

THE SENATE  
STATE OF MICHIGAN

PATRICK COLBECK  
7TH DISTRICT  
P.O. BOX 30038  
LANSING, MI 48909-7638  
PHONE: (617) 373-7350  
FAX: (617) 373-8228  
senpcolbeck@senate.michigan.gov

October 18<sup>th</sup>, 2017

Sally Talberg, Chairman  
Michigan Public Service Commission  
7109 W. Saginaw Highway  
Lansing, MI 48917

Dear Chairman Talberg,

Over the past two weeks my office has received numerous contacts from ratepayers who have recently had their power shut off or who are being threatened with shut off letters from DTE. We have notified DTE of the people contacting us because, in most cases, these ratepayers do/did NOT have locks on their meters. There is no impediment to DTE exchanging those meters. Under your rules, people do not need to "agree" to a new meter or sign for a gift card to avoid a shut off. They must only ensure a lock is not on the meter, and that they do not physically bar access but instead "passively allow" a switch-out to occur. I will get into why the shut off letters to even people with locks have been done incorrectly. ***However, power cuts or letters being sent to people without any impediments needs to be immediately addressed by you as a commissioner.*** In one case we even have a person who already had their analog meter replaced who is still being threatened with shut off.

The letters and entire shut-off program in general have had the following problems:

- (1) The letters are going to people who don't have impediments preventing a switch-out. Why? It seems the letters are being used despite the rules or are being lazily sent without facts verified beforehand.
- (2) The letters seem to be form letters with non-factual statements. Most calls indicate the letters say "after we contacted you on X", or "we did not hear from you on Y", when the ratepayers claim those attempts to them were never made or the contact attempt efforts they did make to DTE were ignored.
- (3) The letters frequently lead to leaving voice mails rather than being able to talk to a real person. They report to us that the voicemails are frequently not acted on by DTE and they do not hear back. Sometimes when DTE is contacted the person will be told they are not set for shutoff, even after a letter has been sent. It appears there are massive errors or disorganization within this program at DTE, or both, and that the one hand does not know what the other hand is doing. Ratepayers suffer unnecessary stress as a result.
- (4) In many cases customers feel the people they interact with at DTE lie to them, telling them their records show they talked to a person on X date and agreed to something when in fact they never talked to that person before or agreed to anything.
- (5) Some callers have told us that they set up the appointment and that DTE then did not show up. They then worry they will still lose their power after being panicked and taking time off work, etc.
- (6) People are being told that once a shut-off has been set up that it can't be cancelled, even if errors have been found. The intent appears to be to use fear and intimidation as a blunt instrument.
- (7) When people do have their power turned off, there seems to be only confusing paths to get it turned back on and even then it takes an unusually long time to have it restored. Many customers have told us they



THE SENATE  
STATE OF MICHIGAN

PATRICK COLBECK  
7TH DISTRICT  
P.O. BOX 30036  
LANSING, MI 48206-7536  
PHONE: (817) 373-7380  
FAX: (811) 373-8228  
senpcolbeck@senate.michigan.gov

- believe they are being intentionally “punished” as troublemakers by slow playing reactivation. Some who call asking for help don’t want us to provide their name to DTE, indicating they are afraid of retribution.
- (8) The letters state they have a right to file a complaint, but do not explain how to do so. We provided information to a person who contacted us for that information, and when they contacted the MPSC the person who called them back was allegedly rude and told her “we’re not accepting the complaint”.
  - (9) We have been told that while people have the right to relocate the meter to a pole or pedestal that when this is requested they are either told that this can’t be done or that coming up with the price would take too long to impact their shut-off. Please note, many would choose to relocate a meter and then not opt-out. This may save them money in the long run. However, to have to first pay for an opt-out, only to later pay to move the meter, makes them pay twice.
  - (10) People are sometimes being told that opting out means they can keep their analog meter. As we know this is not true. Some people are also being told that a “deactivated” meter is totally deactivated. It is our understanding that even deactivated meters can still “receive” information, which if true, means people are paying for something different than what they think they are. I would like firm clarification in this area.

As you know, I strenuously object to any Michigan ratepayer losing power over matters regarding “meter choice”. No ratepayer should be offered the false choice of having to choose between something as fundamentally important as the ability to receive power vs. controlling what devices they must “allow” to be placed on their home. Additionally, I cannot reconcile the fact that MPSC rules will not allow for winter shutoffs over unpaid bills due to health and safety, yet will allow for such shutoffs for ratepayers who have been consistently current on their bills for decades but who simply wish to keep their analog meters. The health and safety of each life matters equally, and your rules should reflect such. We know of people, even elderly and disabled, who have been without power for years over this matter who reach out for help to no avail. Why?

Because people cannot choose a new provider under Michigan’s utility monopolies, they have no recourse if they receive poor customer service. For that reason, and because of property rights and safety, we must allow for true meter choice and I ask you to reconsider rules in this area. With that being said, if you will not allow for that you must use your regulatory powers to ensure that DTE is strictly limited to sending shut off notices when they can document they are following your rules and also following the spirit of the law to treat those who wish for meter choice with professionalism and respect. I regret to say I feel that this is not occurring due to the inadequacies of MPSC in monitoring the situation and also not penalizing utilities sufficiently when violations have been found. I implore you to provide proper regulation in this matter, especially as cold months approach.

Respectfully,

State Senator, 7<sup>th</sup> District

cc: Mike Byrne



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**PATRICK COLBECK**  
7TH DISTRICT  
P.O. BOX 30036  
LANSING, MI 48909-7536  
PHONE: (517) 373-7350  
FAX: (517) 373-9228  
senpcolbeck@senate.michigan.gov

December 5<sup>th</sup>, 2017

Sally Talberg, Chairman  
Michigan Public Service Commission  
7109 W. Saginaw Highway  
Lansing, MI 48917

Dear Chairman Talberg,

Thank you for your letter dated November 7<sup>th</sup> regarding shut-off problems I am seeing people in Michigan experience. Given that ratepayers cannot leave their utility over the type of customer service they receive, the oversight role of the MPSC is critically important.

While I appreciate you and your fellow commissioners taking these problems seriously, they seem to contradict the statements of Nick Assendelft (public information and media relations specialist for the Michigan Agency for Energy). In this news story he asserts that my concerns based on the real life examples of people contacting my office are “baseless” (<https://michiganpeninsulanews.com/news/6360-michigan-public-service-commission-dismisses-senators-utility-meter-claims-baseless/>). The story also has him saying that “no one is getting their power shut off simply because they refused to upgrade to smart meters”. While semantic issues regarding the opt out program have created confusion from the beginning, where most people, including legislators, assumed that “opting out” meant being able to keep your analog meter, there is little doubt that people are indeed getting their power shut off for simply wanting to keep their analog meter. As you know I still believe this is terrible public policy and that the state shouldn’t make electric service contingent upon the type of functional meter a ratepayer wishes to use, particularly on their own home.

From your letter I am also glad to read that “DTE has acknowledged to MPSC staff that the Senior Protection Provision...will not allow the utility to disconnect the electric service of a senior citizen during the heating season”. As you know this month will see a 30 year anniversary event at the Capitol by the “Coalition to Keep Michigan Warm”. Michigan can be a frigid state, and we have learned from the past we must ensure any senior age 65 or older cannot have their power cut off during the space heating season from November 1<sup>st</sup> to March 31<sup>st</sup>. I agree with your statement that “senior citizens will not be shut off during the winter months”. However, Mr. Assendelft seems to assert in the same article that these protections only exist for seniors over matters related to nonpayment on delinquent accounts. That is not a requirement for these senior protections, and in looking over the rules with staff advisors at the state it is clear that his statement is inaccurate, is causing confusion, and could lead to our seniors inappropriately having their power cut, perhaps with tragic consequences like we saw in Bay City several years ago.

It is also not clear to me how a utility can send a shut-off notice to a customer after November 1st that they know they are not legally able to cut power to. I am not familiar enough with the rules to know if such a specific clause related to this exists, but the MPSC should make clear that shut-off notices are not to be sent purely as a bully tactic to get a person's attention (we have a ratepayer who informed us that they were told by a utility field agent this was occurring with some utility letters). We can't think of a valid reason that shut-off notices can be sent to people during a time when they cannot be legally shut off.

I appreciate you including DTE's assurances that "deactivated" meters cannot send or receive data, and therefore cannot be remotely "turned back on". My preference however would be for the MPSC to verify this equipment directly, and for some auditing to take place. Such first-hand oversight would be preferable to solely relying on the statements of our regulated utilities. Ratepayers must get what they are paying for.

A frequent question our office receives is why some formal complaints received by the MPSC result in a hearing before an Administrative Law Judge and others do not. Those that do not receive a hearing ask us if there is some "technical detail" they are inadvertently overlooking that results in them not getting a hearing. Your "How Do I" tab is partially helpful, but any further clarification in this area would be greatly appreciated.

Despite Mr. Assendelft calling the concerns voiced to me by ratepayers "baseless", I appreciate your acknowledgement that there were valid concerns raised in my original letter. I also appreciate you and your fellow commissioners looking into these matters, as well as those previously brought to your attention. I look forward to partnering with you to ensure that where rules have been violated that adequate ramifications are taking place, and would also welcome working with you to improve our rules to provide better consumer protection. Particularly where power restoration has gone well beyond 24 hours, it would appear that the further defining of what constitutes "situations beyond a utility's control" would be extremely prudent.

Respectfully,

A handwritten signature in black ink, appearing to read "Pat J. Cahill", with a long horizontal flourish extending to the right.

State Senator, 7th District

cc: MPSC Commissioners  
Mike Byrne  
Rep. Gary Glenn



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PATRICK COLBECK  
7TH DISTRICT  
P.O. BOX 30038  
LANSING, MI 48909-7538  
PHONE: (517) 373-7350  
FAX: (517) 373-9228  
senpcolbeck@senate.michigan.gov

December 20<sup>th</sup>, 2017

Michigan Public Service Commission  
7109 W. Saginaw Highway  
Lansing, MI 48917

RE: Comments on U-18485, 18486

These comments are limited to these two cases and not my overall objection to AMI related shut-offs. Over the past several month my office has received numerous contacts from ratepayers who have recently had their power shut off or who are being presented with shut off letters (or verbal communications) from DTE. In many cases we have helped people who should not be getting their power shut off, or have tried to help people get their power restored once it has been cut.

While we applaud this investigatory case, we have been told in the past by the MPSC that AMI related shut-offs "are not a problem", and that other shut-off problems are rare. That is different than what we have firsthand knowledge of, and when asking MPSC for the numbers we were told that MPSC does not require or collect that data. This would seem to make it difficult for the MPSC to follow statute and rules regarding oversight, and we also believe gives more credence to ratepayer complaints because they cannot be contradicted by either reports required to be given to the MPSC or that the MPSC could lawfully request if it so choose. Because reporting rules require detailed reports, I believe this data should be getting received. Regardless, it is clear under the rules that the MPSC can request more data than it is currently receiving from the utilities in regards to shut-offs.

Because this meeting was only posted yesterday I can only provide a partial list of the problems with shut-offs we are aware of. Here is a partial list:

- (1) Shut off letters (notices) are being sent to people who don't have impediments preventing a switch-out. Why is a shut off letter being sent when there is no lawful reason for a shut-off to occur?
- (2) Shut off letters seem to be form letters with non-factual statements. Most calls indicate the letters say "after we contacted you on X", or "we did not hear from you on Y", when the ratepayers claim those attempts to them were never made or the contact attempt efforts they did make to DTE were ignored.
- (3) The letters frequently lead to leaving voice mails rather than being able to talk to a real person. They report to us that the voicemails are frequently not acted on by DTE and they do not hear back. Sometimes when DTE is contacted the person will be told they are not set for shutoff, even after a letter has been sent. Ratepayers are receiving contradictory information.
- (4) Some people are receiving the notices after November 1<sup>st</sup>, even if they are eligible and part of (or should be part of) senior protection plans during the space heating season. We do not think it is in the spirit of the law for such a letter to be sent when power in fact cannot be shut off. The letters scare ratepayers.



**PATRICK COLBECK**  
7TH DISTRICT  
P.O. BOX 30098  
LANSING, MI 48909-7538  
PHONE: (517) 373-7350  
FAX: (517) 373-8228  
senpcolbeck@senate.michigan.gov

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- (5) Some ratepayers are receiving only “verbal” shut-off “notifications”, so the ratepayer is unable to document the attempt.
- (6) Some have told us that they set up the appointment and that DTE then did not show up. They then worry they will still lose their power after being panicked and taking time off work, etc.
- (7) People are being told that once a shut-off has been set up that it can’t be cancelled, even if errors have been found.
- (8) When people do have their power turned off, there seems to be only confusing paths to get it turned back on and even then it takes an unusually long time to have it restored. Many customers have told us they believe they are being intentionally “punished” as troublemakers by slow playing reactivation. Some who call asking for help don’t want us to provide their name to DTE, indicating they are afraid of retribution.
- (9) People are not getting power restored within 24 hours of the reason for the shut off being “corrected”. In many case regarding AMI, it can take 3 days for the AMI to be installed, and then 3 days for it to be “deactivated”, and then 3 more days for power to be restored. Being without power for more than a week has been reported because of this “chain”. Friday and weekend shut-offs are happening when it is apparent that power cannot be restored the next business day. “What is beyond the control of the utilities” needs to be clarified in the rules.
- (10) We have been told that while people have the right to relocate the meter to a pole or pedestal that when this is requested they are either told that this can’t be done or that coming up with the price would take too long to impact their shut-off. There is no reason for shut-offs to occur when meter relocations are in progress.

Again, this is only a partial list. But it is clear that there are many rule violations, and that people are being shut off who shouldn’t be and it is taking too long for power to be restored. This could result in tragedy, and it is only blind luck no such recent deaths have occurred.

In regards to data privacy, please ensure that a true “opt-in” exists as opposed to opt-outs. Those not willing to share data should not be made to pay more, and should be able to direct not just how data is shared, but also control whether or not it is collected in the first place.

I would welcome the opportunity to partner with the MPSC to help revise its rules.

Respectfully,

A handwritten signature in black ink, appearing to read "Patrick Colbeck".

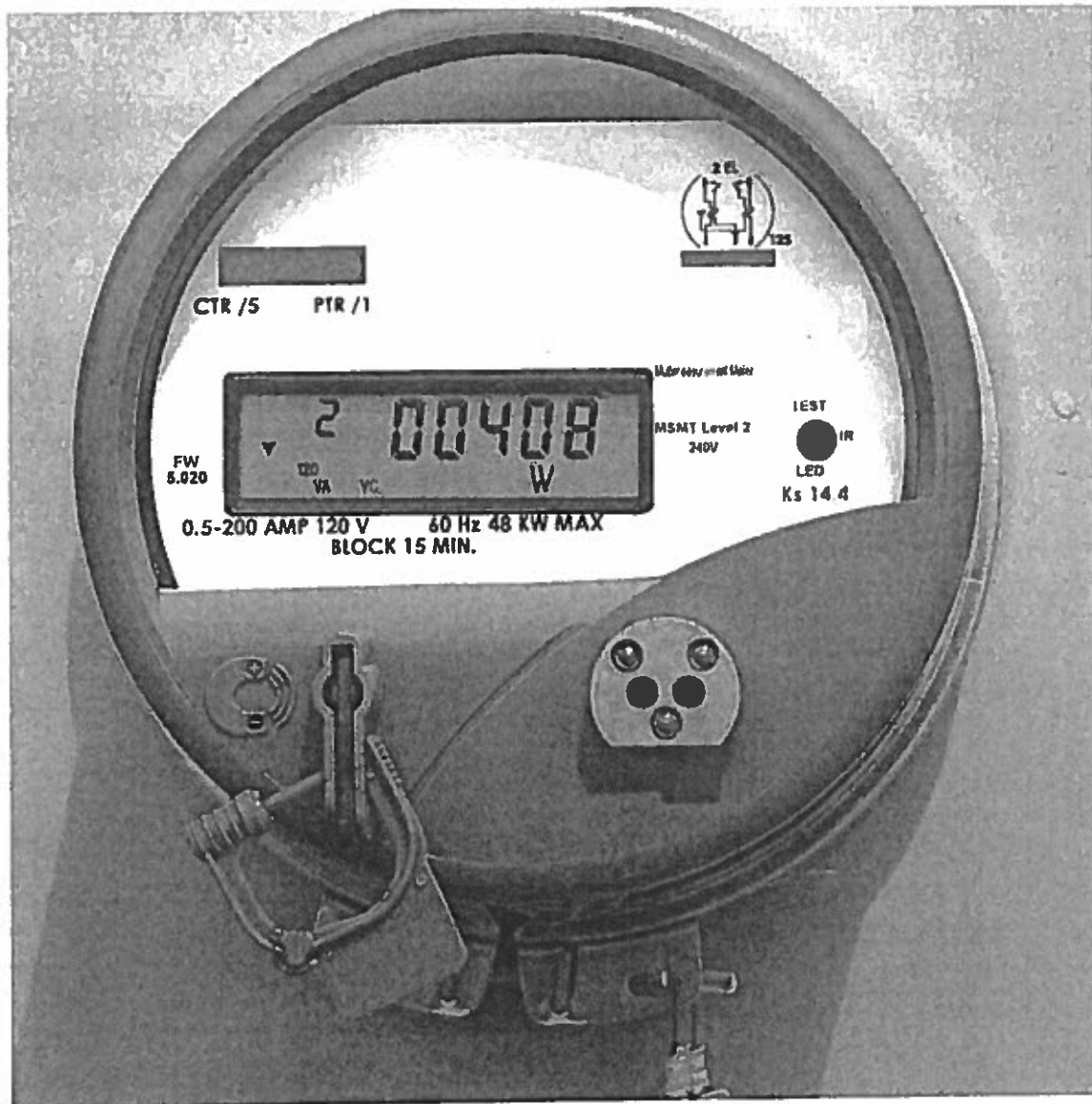
State Senator, 7<sup>th</sup> District

# The Peninsula - Michigan Public Service Commission dismisses senator's utility meter claims as baseless

## Michigan Public Service Commission dismisses senator's utility meter claims as baseless

Published on November 07, 2017 by Chris Galford

The Michigan Public Service Commission (MPSC) affirmed it is against state law for customers who have chosen not to switch to smart meters to suddenly have their power shut off, in response to a state senator's allegations.



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At the heart of the matter is the issue of smart meters, which utilities have been rolling out throughout the state to replace aging analog meters. These allow data on energy measurement to be collected remotely in real time, reducing the need for estimated billing and on site meter readers. The state has required upgrades to the new technology, but some are resistant, and those resisters, state Sen. Patrick Colbeck (R-Canton) argued, were paying a hefty price.

Those who refused to switch to smart meters from analog utility meters, Colbeck said, were having their power cut off entirely. He backed that up with the claim that twenty residents had contacted his office regarding such practices and that hundreds more could be affected.

"I'm being contacted by the friends and families of people in their 70s and 80s who are disabled or have asthma or congestive heart failure," Colbeck said last week. "Some are homebound and are getting their power cut without a knock. Some go out to the grocery store and come home to darkness."

In an interview with the Peninsula, however, Nick Assendelft, public information and media relations specialist for the Michigan Agency for Energy (MAE) and the MPSC, rebutted such allegations. He noted that specific billing rules are in place on utilities operating in Michigan, and for them to turn off power, there are specific guidelines they must follow, with numerous notifications to residents and discussions of the process going forward.

What's more: no one is getting their power shut off simply because they refused to upgrade to smart meters, Assendelft said.

"The PSC back in 2012 essentially said the utilities need to offer an opt-out program, and DTE Energy and Consumers Energy both offer those programs to customers who do not want a smart meter," Assendelft said. "Both companies' offers are essentially the same, though there are slightly different twists between them. If you have concerns, they'll still put a smart meter on, but will remove its transmitting capabilities, so they just won't have electronic transfer capabilities. They would be upgraded, but someone would still have to come out and check the meters."

Among the requirements laid out in law for the state, utilities or alternative electric suppliers cannot end service to eligible customers during heating seasons



for nonpayment on delinquent accounts if they are senior citizens or at least 7 percent of their estimated annual bill is paid monthly. Further protections are granted to those that request shutoff protection and can prove within 14 days they have applied for state or federal heating assistance.

There are exceptions. Service can be shut off to low-income customers if they don't pay those monthly amounts, but even then, suitable notice is required — and in doing so, they must explain to customers exactly why power is being cut, when, and the nature of customers' default. Even then, they can dispute the claim, during which time utilities cannot shut off service.

The commission also has made the utilities put rules in place for protection of the data they do collect, which has been one of the key concerns for those leery of smart meter upgrades. With recent high profile data hacks, the concern over data access is real.

Further, Assendelft pointed out that existing rules regarding smart meters were put into place only after extensive public analysis and comment periods back in 2012.

Colbeck, meanwhile, has promoted a rules change that would allow Michigan residents to continue using traditional analog meters without any disruption to service.

## House Energy Policy Committee Testimony

1/16/2018

Sen. Patrick Colbeck

**Dear Chairman Glenn, Minority Vice-Chair Lasinski, and members of the Energy Policy Committee:**

This is a most welcome hearing that is coming at an important time. Not just because of the importance of discussing shut-offs against the backdrop of this season's cold temperatures, but because many MPSC shut-off rules were just changed, *yet still need more changes to truly protect consumers*. Today's hearing may focus on DTE shut-off problems, but it is really about how we as state regulators need to better enforce the rules we have and also make stronger rules so that what we will hear about today does not happen again. I am not being overly dramatic to say we are all lucky that none of this has yet to result in a tragic death like it did in Bay City roughly 7 years ago.

To get to the most salient points, I will be brief regarding how my office heard about these problems for the majority of last year, with an uptick starting in October. I have provided committee members with copies of my past letters to the MPSC in this regard.

While I welcome the current investigation that MPSC is doing into these matters, it is an investigation that in my mind needed to happen earlier, and I also believe at some point the MPSC should have stepped in and asked DTE to stop residential shut-offs until it was clear inappropriate shut-offs could be halted.

Today will be not just about whether DTE shut off people it shouldn't, or took too long to restore power. It will be about how the state can provide better oversight of an industry where people who receive poor service can't vote with their feet. And make no mistake, we are not talking about some relatively trivial monopoly power. We're talking about energy markets where even when a company seriously disrupts or endangers the lives of its captive customers that those same customers can't leave.

Based on the stories I have been told by ratepayers as they were facing shut-off, or in fact having their power cut, I would like to focus my testimony on some pertinent MPSC rules that need to be changed so that stronger oversight can occur. I'll state first and foremost that I believe no ratepayer should have their power shut-off over matters dealing with meter choice. Because today is not dealing with the importance of HB 4220, I will however focus on other rules that need to be changed as a result of the first-hand experience my office had in dealing with DTE's most recent problems. Please note, because some rules were renumbered

on Dec 11, 2017, my testimony refers to the numbers that were used before that date\*.

- (1) **R 460.144\***. I'll begin not by discussing shut-offs, but restoration. Rule 44 requires that electric service be restored promptly after the reason for a shut-off has been addressed, and requires that every effort be made to satisfy the customer on the same day. The rule also requires that "except for reasons beyond its control", the utility shall restore service not later than after the first working day. The vast majority of people who contacted my office did not get power restored that quickly, and it is apparent to me that what "is and is not" beyond a utility's control needs to be defined. An example our office saw several times was people who had power cut at the pole over a smart meter issue. It might take that person 2 days of trying to contact DTE before they could finally get through to tell them they feel they have no choice but to now take the digital meter. Then it would take DTE 1-2 days to install the digital meter, but they would say it would take 1-2 days for them to come back to deactivate the digital meter. It would then take 1-2 days, if not more, to have work done at the pole after the digital meter had been deactivated. Requiring three separate trips instead of one, such a family can easily be without power for a week. At the height of this problem, it appeared that DTE was simply cutting power to more people than it knew it had the ability to reasonably turn back on again. This rule must be changed to better define what constitutes something "beyond a utilities control", as what is supposed to be an exception due to acts of God and similar rare occurrences has now become the norm. Ramifications must exist when these rules aren't followed, and the ratepayer must be directly compensated in some manner when the rules aren't followed.
- (2) **R 460.138\***. Rule 38 requires that a shut-off shall not occur without there first being a documented written notice to the ratepayer. We know today that some shut-offs were occurring without such notice or with improper written notice. In some cases, "notices" were only verbal.
- (3) **R 460.137\***. Rule 37 subpart (e) is being interpreted to allow for smart meter related shut-offs, which needs to be changed in general immediately. But beyond that, even people who contacted my office who got intimidated by the shut-offs, and decided they needed to "give in" and give up their analog meter, were still shut-off as they attempted to comply. Sometimes they could not get through to DTE. Other times they did, were told they were "safe" for now, and then would still get another shut-off letter or someone knocking on their door later. Some took time off work to make an appointment and DTE never showed. Some people were arranging to have

their meter moved onto a pedestal off of their house (allowed under the rules, but which takes local government approval), and DTE was apparently not willing to take into account the time such a move can take. Subpart (e) of this rule should be changed to not allow for AMI shut-offs, but there also needs to be oversight of DTE to make sure they are not shutting off power to people in the midst of trying to comply. Likewise, I have heard that subpart (g), which deals with the safety of the customer, may also be getting used to justify AMI related shut-offs, and clarification of this subpart is needed.

I would like to stop here to point out that it is beyond nonsensical to say that someone who is trying to simply pay their bills while keeping their analog meter needs to have their power shut-off for reasons “of safety”. Shutting off the power to such people is what creates a real safety concern. I understand why these people feel discriminated against under R460.103, which I believe the utilities are violating when they discriminate against those who simply wish to pay their bills and keep their meter. Let’s be clear, it is NOT safe to shut-off someone’s power in the winter simply because they want to keep their analog meter.

- (4) **R 460.149\***. Rule 49 is the “winter protection plan for senior citizens” and is also not being followed. This rule does not allow seniors aged 65 or older to have their power cut between the dates of November 1<sup>st</sup> and March 31<sup>st</sup> because it is cold. Some people over this age were receiving shut-off notices that made them feel their power could be cut after this date, and I would argue that the spirit of the law should require that notices or employee conversations should not make ratepayers feel they can have their power turned off during a time when the law does not allow such a disconnection to actually take place. That is simply an inappropriate scare tactic. Beyond that, some people this age did have their power cut after November 1st. Some at the MPSC asserted that this Winter Protection Plan only applied in instances of non-payment, which is not accurate. For those reasons the rules need more clarification, steps must be taken to ensure seniors aren’t lost in computer systems, and ramifications for utility violations must be assessed.

The last rule I would like to discuss today is

- (5) **R 460.133\***. Rule 33 deals with how utilities must file reports regarding shut-offs. It is glaring in my mind that the MPSC is only requiring that utilities report the number of shutoffs of service, and not the *reason* for these shutoffs. Based on these reports, if DTE did 100 involuntary shut-offs in December, the reports do not detail why. It could be 100 people being shut-off for non-payment. It could be because of smart meters. It could be

because of a computer glitch. Indeed, when I first complained to the MPSC about inappropriate smart meter shut-offs occurring, the department spokesperson said in a news story that was not the case, and others at the MPSC felt it was a small number. When I in turned asked for the specific number of smart meter related shut-offs, I was told that they could not tell me because the utilities do not report such information. Even subcategories would be helpful to report. With utilities now wanting to shut people off by using a newer safety rule, it would make sense not just for the utility to have to report to the MPSC that a shut-off took place because of so called “safety issues”, but what that safety issue was. Also importantly, this report does not require documentation of how long it takes a customer to have their power restored after the reason for the disconnection has been addressed. This must also be changed. *Proper oversight cannot be done if the reason for the shut-off is not being reported, and how long it takes for shut-offs to be restored is also not documented.*

Proper oversight only happens with clear rules, robust reporting, and an ability to audit utility reports. Many of the people contacting my office to complain about DTE's practices also told me it was difficult for them to file a complaint with a regulatory agency, or that people at a regulatory body did not want to take their information or told them that they could not file a complaint. Because the Michigan Agency for Energy had taken over some customer service functions, it is unclear to me whether such ratepayer interactions were with the MAE or the MPSC, or in some combination. Chairman Talberg has assured me that all people who want to document a complaint can do so, but, no pun intended, a “disconnect” of some kind appears to be taking place here and it would be prudent to examine current training and processes.

It is clear that many of our consumer protection rules need to be reformed, that our regulatory bodies need to be able to receive enough information from both the utilities and ratepayers to be effective, and real ramifications need to exist for violations. Shut-offs are more than just minor inconveniences, and we should not be shutting off ratepayers who simply want to pay their bills and receive power.

\* Rules were renumbered in part after Dec 11, 2017. All rule references presented in this testimony use pre Dec 11<sup>th</sup> rule reference numbers.