

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the complaint of)	
FRED CHAPMAN against DTE ENERGY)	Case No. U-20332
COMPANY.)	
_____)	

At the October 17, 2019 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Sally A. Talberg, Chairman
Hon. Daniel C. Scripps, Commissioner
Hon. Tremaine L. Phillips, Commissioner

ORDER

History of Proceedings

On September 27, 2018, Fred Chapman (Complainant) filed a complaint against DTE Energy Company (DTE) in which he alleged a voltage spike occurred at his home on June 26, 2018. Complainant alleged that, “the failure was due to little, poor, and obviously inadequate maintenance on the offending critical piece of DTE Electric’s network.” Complaint, p. 2.

On November 28, 2018, DTE Electric Company (DTE Electric)¹ filed an answer and affirmative defenses. An evidentiary hearing was held on December 6, 2018, before Administrative Law Judge Kandra K. Robbins (ALJ). Complainant, DTE Electric, and the Commission Staff (Staff) participated in the hearing. During the hearing the parties agreed to

¹ DTE determined that the complaint alleged rule violations related to actions required to be taken by DTE Electric. Accordingly, DTE Electric, not DTE, answered the complaint and participated in the contested proceeding.

adjourn to allow Complainant an opportunity to amend his complaint, to give the Staff an opportunity to receive answers to questions raised in testimony, and to allow DTE Electric an opportunity to properly respond to all of the issues.

On December 18, 2018, Complainant filed an amended complaint. Complainant alleged that, “[t]he cause of this voltage surge has yet to be determined, as well as any plan to keep this from reoccurring.” Complainant’s amended complaint, p. 2.

On January 29, 2019, the Staff filed a response to the amended complaint stating that the Staff had not received DTE Electric’s answer to the amended complaint. On February 22, 2019, DTE Electric filed an answer and affirmative defenses to the amended complaint. On March 1, 2019, Complainant filed a response to the affirmative defenses. On March 11, 2019, the Staff filed a response to the amended complaint reserving its right to state its position, policy, or recommendations based upon the evidence pursuant to Mich Admin Code, R 792.10418.

The evidentiary hearing was continued on April 24, 2019. On June 27, 2019, the ALJ issued her Proposal for Decision (PFD). The ALJ provided the parties the opportunity to file exceptions to the PFD by July 18, 2019, and replies to exceptions by August 1, 2019. Complainant filed exceptions on July 15, 2019. Exceptions were also filed by DTE Electric on July 18, 2019. DTE Electric filed replies to exceptions on August 1, 2019. The record consists of 219 pages of transcript and 19 exhibits admitted into evidence.

Background

Complainant alleged that on the morning of June 26, 2018, he was at home in his basement “when all of a sudden ‘all hell broke loose.’ Motors which were previously off, started making growling noises and billowing smoke, and lights streaked on super bright then went dark.”

Complaint, p. 1. After the power went out, Complainant indicated he went outside to a “beautiful

Summer morning – no wind, no storms, no lightning, no falling trees” to find that he and 12 of his neighbors were all without power. *Id.* A DTE Electric technician arrived within an hour to attempt to restore the power. The technician discovered a failed transformer in Complainant’s backyard, the transformer was replaced, and a crew was dispatched to clean up the oil that spilled from the transformer. *Id.* Complainant stated, “[T]he weather was perfectly calm, mild, and dry. Additionally, there was no physical damage to the failed transformer as might be caused by falling trees, meteors, or other ‘Acts of God.’” *Id.*, pp. 1-2. Complainant concluded that “the failure was due to little, poor, and obviously inadequate maintenance on the offending critical piece of DTE Electric’s network.” *Id.*, p. 2. Complainant further alleged that “[t]he result of this negligence was the significant damage to our equipment, and in two other homes, actual burn damage to floors where certain electrical devices were placed.” *Id.* On December 18, 2018, Complainant filed an amended complaint, in which Complainant summarized his arguments alleging that the cause of the outage had not been determined, nor was there a plan to prevent a recurrence. Complainant’s amended complaint requested an accounting of the cause and a detailed plan to prevent a recurrence as the relief sought from the complaint. Amended complaint, p. 2.

Proposal for Decision

In her PFD, the ALJ made several findings of fact and conclusions of law. On pages 10-11 of the PFD, the ALJ found the following facts: (1) a power outage occurred on June 26, 2018, at 8:15 a.m. affecting Mr. Chapman and several other homes; (2) DTE Electric sent an overhead lineman to restore power and determine the cause of the outage; (3) the lineman discovered and fixed a failed tap restoring some power in the area; (4) the tap repair did not restore power to Complainant; (5) the lineman observed a failed transformer and an approximate two gallon oil leak from the transformer; (6) the lineman determined the failed transformer was the likely cause of the

continued outage at Complainant's home; (7) the lineman requested a crew to replace the failed transformer; (8) the failed transformer was replaced, sent to defective equipment based on the oil leak, and never inspected; (9) DTE Electric does not know what caused the tap to fail or the transformer to fail; (10) the outage was caused by the failed tap line; (11) some members of the public also lost power because of a failed transformer; (12) the transformer located at Complainant's residence failed and resulted in an oil leak; (13) it is impossible to determine if the primary voltage in the transformer came into contact with the secondary voltage resulting in a surge as the inside of the transformer was not inspected; (14) advanced metering infrastructure (AMI) meters measure voltages at the meter level in 15-minute intervals and capture every outage or momentary voltage sag or spike; (15) AMI meter data is stored in the data mainframe at DTE Electric; and (16) Complainant's power was restored at 1:53 p.m. on June 26, 2018, after being out for approximately 338 minutes. PFD, pp. 10-11.

In her PFD, the ALJ concluded that, although Complainant did not specifically allege a particular rule or standard violation, Complainant stated that DTE Electric had failed to maintain its equipment and failed to provide an adequate explanation of the cause for the outage. The ALJ further concluded that the record supports finding a violation of a rule. The ALJ noted that the Staff specified Mich Admin Code, R 460.3705 (Rule 705) in its initial brief. *Id.*, pp. 12-13. The ALJ further concluded that, "Mr. Chapman's complaint allegations, despite not citing a specific rule, are clear and detailed providing sufficient notice to DTE Electric as to the nature of Mr. Chapman's claims." *Id.*, p. 13.

In her PFD, the ALJ concluded:

There was insufficient evidence presented to determine which event occurred first, the burned tap or blown transformer. From the record, it does not appear that the burned tap would have caused the blown transformer. It is unclear if the blown transformer would have caused the tap failure. This appears to be information that

would be necessary to comply with the requirement to determine a power outage cause under R 460.3705.

Id., p. 14. The ALJ further concluded that Complainant and the Staff stated facts which implied several possible violations of the Technical Standards for Electric Service rules, more specifically, Mich Admin Code, R 460.3501 (Rule 501); R 460.3502; R 460.3504 (Rule 504); R 460.3702; R 460.3703; R 460.3705; and R 460.3801. *Id.*, p. 17.

The ALJ found that Complainant and the Staff established sufficient evidence to conclude that DTE Electric violated Rule 705, which states, in pertinent part:

- (2) Each utility shall keep records of sustained interruptions of service to its customers and shall make an analysis of the records for the purpose of determining steps to be taken to prevent recurrence of the interruptions. The records shall include the following information concerning the interruptions:
 - (a) Cause.
 - (b) Date and time.
 - (c) Duration.

The ALJ also recommended that DTE Electric be required to provide the AMI meter data from the 13 effected homes for June 26, 2018, to the Staff. Finally, she recommended that any additional claims regarding the company's violation of rules be dismissed. *Id.*, p. 17.

Exceptions and Replies to Exceptions

Complainant takes exception to the ALJ's failure to find a voltage surge occurred at his residence on June 26, 2018. Complainant argues the affidavits from residents, the proof-of-loss statements, and his testimony prove there was a voltage surge. Complainant's exceptions, pp. 2-4. Complainant further excepts to the ALJ's failure to find an excessive electrical demand on the failed transformer and urges the Commission to find this excessive demand a failure to adhere to engineering practices as required by Rule 501. Complainant's exceptions, p. 4. Additionally, Complainant takes exception to the ALJ's failure to find that the line tap failure was caused by DTE Electric's failure to perform inspections in compliance with Rule 504. Complainant's

exceptions, pp. 4-5. Lastly, Complainant argues the ALJ's failure to conclude that the outage was the result of "a damaging and potentially lethal voltage surge" is an error and requests that the Commission's decision reflect this conclusion. Complainant's exceptions, pp. 5-6.

DTE Electric takes exception to the ALJ's finding of a violation of Rule 705. DTE Electric argues that there are two reasons the Commission should reject this finding. First, DTE Electric argues, as a matter of law, the company is only required to keep records of interruptions and to make an analysis of those records, but it is not required to keep and analyze failed equipment. DTE Electric's exceptions, pp. 1-3. Second, DTE Electric asserts that Complainant never stated the specific rule alleged to have been violated by DTE Electric, therefore; DTE Electric was not provided proper notice and the allegation is untimely and should be dismissed. DTE Electric's exceptions, pp. 3-4.

In reply to Complainant's exceptions, DTE Electric argues that the ALJ was correct in giving limited weight to Exhibit C-9 and not concluding a voltage surge occurred. DTE Electric's replies to exceptions, pp. 1-2. Further, in reply, DTE Electric argues the ALJ was correct in concluding that there was not sufficient evidence to show an excessive electrical demand on the transformer. DTE Electric's replies to exceptions, p. 2. Additionally, DTE Electric asserts that Complainant is attempting to expand the record in his exceptions by claiming a violation of Rule 504 related to lack of inspection for line taps. DTE Electric argues this is an untimely claim and should be rejected. DTE Electric's replies to exceptions, p. 3. Lastly, in reply to Complainant's exceptions, DTE Electric argues that Complainant did not meet his burden of proof that DTE Electric violated any rules and urges the Commission to dismiss the complaint. DTE Electric's replies to exceptions, p. 4.

Discussion

Complainant argues in his exceptions that the ALJ should have determined there was a power surge at his home on June 26, 2018. Upon reviewing the record, the Commission agrees with the ALJ's findings of fact and agrees the record does not support a finding of a power surge at Complainant's home. Additionally, the Commission agrees with the ALJ's recommendation that DTE Electric should be required to provide to the Commission available AMI data to the Staff. Therefore, DTE Electric shall provide, to the Staff, the following information recorded on the AMI system for the circuit serving Mr. Chapman:

1. For the distribution circuit (ARGO 0326) serving Mr. Chapman, all voltage events ($\pm 12\%$) recorded by the AMI system, and their location, between the dates of June 1, 2017 and June 30, 2018.
2. The unaltered AMI meter data received from Mr. Chapman's residence for the time period between June 1, 2017, to June 30, 2018.
3. AMI measurements of average voltage, instantaneous voltages and minimum/maximum voltages for each metering interval between the dates of June 1, 2017, and June 30, 2018 for all 13 residences affected by the transformer failure.

Furthermore, DTE Electric shall provide Mr. Chapman the AMI voltage data outlined in part 3 above for Complainant's property for the four-day period covering June 25, 2018 through June 28, 2018. The Commission will continue to explore whether there is a need for residential customers to have increased access to request from the utility power quality and voltage data captured and retained by installed AMI meters.

Additionally, Complainant argues in his exceptions that the ALJ erred by not finding that DTE Electric caused the outage by failing to properly and regularly inspect its equipment and by

creating excessive electrical demands on the transformer. As stated by DTE Electric in its replies to exceptions, Complainant failed to produce sufficient evidence to substantiate these allegations. DTE Electric's replies to exceptions, p. 2. The Commission agrees with the ALJ and DTE Electric that there is insufficient evidence on the record to alter the ALJ's findings, however; the Commission reminds DTE Electric of its obligations to inspect and maintain equipment based on Commission rules. The company's current practice to inspect transformers upon electrical failure should be examined as part of its long-term distribution investment and maintenance plan.

DTE Electric argues in its exceptions that it is only required to keep and analyze interruption records, not failed equipment. The Commission agrees; however, there is nothing in the record to indicate that DTE Electric kept and analyzed records in accordance with Rule 705. Rule 705 states in pertinent part:

(2) Each utility shall keep records of sustained interruptions of service to its customers and shall make an analysis of the records for the purpose of determining steps to be taken to prevent recurrence of the interruptions.

DTE Electric provided no evidence that the records included an analysis "for the purpose of determining steps to be taken to prevent recurrence of the interruptions;" nor did DTE Electric provide a record which included the cause. PFD, pp. 14-15. The ALJ in her conclusions of law indicates that "[t]he question remaining is what caused the transformer to fail and what steps of [sic] any can be taken to prevent a recurrence." PFD, p. 17. The question would not remain if DTE Electric had complied with Rule 705, by producing records with a cause and with an analysis to determine a path to preventing a recurrence.

Furthermore, DTE Electric argues in its exceptions that it was not provided timely notice as to what rule was in question; however, it is clear from Complainant's amended complaint and from Complainant's testimony that the cause and prevention of recurrence were in question. 2 Tr 62,

88-89, 127-129. Furthermore, DTE Electric, in its February 22, 2019 answer and affirmative defenses to the amended complaint, states, “that it fully intends to comply with MCL 460.56 . . . [h]owever, failure to maintain is not the sole cause for transformer failures as implied by Complainant.” DTE Electric answer and affirmative defenses to the amended complaint, p. 3. Based on DTE Electric’s assertion it would comply with providing books and records for examination by the Commission, pursuant to MCL 460.56, along with Complainant requesting a cause for the outage and an analysis to prevent recurrence, the Commission finds it is a reasonable inference that DTE Electric was provided sufficient notice to know that compliance with Rule 705, requiring records stating the cause and providing an analysis, was in question. DTE Electric was aware the cause of the interruption was in dispute, DTE Electric testified that it did not investigate the cause, and, as a regulated entity, DTE Electric is aware that it is required to comply with the administrative rules. As indicated by DTE Electric, the cause of the outage was uncertain.

2 Tr 127-129. Given that DTE Electric did not ascertain the cause of the outage, the company could not have included it in a record or conducted the required analysis to prevent recurrence. Rule 705 requires DTE Electric to maintain a record, including a cause, for an interruption. The evidence and testimony presented demonstrate that a Rule 705 violation occurred.

Conclusion

Complainant and the Staff have proven, by a preponderance of the evidence, a violation of Rule 705. DTE Electric has failed to provide an analysis of its records to determine steps to be taken to prevent a recurrence of the interruption, nor did DTE Electric provide records stating the cause of the interruption. Therefore, the Commission adopts the ALJ’s recommended finding that DTE Electric violated Rule 705 and assesses DTE Electric a fine of \$500 pursuant to 1919 PA 419; specifically, MCL 460.55. Furthermore, the Commission adopts the ALJ’s recommendation

for DTE Electric to provide the AMI voltage data for all 13 affected homes to the Staff for the time period from June 1, 2017 through June 30, 2018; additionally, DTE Electric shall also provide Complainant with his individual AMI voltage data for the time period from June 25, 2018 through June 28, 2018.

THEREFORE, IT IS ORDERED that:

A. DTE Electric Company has violated Mich Admin Code, R 460.3705, by failing to provide a record with a cause for the incident on June 26, 2018, and failing to take steps to analyze the event to take steps to prevent a recurrence.

B. Within 30 days of the date of this order, DTE Electric Company shall pay a fine of \$500 to the State of Michigan by delivery of a check for that amount to the Commission's Executive Secretary. The funds shall be credited to the public utilities assessment account to finance the cost of regulating public utilities pursuant to MCL 460.61a. Fines paid in accordance with this order shall not be recovered in rates or passed through to customers in any manner.

C. Within 30 days of the date of this order, DTE Electric Company shall provide the Commission Staff with all requested advanced metering infrastructure meter data as outlined in this order.

D. Within 30 days of the date of this order, DTE Electric Company shall provide Fred Chapman with all advanced metering infrastructure meter data for his individual residence for the time period of June 25, 2018, through June 28, 2018.

E. The remaining claims in the complaint and amended complaint filed by Fred Chapman are dismissed.

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

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, under MCL 462.26. To comply with the Michigan Rules of Court's requirement to notify the Commission of an appeal, appellants shall send required notices to both the Commission's Executive Secretary and to the Commission's Legal Counsel.

Electronic notifications should be sent to the Executive Secretary at mpscedockets@michigan.gov and to the Michigan Department of the Attorney General - Public Service Division at pungp1@michigan.gov. In lieu of electronic submissions, paper copies of such notifications may be sent to the Executive Secretary and the Attorney General - Public Service Division at 7109 W. Saginaw Hwy., Lansing, MI 48917.

MICHIGAN PUBLIC SERVICE COMMISSION

Sally A. Talberg, Chairman

Daniel C. Scripps, Commissioner

Tremaine L. Phillips, Commissioner

By its action of October 17, 2019.

Lisa Felice, Executive Secretary


PROOF OF SERVICE

STATE OF MICHIGAN)

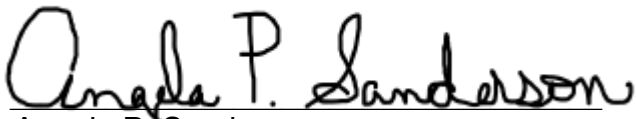
Case No. U-20332

County of Ingham)

Brianna Brown being duly sworn, deposes and says that on October 17, 2019 A.D. she electronically notified the attached list of this **Commission Order via e-mail transmission**, to the persons as shown on the attached service list (Listserv Distribution List).


Brianna Brown

Subscribed and sworn to before me
this 17th day of October 2019.



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

Service List for Case: U-20332

Name	Email Address
Benjamin J. Holwerda	holwerdab@michigan.gov
David S. Maquera	maquerad@dteenergy.com
DTE Energy Company	mpscfilings@dteenergy.com
Kandra Robbins	robbinsk1@michigan.gov

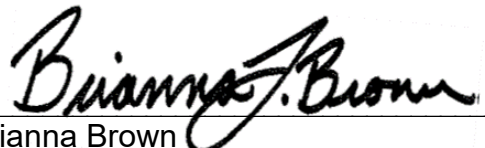
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STATE OF MICHIGAN)

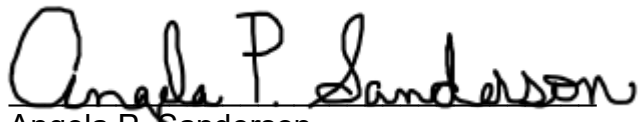
Case No. U-20332

County of Ingham)

Brianna Brown being duly sworn, deposes and says that on October 17, 2019 A.D. she served a copy of the attached Commission order by first class mail, postage prepaid, or by inter-departmental mail, to the persons as shown on the attached service list.


Brianna Brown

Subscribed and sworn to before me
this 17th day of October 2019.



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

U-20332 Service List

Fred Chapman

[REDACTED]

Ann Arbor, MI 48103