

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the complaint of)	
MELISSA BURWELL against)	
DTE ENERGY COMPANY.)	Case No. U-21661
_____)	

At the May 15, 2025 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Daniel C. Scripps, Chair
Hon. Katherine L. Peretick, Commissioner
Hon. Alessandra R. Carreon, Commissioner

ORDER

Procedural History

On May 29, 2024, Melissa Burwell (Ms. Burwell or Complainant) filed a formal complaint (Complaint) in this docket against DTE Energy Company (DTE or Respondent) alleging that DTE violated Mich Admin Codes R 460.101, R 460.102, R 460.102a, R 460.102b, R 460.103, R 460.113, R 460.115a, R 460.117, R 460.121, R 460.122, R 460.123, R 460.129, R 460.131, R 460.140, R 460.146, R 460.150, and R 460.153, through the operation of its Budget Wise Billing Plan (BWB plan). The Complainant requests that the Commission order DTE to refund her accumulated credit amount; refund her account from alleged overcharged fees from November 2023 through May 2024, correcting such amount; and re-establish and update her BWB plan. *See,*

Complaint, pp. 2-3.¹ On July 24, 2024, the Respondent filed an answer to the Complaint, including affirmative defenses (Answer).

On July 31, 2024, a prehearing conference was held before Administrative Law Judge Christopher S. Saunders (ALJ). On November 12 and 18, 2024, the ALJ held two days of evidentiary hearings. The Complainant, appearing in *pro per*, the Commission Staff (Staff), and the Respondent participated in the proceeding. On January 6, 2025, the Complainant, the Respondent, and the Staff filed post-hearing briefs. On February 11, 2025, the ALJ issued a Proposal for Decision (PFD), recommending denial of the Complainant's request to find DTE in violation of the following rules: Mich Admin Code, R 460.101, R 460.102, R 460.102a, R 460.102b, R 460.103, R 460.113, R 460.115, R 460.115a, R 460.117, R 460.121, R 460.122, R 460.123, R 460.129, R 460.131, R 460.140, R 460.146, R 460.150, and R 460.153. No party to this proceeding filed exceptions or replies to exceptions, although such were due by March 4, 2025, and March 18, 2025, respectively. The record consists of 134 pages of testimony and 13 exhibits admitted into evidence.

Legal Framework

Mich Admin Code, R 460.101 (Rule 1) provides:

- (1) These rules apply to utility service that is provided by electric and natural gas utilities that are subject to the jurisdiction of the public service commission.
- (2) These rules are intended to promote safe and adequate service to the public and to provide standards for uniform and reasonable practices by electric and natural gas utilities in dealing with residential and nonresidential customers.
- (3) These rules do not relieve a utility from any of its duties under the laws of this state.

¹ The Complaint was not paginated; therefore, pages are referred to in natural order beginning with the first page of the Complaint.

Mich Admin Code, R 460.102 (Rule 2) provides:

As used in these rules:

- (a) “Actual meter reading” means a natural gas or electric meter reading that is based on the customer's actual energy use during the period reported and that complies with 1 of the following:
 - (i) Performed by a utility representative.
 - (ii) Performed by the customer and communicated to the company by mail, telephone, fax, on a secure company website, or other reasonable means.
 - (iii) Transmitted to the utility from the meter through a secure communication channel or by an automated or remote meter reading device.
- (b) “Aggregate data” means any customer account information from which all identifying information has been removed so that the individual data or information of a customer cannot be associated with that customer without extraordinary effort.
- (c) “Answer” means that a utility representative, voice response unit, or automated operator system is ready to render assistance or ready to accept information necessary to process the call.
- (d) “Applicant” means an emancipated minor, an individual 18 years of age or older, or a business entity requesting utility electric or natural gas service in the name of that individual or entity.
- (e) “Billing error” means an undercharge or overcharge that is caused by any of the following:
 - (i) An incorrect actual meter reading by a company representative.
 - (ii) An incorrect remote meter reading.
 - (iii) An incorrect meter constant or pressure factor.
 - (iv) An incorrect calculation of the applicable rate.
 - (v) A meter switched by the utility or a utility representative.
 - (vi) An incorrect application of the rate schedule.
 - (vii) Failure to provide a monthly bill to the customer at the end of a billing cycle except as provided in these rules or other relevant tariffs.
 - (viii) Another similar act or omission by the utility in determining the amount of a customer's bill. An undercharge or overcharge that is caused by a non-registering meter, a meter error, or the use of an estimated meter reading or a customer reading is not a billing error.
- (f) “Billing month” means a natural gas or electric consumption period of not less than 26 days or more than 35 days.
- (g) “Billing specialist” means a representative of a utility who investigates and resolves meter reading discrepancies or errors.
- (h) “Call” means a measurable effort by a customer to obtain a telephone connection whether the connection is completed or not.
- (i) “Call blockage factor” means the percentage of calls that do not get answered.
- (j) “Commission” means the Michigan public service commission.
- (k) “Complaint determination” means the written decision of a hearing officer after a customer hearing.

- (l) “Complaint response” or “response” means a communication between the utility and the customer that identifies the problem and a solution to the complaint.
- (m) “Complaint response factor” means the annual percentage of the complaints forwarded to a utility by the commission that are responded to within the time period prescribed by these rules.
- (n) “Critical care customer” means any customer that requires, or has a household member who requires, home medical equipment or a life support system, and that, on an annual basis, provides a commission-approved medical certification form from a physician or medical facility to the utility identifying the medical equipment or life support system and certifying that an interruption of service would be immediately life-threatening.
- (o) “Customer” means an account holder that purchases electric or natural gas service from a utility.
- (p) “Customer hearing” means a hearing on a disputed matter before a hearing officer that a utility offers to a customer under the provisions of R 460.155.
- (q) “Cycle billing” means a system that renders bills for utility service to various customers on different days of a calendar month.
- (r) “Delinquent account” means an account with charges for utility service that remains unpaid 5 days or more after the due date.
- (s) “Eligible low-income customer” means a utility customer whose household income does not exceed 150% of the federal poverty guidelines as published annually in the Federal Register by the United States Department of Health and Human Services under its authority to revise the poverty line under 42 USC 9902, or who receives any of the following:
- (i) Supplemental security income from the Social Security Administration or low-income assistance through the department of health and human services or a successor agency.
 - (ii) Food stamps.
 - (iii) Medicaid.
- (t) “Eligible military customer” means a utility customer or spouse of a customer who is in the military and who meets all of the following:
- (i) Is on full-time active duty.
 - (ii) Is deployed overseas in response to a declared war or undeclared hostilities or is deployed within the United States in response to a declared national or state emergency and the household income is reduced as a result.
 - (iii) Notifies the utility of his or her eligibility.
 - (iv) Provides verification of eligibility if requested by the utility.
- (u) “Eligible senior citizen customer” means a utility customer who meets both of the following criteria:
- (i) Is 65 years of age or older.
 - (ii) Advises the utility of his or her eligibility.
- (v) “Energy assistance program” means a program that provides financial assistance or assistance in improving residential energy efficiency and energy conservation.
- (w) “Energy usage” means the consumption of electricity or natural gas.

(x) “Estimated bill” means a bill for service at the premises that is not based on an actual meter reading for the period being billed but that is based on calculations of how much natural gas or electricity a customer likely used during the billing period.

(y) “Formal hearing” means a dispute resolution process administered by an administrative law judge pursuant to these rules, applicable tariffs, and R 792.10101 to R 792.11903 concerning practice and procedure before the commission.

(z) “Formal hearing request” means a document describing how a regulated utility has violated these rules, a commission order, or a tariff that is presented in writing to the executive secretary of the commission.

Mich Admin Code, R 460.102a (Rule 2a) provides:

As used in these rules:

(a) “Gas cost recovery” means the adjustment in rates to recognize the cost of purchased natural gas.

(b) “Hearing officer” means a notary public who is qualified to administer oaths to conduct customer hearings against the utility company and who is on a list filed with the commission.

(c) “Heating season” means the period between November 1 and March 31.

(d) “In dispute” means that a matter is the subject of an unresolved disagreement, claim, or complaint against a utility by a customer, or the customer's authorized agent.

(e) “Informal complaint” means a matter that requires follow-up action or investigation by the utility or the commission to resolve the matter without a customer hearing or formal hearing.

(f) “Inquiry” means a question regarding a utility matter that is asked by the customer and answered by the utility or the commission.

(g) “Large nonresidential customer” means a nonresidential customer with usage of 300 Mcf [thousand cubic feet] or more of natural gas per year or 30,000 kWh [kilowatt-hour] or more of electric usage per year, including schools and centrally metered apartment buildings.

(h) “Late payment charge” means a finance, service, carrying, or penalty charge that is assessed by a utility because a bill or portion of a bill is delinquent.

(i) “Medical emergency” means an existing medical condition of the customer or a member of the customer's household, as defined and certified by a physician or public health official on a commission-approved medical certification form, that will be aggravated by the lack of utility service.

(j) “Meter” means a utility-owned device that measures the quantity of natural gas used by a customer, including a device that measures the heat content of natural gas or a utility-owned device that measures and registers the amount of electrical power used.

(k) “Meter creep” means a continuous apparent accumulation of energy in a meter with voltage applied and the load terminals open circuited.

- (l) “Meter error” means a failure to accurately measure and record all of the natural gas or electrical quantities used that are required by the applicable rate or rates.
- (m) “New customer” means a customer that has not received the utility's service within the previous 6 years.
- (n) “Occupant” means an individual or entity, other than the customer of record, occupying a premises.
- (o) “Peak season” means the period during which a utility experiences its maximum demand for electric or natural gas service.
- (p) “Positive identification information” means a consistently used appropriate identification including, but not limited to, either of the following:
 - (i) A driver license, identification card issued by a state, United States military card, United States military dependent's identification card, Native American tribal document, passport, or other government-issued identification containing a photograph.
 - (ii) Articles of incorporation, tax identification documents, business license, certificate of authority, or similar documents proving identity of a business.
- (q) “Power supply cost recovery” means the adjustment in rates to recognize the cost of purchased power and fuel for electric generation.
- (r) “Prepaid service” means a commission-authorized plan that entitles a utility to receive payments for service to a customer’s premises in advance of the customer’s actual usage of the service.
- (s) “Previous customer” means a customer that has received the utility's service within the previous 6 years but is not currently receiving service.
- (t) “Primary purpose” means the collection, use, or disclosure of information that a utility collects or a customer supplies when an authorized business need exists or as an emergency response requires in order to do any of the following:
 - (i) Provide, bill, or collect for regulated electric or natural gas service.
 - (ii) Provide for system, grid, or operational needs.
 - (iii) Provide services as state or federal law requires or as the utility’s approved tariff specifically authorizes.
 - (iv) Plan, implement, or evaluate programs, products, or services related to energy assistance, demand response, energy management, or energy efficiency.

Mich Admin Code, R 460.102b (Rule 2b) provides:

As used in these rules:

- (a) “Regulation officer” means a member of the commission staff who resolves complaints pursuant to these rules.
- (b) “Remote shutoff and restoration capability” means the ability to terminate or restore service to a premises from another location.
- (c) “Residential service or use” means the provision or use of electricity or natural gas for residential purposes.
- (d) “Satisfactory payment history” means that a customer's account was not delinquent more than 1 time in the past 12 months.

- (e) "Seasonally billed customer" means a customer who is billed on a seasonal basis pursuant to a utility tariff that is approved by the commission.
- (f) "Secondary purpose" means any purpose that is not a primary purpose.
- (g) "Settlement agreement" means a documented agreement that is entered into by a customer and a utility and that resolves any matter in dispute.
- (h) "Shutoff of service" means a discontinuance of utility service that is not requested by a customer.
- (i) "Small nonresidential customer" means a nonresidential customer with usage of less than 300 Mcf of natural gas per year or less than 30,000 kWh of electric usage per year, including schools and centrally metered apartment buildings.
- (j) "Termination of service" means a discontinuance of utility service that is requested by a customer or when there is no customer of record.
- (k) "Third party" means a person or entity that has no contractual relationship with the utility to perform services or act on behalf of the utility or customer.
- (l) "Unauthorized use of utility service" or "unauthorized use" means theft, fraud, interference, or diversion of service, including but not limited to, meter tampering which is any act that affects the proper registration of service through a meter; bypassing which is unmetered service that flows through a device connected between a service line and customer-owned facilities; and, service restoration by anyone other than the utility or its representative.
- (m) "Utility" means a firm, corporation, cooperative, association, or other legal entity that is subject to the jurisdiction of the commission and that provides electric or gas service.

Mich Admin Code, R 460.103 (Rule 3) provides:

A utility shall not discriminate against or penalize a customer for exercising any right granted by these rules.

Mich Admin Code, R 460.113 (Rule 13) provides:

- (1) Except as specified in these rules, a utility shall provide all customers with an actual meter reading each billing month.
- (2) A utility shall outline in its tariff a process that addresses missing or invalid usage data affecting the amount billed to a customer and that ensures the amount billed during the billing period is appropriate.
- (3) A utility may estimate a meter reading under any of the following circumstances:
 - (a) An actual meter reading cannot be obtained by any reasonable or applicable method described in R 460.102.
 - (b) An automated or remote meter reading device is not functioning and customer usage data cannot be retrieved.
 - (c) A utility meter reader does not have access to the meter.
 - (d) There is a condition at the meter location that puts the meter reader's safety at risk.

- (e) The utility bills the customer seasonally in accordance with its commission-approved tariffs.
- (4) If a utility estimates a meter reading pursuant to subrule (3)(c) or (3)(d) of this rule, the utility shall notify the customer of all of the following information:
 - (i) The reason for the estimated reading.
 - (ii) Safe access must be provided.
 - (iii) A customer has the option of reading the meter and submitting the actual meter reading to the utility pursuant to these rules.
 - (iv) A utility may install a remote meter, actual meter reading device, or other similar device that provides the utility with an actual meter reading.
- (5) If a meter reading equipment failure occurs, the utility shall make all reasonable efforts to replace or repair equipment so that not more than 2 estimated bills are issued.
- (6) A utility shall not use estimated meter reads to deny residential customers the benefit of a lower-tiered rate, if available.
- (7) If a utility cannot obtain an actual meter reading, then the utility shall maintain records of the efforts made to obtain such a reading and its reasons for failing to obtain it.
- (8) A utility may estimate customer bills only upon a finding by the commission that a utility's estimated bill procedures assure reasonable billing accuracy. A bill that is rendered on an estimated basis shall be clearly and conspicuously identified as such. A utility shall submit any substantive changes to its billing estimation procedures to the commission for approval.
- (9) An estimated bill that is generated because the actual meter reading is outside the range for the premises usage shall not be issued in consecutive months. If the utility is actively engaged in resolving the problem, an additional 30 days is permitted to correct the problem and obtain an actual meter reading.
- (10) If a utility shuts off service due to nonpayment, the utility shall complete a final reading, or, if unable to obtain an actual meter reading after reasonable attempts, the utility may estimate the bill.
- (11) If a utility estimates a customer's bill for 2 or more consecutive months and an actual meter reading is then obtained, the utility shall offer the residential and small nonresidential customer the opportunity to pay the bill over the same number of months as consecutively estimated bills. This subrule does not apply if the utility cannot obtain access to the meter and the customer fails to provide an actual meter reading if requested by the utility.

Mich Admin Code, R 460.115 (Rule 15) provides:

- (1) Meters with actual meter readings that are rejected by the utility billing system for 2 consecutive months because they are outside the expected range of the customer's usage for the premises shall be reviewed by a billing specialist, investigated, and, if necessary, the utility shall repair or replace the meter.
- (2) A utility shall calculate the period and amount of inaccuracy of electric meters pursuant to R 460.3101 to R 460.3804. A utility shall calculate the period and amount of inaccuracy of gas meters pursuant to R 460.2302 to R 460.2384.

(3) If a utility finds that an electric or gas meter has an average meter accuracy less than 98% or more than 102%, an adjustment for bills for the inaccuracy may be made in the case of under registration and must be made in the case of over registration.

(4) Notwithstanding the provisions of any other rule, except in the case of unauthorized use of utility service, back billing of customers or refunds to customers for meter errors is limited to the 12-month period immediately preceding discovery of the error. The customer shall be given a reasonable time in which to pay the amount of the back billing, after consideration of the amount of the back bill and the duration of the inaccuracy, and service shall not be shut off during this time for nonpayment of the amount of the back billing if the customer is complying with the repayment agreement.

(5) If the amount due the utility is more than \$5.00, the utility may bill the customer for the amount due. The utility shall offer the customer reasonable payment arrangements for the amount due. The bill for the undercharge may not include interest.

(6) If the amount of the refund due an existing or previous customer as the result of meter over registration is less than \$5.00, a refund is not required to be made. Paid overcharges must be credited to the existing customer or paid to a previous customer with 5% interest, commencing on the sixtieth day following payment.

Mich Admin Code, R 460.115a (Rule 15a) provides:

(1) An adjustment of bills for service for the period of inaccuracy must be made for over registration and may be made for under registration pursuant to any of the following conditions:

(a) A mechanical meter creeps.

(b) A metering installation is found upon any test to have an average inaccuracy of more than 2%.

(c) A meter registration has been found to be inaccurate due to apparent tampering by a person or persons known or unknown.

(2) The amount of the adjustment of the bills for service must be calculated on the basis that the metering equipment is 100% accurate with respect to the testing equipment used to make the test. The average accuracy of watt-hour meters must be calculated pursuant to R 460.3616.

(3) If the date when the inaccuracy in registration began can be determined, then that date must be the starting point for determining the amount of the adjustment and is subject to R 460.115.

(4) If the date when the inaccuracy in registration cannot be determined, then it is assumed that the inaccuracy existed for the period of time immediately preceding discovery of the inaccuracy that is equal to 1/2 of the time since the meter was installed on the present premises, 1/2 of the time since the last test, or 6 years, whichever is the shortest period of time, except as otherwise provided in subrule (5) of this rule and subject to R 460.115(4).

(5) The inaccuracy in registration due to creep must be calculated by timing the rate of creeping under R 460.3101 to R 460.3804 and by assuming that the creeping

affected the registration of the meter for the period of time immediately preceding discovery to the inaccuracy that is equal to 1/4 of the time since the meter was installed on the present premises, 1/4 of the time since the last test, or 6 years, whichever is the shortest period of time subject to R 460.115(4).

(6) If the average inaccuracy cannot be determined by test because part, or all, of the metering equipment is inoperative, then the utility may use the registration of check metering installations, if any, or estimate the quantity of energy consumed based on available data. The utility shall advise the customer of the metering equipment failure and of the basis for the estimate of the quantity billed. The same periods of inaccuracy must be used as explained in this rule.

(7) Recalculation of bills must be made on the basis of the recalculated monthly consumption.

(8) Refunds must be made to the 2 most recent customers that received service through the meter found to be inaccurate. If a former customer of the utility, a notice of the amount of the refund must be mailed to the customer at the customer's last known address. Upon demand made by the customer within 3 months of mailing of the notice, the utility shall forward the refund to the customer.

(9) If the external meter display is not operating so that the customer can determine the energy used, but the meter is recording energy correctly, then no adjustment is required. The utility shall repair or replace the meter promptly upon discovery of the failure.

Mich Admin Code, R 460.117 (Rule 17) provides:

A suit or proceeding shall not be maintained in a court for the purpose of restraining or delaying the collection or payment of an assessment made under this act. A person or corporation making a payment under this act, believing the amount to be excessive, erroneous, unlawful or invalid may file a statement of claim with the court of claims. In an action for recovery of a payment made under this act, the claimant may raise every relevant issue of law and fact, evidenced by the record made before the commission. The court of claims may review questions of law and fact involved in a final decision or determination of the commission made under this act. The procedure providing for the determination of the lawfulness of assessments and the recovery of payments made under this act shall be exclusive of all other remedies and procedures.

Mich Admin Code, R 460.121 (Rule 21) provides:

Upon a residential customer's request, a utility shall bill a residential customer with a satisfactory payment history under an equal monthly billing program, if the commission finds that the billing program assures reasonable billing accuracy. If a residential customer has a credit balance of more than \$10.00 at the end of the program year, upon the request of the customer, the utility shall either return the credit balance or credit it to the next month's bill. If the balance is less than \$10.00, the utility shall credit the amount to the residential customer's account.

Mich Admin Code, R 460.122 (Rule 22) provides:

A utility may use cycle billing if a customer receives a bill on or about the same day of each billing month. If a utility changes meter reading routes or schedules by more than 7 days, it shall provide notice to affected customers at least 10 days before making the change.

Mich Admin Code, R 460.123 (Rule 23) provides:

- (1) A utility shall permit each customer a period of not less than 21 days from the date the bill was sent to pay in full, unless the customer and the utility agree on a different due date. A utility shall not withdraw funds from a customer's account before the due date in cases where a customer uses an automatic bill payment plan unless the customer agrees to a different period.
- (2) Except as otherwise provided in subrule (3) of this rule, a utility shall not attempt to recover from a customer any outstanding bills or other charges due upon the account of any other person, unless that customer has entered into a lawful guarantee under R 460.112, or another lawful agreement to pay those bills and charges.
- (3) To avoid shut off of residential service pursuant to R 460.137(2)(b), when an occupant has lived with a residential customer within the last 3 years, currently resides with the customer, and the customer has a delinquent account that remains unpaid, is not in dispute, and accrued during shared residency, both are equally responsible for the unpaid bill. The utility shall advise the customer and occupant of the process by which the customer may refute this claim unless that customer has entered into a guarantee under R 460.112, or another agreement to pay those bills and charges.
- (4) The customer has the right to pay any delinquent account at any time prior to the shut off of service date to preserve uninterrupted service. After proper notice of shut off under R 460.139 and R 460.140 has been provided, it shall be the customer's responsibility to contact the utility and arrange payment before disconnection.
- (5) The utility may authorize an agent to accept payments on behalf of the utility. The authorized agent shall accept payment and provide payment verification, without request, that may be used by the customer to verify payment with the utility. The payment verification shall clearly state all of the following:
 - (a) That the payment may not be credited to the customer's account for up to 2 business days.
 - (b) Any charges or fees for use of the authorized agent services.
 - (c) That to avoid shutoff, the customer must contact the utility with verification of payment made to an authorized agent.
- (6) The authorized agent shall remit payments to the utility every other business day, at a minimum, and the company shall credit those payments to customer accounts within 1 business day of receiving them from the payment agent. Authorized agent locations shall be clearly marked as "Authorized Agent for

[Company].” The utility shall provide information on bills every 6 months that warns customers not to use unauthorized payment centers.

(7) Except in situations of unauthorized use of utility service, a combination utility company, when requested, shall permit eligible low-income customers to do any of the following:

- (a) Designate how partial payments shall be applied to their account.
- (b) Choose to retain either the electric service or natural gas service if faced with a shutoff, provided that the customer allows the utility to have access to the non-chosen service for shutoff.
- (c) Protect the retained service from shut off during the heating season, provided that payments for current usage are made on the retained service and the customer is in good standing with the utility on any payment plan for which the customer qualifies.

(8) Whenever an eligible low-income customer of a combination utility company receives a disconnect notice, the notice shall clearly show the customer has both of the following options:

- (a) An extended payment plan for both gas and electric service.
- (b) An extended payment plan to retain either gas or electric service as chosen by the customer.

Mich Admin Code, R 460.129 (Rule 29) provides:

(1) A utility shall annually inform each residential customer of all of the following information:

- (a) The federal and state energy assistance programs that are available and the eligibility requirements of the programs, as provided to the utility by the commission.
- (b) The medical emergency provisions of R 460.130.
- (c) The critical care customer provisions of R 460.130a.
- (d) The shutoff protection programs described in R 460.131 and R 460.132.
- (e) The military shutoff protections of R 460.133.

(2) The utility shall provide to residential customers the information required by subrule (1) of this rule. The information in subrule (1) of this rule may be explained on the customer's bill, provided as a bill insert, or provided by other means of transmittal. This information shall also be posted on the company's website. If the utility does not print an explanation on the customer's bill, then the utility shall, on the customer's bill, direct the customer to the bill insert or other transmittal.

(3) If additional information regarding energy assistance programs becomes available after the utility's initial notice to residential customers, the commission shall provide that information to all utilities. Within 60 days of receiving the information, the utility shall provide the new eligibility requirements or benefits levels for energy assistance programs to all of its residential customers and the new benefit levels to all customers currently enrolled in the programs.

(4) When a residential customer receives a past-due notice from the utility, the utility shall provide the customer access to information about energy assistance programs referenced in subrules (1) and (3) of this rule, which shall, at minimum,

include a telephone number of a utility representative who is able to provide this information.

Mich Admin Code, R 460.131 (Rule 31) provides:

(1) Except where unauthorized use of utility service has occurred, a utility shall not shut off service to an eligible low-income customer during the heating season for nonpayment of a delinquent account if the customer pays to the utility a monthly amount equal to 7% of the estimated annual bill for the eligible customer and the eligible customer demonstrates, within 14 days of requesting shutoff protection, that he or she has made application for state or federal heating assistance. If an arrearage exists at the time an eligible low-income customer applies for protection from shut off of service during the heating season, the utility shall permit the customer to pay the arrearage in equal monthly installments between the date of application and the start of the subsequent heating season.

(2) A utility may shut off service to an eligible low-income customer who does not pay the monthly amounts referred to in subrule (1) of this rule after giving notice in the manner required by these rules.

(3) If an eligible low-income customer fails to comply with the terms and conditions of this rule, a utility may shut off service after giving the customer notice, by personal service or first-class mail, which contains all of the following information:

(a) The eligible low-income customer has defaulted on the winter protection plan.

(b) The nature of the default.

(c) That unless the customer makes the payments that are past due under this rule within 10 days of the date of mailing, the utility may shut off service.

(d) The date on or after which the utility may shut off service, unless the customer takes appropriate action.

(e) That the customer has the right to file a complaint disputing the claim of the utility before the date of the proposed shut off of service by calling the company.

(f) That the customer has the right to request a hearing before a hearing officer if the complaint cannot be otherwise resolved and that the customer must pay to the utility that portion of the bill that is not in dispute within 7 business days of the date that the customer requests a hearing.

(g) That the customer has the right to represent himself or herself, be represented by counsel, or be assisted by other persons of his or her choice in the complaint process.

(h) That the utility will not shut off service pending the resolution of a complaint that is filed with the utility or the commission pursuant to these rules.

(i) The telephone number and address of the utility where the customer may make inquiry, enter into a payment plan or settlement agreement, or file a complaint.

- (j) That the customer should contact a social services agency immediately if the customer believes he or she might be eligible for emergency economic assistance.
 - (k) That the utility will postpone shut off of service if a medical emergency exists at the customer's residence and the customer provides the documentation as specified in R 460.147.
 - (l) That the utility may require a deposit and restoration charge if the utility shuts off service for nonpayment of winter protection monthly amounts.
 - (m) That the utility will not shut off service if the customer or the spouse of the customer is on active military duty.
- (4) At the conclusion of the heating season, the utility shall reconcile the accounts of eligible low-income customers and permit customers to pay any amounts owing in equal monthly installments between April 1 and October 31. A utility may shut off service to eligible customers who fail to make installment payments on a timely basis in the manner required by these rules.
- (5) Except where unauthorized use of utility service has occurred at a customer's premises within the past 2 years and the bill remains unpaid, during the heating season a utility shall not require an eligible low-income customer, whose utility service has been shut off, to pay a fee for restoring service or a security deposit pursuant to R 460.109 or R 460.111, before applying for protection under this rule.
- (6) Except where unauthorized use of utility service has occurred within the past 2 years at the premises where the customer has resided and the bill remains unpaid or safety is a concern, a utility may not require an amount greater than 1/12 of an arrearage owed to restore service or initiate participation in the winter protection plan.
- (7) Winter protection provisions of these rules do not apply to customers who have been shut off or who have a pending shut off for unauthorized use of utility service within the past 2 years at the customer's current premises until all charges are paid pursuant to these rules or satisfactory payment arrangements are made with the utility.
- (8) Upon request, the utility shall provide customers who enroll in the winter protection program with documentation that they are participating in the program.
- (9) Bills issued to customers participating in the winter protection program shall clearly identify the minimum amount that the customer must pay to prevent shut off of service. Utilities may bill at higher amounts to recover past due amounts and the utility may encourage customers to pay amounts in excess of the minimum provided that the minimum payment is clearly designated on the bill.
- (10) Subject to prior commission approval, a utility may offer an optional shutoff protection program to its customers, provided that the optional shutoff protection program offers eligibility and shutoff protection that meets or exceeds the eligibility criteria and customer protections contained in subrule (1) of this rule.

Mich Admin Code, R 460.140 (Rule 40) provides:

- (1) A notice of shut off of service shall contain all of the following information:

- (a) The name and address of the customer, and the address at which service is provided, if different.
 - (b) A clear and concise statement of the reason for the proposed shut off of service.
 - (c) The date on or after which the utility may shut off service, unless the customer takes appropriate action.
 - (d) That the residential and small nonresidential customer may have the right to enter into a payment plan with the utility for an amount owed to the utility that is not in dispute and that the customer is presently unable to pay in full.
 - (e) That the residential and small nonresidential customer may have the right to enter into a settlement agreement with the utility if the claim is for an amount that is in dispute.
 - (f) That the customer has the right to file a complaint disputing the claim of the utility before the proposed date of the shut off of service.
 - (g) That the customer has the right to request a hearing before a hearing officer if the customer disputes the reasonableness of the payment plan or settlement agreement offered by the utility or if the complaint cannot be otherwise resolved and that the customer must pay to the utility that portion of the bill that is not in dispute within 10 business days of the date that the customer requests a hearing.
 - (h) That the customer has the right to represent himself or herself, to be represented by counsel, or to be assisted by other persons of his or her choice in the complaint process.
 - (i) That the utility will not shut off service pending the resolution of a complaint that is filed with the utility or the commission pursuant to these rules.
 - (j) The telephone number and address of the utility where the customer may make inquiry, enter into a payment plan or settlement agreement, or file a complaint.
 - (k) That the utility may require a deposit and restoration charge if the utility shuts off service for nonpayment of a delinquent account or for unauthorized use of utility service.
- (2) For residential customers a notice of shut off of service shall also contain all of the following information:
- (a) A combination utility shall include all of the following information on disconnection notices for eligible low-income customers whose natural gas and electric services are combined:
 - (i) The amounts for both natural gas and electric service, listed separately.
 - (ii) That the customer has the option of choosing 1 of his or her services to retain with the appropriate payment.
 - (iii) That the customer may have the option to enter into a payment plan for both natural gas and electric service, or to retain either natural gas or electric service as chosen by the customer.

- (b) That the customer should contact a social services agency immediately if the customer believes he or she might be eligible for an energy assistance program or other emergency economic assistance and should inform the utility of any efforts being made to obtain payment assistance.
- (c) That customers who believe they may be eligible for assistance from an energy assistance program should determine if assistance is available before enrolling in a payment plan because many agencies may not provide assistance if shut off is avoided by signing a settlement agreement.
- (d) That during the heating season the utility will postpone shut off of service if a customer is an eligible low-income customer that enters into a winter protection payment plan with the utility and the customer provides documentation that the customer is actively seeking emergency assistance from an energy assistance program.
- (e) The energy assistance telephone line number at the department of health and human services or an operating 2-1-1 system telephone number.
- (f) That the utility will postpone the shut off of service if a certified medical emergency exists at the customer's residence and the customer informs and provides documentation to the utility of that medical emergency.
- (g) That the customer should contact the utility for information about a shutoff protection program.

Mich Admin Code, R 460.146 (Rule 46) provides:

- (1) A utility shall establish a policy to allow a residential or small nonresidential customer the opportunity to enter into a minimum of 2 documented payment plans for an amount owed to the utility that is not in dispute, if a customer claims an inability to pay in full.
- (2) In negotiating a payment plan due to the customer's inability to pay an outstanding bill in full, the utility shall not require the residential or small nonresidential customer to pay more than a reasonable amount of the outstanding bill upon entering into the plan, and not more than reasonable installments until the remaining balance is paid. For purposes of determining reasonableness, the parties shall consider all of the following factors:
 - (a) The size of the delinquent account.
 - (b) The customer's ability to pay.
 - (c) The time that the debt has been outstanding.
 - (d) The reasons that the customer has not paid the bill.
 - (e) The customer's payment history.
 - (f) Any other relevant factors concerning the circumstances of the customer.
- (3) A utility is not required to enter into more than 2 payment plans with a residential or small nonresidential customer who defaulted on the terms and conditions of such payment plan within the last 12 months.
- (4) A utility shall document that a residential customer has been notified by telephone, other electronic media, or letter of all of the following:

- (a) If a customer is seeking payment assistance from a social service agency, agreeing to this payment plan may prevent the customer from getting emergency assistance.
- (b) That the customer needs to notify the utility if the customer is working with an agency.
- (c) That a customer should not agree to the payment plan if he or she is not satisfied with it.
- (d) If the customer has an unexpected loss or reduction of income after the payment plan is implemented, he or she may request a review and modification of the plan.

Mich Admin Code, R 460.150 (Rule 50) provides:

- (1) A utility shall establish complaint procedures, promptly and thoroughly investigate customer complaints, and, when possible, resolve all customer inquiries, service requests, and complaints and report the resolution of commission-referred complaints to the commission staff.
- (2) The utility shall keep records of customer complaints that will enable the utility to review and analyze its procedures and actions. The records shall be available to the commission.
- (3) After referral of a customer's complaint from the commission, a utility shall make reasonable attempts to contact the customer within 2 business days and shall develop and report to the commission within 10 days after referral its plan for resolution of the complaint.
- (4) A utility shall provide to customers who are not satisfied with the utility's resolution of a complaint or inquiry the toll-free telephone number and internet address of the commission.
- (5) A utility shall obtain commission approval of any substantive changes in its procedures.

Mich Admin Code, R 460.153 (Rule 53) provides:

- (1) A utility shall provide to each customer, upon request, a clear and concise statement of the customer's actual energy usage, or weather adjusted consumption data for each billing period during the last 12 months, or both. A utility shall notify its customers at least once each year by whatever method is used to transmit the customers' bills, that a customer may request energy usage, or weather-adjusted consumption data, or both.
- (2) Each electric and natural gas utility shall file with the commission, for the commission's approval, a customer data privacy tariff that contains a customer data privacy policy. The privacy policy shall do all of the following:
 - (a) Encompass all customer information or data collected or maintained by the utility.
 - (b) Clearly define customer information or data that the utility collects or maintains.

- (c) Protect all customer information or data collected for the utility from unauthorized use or disclosure by the utility, its affiliates, or contractors.
 - (d) Ensure that, for secondary purposes, customer usage data, personally identifiable information, and certain other customer information are only disclosed to third parties with the customer's written consent.
 - (e) Specify that customer information may be disclosed without consent in response to a warrant or court order, as required for collection activities, or as necessary for primary purposes.
 - (f) Permit a customer to share his or her information with a third party that is not affiliated with the utility. The utility may elect to insert language in the privacy policy stating that the utility is not responsible, in this circumstance, for a third party's unauthorized disclosure or use of this information.
 - (g) Provide clear instructions regarding the method by which a customer and a third party, authorized by the customer, may obtain customer usage data in a timely manner and a readily accessible format from the utility.
 - (h) Indicate that the policy does not apply to aggregate data, containing general characteristics of a customer group, which is used for analysis, reporting, or program design purposes.
- (3) The privacy policy shall be posted on the utility's website.

Mich Admin Code, R 742.10446 (Rule 446) and Mich Admin Code, R 460.17515 (Rule 515) both provide:

The complainant generally has the burden of proof as to matters constituting the basis for the complaint and the respondent has the burden of proof as to matters constituting affirmative defenses. The burden of proof, however, may be differently placed, or may shift, as provided by law or as may be appropriate under the circumstances.

Positions of the Parties

1. Melissa Burwell

The Complainant testified² that she has been on the BWB plan for about 40 years, and that in the fall of 2023, she noticed a five- or six-fold increase in her usage. 2 Tr 15. Due to this increase,

² The Complainant did not call any witnesses other than herself. Ms. Burwell's direct testimony is found at 2 Tr 15-50. Her cross-examination testimony is found at 2 Tr 51-62. Her redirect testimony is found at 2 Tr 62-66, and 3 Tr 129-131.

the Complainant testified that she believed she was being overcharged due to her bill and usage being estimated. 2 Tr 15-16.

Overall, the Complainant raised three allegations in her complaint. The Complainant's first allegation is that the Respondent illegally overcharged her for electric and gas services from November 2023 to May 2024, thereby stealing her accumulated credit that she accrued while being enrolled on the BWB plan. Complaint, p. 1. The Complainant averred that she had accumulated a credit of \$424.53.³ The Complainant next alleged that she was improperly removed from the BWB plan, of which she was a longtime customer. Lastly, the Complainant alleged that the Respondent's technicians repeatedly tampered with her meter on December 4, 2023 and February 12, 2024. The Complainant alleged that on December 4, 2023, the Respondent's technician turned down the electricity to her home "to illegally increase [her] cost of electricity and illegally limit [her] heating options." *Id.*, p. 2. The Complainant further alleged that on February 12, 2024, the Respondent's technician raised her electricity level, "but not back to its original level prior to the December 4, 2023 visit." *Id.* The Complainant also accused the Respondent of colluding with the (Washtenaw division of the) Michigan Department of Health and Human Services (Washtenaw DHHS) in retaliation for an Energy Waste/Energy Efficiency Weatherization program complaint and refusing to talk to the Turner Senior Resource Center, a local social services agency, to mediate on the Complainant's behalf. Complaint, p. 2.

In her complaint, the Complainant outlined three requests:

1. her account should be credited the "accumulated stolen credit amount[;]"
2. she should be refunded all overcharged electricity and gas fees from November 2023 through May 2024[; and]

³ On page 2 of her Complaint, Ms. Burwell alleged a credit of \$424.53, although at the evidentiary hearing, she referenced a credit of \$349. 2 Tr 23. In her post-hearing brief, Ms. Burwell stated that she had a credit of \$349.35. Complainant's post-hearing brief, p. 3.

3. she should be re-enrolled in her BWB plan.

Complaint, pp. 2-3.

2. DTE Energy Company

In its answer, DTE denied the Complainant's allegations, stating that such were untrue. Furthermore, DTE stated that as part of its BWB plan, "any accrued credits will go towards a bill if that month's bill is over the amount of the BWB [plan] payment." Answer, p. 2. DTE further stated that the Complainant's BWB plan settlement month was January, and that it did not illegally force the Complainant off her BWB plan as "a participant is removed from the program if they do not make their monthly plan payment as promised." *Id.* DTE also alleged that it informed the Complainant several times that the Complainant's use of a space heater could increase her electricity usage and bill. *Id.* Furthermore, DTE stated that Complainant's BWB plan increased in 2024 based on her 2023 energy usage. *Id.*, p. 3.

DTE admitted sending its technicians out to the Complainant's home in December of 2023 and February of 2024. *Id.* However, DTE averred that its technician "did not touch the electrical meter" in December of 2023, and "appeared to test the meter, which yielded results indicating no issues with the meter" in February of 2024. *Id.*

DTE's witnesses testified⁴ to several facts regarding Ms. Burwell's billing. First, Ms. Turner Williams testified that while Ms. Burwell's gas usage was lower than usual compared to other customers, her electrical usage began to increase in October of 2023. 2 Tr 70. Ms. Turner

⁴ DTE called three witnesses: Ms. Valencia Turner Williams, Executive Customer Consultant at DTE; Mr. Lawrence Mathies, Operations Analyst and Lead of the Center of Excellence and Electric Field Operations; and Ms. Zenobia Grace, Billing Program Manager. Ms. Turner Williams' testimony is found at 2 Tr 68-77. Mr. Mathies' testimony is found at 2 Tr 79-91. Ms. Grace's testimony is found at 2 Tr 93-107.

Williams also testified that Ms. Burwell's account was based on actual meter readings at the standard gas and electric rates. 2 Tr 70, 75. Ms. Turner Williams testified that Ms. Burwell's service was not manipulated as DTE does not have the capability to do so (as Ms. Burwell is not enrolled in any demand response or energy waste reduction plan that allows DTE to fluctuate a thermostat with a customer's permission); Ms. Burwell was only enrolled in the BWB plan which does not allow for manipulation. 2 Tr 75-76.

Mr. Mathies testified next, explaining that he used to work in the field testing meters. 2 Tr 79-80. Mr. Mathies stated that DTE came to Ms. Burwell's house on December 4, 2023, due to a downed wire that was causing her lights to flicker. 2 Tr 80. Mr. Mathies explained that DTE Energy checked Ms. Burwell's meter and determined that Ms. Burwell's meter was "good and full" which meant that her meter was getting all required volts to run all appliances in her home. 2 Tr 81. With a good and full meter reading, Mr. Mathies confirmed that the downed wire would no longer cause Ms. Burwell's lights to flicker. 2 Tr 81-82. He also discussed DTE Energy's February 12, 2024 meter test, stating that a meter test consists of a meter being tested and an internal inspection of the home being conducted, and then after the test and inspection are complete, both an inspection card and a meter test card are filled out by the field technician. 2 Tr 82. Mr. Mathies stated that after the meter is resealed, the field technician reviews the general inspection sheet with the customer and discusses issues that might be a factor regarding meter usage. 2 Tr 82-83. Mr. Mathies was given a meter test card to review, which was later admitted into evidence as the February 12, 2024 meter test card for Ms. Burwell's home, and he testified that there was nothing about the meter test card that would lead him to believe that it had been tampered with. 2 Tr 85. Mr. Mathies also stated that aside from dismantling a meter, he was unaware of any way a field technician could increase or lower the amount of energy a home took

in. 2 Tr 86-87. He also stated that, to his knowledge, faulty wiring or an electric issue within a home could impact electrical or gas usage, which is why field technicians start home visits with an inspection of the home's meter. 2 Tr 90. However, Mr. Mathies also stated that it is impossible for a field technician to modify the input of voltage into a home. 2 Tr 91.

Ms. Grace testified regarding DTE's BWB plan. She explained that to start a BWB plan, DTE reviews the last 12 months of a customer's bills to determine what the average bill at that location would be, and "that's what the customer's initial budget billing plan amount will be." 2 Tr 95. Ms. Grace then explained that, in the BWB plan, there is a "settlement month" where DTE looks at what was "actually used opposed to what their actual budget billing amount was through those 12 months, and if there was an overage, . . . or if the customer used less than what their average usage was . . . then they would get a credit." 2 Tr 95. She noted that, likewise, if a customer used more than their budget billing amount, at the end of the settlement period, the customer would owe money and "would need to pay [the amount owed] by the [settlement] due date." 2 Tr 96. She asserted that if the customer paid the amount owed by the settlement due date, then the BWB plan would start over; however, if the customer does not pay by the settlement due date, they are removed from the BWB plan and "would then pay the regular monthly invoices as they receive them moving forward." 2 Tr 97. Ms. Grace explained that if the customer accrued a credit but then used more than the average amount calculated by their BWB plan, the credit would be used to offset the required payment. 2 Tr 98. Ms. Grace further explained that customers get notice before being removed from the BWB plan through a letter, an email (if an email address is on file), and a message on their bill that explains how much needs to be paid and by what date. 2 Tr 99, 101. However, a customer in default can be enrolled in a new BWB plan if they pay the amount owed. 2 Tr 100. Ms. Grace also testified that MDHHS has nothing to do with how DTE bills its

customers, and that the BWB plan is a voluntary program that is not connected with the home heating credit. 2 Tr 106-107.

3. The Commission Staff

The Staff did not provide an initial brief, but a regulation officer, Justin Miller, did provide testimony on behalf of the Staff. Mr. Miller testified that, in his opinion, after reviewing all the evidence that the Complainant submitted, there was no evidence of a stolen credit. 3 Tr 125. Mr. Miller further testified that, based on the testimony and information presented on meter reading for the Complainant, he was satisfied that the meter reading was performed according to the rules. 3 Tr 126-127.

Post-Hearing Briefs

The Complainant, the Respondent, and the Staff all filed post-hearing briefs on January 6, 2025, as directed by the ALJ. *See*, 3 Tr 132.

1. Melissa Burwell's Post-Hearing Brief

In her post-hearing brief, the Complainant began by alleging collusion between DTE, the Washtenaw DHHS, and the Washtenaw County Office of Community Economic Development (WCOCED). Complainant's post-hearing brief, p. 2. Complainant argued that the Washtenaw DHHS, WCOCED, and DTE were acting in "an on-going retaliatory attack [in] response to an April 2023 complaint about an Energy Waste/Energy Efficiency Weatherization program." *Id.* The Complainant reiterated her allegations of meter tampering on December 4, 2023 and February 12, 2024, and argued that her DTE bills have been estimated through the BWB plan.

The Complainant further stated that she "requested an outside, independent, expert to analyze the data of the electric meter at [her] home and conduct an audit of [her] account going back [three] years from the date of the complaint." Complainant's post-hearing brief, p. 2. The

Complainant also stated that she believes she has always been overcharged for her utility services by DTE, providing refund checks as her evidence of such. Attached to her post-hearing brief was a copy of three checks: one check from DTE Electric Company with the comment “settlement month credit refunded” and two other checks from the State of Michigan as income tax refunds for 2021 and 2022 with the note that she was receiving a “one-time supplemental” because she qualified for a home heating credit. The Complainant stated that DTE “stopped issuing refund checks in their name after 2020,” but also stated that she had received “home heating credit refund energy checks due to DTE Energy over-charging [her] dating back to 2020” Complainant’s post-hearing brief, p. 3. The Complainant stated that she has “always practiced cost saving energy practices” and that she “attempt[s] to heed any excessive use of energy/appliances” including getting her home professionally insulated in 2012. *Id.*

The Complainant explained that due to health concerns, in July of 2024, she attempted to use a window air conditioning unit in her home that did not work when plugged in and alleged that due to DTE lowering the electric power to her home on December 4, 2023, her appliances have suffered detrimental effects “whether they are big or small, old or new.” *Id.*, pp. 3-4. The Complainant contended that she did not use any more energy in September of 2023 than in April of 2023, so there was no reason for her energy usage and cost to increase five- to six-fold. The Complainant stated that after DTE visited her home on February 12, 2024, her appliances began to work again, but “none of [her] appliances or electronics are functioning the same.” *Id.*, p. 4.

To support her claim of collusion with the Washtenaw DHHS, the Complainant submitted billing statements for comparison, alleging that the organizations were retaliating against her for “a complaint (timing) about the Energy Waste/Energy Efficiency Weatherization program [DTE and Washtenaw DHHS] participate in.” *Id.*

Finally, the Complainant also addressed the evidentiary hearing in her post-hearing brief. She stated that prior to the evidentiary hearing, she contacted the ALJ's office to request Mr. Miller be removed from this matter "due to his obvious bias against customers filing complaints against DTE Energy." *Id.* The Complainant alleged that Mr. Miller sent her a lengthy instruction packet for filing her formal complaint but that he failed to return her calls and that "there was no proof that Mr. Miller conducted any kind of investigation in regards to any of [her] allegations." *Id.* She further stated that Mr. Miller's testimony, despite being "mostly yes and no answers" should be considered "biased and tainted." *Id.*, pp. 4-5. Ms. Burwell also raised concerns relating to the ability of the Respondent's witnesses to evaluate her claims, arguing that, in her opinion, none of DTE's witnesses' testimony "indicated they were either educated or trained to diagnostically analyze the data of an electric or gas meter needed to interpret an individual customer's actual daily utility usage" for homes such as hers. *Id.*, p. 5.

2. DTE Energy's Post-Hearing Brief

DTE also filed a post-hearing brief. After providing an introduction and procedural history, it focused on the applicable laws in this matter. DTE cited Mich Admin Rule, R 460.17515, which states that a "complainant generally shall have the burden of proof as to matters constituting the basis for the complaint and the respondent shall have the burden of proof as to matters constituting affirmative defenses." DTE further stated that administrative proceedings are held to a preponderance of the evidence standard, per *Bunce v Secretary of State*, 239 Mich App 204, 218; 607 NW2d 372 (1999), where a fact finder "must find for the party that has the stronger evidence, however slight." DTE's post-hearing brief, p. 3 (citing Black's Law Dictionary).

After discussing the burden of proof and evidentiary standards, DTE focused on three arguments. The first is that the Complainant's BWB plan program arguments are meritless. DTE

described its BWB plan program, under which “a customer is able to pay the same amount each month for a 12-month period” based on actual usage of the previous 12 months, with every participant having “a settlement month in which the Company reviews the participant’s actual usage” to modify the next 12 months of equal payments. DTE’s post-hearing brief, pp. 3-4 (citing 2 Tr 95).⁵ “If actual usage was higher, there may be a debit that a participant needs to pay to remain in good standing and on [the] BWB [plan]” whereas “if actual use was lower, the participant may have a credit and can use that towards their next bill or request a check of that amount.” DTE’s post-hearing brief, p. 4 (citing 2 Tr 96). DTE explained that the Complainant’s accumulated account credit became a debit owed because her “actual use exceeded the plan amount, which then used up the credit.” DTE’s post-hearing brief, p. 4. DTE also highlighted that its witnesses testified to the Complainant’s account and how the BWB plan “works with credit and debit[] amount[s] during the settlement period.” *Id.* (citing 2 Tr 94-103). DTE further stated that its witness, Ms. Grace, explained how a participant may no longer be eligible for the BWB plan program and how, in the Complainant’s case, Ms. Burwell became temporarily ineligible because she did not pay the amount owed during the settlement month despite receiving multiple notices to pay such. DTE’s post-hearing brief, p. 4 (citing 2 Tr 104). DTE averred that the Complainant received notice that her next 12-month payment amount would increase based on her higher-than-anticipated actual use, and that the Complainant’s own bills entered into the record show that her usage was not based on estimates, but actual usage. DTE’s post-hearing brief, p. 5. DTE’s witness, Ms. Turner Williams, testified based on her review of the Complainant’s account, that there was nothing to indicate an error in billing rates or amounts, “or the account generally” and

⁵ Throughout its brief, DTE refers to Transcript 2 as Transcript 1, such as “1 T 95” which should be listed as “2 Tr 95” and thus, Transcript 2 will be properly referred to in this order.

thus, no showing that any rules were violated, so the Complainant did not meet her burden of proof. *Id.* (citing 2 Tr 69).

Next, DTE addressed the Complainant's allegations that DTE's field technicians tampered with her meter to increase or decrease the amount of electricity or gas coming into her home for billing purposes. DTE averred that the "Complainant provided no witnesses or evidence to indicate a reason to believe this occurred other than her own testimony." DTE's post-hearing brief, p. 6. DTE highlighted that its witness, Mr. Mathies, testified to meter testing protocols while affirming that "there is no way for a field technician to increase or decrease" the energy coming from a customer's meter. *Id.* (citing 2 Tr 87). DTE also notes that at the evidentiary hearing, it submitted into evidence the Complainant's electric meter card that showed the Complainant's meter was working within prescribed limits, along with the Complainant's testimony that she "didn't think there was anything wrong with [the meter]" as she was told that her meter was "good and full" and "assumed it was good and full before [the field technician] got there." DTE's post-hearing brief, p. 6; 2 Tr 26, 30; *see also*, Exhibit DTE-3. Thus, DTE contended, the Complainant's allegations of meter tampering "are false and any and all increases in the Complainant's bills are due to her increased usage." DTE's post-hearing brief, p. 6.

Lastly, DTE addressed the Complainant's remaining rule violations. In her complaint, the Complainant listed multiple rules that she believed were being violated by DTE, but DTE asserts that the "Complainant has provided no evidence in the record or testimony at the hearing to indicate violations for these rules, . . . and therefore has not met her burden of proof." *Id.* Thus, DTE requested that the Commission deny Complainant's complaint in its entirety, with prejudice.

3. Staff's Post-Hearing Brief

The Staff also filed a post-hearing brief to address the Complainant's concerns, focusing on the expert testimony offered by its witness, Mr. Miller. The Staff also referenced the interrogatory requests it sent to DTE regarding Ms. Burwell's complaint to which DTE replied to such by explaining how its BWB plan worked along with the specific circumstances giving rise to Ms. Burwell's account credit becoming an account debit. *See*, Staff's Exhibit A. First, the Staff addressed the allegation that DTE illegally overcharged the Complainant for electricity and gas while stealing a credit from her. The Staff outlined how Ms. Burwell complained that DTE overcharged her for gas and electricity from November of 2023 through the filing of her complaint as she received a large bill in February of 2024 along with a new, higher billing plan. Staff's post-hearing brief, p. 2 (citing Complaint, p. 1). The Staff also acknowledged Ms. Burwell's testimony that her habits and usage had not changed despite her bill rising, and that the only explanation she proffered was that a field technician came to check her meters, allegedly tampering with such, impacting her bills. Staff's post-hearing brief, p. 2. The Staff outlined that DTE filed an answer and, at the evidentiary hearing, provided testimony from three witnesses that were familiar with Ms. Burwell's account and/or DTE's general practices regarding the BWB plan and meter reading. The Staff also considered Ms. Turner Williams's testimony that while Ms. Burwell's usage calculations were based on actual meter readings, Ms. Burwell was also billed at the same gas and electricity rates as other residential customers. *Id.*, p. 4 (citing 2 Tr 70, 75). Notably, the Staff highlighted that DTE's Billing Program Manager indicated that DTE is independent from MDHHS, and that "a home heating credit has nothing to do with the Company's billing practices." Staff's post-hearing brief, pp. 3-4 (citing 2 Tr 68-70, 79, 94; DTE's answer, pp. 1-3).

Regarding the first identified issue, the Staff outlined the applicable rules before focusing on its expert witness's testimony. The Staff's witness, Mr. Miller, testified that he was familiar with the Complainant's issue, and that "upon review of all the evidence presented in this case along with the relevant rules, he did not believe there was any evidence of a stolen credit." Staff's post-hearing brief, p. 5 (citing 2 Tr 125). Thus, because the filing party had the burden of proof to establish any rule violation, given the record evidence presented by Mr. Miller and DTE, "there is no evidence to support that [Ms.] Burwell was improperly billed. Instead, the evidence provides that [Ms.] Burwell was billed at the same rate as other residential customers, . . . [and] the usage for which she was charged was based on actual usage, not an estimate." Staff's post-hearing brief, pp. 5-6 (citing 2 Tr 54-7; 70; 107). Furthermore, as both DTE and Mr. Miller testified that the Home Heating Credit is not connected with DTE, "but rather is a credit offered through [DHHS,] a separate and distinct entity entirely[,] . . . there is no evidence of collusion as alleged, but rather it appears that [Ms.] Burwell was indeed charged at the proper and regulated rate as other customers for only the energy she used." Staff's post-hearing brief, p. 6. Thus, the Staff is unpersuaded that a rule violation occurred in connection with Ms. Burwell's allegations that she was overcharged and had her credit stolen.

Second, the Staff analyzed the Complainant's alleged BWB plan billing violation, where she alleged that she had been removed from the BWB plan program. *Id.* (citing 2 Tr 31). The Staff pointed to Ms. Burwell's testimony that she was told that because she had not paid her balance in full on her BWB plan, she was removed from it. Staff's post-hearing brief, p. 7 (citing 2 Tr 31-32). The Staff also summarized Ms. Grace's testimony about the BWB plan, including that if a debit amount is paid, the plan starts over with a new payment, and that communications are sent to customers in danger of being removed from their BWB plan. Staff's post-hearing brief, p. 7

(citing 2 Tr 104). The Staff then listed the applicable rules regarding Ms. Burwell's allegations before stating that its expert witness, Mr. Miller, testified about the BWB plan, stating that pursuant to the Commission's rules, the BWB plan is within DTE's discretion and is a voluntary program. Staff's post-hearing brief, p. 8 (citing 3 Tr 126). The Staff then cited to Rule 21 regarding a utility's discretion to establish a budget-type plan, and that "[a]s part of the utility's discretion, it has the ability to remove someone from the program if they are properly notified where the customer fails to pay the proscribed balance." Staff's post-hearing brief, p. 8; Mich Admin Code, R 460.121. The Staff concluded that Ms. Burwell did not present any evidence of "discrimination or unlawful doing on the part of the Company" and absent any evidence of such, no rules were violated. Staff's post-hearing brief, pp. 8-9.

Third, the Staff addressed Ms. Burwell's allegation of meter tampering. The Staff cited to Ms. Burwell's testimony that she believed her meter was tampered with to increase her BWB plan payment, stating that she thought DTE "lowered it December 4[, 2023] and . . . increased it somewhat" manually during DTE's February 12, 2024 visit. *Id.*, p. 9 (citing 2 Tr 25, 60). The Staff then referenced DTE's witness, Mr. Mathies, who testified to DTE's standard meter check procedure before discussing the meter testing card from Ms. Burwell's house, stating that it was impossible for a technician "to modify the input of voltage into a home." Staff's post-hearing brief, p. 9 (citing 2 Tr 72, 90, 91; DTE's Exhibit 3). After citing the applicable rules, the Staff highlighted its witness's testimony in which Mr. Miller "testified that he was familiar with the evidence in regard to the complaints raised by [Ms.] Burwell in regard to the Company's meter keeping in this matter" and that "the Company had committed no rule violation in regard to [Ms.] Burwell's meter tampering allegations." Staff's post-hearing brief, p. 10 (citing 2 Tr 127). The Staff expressed sympathy for Ms. Burwell but ultimately found that "there is no evidence to

support a claim that the Company did, or indeed even had the ability[] to[,] manipulate the amount of energy going into her home. Instead, the evidence indicated that [Ms.] Burwell’s meter has been functioning properly during all times relevant to this claim.” Staff’s post-hearing brief, p. 10. Furthermore, the Staff found that Ms. Burwell’s bills were based upon actual meter readings and thus, there was no evidence supporting “any manipulation or wrongdoing on the part of the company” such that the meter tampering claim should be dismissed. *Id.*, pp. 10-11.

Overall, the Staff did not find any rule violation on DTE’s part as alleged by Ms. Burwell.

Proposal for Decision

The ALJ provided a procedural history with a review of the parties’ testimony and their positions which will not be repeated here. PFD, pp. 3-13. The ALJ then discussed Rule 446, which states that a complainant “generally has the burden of proof” and thus, Ms. Burwell had the burden to prove that DTE violated the Commission’s rules “as alleged in the complaint.” PFD, p. 13. The ALJ then addressed each of the Complainant’s allegations in turn.

First, the ALJ addressed the allegation of DTE’s improper billing and Complainant’s stolen credit. The ALJ noted that the Complainant’s own invoices, “along with the testimony of Ms. Turner-Williams, show that . . . [Ms. Burwell’s] bills were based on actual meter reads, not estimated usage and that she was billed at the same rates for electricity and gas as other residential customers.” *Id.*, p. 14. The ALJ also noted that while the Complainant had accrued a credit during the 2023 plan year, “her usage had increased, and the credit had been depleted to cover the amount of her usage that was not covered by her BWB plan payments.” *Id.* Furthermore, the ALJ noted, “there was no indication that Complainant’s meter was not working properly.” *Id.* The ALJ also found credible the Staff’s testimony that DTE’s billing practices are not connected to

MDHHS and have “nothing to do with the Home Heating Credit,” and, as such, there was no evidence of collusion. *Id.*, p. 15.

Second, the ALJ addressed the allegation that the Complainant was improperly removed from her BWB plan. The ALJ found that there was sufficient evidence presented that the BWB plan “is a voluntary plan[,] the control of which is up to the discretion of DTE[,]” and that “Complainant testified that she did not pay the amount owed under the plan in full by the due date.” *Id.* (citing 2 Tr 31-32). As such, because the Complainant was removed from her BWB plan “in accordance with DTE’s rules[,]” the ALJ found that there was no evidence of a violation of statute or rule. PFD, p. 15.

Third, the ALJ addressed the allegation that DTE tampered with the Complainant’s meter. The ALJ noted that the “Complainant offered no evidence to support these allegations [The Complainant] also testified that she did not explore any other potential causes of these electrical issues such as from within the wiring in her home.” *Id.*, p. 16. Furthermore, the ALJ found that the Complainant’s own bills evidenced an increase in the Complainant’s energy usage in the fall of 2023 and that “such a change does not automatically mean that DTE erred in billing or that DTE changed the input of power to [the] Complainant’s home[,]” especially as Mr. Mathies testified that the Complainant’s meter was working properly and a field technician could not increase or decrease the energy flowing into the Complainant’s home through the meter. *Id.*

Following his discussion and analysis, the ALJ concluded that the Complainant had not met her burden of proof by a preponderance of the evidence and recommended that the complaint be dismissed. *See, id.*, pp. 13-17.

No party filed exceptions or replies to exceptions to the PFD. Thus, under Mich Admin Code, R 792.10435(2) (Rule 435(2)), “[i]f a party does not file exceptions to a proposal for

decision within the time permitted by this rule, any objection to the proposal for decision is waived.” Rule 435(2) further provides that “[i]f a party does not object to a part of a proposal for decision, any objection by the party to that part of the proposal for decision is waived.”

Discussion

The Commission agrees with the ALJ and DTE that, as the Complainant, the burden of proof in this matter rests with Ms. Burwell, in accordance with Rule 446. PFD, pp. 15-17. Thus, Ms. Burwell has the burden of proof to show that DTE violated the rules as alleged by a preponderance of the evidence. After reviewing the parties’ positions and the evidence provided, the Commission thus adopts the ALJ’s findings that Ms. Burwell has failed to substantiate any of the allegations contained in her Complaint for the reasons stated below. *Id.*, p. 17. Further, the Commission finds the quality of the evidence provided by DTE and the Staff to be based on relevant training, expertise, and professional opinions, and more than sufficient to address the claims raised by the Complainant.

1. Account Overcharge and Stolen Credit

Ms. Burwell contends that she was improperly billed and that she had a credit stolen from her account by DTE. However, Ms. Burwell’s submitted bills stated that they were based on actual meter reads, and DTE testified that while Ms. Burwell had accumulated a credit during her BWB plan year, that credit was depleted to cover her usage which then left her with a debit amount. Furthermore, Ms. Burwell’s own bills showed an increase in energy usage in the fall of 2023, accounting for her resulting BWB plan debit. Additionally, DTE testified that, according to its evidence, Ms. Burwell’s meter was working correctly. DTE also stated that it is an independent entity from MDHHS and as such, its billing practices have nothing to do with the administration of the Home Heating Credit.

Given that Ms. Burwell's account was charged based on actual meter readings and that her meter was not shown to be defective, she has not met her burden to prove that she was overcharged for her electricity or gas. Because her credit was used towards her debit due to her usage, Ms. Burwell likewise has not shown that DTE stole her BWB plan credit. Instead, the evidence suggests that DTE used Ms. Burwell's credit balances to offset her increased usage until the point where the credit balances were exhausted, in accordance with the terms of the company's BWB plan. Lastly, as Ms. Burwell's own checks show, the Home Heating Credit was issued through the State of Michigan, not DTE. That, along with DTE's testimony that the Home Heating Credit is independent and distinct from the Company's billing practices, prove by a preponderance of the evidence that there was no collusion between Washtenaw DHHS, DTE, and/or WCOCED against Ms. Burwell.

2. Improper Budget Wise Billing Plan Removal

Ms. Burwell contends that she was improperly removed from her BWB plan. However, DTE provided evidence that customers are removed if they have a debit that is not paid in full by the due date. Ms. Burwell herself admitted that she did not pay the full amount owed during her settlement month, resulting in a shut-off notice. *See*, Complainant's post-hearing brief, pp. 2-3, 11-12. As such, Ms. Burwell was justifiably removed from her BWB plan. As DTE has stated, a customer can be re-enrolled in a BWB plan based on their past 12 months of usage if their balance is paid in full. Ms. Burwell has the opportunity to be put back on a BWB plan, but she must first pay her balance owed in full. Likewise, Ms. Burwell's new BWB plan would be based on her actual usage under the terms of the BWB plan.

3. Meter Tampering

Ms. Burwell's third allegation was that DTE unlawfully tampered with her meter to "lower[] the electrical power down" to reduce the flow of "the electrical power" to her home in December of 2023 before "turn[ing] the power back up" slightly in February of 2024. Complaint, p. 2; 2 Tr 31. Her only proof was her testimony that she believed a DTE field technician tampered with her meter, reducing the flow of electricity to her home on December 4, 2023. 2 Tr 24-31. However, Ms. Burwell admitted that she did not investigate whether her heater, space heater, and air conditioner were working properly, but instead merely thought it was due to DTE reducing the flow of electricity to her home. 2 Tr 59-60. Contrary to Ms. Burwell's testimony, DTE testified that not only was Ms. Burwell's meter in proper working order, but that its field technicians are unable to adjust the amount of power coming to a home through a meter. 2 Tr 84-87. Thus, while Ms. Burwell's electricity usage rose in the fall of 2023, she provided no proof that DTE was responsible for tampering with her meter or the flow of electricity to her home. Rather, evidence on the record in this case suggests that the additional usage was the result, at least in part, of Ms. Burwell's use of a space heater. Answer, p. 2.

The Complainant bases her Complaint on her belief that DTE tampered with her meter in collusion with the Washtenaw DHHS in retaliation for an April of 2023 complaint she made, causing her to lose her BWB plan credit, and her ultimate removal from her BWB plan. However, the evidence provided by the Complainant is insufficient to carry her evidentiary burden that any such tampering occurred. In addition, the evidence provided by the Respondent shows that the credit balance was properly applied to increasing balances resulting from increased energy consumption, and that the removal of the Complainant from the BWB plan program resulted from unpaid balances, consistent with the terms of the BWB plan program. Again, however, the

Respondent would be eligible to participate in the BWB plan program at the time when she becomes up-to-date on payments, including payment of past-due balances. Furthermore, the Staff also reviewed Ms. Burwell's matter and testified that it saw no evidence of collusion, tampering, improper credit loss, or improper BWB plan program removal. *See*, 2 Tr 25, 31-32, 60, 68-70, 79, 90, 91, 94, 125, 127. Lastly, the ALJ gave "full consideration to all evidence of record and arguments in arriving" at his findings and conclusions, with which the Commission agrees. PFD, p. 17.

The Commission adopts the findings and recommendations of the ALJ as well-reasoned and supported by the record. The Commission agrees with the ALJ that the Complainant failed to provide evidence persuasively demonstrating collusion between DTE, the Washtenaw DHHS, and/or WCOCED; or that the Complainant was improperly billed, had a credit stolen, or was improperly removed from her BWB plan. Therefore, the Commission finds pursuant to Rule 446, the Complainant has not met her burden of proof and her complaint should be dismissed with prejudice.

THEREFORE, IT IS ORDERED that the complaint filed by Melissa Burwell against DTE Energy Company is dismissed with prejudice.

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 Attorney General – Public Service Division at sheacl@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

Katherine L. Peretick, Commissioner

Alessandra R. Carreon, Commissioner

By its action of May 15, 2025.

Lisa Felice, Executive Secretary

PROOF OF SERVICE

STATE OF MICHIGAN)

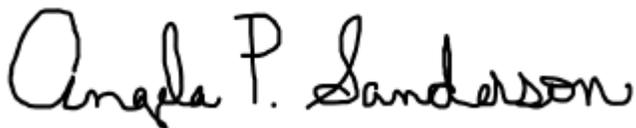
Case No. U-21661

County of Ingham)

Brianna Brown being duly sworn, deposes and says that on May 15, 2025 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 15th day of May 2025.



Angela P. Sanderson
Notary Public, Shiawassee County, Michigan
As acting in Eaton County
My Commission Expires: May 21, 2030

Service List for Case: U-21661

Name	On Behalf Of	Email Address
Alena M. Clark	MPSC Staff	clarka55@michigan.gov
Christopher S. Saunders	ALJs - MPSC	saundersc4@michigan.gov
DTE Energy Company	DTE Energy Company	mpscfilings_account@dteenergy.com