

Summary Comments of DTE Electric in Response to Staff's 02.28.2020 Draft Rules Proposal for Interconnection, Distributed Generation, and Legally Enforceable Obligation Standards

DTE Electric recognizes the substantial effort Staff has expended to develop this proposal and appreciates their willingness to share reasoning and perspectives on the many new sections included in this draft. However, in review of the rule proposals, DTE Electric has several conceptual concerns to highlight for correction in addition to comments provided with the latest draft rules. Those concerns are summarized below:

- 1) Inflexible administrative rules versus utility procedures that can respond to a changing industry
- 2) Transition batch (R 460.918) legal concerns – section new to this draft
- 3) Fast track – initial review (R 460.946 and R 460.950) fails to address important considerations – deletions from the prior draft; comments not incorporated
- 4) Construction agreement legal and practical concerns (R 460.964) – comments not incorporated
- 5) Interconnection applications (R 460.936) – passage new to draft

Inflexible administrative rules cannot properly respond to a changing industry

Prescriptive administrative rulemaking will be problematic to implement for all stakeholders. Utility flexibility is necessary to properly prioritize customer requests with finite resources. In light of the pace of industry change and the flexibility inherent in utility procedures, DTE Electric believes it unwise to establish inflexible rules, such as delineating technical thresholds in R 460.946. Each electric utility in the state maintains different equipment, diverse operating voltages, network design, volume of applications, etc. and an approach that supports this diversity would be beneficial to the utilities, to applicants, and to the Commission. The scope of the newly proposed rules should be reduced, and the detail simplified, to ensure success. Electric utilities must be able to manage and operate their businesses through reasonable, flexible procedures that balance competing customer requests and requirements.

Transition batch (R 460.918) Legal Concerns

- *History:* This section is entirely new and has not been subject to comment in any form
- *Description:* The transition batch defines the interconnection study process for those projects proposed before the effective date of the new rules
- *Concern:* The proposed rule would apply a new set of rules to a set of projects initiated in months or years past under a different set of rules. In addition to creating a potentially perverse incentive for applicants to wait for promulgation of these rules in the event they find them preferable to existing rules, the retroactive application is contrary to law. The Company is actively processing many applications that are best conducted under a single set of rules.
- ***Recommendations:***
 - Remove language related to transition batch
 - Provide 60 days from the effective date of these rules for projects to provide appropriate and updated information and intent to enter into the first batch study under the new rules
 - Any project that does not do this within 60 days may be considered withdrawn

Fast track - initial review (R 460.946 and R 460.950) fails to address important considerations

- **History:** This section was in prior drafts, however the specific concern of these Subrules reflects passages that were deleted since the last comment period. The previous version included an allowance for utility flexibility in further study of applications which cleared the screens but may have ongoing concerns – this version struck that flexibility and fully prescribed the rule with no substantive alternative.
- **Description:** Section describes screens and procedures for fast track applications

Subrules (2) and (3)b

- **Concern:** The new wording provides no flexibility whatsoever to the utility when safety or other operability concerns may be present but not explicitly identified or defined by a screen. Combined with the concerns related to Subrule (5) below, these represent system safety and reliability risk.
- **Recommendation:** Replace the previously included language from the August 28, 2019 draft, with appropriate references, which provided the requisite utility flexibility. From R. 460.938 of that version:
 - To replace 946 and 950 Subrule (3)b: (1) *“Based on the specific operating characteristics of the electric utility’s distribution system, the electric utility may include additional screens in its interconnection procedures that are distinct from the initial review screens and the supplemental review screens”*
 - To replace 946 and 950 Subrule (2): (5) *“If the DER passes all the initial review screens but the electric utility does not or cannot determine that the DER may be interconnected safely and reliably unless the ~~interconnection customer~~ [applicant] is willing to consider further study or modifications acceptable to the electric utility, the electric utility shall provide the ~~interconnection customer~~ [applicant] the option of either: 1) undergoing a supplemental review pursuant to R 460.942; 2) commencing the study track beginning at R 460.948.”*

Subrule (5)

- **Concern:** While the screens are generally applicable, they do not allow for any flexibility as the system evolves and DER penetration, coincidence, and technology type changes, and have no allowance for boundary cases that may not align with the screens. The included numbers may quickly become obsolete, do not reflect the actual operating conditions of the DTE system, and are a significant safety and reliability concern for DTE. Absent alterations to (2) and (3)b above and utility flexibility in screens, the utility would be forced to petition for a rule change and delay or refuse interconnection under penalty of non-compliance.
- **Recommendation:** Leave quantitative thresholds to utility procedures, or in the alternative include flexibility to modify the thresholds as is appropriate in the judgment of the utility

Construction agreement (R 460.964) legal and practical concerns

Subrule (1)a

- **History:** DTE previously commented on this specific issue and no changes were made
- **Description:** Allows applicants to file unexecuted construction agreements for approval, including timelines
- **Concern:** The Company views this as exceeding the Commission's authority and it would enforce upon the Company a contract with which it did not agree. The application of this rule could impose uneconomic, unsafe, or otherwise deficient Construction Agreements upon the Company based on the preferences of others. There has been no explanation of the legal authority for the State or others to impose burdens and costs on the Company's distribution system. Moreover, there is an existing complaint process with well-established Administrative Rules and assurances of due process to address legitimate concerns.
- **Recommendation:** Amend Subrule 1(a) as described below. In the alternative, Subrule 1(a) may be removed

(a) If the applicant and the electric utility fail to both sign a construction agreement, the applicant shall, within sixty (60) business days following receipt of the construction agreement, either file ~~an unexecuted construction agreement with the commission pursuant to the complaint process under R 460.17101 – R 460.17701~~ a complaint under existing procedures or withdraw the application. Failure to select a course of action will deem the application withdrawn.

Interconnection applications (R 460.936) legal and practical concerns

Subrule (8)

- **History:** The passage is new to this version; the section is a recombination of previous headings
- **Description:** The Subrule requires the electric utility to process and study all projects, including utility projects, as if they were utility projects with exceptions only for "temporary DER".
- **Concern:** The Company initiates its own projects for a variety of purposes, including NWA pilots, other distribution system efforts, and renewable asset development. This rule would force the Company batch its own project once per year and otherwise impede flexible and prudent utility system operations and planning, and management control of the business. Applicant is already defined and should not be redefined for a specific context. There has been no explanation of the legal authority for the State to impose burdens and costs of this type on the Company for use of its own distribution system.
- **Recommendation:** Amend Subrule (8) as described below. In the alternative, Subrule (8) may be removed

(8) The electric utility shall use the same reasonable efforts when processing and studying interconnection applications from ~~all any applicants, whether the DER is owned or operated by the electric utility, its subsidiaries or affiliates, or others, with the exception of temporary DER such as emergency generation and battery storage.~~