

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of DTE ELECTRIC COMPANY's)	
application for the regulatory reviews, revisions,)	
determinations, and/or approvals necessary)	Case No. U-20851
to fully comply with Public Act 295 of 2008.)	
_____)	

At the March 24, 2023 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Daniel C. Scripps, Chair
Hon. Tremaine L. Phillips, Commissioner
Hon. Katherine L. Peretick, Commissioner

ORDER

On December 12, 2022, DTE Electric Company (DTE Electric) filed an application (December 12 application) requesting *ex parte* approval by March 15, 2023, of the purchase and sales agreement necessary for DTE Electric to acquire 100% of the outstanding ownership interest of Terrapin Energy LLC (Terrapin Energy). Included with the application were the affidavit of Vielka M. Hernandez, Renewable Energy Strategy Manager for DTE Electric, and a redacted copy of the purchase and sale agreement between DTE Electric and GFS US Holding, LLC (GFS).

In its application, DTE Electric explains that, as a result of an unsolicited proposal that it received in August of 2022, DTE Electric entered into an agreement with GFS, the sole owner of Terrapin Energy, to acquire 100% of the outstanding ownership interests of Terrapin Energy, which owns the Big Turtle 2 wind project and a 60% interest in Big Turtle Interconnection, LLC,

which operates the interconnection facilities that Big Turtle 2 shares with Big Turtle 1.¹ Big Turtle 1 and 2 are wind parks located within DTE Electric's service territory in Huron County. Big Turtle 2 went online in 2016 and is currently operating. Per DTE Electric, the acquisition of Terrapin Energy and Big Turtle 2 will provide DTE Electric with 29.4 megawatts (MW) of renewable energy nameplate capacity. The acquisition also presents to the company the opportunity to provide 2023 generation to MIGreenPower customers who otherwise could not be served until 2024 or later, at competitive pricing and terms that were not available through a traditional request for proposals (RFP) process, as demonstrated by the most recent RFP process conducted by DTE Electric in the summer of 2022. December 12 application, pp. 1-4.

DTE Electric explains that on June 9, 2021, the Commission issued an order in Case Nos. U-20713 *et al.* (June 9 order), which approved, as terms of a partial settlement agreement, DTE Electric's plans to develop for its voluntary green pricing (VGP) program 420 MW of renewable energy in 2022, 162 MW of renewable energy in 2023, 183 MW of renewable energy in 2024, and 132 MW of renewable energy in 2025. The June 9 order also approved an *ex parte* application for the company to develop the Freshwater Solar, LLC (Freshwater Solar) and White Tail Solar, LLC (White Tail Solar) renewable energy projects, totaling 320 MW, for DTE Electric's VGP build plan. December 12 application, p. 4; *see also*, June 9 order, p. 53; June 9 order, Exhibit A, p. 3. Since the issuance of the June 9 order, the Freshwater Solar and White Tail Solar projects have been terminated and delayed indefinitely, causing DTE Electric to postpone the commencement of MIGreenPower agreements, under which customers were expected to start receiving the benefits of the renewable energy assets in early 2023. Per DTE Electric, the

¹ The Commission approved a power purchase agreement between DTE Electric and Big Turtle Wind Farm, LLC, referred to in this order as Big Turtle 1, in the September 10, 2013 order in Case No. U-16582 (September 10 order). September 10 order, pp. 5-6.

termination and delay have also caused constraints on the potential for non-contracted customer enrollments. To address the delays and honor current and five future MIGreenPower customer agreements, DTE Electric received approval in the October 27, 2022 order in Case No. U-20851 (October 27 order) of 380 MW of projects to serve as replacements for the 320 MW deficit caused by the termination and delay, with the remaining 60 MW to count toward the 162 MW approved for DTE Electric's 2023 VGP generic solar build. December 12 application, pp. 4-5; December 12 application, Affidavit of Vielka M. Hernandez, p. 5; *see also*, October 27 order, p. 7. The company contends that the acquisition of Big Turtle 2 will allow DTE Electric to fulfill 29.4 MW of the remaining 102 MW of 2023 generic solar build approved by the Commission for MIGreenPower that has not yet been sourced. December 12 application, Affidavit of Vielka M. Hernandez, p. 4.

DTE Electric states that the estimated levelized cost of energy (LCOE) for Big Turtle 2 is expected to be \$48-\$50 per megawatt-hour (MWh), which is lower than the previously approved 2023 commercial operation date (COD) aggregate LCOEs of the four self-build projects that were selected as part of the most recent competitive procurement process for renewable energy and capacity conducted by the company in mid-2022. The previously approved 2023 COD LCOE range for the aggregate four projects was \$51-\$53 per MWh. December 12 application, Affidavit of Vielka M. Hernandez, p. 5.

With its request for approval of the purchase and sale agreement with GFS, DTE Electric also seeks *ex parte* approval of: (1) the associated transfer prices set forth in Exhibit A-5 filed in Case No. U-21010 for recovery under the company's power supply cost recovery (PSCR) plan; (2) the capacity charges, which are included in the transfer prices set forth in Exhibit A-4 filed in Case No. U-21010; (3) the recovery of the costs of the purchase under the purchase and sale agreement

through DTE Electric's revenue recovery mechanism as an incremental cost of compliance with the renewable energy standards under the company's amended renewable energy plan, as needed; (4) full assurance that the costs of Big Turtle 2 will be recovered through the combined application of the transfer price mechanism for PSCR recovery, application of the revenue recovery mechanism surcharges under Public Act 295 of 2008 and other mechanisms as determined by the Commission to recover these costs after the renewable energy plan period in accordance with MCL 460.1047(6) for any unsubscribed portions of the generation from Big Turtle 2; and (5) any additional approvals the Commission determines to be necessary. December 12 application, pp. 1-2. Further, DTE Electric asserts that *ex parte* approval is appropriate pursuant to MCL 460.6a(3) because approval of the December 12 application will not result in an alteration or amendment in rates or rate schedules or an increase in the cost of service to customers as the purchase and sale agreement is consistent with the approvals in the June 9 order. December 12 application, pp. 7-8.

Discussion

MCL 460.1028(4) states:

For an electric provider whose rates are regulated by the commission, the electric provider shall submit a contract entered into for the purposes of subsection (3) to the commission for review and approval. If the commission approves the contract, it shall be considered consistent with the electric provider's renewable energy plan. The commission shall not approve a contract based on an unsolicited proposal unless the commission determines that the unsolicited proposal provides opportunities that may not otherwise be available or commercially practical through a competitive bid process.

MCL 460.1061 states:

An electric provider shall offer to its customers the opportunity to participate in a voluntary green pricing program under which the customer may specify, from the options made available by the electric provider, the amount of electricity attributable to the customer that will be renewable energy. If the electric provider's rates are regulated by the commission, the program, including the rates paid for renewable energy, must be approved by the commission. The customer is

responsible for any additional costs incurred and shall accrue any additional savings realized by the electric provider as a result of the customer's participation in the program. If an electric provider has not yet fully recovered the incremental costs of compliance, both of the following apply:

(a) A customer that receives at least 50% of the customer's average monthly electricity consumption through the program is exempt from paying surcharges for incremental costs of compliance.

(b) Before entering into an agreement to participate in a commission-approved voluntary green pricing program with a customer that will not receive at least 50% of the customer's average monthly electricity consumption through the program, the electric provider shall notify the customer that the customer will be responsible for the full applicable charges for the incremental costs of compliance and for participation in the voluntary renewable energy program as provided under this section.

The Commission has reviewed DTE Electric's application and supporting documents and finds that the purchase and sale agreement is consistent with the company's current VGP plan and should be approved. The Commission further finds that *ex parte* review and approval are appropriate as approval of the contract will not result in an increase in rates or charges for customers beyond levels previously approved by the Commission. *See*, MCL 460.6a(3).

THEREFORE, IT IS ORDERED that the purchase and sale agreement between DTE Electric Company and GFS US Holding, LLC is approved.

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

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

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

MICHIGAN PUBLIC SERVICE COMMISSION

Daniel C. Scripps, Chair

Tremaine L. Phillips, Commissioner

Katherine L. Peretick, Commissioner

By its action of March 24, 2023.

Lisa Felice, Executive Secretary


PROOF OF SERVICE

STATE OF MICHIGAN)

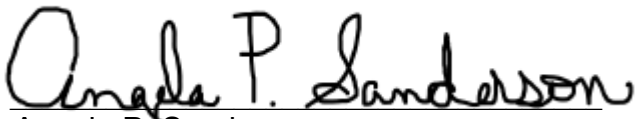
Case No. U-20851

County of Ingham)

Brianna Brown being duly sworn, deposes and says that on March 24, 2023 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 24th day of March 2023.



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

Service List for Case: U-20851

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Thumb Electric Cooperative

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