

Name

November 14, 2015

Executive Secretary
Michigan Public Service Commission
P.O. Box 30221
Lansing MI 48909

RE: Formal Complaint by John A. Holeton v. DTE Electric Company
Request Formal Hearing

Executive Secretary,

I am submitting this Formal Complaint and requesting a Hearing against DTE Energy, One Energy Plaza, Detroit MI 48226-1221 with the full believe the facts and specific allegations presented here-in are sufficient to reasonably inform DTE Energy to respond and defend, the claims presented here-in on its face value as *prima facie*. It is also with my full believe and understanding that all of the facts submitted here in are within the Michigan Public Service Commission authority to address and reconcile through direct action or resolution through a negotiated written settlement with the utility Rule 460.129 and Rule 460.130. As a non-lawyer with no educational background in legalese such as definitions, protocols, procedures, case law and jurisdiction Etc., I as a reasonable and prudent person must be able to take at face value the Consumer Standards and Billing Practices Rules of the MPSC which DTE Energy and Consumers must adhere to; The published documents such as Public Act 331 of 1976 known as the Michigan Consumer Protection Act and Michigan Case Law such as MCL 750.539d which purport certain violations as unlawful and even punishable by fines and imprisonment to be completely applicable to this complaint. It is under violations of the following rules and Michigan Statutes that I am initiating a formal complaint against DTE Energy regarding DTE's notice of a free upgrade AMI meter at no cost which I believe is potentially unlawful and harmful.

Formal Complaint

1. The DTE Energy Notice¹ of Advanced Metering Installation which I have just received failed to disclose the cost of installation of the AMI meter which they promote as a upgrade and "at no cost to you". It is unlawful under PA 331 of 1976 SEC 3. (1) (r) to represent that a consumer will receive goods or services "free" or "without charge" without disclosing with equal prominence in immediate conjunction the terms, conditions or prerequisites to the use or retention of the goods or services. This is also a violation of MPSC Rule 460.132 (1). A utility, except for a rural electric cooperative, shall provide to each customer, within 60 days of commencing service, within 60 days after issuance of a new rate case order, and at least once each year, the following information with a copy to the commission:
 - (a) A clear and concise explanation of all rates for which that customer may be eligible.
 - (b) A notice that complete rate schedules are available upon request.DTE Energy failed to disclose the additional cost burden of the AMI meter approved by a rate case or cases and is supposed to notify customers of the rate cases which reflect the new cost of

¹ DTE Notice dated October 27, 2015 addressed to Customer co-owner and resident of premises provided.

programs such as AMI metering and installation cost which would be directly reflected and added in my cost of service billing.

2. The DTE Notice claims we do not need to be present for the AMI meter² upgrade but the existing analog meter is not being upgraded, that is serviced by modification, refurbishing or replaced with new analog meter to be more accurate, efficient or even safer. To inspect, repair and remove for servicing is allowed under MPSC Rules.

The current meter is not broken, does not need repair or servicing since my billing has been concise and representative as accurate for as long as I have resided here. It is now being replaced with a undisclosed technology which DTE misrepresents the meter as a simple free upgrade and fails to disclose the new AMI meter is a data collection device which has (4) channels of data collection and two-way Radio Frequency communications.

DTE has not asked for my permission to install this AMI meter data collection device and I have documented that I have not given any implied consent for such installation in our request, inquiry, complaint No. XXXX XXXX XXXX XXXX³ to CEO, Detroit Energy Company, One Energy Plaza, Detroit MI 48226 which was received on February 18, 2014 by DTE Representative named there-on.

It is unlawful according to the Michigan Penal Code (Excerpt) Act 328 of 1931 Code 750 Sec. 539d. (1)⁴; A person shall not do either of the following:(a) Install or use in any private place, without the consent of the person or persons entitled to privacy in that place, any device for recording events in that place.

It is unlawful under Michigan Consumer Protection Act PA 331 of 1976 SEC 3. (1)(j)⁵ to represent that a part, replacement, or repair service is needed when it is not.

It is unlawful under Michigan Consumer Protection Act PA 331 of 1976 SEC 3. (1)(n) Causing a probability of confusion or of misunderstanding as to the legal rights, obligations, or remedies of a party to a transaction. This is of particular importance when DTE Energy will not address the consumer's right to not pay for excessive fees such as the Opt-Out charges which should be eliminated when a customer chooses to self-read and report their electrical consumption which is their legal right under R 460.115 Customer meter reading. DTE did not give me the notice or option to self-read my meter.

Rule 15. A utility shall provide each customer with the opportunity to read and report energy usage provided the customer accurately reports energy usage on a regular basis. A utility shall

² AMI meter commonly known as a Smart Meter can have (4) channels of data collection, a Home Area Network which creates a pathway into the home. Itron OpenWay Centron document provided.

³ Complaint or Notice of No Consent Certified Mail number.

⁴ Michigan Penal Code (Excerpt) Act 328 of 1931 Code 750 Sec. 539d. (1) edited for clarity and full document is provided.

⁵ PA 331 of 1976 SEC 3. (1)(j) full documentation provided.

provide postage paid, pre-addressed postcards for this purpose upon request, or the utility may permit customers to report meter readings on a secure company website, by telephone, or other reasonable means. At least once every 12 months, a utility shall obtain an actual meter reading of energy usage to verify the accuracy of readings reported in this manner. Notwithstanding the provisions of this rule, a utility company representative may read meters on a regular basis.

History: 2007 AACCS.

The Rule 15 states the utility shall provide each customer with the opportunity to read and report energy usage not may provide!

The Rule 15 states a utility company representative may read meters on a regular basis.

It is under these clear violations of MPSC Rules that I believe DTE's forced installation of AMI meters is unjust and unreasonable.

3. DTE clearly misrepresents the safety of the AMI meter as simply "new technology" in its brochure; Advanced Metering is Coming to You⁶, disregarding its long history of receiving conflicting evidence regarding Radio Frequency Radiation, RFR.

Quote:

Question. Are there any health hazards associated with the new technology?

Answer. No. The equipment operates at a low-power radio frequency, comparable to a cordless phone. All equipment operates in compliance with state and federal communication standards.

Unquote.

According to DTE data they are under the FCC standards for Thermal effects of Radiation. The FCC standards reference the heating and destruction of body tissue from short term exposure to RFR.

DTE has been provided with documentation from the Edison Electrical Institute⁷ that state: "There is, however, scientific consensus that for certain RF signal strengths there could be negative health effects."

It is the non-thermal exposure which DTE assumes us to believe the AMI meter is and is safe which can be correlated as the same exposure as cell phone's RFR technology "new technology" which the International Agency for Research on Cancer⁸- World Health Organization has declared a possible class II B carcinogen.

I believe this is further verified by the Environmental Protection Agency⁹, Center for Science and Risk Assessment Radiation Protection Division:

⁶ Advanced Metering is Coming to You brochure copy, two sides, is included in complaint.

⁷ Edison Electrical Institute document from MPSC Case U-17000attachment 3, page 29 of 35 document is included in complaint.

⁸ International Agency for Research on Cancer document included in complaint.

⁹ Environmental Protection Agency letter responding to Janet Newton of EMR Network is included in complaint.

Quote:

The FCC's current exposure guidelines, as well as those of the Institute of Electrical and Electronics Engineers (IEEE) and the International Commission on Non-ionizing Radiation Protection, are thermally based, and do not apply to chronic, nonthermal exposure situations. They are believed to protect against injury that may be caused by acute exposures that result in tissue heating or electric shock and burn. The hazard level (for frequencies generally at or greater than 3 MHz) is based on a specific absorption dose-rate, SAR, associated with an effect

that results from an increase in body temperature. The FCC's exposure guideline is considered protective of effects arising from a thermal mechanism but not from all possible mechanisms. Therefore, the generalization by many that the guidelines protect human beings from harm by any or all mechanisms is not justified.

Unquote.

Furthermore, The U.S. Army sees the possibility of Low Level Radio Frequency Radiation as a Bio-logical weapon which is a misrepresentation of potential hazards from "new technology" which DTE's is implying as a safe environment. Thus I believe it is Unlawful under Michigan Consumer Protection Act PA 331 of 1976 SEC 3. (1)(c) to misrepresent that goods have characteristics or benefits if they do not.

EXCERPT:

Bioeffects of Selected Nonlethal Weapons^(fn 1)

This addendum to the Nonlethal Technologies--Worldwide (NGIC-1147-101-98) study addresses in summary, some of the most often asked questions of nonlethal weapons technology, the physiological responses observed in clinical settings of the biophysical coupling and susceptibility of personnel to nonlethal effects weapons. These results identify and validate some aspects of maturing nonlethal technologies that may likely be encountered or used as nonlethal effectors in the future including:

- Laser and other light phenomena.
- Radiofrequency directed energy.
- Aural bioeffects.

The study of electromagnetic fields and their influence on biological systems is increasing rapidly. Much of this work is taking place because of health concerns. For example, increased concern has arisen regarding the effects of operator exposure to the electromagnetic fields associated with short-wave diathermy devices, high power microwave ovens, radar systems, magnetic resonance imaging units, etc. In addition, much concern has arisen about extremely low frequency (60 Hz power frequency) electric and magnetic fields that originate from high-voltage transmission lines, industrial equipment, and residential appliances. Both occupational and residential long-term exposure have been the focus of epidemiological studies. The studies have suggested possible adverse effects on human health (e.g., cancer, reproduction, etc.). Laboratory research is still being pursued to identify possible mechanisms of interaction. However, other than thermal heating for microwave frequencies, there is no yet agreed-upon mechanism of action. As a consequence, our knowledge base is developed entirely with phenomenological observations. Because of this fact, it is not possible to predict how nonthermal biological effects may differ from one exposure modality to another. It is especially difficult, because of the small data base for fast pulses, to predict biological effects that might be associated with high-power pulses of extremely short duration.

I believe the U.S. Army's Bioeffects of Selected Nonlethal weapons (fn 1)¹⁰referring to multitude of high-powered pulses of extremely short duration is exactly what DTE's installation of AMI meters and their program of 1 or 2 smart meters coupled with smart chipped appliances in the Home Area Network is about; An involuntary and potentially harmful effect from Radio Frequency Radiation.

Argument

The Formal complaints listed are in direct response to the DTE Formal Notice of proposed installation and Brochure provided by DTE Energy.

The installation of DTE Energy AMI meter "new Technology" at their own insistence, not mine, without full disclosure of the true cost increases associated to customers such as myself should not be tolerated as stated in the afore mentioned Statutes and Rules.

DTE's letter does not mention a Customer Choice in its Notice or Brochure to install its AMI meter which is contrary to Public Law 109-58-AUG.8, 2005, Sec. 1252. SMART METERING¹¹ (a) (14)(A) where a utility shall offer a customer a time base rate schedule and (C) Each electric utility subject to subparagraph (A) shall provide each customer requesting a time-based rate with a time-based meter. This is clearly a customer Choice presented in a Public Law.

The insistence that I accept Opt-Out tariff expenses when the Michigan Consumer Standard and Practice Statutes dictate that DTE shall, not may, provide the customer the opportunity to self-read their meter and thus eliminate the cost of Opting Out must be addressed. MPSC Rule 460.115 is unjust and unreasonable.

The DTE position that there are no health hazards regarding the installation of (1) meter does not rule out negative health effects, as previously addressed by the Edison Electrical Institute and the EPA regarding long term Non-thermal effects such as from sources as multiple DTE meters, their direct proximity to customers and with Smart Chipped appliances promoted in Home Area Networks addressed in AMI meters documentation. See AMI meter Footnote (2).

DTE failed to acknowledge that their AMI meter works almost constantly emitting RFR at various levels, the, throughout the day, not just when transmitting customer usage to the utility. This is seven days a week without customer choice to limit exposure limits. This Cumulative Effect of RF Radiation is purported by many to be linked to Cancer even the EPA document represents a possible link to cancer. The amount of RFR exposure from AMI meters to customers can only be verified by customers constantly using scientific test equipment such as a High Frequency Analyzer¹² which reads RF radiation

¹⁰ U.S. Army's Bioeffects of Selected Nonlethal weapons (fn 1) document is included in complaint.

¹¹ Public Law 109-58-AUG.8, 2005, Sec. 1252. SMART METERING (a) (14)(A) and (C) documentation provided.

¹² High Frequency Scientific Analyzer such as GIGAHERTZ SOLUTION made in Germany, HF-35C

in the same levels as cellphones(possibly carcinogenic), cordless phones and AMI meters 800 Megahertz to 2.5 Gigahertz to check the levels of radiation throughout the day and whether the AMI meter is transmitting and when transmitter is supposedly turned off which is highly unreasonable and cost prohibitive to the customer. I believe this evidence is admissible under MCL 24.275 as to give probative effect to evidence of a type commonly relied upon by reasonably prudent men in the conduct of their affairs.

DTE failed to mention in its Brochure when comparing its meter with the cordless phone, the cordless phone is voluntary purchased and exposure is limited by customer free choice as are microwave ovens, cellphones, computer modems, routers, and wireless security systems, desktop and laptop computers and programmable thermostats and baby monitors. All of these sources may be present in a home creating a cumulative effect of RFR and possibly be harmful.

This Cumulative Effect of RFR, Radio Frequency Radiation and its link to Cancer which I have provided is allowed under MCL 24.275 as to give probative effect to evidence of a type commonly relied upon by reasonably prudent men in the conduct of their affairs.

No other choices are mentioned for possible objections or resolutions. I believe it is not reasonable, justifiable or prudent leaving concerned customers unaware of the Rules and terms of service with the potential of service shutoff at the pole. DTE had an opportunity to address these issues but did not respond to my Initial inquiry complaint of February 14, 2014 which DTE received on February 18, 2014 regarding afore mentioned under Rules 460.128 and 460.129.

This is unacceptable as the MPSC declares its goals are to provide safe and reliable service and energy. 460.62 Declaration of necessity.

Sec. 12. This act is hereby declared immediately necessary for the preservation of the public peace, health and safety. History: 1919, Act 419, Imd. Eff. May 15, 1919 ;-- CL 1929, 11017 ;-- CL 1948, 460.62

Relief Requested

The importance of a customer such as myself being able to make an educated informed decision that a reasonable and prudent person would be able to fully comprehend by the statements and literature documentation provided by DTE Energy should be of utmost importance and the MPSC should demand DTE respect and adhere to the Rules, Laws and statutes in the best interest of the consumers they serve.

It is under Rule 460.6 that I seek relief from the afore mentioned violations regarding the cost of DTE's AMI meter installation, undocumented cost. The public service commission is vested with the power and jurisdiction to regulate all rates, fares, fees, charges, services, rules, conditions of service, and all other matters pertaining to the formation, operation, or direction of public utilities. The PSC has discretion to determine what charges and expenses to allow as costs of operation." Ford Motor Co v Pub Serv Comm, 221 Mich App 370, 375; 562 NW2d 224 (1997).

It is under this premise that I believe the cost of service I am now paying should be continued until I request such a change which include a different tariff or rate increase. The MPSC Mission and Goals clearly states as its mission to provide "customer Choice".

I believe it is unjust and unreasonable for DTE Energy to ignore the Rules, laws and statutes I have addressed and put my health, safety and financial stability at risk. This is a potentially costly and harmful situation DTE Energy has presented to me as a long term customer in good standing and with no alternative but to seek a formal complaint and hearing.

MCL 460.58 provides in pertinent part: Upon complaint in writing that any rate, classification, regulation or practice charged, made or observed by any public utility is unjust, inaccurate, or improper, to the prejudice of the complainant, the commission shall proceed to investigate the matter.

Remedies Requested:

1. Have DTE address the direct cost of AMI meters from rate adjustments to customer's monthly bill separately for disclosure of true cost of AMI meter installation.
2. Eliminate the upgrade meter installation mandated by DTE with customer to continue with analog meter and non-AMI rate and self-read of meter, as a cost saving for DTE and customer as DTE is unnecessarily charging for removal of analog meter, installation of AMI upgrade and charging again for AMI meter turn off reading.
3. Enforce Customer meter reading Rule 460.115. A utility shall provide each customer the opportunity to read and report energy usage thus eliminating Opt-Out fee to customers.
4. Seek Formal Hearing to address unresolved issues.

Conclusion

The above stated documentation is correct to the best of my knowledge and supported by the List of applicable Rules, Statutes, Michigan Compiled Laws and Exhibits declared herein and listed in the addendum titled MPSC Formal Complaint, List of applicable Rules, Statutes, Michigan Compiled Laws and Exhibits.

I request your immediate response as time is of a urgency.

Sincerely

MPSC Formal Complaint
List of applicable Rules, Statutes, Michigan Compiled Laws and Exhibits

Rules:

2014 Michigan Compiled Laws

Chapter 460 - PUBLIC UTILITIES

Act 419 of 1919 MICHIGAN PUBLIC UTILITIES COMMISSION (460.51 - 460.62)

Section 460.62 Declaration of necessity.

Sec. 12.

This act is hereby declared immediately necessary for the preservation of the public peace, health and safety.

History: 1919, Act 419, Imd. Eff. May 15, 1919 ;-- CL 1929, 11017 ;-- CL 1948, 460.62

Michigan Consumer Standards and Billing Practices

1. Rule R 460.115

Rule 15. A utility shall provide each customer with the opportunity to read and report energy usage provided the customer accurately reports energy usage on a regular basis. A utility shall provide postage paid, pre-addressed postcards for this purpose upon request, or the utility may permit customers to report meter readings on a secure company website, by telephone, or other reasonable means. At least once every 12 months, a utility shall obtain an actual meter reading of energy usage to verify the accuracy of readings reported in this manner. Notwithstanding the provisions of this rule, a utility company representative may read meters on a regular basis.

History: 2007 AACCS.

2. Rule R 460.128

3. Rule R 460.129

4. Rule R 460.130

5. Rule R 460.132 (1)

Documentation

Public Act 331 of 1976 known as the Michigan Consumer Protection Act 445.903 Unfair, unconscionable, or deceptive methods, acts, or practices in conduct of trade or commerce; rules; applicability of subsection (1)(hh).

Sec. 3.

(1) Unfair, unconscionable, or deceptive methods, acts, or practices in the conduct of trade or commerce are unlawful and are defined as follows:

Cited:

Michigan Consumer Protection Act PA 331 of 1976 SEC 3. (1)(c)

(c) Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have or that a person has sponsorship, approval, status, affiliation, or connection that he or she does not have.

Michigan Consumer Protection Act PA 331 of 1976 SEC 3. (1)(j)

(j) Representing that a part, replacement, or repair service is needed when it is not.

Michigan Consumer Protection Act PA 331 of 1976 SEC 3. (1)(n)

(n) Causing a probability of confusion or of misunderstanding as to the legal rights, obligations, or remedies of a party to a transaction.

PA 331 of 1976 SEC 3. (1) (r)

(r) Representing that a consumer will receive goods or services "free" or "without charge", or using words of similar import in the representation, without clearly and conspicuously disclosing with equal prominence in immediate conjunction with the use of those words the conditions, terms, or prerequisites to the use or retention of the goods or services advertised.

Exhibits provided

- 1. Public Law 109-58-AUG.8, 2005, Sec. 1252. SMART METERING (a) (14)(A) and (C). (2) Pages.**
- 2. DTE Notice dated October 27, 2015 addressed to Pauline HOLETON co-owner and resident of premises (1) page**
- 3. Complaint No. 7013 2250 0000 6705 7764. (4) Pages.**
- 4. AMI meter document, Itron OpenWay Centron, commonly known as a Smart Meter can have (4) channels of data collection, a Home Area Network which creates a pathway into the home. (3) Pages.**
- 5. Michigan Penal Code (Excerpt) Act 328 of 1931 Code 750 Sec. 539d. (1) Page.**
- 6. DTE Brochure; Advanced Metering is Coming to You. Two sided. (2) Pages.**
- 7. Edison Electrical Institute document from MPSC Case U-17000 attachment 3, page 29 of 35. (1) Page.**
- 8. International Agency for Research on Cancer document. (1) Page.**

9. Environmental Protection Agency letter responding to Janet Newton (4) Pages.
10. U.S. Army’s Bioeffects of Selected Nonlethal weapons (fn 1)
11. MCL 24.275 as to give probative effect to evidence of a type commonly relied upon by reasonably prudent men in the conduct of their affairs.
12. MCL 460.58 provides in pertinent part: Upon complaint in writing that any rate, classification, regulation or practice charged, made or observed by any public utility is unjust, inaccurate, or improper, to the prejudice of the complainant, the commission shall proceed to investigate the matter.
13. MPSC Mission and Goals – See New MPSC 1page Mission Gosl for closing statement!
14. 460.6 Public Service Commission; Power and Jurisdiction

Reference

Ford Motor Co v Pub Serv Comm, 221 Mich App 370, 375; 562 NW2d 224 (1997).
The Commission has discretion to “to determine what charges and expenses to allow as costs of operation” and “is not bound to follow any particular method or formula when it determines rates” .