.1. fails to pay any amount when due under this Agreement only if that amount is not cured within twenty (20) calendar days after receipt of Notice thereof from the other Party;

7.1.2. Breaches any material provision of this Agreement (not otherwise a payment default) that, if curable, is not cured within thirty (30) calendar days after receipt of Notice thereof from the other Party (or for breaches for which the Defaulting Party has notified the non-Defaulting Party cannot be cured within thirty (30) calendar days despite its use of reasonable efforts but can be cured within sixty (60) calendar days, and such default has not been so cured by the extended sixty (60) day deadline);

7.1.3. in the occurrence of a Bankruptcy; or

7.1.4. in the case of Customer, if Customer fails to maintain the collateral requirements required pursuant to Section 8 and Schedule 8 and such failure is not cured within ten (10) Business Days after receipt of Notice thereof from Company.

7.2. Notice to Landlord and Customer Parent Guarantor. Company shall contemporaneously provide Notice to Landlord and Customer Parent Guarantor of any Notice to Customer provided in accordance with Section 7.1, or any Notice of Company's election to terminate this Agreement as a result of the occurrence and continuance of an Event of Default by Customer under this Agreement. Notwithstanding anything else in this Agreement, the Customer Parent Guaranty, or any other agreement among the Parties, no notice of default or demand is required of any entity that is subject to a Bankruptcy or any other stay, injunction, or moratorium against payment demands, and any requirement to provide such notice of default or demand is excused, waived, and deemed satisfied.

7.3. Termination.

7.3.1. This Agreement may be terminated upon five (5) Business Days prior Notice (unless otherwise set forth in this Agreement) pursuant to Section 7.1 and any other termination right set forth in this Agreement, except for Customer's termination right pursuant to Section 7.3.2.

7.3.3. Any date on which this Agreement is terminated after the Effective Date but before the end of the Term shall be an "**Early Termination Date**." Customer's obligations to pay or reimburse Company for any termination set forth above shall be provided as set forth in Section 7.4.

7.4. Termination Payment. In the event of an early termination of this Agreement, except if due to a Company Event of Default, Company will suffer damages, and such damages would be uncertain and difficult (if not impossible) to accurately estimate. Accordingly, Customer agrees that if this Agreement is so terminated on or after the Effective Date:

7.4.1. prior to the tenth (10th) anniversary of the Load Ramp Completion Date (other than due to a Company Event of Default or Customer Event of Default), then Customer shall pay to Company, as a fair estimate of such damages and not as a penalty, liquidated damages in an amount equal to the sum of the Minimum Monthly Charge for each month between the Early Termination Date and the tenth (10th) anniversary of the Load Ramp Completion Date;

7.4.2. prior to the eighth (8th) anniversary of the Commencement Date, by Company due to a Customer Event of Default, then Customer shall pay to Company, as a fair estimate of such damages and not as a penalty, liquidated damages in an amount equal to the sum of the Minimum Monthly Charge for each month between the Early Termination Date and the tenth (10th) anniversary of the Load Ramp Completion Date;

7.4.3. and after the eighth (8th) anniversary of the Commencement Date, by Company due to a Customer Event of Default, then Customer shall pay to Company, as a fair estimate of such damages and not as a penalty, liquidated damages in an amount equal to the sum of the Minimum Monthly Charge

for the lessor of: (I) twenty-four (24) months, and (II) each month between the Early Termination Date and the expiration date of the Term (each of the payments described in Sections 7.4.1, 7.4.2, or 7.4.3, the “**Termination Payment**”). A sample calculation of the Termination Payment is illustrated in Exhibit E.

7.4.4. As soon as practicable after the Early Termination Date, Company shall provide Customer with Notice of the amount of the Termination Payment, as applicable. The notice shall include a written statement explaining in reasonable detail the calculation of the Termination Payment.

7.4.5. The Termination Payment, as applicable, shall be due to Company, and shall be made by Customer within thirty (30) calendar days after such notice is received by Customer.

7.4.6. For the avoidance of doubt, no Termination Payment shall be payable by Customer hereunder if this Agreement is terminated as a result of a Company Event of Default.

7.5. Post Termination Obligations.

7.5.1. Upon termination of this Agreement, Company’s obligations to provide Electric Service to the Data Center Location pursuant to this Agreement shall cease.

7.5.2. Customer shall be obligated to pay all amounts invoiced and unpaid for the provision of Electric Service to the Data Center Location for time periods prior to the Early Termination Date.

7.5.3. If applicable, Customer shall be obligated to pay the Termination Payment, as applicable, as calculated in Section 7.4.

7.5.5. This Section 7.5 shall survive termination of this Agreement.

7.6. Remedies.

7.6.1. In the event of a Customer Event of Default pursuant to Section 7.1, Company shall have the right to pursue any and all remedies available under applicable Law, in equity, and the Rate Book, including but not limited to the suspension or termination of Electric Service, collection of all amounts due to Company, and the imposition of other penalties as permitted. The exercise of any one remedy shall not preclude the exercise of any other remedy available to Company under the Rate Book or otherwise.

7.6.2. In the event that Customer elects to terminate this Agreement as a result of the occurrence and continuation of a Company Event of Default, Customer shall be entitled to seek all remedies available to it at law and in equity with respect to Customer's damages under this Agreement, subject to the limitations set forth herein.

8. **Customer Credit Support.**

8.1. Customer Credit Support. Customer shall provide Company with: (a) a guaranty substantially in the form set forth in Exhibit B ("**Customer Parent Guaranty**") from Oracle Corporation (or another Affiliate of Customer approved by Company in writing) (the "**Customer Parent Guarantor**"), pursuant to which Customer Parent Guarantor has guaranteed the payment obligations of Customer under this Agreement and, (b) if applicable pursuant to Schedule 8, one or more Letters of Credit equal to the aggregate stated amount of the applicable Letter of Credit posting as set forth in Schedule 8 (the "**LC Required Amount**," as adjusted from time to time in accordance with this Section 8 and Schedule 8, and together with the Customer Parent Guaranty, the "**Customer Credit Support**").

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- 8.5. Customer Credit Support Costs. In all cases, the costs and expenses of posting, renewing, substituting, replenishing, and canceling the amount of the Customer Credit Support shall be borne by the Customer.

9. **Customer Obligations**

- 9.1. Customer shall, [REDACTED] provide information requested by Company in a timely manner necessary for Company to perform all design, engineering, procurement, and construction activities in a timely manner so that Company can make reasonable efforts to provide Electric Service to Customer in accordance with the Customer Committed Capacity Ramp. This information shall include the design basis and project planning information including but not limited to Facility, Data Center Location, Customer Committed Capacity Ramp, access to site for survey and geotechnical investigation, construction power needs, redundancy requirements, confirmation of substation design basis, site access plans during construction, and other information identified as necessary to the design and construction of the Electric Facilities.
- 9.2. Customer shall undertake all efforts in a commercially reasonable manner to begin receiving Electric Service in accordance with Customer Committed Capacity Ramp.

[REDACTED]

- 9.4. Customer agrees to reasonably cooperate with Company to pursue the energy waste reduction standards set forth in Michigan Public Act 295 of 2008, MCL 460.1001 et seq. and to participate in relevant industry initiatives regarding energy waste reduction.

10. **Intellectual Property Rights**

- 10.1. Each Party shall retain all rights, title, and interest in and to all of its Background IP, and nothing in this Agreement shall be construed as granting the other Party any rights or licenses in or to such Background IP. For the avoidance of doubt, any Intellectual Property developed by any Party during the term of this Agreement that is not related to or arising from the performance under this Agreement shall be considered "**Background IP**" of that Party.
- 10.2. Unless otherwise agreed by the Parties in writing, Project IP shall be owned by Customer. For the avoidance of doubt, any Intellectual Property developed by any Party during the term of this Agreement

that is related to and arising from the performance under this Agreement shall be considered "**Project IP**".

- 10.3. Notwithstanding anything to the contrary in this Agreement, Company shall retain sole and exclusive ownership of (i) any Project IP that is derivative of and related to Company's proprietary power generation technology and processes, and (ii) any enhancements, improvements or modifications to its Background IP, including any enhancements to its power generation technology or related operation developed during the performance of this Agreement, (collectively, clauses (i) and (ii), "**Company IP**"). Customer hereby assigns (and shall cause its Affiliates and Personnel to assign) to Company, without compensation, all rights, title, and interest in and to any Company IP, including all Intellectual Property Rights therein.
- 10.4. Company hereby grants to Customer a limited, irrevocable, royalty-free, non-exclusive license to use such Company IP during the Term or any Renewal Term of the Agreement for the work performed under this Agreement or operation of Company equipment or facilities. Customer hereby grants to Company a limited, irrevocable, royalty-free, non-exclusive license to use Project IP during the Term of the Agreement in connection with Company's performance hereunder.

11. Confidentiality

- 11.1. For the purpose of this Agreement, a party disclosing Confidential Information shall be referred to as the "**Disclosing Party**" and a party receiving Confidential Information shall be referred to as the "**Recipient**". "**Confidential Information**" includes any and all information hereafter disclosed by or at the direction of the Disclosing Party to Recipient that is designated in writing as confidential or, subject to Section 11.5, a reasonable party would consider to be of a confidential nature including but not limited to this Agreement and the Related Agreements; provided, however, Confidential Information does not include (i) information that, at the time of disclosure or thereafter, was generally available to and known by the public, other than as a result of a disclosure by Recipient in violation of this Section 11; (ii) information that, at the time of disclosure or thereafter was available to Recipient or its Representatives (as defined below) from a source not known by Recipient to be bound by a duty of confidentiality to the Disclosing Party with respect to such information; (iii) information that, prior to disclosure by or at the direction of the Disclosing Party, was known to Recipient or its Representatives; or (iv) information that is independently developed by Recipient or its Representatives by persons without reliance on the Confidential Information and without violating the obligations hereunder.
- 11.2. Confidential Information is and shall, at all times, remain the property of the Disclosing Party. Recipient may disclose Confidential Information to any of its officers, directors, employees, advisors, shareholders, members, managers, attorneys or agents (collectively, "**Representatives**"). The Recipient shall advise such persons of the existence of this Agreement, of the confidential nature of the information and of the Recipient's obligations regarding the same under this Agreement. Receiving Party agrees that it shall maintain the Disclosing Party's Confidential Information in confidence and shall not use the Confidential Information except as required or necessary in accordance with this Agreement. Recipient agrees that it shall maintain the Disclosing Party's Confidential Information in confidence and shall not use the Confidential Information except to the extent necessary to carry out its obligations under this Agreement. Recipient shall be responsible for any breach of this Agreement by such Representatives.
- 11.3. In the event that Recipient is requested or required under compulsion of legal process to disclose such Confidential Information, Recipient shall not, unless required by Law, disclose the information until the Disclosing Party has first (i) received prompt Notice of such request or requirements to disclose and (ii) had an adequate opportunity to obtain a protective order or other reliable assurance that confidential treatment shall be accorded to the Confidential Information. If required by Law to disclose Confidential

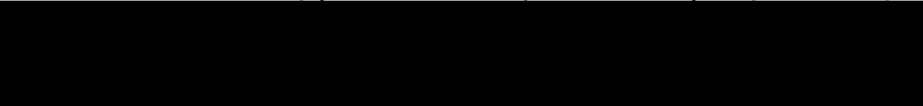
Information prior to providing Notice to the Disclosing Party, the Recipient shall (i) use reasonable efforts to limit the amount of Confidential Information that is disclosed, and (ii) provide Notice to the Disclosing Party of the disclosure of such Confidential Information as promptly as reasonably practicable after the disclosure.

- 11.4. To the extent Confidential Information, including this Agreement, must be filed with the Commission or other applicable regulatory governmental agency, Company shall notify Customer in advance of such disclosures (or if advance notification is not practicable, as promptly as reasonably practicable after such disclosure), and, before a filing is required to be made, collaborate with Customer to identify redactions that will, to the greatest extent possible under the circumstances, limit the amount of Confidential Information that is publicly disclosed.
- 11.5. Any Confidential Information disclosed in writing or electronically by a Party under this Agreement shall be clearly marked, labeled, or otherwise identified as "Confidential" at the time of disclosure. If Confidential Information is initially disclosed orally or visually, the disclosing Party shall, within thirty (30) calendar days of such disclosure, provide the receiving Party with a written summary of the information that is designated as "Confidential."

12. Complete Agreement

- 12.1. This Agreement and the Related Agreements contains the full and complete understanding of Company and Customer as to the provision of Electric Service to the Facility at the Data Center Location. Notwithstanding the obligations set forth in the Related Agreements, this Agreement supersedes any prior understandings, commitments, agreements and authorizations, whether oral or written, regarding the Electric Facilities and the provision of Electric Service and the payment thereof. No other representations or promises regarding the Electric Facilities or the Electric Service, written or oral, shall survive the execution hereof.

13. Limitation of Liability

- 13.1. Limitation of Liability for Delays. To the fullest extent permitted by Law, Company shall not be liable for any damages, penalties, liquidated damages, or claims ("Losses") arising from Customer's failure, delay or non-performance in connection with its obligations under this Agreement or any Related Agreement.
- 13.2. Customer Limitation of Liability for Delays. To the fullest extent permitted by Law, Customer shall not be liable for any Losses arising from (a) delays, disruptions or failures to perform caused by any Force Majeure Event or Change in Law as set forth in Section 18 or (b) Company's failure, delay or non-performance in connection with its obligations under this Agreement.
- 13.3. Limitation of Liability for Provision of Electric Service. Company shall not be liable to Customer or any of its Affiliates for damages for any failure to provide the Electric Service or for an interruption, limitation, or curtailment of the Electric Service; provided that any such interruption, limitation, or curtailment is not due to 

Notwithstanding anything to the contrary in this Agreement, Customer shall have the right to file a complaint with, or to otherwise initiate formal or informal proceedings before, the Commission related to the Electric Service or any other cause, matter, or issue subject to Commission jurisdiction.

- 13.4. Limitation of Liability for Use of Electricity. Company shall not be liable for damages resulting to Customer or to third persons from the presence or use of electricity after the point of delivery to Customer's Facility, and Customer shall not be liable for damages resulting to Company or to third persons from the presence or use of electricity at or before the point of delivery to Customer's Facility.
- 13.5. Limitation on Liability for Customer Sales Tax Exemption Under Michigan Compiled Law 205.54ee. Notwithstanding anything to the contrary in this Agreement, Company shall not be liable to Customer for any taxes, penalties, Losses, or damages for (a) any failure to obtain the sales tax exemption under MCL 205.54ee or (b) any failure to maintain the sales tax exemption under MCL 205.54ee. Specifically, in the event Company is deemed non-compliant with the requirements under Section 51 of the Clean Energy Act during the Term, Customer shall have no cause of action against Company for such non-compliance.
- 13.6. Notwithstanding anything to the contrary in this Agreement, and in addition to any rights set forth herein, Customer shall have the right to file a complaint with, or to otherwise initiate formal or informal proceedings before, the Commission related to the Electric Service or any other cause, matter, or issue subject to Commission jurisdiction.
- 13.7. Consequential Damages. Neither Party shall be liable under this Agreement or under any cause of action related to the subject matter of this Agreement, whether in contract, warranty, tort including negligence, strict liability, professional liability, product liability, contribution, or any other cause of action for special, exemplary, punitive, indirect, incidental or consequential losses or damages, including loss of profit, loss of use, loss of opportunity, loss of revenues, or loss of good will; provided, however, that the foregoing shall not apply to any Party's obligations to indemnify, defend and hold harmless any indemnified Party for claims and liabilities in respect of claims by third persons that are indemnified by such Party hereunder.
- 13.8. Disclaimer of Warranty. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, THE RATE SCHEDULE OR COMPANY'S RATE BOOK, COMPANY EXPRESSLY DISCLAIMS AND NEGATES ALL REPRESENTATIONS AND WARRANTIES, EXPRESSED OR IMPLIED, WITH RESPECT TO THE ELECTRIC SERVICE OR ANY OTHER SUBJECT MATTER OF THIS AGREEMENT INCLUDING WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.
14. **Assignment**
- 14.1. Without the prior written consent of the non-assigning Party (such consent not to be unreasonably withheld, delayed or denied), neither Party may assign or transfer this Agreement or its rights and obligations under this Agreement, and any such assignment or transfer without such consent is void. Notwithstanding the foregoing, except as set forth in Section 14.1.2 below, a Party may make the following assignments without the prior written consent of the other Party, but shall provide Notice of such assignment:
- 14.1.1. Customer may (i) collaterally assign this Agreement to a financing party providing construction or long-term financing for the Facility, and (ii) issue or sell equity interests in Customer to a financing party pursuant to any equity financing. In no case shall any such rights and terms of such collateral assignment materially or adversely affect any of Company's commercial rights or obligations under this Agreement and Customer shall remain liable for its liabilities and obligations under this Agreement

14.1.2.



In addition to the foregoing, Customer shall have the right to subcontract all or portions of this Agreement without the consent of Company, provided, however, that any such subcontracting shall release neither Customer nor the Customer Parent Guarantor any of their respective obligations as set forth in this Agreement or the Customer Credit Support.

14.1.3. Company may without consent of Customer assign this Agreement to: (a) a legally authorized governmental or quasi-governmental agency charged with providing retail electric service in Michigan; (b) to any successor to Company that is a public utility regulated as to rates and service by the Commission pursuant to applicable Law; (c) as otherwise required by Law or by operation of Law; or (d) to an Affiliate of Company that is reasonably expected to be capable of performing Company's obligations under this Agreement (as reasonably determined by Company). Customer agrees that such assignment and delegation shall operate to release Company from all (or such portion of) its responsibilities under this Agreement, except as may have accrued up to the effective date of such assignment.

14.2. This Agreement may not be assigned to a Sanctioned Person. Neither Party may suffer a change of ownership or control, whether direct or indirect, voluntary or by operation of Law, such that a Party becomes a Sanctioned Person.

15. **Dispute Resolution; Governing Law; Venue**

15.1. Dispute Resolution. In the event a controversy, claim or dispute arises between the Parties regarding the application or interpretation of any provision of this Agreement or the breach, termination or validity thereof (each, a "**Dispute**"), the Party alleging the Dispute shall promptly notify the other Party of the Dispute. If the Parties shall have failed to resolve the Dispute within thirty (30) calendar days after delivery of such written notice, each Party shall, within ten (10) Business Days after receipt of a written demand from the other Party to do so, direct a senior executive (Vice President level or above) to confer in good faith with a senior executive of the other Party to resolve the Dispute. Should the Parties be unable to resolve the Dispute to their mutual satisfaction within twenty (20) Business Days after the initial

meeting of the senior executives, each Party shall have the right to pursue its rights under Law or in equity.

- 15.2. Governing Law. This Agreement and all disputes arising between the Parties under this Agreement shall be governed exclusively by the Laws of the State of Michigan, without reference to its choice of Law rules, except as to any matters subject to federal Law and the exclusive jurisdiction of FERC.



- 15.4. Jury Waiver. TO THE FULLEST EXTENT PERMITTED BY LAW, EACH PARTY HEREBY WAIVES ALL RIGHTS TO A TRIAL BY JURY IN ANY LEGAL ACTION TO ENFORCE OR INTERPRET THE PROVISIONS OF THIS AGREEMENT OR THAT OTHERWISE RELATES TO THIS AGREEMENT.

16. **Indemnification**

- 16.1. Notwithstanding any other provision of this Agreement and to the fullest extent permitted by Law, each Party agrees to protect, defend, indemnify and hold the other Party, including its directors, officers, employees, attorneys-in-fact, agents and Affiliated companies ("**Indemnified Parties**"), free and harmless from and against (a) any and all loss, damage, and liability to third-parties for property damage, and (b) any and all third-party claims for damages on account of or by reason of bodily injury, including death, which may be sustained or claimed to be sustained by any person, each (a) and (b) to the extent arising in connection with this Agreement or the Energy Storage Agreement and due to the gross negligence or willful misconduct of the indemnifying Party or its agents, employees or subcontractors.
- 16.2. To the extent permitted by Law, Customer waives the benefit for itself and all subcontractors, insofar as the indemnification of the other is concerned, of the provisions of any applicable Workers' Compensation Law limiting the tort or other liability of any employer on account of injuries to the employer's employees.
- 16.3. Notwithstanding the foregoing, the indemnified Party shall be entitled, at its own cost, if it so elects, to representation by attorneys of its own selection, including attorneys employed by it.
- 16.4. The indemnified Party shall be the sole judge of the acceptability of any compromise or settlement of any claims or actions and no such compromise or settlement shall be made by the indemnifying Party without the indemnified Party's prior written consent, which shall not be unreasonably withheld; provided, that such consent shall not be required if (x) the settlement agreement contains a complete and unconditional release of the Indemnified Parties, (y) the settlement agreement obligates the indemnifying Party to pay the full amount of any claims attributable to the Indemnified Parties concurrently with the settlement, and (z) the settlement agreement does not contain any direct or indirect requirements upon or provisions for the Indemnified Parties, directly or indirectly encumber any of the assets of the Indemnified Parties, require any admission of liability by the Indemnified Parties or involve criminal liability.
- 16.5. The obligation of each Party to indemnify the other hereunder shall survive the termination or cancellation of this Agreement.

17. **Relationship Clause.**

- 17.1. The execution of this Agreement or any Related Agreements shall not create, nor shall this Agreement or any Related Agreements be construed as creating any partnership, joint venture or agency relationship between the Parties hereto.

18. **Relief Events**

18.1. Notice and Mitigation.

- 18.1.1. In the event of a Force Majeure Event, or Customer Caused Event or Excusable Event (“**Relief Event**”) impacting Company, the Company shall provide Notice to Customer describing the particulars of the occurrence of such Relief Event within ten (10) Business Days after Company first gains knowledge of such Relief Event. Such Notice will, to the extent of Company’s knowledge thereof at such time, describe (i) the details and factual basis of the cause and nature of such Relief Event, (ii) the anticipated length of delay due to such Relief Event, (iii) the estimated additional costs (beyond those anticipated before the occurrence of such Relief Event) to be incurred by Company as a result of such Relief Event and (iv) any other effect on Company’s performance of its obligations hereunder.
- 18.1.2. Any delay in performance caused by any Relief Event will be of no greater scope and of no longer duration than is reasonably required by such occurrence. The Company will furnish the Customer with regular reports with respect thereto during the continuation of any such Relief Event. The Company shall use commercially reasonable efforts to mitigate the cause of and effect on the Company’s performance hereunder of any such Relief Event and the Company will promptly resume full performance of its obligations hereunder once it is able to do so. For the avoidance of doubt, such commercially reasonable efforts shall, at a minimum, require compliance with the provisions set forth in Section 18.1, as applicable.
- 18.1.3. Company shall not be responsible or liable for any damages, or be deemed to be in breach of this Agreement because of any failure or delay in complying with its obligations under or pursuant to this Agreement, in each case, to the extent that such failure is caused by a Relief Event and the Company has otherwise complied with this Section 18.
- 18.2. Changes in Law Rendering Performance Illegal. In the event of a Change in Law at any time during the Term which renders the performance of this Agreement by either or both Parties illegal or all or a material portion of this Agreement unenforceable, this Agreement shall be automatically terminated effective upon Notice from a Party to the other Party. If this Agreement is terminated in accordance with this Section 18.2, either Party shall have the right, but not the obligation, to terminate the Energy Storage Agreement.
- 18.3. Cost and Schedule Relief for Customer Caused Event. In the event of a Customer Caused Event, in addition to its rights under Section 18.1, Company shall be entitled to (i) an equitable extension of all of its obligations pursuant to this Agreement that are actually and demonstrably delayed by such Customer Caused Event, and (ii) reimbursement for all costs and expenses actually and demonstrably incurred by the Company as a result of such Customer Caused Event.
- 18.4. Relief for Excusable Events and Force Majeure Events. In the event of an Excusable Event, or a Force Majeure Event that is reasonably expected to result in a delay in Company’s ability to meet its obligations

under this Agreement, then Company shall be entitled to an equitable extension of its obligations pursuant to this Agreement.

- 18.5. Schedule Relief for Change in Law. In the event of a Change in Law, Company shall be entitled to an equitable extension of all of its obligations pursuant to this Agreement that are actually and demonstrably delayed by such Change in Law.

19. **Miscellaneous**

- 19.1. Notice. Any notice, consent, approval or other communication under this Agreement (each a “**Notice**”) shall be in writing (which shall include electronic mail) and shall be personally delivered or sent by a courier or transmitted by electronic mail to a Party as follows or to such other address as the Party may substitute by Notice in accordance with this Section 19.1 after the date of this Agreement:

If to Company:

[REDACTED]

[REDACTED]

[REDACTED]

If to Customer:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

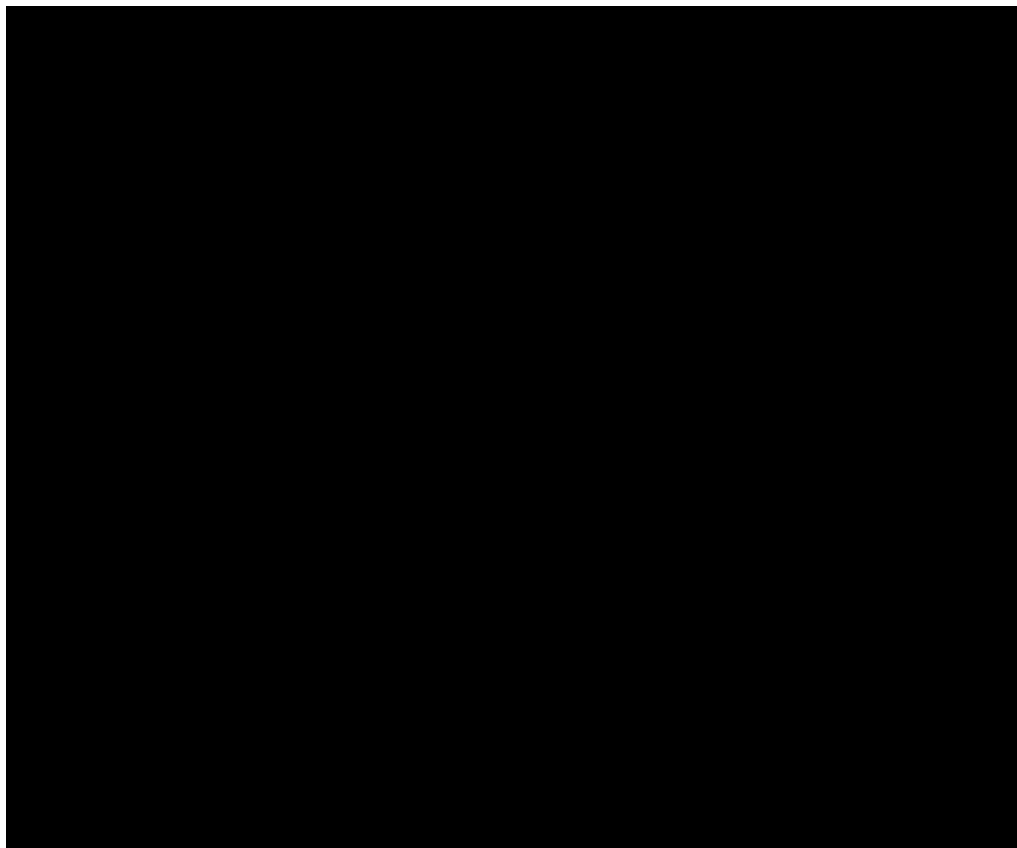
[REDACTED]

- 19.2. Company's Rate Book shall be incorporated herein. As of the Contract Date, the link to access the Company's Rate Book can be found at <https://www.michigan.gov/mpsc/-/media/Project/Websites/mpsc/consumer/rate-books/electric/dte/dtee1cur.pdf?rev=cf55d05b027a43fc9d4f762672e9aa9e&hash=D28CE34BD07DCDD7279069015BB8121A>, which may be updated, revised and/or modified during the Term of the Agreement as approved or agreed to by the Commission.

- 19.3. All headings and captions contained in this Agreement are for convenience of reference only and shall not, in any way, affect the meaning of any provision hereof. No provision of this Agreement shall be interpreted more or less favorably towards either Party because its counsel drafted all or a portion hereof. The recitals set forth in this Agreement are an integral part hereof and shall have the same contractual significance as any other language contained in this Agreement. Pdf signatures shall be as legally binding and considered in all manner and respects as original signatures. The provisions of this Section 19.3 shall survive termination or expiration of this Agreement.
- 19.4. The terms and provisions of this Agreement shall not be modified or waived except by the execution by the Parties of a written amendment to this Agreement. The waiver by a Party of a breach or violation of any provision of this Agreement will not operate as or be construed to be a waiver of any subsequent breach or violation thereof.
- 19.5. Each term and condition of this Agreement is deemed to have independent effect and the invalidity of any partial or whole paragraph or article shall not invalidate the remaining paragraphs or articles. The obligation to perform all of the terms and conditions shall remain in effect regardless of the performance of any invalid term by the other Party. Any entity that succeeds by purchase, merger, consolidation or other transfer to the properties of Company or Customer either substantially or as an entirety, shall be entitled to the rights and will be subject to the obligations of its predecessor in interest under this Agreement.
- 19.6. This Agreement shall not create any rights in third parties, and no provision of this Agreement will be construed as creating any obligations for the benefit of, or rights in favor of, any person or entity other than the Parties.
- 19.7. This Agreement shall be binding on the Parties hereto and on their respective successors, heirs and permitted assigns.
- 19.8. This Agreement and the Energy Storage Agreement, together with the Rate Schedule and Company's Rate Book, as may be amended from time to time, reflect the entire agreement among the Parties with respect to the subject matter hereof and supersedes all prior agreements and understandings among the Parties with respect to the subject matter hereof.
- 19.9. This Agreement may be executed electronically, or in multiple counterparts, each of which will be deemed an original and all of which will constitute one and the same instrument.
- 19.10. Under no circumstances shall Customer transition to any Company Retail Access Service Rider as defined in the Company's Rate Book during the Term of this Agreement.

[Remainder of Page Blank – Signatures on the Next Page]

IN WITNESS WHEREOF, Company and Customer have each caused this Agreement to be duly executed by their authorized representatives identified below, effective as of the Contract Date.



Schedule 8

Primary Supply Agreement Letter of Credit Posting Amounts (LC Required Amounts)

Exhibit A-1 – Customer Committed Capacity Ramp

Exhibit A-2 – Energization Schedule

Exhibit B
Form of Parent Guaranty

Exhibit C

Applicable Definitions

Capitalized terms used in the Agreement but not otherwise defined therein shall have the following meanings:

“Affected Party” has the meaning set forth in Section 4.4.2.

“Affiliate” means with regard to a Party, any person that directly or indirectly: (a) controls that Party; (b) is controlled by that Party; or (c) is under common control with that Party; where for each of (a), (b), and (c), “control” is defined as possession of the power to direct or cause the direction of the management and policies of a legally recognizable entity, through direct or indirect majority ownership or minimum percentage ownership that would grant the party a controlling interest in such entity.

“Agreement” has the meaning set forth in the preamble to this Agreement.

“Bankruptcy” means that (i) an entity shall voluntarily commence any proceeding or file any petition seeking relief under Title 11 of the United States Code, as now constituted or hereafter amended, or any other federal, state or foreign bankruptcy, insolvency, receivership or similar law, (ii) an involuntary proceeding shall be commenced or an involuntary petition shall be filed in a court of competent jurisdiction seeking (A) relief in respect of an entity, or of a substantial part of its property or assets, under Title 11 of the United States Code, as now constituted or hereafter amended, or any other Federal, state or foreign bankruptcy, insolvency, receivership or similar law, (B) the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for such entity or for a substantial part of its property or assets or (C) the winding-up or liquidation of an entity; and such proceeding or petition shall continue undismissed for 60 days or an order or decree approving or ordering any of the foregoing shall be entered; (iii) an entity shall consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or the filing of any petition described in the foregoing clause (ii), (iv) an entity shall apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for itself or for a substantial part of its property or assets, (v) an entity shall file an answer admitting the material allegations of a petition filed against it in any such proceeding, (vi) an entity shall make a general assignment for the benefit of creditors, (vii) an entity shall become unable, admit in writing its inability or fail generally to pay its debts as they become due or (viii) an entity shall take any action for the purpose of effecting any of the foregoing.

“Business Days” means any day other than Saturday, Sunday, Federal Reserve Bank holiday, or other day that is a holiday observed by Company.

“Change in Law” means the adoption, enactment or other effectuation, or any change in the judicial, regulatory or administrative application or interpretation, or any amendment, repeal or other modification, by any Governmental Authority of any Law that adversely affects either Party’s performance under this Agreement (including any executive order or similar directive from the Executive Branch that changes the interpretation of any of the foregoing), in each case, after the Contract Date; provided, however, in the case of any new Law, order or any other legally binding requirement or directive or change to any existing Law, order or other legally binding requirement applicable to either Party’s performance of its obligations under this Agreement, in either case that is enacted prior to the Contract Date, but for which the effectiveness thereof occurs after the Contract Date, shall not constitute a Change in Law hereunder.

“Commencement Date” means the date on which the Customer first receives Electric Service at the Facility under this Agreement.

“Commission” has the meaning set forth in paragraph H of the Recitals to this Agreement.

“Commission Approval Date” has the meaning set forth in Section 4.4.4.

“Company” has the meaning set forth in the preamble to this Agreement.

“Company’s Rate Book” has the meaning set forth in Section 1.

“Conditions Precedent” has the meaning set forth in Section 4.1.

“Confidential Information” has the meaning set forth in Section 11.1.

“Contract Capacity” has the meaning set forth in the Energy Storage Agreement.

“Contract Date” has the meaning set forth in the preamble to this Agreement.

“Credit Rating” means with respect to an entity on any date of determination: (1) the respective rating then assigned to its senior unsecured and unsubordinated long-term debt or deposit obligations (not supported by third party credit enhancement) by S&P or Moody’s, as applicable, or (2) if such entity does not have a rating for its unsecured, senior, long-term debt, then the corporate rating or issuer rating, as applicable, then assigned to such entity by S&P or Moody’s, as applicable.

[REDACTED]

“Customer” has the meaning set forth in the preamble to this Agreement.

“Customer Caused Event” means any demonstrable delays or increased costs, in each case, in connection with Company’s performance of its obligations under this Agreement to the extent due to any failure, delay or non-performance by Customer that adversely impacts Company’s performance of its obligations under this Agreement.

“Customer Credit Support” has the meaning set forth in Section 8.1.

“Customer’s Half-Hour Demand” means the single highest 30-minute integrated reading of Company’s demand meter located at the Facility, which measures Customer’s electrical usage.

“Customer Committed Capacity Ramp” has the meaning set forth in paragraph E of the Recitals.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

“Data Center Location” has the meaning set forth in paragraph B of the Recitals to this Agreement.

“Defaulting Party” has the meaning set forth in Section 7.1.

“Delivery Charges” means any “Delivery Charges” set forth in the Rate Schedule

“Demand Charges” means the sum of all applicable demand charges (per kW) set forth in the Rate Schedule.

“Disclosing Party” has the meaning set forth in Section 11.1.

“Dispute” has the meaning set forth in Section 15.1.

“Early Termination Date” has the meaning set forth in Section 7.3.3.

“Effective Date” has the meaning set forth in Section 4.2.

“Electric Facilities” has the meaning set forth in in paragraph C of the Recitals to this Agreement.

“Electric Service” has the meaning set forth in in paragraph C of the Recitals to this Agreement.

“Energy Charges” means (a) the applicable “Energy Charge” (per kWh) set forth in the Rate Schedule *multiplied by* (b) Customer’s on-peak and off-peak electric usage, as applicable (in kWh), for such billing period.

“Energy Storage Agreement” means that certain Energy Storage Agreement for standalone energy storage between the Parties of even date hereof.

“ESPA Negotiation Period” has the meaning set forth in Section 2.4.2.

“Event of Default” has the meaning set forth in Section 7.1.

“Excusable Event” has the meaning set forth in Section 2.3.

“Facility” has the meaning set forth in in paragraph B of the Recitals to this Agreement.

“FERC” means the Federal Energy Regulatory Commission or its successor.

“Financing Party” means any lender providing debt or equity financing to Company in connection with its use of the Facilities.

“Force Majeure Event” means any event or circumstance, or combination of events or circumstances, arising after the Contract Date that wholly or partly prevents or delays a Party from performing any obligation under this Agreement, but only if and to the extent:

- (a) such event or circumstance, or combination of events or circumstances, is not within the reasonable control of the Party, as applicable;
- (b) The Party has used reasonably diligent efforts in taking precautions and measures to (i) avoid the effect of such event or circumstance, or combination of events or circumstances, on the Party and (ii) mitigate the consequences thereof;

- (c) such event or circumstance, or combination of events or circumstances, does not result from the failure of the Party to perform any of its obligations under this Agreement; and
- (d) such event or circumstance, or combination of events or circumstances, could not have been (i) reasonably anticipated or (ii) avoided by the exercise of reasonable diligence and care.

[REDACTED]

[REDACTED]

“Governmental Authority” means any federal, state, local, municipal or other governmental, regulatory, administrative, judicial, public or statutory instrumentality, court or governmental tribunal, agency, commission authority, body or entity, or any political subdivision thereof, having legal jurisdiction over the matter or person in question.

“Initial Term” has the meaning set forth in Section 3.1.

“Intellectual Property” means (a) rights associated with works of authorship, including exclusive exploitation rights, copyrights, design rights, mask work rights and moral rights, and any registrations and applications for registration thereof; (b) trade secret rights and other rights in know-how and confidential or proprietary information; (c) patents, patent applications and any renewals, reissues, reexaminations, extensions, continuations, continuations-in-part, divisions, substitutions and foreign counterparts relating to any such patents and patent applications, and industrial property rights; and (d) rights in software.

[REDACTED]

“kW” means kilowatt.

“Landlord” has the meaning set forth in paragraph B of the Recitals to this Agreement.

“Law” or “Laws” means all laws, treaties, ordinances, statutes, judgments, decrees, injunctions, writs, orders, rules, regulations, tariffs, interpretations and permits of any Governmental Authority having jurisdiction of the transmission of electricity, performance of the work, all and each document, instrument and agreement delivered hereunder or in connection herewith, health and safety, or the environmental condition of the Data Center Location.

[REDACTED]

[REDACTED]

[REDACTED]

“Line Extension Agreement” means that certain Line Extension Agreement to be entered into between Company and Landlord.

“Load Ramp Completion Date” means the earlier of: (a) the date on which the final phase of the Customer Committed Capacity Ramp, as set forth in Exhibit A-1, is achieved, as such date shall be memorialized by the Parties in accordance with this Agreement; and (b) [REDACTED]

“Losses” has the meaning set forth in Section 13.1.

“Meet and Confer Request” has the meaning set forth in Section 4.4.2.

“Minimum Monthly Charge” or “MMC” has the meaning set forth in Section 5.2.

“MISO” means the Midcontinent Independent System Operator, Inc.

“MISO Notice” has the meaning set forth in Section 5.3.3.

“MISO Planning Resource Auction” has the meaning ascribed to the term “Planning Resource Auction” in the MISO Tariff and shall include any successor term and mechanism used by MISO to purchase and sell capacity.

“MISO Tariff” means the MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff.

“Monthly Billing Demand” means the single highest 30-minute integrated reading of Customer’s demand meter in a given billing period.

“Monthly On-Peak Billing Demand” means the single highest 30-minute integrated reading of the demand meter during the on-peak hours (as defined in the Company’s Rate Book) of the billing period. The Monthly On-Peak Billing Demand will not be less than 65% of the highest monthly on-peak metered billing demand during the billing months of June, July, August, September, and October of the preceding eleven billing months, nor less than 50 kilowatts.

[REDACTED]

“MW” means megawatt.

“Notice” has the meaning set forth in Section 19.1.

“Operating Parameter Deadline” has the meaning set forth in Section 5.5.2.

“Operating Parameters” has the meaning set forth in Section 5.5.2.

“Operating Procedures” has the meaning set forth in Section 5.5.3.

“Overage” has the meaning set forth in Section 5.3.1.

“Parties” has the meaning set forth in the preamble to this Agreement.

“Party” has the meaning set forth in the preamble to this to this Agreement.

[REDACTED]

“Ramp Grace Period” has the meaning set forth in Section 2.1.

“Rate Schedule” means Schedule D11 and may be changed in accordance with Section 5.1.1.

“RD Michigan” has the meaning set forth in paragraph B of the Recitals to this Agreement.

“Recipient” has the meaning set forth in Section 11.1.

“Related Agreements” means the Energy Storage Agreement and the Line Extension Agreement.

“Relief Event” has the meaning set forth in Section 18.1.1.

“Renewal Notice” has the meaning set forth in Section 3.2.

“Renewal Term” has the meaning set forth in Section 3.2.

“Representatives” has the meaning set forth in Section 11.2.

“Revised Ramp Schedule” has the meaning set forth in Section 2.4.2.

“Sanctioned Country” means, at any time, a country or territory that is itself the target of comprehensive Sanctions (as of the date of this Agreement, Cuba, Iran, North Korea, the Crimea region of Ukraine, the so-called Donetsk People’s Republic, and the so-called Luhansk People’s Republic).

“Sanctioned Person” means (a) any person listed in any sanctions-related list of designated persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury (“OFAC”) or the U.S. Department of State, the United Nations Security Council, the European Union, any Member State of the European Union, or the United Kingdom; (b) any person operating, organized, or resident in a Sanctioned Country; (c) the government of a Sanctioned Country or the Government of Venezuela; or (d) any person 50% or more owned or, where relevant under applicable Sanctions, controlled by any such person or persons or acting for or on behalf of such person or persons.

“Sanctions” means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by OFAC or the U.S. Department of State, or (b) the United Nations Security Council, the European Union, any European Union Member State or the United Kingdom.

“Schedule D11” means Primary Supply Rate Schedule No. D11, as published in the Company’s Rate Book and approved by the Commission as of the Contract Date, which is subject to change from time to time by order issued by the Commission.

“Shortfall Capacity” has the meaning set forth in Section 5.4.

“Shortfall Capacity Rate” means the auction clearing price, as established in the MISO Planning Resource Auction, for “Local Resource Zone 7” for the applicable billing period.

“Standard & Poor’s” or **“S&P”** means S&P Global Ratings or its successor.

“SUT Taxes” has the meaning set forth in Section 6.4.1.

“Term” has the meaning set forth in Section 3.2.

“Termination Payment” has the meaning set forth in Section 7.4.3.

“Total Customer Credit Support Amount” means the Customer Credit Support in the forms and amounts required pursuant to Section 8 and Schedule 8.

“Transmission Owner” means ITC Holdings Corporation and its Affiliates.

Exhibit D
Sample Invoices

For illustrative purposes, the Minimum Monthly Charge and Termination Payment for the Initial Term (if terminated at the end of month listed below) are provided below based on the current Schedule D11 rates and assumed load ramp, each of which is subject to change.

[illegible]

May-29	1,383	19,030,455	1,941,106,410	
Jun-29	1,383	19,030,455	1,922,075,955	
Jul-29	1,383	19,030,455	1,903,045,500	
Aug-29	1,383	19,030,455	1,884,015,045	
Sep-29	1,383	19,030,455	1,864,984,590	
Oct-29	1,383	19,030,455	1,845,954,135	
Nov-29	1,383	19,030,455	1,826,923,680	
Dec-29	1,383	19,030,455	1,807,893,225	
Jan-30	1,383	19,030,455	1,788,862,770	
Feb-30	1,383	19,030,455	1,769,832,315	
Mar-30	1,383	19,030,455	1,750,801,860	
Apr-30	1,383	19,030,455	1,731,771,405	
May-30	1,383	19,030,455	1,712,740,950	
Jun-30	1,383	19,030,455	1,693,710,495	
Jul-30	1,383	19,030,455	1,674,680,040	
Aug-30	1,383	19,030,455	1,655,649,585	
Sep-30	1,383	19,030,455	1,636,619,130	
Oct-30	1,383	19,030,455	1,617,588,675	
Nov-30	1,383	19,030,455	1,598,558,220	
Dec-30	1,383	19,030,455	1,579,527,765	
Jan-31	1,383	19,030,455	1,560,497,310	
Feb-31	1,383	19,030,455	1,541,466,855	
Mar-31	1,383	19,030,455	1,522,436,400	
Apr-31	1,383	19,030,455	1,503,405,945	
May-31	1,383	19,030,455	1,484,375,490	
Jun-31	1,383	19,030,455	1,465,345,035	
Jul-31	1,383	19,030,455	1,446,314,580	
Aug-31	1,383	19,030,455	1,427,284,125	
Sep-31	1,383	19,030,455	1,408,253,670	
Oct-31	1,383	19,030,455	1,389,223,215	
Nov-31	1,383	19,030,455	1,370,192,760	
Dec-31	1,383	19,030,455	1,351,162,305	
Jan-32	1,383	19,030,455	1,332,131,850	
Feb-32	1,383	19,030,455	1,313,101,395	
Mar-32	1,383	19,030,455	1,294,070,940	
Apr-32	1,383	19,030,455	1,275,040,485	
May-32	1,383	19,030,455	1,256,010,030	
Jun-32	1,383	19,030,455	1,236,979,575	
Jul-32	1,383	19,030,455	1,217,949,120	
Aug-32	1,383	19,030,455	1,198,918,665	
Sep-32	1,383	19,030,455	1,179,888,210	
Oct-32	1,383	19,030,455	1,160,857,755	

Nov-32	1,383	19,030,455	1,141,827,300	
Dec-32	1,383	19,030,455	1,122,796,845	
Jan-33	1,383	19,030,455	1,103,766,390	
Feb-33	1,383	19,030,455	1,084,735,935	
Mar-33	1,383	19,030,455	1,065,705,480	
Apr-33	1,383	19,030,455	1,046,675,025	
May-33	1,383	19,030,455	1,027,644,570	
Jun-33	1,383	19,030,455	1,008,614,115	
Jul-33	1,383	19,030,455	989,583,660	
Aug-33	1,383	19,030,455	970,553,205	
Sep-33	1,383	19,030,455	951,522,750	
Oct-33	1,383	19,030,455	932,492,295	
Nov-33	1,383	19,030,455	913,461,840	
Dec-33	1,383	19,030,455	894,431,385	
Jan-34	1,383	19,030,455	875,400,930	
Feb-34	1,383	19,030,455	856,370,475	
Mar-34	1,383	19,030,455	837,340,020	
Apr-34	1,383	19,030,455	818,309,565	
May-34	1,383	19,030,455	799,279,110	
Jun-34	1,383	19,030,455	780,248,655	
Jul-34	1,383	19,030,455	761,218,200	
Aug-34	1,383	19,030,455	742,187,745	
Sep-34	1,383	19,030,455	723,157,290	
Oct-34	1,383	19,030,455	704,126,835	
Nov-34	1,383	19,030,455	685,096,380	
Dec-34	1,383	19,030,455	666,065,925	
Jan-35	1,383	19,030,455	647,035,470	
Feb-35	1,383	19,030,455	628,005,015	
Mar-35	1,383	19,030,455	608,974,560	
Apr-35	1,383	19,030,455	589,944,105	
May-35	1,383	19,030,455	570,913,650	
Jun-35	1,383	19,030,455	551,883,195	
Jul-35	1,383	19,030,455	532,852,740	
Aug-35	1,383	19,030,455	513,822,285	
Sep-35	1,383	19,030,455	494,791,830	
Oct-35	1,383	19,030,455	475,761,375	
Nov-35	1,383	19,030,455	456,730,920	
Dec-35	1,383	19,030,455	456,730,920	<-- 8 Years Post Full Ramp Achieved (December 1, 2035); 24- month MMC Termination fee in effect
Jan-36	1,383	19,030,455	456,730,920	

Feb-36	1,383	19,030,455	456,730,920	
Mar-36	1,383	19,030,455	456,730,920	
Apr-36	1,383	19,030,455	456,730,920	
May-36	1,383	19,030,455	456,730,920	
Jun-36	1,383	19,030,455	456,730,920	
Jul-36	1,383	19,030,455	456,730,920	
Aug-36	1,383	19,030,455	456,730,920	
Sep-36	1,383	19,030,455	456,730,920	
Oct-36	1,383	19,030,455	456,730,920	
Nov-36	1,383	19,030,455	456,730,920	
Dec-36	1,383	19,030,455	456,730,920	
Jan-37	1,383	19,030,455	456,730,920	
Feb-37	1,383	19,030,455	456,730,920	
Mar-37	1,383	19,030,455	456,730,920	
Apr-37	1,383	19,030,455	456,730,920	
May-37	1,383	19,030,455	456,730,920	
Jun-37	1,383	19,030,455	456,730,920	
Jul-37	1,383	19,030,455	456,730,920	
Aug-37	1,383	19,030,455	456,730,920	
Sep-37	1,383	19,030,455	456,730,920	
Oct-37	1,383	19,030,455	456,730,920	
Nov-37	1,383	19,030,455	456,730,920	
Dec-37	1,383	19,030,455	456,730,920	<-- End of 10-year post ramp period (Dec 1, 2037)
Jan-38	1,383	19,030,455	456,730,920	
Feb-38	1,383	19,030,455	456,730,920	
Mar-38	1,383	19,030,455	456,730,920	
Apr-38	1,383	19,030,455	456,730,920	
May-38	1,383	19,030,455	456,730,920	
Jun-38	1,383	19,030,455	456,730,920	
Jul-38	1,383	19,030,455	456,730,920	
Aug-38	1,383	19,030,455	456,730,920	
Sep-38	1,383	19,030,455	456,730,920	
Oct-38	1,383	19,030,455	456,730,920	
Nov-38	1,383	19,030,455	456,730,920	
Dec-38	1,383	19,030,455	456,730,920	
Jan-39	1,383	19,030,455	456,730,920	
Feb-39	1,383	19,030,455	456,730,920	
Mar-39	1,383	19,030,455	456,730,920	
Apr-39	1,383	19,030,455	456,730,920	
May-39	1,383	19,030,455	456,730,920	
Jun-39	1,383	19,030,455	456,730,920	

Jul-39	1,383	19,030,455	456,730,920	
Aug-39	1,383	19,030,455	456,730,920	
Sep-39	1,383	19,030,455	456,730,920	
Oct-39	1,383	19,030,455	456,730,920	
Nov-39	1,383	19,030,455	456,730,920	
Dec-39	1,383	19,030,455	456,730,920	
Jan-40	1,383	19,030,455	456,730,920	
Feb-40	1,383	19,030,455	456,730,920	
Mar-40	1,383	19,030,455	456,730,920	
Apr-40	1,383	19,030,455	456,730,920	
May-40	1,383	19,030,455	456,730,920	
Jun-40	1,383	19,030,455	456,730,920	
Jul-40	1,383	19,030,455	456,730,920	
Aug-40	1,383	19,030,455	456,730,920	
Sep-40	1,383	19,030,455	456,730,920	
Oct-40	1,383	19,030,455	456,730,920	
Nov-40	1,383	19,030,455	456,730,920	
Dec-40	1,383	19,030,455	456,730,920	
Jan-41	1,383	19,030,455	456,730,920	
Feb-41	1,383	19,030,455	456,730,920	
Mar-41	1,383	19,030,455	456,730,920	
Apr-41	1,383	19,030,455	456,730,920	
May-41	1,383	19,030,455	456,730,920	
Jun-41	1,383	19,030,455	456,730,920	
Jul-41	1,383	19,030,455	456,730,920	
Aug-41	1,383	19,030,455	456,730,920	
Sep-41	1,383	19,030,455	456,730,920	
Oct-41	1,383	19,030,455	456,730,920	
Nov-41	1,383	19,030,455	456,730,920	
Dec-41	1,383	19,030,455	456,730,920	
Jan-42	1,383	19,030,455	456,730,920	
Feb-42	1,383	19,030,455	456,730,920	
Mar-42	1,383	19,030,455	456,730,920	
Apr-42	1,383	19,030,455	456,730,920	
May-42	1,383	19,030,455	456,730,920	
Jun-42	1,383	19,030,455	456,730,920	
Jul-42	1,383	19,030,455	456,730,920	
Aug-42	1,383	19,030,455	456,730,920	
Sep-42	1,383	19,030,455	456,730,920	
Oct-42	1,383	19,030,455	456,730,920	
Nov-42	1,383	19,030,455	456,730,920	
Dec-42	1,383	19,030,455	456,730,920	

Jan-43	1,383	19,030,455	456,730,920	
Feb-43	1,383	19,030,455	456,730,920	
Mar-43	1,383	19,030,455	437,700,465	
Apr-43	1,383	19,030,455	418,670,010	
May-43	1,383	19,030,455	399,639,555	
Jun-43	1,383	19,030,455	380,609,100	
Jul-43	1,383	19,030,455	361,578,645	
Aug-43	1,383	19,030,455	342,548,190	
Sep-43	1,383	19,030,455	323,517,735	
Oct-43	1,383	19,030,455	304,487,280	
Nov-43	1,383	19,030,455	285,456,825	
Dec-43	1,383	19,030,455	266,426,370	
Jan-44	1,383	19,030,455	247,395,915	
Feb-44	1,383	19,030,455	228,365,460	
Mar-44	1,383	19,030,455	209,335,005	
Apr-44	1,383	19,030,455	190,304,550	
May-44	1,383	19,030,455	171,274,095	
Jun-44	1,383	19,030,455	152,243,640	
Jul-44	1,383	19,030,455	133,213,185	
Aug-44	1,383	19,030,455	114,182,730	
Sep-44	1,383	19,030,455	95,152,275	
Oct-44	1,383	19,030,455	76,121,820	
Nov-44	1,383	19,030,455	57,091,365	
Dec-44	1,383	19,030,455	38,060,910	
Jan-45	1,383	19,030,455	19,030,455	
Feb-45	1,383	19,030,455	0	

ENERGY STORAGE AGREEMENT

This Energy Storage Agreement (“**Agreement**”) is entered into as of October 22nd, 2025 (“**Contract Date**”) by and between DTE Electric Company, a Michigan corporation with offices at One Energy Plaza, 2101 WCB, Detroit, Michigan 48226 (“**Company**”), and Green Chile Ventures LLC, a Delaware limited liability company with a principal address of [REDACTED] (“**Customer**”). Each of Company and Customer may be referred to herein individually as a “**Party**” or collectively as the “**Parties**.” Capitalized terms shall have the meaning set forth in Exhibit C.

RECITALS

WHEREAS:

- (A) (i) Customer and Company have entered into that certain Schedule Designation D11 Primary Supply Agreement (the “**PSA**”) dated as of the Contract Date whereby Company has agreed to provide Electric Service to Customer’s data center facility (the “**Facility**”) located in Saline, Michigan (the “**Data Center Location**”), (ii) RD Michigan Property Owner 1 LLC (“**Landlord**”) and Company will enter into that certain Line Extension Agreement whereby Company will agree to complete certain distribution system upgrades to serve Customer’s Facility (the “**Line Extension Agreement**”), and (iii) Customer and Landlord have entered into a certain Lease Agreement dated on or about the Contract Date whereby Customer has agreed to lease the land necessary for the use of the Facility.
- (B) Customer desires to procure up to 1,383 MW of energy storage capacity from Company in MISO’s Zone 7 to facilitate the receipt of Electric Service in an amount equal to the Customer Committed Capacity Ramp within the accelerated timeframe requested by Customer.
- (C) Company desires to develop, construct, own, lease, utilize and/or purchase energy storage assets in MISO’s Zone 7 necessary to provide Electric Service to Customer.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, and intending to be legally bound, Company and Customer agree as follows:

1. Project Development

- 1.1. Project Agreements. Company shall use commercially reasonable efforts to enter into agreements (including without limitation tolling agreements, purchase and sale agreements, build transfer agreements, development agreements, construction agreements, equipment supply agreements, lease agreements and the like) to develop, construct, lease, utilize, and/or purchase energy storage assets/projects (each, a “**Project**”) up to 1,383 MWs as Company deems sufficient to enable Company to provide Electric Service to Customer in accordance with the Customer Committed Capacity Ramp (the “**Contract Capacity**”), (each such agreement to develop, construct, own, lease, utilize, and/or purchase a project, a “**Project Agreement**”). As between the Parties, Company shall be responsible for managing the accreditation of the Projects as a capacity resource. Except as otherwise specified in the PSA, Customer’s rights to receive Electric Service pursuant to the PSA shall not be delayed or reduced at any time as a result of Company’s failure to obtain and maintain the Contract Capacity.

[REDACTED] Application for Project Agreements. Company will apply to the Commission for approval of each Project Agreement within thirty (30) calendar days after execution of such agreement (a “**Project Agreement Filing**”). [REDACTED]

[REDACTED]

■

[REDACTED]

■

[REDACTED]

■

[REDACTED]

■

[REDACTED]

■

[REDACTED]

■

[REDACTED]

- 1.9. The Parties shall cooperate in the selection, procurement, development, leasing and construction of the Projects, and Company shall consult with Customer and consider in good faith Customer's or Customer's agent's input with respect to the selection, procurement, leasing, development and construction of Projects. To that end, the Parties shall meet no less than once per quarter to discuss progress relating to: (i) the development and construction of Customer's Facility, (ii) Customer's load ramp requirements, and (iii) the selection, procurement, development, leasing and construction status of the Projects in the Project Portfolio. Subject to the other terms and conditions of this Agreement, Company shall select, procure, develop, lease

and construct Projects to include in the Project Portfolio, and, as between the Parties, Company shall be solely responsible for making all decisions pertaining to the procurement, development, construction and operation of all such Projects.

2. **Term**

- 2.1. Initial Term. The term of this Agreement (the “**Initial Term**”) shall commence upon the Commencement Date, and shall continue, unless earlier terminated in accordance with this Agreement, until the earlier of (a) the fifteenth (15th) anniversary of the Commercial Operation Date of the Final Project; and (b) February 28, 2045.

3. **Conditions Precedent**

- 3.1. With the exception of the obligations under this Section 3, each Party’s performance of its respective obligations under this Agreement are specifically conditioned on completion of the items listed below pursuant to the terms set forth in this Section 3 (the “**Conditions Precedent**”):
- 3.1.1. The Michigan Public Service Commission (the “**Commission**”) shall approve of this Agreement and the PSA in accordance with Section 3.4 by no later than December 5, 2025;
 - 3.1.2. Customer shall provide Customer Credit Support in form and substance as required pursuant to Section 8 and Schedule 8 within thirty (30) calendar days following the Commission Approval Date, or as mutually agreed by the Parties in writing;
 - 3.1.3. Company’s board of directors approves this Agreement and Company delivers Notice to Customer of such approval no later than October 31, 2025; and
 - 3.1.4. Company and Landlord shall enter into the Line Extension Agreement no later than October 31, 2025.
- 3.2. Conditions Precedent Deadline. The date the Conditions Precedent are satisfied shall be referred to herein as the “**Effective Date**”.

[REDACTED]

[REDACTED]

[REDACTED]

- 3.3. Application. Company will apply to the Commission for approval of this Agreement on or before October 31, 2025, subject to extension by written agreement of the Parties (including agreement by electronic mail) (the “**Energy Storage Agreement Filing**”) or, to the extent applicable, a later date with respect to an amended version of this Agreement pursuant to Section 3.4.1.1(a) or Section 3.4.2.3(a). Each Party agrees to notify the other Party of any significant developments in obtaining such Commission approval. Each Party shall use reasonable efforts to obtain such required approval and shall exercise due diligence and shall act in good faith to cooperate with and assist the other Party in acquiring such Commission approval.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

4. Storage Capacity and Subscription Charge

- 4.1. Settlement Amount. Customer agrees that, subject to the terms and conditions of this Agreement, it shall be responsible for reimbursing Company for all documented and reasonably incurred costs related to the

Project(s) during the Term through its payment to Company of the Settlement Amount for each Project. Commencing on the first monthly billing cycle following the billing cycle during which the Commercial Operation Date of the first Project occurs (the “**Commencement Date**”), Customer’s monthly Company bill will include a line item for the Settlement Amount calculated over the most recent billing cycle.

4.2. Settlements. Company shall include with each invoice delivered to Customer, information sufficient to demonstrate, for each Project in the Project Portfolio, the actual MISO settlement statements received by Company during the billing period.

4.3. Project Portfolio Matrix. At least thirty (30) calendar days prior to the Commercial Operation Date for each Project, Company shall provide Customer with a revised Project Portfolio Matrix



4.4. Annual Project Revenue Requirement. Customer acknowledges and agrees that the Annual Project Revenue Requirement for each Project and the Project Portfolio Revenue Requirement shall increase or decrease, as applicable, for increases or decreases to Company’s total cost of developing, procuring, constructing, purchasing, leasing and/or operating each Project in the Project Portfolio. Following the conclusion of each calendar year, Company shall compare the actual costs of operating and maintaining each Project with the estimated costs provided in the Project Portfolio Matrix (such over collection or under collection, the “**Reconciliation**”) and the Annual Project Revenue Requirement for each Project will be adjusted to account for any Reconciliation. On or before April 1st of each year of the Term, Company shall provide Customer with a revised Project Portfolio Matrix reflecting the adjusted Project Portfolio Revenue Requirement and Annual Project Revenue Requirement for each year of the Term for each Project that has achieved commercial operation. Customer’s Subscription Charge shall be updated on May 1st of each year to reflect the adjusted Project Portfolio Revenue Requirement as set forth in the revised Project Portfolio Matrix.

4.5. Augmentation. Subject to Section 4.8, the Annual Project Revenue Requirement of each Project in the Project Portfolio owned or operated by the Company directly, will include an estimate of the required augmentation of such Project, using Prudent Industry Practice, to maintain such Project’s expected capacity, and the aggregate Contract Capacity for Customer, during the Term of this Agreement (“**Augmentation**”). To the extent that Augmentation expenses for such Company owned Projects are over-recovered or under-recovered, such over-recovery or under-recovery shall be trued up with Customer in accordance with the annual reconciliation process set forth in Section 4.4. The Company shall maintain auditable records of any Augmentation projections and actual Augmentation expenses.

4.6. Relief for Changes in Law, Force Majeure Events, Customer Caused Events and Excusable Events.

4.6.1. Notice. In the event of a Relief Event or Customer Caused Event impacting one or more of the Projects and thereby affecting Company’s ability to perform its obligations under this Agreement, Company shall provide Notice to Customer describing the particulars of the occurrence of such

Relief Event or Customer Caused Event on a Project specific basis within ten (10) Business Days after Company first gains knowledge of such Relief Event or Customer Caused Event. Such notice will, to the extent of Company's knowledge thereof at such time, describe (i) the details and factual basis of the cause and nature of such Relief Event or Customer Caused Event, (ii) the anticipated length of delay due to such Relief Event or Customer Caused Event, (iii) the estimated additional costs, if any, (beyond those anticipated before the occurrence of such Relief Event or Customer Caused Event) to be incurred by Company as a result of such Relief Event or Customer Caused Event and (iv) any other effect on Company's performance of its obligations hereunder.

- 4.6.2. Mitigation. Any delay in performance caused by any Relief Event or Customer Caused Event will be of no greater scope and of no longer duration than is reasonably required by such occurrence. Company will furnish the Customer with regular reports with respect thereto during the continuation of any such Relief Event or Customer Caused Event. Company shall use commercially reasonable efforts to mitigate the cause of and effect on its performance hereunder of any such Relief Event or Customer Caused Event and Company will promptly resume full performance of its obligations hereunder once it is able to do so. For the avoidance of doubt, such commercially reasonable efforts shall, at a minimum, require compliance with the provisions set forth in this Section 4.6, as applicable.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

4.6.6. Changes in Law Rendering Performance Illegal. In the event of a Change in Law at any time during the Term which renders the performance of this Agreement by either or both Parties illegal or all or a material portion of this Agreement unenforceable, this Agreement shall be automatically terminated effective upon Notice from a Party to the other Party.

4.7. Administrative Fee. Company shall include as a separate line item on Customer's monthly bill the Administrative Fee for the Project Portfolio to cover the administrative services performed by Company in connection with this Agreement. The Administrative Fee shall be fixed during the Term or the Renewal Term as applicable.

4.8. Cost Recovery Period; Renewal Term Pricing.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

5. Invoicing and Payment; Taxes

- 5.1. Invoicing. Except as set forth in this Agreement, Company shall bill Customer in accordance with the provision of the Company's Rate Book.

[REDACTED]

- 5.2. Netting of Payments. Notwithstanding any other provision in this Agreement or any other agreement between the Parties, if at any time the Customer is required to make payments to Company under this Agreement, then on each payment date, the payment obligations of the Customer shall be netted against any payment obligations of Company under this Agreement.

- 5.3. No Right to Setoff. Both Customer and Company agree that neither shall have the right to offset any amounts that may be owed to the other Party under this Agreement against any amounts owed under any other contract or work order between Customer and Company or any of their respective wholly owned affiliates, unless such offsetting is mutually agreed upon in writing. No payment of any amount, whether disputed or undisputed at the time of payment, shall waive any rights of Customer, including the right to later contest such payment and obtain reimbursement.

- 5.4. Sales Tax.

- 5.4.1. Customer shall be responsible for all sales and use taxes imposed by any state, or local governmental entity ("SUT Taxes") on any amounts payable by Customer hereunder; and to the extent Company is required to pay any such SUT Taxes, Customer shall reimburse Company in connection with its payment of such taxes. In the event part or all of the services under this Agreement are subject to any exemption of SUT Taxes, Customer may furnish Company with an exemption certificate or other sufficient evidence of such exemption and Company will not charge any such exempted SUT Taxes to Customer, as applicable. Notwithstanding the previous sentence

and except as otherwise stated in Company's Rate Book, this Agreement (as part of the Project Portfolio Revenue Requirement) and/or the PSA, Customer shall not be responsible to pay any taxes imposed on, or with respect to, Company's income, revenues, margin, gross receipts, personnel, or real or personal property, or other assets.

5.4.2. Customer shall control the handling and resolution of any proposed assessment or other dispute with any governmental authority related to the taxability of the transactions contained herein.

5.5. [Reserved.]

5.6. Representations and Warranties for Michigan Sales Tax Exemption.

5.6.1. Company represents and warrants that as of the Contract Date the Company is subject to and operating under the regulatory framework set forth in Section 51 of the Clean and Renewable Energy and Energy Waste Reduction Act, of 2008 PA 295 MCL 460.1051 (the "**Clean Energy Act**").

5.6.2. Company represents and warrants that the Facility is not receiving Electric Service under any of the following rates:

5.6.2.1. The long-term industrial load rate established under Section 10gg of 1939 PA 3 (MCL 460.10gg) unless the designated power supply resource on which the long-term industrial load rate is based was placed in operation after January 1, 2024 and the rate is at least equivalent to the average industrial rate charged to other industrial customers of the electric utility that serves the facility;

5.6.2.2. A tariff rate approved in Michigan Public Service Commission Case No. U-21160, U-22163, or U-21646; or

5.6.2.3. A rate that causes residential customers to subsidize the costs incurred to provide electric service to the facility.

6. **Customer Default**

6.1. Customer shall be in default under this Agreement upon the occurrence of any of the following events (each, an "**Customer Event of Default**"):

6.1.1. fails to pay when due any undisputed amount required to be paid under this Agreement only if that undisputed amount is not cured within twenty (20) calendar days after receipt of Notices thereof from the other Party;

6.1.2. breaches any material term of this Agreement (not otherwise a payment default) that, if curable, is not cured within thirty (30) calendar days after receipt of Notice thereof from Company (or for breaches for which Customer has notified Company cannot be cured within thirty (30) calendar days despite its use of reasonable efforts but can be cured within sixty (60) calendar days, and such default has not been so cured by the extended sixty (60) calendar day deadline);

6.1.3. the occurrence of a Bankruptcy; or

6.1.4. fails to maintain the collateral requirements in Section 8 and/or Schedule 8 or fails to comply with its obligations under Section 8 and/or Schedule 8, and such failure is not cured within ten (10) Business Days after receipt of Notice thereof from Company.

6.2. Termination. Company may terminate this Agreement upon five (5) Business Days prior Notice if any such Customer Event of Default is not cured, with regard to Sections 6.1.1, 6.1.2, and 6.1.4 above, within the time period stated. This Agreement shall automatically terminate upon the occurrence of a Customer Event of Default with respect to Section 6.1.3.

6.3. Termination Payment.

6.3.1. In the event that (a) Company elects to terminate this Agreement in accordance with this Section 6, or (b) this Agreement is terminated in accordance with Section 4.6: (i) Customer shall pay to Company within thirty (30) calendar days of receipt of such Notice, as damages and not a penalty, an amount equal to the sum of Customer's Subscription Charges for the remaining years in the Term for each Project included in the Project Portfolio Matrix (the "**Termination Payment**"), and (ii) provided that Company has received full payment of the Termination Payment from Customer, Customer shall continue to be entitled to monthly reimbursement of the Market Price Payment actually received by Company during the period to which the Termination Payment applies. A sample calculation of the Termination Payment is illustrated in Exhibit E.



6.4. Notice to Landlord and Customer Parent Guarantor. Company shall contemporaneously provide Notice to Landlord and Customer Parent Guarantor of any Notice to Customer provided in accordance with Section 6.1, or any Notice of Company's election to terminate this Agreement as a result of the occurrence and continuance of a default by Customer under this Agreement. Notwithstanding anything else in this Agreement, the Customer Parent Guaranty, or any other agreement among the Parties, no notice of default or demand is required of any entity that is subject to a Bankruptcy or any other stay, injunction, or moratorium against payment demands, and any requirement to provide such notice of default or demand is excused, waived, and deemed satisfied.

7. **Company Default**

7.1. Company shall be in default under this Agreement upon the occurrence of any of the following events (each an "**Company Event of Default**"):

7.1.1. breaches any material term of this Agreement (not otherwise a payment default) that, if curable, is not cured within thirty (30) calendar days after receipt of Notice thereof from Customer (or such

longer period of time as is reasonable under the circumstance to cure such default as long as Company commenced actions to cure such default within such thirty (30) calendar day period and is diligently proceeding to cure the same thereafter);

7.1.2. the occurrence of a Bankruptcy; or

7.1.3. Company fails to return Customer Credit Support in accordance with Section 8 and such failure is not cured within ten (10) Business Days after receipt of Notice from Customer.

7.2. Termination. Customer may terminate this Agreement upon five (5) Business Days prior Notice if any such Company Event of Default is not cured within the applicable cure periods, with regard to Sections 7.1.1, or 7.1.3 above, within the time period stated. This Agreement shall automatically terminate upon the occurrence of a Company Event of Default with respect to Section 7.1.2.

7.3. In the event that Customer elects to terminate this Agreement as a result of the occurrence and continuation of a Company Event of Default, Customer shall be entitled to seek all remedies available to it at law and in equity with respect to Customer's damages under this Agreement.

8. Customer Credit Support

8.1. Customer Credit Support. Customer shall provide Company with: (a) a guaranty substantially in the form set forth in Exhibit B ("**Customer Parent Guaranty**") from Oracle Corporation (or another Affiliate of Customer approved by Company in writing) (the "**Customer Parent Guarantor**"), pursuant to which Customer Parent Guarantor has guaranteed the payment obligations of Customer under this Agreement and (b) if applicable pursuant to Schedule 8, one or more Letters of Credit equal to the aggregate stated amount of the applicable Letter of Credit posting as set forth in Schedule 8 (the "**LC Required Amount**," as adjusted from time to time in accordance with this Section 8 and Schedule 8, and together with the Customer Parent Guaranty, the "**Customer Credit Support**").

■

[REDACTED]

■

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



- 8.5. Customer Credit Support Costs. In all cases, the costs and expenses of posting, renewing, substituting, replenishing, and canceling the amount of the Customer Credit Support shall be borne by the Customer.

9. Intellectual Property Rights

- 9.1. Each Party shall retain all rights, title, and interest in and to all of its Background IP, and nothing in this Agreement shall be construed as granting the other Party any rights or licenses in or to such Background IP. For the avoidance of doubt, any Intellectual Property developed by any Party during the term of this Agreement that is not related to or arising from the performance under this Agreement shall be considered “**Background IP**” of that Party.
- 9.2. Unless otherwise agreed by the Parties in writing, Project IP shall be owned by Customer. For the avoidance of doubt, any Intellectual Property developed by any Party during the term of this Agreement that is related to and arising from the performance under this Agreement shall be considered “**Project IP**”.
- 9.3. Notwithstanding anything to the contrary in this Agreement, Company shall retain sole and exclusive ownership of (i) any Project IP that is derivative of and related to Company’s proprietary power generation technology and processes, and (ii) any enhancements, improvements or modifications to its Background IP, including any enhancements to its power generation technology or related operation developed during the performance of this Agreement, (collectively, clauses (i) and (ii), “**Company IP**”). Customer hereby assigns (and shall cause its Affiliates and personnel to assign) to Company, without compensation, all rights, title, and interest in and to any Company IP, including all Intellectual Property Rights therein.
- 9.4. Company hereby grants to Customer a limited, irrevocable, royalty-free, non-exclusive license to use such Company IP during the Term or any Renewal Term of the Agreement for the work performed under this Agreement or operation of Company equipment or facilities. Customer hereby grants to Company a limited, irrevocable, royalty-free, non-exclusive license to use Project IP during the Term of the Agreement in connection with Company’s performance hereunder.

10. Confidentiality

- 10.1. For the purpose of this Agreement, a party disclosing Confidential Information shall be referred to as the “**Disclosing Party**” and a party receiving Confidential Information shall be referred to as the “**Recipient**”. “**Confidential Information**” includes any and all information hereafter disclosed by or at the direction of the Disclosing Party to Recipient that is designated in writing as confidential or, subject to Section 10.5, a reasonable party would consider to be of a confidential nature including but not limited to this Agreement and the PSA; provided, however, Confidential Information does not include (i) information that, at the time of disclosure or thereafter, was generally available to and known by the public, other than as a result of a disclosure by Recipient in violation of this Section 13; (ii) information that, at the time of disclosure or thereafter was available to Recipient or its Representatives (as defined below) from a source not known by Recipient to be bound by a duty of confidentiality to the Disclosing Party with respect to such information; (iii) information that, prior to disclosure by or at the direction of the Disclosing Party, was known to Recipient or its Representatives; or (iv) information that is independently developed by Recipient or its Representatives by persons without reliance on the Confidential Information and without violating the obligations hereunder.
- 10.2. Confidential Information is and shall, at all times, remain the property of the Disclosing Party. Recipient may disclose Confidential Information to any of its officers, directors, employees, advisors, shareholders, members, managers, attorneys or agents (collectively, “**Representatives**”). The Recipient shall advise such persons of the existence of this Agreement, of the confidential nature of the information and of the Recipient’s obligations regarding the same under this Agreement. Receiving Party agrees that it shall maintain the Disclosing Party’s Confidential Information in confidence and shall not use the Confidential Information except as required or necessary in accordance with this Agreement. Recipient agrees that it shall maintain the Disclosing Party’s Confidential Information in confidence and shall not use the Confidential Information except to the extent necessary to carry out its obligations under this Agreement. Recipient shall be responsible for any breach of this Agreement by such Representatives.
- 10.3. In the event that Recipient is requested or required under compulsion of legal process to disclose such Confidential Information, Recipient shall not, unless required by Law, disclose the information until the Disclosing Party has first (i) received prompt Notice of such request or requirements to disclose and (ii) had an adequate opportunity to obtain a protective order or other reliable assurance that confidential treatment shall be accorded to the Confidential Information.
- 10.4. To the extent Confidential Information, including this Agreement, must be filed with the Commission or other applicable regulatory governmental agency, Company shall notify Customer in advance of such disclosures (or if advance notification is not practicable, as promptly as reasonably practicable after such disclosure), and, before a filing is required to be made, collaborate with Customer to identify redactions that will, to the greatest extent possible under the circumstances, limit the amount of Confidential Information that is publicly disclosed.
- 10.5. Any Confidential Information disclosed in writing or electronically by a Party under this Agreement shall be clearly marked, labeled, or otherwise identified as “Confidential” at the time of disclosure. If Confidential Information is initially disclosed orally or visually, the disclosing Party shall, within thirty (30) calendar days of such disclosure, provide the receiving Party with a written summary of the information that is designated as “Confidential.”

11. Limitation of Liability

- 11.1. Limitation of Liability for Delays. To the fullest extent permitted by Law, Company shall not be liable for any damages, penalties, liquidated damages, or claims arising from delays, disruptions or failures to

perform caused by any Relief Event or Customer Caused Event as set forth in Section 4.6. In the event of a delay caused by a Relief Event, the Customer's sole remedy shall be an extension of time to meet the Customer Committed Capacity Ramp.

11.2. Consequential Damages.

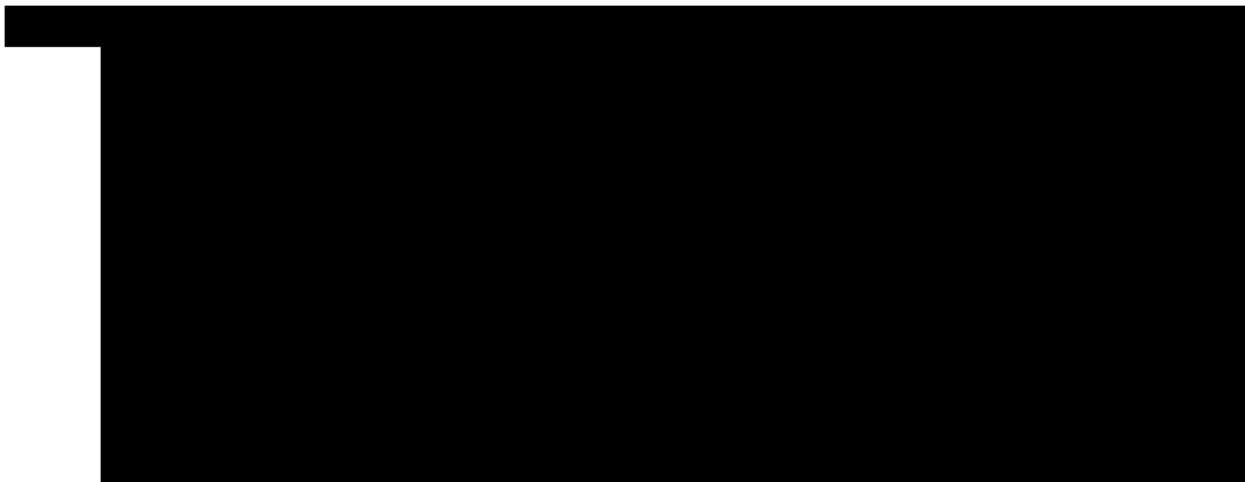
Neither Party shall be liable under this Agreement or under any cause of action related to the subject matter of this Agreement, whether in contract, warranty, tort including negligence, strict liability, professional liability, product liability, contribution, or any other cause of action for special, exemplary, punitive, indirect, incidental or consequential losses or damages, including loss of profit, loss of use, loss of opportunity, loss of revenues, or loss of good will; provided, however, that the foregoing shall not apply to any Party's obligations to indemnify, defend and hold harmless any Indemnified Party (defined below) for claims and liabilities in respect of claims by third persons that are indemnified by such Party hereunder.

11.3. Limitation on Liability for Customer Sales Tax Exemption Under Michigan Compiled Law 205.54ee. Notwithstanding anything to the contrary in this Agreement, Company shall not be liable to Customer for any taxes, penalties, losses, or damages for (a) any failure to obtain the sales tax exemption under MCL 205.54ee or (b) any failure to maintain the sales tax exemption under MCL 205.54ee. Specifically, in the event Company is deemed non-compliant with the requirements under Section 51 of the Clean Energy Act during the Term, Customer shall have no cause of action against Company for such non-compliance.

12. **Assignment**

12.1. Without the prior written consent of the non-assigning Party (such consent not to be unreasonably withheld, delayed or denied), neither Party shall be entitled to assign or transfer this Agreement or its rights and obligations under this Agreement, and any such assignment or transfer without such consent is void. Notwithstanding the foregoing, except as set forth in Section 12.1.2 below, a Party may make the following assignments without the prior written consent of the other Party, but shall provide Notice of such assignment:

12.1.1. Customer may (i) collaterally assign this Agreement to a financing party providing construction or long-term financing for the Facility, and (ii) issue or sell equity interests in Customer to a financing party pursuant to any equity financing. In no case shall any such rights and terms of such collateral assignment materially or adversely affect any of Company's commercial rights or obligations under this Agreement and Customer shall remain liable for its liabilities and obligations under this Agreement.





12.1.3. Company may without consent of Customer assign this Agreement to: (a) a legally authorized governmental or quasi-governmental agency charged with providing retail electric service in Michigan; (b) to any successor to Company that is a public utility regulated as to rates and service by the Commission pursuant to applicable Law; (c) as otherwise required by Law or by operation of Law; or (d) to an Affiliate of Company that is reasonably expected to be capable of performing Company's obligations under this Agreement (as reasonably determined by Company). Customer agrees that such assignment and delegation shall operate to release Company from all (or such portion of) its responsibilities under this Agreement, except as may have accrued up to the effective date of such assignment.

12.2. This Agreement may not be assigned to a Sanctioned Person. Neither Party may suffer a change of ownership or control, whether direct or indirect, voluntary or by operation of Law, such that a party becomes a Sanctioned Person.

13. **Dispute Resolution; Governing Law; Venue**

13.1. Dispute Resolution. In the event a controversy, claim or dispute arises between the Parties regarding the application or interpretation of any provision of this Agreement or the breach, termination or validity thereof (each, a "**Dispute**"), the Party alleging the Dispute shall promptly notify the other Party of the Dispute. If the Parties shall have failed to resolve the Dispute within thirty (30) calendar days after delivery of such Notice, each Party shall, within ten (10) Business Days after receipt of a written demand from the other Party to do so, direct a senior executive (Vice President level or above) to confer in good faith with a senior executive of the other Party to resolve the Dispute. Should the Parties be unable to resolve the Dispute to their mutual satisfaction within twenty (20) Business Days after the initial meeting of the senior executives, each Party shall have the right to pursue its rights under Law or in equity.



13.3. Governing Law. This Agreement and all disputes arising between the Parties under this Agreement shall be governed exclusively by the Laws of the State of Michigan, without reference to its choice of Law rules, except as to any matters subject to federal Law and the exclusive jurisdiction of FERC.

13.4. Jury Waiver. TO THE FULLEST EXTENT PERMITTED BY LAW, EACH PARTY HEREBY WAIVES ALL RIGHTS TO A TRIAL BY JURY IN ANY LEGAL ACTION TO ENFORCE OR INTERPRET THE PROVISIONS OF THIS AGREEMENT OR THAT OTHERWISE RELATES TO THIS AGREEMENT.

14. Indemnification

- 14.1. Notwithstanding any other provision of this Agreement and to the fullest extent permitted by Law, each Party agrees to protect, defend, indemnify and hold the other Party, including its directors, officers, employees, attorneys-in-fact, agents and affiliated companies (“**Indemnified Parties**”), free and harmless from and against (a) any and all loss, damage, and liability to third-parties for property damage, and (b) any and all third-party claims for damages on account of or by reason of bodily injury, including death, which may be sustained or claimed to be sustained by any person, each (a) and (b) to the extent arising in connection with this Agreement or the PSA and due to the gross negligence or willful misconduct of the indemnifying Party or its agents, employees or subcontractors.
- 14.2. To the extent permitted by Law, Customer waives the benefit for itself and all subcontractors, insofar as the indemnification of the other is concerned, of the provisions of any applicable Workers' Compensation Law limiting the tort or other liability of any employer on account of injuries to the employer's employees.
- 14.3. Notwithstanding the foregoing, the indemnified Party shall be entitled, at its own cost, if it so elects, to representation by attorneys of its own selection, including attorneys employed by it.
- 14.4. The indemnified Party shall be the sole judge of the acceptability of any compromise or settlement of any claims or actions and no such compromise or settlement shall be made by the indemnifying Party without the indemnified Party's prior written consent, which shall not be unreasonably withheld; provided, that such consent shall not be required if (x) the settlement agreement contains a complete and unconditional release of the Indemnified Parties, (y) the settlement agreement obligates the indemnifying Party to pay the full amount of any claims attributable to the Indemnified Parties concurrently with the settlement, and (z) the settlement agreement does not contain any direct or indirect requirements upon or provisions for the Indemnified Parties, directly or indirectly encumber any of the assets of the Indemnified Parties, require any admission of liability by the Indemnified Parties or involve criminal liability.
- 14.5. The obligation of each Party to indemnify the other hereunder shall survive the termination or cancellation of this Agreement.

15. Miscellaneous

- 15.1. Notice. Any notice, consent, approval or other communication under this Agreement (each a “**Notice**”) shall be in writing (which shall include electronic mail) and shall be personally delivered or sent by a courier or transmitted by electronic mail to a Party as follows or to such other address as the Party may substitute by Notice in accordance with this Section 15.1 after the date of this Agreement:

If to Company:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

If to Customer:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

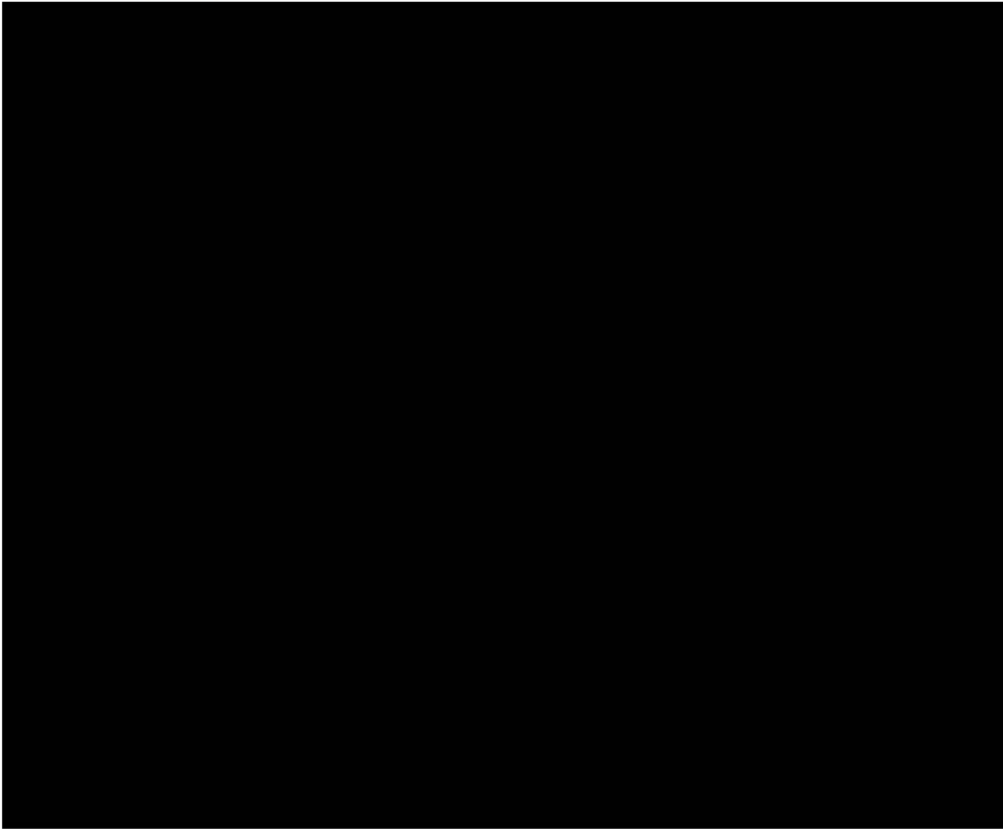
- 15.2. During the Term, Company shall use commercially reasonable efforts or, to the extent applicable, use commercially reasonable efforts to cause Project Parties, to operate and maintain the Project(s) in accordance with Prudent Industry Practice.
- 15.3. The terms and provisions of this Agreement shall not be modified or waived except by the execution by the Parties of a written amendment to this Agreement. The waiver by a Party of a breach or violation of any provision of this Agreement will not operate as or be construed to be a waiver of any subsequent breach or violation thereof.
- 15.4. Each term and condition of this Agreement is deemed to have independent effect and the invalidity of any partial or whole paragraph or article shall not invalidate the remaining paragraphs or articles. The obligation to perform all of the terms and conditions shall remain in effect regardless of the performance of any invalid term by the other Party. Any entity that succeeds by purchase, merger, consolidation or other transfer to the properties of Company or Customer either substantially or as an entirety, shall be entitled to the rights and will be subject to the obligations of its predecessor in interest under this Agreement. Except as provided in Section 12 above, neither Customer nor Company may assign this Agreement, or any of its rights or obligations under this Agreement, without the prior written consent of the other Party.
- 15.5. This Agreement shall not create any rights in third parties, and no provision of this Agreement will be construed as creating any obligations for the benefit of, or rights in favor of, any person or entity other than the Parties.
- 15.6. The execution of this Agreement shall not create, nor shall this Agreement be construed as creating any partnership, joint venture or agency relationship between the Parties hereto.
- 15.7. This Agreement shall be binding on the Parties hereto and on their respective successors, heirs and permitted assigns.
- 15.8. This Agreement and the PSA, together with the Company's Rate Book, as may be amended from time to time, reflect the entire agreement among the Parties with respect to the subject matter hereof and supersedes all prior agreements and understandings among the Parties with respect to the subject matter hereof.

- 15.9. All headings and captions contained in this Agreement are for convenience of reference only and shall not, in any way, affect the meaning of any provision hereof. No provision of this Agreement shall be interpreted more or less favorably towards either Party because its counsel drafted all or a portion hereof. The recitals set forth in this Agreement are an integral part hereof and shall have the same contractual significance as any other language contained in this Agreement. Facsimile and pdf signatures shall be as legally binding and considered in all manner and respects as original signatures. Unless otherwise defined herein, any capitalized terms in this Agreement shall have the meaning set forth in the Company's Rate Book or the PSA, as the context may require.
- 15.10. This Agreement may be executed electronically, or in multiple counterparts, each of which will be deemed an original and all of which will constitute one and the same instrument.

[Remainder of Page Blank – Signatures on the Next Page]

IN WITNESS WHEREOF, Company and Customer have each caused this Agreement to be duly executed by their authorized representatives identified below, effective as of the Contract Date.

CUSTOMER



[Signature Page to Energy Storage Agreement]

Schedule 8

Energy Storage Agreement Letter of Credit Posting Amounts (LC Required Amounts)

Exhibit A - Form of Project Portfolio Matrix

Project Detail (one for each project in Project Portfolio):

Project:

Installed Storage Capacity (MW):

Expected Commercial Operation Date:

Annual Project Revenue Requirement:

Year	(a) Number of Billing Periods	(b) Annual Project Revenue Requirement (\$)	(c) = (b)/(a) Project Billing Period Charge (\$)

Project Portfolio Revenue Requirement

Total Portfolio Installed Storage Capacity (MW):

Project Portfolio Revenue Requirement:

Year	(a) Project Portfolio Revenue Requirement (\$)

Exhibit B

GUARANTY

Exhibit C - Applicable Definitions

“Administrative Fee” means, for each billing cycle, the amount equal to [REDACTED]

“Affiliate” means with regard to a Party, any person that directly or indirectly: (a) controls that Party; (b) is controlled by that Party; or (c) is under common control with that Party; where for each of (a), (b), and (c), “control” is defined as possession of the power to direct or cause the direction of the management and policies of a legally recognizable entity, through direct or indirect majority ownership or minimum percentage ownership that would grant the party a controlling interest in such entity.

“Agreement” has the meaning set forth in the preamble to this Agreement.

“Ancillary Services Revenue” means, for each billing cycle, the revenue actually collected by Company from MISO for Operating Reserve, Up Ramp Capability, Down Ramp Capability, Short-Term Reserve, Regulating Reserve, and Other Ancillary Services (each as defined in the MISO Tariff) for each Project in the Project Portfolio.

“Annual Project Revenue Requirement” means, with respect to a Project, the cost to Company (including Company’s Commission authorized rate of return, and any financial incentives authorized by MCL 460.1028) of developing, procuring, constructing, leasing, utilizing, and/or purchasing a Project, as well as the cost of operating such Project, including Augmentations, over its projected Cost Recovery Period, each as reasonably determined by Company in a commercially reasonable manner.

“Approved Project” has the meaning set forth in Section 1.3 of this Agreement.

“Augmentation” has the meaning set forth in Section 4.5 of this Agreement.

“Bankruptcy” means that (i) an entity shall voluntarily commence any proceeding or file any petition seeking relief under Title 11 of the United States Code, as now constituted or hereafter amended, or any other federal, state or foreign bankruptcy, insolvency, receivership or similar law, (ii) an involuntary proceeding shall be commenced or an involuntary petition shall be filed in a court of competent jurisdiction seeking (A) relief in respect of an entity, or of a substantial part of its property or assets, under Title 11 of the United States Code, as now constituted or hereafter amended, or any other Federal, state or foreign bankruptcy, insolvency, receivership or similar law, (B) the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for such entity or for a substantial part of its property or assets or (C) the winding-up or liquidation of an entity; and such proceeding or petition shall continue undismissed for 60 days or an order or decree approving or ordering any of the foregoing shall be entered; (iii) an entity shall consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or the filing of any petition described in the foregoing clause (ii), (iv) an entity shall apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for itself or for a substantial part of its property or assets, (v) an entity shall file an answer admitting the material allegations of a petition filed against it in any such proceeding, (vi) an entity shall make a general assignment for the benefit of creditors, (vii) an entity shall become unable, admit in writing its inability or fail generally to pay its debts as they become due or (viii) an entity shall take any action for the purpose of effecting any of the foregoing.

“Business Days” means any day other than Saturday, Sunday, Federal Reserve Bank holiday, or other day that is a holiday observed by Company.

“Capacity Revenue” means all actual, incremental net revenue to be collected by Company or its affiliates from MISO as a result of the participation of each Project in the Project Portfolio in the MISO Planning Resource Auction. Company shall cause each Project in the Project Portfolio to participate in the MISO Planning Resource Auction as a “Self-Scheduled Resource.” For the avoidance of doubt, for any Project that is co-located with an existing generation asset, Capacity Revenue shall be estimated by Company to equal the incremental net revenue collected by Company in excess of the revenue Company would have otherwise collected from the existing generation asset’s Capacity Revenue (if such existing generation asset was not co-located with the applicable Project).

“Change in Law” means the adoption, enactment or other effectuation, or any change in the judicial, regulatory or administrative application or interpretation, or any amendment, repeal or other modification, by any Governmental Authority of any Law that adversely affects either Party’s (or any Project Party’s) performance under this Agreement or any Project Party’s performance under any Project Agreement (including any Executive Order or similar directive from the Executive Branch that changes the interpretation of any of the foregoing), in each case, after the Contract Date; provided, however, in the case of any new Law, order or any other legally binding requirement or directive or change to any existing Law, order or other legally binding requirement applicable to either Party’s performance of its obligations under this Agreement or to a Project Party’s performance of its obligations under a Project Agreement, in either case that is enacted prior to the Contract Date, but for which the effectiveness thereof occurs after the Contract Date, shall not constitute a Change in Law hereunder.

“Charging Energy” means, for each Project in the Project Portfolio, the Energy received at such Project’s point of interconnection with the MISO system and used to charge such Project for resale into the MISO market.

“Commencement Date” has the meaning set forth in Section 4.1 of this Agreement.

“Commercial Operation Date” means, with respect to any Project, the date by which such Project achieves regular operation as an integrated whole, including the storage of Charging Energy and delivery of the full electrical energy output of the Project to and from the Project’s point of interconnection with the MISO system, consistent with Prudent Industry Practices and in accordance with the other applicable terms and conditions of this Agreement.

“Commission” has the meaning set forth in Section 3.1.1 of this Agreement.

“Commission Approval Date” has the meaning set forth in Section 3.4.3 of this Agreement.

“Company” means DTE Electric Company, a Michigan corporation.

“Company Event of Default” has the meaning set forth in Section 7.1 of this Agreement.

“Company’s Rate Book” means Company’s Rate Book for Electric Service. Company’s Rate Book as of the Contract Date can be found at <https://www.michigan.gov/mpsc/-/media/Project/Websites/mpsc/consumer/rate-books/electric/dte/dteelcur.pdf?rev=cf55d05b027a43fc9d4f762672e9aa9e&hash=D28CE34BD%20%2007DCDD7279069015BB8121A> and may be updated, revised and/or modified as approved or agreed to by the Commission.

“Conditions Precedent” has the meaning set forth in Section 3.1 of this Agreement.

“Confidential Information” has the meaning set forth in Section 10.1 of this Agreement.

“**Contract Capacity**” has the meaning set forth in Section 1.1 of this Agreement.

“**Contract Date**” has the meaning set forth in the preamble to this Agreement.

“**Cost Recovery Period**” means, for each Project, the “Cost Recovery Period” as set forth in the Project Portfolio Matrix, which shall not exceed fifteen (15) years from the applicable Commercial Operation Date.

“**Credit Rating**” means with respect to an entity on any date of determination: (1) the respective rating then assigned to its senior unsecured and unsubordinated long-term debt or deposit obligations (not supported by third party credit enhancement) by S&P or Moody’s, as applicable, or (2) if such entity does not have a rating for its unsecured, senior, long-term debt, then the corporate rating or issuer rating, as applicable, then assigned to such entity by S&P or Moody’s, as applicable.

[REDACTED]

“**Customer**” has the meaning set forth in the preamble to this Agreement.

“**Customer Caused Event**” means any demonstrable delays or increased costs, in each case, in connection with Company’s performance of its obligations under this Agreement to the extent due to any failure, delay or non-performance by Customer that adversely impacts Company’s performance of its obligations under this Agreement.

“**Customer Committed Capacity Ramp**” has the meaning set forth in the PSA.

“**Customer Credit Support**” has the meaning set forth in Section 8.1 of this Agreement.

“**Customer Event of Default**” has the meaning set forth in Section 6.1 of this Agreement.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

“**Data Center Location**” has the meaning set forth in paragraph A of the Recitals to this Agreement.

“**Day-Ahead Energy and Operating Reserve Market**” has the meaning ascribed to that term in the MISO Tariff.

[REDACTED]

[REDACTED]

“**Disclosing Party**” has the meaning set forth in Section 10.1 of this Agreement.

“**Dispute**” has the meaning set forth in Section 13.1 of this Agreement.

“**Early Termination Date**” means any date on which this Agreement is terminated after the Effective Date but before the end of the Term.

“**Effective Date**” has the meaning set forth in Section 3.2 of this Agreement.

“**Electric Service**” has the meaning set forth in the PSA.

“**Energy**” has the meaning ascribed to that term in the MISO Tariff.

“**Energy Revenue**” means, for each billing cycle, the difference between (i) (a) the revenue actually collected by Company from MISO for the charging or discharging of Energy from each Project in the Project Portfolio into the MISO Day-Ahead Energy and Operating Reserve Market and/or the MISO Real-Time Energy and Operating Reserve Market, and (ii) the amounts paid to MISO for any Charging Energy.

“**Energy Storage Agreement Filing**” has the meaning set forth in Section 3.3 of this Agreement.

[REDACTED]

“**Expected Commercial Operation Date**” means the date set forth in Exhibit A - Form of Project Portfolio Matrix for each Project.

“**Facility**” has the meaning set forth in paragraph A of the Recitals to this Agreement.

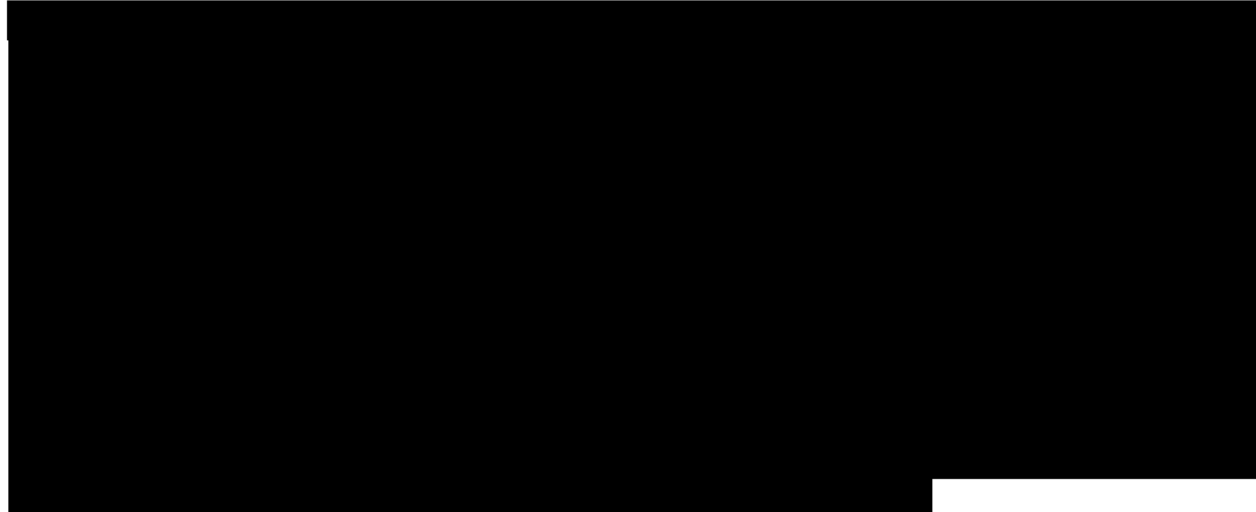
“**FERC**” means the Federal Energy Regulatory Commission or its successor.

“**Final Project**” has the meaning set forth in Section 1.3 of this Agreement.

“**Force Majeure Event**” means any event or circumstance, or combination of events or circumstances, arising after the Contract Date that wholly or partly prevents or delays a Party from performing any obligation under this Agreement or wholly or partly prevents or delays a Project Party from performing any obligation under a Project Agreement, in either case, but only if and to the extent:

- (a) such event or circumstance, or combination of events or circumstances, is not within the reasonable control of the Party or Project Party, as applicable;
- (b) The Party or Project Party, as applicable, has used reasonably diligent efforts in taking precautions and measures to (i) avoid the effect of such event or circumstance, or combination of events or circumstances, on the Party or Project Party, as applicable, and (ii) mitigate the consequences thereof;

- (c) such event or circumstance, or combination of events or circumstances, does not result from the failure of the Party or Project Party, as applicable, to perform any of its obligations under this Agreement or the applicable Project Agreement, as the case may be; and
- (d) such event or circumstance, or combination of events or circumstances, could not have been (i) reasonably anticipated or (ii) avoided by the exercise of reasonable diligence and care.



“Governmental Authority” means any federal, state, local, municipal, or other governmental, regulatory, administrative, quasi-governmental, judicial, public or statutory instrumentality, court or governmental tribunal, agency, commission authority, body or entity, or any political subdivision thereof, including MISO or its successor, having legal jurisdiction over the matter or person in question.

“Initial Term” has the meaning set forth in Section 2.1 of this Agreement.

“Installed Storage Capacity” means, for each Project, the actual or expected nameplate capacity of such Project expressed in MW as the rate at which such Project can deliver electric energy to its point of interconnection with the MISO system continuously for four (4) hours, as set forth in the Project Portfolio Matrix for such Project.

“Intellectual Property” means (a) rights associated with works of authorship, including exclusive exploitation rights, copyrights, design rights, mask work rights and moral rights, and any registrations and applications for registration thereof; (b) trade secret rights and other rights in know-how and confidential or proprietary information; (c) patents, patent applications and any renewals, reissues, reexaminations, extensions, continuations, continuations-in-part, divisions, substitutions and foreign counterparts relating to any such patents and patent applications, and industrial property rights; and (d) rights in software.



“Laws” means all laws, treaties, ordinances, statutes, judgments, decrees, injunctions, writs, orders, rules, regulations, tariffs, interpretations, open-access transmission tariffs, and permits of any Governmental Authority having jurisdiction of the transmission of electricity, performance of the work, all and each

document, instrument and agreement delivered hereunder or in connection herewith, health and safety, or the environmental condition of the location of the Projects in the Project Portfolio or Customer's facilities.

[REDACTED]

[REDACTED]

[REDACTED]

"Line Extension Agreement" has the meaning set forth in paragraph A of the Recitals to this Agreement.

"Market Price Payment" means, for each Project in the Project Portfolio, the sum of all (a) Capacity Revenue, (b) Energy Revenue, and (c) Ancillary Services Revenue (for each (a), (b), and (c), each relevant MISO charge type) earned by such Project from the MISO market during the applicable billing cycle made available to Company.

"Meet and Confer Request" has the meaning set forth in Section 3.4.2 of this Agreement.

"MISO" means Midcontinent Independent System Operator, Inc.

"MISO Planning Resource Auction" has the meaning ascribed to the term "Planning Resource Auction" in the MISO Tariff and shall include any successor term and mechanism used by MISO to purchase and sell capacity.

"MISO Tariff" means the MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff.

[REDACTED]

"Moody's" means Moody's Investors Service, Inc. or its successor.

"Notice" has the meaning set forth in Section 15.1 of this Agreement.

"Parties" has the meaning set forth in the preamble to this Agreement.

"Party" has the meaning set forth in the preamble to this to this Agreement.

[REDACTED]

[REDACTED]

“**Project**” has the meaning set forth in Section 1.1 of this Agreement.

“**Project Agreement**” has the meaning set forth in Section 1.1 of this Agreement.

“**Project Agreement Filing**” has the meaning set forth in Section 1.2 of this Agreement.

“**Project Party**” means, in connection with the development, construction, lease, utilization, purchase, ownership, operation or maintenance of a Project, Company or any counterparty to a Project Agreement or any of Company’s or such counterparty’s respective Affiliates, contractors, subcontractors or suppliers.

“**Project Portfolio**” has the meaning set forth in Section 1.3 of this Agreement.

“**Project Portfolio Matrix**” has the meaning set forth in Section 1.3 of this Agreement.

“**Project Portfolio Revenue Requirement**” has the meaning set forth in Section 4.3 of this Agreement.

“**Prudent Industry Practice**” means the practices, methods and acts engaged in or approved by those professional firms providing similar services to the energy storage industry in the United States, that, at a particular time, in the exercise of reasonable judgment in light of the facts known or that should reasonably have been known at the time a decision was made, would have been expected by a reasonably prudent business company of established reputation in the energy storage industry to accomplish the desired result in a manner consistent with applicable Laws, regulations, codes, standards, equipment manufacturers’ recommendations, reliability, safety, environmental protection, economy and expedition. Prudent Industry Practice is a range of reasonable practices and does not necessarily mean the highest standard in the industry.

“**PSA**” has the meaning set forth in the Recitals to this Agreement.

[REDACTED]

“**Real-Time Energy and Operating Reserve Market**” has the meaning ascribed to that term in the MISO Tariff.

“**Recipient**” has the meaning set forth in Section 10.1 of this Agreement.

“**Reconciliation**” has the meaning set forth in Section 4.4 of this Agreement.

“**Relief Event**” means a Force Majeure Event, Change in Law, or Excusable Events.

“**Relief Event Cost Cap**” has the meaning set forth in Section 4.6.5.3 of this Agreement.

“**Relief Event Costs**” has the meaning set forth in Section 4.6.5 of this Agreement.

“**Relief Event Notice**” has the meaning set forth in Section 4.6.5 of this Agreement.

“**Renewal Term**” has the meaning set forth in Section 2.2 of this Agreement.

“**Representatives**” has the meaning set forth in Section 10.2 of this Agreement.

“**Sanctioned Country**” means, at any time, a country or territory that is itself the target of comprehensive Sanctions (as of the date of this Agreement, Cuba, Iran, North Korea, the Crimea region of Ukraine, the so-called Donetsk People’s Republic, and the so-called Luhansk People’s Republic).

“**Sanctioned Person**” means (a) any person listed in any sanctions-related list of designated persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury (“OFAC”) or the U.S. Department of State, the United Nations Security Council, the European Union, any Member State of the European Union, or the United Kingdom; (b) any person operating, organized, or resident in a Sanctioned Country; (c) the government of a Sanctioned Country or the Government of Venezuela; or (d) any person 50% or more owned or, where relevant under applicable Sanctions, controlled by any such person or persons or acting for or on behalf of such person or persons.

“**Sanctions**” means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by OFAC or the U.S. Department of State, or (b) the United Nations Security Council, the European Union, any European Union Member State or the United Kingdom.

“**Self-Scheduled Resource**” has the meaning ascribed to that term in the MISO Tariff.

“**Settlement Amount**” means for each billing cycle, equals (i) the Subscription Charge, *minus* (ii) the Market Price Payment.

“**Standard & Poor’s**” or “**S&P**” means S&P Global Ratings or its successor.

“**Subscription Charge**” means, for each billing cycle, the sum of the applicable “Project Billing Period Charge”, as set forth in Exhibit A for each Project in the Project Portfolio..

“**SUT Taxes**” has the meaning set forth in Section 5.4.1 of this Agreement.

“**Term**” has the meaning set forth in Section 2.2.1 of this Agreement.

“**Termination Payment**” has the meaning set forth in Section 6.3.1 of this Agreement.

“**Total Customer Credit Support Amount**” means the Customer Credit Support in the forms and amounts required pursuant to Section 8 and Schedule 8.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

“**Transmission Owner**” means ITC Holdings Corporation and its Affiliates.

Exhibit D
Sample Invoices

Exhibit E
Sample Termination Payment Calculation

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application of)
DTE ELECTRIC COMPANY)
for Approval of Special Contracts_____)

Case No. U-21990

QUALIFICATIONS
AND
DIRECT TESTIMONY
OF
KEVIN L. BILYEU

DTE ELECTRIC COMPANY
QUALIFICATIONS AND DIRECT TESTIMONY OF KEVIN L. BILYEU

Line
No.

1 **Q1. What is your name, business address and by whom are you employed?**

2 A1. My name is Kevin L. Bilyeu (he/him/his). My business address is One Energy
3 Plaza, Detroit, Michigan 48226. I am employed by DTE Electric Company (“DTE
4 Electric” or “Company”).

6 **Q2. On whose behalf are you testifying?**

7 A2. I am testifying on behalf of DTE Electric.

9 **Q3. What is your educational background?**

10 A3. I graduated from Walsh College in 2008 with a Bachelor of Business
11 Administration. In 2012, I received a Master of Business Administration degree
12 from the University of Michigan.

14 **Q4. What is your work experience?**

15 A4. Starting in 2006, I began my professional career with SEMCO Energy Gas
16 Company, progressing through a range of roles with increasing responsibility. In
17 2008, I took on the position of Billing Analyst, utilizing my expertise in the subject
18 matter to aid stakeholders, conducting reviews, managing projects, and devising
19 process enhancements. After that, I became Supervisor of Customer Accounting in
20 2011, leading tasks such as customer billing, remittance processing, inactive
21 collections, bad debt management, and financial reporting for the Customer
22 Accounting Department. Then, in 2013, I assumed the position of Manager,
23 Customer Energy Management, where I oversaw the administration, monitoring,
24 and development of Energy Waste Reduction (“EWR”) Programs, testified and
25 supported EWR plan and reconciliation cases at the Michigan Public Service

Line
No.

1 Commission (“MPSC” or “Commission”), and managed the home protection
2 warranty program.

3

4 In 2015, I transitioned to DTE Electric, taking on the role of Principal Marketing
5 Analyst of EWR Pilot Programs, where my responsibilities encompassed the
6 development and management of new EWR programs. In 2016, I accepted the
7 position of Principal Marketing Specialist of EWR Strategy, where my tasks
8 included modeling energy efficiency in Integrated Resource Plans (“IRP”) for long-
9 term strategy planning and developing sensitivities and recommendations to support
10 EWR plan filings with the MPSC.

11

12 In 2018, I advanced to the position of Principal Supervisor of EWR Strategy, where
13 I had overall responsibility for strategic development and planning of EWR
14 programs, including IRPs and EWR regulatory filings. Subsequently, in 2021, I
15 assumed the role of Manager for EWR Strategy and Evaluation Measurement &
16 Verification. As Manager, I had overall responsibility for strategic development and
17 planning of EWR programs, which included IRPs and EWR regulatory filings.
18 Additionally, I was responsible for ensuring program cost-effectiveness, evaluating
19 EWR programs, and applying the results to further enhance DTE Electric and DTE
20 Gas's offerings. I accepted a position as Manager for Renewable Energy Strategy
21 and Special Projects in 2023, where I supported activities related to maintaining
22 Renewable Portfolio Standard (“RPS”) compliance, planning and executing special
23 projects for renewable energy, and filing applications with the MPSC. I was
24 promoted to my current position in 2025.

Line
No.

1 **Q5. What is your current position with the Company?**

2 A5. My title is Director, Renewable Energy Planning and Strategy.

3 **Q6. What are your duties and responsibilities in your current position?**

4 A6. I continue to lead activities related to maintaining RPS compliance, planning and
5 executing special projects for renewable energy, and filing applications with the
6 MPSC, as I did in my previous role. In addition, I support activities related to land
7 acquisition, capital planning, and financial modeling for DTE Electric's renewable
8 energy portfolio.

10 **Q7. Have you previously sponsored testimony before the MPSC?**

11 A7. Yes. I have sponsored testimony in the following cases:

12 U-17362 SEMCO Energy Gas Company EO Plan Filing

13 U-18091 DTE Electric 2024 PURPA Filing

14 U-18419 DTE Electric Certificate of Necessity

15 U-20471 2019 DTE Electric Integrated Resource Plan

16 U-20876 2021-2022 DTE Electric EWR Plan

17 U-20881 2021-2022 DTE Gas EWR Plan

18 U-21193 2022 DTE Electric Integrated Resource Plan

19 U-21313 2022 DTE Electric and DTE Gas EWR Reconciliation

20 U-21353 2022 DTE Electric Renewable Energy Cost Reconciliation

21 U-21496 2023 DTE Electric Renewable Energy Plan Accounting Application

22 U-21550 2023 DTE Electric Renewable Energy Cost Reconciliation

23 U-21662 2024 DTE Electric Amended Renewable Energy Plan

Line
No.

1 **Purpose of Testimony**

2 **Q8. What is the purpose of your testimony?**

3 A8. The purpose of my direct testimony is to:

4 1) Provide an overview of the RPS framework and compliance requirements;

5 2) Explain how Renewable Energy Credits (“RECs”) are calculated to meet DTE
6 Electric’s RPS target;

7 3) Detail the impact of the Customer’s load on DTE Electric’s RPS requirements;

8 4) Provide a comparison of the increased REC demand to the Company’s Amended
9 Renewable Energy Plan (“REP”);

10 5) Discuss the Company’s strategy to meet increased RPS targets; and

11 6) Summarize the Company’s approach to updating its plans in future regulatory
12 filings.

13

14 **Q9. Are you sponsoring any exhibits in this proceeding?**

15 A9. Yes. I am sponsoring the following exhibits:

16 Exhibit Description

17 A-3 Renewable Portfolio Standard Compliance Summary

18

19 **Q10. Were these exhibits prepared by you or under your direction?**

20 A10. Yes, they were.

21

22 **Q11. How is the remainder of your testimony organized?**

23 A11. My testimony consists of the following four parts:

24 Part I: Statutory Framework

25 Part II: Customer Load Impacts on DTE Electric’s RPS Requirements

Line
No.

1 Part III: DTE Electric's Strategy and Build Plan

2 Part IV: Summary and Conclusions

3 **PART I: STATUTORY FRAMEWORK**

4 **Q12. What are the RPS targets established in Public Act 235 of 2023 ("PA 235")?**

5 A12. PA 235 establishes that an electric provider shall achieve a Renewable Energy
6 Credit ("REC") portfolio of at least the following:

7 a) Through 2029, 15% of total retail sales

8 b) In 2030 through 2034, 50% of total retail sales

9 c) In 2035 and each year thereafter, 60% of total retail sales

10

11 **Q13. What total retail sales figure does the Company use to determine its RPS**
12 **targets?**

13 A13. Consistent with Section 28(2)(b) of PA 235, the Company uses weather normalized
14 megawatt-hours of bundled load sold during the previous year, less the amount of
15 sales attributable to customers participating in a Voluntary Green Pricing program¹
16 and the outflow from customers participating in the distributed generation program,
17 as a basis for determining the RECs needed to satisfy the RPS targets.

18

19 **Q14. How are RECs generated to meet the RPS targets?**

20 A14. In general, one renewable energy credit is granted for each megawatt hour of
21 electricity generated from the renewable energy system. RECs can be generated
22 through several methods outlined in Section 28(5) of PA 235. This includes "(a)
23 Generating electricity from renewable energy systems for sale to retail customers.

¹ Voluntary green pricing is forecasted to account for an average of 17% of total bundled sales, as outlined in the Amended REP, Case No. U-21662.

Line
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1 (b) Purchasing or otherwise acquiring renewable energy and capacity. (c)
2 Purchasing or otherwise acquiring renewable energy credits without the associated
3 renewable energy or capacity...” REC-only purchases made under Section 28(5)(c)
4 shall not exceed 5% of the Company’s compliance amount.
5

6 **Q15. Can RECs be banked if not used towards RPS compliance in the year in which**
7 **they are generated?**

8 A15. Yes. Under Section 39(3) of PA 235, “A renewable energy credit expires at the
9 earliest of the following times: (a) When used by an electric provider to comply
10 with its renewable energy standard. (b) When substituted for an energy waste
11 reduction credit under section 77. (c) Five years after the end of the month in which
12 the renewable energy credit was generated.” Based on this provision, DTE Electric
13 may bank RECs for up to five years from their creation date.
14

15 **PART II: EVALUATION OF THE CUSTOMER’S LOAD IMPACTS ON DTE**

16 **ELECTRIC’S RPS REQUIREMENTS**

17 **Q16. What is the projected increase in DTE Electric’s load resulting from the**
18 **Customer (Green Chile Ventures LLC)?**

19 A16. As discussed in Company Witness Foley’s testimony, the Customer’s max load will
20 be approximately 1.4 GW. As such, their annual usage would be approximately
21 10.9 TWh².
22

23 **Q17. What amount of solar capacity (in MW) would DTE Electric need to install to**
24 **satisfy the RPS requirements for the additional load?**

² Estimate is based on an assumed load factor of 88.5%.

Line
No.

1 A17. Utilizing a simple mathematical estimate, if the Company were to meet the RPS
2 for this incremental load through new solar build only, DTE Electric would need to
3 install approximately 3.2 GW of additional solar capacity. This estimate is derived
4 from the following calculation³:

5
6
$$\frac{10,903,572 \text{ MWh/year}}{8,760 \text{ hours/year}} \times 60\% \div 23\% = 3,247 \text{ MW}$$

7 This amount would decrease if the incremental load were served by wind resources,
8 which typically has a higher net capacity factor⁴. However, this estimate does not
9 account for other factors such as banked RECs, which would be addressed in detail
10 within an Integrated Resource Plan (“IRP”) and Amended REP. The Commission
11 has concluded in Case No. U-21568 that IRPs are the best forum for evaluating
12 generation diversity and renewable resource planning, and that future REPs should
13 align with the assumptions in the latest IRPs.

14
15 **Q18. Relative to the Company’s latest Amended REP, what is the revised RPS**
16 **target after adjusting for the Customer’s load?**

17 A18. The RPS target from the Company’s most recent Amended Renewable Energy
18 Plan, Case No. U-21662, is presented in Line 28 of Exhibit A-3. The updated RPS
19 target reflecting the Customer’s load adjustments is shown in Line 16 of my Exhibit
20 A-3. Overall, the projected load is expected to increase total bundled sales, which
21 in turn will increase DTE Electric’s RPS target by approximately 30.5% based on
22 the methodology outlined in Part I of my testimony.

³ Analysis assumes 60% RPS, which takes effect in 2035, of the full ramp up, and a solar capacity factor of 23%

⁴ For example, assuming a 30.5% capacity factor for wind and a 50/50 split between wind and solar, the resulting capacity requirement would be 2.8 GW based on the same calculation described above.

Line
No.

1 **Q19. Based on the most recent Amended REP, what is the projected shortfall in**
2 **RECs for the Company in meeting its RPS targets, considering the additional**
3 **load in this filing?**

4 A19. Based on the Company's REC forecast in Case No. U-21662, the Company projects
5 a surplus of RECs through 2032. However, beginning in 2033 and continuing
6 through 2037, a negative REC balance is anticipated if the generation of RECs
7 remains unchanged, as shown in Table 1, below.

8

9

TABLE 1: Estimated Year-End REC Bank Balance

Year	2033	2034	2035	2036	2037
REC Balance	(1,534,948)	(1,432,120)	(3,372,106)	(3,784,147)	(1,816,539)

10

11 These REC balances are based on the fastest Customer Committed Capacity Ramp
12 allowed in the Primary Supply Agreement ("PSA"). If the Company delays their
13 scheduled ramp, as described by Company Witness Foley, the resulting REC
14 shortfall would be smaller, thereby reducing the number of RECs needed to
15 maintain compliance.

16

17 **PART III: DTE ELECTRIC'S STRATEGY AND BUILD PLAN**

18 **Q20. How can DTE Electric maintain RPS compliance considering the increased**
19 **REC requirements associated with the Customer's load?**

20 A20. The Company could maintain RPS compliance through a combination of strategies,
21 including expanding its renewable energy portfolio and/or drawing from its REC
22 bank. Expanding DTE Electric's renewable energy portfolio may include
23 developing new projects, securing additional Power Purchase Agreements

Line
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1 (“PPAs”), and/or Build-Transfer Agreements (“BTAs”). The renewable energy
2 build plan will be evaluated in the next IRP, to be filed in 2026.

3

4 **Q21. When does the Company begin accumulating excess RECs in its REC bank to**
5 **support increased RPS targets?**

6 A21. According to DTE Electric’s most recent Amended REP, the Company begins to
7 see a material increase in its REC balance starting in 2027. Refer to Exhibit A-3,
8 Line 29 for year-end balances. This timing corresponds closely with the expected
9 progression of the Customer’s capacity ramp.

10

11 **Q22. If the Company were to use its REC bank to the maximum extent to maintain**
12 **RPS compliance, how much additional renewable energy capacity would be**
13 **needed?**

14 A22. In comparison to the Company’s most recent Amended REP, the Company
15 estimates that 443 MW of additional renewable energy resources would be needed
16 by 2032. This estimate assumes a proportional allocation between wind and solar
17 that is consistent with the resource mix in the Company’s most recently approved
18 Amended Renewable Energy Plan. Refer to Exhibit A-3, Line 31 for the updated
19 REC balance including the additional 443 MW.

20

21 **Q23. In this scenario, would DTE Electric defer adding the additional capacity until**
22 **2032?**

23 A23. No. The year 2032 represents the latest point by which the resources must be in
24 place to ensure RPS compliance. DTE Electric plans to advance the development
25 of these resources where feasible. Accelerating deployment prior to 2032 would

Line
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1 allow the Company to generate and bank additional RECs, supporting compliance
2 in future years.

3

4 **Q24. Whether DTE Electric expands its renewable generation portfolio or fully**
5 **leverages its REC bank, does the Company expect that sufficient renewable**
6 **energy projects will be available to support the increased RPS target?**

7 A24. Yes. DTE Electric has a robust and diversified strategy to meet the increased RPS
8 requirements associated with the projected Customer load. The Company's
9 approach includes a combination of:

- 10 1. **Company-Owned Projects:** DTE Electric is actively developing new wind
11 and solar facilities, with many projects already in the pre-construction or
12 permitting phases.
- 13 2. **PPAs:** The Company continues to pursue PPAs with third-party developers.
14 Several PPAs are currently under negotiation and are expected to contribute
15 to the required capacity.
- 16 3. **Strategic Acquisitions:** Where feasible, DTE Electric will evaluate
17 acquisition opportunities for operational or near-operational renewable
18 assets that can be integrated into its portfolio to accelerate compliance
19 timelines.
- 20 4. **Phased Capacity Additions:** The estimated 443 MW of additional
21 renewable capacity may be incorporated through a phased buildout, with
22 annual targets aligned to projected load growth and REC requirements. This
23 phased approach will ensure flexibility and allows for adjustments based on
24 customer ramp-up scenarios.

Line
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1 **5. Technology Mix Optimization:** The resource mix will balance wind and
2 solar technologies to optimize generation profiles and grid reliability.

3
4 All of these efforts are coordinated within the framework of DTE Electric's IRP and
5 REP. The Company's development pipeline includes sufficient projects to meet the
6 incremental demand, and ongoing stakeholder engagement ensures alignment with
7 regulatory expectations and market conditions.

8

9 **Q25. Has the Commission provided guidance on the renewable energy build plan**
10 **assumptions in an Amended REP?**

11 A25. Yes. In the April 25, 2024 Order in Case No. U-21568, the Commission held "IRPs
12 remain the most appropriate venue to consider generation diversity as well as
13 renewable resource planning because IRPs allow for the full assessment of
14 renewable resources against other resources (including the consideration of the
15 value of the various resource types and attributes as expressed by commenters). In
16 turn, future amended REPs should reflect the assumptions included in the
17 providers' most recently approved IRP."

18

19 **Q26. What is the anticipated timeline for the Company to submit an updated**
20 **renewable energy build plan addressing compliance with the increased**
21 **Customer load?**

22 A26. The Company plans to submit a revised renewable energy build plan as part of its
23 next IRP filing, which is due no later than December 2026. Through the IRP
24 process, the Company will evaluate potential incremental additions to its renewable
25 portfolio and outline an optimized strategy to support RPS compliance.

Line
No.

1 **Q27. When is the Company expected to submit its next Amended REP**
2 **incorporating the Customer's load impacts?**

3 A27. The Company anticipates filing its next Amended REP in 2027.
4

5 **Q28. Does the timing of these filings provide DTE Electric with sufficient**
6 **opportunity to address the increased RPS requirements associated with the**
7 **Customer's load?**

8 A28. Yes. The timing of the 2026 IRP and the 2027 Amended REP aligns well with the
9 anticipated ramp of the Customer. This provides DTE Electric with a multi-year
10 planning window to adjust its renewable energy strategy accordingly.
11

12 The 2026 IRP will detail DTE Electric's approach to maintaining RPS compliance.
13 The 2027 Amended REP will further define these plans, detailing DTE Electric's
14 REC acquisition strategy and further ensuring compliance with RPS targets.
15 Together, these filings provide a structured and timely framework to accommodate
16 the incremental load while maintaining regulatory compliance.
17

18 **PART IV: SUMMARY AND CONCLUSIONS**

19 **Q29. Is DTE Electric well-positioned to meet the increased RPS requirements**
20 **associated with incremental Customer load?**

21 A29. Yes. DTE Electric remains committed to supporting the RPS and has a defined path
22 for achieving the additional REC requirements driven by the Customer load. My
23 testimony and exhibits in this filing demonstrate that:

24 1. DTE Electric will reassess its renewable energy build plan in its next IRP filing,
25 which will include consideration of the additional load and REC requirements;

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1 2. The incremental renewable energy capacity required to meet the increased RPS
2 could technically reach up to 3.2 GW, but may be as low as 443 MW by 2032 if
3 the Company fully leverages its estimated REC bank;

4 3. The Company's existing renewable energy portfolio and development pipeline
5 offer a credible and sufficient foundation to meet the elevated renewable energy
6 targets.

7

8 **Q30. Does this conclude your direct testimony?**

9 A30. Yes, it does.

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application of)
DTE ELECTRIC COMPANY)
for Approval of Special Contracts_____)

Case No. U-21990

EXHIBITS

OF

KEVIN L. BILYEU

Line No.			(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)	(l)
					2026	2027	2028	2029	2030	2031	2032	2033	2034	2035
1	Sales and Requirement Calculation		Source (U-21662)											
2	Method: Weather Normalized or 3 Year Average													
3	If Selected Weather Normalized:													
4	Current Year Sales to Retail Customers		Exh A-29 Column (i)		39,634,892	39,497,918	39,869,525	39,910,589	40,013,252	40,203,583	40,511,120	40,702,673	41,076,945	41,418,790
	Incremental Data Center Load				3,285	5,031,963	10,903,572	10,903,572	10,903,572	10,903,572	10,903,572	10,903,572	10,903,572	10,903,572
5	Less Number of Megawatt Hours Sold from Michigan Nuclear Energy				-	-	-	-	-	-	-	-	-	-
6	Current Year Weather Normalization Factor		Exh A-29 Column (i)		1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
7	Less VGP sales		WP-6		2,794,617	5,358,090	6,616,223	7,426,909	7,415,003	7,385,969	7,375,761	7,328,315	7,299,690	7,271,202
8	Less Outflow from DG Customers				55,355	68,099	83,171	100,829	121,202	143,020	164,705	185,876	204,715	222,048
9	Current Year Weather Normalized Sales				36,788,205	39,103,692	44,073,703	43,286,422	43,380,618	43,578,166	43,874,226	44,092,054	44,476,112	44,829,113
10	If Selected 3 Year Average:													
11	Current Year Retail Sales to Retail Customers													
12	Less Number of Megawatt Hours Sold from Michigan Nuclear Energy													
13	Less VGP sales													
14	Less outflow from DG customers													
15	3 Year Average of sales													
16	RPS Required Energy Credits (For 2026 through 2029 15%, 2030 through 2034 50% 2035 and beyond 60%)		Calculated		5,667,532	5,518,231	5,865,554	6,611,055	21,643,211	21,690,309	21,789,083	21,937,113	22,046,027	26,685,667
17	Energy Credits													
18	Energy Credit Beginning Balance		Row 26		2,455,332	2,833,451	5,401,790	9,222,777	14,667,818	7,927,378	3,431,971	55,432	(1,534,948)	(1,432,120)
19	Plus: Energy Credits Obtained Through Generation/BOT		Exh A-4 +WP-4 KLB (IRECs)		3,405,313	4,785,213	5,979,683	7,689,837	9,356,714	11,743,705	13,258,615	15,574,681	17,938,444	20,437,898
20	Plus: Energy Credits Obtained Through PPA		Exh A-4 +WP-4 KLB (IRECs)		2,356,962	3,025,469	3,451,320	4,117,483	4,736,487	4,639,271	4,337,065	3,947,786	3,380,699	3,300,608
21	Plus: Energy Credits Obtained Through REC Purchases		Exh A-4 line 7		283,377	275,887	255,538	248,776	809,571	811,926	816,865	824,266	829,712	1,007,176
22	Less: Energy Credits Sold				-	-	-	-	-	-	-	-	-	-
23	Available Energy Credits (Rows 18 + 19 + 20 + 21 - 22)		Calculated		8,500,983	10,920,020	15,088,331	21,278,873	29,570,589	25,122,280	21,844,515	20,402,166	20,613,907	23,313,561
24	Less: Compliance Requirement (Row 16)		Calculated		5,667,532	5,518,231	5,865,554	6,611,055	21,643,211	21,690,309	21,789,083	21,937,113	22,046,027	26,685,667
25	Less: Energy Credit Expired				-	-	-	-	-	-	-	-	-	-
26	Energy Credit Ending Balance (Rows 23 - 24 - 25)		Calculated		2,833,451	5,401,790	9,222,777	14,667,818	7,927,378	3,431,971	55,432	(1,534,948)	(1,432,120)	(3,372,106)
27	Base Case without Data Center Load													
28	RPS Required Energy Credits (For 2026 through 2029 15%, 2030 through 2034 50% 2035 and beyond 60%)		Exh A-2 line 16		5,667,532	5,517,738	5,110,759	4,975,520	16,191,425	16,238,523	16,337,297	16,485,327	16,594,241	20,143,524

Line No.	(a)	(b)	(m)	(n)	(o)	(p)	(q)	(r)	(s)	(t)	(u)	(v)
			2036	2037	2038	2039	2040	2041	2042	2043	2044	2045
1	Sales and Requirement Calculation		Source (U-21662)									
2	Method: Weather Normalized or 3 Year Average											
3	If Selected Weather Normalized:											
4	Current Year Sales to Retail Customers	Exh A-29 Column (i)	41,796,601	41,972,411	42,220,700	42,421,326	42,654,688	42,699,590	42,849,878	43,041,817	43,325,884	43,439,572
	Incremental Data Center Load		10,903,572	10,903,572	10,903,572	10,903,572	10,903,572	10,903,572	10,903,572	10,903,572	10,903,572	10,903,572
5	Less Number of Megawatt Hours Sold from Michigan Nuclear Energy		-	-	-	-	-	-	-	-	-	-
6	Current Year Weather Normalization Factor	Exh A-29 Column (i)	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
7	Less VGP sales	WP-6	7,261,222	7,214,626	7,186,536	7,158,575	7,148,812	7,103,051	7,075,484	7,048,047	7,038,504	6,993,562
8	Less Outflow from DG Customers		239,754	257,838	276,311	295,137	313,920	332,890	352,794	373,097	393,673	414,458
9	Current Year Weather Normalized Sales		45,199,197	45,403,519	45,661,425	45,871,186	46,095,527	46,167,221	46,325,172	46,524,244	46,797,279	46,935,124
10	If Selected 3 Year Average:											
11	Current Year Retail Sales to Retail Customers											
12	Less Number of Megawatt Hours Sold from Michigan Nuclear Energy											
13	Less VGP sales											
14	Less outflow from DG customers											
15	3 Year Average of sales											
16	RPS Required Energy Credits (For 2026 through 2029 15%, 2030 through 2034 50% 2035 and beyond 60%)	Calculated	26,897,468	27,119,518	27,242,111	27,396,855	27,522,711	27,657,316	27,700,333	27,795,103	27,914,546	28,078,367
17	Energy Credits											
18	Energy Credit Beginning Balance	Row 26	(3,372,106)	(3,784,147)	(1,816,539)	2,678,967	9,644,863	19,214,400	31,179,439	45,592,130	60,033,458	74,127,786
19	Plus: Energy Credits Obtained Through Generation/BOT	Exh A-4 +WP-4 KLB (IRECs)	23,189,448	25,812,563	28,475,980	31,113,974	33,847,982	36,399,106	38,902,443	39,038,455	38,815,294	38,478,159
20	Plus: Energy Credits Obtained Through PPA	Exh A-4 +WP-4 KLB (IRECs)	3,295,979	3,274,563	3,261,638	3,248,777	3,244,266	3,223,249	3,210,581	3,197,976	3,193,581	3,172,955
21	Plus: Energy Credits Obtained Through REC Purchases	Exh A-4 line 7	-	-	-	-	-	-	-	-	-	-
22	Less: Energy Credits Sold		-	-	-	-	-	-	-	-	-	-
23	Available Energy Credits (Rows 18 + 19 + 20 + 21 - 22)	Calculated	23,113,321	25,302,979	29,921,078	37,041,718	46,737,111	58,836,755	73,292,463	87,828,561	102,042,332	115,778,899
24	Less: Compliance Requirement (Row 16)	Calculated	26,897,468	27,119,518	27,242,111	27,396,855	27,522,711	27,657,316	27,700,333	27,795,103	27,914,546	28,078,367
25	Less: Energy Credit Expired		-	-	-	-	-	-	-	-	-	-
26	Energy Credit Ending Balance (Rows 23 - 24 - 25)	Calculated	(3,784,147)	(1,816,539)	2,678,967	9,644,863	19,214,400	31,179,439	45,592,130	60,033,458	74,127,786	87,700,532
27	Base Case without Data Center Load											
28	RPS Required Energy Credits (For 2026 through 2029 15%, 2030 through 2034 50% 2035 and beyond 60%)	Exh A-2 line 16	20,355,325	20,577,375	20,699,968	20,854,712	20,980,568	21,115,173	21,158,189	21,252,960	21,372,403	21,536,224

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application of DTE Electric)
Company for Approval of Special Contacts) Case No. U-21990

PROOF OF SERVICE

STATE OF MICHIGAN)
) ss.
COUNTY OF WAYNE)

ESTELLA R. BRANSON states that on October 31, 2025, she served a copy of DTE Electric's Application for *ex parte* Approval of special contracts for electric service, Direct Testimony and Exhibits of Witnesses, Kevin L. Bilyeu and Neal T. Foley, in the above captioned matter, via electronic mail, upon the persons listed on the attached service list.

ESTELLA R. BRANSON

MPSC Case No. U-21990
SERVICE LIST

**MICHIGAN PUBLIC SERVICE
COMMISSION STAFF**

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