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March 15, 2019

VIA ELECTRONIC CASE FILING

Ms. Kavita Kale
Executive Secretary
Michigan Public Service Commission
7109 W. Saginaw Highway
Lansing, Michigan 48917

Re: *MPSC Case No. U-20344: In the matter, on the Commission's own motion, to promulgate rules governing electric interconnection, distributed generation, and legacy net metering.*

Dear Ms. Kale:

Enclosed for filing please find the ***Association of Businesses Advocating Tariff Equity's Comments*** as it relates to the above case.

Sincerely,

CLARK HILL PLC

Stephen
A.
Campbell

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STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter, on the Commission’s own motion, to)
promulgate rules governing electric interconnection,)
a legally enforceable obligation, distributed)
generation, and legacy net metering)
_____)

Case No. U-20344

**COMMENTS OF THE ASSOCIATION OF
BUSINESSES ADVOCATING TARIFF EQUITY**

The Association of Businesses Advocating Tariff Equity (“ABATE”), by its attorneys, Clark Hill PLC, hereby provides Comments to the Michigan Public Service Commission (“Commission”) Staff (“Staff”) in response to the comments and proposals provided by Consumers Energy Company (“Consumers”), DTE Electric Company (“DTE”), and the Michigan Energy Innovation Business Council (“EIBC”) with regard to the creation of rules defining and establishing a legally enforceable obligation (“LEO”) under the Public Utilities Regulatory Policies Act of 1978 (“PURPA”).¹

ABATE generally supports the “guiding principles” identified in EIBC’s comments, namely that: (i) the rules defining when a LEO has been created should be clear and transparent, providing certainty and clarity to relevant entities; (ii) the requirements to establish a LEO must be based solely on actions taken by the qualifying facility (“QF”) which are within that QF’s

¹ While ABATE’s comments here do not necessarily address all the issues raised by the comments and proposals submitted by Consumers, DTE, EIBC, and other entities, ABATE’s lack of comment on those issues should not be taken as an acquiescence to those entities’ comments thereon, and ABATE reserves the right to comment on said issues in the future.

control; and (iii) sufficient assurances be provided, as required under PURPA, that utilities will purchase electricity from a QF that commits itself to sell electricity to the utility.²

These principles are important to consider when analyzing the comments and proposals provided by DTE and Consumers, as numerous portions of these comments and proposals contemplate or suggest ambiguous requirements, or condition an LEO on a QF receiving approvals that are beyond its control.³ Clarity, transparency, and sufficient assurances for all parties, including QFs, are of paramount concern in ensuring PURPA's intention to "encourage cogeneration and small power production and to increase use of renewable energy resources."⁴ It is therefore important to avoid onerous or unclear regulatory requirements which may dissuade QFs and frustrate PURPA's purposes.

² See EIBC Comments at 1.

³ See e.g. DTE Comments at 1 (referencing a QF being "financed based on the same debt to equity capital structure as the purchasing utility"), 3 (requiring demonstration of an "adequate commitment to proceed with any network upgrades"), 3-4 (including reference to several undefined terms including an "Engineering Review Study," "Affected System Study," and "Distribution Study"); Consumers Comments at 1 (requiring proof that a QF's agreement terms "are not detrimental to the purchasing utility, its customers, or the public interest"), 2 (requiring written proof or documentation of "a secured commitment from major equipment manufacturers for the delivery and/or installation of all major equipment to be utilized by the project," fuel resources, and "all necessary financing for the project over the life of its proposed PPA," as well as a "deposit based on the size of each project, the amount of which shall be established by the purchasing utility with the commission's approval"), 3 (requiring "documentation which demonstrates secured interconnection for the project, with the availability of Network Resource Integrated Service" and an agreement "to provide full access to meter data and meter tests at no additional cost to the purchasing utility"), 4 (requiring a QF "demonstrate that its project is within 90 days of its commercial operation date" and "provide the purchasing utility with proof of the project's ability to provide the promised energy and capacity no later than the end of that time period").

⁴ *In re Application of the Association of Businesses Advocating Tariff Equity*, order of the Public Service Commission, entered December 5, 1990 (Case No. U-9798).

CONCLUSION

ABATE appreciates the opportunity to submit these comments and asks that the Commission and Staff ensure any proposed rules resulting from this proceeding reflect the same.

Respectfully submitted,

CLARK HILL PLC

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