

MINUTES OF THE REGULAR COMMISSION MEETING OF THE MICHIGAN PUBLIC SERVICE COMMISSION HELD IN ITS OFFICES ON APRIL 27, 2018

Commission Chairman Sally A. Talberg called the meeting to order at 10:32 a.m.  
Executive Secretary Kavita Kale called the roll and declared there was a quorum.

**PRESENT**

Commission: Sally A. Talberg, Chairman  
Norman J. Saari, Commissioner  
Rachael A. Eubanks, Commissioner

Staff: Alissa Day  
Nick Assendelft  
Kavita Kale  
Lisa Felice  
Nathan Johnson  
Nyrhe Royal  
Eric Wells  
Julie Baldwin  
Pat Poli  
Cathy Cole  
Brad Banks  
Lumi Makinde  
Jesse Harlow  
Naomi Simpson  
Patrick Hudson  
Roger Doherty  
Matt Donahue  
Paul Proudfoot  
Jill Rusnak  
Al Freeman  
Derrell Slaughter  
Sarah Mullkoff  
Kristen Lawless  
Heather Cantin  
Stephanie Haney  
Lynn Beck  
Kyle Daymon  
Susan Corbin  
Caitlin Buchanan  
James Van Steel  
Leah Arendt  
Dave Isakson  
Jana Bachman

Heather Durian  
Ethyan Kramer  
Gary Kitts  
Reka Holley  
Bob Nichols

Public: Trevor Lauer, DTE  
Stephanie Beres, DTE  
Donald Hazzard  
Don Stanczak, DTE  
Adella Crozier, DTE  
Jim Weeks, MMEA  
S. Carmody, Michigan Radio  
Margrethe Kearney, ELPC  
Jim Malewitz, Bridge Magazine  
Beth LeBlanc, Detroit News  
Antonette Noakes, Consumers Energy  
Suzy Westmoreland, MEGA  
Mike Torrey, Consumers Energy  
Nick Smith, Gongwer News Service  
Kwafo Adarkwa, ITC  
Tracy Jelneck, Office of Attorney General  
Candace Gonzales, Consumers Energy  
Sara Wurfel, Truscott Rossman  
Mike O'Brien, I&M  
Yvette Collins, AT&T  
Eric Stocking, UPPCO  
Gradon Haehnel, UPPCO

**I.** Commissioner Saari moved to approve today's agenda, Commissioner Eubanks seconded.

Vote: Yeas – Talberg, Saari, Eubanks  
Nays – None

The agenda was approved.

**II.** Commissioner Saari moved to approve the minutes of the Regular Commission Meeting of April 18, 2018, Commissioner Eubanks seconded.

Vote: Yeas – Talberg, Saari, Eubanks  
Nays – None

The minutes were approved.

### **III. CONSENTED ORDERS**

#### **A. COMMUNICATIONS**

1. U-17349 IN THE MATTER OF THE PETITION OF SPRINT SPECTRUM, L.P. FOR ARBITRATION PURSUANT TO SECTION 252(B) OF THE TELECOMMUNICATIONS ACT OF 1996 TO ESTABLISH INTERCONNECTION AGREEMENTS WITH MICHIGAN BELL TELEPHONE COMPANY d/b/a AT&T MICHIGAN  
(motion to extend time)
  
- U-17569 IN THE MATTER OF THE REQUEST FOR COMMISSION APPROVAL ON AN INTERCONNECTION AGREEMENT BETWEEN SPRINT SPECTRUM L.P. AND AT&T MICHIGAN  
(motion to extend time)

#### **B. ELECTRIC**

1. U-18255 IN THE MATTER OF THE APPLICATION OF DTE ELECTRIC COMPANY FOR AUTHORITY TO INCREASE ITS RATES, AMEND ITS RATE SCHEDULES AND RULES GOVERNING THE DISTRIBUTION AND SUPPLY OF ELECTRIC ENERGY, AND FOR MISCELLANEOUS ACCOUNTING AUTHORITY  
(rate case tariffs)
  
2. U-18370 IN THE MATTER OF THE APPLICATION OF INDIANA MICHIGAN POWER COMPANY FOR AUTHORITY TO INCREASE ITS RATES FOR THE SALE OF ELECTRIC ENERGY AND FOR APPROVAL OF DEPRECIATION ACCRUAL RATES AND OTHER RELATED MATTERS  
(amendatory order)

### **IV. OTHER ORDERS**

#### **A. ELECTRIC**

1. U-18419 IN THE MATTER OF THE APPLICATION OF DTE ELECTRIC COMPANY FOR APPROVAL OF CERTIFICATES OF NECESSITY PURSUANT TO MCL 460.6S, AS AMENDED, IN CONNECTION WITH THE ADDITION OF A NATURAL GAS COMBINED CYCLE GENERATING FACILITY TO ITS GENERATION FLEET AND FOR RELATED ACCOUNTING AND RATEMAKING AUTHORIZATIONS  
(final order)

Case No. U-18419 involves an application by DTE Electric Company for approval of certificates of necessity and other related accounting and ratemaking authorizations. The order before you approves the certificates of necessity as set forth in the order. Commissioner Saari moved that the Commission approve the order at its April 27, 2018 meeting. Chairman Talberg seconded that motion.

Chairman Talberg commented:

“It has been decades since a utility regulated by the Commission has built a large power plant in Michigan. For DTE, the FERMI nuclear plant went into service in 1988 after many years of construction and on the heels of the Belle River coal plant in the mid-1980s. DTE’s last integrated resource plan was filed with the Commission in 1994.

Long-term energy resource planning is not new to the industry, stakeholders, or the Commission. And this Commission has a familiarity with energy resource planning models. What is new for all of us is major, long-term planning decisions being tied to upfront financial cost recovery for new energy resource investments as part of a contested case proceeding.

The evidentiary record in this CON proceeding, including the extensive modeling and analysis by DTE and the many parties, was voluminous and provides basis for the Commission’s decision. However, given the contentious nature of this proceeding and the lack of clarity and transparency around some of the modeling, the Commission does not view this CON proceeding as a model for the upcoming integrated resource plans. But as I discussed earlier, the experience provided valuable insights on which to base commission guidance in this order for upcoming IRPs.

As reflected in the order before us, it is appropriate to grant the certificates of need for DTE’s proposed 1,100 MW combined cycle natural gas plant because it meets the applicable requirements. I also want to stress that this plant has the best combination of operational, reliability, environmental, and financial attributes that will help fill significant need for power and position Michigan for a successful transition to a cleaner energy future.

Operation of this plant is highly efficient because it uses advanced technology to convert fuel and steam to electricity, making wise and economical use of our non-renewable resources. The plant is designed to run consistently, making better use of the investment compared to a power plant that only runs certain hours of the year—such as at peak times when demand is highest (and otherwise sits idle on standby). And unlike nuclear plants that are designed to run as a baseload facility at constant full output, and coal plants that slowly ramp up or down their output (over the course of days for some plants), this gas plant is extremely fast start (within minutes) at responding to changes in demand to help ensure reliable operation of our electric system. This efficiency and flexibility will complement the future integration of additional wind and solar renewable energy.

At a time when pressures on maintaining reasonable electric rates are increasing due to the need to invest more in our energy infrastructure, this plant is a very cost-effective project based on standard cost benchmarks for comparing different energy resources – the \$/KW cost and \$/kWh levelized cost of energy. While demand response, renewable energy, and energy waste reduction are also relatively low-cost options, the record did not support the feasibility of scaling up these resources to displace this gas plant in this timeframe.

The 1,100 MW electric capacity of this plant is large, yet it is filling only a portion of the significant near-term need for power due to the planned closure of over 2,000 MW of DTE’s older and less reliable coal plants by 2023.

In fact, even with this new plant, DTE continues to forecast a power need that could be met by adding additional renewable energy, increasing programs to help customers cut energy waste, and power purchases.

And this need does not account for filling capacity requirements in the region because of additional large power plants in Michigan expected to close by early 2022. Our state is seeing a fundamental change in our power supplies in a very short timeframe.

While this new combined cycle gas plant increases the diversity of DTE's power supplies, there is risk associated with gas prices escalating due to market disruptions, changes to gas production rules, or other factors. These risks cannot be eliminated, but Michigan is uniquely positioned to mitigate potential challenges given our investments access to multiple gas producing markets, robust pipeline capacity, and the most gas storage of any state in the nation.

With this natural gas plant and other investments in renewable energy and energy waste reduction, we are well on our way to exceed the state's goal of 35% by 2025 of our energy from the cleanest energy resources. Michigan's electric utilities are expected to spend approximately \$2 billion on energy waste reduction and over \$4 billion on renewable energy by 2022. This does not include incremental investments by customers to cut energy waste or install their own electric generation such as solar panels in their homes or businesses.

The Commission recently approved DTE increasing its energy waste reduction programs from just over 1% annual savings to 1.5%--or 50% above the state mandate. This commitment to cutting energy waste will help ensure affordability for all customers. The hearing record in this proceeding shows that DTE could potentially augment this new gas plant with energy waste reduction up to a 2% savings level, at a cost savings. This incremental investment in energy efficiency could also help meet our power needs if there are construction delays with the new plant or changes to the planned retirement of coal plants such as unforeseen equipment failures.

The Commission is also encouraged by the possibility that increased investment in energy waste reduction, renewable energy, demand response, and other non-fossil fuel options can displace a second gas plant that was included in DTE's IRP submittal. To be clear, the order before us today does not take action on DTE's idea for a second plant in the late 2020s, or other longer-term strategies to meet power needs. But because energy waste reduction and demand response involve voluntary customer participation and can take considerable planning time to scale up, the Commission ordered DTE to examine this scenario—without a second gas plant—in its IRP filing in 2019.

Finally, local electric generating facilities like this gas plant serve a unique need that warrants emphasis. Reliability is not just about having enough capacity on summer days when electricity consumption peaks. Unlike alternatives presented in this case, resources like this electric generating station provide system voltage support and other services that help keep the electric grid stable minute-by-minute, 24/7, 365 days a year to serve the needs of our modern society.

And again, this plant's ability to quickly adjust to changing system conditions and provide needed electricity year-round, under different weather conditions, are critical features to help assure reliable and resilient service to DTE customers. Given the dynamic nature of our power supplies in DTE's service area and the region, this gas-fired generation facility is also integral to Michigan's transition to a cleaner energy future".

Commissioner Eubanks commented:

"Thank you, Madam Chair for your thoughts and for the opportunity to comment. And to follow on to your last point regarding the process of this case, I wholeheartedly agree that it could, and should, have

gone better. Transparency and inclusiveness is essential in forming an outcome that all participants and the public can have confidence in, regardless of the option selected.

DTE's last plant was put in service in 1988, so it's been a long time since this type of decision has been made. We have a once in a generation opportunity before all of us to shape our energy future. While I observed some troubling behavior in this case, I am unquestionably committed to being part of collectively figuring this out in a way that we can all feel good about and in a manner that doesn't turn us against one another. I can speak for the three of us and the Commission staff when I say we will all do our part to create an environment where everyone can do their best work so that we all benefit from the best ideas out there. I ask the participants in our proceedings to do the same – keep in mind that we're trying to achieve an energy future that we all have to live with. It's not just the generational life of a power plant – it's how Michigan's residents and businesses for the decades ahead will have the energy resources they need to sustain and grow their quality of life. While we may disagree on the exact way to get there, we can't forget this common goal. Be open to ideas and perspectives that are not your own. Be open to letting others provide feedback on your ideas and perspectives. Be collaborative. Understand the give and take that is required to create solutions that best serve 10 million Michiganders. While today set in motion a significant piece of the puzzle, we are still just at the beginning of our energy transition. There is much more work to be done and the process has to be better going forward”.

Commissioner Saari commented:

“If you see something, say something.

This admonition is not just applicable to inappropriate behavior on school playgrounds and public gatherings but expresses a concern that I have with DTE Electric in this CON case.

A Commission proceeding is not the place for name calling and what I would refer to as attempts at legal bullying. The Commission's hearing system is not a parlor game where you are encouraged to ridicule the process and humiliate the participants. I am hopeful that in future Commission proceedings DTE Electric will keep its focus on fact-based data and carefully analyzed model runs, best case scenarios and programs that are in the best interest of the customer.

I was disappointed in reading DTE legal documents where they referred to intervenor filings as ‘hyperbole, stray issues and other distractions apparently designed to try to convince the Commission of their point of view.’

I would prefer DTE to be responsive and articulate in its presentations and not complain that ‘it is not, nor is it required to be clairvoyant.’

I would encourage in future proceedings that DTE present substantive rebuttal and not refer to the intervenor's case as a presentation that would result in Commission ‘paralysis by analysis.’

DTE would be well served to clearly express specific concerns on alternate proposals and not refer to any other views as ‘an attempt to throw sand in the gears of this proceeding.’

I would encourage DTE to address clearly and concisely its concerns with differing points of view and not refer to intervenor testimony as ‘an exercise in obfuscation.’

DTE does not advance its cause or support its case when it reminds the Commission in our consideration of testimony that ‘this is not Shark Tank.’

In future proceedings before this Commission, I encourage DTE to maintain a high level of civility when acknowledging and addressing alternate points of view. The Commission encourages robust debate and cross examination to ensure we give fair and thoughtful consideration to all proposals. This Commission's hearing process follows established rules of law. It provides the opportunity for utilities, the public and intervenors to present sometimes similar, sometimes differing, perspectives, both in contested cases and settlement discussions. Many issues are complicated and quite complex and

don't lend themselves to one easy answer, so we welcome debate and thoughtful discussion throughout the legal and regulatory process.

If DTE had made some of its comments in a third-grade classroom the teacher would make them write on the blackboard 100 times 'I will not insinuate that my classmates are ill informed.'

If it happened in a basketball game, the referee would give them a technical foul for taunting.

And in the Commission hearing room, we stand on the guidance that you can disagree without being disagreeable”.

Chairman Talberg commented:

“The timing of this case makes it unique. For some time, DTE has been public about its plans to build this new gas plant in southeast Michigan. During the extended discussions regarding pending energy legislation in 2016, it was expected that DTE would pursue a certificate of need in 2017 whether the legislation became law or not.

Public Act 341 (Act 341) was signed into law on December 21, 2016 and took effect on April 20, 2017. Act 341 amended the CON provisions from the 2008 law, and added new provisions related to standalone integrated resource plans that all rate-regulated electric utilities are required to file with the Commission by April 20, 2019.

Importantly, the existing CON provisions were preserved in the law (with slight modifications), in part to avoid a gap in the state's resource planning framework before the Commission set up new IRP guidelines. The law laid out a schedule for the Commission to follow and required new studies and other steps to establish the new guidelines. These legislative directives were completed in December 2017.

DTE filed its CON application with the Commission on July 31, 2017, about a week after the Commission initiated the formal proceeding to establish IRP modeling scenarios and assumptions, almost four months before the final scenarios and assumptions would be adopted by the Commission, and nearly five months before new IRP filing requirements were adopted.

Some participants in DTE's CON case have argued that the new IRP provisions added by Act 341 should apply in considering DTE's CON request, with the Commission needing to make an explicit finding that the utility's entire resource plan is the most reasonable and prudent way to meet its customers' power needs (not only that the proposed plant meets this standard).

This interpretation is inconsistent with the law. Act 341 maintained the standalone CON section for precisely the situation we are in today – the interim period between when the new law took effect and when final IRP parameters and guidelines were implemented by the Commission. This is evidenced by the fact that Act 341 requires the Commission to determine that a utility has proven the need for new power through either an approved IRP under the new law's IRP provisions (Section 6t) or the CON law's IRP provisions (Section 6s (11)). If the Legislature had intended to require all CON requests filed after the new law took effect to be coupled with the new IRP requirements established by Act 341, it would not make sense to maintain the ability to use the existing CON IRP provisions.

While there may be a preference toward the more prescriptive requirements, the fact remains that DTE complied with the statutory framework, CON filing requirements, and IRP guidelines that were in effect at the time the company filed its case. Moreover, there was rigorous analysis and modeling presented in this proceeding with 40 witnesses providing expert testimony and over 60 modeling scenarios presented to help inform the Commission's decision”.

Vote: Yeas – Talberg, Saari  
Concurring – Eubanks

Nays – None

The order was adopted.

## V. PUBLIC COMMENTS

Trevor Lauer, DTE Electric, thanked MPSC for approving the certificates of necessity for the new plant.

An audio recording of the proceedings of the April 27, 2018 meeting is archived in podcast format at: [http://www.michigan.gov/mpsc/0,4639,7-159-16400\\_46656---,00.html](http://www.michigan.gov/mpsc/0,4639,7-159-16400_46656---,00.html) .

Chairman Talberg announced that the next regularly scheduled Commission Meeting will be held on May 17, 2018 at 1:30 p.m.

Commissioner Saari moved that the Commission adjourn, Commissioner Eubanks seconded.

Vote: Yeas – Talberg, Saari, Eubanks  
Nays – None

The motion was approved.

The meeting adjourned at 11:02 a.m.

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Kavita Kale  
Executive Secretary