

## DTE Electric Natural Gas Electric Generation Project

DTE Electric Company (DTE) is the largest electric utility company in Michigan and is based in Detroit. It provides electric service to 2.2 million customers in southeast Michigan. In July 2017, DTE submitted a Certificate of Necessity application to the Michigan Public Service Commission (MPSC) for approval to construct a new 1,100 MW natural gas combined cycle electric generation facility.

### Certificate of Necessity

#### 1. What is a Certificate of Necessity?

A Certificate of Necessity, or CON, is available to a regulated electric utility planning to do any of the following:

- **Construct** a new electric generation facility
- Make **substantial investment in an existing** electric generation facility;
- **Purchase an existing** electric generation facility; or
- Enter into a **power purchase agreement (PPA)** for the purchase of electric **capacity** for a period of **6 years or longer**

A regulated electric utility may submit an application to the MPSC seeking a CON for such investment if it is expected to cost **\$100 million or more**, a portion of the costs would be passed on to customers through rates, and the investment is planned to be made within six years. Further information can be found in MCL [460.6s](#).

#### 2. What can an electric utility request in a CON application?

Regulated electric utilities may request **one or more** of the following certificates:

- That the power to be supplied as a result of the proposed construction, investment, or purchase is **needed**.
- That the **size, fuel type**, and other **design** characteristics of the existing or proposed electric generation facility or the terms of the power purchase agreement represent the **most reasonable and prudent** means of meeting that power need.
- That the **price** specified in the **power purchase agreement** will be **recovered in rates** from the electric utility's customers.
- That the **estimated purchase or capital costs** of and the **financing plan** for the existing or proposed electric generation facility will be **recoverable in rates** from customers.

#### 3. What standards does the MPSC use in reviewing a CON application and making its decision?

Under MCL [460.6s\(4\)](#), the MPSC may either approve or deny a CON application. The MPSC is required to approve a CON application if it makes the following determinations: (a) there is a **need** for the power, (b) the project will **comply with state and federal environmental standards**, laws, and rules, (c) the estimated **costs are reasonable**, (d) the facility or PPA represents the **most reasonable and prudent** means to meet the power need, and (e) the **workforce** used to construct the facility is comprised of **Michigan residents**. While the MPSC **can also consider alternatives** proposed by intervenors in the case process, it cannot require or compel the utility to accept an alternative proposal. The authority of the MPSC is limited to the approval or denial of the CON application.

## DTE Electric Company CON Request

### 4. What did DTE request in its CON application?

DTE requested the following **three CONs** for its proposed **1,100 megawatt (MW)** natural gas combined cycle (NGCC) plant:

- That the power to be supplied as a result of the proposed construction, investment, or purchase is **needed**.
- That the size, fuel type, and other design characteristics of the existing or proposed electric generation facility or the terms of the power purchase agreement represent **the most reasonable and prudent means** of meeting that power need.
- That the estimated purchase or capital costs of and the financing plan for the existing or proposed electric generation facility will be **recoverable in rates** from customers.

### 5. What is a Natural Gas Combined Cycle (NGCC) plant?

A NGCC plant is a power plant that uses **natural gas to produce electricity and steam**. DTE's proposed NGCC power plant is **1,100 MW** and includes a multi-shaft 2x1 design, consisting of two combustion turbine units and one steam unit. It is highly efficient and can quickly increase or decrease output based on changes in customer demand or system conditions. The NGCC plant is proposed to be located on the site of DTE's existing Belle River power plant in **East China, Michigan**. Construction is proposed to begin in the spring of 2019, with commercial operation of the plant expected by June of 2022.

### 6. Why is DTE interested in building a new NGCC plant?

DTE indicates that by 2023 it will have a generation capacity shortfall of 1,266 MW, primarily due to the retirement of 8 coal-fired electric generation units at three different plant sites. DTE is planning to retire the coal units due to a combination of old age and costly investments necessary to ensure the plants are compliant with environmental regulations.

### 7. Did DTE consider alternatives to the proposed generation project?

Yes. DTE submitted an integrated resource plan (IRP) as part of its application, pursuant to the requirements for an IRP set forth in MCL [460.6s\(11\)](#). An IRP is a plan developed by an electric utility which outlines its future resource strategy – how the electric utility will provide reliable, cost-effective electric service to its customers while addressing the risks and uncertainties inherent in the electric utility business. As part of its IRP, DTE **considered several alternative resource options**, including energy waste reduction, load management and demand response, nuclear energy, renewable energy, storage, short-term market purchases of up to 300 MWs, transmission alternatives and distribution efficiencies, natural gas combustion turbine and combined cycle gas plant configurations.

## MPSC Decision

### 8. What did the MPSC decide?

**The MPSC granted DTE's CON application for a new NGCC power plant**, authorizing cost recovery up to \$951.8 million. The MPSC found that there is a need for the power from the proposed unit; that the project will comply with state and federal environmental standards, laws, and rules; the estimated costs are reasonable; the facility is the most reasonable and prudent means to meet the power need; and the workforce used to construct the facility will be comprised primarily of Michigan residents.

### 9. What does the MPSC's decision mean?

The MPSC's approval of the DTE NGCC generating facility CONs will allow DTE to recover from customers the costs associated with the construction of new baseload generation to meet its anticipated generation shortfall due to coal units retiring by 2023. Only actual amounts incurred up to \$951.8 million can be recovered by DTE through rates. **The new generating facility will ensure long-term reliability for Michigan residents.**

## CON Process

### 10. What is the process for a CON case?



The typical process for a CON request is similar to the process for any **contested case** before the MPSC, as shown above. In DTE's CON proceeding, the MPSC read the record, eliminating the need for the PFD and Exceptions to PFD steps. Under the law, the MPSC must issue a final order in a CON case within 270 days of the company's application.

### 11. Are other parties able to express their opinions?

Yes. A CON case is conducted as a contested case, meaning a formal hearing process is used to allow individuals or groups to be involved in the case proceeding. Parties who may be impacted by the utility's proposal may file a **petition to intervene**.

Typical intervenors include individuals, businesses, organizations, and government agencies representing a wide spectrum of interests, such as environmental considerations, residential, commercial, or industrial ratepayers, or consumer advocates. Intervenors are represented by attorneys and may submit testimony and exhibits, participate in the discovery of evidence process, cross examine witnesses, and file legal briefs on issues in the case. Including MPSC Staff, DTE's CON case had 10 intervenors representing 16 interest groups. Any intervenor in a CON proceeding can file alternative proposals for the MPSC's consideration in the context of the case. Under the law, an existing supplier of electric generation, producing at least 200 MWs of firm generation capacity and located in the same regional transmission grid zone as the CON applicant, can submit to the MPSC an alternative proposal to that of the electric utility, and the supplier is automatically granted standing to participate as an intervenor.

Members of the public are also able to express their views and participate in a CON case by **submitting comments into the hearing record**. Members of the public were able to submit written comments and electronic comments via e-mail.

### 12. Can a utility modify its CON application once filed?

Yes. A utility has **up to 150 days** after the initial CON filing **to update cost estimates** if those estimates change materially. No other aspect of the application filing may be changed unless it is withdrawn and refiled.

### 13. What happens if a CON is not approved by the MPSC?

If the MPSC denies a CON application, the utility has a few options: (1) It may **continue to move forward** with the proposed project, without the determination of need and cost recovery (although there may be regulatory risk when the utility seeks to include costs for the project in a future rate case.) (2) The utility can **modify** its CON and refile with the MPSC, or (3) the utility may choose to **cancel** the CON and proposed project in its entirety. A CON will be required for future generation projects with a capacity of 225 MW or greater as part of an Integrated Resource Plan under section 6t of [PA 341](#).

## Cost Recovery

### 14. How does an approved CON impact rates?

An approved CON will likely increase the utility's revenue requirement, which is the revenue needed to adequately compensate the utility for costs it reasonably and prudently incurs to serve its customers. When a utility has an alleged revenue deficiency, it files a rate case with the MPSC seeking authority to increase rates. A rate case is a legal proceeding conducted by the MPSC to determine the amounts to charge customers through rates, based on the utility's costs to serve its customers. Approved CON project costs may be included in the requesting utility's rates once the generation facility or PPA is considered **used and useful**. Generally, costs will be recovered over a period of time by a utility in ongoing rate cases and power supply cost recovery filings. Certain costs, such as financing interest and construction work in progress, may be recovered in rates before the asset is considered used and useful.

### 15. Once a CON is approved, can the costs approved for recovery be altered in subsequent cases?

Pursuant to MCL [460.6s\(9\)](#), the MPSC **cannot disallow any recovery of costs at or below what was approved** in the CON case. If the CON final costs exceed the amount previously approved by the MPSC, they are presumed to have been incurred due to a lack of prudence. The MPSC can only allow CON costs above what was previously approved by the MPSC to be recovered by the utility in rates, if the MPSC finds that the utility overcame the legal presumption of imprudence.

### 16. Are ratepayers protected from fraud and mismanagement?

**Yes.** Pursuant to MCL [460.6s\(9\)](#), the MPSC shall disallow any costs incurred through fraud, concealment, gross mismanagement, or lack of quality controls. Under such a scenario, ratepayers would be refunded with interest for all recovered costs to date.

### 17. What happens if assumptions materially change after the approval of a CON?

If underlying assumptions for an approved CON materially change, with the exception of a PPA CON, the utility may request, or the MPSC can rule in its own motion, to **initiate a proceeding** to review whether it is **reasonable and prudent** to complete the unfinished project. If the project is determined by the MPSC to no longer be reasonable and prudent, the MPSC can modify or cancel approval of the CON. Costs already incurred or committed are still recoverable by the utility. The MPSC can also limit future cost recovery to those that cannot be reasonably avoided.

## Next Steps

### **18. What is the employment impact of the generation project?**

Total construction employment is expected to peak at about 520 full time personnel for about 19 months after the start of construction of the project. DTE estimates in its application that more than 90% of the craft labor will be comprised of **Michigan residents** who are members of various labor unions. Once the project is complete, DTE estimates the plant will employ about 35 full time employees. The generation project will also support state and local communities with tax revenues from the project.

### **19. What about other resources, such as renewable energy, energy efficiency, or demand response, that could be used to meet DTE's power needs?**

DTE has made investments in renewable energy, energy efficiency, demand response, and other resources, and will increase these investments in the future to continue to meet its customers' needs. The company has submitted a plan to comply with the state's 15% by 2021 renewable energy standard and has been approved for an energy waste reduction plan that will result in 1.5% annual electric energy savings. In addition, under the state's new energy law, DTE will have to file an Integrated Resource Plan by March of 2019 to demonstrate how it will meet its long-term power needs. MPSC Staff and other stakeholders will have an ability to scrutinize DTE's plan and offer alternative proposals, and the MPSC will determine at that time whether the plan is the most reasonable and prudent way for DTE to meet its customers' longer-term energy needs.

### **20. What are the next steps?**

The DTE gas-fired electric generation facility is intended to serve its customers' energy needs **in an efficient, reliable, and flexible manner and help replace several DTE coal plants retiring by 2023**. The next step is the construction of the new NGCC power plant, with an expected commercial operation date of 2022. DTE is required to regularly file reports to the Commission regarding the status of the approved CON, including an update of the cost and schedule of the project.

For more information, visit:

[www.michigan.gov/mpsc](http://www.michigan.gov/mpsc)  
[Case No. U-18419 – DTE CON Docket](#)  
[Rate Case Issue Brief](#)  
[IRP Issue Brief](#)

*April 27, 2018*

**DISCLAIMER:** This document was prepared to aid the public's understanding of certain matters before the Commission and is not intended to modify, supplement, or be a substitute for the Commission's orders. The Commission's orders are the official action of the Commission.