S T A T E O F M I C H I G A N

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of **DTE GAS COMPANY** for authority to increase its rates, amend its rate schedules and rules governing the distribution and supply of natural gas, and for miscellaneous accounting authority.	))))))	Case No. U-20940

At the December 9, 2021 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. Daniel C. Scripps, Chair
Hon. Tremaine L. Phillips, Commissioner
Hon. Katherine L. Peretick, Commissioner

ORDER

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I. HISTORY OF PROCEEDINGS

On February 12, 2021, DTE Gas Company (DTE Gas) filed an application seeking authority to increase rates, amend its rate schedules, obtain approval of certain accounting matters, and modify certain terms and conditions of providing natural gas service. DTE Gas indicated in its application that, based on a historical test year of 2019 and a projected test year commencing January 1, 2022, and ending December 31, 2022, the utility expected to experience a revenue deficiency of $195 million annually beginning January 1, 2022.[1] DTE Gas currently provides service under rates established by the August 20, 2020 order in Case No. U-20642 (August 20 order), which approved a settlement agreement. On February 15, 2021, DTE Gas filed an amended application (to include a missing attachment). On March 4, 2021, the Commission issued an order addressing scheduling issues in this case.

A prehearing conference was held on March 11, 2021, before Administrative Law Judge Sally L. Wallace (ALJ). At the prehearing conference, the ALJ granted petitions for leave to intervene filed by the Association of Businesses Advocating Tariff Equity (ABATE), Detroit Thermal, LLC (Detroit Thermal), the Michigan Department of the Attorney General (Attorney General), Citizens Utility Board of Michigan (CUB), Michigan Power Limited Partnership (MPLP), the Residential Customer Group (RCG), Retail Energy Supply Association (RESA), Energy Michigan, Dearborn Industrial Generation LLC (DIG), and Verso Corporation (Verso). DTE Gas and the Commission

[1] By the initial briefing stage, DTE Gas had reduced its total request by $17.7 million, and the company also maintained that the rate impact to customers would only be about $157 million, based on the operation of the infrastructure recovery mechanism (IRM). DTE Gas's initial brief, p. 1; Proposal for Decision (PFD), p. 1, n. 1.

Staff (Staff) also participated in the proceeding. On March 24, 2021, the ALJ granted a late petition to intervene filed by Vicinity Energy Grand Rapids, LLC (Vicinity).

On June 3, 2021, the Staff, the Attorney General, Detroit Thermal, Vicinity, Energy Michigan, DIG, MPLP, and ABATE filed direct testimony and exhibits, and on June 23, 2021, DTE Gas, the Staff, MPLP, DIG, and ABATE filed rebuttal testimony and exhibits.[2] On July 12, 2021, the ALJ granted two motions filed by RCG allowing the admission of certain evidence. 4 Tr 43-56.

Evidentiary hearings were held on July 9-13, 2021, at which cross-examination took place. Timely briefs and reply briefs were filed, and the ALJ issued a PFD on September 28, 2021. Exceptions were filed by DTE Gas, the Staff, the Attorney General, RCG, DIG, ABATE, and MPLP on October 18, 2021, and replies to exceptions were filed by DTE Gas, ABATE, the Staff, RCG, and the Attorney General on October 27, 2021. The record consists of 2,124 pages of transcript and 268 exhibits admitted into evidence.[3]

II. <u>TEST YEAR</u>

DTE Gas used calendar year 2019 as its historical test year and calendar year 2022 as its projected test period pursuant to MCL 460.6a(1), which provides that "[a] utility may use projected costs and revenues for a future consecutive 12-month period in developing its requested rates and charges." Thus, the bridge period in this case is 2020 and 2021.

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[2] The ALJ indicates that CUB did not sponsor evidence but joined in the Attorney General's briefs, and thus "[a]ll references to the Attorney General's positions in briefing in this PFD include CUB." PFD, p. 2, note 4.

[3] The ALJ provided an overview of the record on pages 3-17 of the PFD which is not repeated here.

As it has in several prior cases, RCG argued that the company's proposed projected test year, which extends approximately 22 months after the date of the filing of the rate case application, should be rejected in favor of either an historical test year or a test year that extends no more than 12 months from the date of the application. While acknowledging that the Michigan Court of Appeals has affirmed the Commission's prior decisions rejecting this argument, RCG contends that the Commission should require a test year that extends no more than 12 months after the date of the application. *See, In re Application of DTE Electric Co*, unpublished per curium opinion of the Court of Appeals issued February 25, 2021 (Docket Nos. 349924 and 35008) (*DTE Electric*); and *In re Application of Consumers Energy Co*, ___ Mich App ___; ___ NW2d____ (2021) (Docket No. 351261) (*Consumers*).

The ALJ recommended rejection of RCG's proposal. She began by noting the plain language of the statute, as well as the requirement in MCL 460.6a(1) that the Commission set rates that are just and reasonable. PFD, p. 22. The ALJ noted that the company must provide sufficient evidentiary support to demonstrate that its proposed rates are just and reasonable, and that projections which do not meet this requirement do not provide a basis for the revenue requirement. "This has led to numerous instances where the Commission has rejected a company's projection because it is speculative; it is only a placeholder with no project assigned, or an historical amount or average is a more accurate means to establish a particular cost." PFD, p. 23, citing the January 11, 2011 order in Case No. U-15768, pp. 9-10, and the December 17, 2020 order in Case No. U-20697, pp. 17-20, 26-28, and 111-113. The ALJ found that the use of a purely historical test year is unwarranted, in light of the fact that both the Attorney General and the Staff found a basis for rate relief using the 2022 test year. However, she indicated that it would be reasonable to require the company to provide an additional test year that begins on the date that the application is filed, as this might reduce both the complexity and the speculation inherent in the test year case. PFD, p. 24.

In exceptions, RCG argues that the only way for the Commission to set just and reasonable rates is to adopt either an historical test year or a test year that extends no more than 12 months from the date of the application. RCG notes that the statute states that the utility "may" use a projected test year, and argues that a nearer test period would provide more accurate projections. RCG recognizes that there is significant appellate court precedent affirming the Commission's prior decisions on this issue in *DTE Electric* and *Consumers*, but contends that neither of these decisions restricts the Commission's ability to adopt rates based on an historical year or a year nearer to the filing date, or to require the utility to file a case based on both. RCG also notes that both decisions may still be reviewed by the Michigan Supreme Court, as one has an appeal request pending and the other remains subject to the filing of an appeal. RCG's exceptions, p. 14, notes 3 and 4. RCG suggests that the Commission simply adopt DTE Gas's historical test year case.

In exceptions, DTE Gas objects to the ALJ's indication, quoted above, that an alternative test year beginning on the date the application was filed could reduce the complexity of a rate case audit. DTE Gas contends that this is contrary to the language of MCL 460.6a(1) which plainly allows for the projected test year to be in a future consecutive 12-month period. DTE Gas argues that there is no statutory authorization for requiring duplicative test years and no authorization to require a utility to use a different test year. DTE Gas contends that the requirement that it prove that its projections are reasonable and prudent is a separate matter from the statutory authorization to use a projected test year. DTE Gas further notes that the published court precedent is binding authority under MCR 7.215(C)(2). DTE Gas avers that requiring two projected test years would increase both the burden and the complexity of the case for the parties and the Commission.

In replies to exceptions, the Staff also notes that a published opinion of the Court of Appeals has precedential effect under MCR 7.215(C)(2).

In replies to exceptions, RCG repeats its arguments regarding the Commission's authority to "adopt an historical test year, or alternatively, a shorter projected test year." RCG's replies to exceptions, p. 3. RCG contends that there is no statutory or other legal barrier to doing so, and argues that the record in a rate case is already burdened by the extensive data addressing the bridge period.

In replies to exceptions, the Attorney General asserts that the language of MCL 460.6a(1) is not clear on when the 12-month period can begin, and, therefore, selecting a start date lies within the Commission's discretion. The Attorney General notes that she provided comments in Case No. U-18238 (the Commission docket for reviewing the rate case filing requirements), where she suggested that the bridge period should be no longer than six months. The Attorney General describes the current test year as bloated, and contends that it is within the Commission's authority to adopt this limit, if the Commission finds it preferable to requiring two alternative test years.

In replies to exceptions, DTE Gas notes that it has proposed a consecutive 12-month period, and argues that the plain language of the statute must be applied. The company also notes that under MCR 7.215(C)(2), the published decision of the Court of Appeals is binding precedent.

In *Consumers*, the Michigan Court of Appeals stated:

> RCG insists that the one-sentence statutory provision at issue, that "[a] utility may use projected costs and revenues for a future consecutive 12-month period in developing its requested rates and charges," MCL 460.6a(1), should not be understood as allowing a utility to choose some arbitrarily distant 12-month period for this purpose, but should instead be understood to envision a future period beginning no later than when the utility initially files its rate case. We are more inclined to agree with the PSC, Consumers, and also the panel of this Court who issued the unpublished decision in *In re Application of DTE Electric Company to Increase Rates*, unpublished per curiam opinion of the Michigan Court of Appeals, entered February 25, 2021 (Docket Nos. 349924 and 350008), p. 11, that the

> statute's authorization of the use of "a future consecutive 12-month period" limits the future period only in that it must consist of 12 consecutive, or contiguous, months, and thus does not imply that it must begin no later than the filing date of the attendant rate case.

Consumers, slip opinion, p. 3. Once again, consistent with Commission and judicial precedent, the Commission is not persuaded to disapprove the projected test year period selected by the utility. *See*, *DTE Electric*; *Consumers*; May 2, 2019 order in Case No. U-20162, p. 4; May 8, 2020 order in Case No. U-20561, pp. 11-13; and December 17, 2020 order in Case No. U-20697, p. 7. MCL 460.6a(1) provides that "[a] utility may use projected costs and revenues for a future consecutive 12-month period in developing its requested rates and charges." The statutory language is clear, and, unless its clear meaning leads to an absurdity, the Commission is bound by its dictates. *Dewan v Khoury*, 477 Mich 888, 890; 722 NW2d 215 (2006). The utility bears the burden of substantiating its projections of revenues and expenses. The Commission approves the proposed test year of January 1, 2022 through December 31, 2022.

III. RATE BASE

Rate base refers to total utility plant (i.e., the capital invested in all plant in service, plant held for future use, and construction work in progress (CWIP)), less the company's depreciation reserve (consisting of its accumulated depreciation, amortization, and depletion), plus the utility's working capital requirements. In its reply brief, DTE Gas projected a gas rate base of $5.608 billion for the test year. The Staff calculated a rate base of $5.560 billion for the test year. The ALJ recommended a total rate base of $5.526 billion. Contested issues are discussed below.

A. Net Utility Plant

Net plant consists of plant in service, plant held for future use, and CWIP, less the depreciation reserve, which includes accumulated depreciation, amortization, and depletion.

1. Contingency

DTE Gas budgeted projected contingency costs in the amount of $13.034 million for the Traverse City/Alpena Reinforcement Project (TCARP), Van Born Project, Fort St. Main Phase III Project, and the Grosse Ile System Supply Project. Exhibit A-12, Schedule B5.10. DTE Gas characterized these as part of its major enterprise projects (MEP) group, which are large and complex projects which require more resources and management expertise than other projects. DTE Gas asserted that contingency costs are a necessary part of overall project costs for these projects. 5 Tr 1201.

Consistent with Commission precedent, the Staff proposed disallowance of the full amount, and the Attorney General agreed. The Staff also proposed an additional $10.2 million disallowance of contingency costs associated with the TCARP and Van Born projects, asserting that this amount was likely incorrectly forecasted or represents an incorrect amount of actual expenditures. Exhibit S-11.1, p. 2; 5 Tr 1893. The Staff later reduced the proposed disallowance to $2.87 million, which, the Staff argued, represents an actual contingency amount spent in 2020, beyond the forecasted 2020 costs, for which the company failed to present sufficient evidence that the costs were reasonable and prudent. Exhibit S-19.1, pp. 4-5; 5 Tr 1247. The Staff also requested that the Commission make clear that contingency costs consist of all project contingency costs (including actual and forecasted capital contingency expenditures) in a specific period and reiterate that contingency amounts actually spent require evidence that the expenses were reasonable and prudent. PFD, p. 30; 5 Tr 1898. DTE Gas countered that the record evidence does not support the Staff's arguments.

The ALJ recommended disallowance of the full $13.034 million based on the fact that it is contingency spending and thus uncertain, consistent with extensive Commission precedent. PFD,

p. 32. The ALJ also recommended rejection of the Staff's proposed additional $2.87 million disallowance for 2020 actual contingency spending, stating that:

> Staff assumed some level of contingency must have been spent throughout 2020. It then estimated this contingency spending and recommended a disallowance, despite the company's evidence to the contrary. As DTE points out, the Commission's decision cannot be based on speculation or conjecture, nor can it be contrary to the record.

PFD, pp. 32-33. As to the definition of contingency, the ALJ "agrees with DTE that contingency is a forecasted amount added to a budget for unknown and unforeseen events." PFD, p. 33. The ALJ noted that, if and when events occur that result in actual spending that was not budgeted, those amounts may be recovered in a future rate case once the company demonstrates that they are reasonable and prudent. The ALJ noted that all amounts that constitute an overspend from approved amounts should trigger the reasonableness and prudence review. The ALJ recommended that the company be required to provide details "in each rate case for projects, subprojects, or project parts that are over the original budget forecasts to allow for a complete review before including excess costs in rate base." PFD, p. 34. Alternatively, the ALJ suggests that a completion report be submitted in the first rate case following the close of a project. Finally, the ALJ recommended that any time project spending significantly exceeds the original overall budget, DTE Gas should meet with the Staff to discuss the reasons for the overspend and efforts to mitigate the additional costs.

In exceptions, DTE Gas contends that these four large MEP group projects require contingency budgeting for unforeseen expenditures for 2020-2022 of $13 million. DTE Gas contends that when it incurs unforeseen expenditures, turning contingency costs into actual costs, it should recover those amounts if they are shown to be reasonable and prudent. 5 Tr 1247-1248. DTE Gas objects to the ALJ's suggestions regarding the need for additional information, arguing that the ratemaking process already includes mechanisms for the review of capital amounts, and noting that the Commission has the authority to audit the company's books at any time. If any additional reporting requirements are adopted, DTE Gas requests the opportunity to work with the Staff to identify the criteria and expectations.

In exceptions, the Staff indicates that it does not object to the provision of additional detail as described by the ALJ, but objects to the concept of a completion report, suggesting that a completion report might preclude the Staff's ability to argue for certain disallowances. The Staff states that:

> if the Commission elects to reject Staff's recommendation to define contingency as forecasted and actual contingency, Staff recommends the Commission adopt the ALJ's first recommendation to provide details in each rate case for projects, subprojects, or project parts that are over the original budget forecasts to allow for a complete review before including excess costs in rate base.

Staff's exceptions, p. 9.

In replies to exceptions, RCG contends that the contingency amount should be disallowed as speculative, and that it is preferable to review actual investments for reasonableness and prudence in a later rate case.

In replies to exceptions, the Attorney General asserts that the PFD is correct.

In replies to exceptions, DTE Gas contends that the Staff did not take exception to the ALJ's rejection of the Staff's definition of "contingency." DTE Gas argues that both suggested types of additional reporting should be rejected because the ratemaking process already provides for a contested review.

The Commission agrees with the ALJ and finds that DTE Gas's total projected contingency costs of approximately $13.034 million should be disallowed. As the Commission has repeatedly found, while allowing for contingency may be appropriate in project planning, the inclusion of these uncertain costs in customer rates is unjust and unreasonable. *See*, November 19, 2015 order in Case No. U-17735, pp. 7-11; December 11, 2015 order in Case No. U-17767, pp. 19-20; December 9, 2016 order in Case No. U-17999, pp. 4-6; January 31, 2017 order in Case No. U-18014, pp. 12-13; March 29, 2018 order in Case No. U-18322, p. 11; April 12, 2018 order in Case No. U-18370, p. 5; September 13, 2018 order in Case No. U-18999, p. 5; May 2, 2019 order in Case No. U-20162, p. 6; September 26, 2019 order in Case No. U-20322, p. 41; and December 17, 2020 order in Case No. U-20697, p. 9. The Commission also adopts the ALJ's findings and recommendation with respect to the Staff's proposed additional disallowance. The Commission agrees with the ALJ that contingency is a forward looking, forecasted amount added to a budget to address unknown and unforeseen events. Once an amount has been spent, however, it is no longer a contingency but rather an actual expenditure and becomes subject to the reasonableness and prudence review that all actual expenditures undergo. At this time, the Commission declines to adopt the ALJ's suggested additional reporting requirements. The contested case process provides for the review of all capital expenditures, and the rate case filing requirements (which undergo periodic refinement and improvement) provide the base evidentiary requirements. As stated above, the burden is on the utility to prove the accuracy of each and every test year projection, and the reasonableness and prudence of each and every amount requested for inclusion in rate base.

2. Routine Capital Expense

Routine capital expense includes funds for distribution, transmission, storage, and general plant. DTE Gas projected $712.3 million for this cost category for the bridge period and test year. Exhibit A-12, Schedule B5.1, p. 1. Specific expense items are discussed below.

a. Communications and Control – Meters

This cost category covers meters, and advanced metering infrastructure (AMI) and automatic meter reading (AMR) modules. DTE Gas projected $40.9 million in capital expenditures for this cost category for the bridge and test year periods, which represents an increase of $1.3 million per year over the prior five-year average of $12.3 million annually. 5 Tr 600; Exhibit A-12, Schedule B5.1, p. 2. DTE Gas represented that the increase was due to inventory realignments, COVID-19 pandemic related delivery issues, and increases to the safety stock, which is equipment that is kept to address unforeseen meter/module inventory problems caused by factors such as weather and material shortages. 5 Tr 601-603. DTE Gas stated that it experienced meter equipment shortfalls in 2019.

Though DTE Gas does not have historical records of meter and AMI/AMR module safety stock, the Staff relied on certain past data to calculate what projected safety stock should be, and on that basis proposed a meter purchase disallowance of $1,286,634 in 2020, $7,728,000 in 2021, and $6,824,125 in 2022. The Staff also proposed a disallowance of $25,969 in 2020, $1,847,610 in 2021, and $1,086,506 in 2022 for AMI module purchases, and a disallowance of $765,785 in 2020, $675,000 in 2021, and $1,086,206 in 2022 for AMR module purchases, for a total proposed disallowance of $21,326,000 for this expense category. 5 Tr 1904-1916; Exhibits S-11.19, S-11.21, and S-11.23. The Staff equated DTE Gas's planned safety stock inventory with contingency spending and argued that the Commission should approve only the costs associated with meters that will actually be installed. The Staff argued that the company will earn a return of and on the cost of any excess safety stock purchases, whether or not the stock is ever actually used.

DTE Gas countered that it has experienced shortfalls and its safety stock requires replenishment, and that the company's plans will ensure that meters are always available. 5 Tr 523. DTE Gas took issue with the Staff's calculations, noting that the Staff included only the cost of modules for new customers, and no amount for modules associated with other customer requested work, meter failures, and emergent work. DTE Gas showed that, over three years, it purchased an average of 59,837 meters and 59,637 modules per year, and over that same period, it installed 52,708 meters and 61,708 modules. 5 Tr 524. DTE Gas also explained why it needs to purchase a certain number of obsolete meters.

The ALJ recommended that the Staff's proposed disallowance be rejected. She noted that metering and communications equipment are essential to the provision of service and the company must stand ready to respond to requests of all types for new meters and modules. The ALJ further found that DTE Gas has recently experienced vendor delays, material shortages (including a shortage of residential meters), and changes in usage that required efficient management of its inventory. PFD, p. 43. She found that:

> [c]onsistent with the foregoing discussion, this PFD finds that purchasing and maintaining a six-month to one-year supply of meters and metering equipment is a reasonable and prudent business practice, and that the cost of meter and module safety stock should be approved. In addition, the company's explanation of the need to purchase a small number of discontinued or obsolete meters is persuasive and would appear to be a cost savings over the short term.

PFD, pp. 43-44.

In exceptions, the Staff contends that the ALJ may have misconstrued the Staff's arguments. The Staff states that it argued that there is no safety stock data through 2021 which can be used to support DTE Gas's proposed management of its safety stock, that rate recovery and project management are not the same thing, and that the risk associated with the excess stock should not be shifted to ratepayers because this disincentivizes the company to provide optimal management. The Staff notes that the cost of any safety stock that is actually installed may be recovered in a future rate case. The Staff argues that the pandemic did not cause DTE Gas's historical mismanagement of this inventory, as the ALJ noted, and that mismanagement should not be rewarded. The Staff supports its $21.326 million disallowance.

In reply, DTE Gas argues that the Staff's proposed disallowance is unsupported and incorrect, stating that the Staff's $10.2 million 2021 disallowance is actually greater than the company's $9.1 million projection for that year. DTE Gas also argues that the Staff ignored the fact that the projection includes capitalized labor costs. 5 Tr 600. Regarding the safety stock, the company contends that the Staff took the term "inventory contingency" out of context. 5 Tr 602. DTE Gas notes that safety stock is forecasted and unique for each meter type, and depends upon vendor lead time and customer usage. The company contends that any uncertainty is only around when the meters and modules will be installed, and not whether they will be used.

The Commission adopts the findings and recommendations of the ALJ. DTE Gas provided testimony that the proposed disallowance:

> would limit the number of modules we can supply for our routine and non-forecasted field work and would hinder our ability to serve customers in a timely fashion to ensure uninterrupted service ensuring our customer's health and safety. . . . For every meter replacement there is a module replacement. It is imperative that for each new meter we purchase, we have enough modules to attach (AMI or AMR).

5 Tr 527. DTE Gas further indicated that the failure to replenish safety stock would lead to inefficiencies and additional logistics costs, and that it uses a first in first out approach to replenishing inventory. 5 Tr 527-528. The Commission finds that DTE Gas's six-months to one-year safety stock practice is a reasonable supply chain policy which ensures that customers will have access to meters. The Commission agrees with the ALJ's conclusions regarding the importance of maintaining supply and rejects the proposed disallowance.

b. Service Renewals and Service Abandonments

This cost category addresses the cost of replacement and decommissioning of existing service lines, and the cost of physical disconnection of the service line from the gas main and removal of the meter, referred to as cut and caps. 5 Tr 587-588. DTE Gas projected capital expenditures of $45.4 million for routine service renewals for the bridge and test periods, which represents an increase of $2.9 million per year over the 2015-2019 average of $12.3 million per year. 5 Tr 596-597; Exhibit A-12, Schedule B5.1, p. 2. DTE Gas stated that from 2019 to 2020, the cost per unit for service renewals increased from $4,924 to $5,914 due to increased labor costs and overheads, increased costs for personal protective equipment (PPE), and vehicle rentals for social distancing during the pandemic. *Id.* DTE Gas stated that, as a result of the pandemic, resources were shifted from operations and maintenance (O&M) work to capital expenditure work, which allowed the company to keep all employees gainfully employed during the unprecedented time. 5 Tr 624. For service abandonments, DTE Gas projected $17.3 million in expenditures for 2020 through 2022, which represents an average annual decrease of $0.9 million from the 2015-2019 average of $6.6 million per year. DTE Gas stated that it has seen a decrease in demand for abandonments. 5 Tr 607.

The Attorney General objected to the shift of work from O&M to capital work, arguing that this increased the per unit costs for service renewals by shifting work from contractors to company personnel. The Attorney General proposed a disallowance of $6,657,000 for service renewals for the bridge and test periods, and a disallowance of $1,568,000 for service abandonments for 2020. 5 Tr 1647-1649; Exhibit AG-4. The Attorney General argued that employees could have been kept fully occupied with O&M work such as leak repairs. Discussing information gleaned from discovery, the Attorney General argued that the company's cost breakdowns did not fully explain the increased unit costs and included increases related to PPE and social distancing for 2021-2022. Exhibit AG-86.

DTE Gas countered that the pandemic resulted in an unprecedented number of closings of small businesses and shutdowns of economic sectors that necessitated this shift from O&M to capital work in 2020, which the company represented did not persist in 2021-2022.

The ALJ recommended adoption of the Attorney General's proposed disallowances for both service renewals and service abandonments. PFD, p. 50. The ALJ noted that, in discovery, DTE Gas explained the basis for the shift from O&M to capital work as being related to the pandemic, but the company also stated that the 2020-2021 winter was warmer than normal (WTN). The ALJ concludes:

> This discovery response makes abundantly clear that the company's motivation for shifting O&M monies to capital work in 2020, was indeed protection of the company's bottom line, not only from the economic uncertainty surrounding COVID, but also because of a warmer than normal winter in 2019. Moreover, while the company states that keeping employees gainfully employed was a factor in shifting funds from O&M to capital projects, nowhere does DTE indicate what was so different about service renewal or service abandonment capital work that made this work more appropriate during a pandemic than undertaking leak repair or other O&M work.
>
> Finally, it should be noted that DTE Gas customers are already paying for the O&M work that the company decided to forgo in 2020. Using the Attorney General's example of leak repairs, there were more leaks that occurred in 2020, that were not repaired, added to the existing leaks that were supposed to have been repaired, but were not, as demonstrated by Mr. Johnson's testimony on DTE's leak backlog. Thus, ratepayers will ultimately be asked to pay twice for the same O&M work and, at the same time, pay higher rates due to more capital investment resulting in an inflated rate base. This is unjust and unreasonable.

PFD, pp. 50-51 (notes omitted). The ALJ further found that the company provided inconsistent responses to discovery seeking to understand the basis for the additional per unit costs, and, on that additional basis, found that the preponderance of the evidence favors the proposed disallowances. The ALJ recommended adoption of the Attorney General's proposed disallowances for service renewals of $6,657,000, including $1,983,000 for 2020, $2,296,000 for 2021, and $2,296,000 for 2022; and for service abandonments of $1,568,000 for 2020. PFD, p. 52.

In exceptions, DTE Gas argues that the ALJ misconstrued the record. DTE Gas again notes that the pandemic caused unprecedented economic disruption including the closure of many small businesses, and argues that the company took the right steps to re-prioritize resources in order to keep the labor force employed. DTE Gas contends that the Attorney General first raised the notion of keeping employees working on repairing gas leaks on brief and there is no record evidence on the leak repair issue. The company further contends that the ALJ is mistaken in suggesting that ratepayers might pay twice for leak repairs, stating:

> Work is either O&M or capital, as provided by the Uniform System of Accounts. The same activity cannot be charged twice. The Company chose to temporarily shift resources from performing nonhazardous O&M leak repair work to leak repairs involving service renewal and cut and cap work, which is capital and not the same or duplicative work.

DTE Gas's exceptions, p. 11. DTE Gas states that its shift in resource use was a one-time occurrence in 2020 in response to the pandemic and does not continue into 2021 or 2022, and that the increase in the labor and labor overhead unit costs between 2019 and 2021 ($367 per unit) was due to the normal costs of doing business, such as inflation and cost-of-living increases.

In reply, the Attorney General contends that DTE Gas's repeat of its testimony in exceptions does not add anything new to this argument.

The Commission adopts the findings and recommendations of the ALJ. The Commission agrees with the ALJ that the evidence indicates that the WTN winter also played a role in this shift. PFD, pp. 50-51; Exhibit AG-3, p. 4. Additionally, DTE Gas never adequately explained what made service renewal or service abandonment work the more appropriate choice during the pandemic over O&M work that was already scheduled to be undertaken. The company implies that employees might otherwise have been laid off but provided no evidence on this issue. *See,* Exhibit AG-3; Exhibit AG-86. As the Attorney General pointed out, DTE Gas actually had a backlog of leaks awaiting O&M work during this time period. The Commission adopts the Attorney General's proposed disallowances for service renewals of $1,983,000 for 2020, $2,296,000 for 2021, and $2,296,000 for 2022; and for service abandonments of $1,568,000 for 2020.

c. New Market Attachments

This cost category addresses the cost to design, purchase, and install new natural gas facilities, including mains, service lines, valves, and meters, to service new loads and increased existing loads from residential, commercial, and industrial customers. 5 Tr 590-591. The attachments are divided into two categories: (1) area expansion program (AEP) attachments (which bring gas into a new area) and (2) routine attachments. DTE Gas projects total bridge and test period expense of $205.1 million for this category, which is an average of $5.7 million per year higher than historical expenditures. Exhibit A-12, Schedule B5.1, p. 2. While the number of new attachments is projected to decrease, DTE Gas states that costs are increasing due to higher contractor costs. The company projects new market attachment expenditures of $69.4 million for 2020, $67 million for 2021, and $68.7 million for 2022.

Noting that actual new market attachment costs for 2020 were $4.4 million lower than the company's forecast, the Attorney General argued for a disallowance. 5 Tr 1650; Exhibit AG-5. The Attorney General found the projections for the AEP category to be reasonable, but argued that the projections for routine attachments are inflated. She calculated an actual average cost per routine attachment of $5,200 for 2018-2020, and noted that the projections for 2021 and 2022 are, respectively, 28% and 26% above that amount. Using that calculated historical three-year average, the Attorney General escalated it by 2% inflation and applied the result to the forecasted number of routine attachments for 2021-2022. 5 Tr 1651; Exhibit AG-5. On that basis, the Attorney General proposed disallowances of $10,901,000 and $10,653,000 for 2021 and 2022, respectively, for new market attachment expense.

DTE Gas countered that it has seen general contractor costs increase by 10-12%, costs for attachments that require main extensions increase by 42%, and increases to end use transportation (EUT) customer attachment costs. The Attorney General objected to the introduction of this information on rebuttal, and noted that main extensions fall under the AEP category for which she suggested no disallowance.

The ALJ stated that "[a]ssuming *arguendo,* that the company's rebuttal was proper, this PFD nevertheless finds that DTE failed to adequately support increased capital costs in this category." PFD, p. 56. The ALJ found that DTE Gas failed to provide evidentiary support for its statements about general cost increases and the cost of EUT projects, and that the information regarding main extension costs is not relevant to the Attorney General's argument. The ALJ recommended that the Commission adopt the Attorney General's proposed disallowances for 2021 and 2022.

In exceptions, DTE Gas argues that the Attorney General's disallowances ignore the fact that contractor costs increased due to new blanket contracts awarded after a request for proposal (RFP) process which increased costs by 10% in 2021 and by 12% in 2022 compared to the three-year average. 5 Tr 626-627. The company also argues that the Attorney General failed to consider the fact that the mix of attachment types is expected to change in 2021-2022, with, for example, a 42% increase in attachment requests that require the extension of a main. DTE Gas contends that it provided sufficient and unrebutted evidence to show the impact of these changes. 5 Tr 627.

In reply, the Attorney General contends that the company's exceptions reveal nothing new, and she reiterates her arguments.

The Commission adopts the findings and recommendations of the ALJ. The Commission agrees with the ALJ that, even assuming that the rebuttal was proper, DTE Gas failed to sufficiently support these projections in either its direct or rebuttal case. As the Attorney General showed, the company failed to provide information on how it determined that there was a 42% increase in main extensions, failed to fully explain why the 2021 and 2022 projections were so much higher than historical expenditures, and failed to quantify how the predicted change in customer mix affected the 2021 and 2022 projections. 5 Tr 1650-1651. The Commission adopts the Attorney General's proposed disallowances of $10,901,000 for 2021 and $10,653,000 for 2022 for this cost category.

d. Service Alterations

This cost category addresses customer requests for the upgrading or relocation of service lines or meters resulting from increased load activity. 5 Tr 588-595. DTE Gas presented average capital expenditures of $12.6 million per year for service alterations from 2015-2019. The company projects $18.4 million for 2020, $18.5 million for 2021, and $17.9 million for 2022 in service alteration expense, which represents an increase of $5.6 million per year for this time period compared to the historical average. Exhibit A-12, Schedule B5.1, p. 2. DTE Gas attributes the increase to the company's new cross bore process, which addresses service lines that intersect an existing underground utility line such as a sewer line or storm drain, and involves the use of cameras for inspection. 5 Tr 595. DTE Gas stated that the new program increases the unit cost from $3,816 in 2019, to $ 4,357 in 2021 and $4,337 in 2022 per service alteration. *Id.*

The Staff objected to the increased cost. Using the 2020 actual average cost per service alteration unit and adding $392 per cross bore inspection, the Staff recommended disallowances of $1,349,664 for 2021, and $1,186,264 for 2022. 5 Tr 1836; Exhibit S-14.10. The Attorney General also proposed a disallowance based on the actual average 2020 cost plus $239 for each cross bore inspection, for a disallowance of $2,372,000 and $2,209,000 for 2021 and 2022, respectively. Noting that there is no historical information on the cost of a cross bore inspection or the average number of inspections, the Attorney General argued that the company's projections are speculative, and also pointed to a $318 per unit discrepancy in the company's per unit cost projection between the amount as originally filed and projections provided in response to discovery. 5 Tr 1644-1645.

DTE Gas countered that the Attorney General had not included any amount for the cross bore inspections, and that recent service alterations also involve increased costs for hard surface restoration such as for sidewalks and roadways. Again, the Attorney General objected to the presentation of this information on rebuttal.

The ALJ recommended adoption of the Attorney General's proposed disallowances for 2021 and 2022, for a total of $4.581 million. PFD, p. 62. The ALJ noted that DTE Gas did not raise the issue of hard surface restoration cost until rebuttal, and never addressed the $318 per unit evidentiary discrepancy identified by the Attorney General. The ALJ further noted that the costs of the new program are unknown at this point, and any reasonable and prudent costs may be recovered in a future rate case where there will be better data to inform the decision.

In exceptions, DTE Gas argues that the Staff ignores the increasing trend towards hard surface restorations in 2021 and 2022, the fact that labor costs have increased as a result of new contracts, and the fact that municipal permitting requirements have changed. 5 Tr 628-629. The company also argues that the Attorney General ignored the fact that the company's estimated costs for cross bore inspection were derived from negotiated contractual pricing and the forecasted volume. The company argues that its costs were sufficiently supported and unrebutted. 5 Tr 629-630, 1346-1347. DTE Gas notes that the cross bore safety program is new and did not exist in 2020, and the safety benefits of the cross bore program are not in dispute.

In reply, the Attorney General contends that the company's evidence was speculative and unsupported.

The Commission adopts the findings and recommendations of the ALJ. Again, the Commission agrees with the ALJ that the company failed to provide sufficient evidence to support its projections for overall service alterations, not simply the cross bore program. The Commission recognizes that there is no historical data on which to base projections for a new program, but DTE Gas failed to adequately explain why, even if all of the forecasted cross bore inspections occur in 2021, the projection is more than twice the apparent cost. 5 Tr 1644-1645. The Commission adopts the Attorney General's proposed disallowance of $2,372,000 for 2021 and $2,209,000 for 2022. As with all disallowances of this type, this finding is not necessarily permanent. In a future rate case, DTE Gas will be able to present actual expenses for the cross bore program, and, upon a showing of reasonableness and prudence, receive a recovery that will not be based on guesswork.

e. Belle Isle Main Replacement Project

According to DTE Gas, in November 2018 a contractor working for DTE Electric Company (DTE Electric) collided with and damaged a distribution main under the Detroit River which cut service to the 20 customers on Belle Isle. DTE Gas originally sought $2.5 million for the cost of carrying out the permanent solution to this problem (which involved directional drilling under the river), but on rebuttal stated that "total capital expenditures were $2.24 million of which $1.0

million was reimbursed to DTE Gas by DTE Electric." 5 Tr 631, 1233-1234; Exhibit A-31, Schedule U5. The Attorney General argued that the full amount should be permanently excluded from rate base because the record showed that the fault for the original accident was shared by DTE Gas (for failing to adequately mark the pipeline) and DTE Electric (for hitting the pipeline), and thus the cost should not be shouldered by ratepayers. 5 Tr 1651-1653; Exhibit AG-7, p. 7.

The ALJ found that some contradictory responses were provided by DTE Gas in response to discovery as illustrated in Exhibit AG-7, and that the net $1.24 million cost of the Belle Isle Main Replacement Project should be disallowed from rate base, based on her agreement with the Attorney General that customers should not be held responsible for damage caused by the company or its affiliate. PFD, p. 64.

In exceptions, DTE Gas argues that the ALJ mischaracterized the Attorney General's position, because the company did not request to recover the full $2.4 million but instead showed that it was reimbursed $1 million. DTE Gas states that the ALJ used the correct amount of $1.24 million for the disallowance. 5 Tr 631.

In reply, the Attorney General reiterates that different discovery responses led to confusion over the actual cost to replace the pipeline and the subsequent reimbursement, and she notes that DTE Gas did not actually except to the ALJ's decision and appears to have accepted the disallowance.

The Commission adopts the findings and recommendations of the ALJ and disallows the requested $1.24 million for inclusion in rate base. Like the ALJ, the Commission finds that the factual circumstances of the accident indicate that this cost should not be borne by ratepayers. The Commission also strongly encourages DTE Gas, in the future, to thoroughly investigate alternative and nontraditional solutions to reinstating service where the cost is so significant (over $110,000 per customer) in comparison to the number of customers served.

f. System Reliability

This cost category addresses system reliability projects, which include upgrading or replacing regulator stations that currently lack take-off valves (TOVs), addressing obsolescence, and upgrading or replacing facilities to address system growth. 5 Tr 592-594. DTE Gas projected that for the bridge and test years it will incur $78.6 million in system reliability costs. Exhibit A-12, Schedule B5.1, p. 2.

The Staff proposed a $5.52 million disallowance from the company's projected 2021 expense, bringing that expense down to the level of the 2020 amount of $8.03 million. 5 Tr 1833-1834; Exhibit S-14.7, p. 3. The Staff did not propose a disallowance for any year other than 2021. The Attorney General supported the proposed disallowance. The Staff calculated that the average cost per unit for the regulator station projects increased from $25,544 in 2016 to $260,577 in 2021, and argued that DTE Gas failed to provide sufficient evidence to explain this marked increase. While acknowledging that some cost increases since 2016 are likely, the Staff noted that DTE Gas projected a unit cost of $525,445 for below grade work in 2021, which, the Staff argued, is well beyond what is supported on the record. 5 Tr 635. The Staff recommended that DTE Gas be required to provide more information about the cost drivers for this project, how many regulator stations without TOVs remain, a timeline for completion, and additional information on the capital expense. 5 Tr 1835.

DTE Gas countered that costs are affected by whether the TOV enhancement project is above or below grade, with below grade work being particularly expensive. DTE Gas argued that in 2021 the company forecasts $4.669 million in costs that are new to the program since 2016.

5 Tr 633-634. The company states that below grade projects account for 37% of projects in 2021, whereas they were 10% of projects in 2019, and will be about 13% in 2022, and thus the mix of projects dictate that 2021 will be a more expensive year. The company provided additional information about the overall TOV enhancement project on rebuttal. 5 Tr 636.

The ALJ found that:

> the cost <u>increase</u> since 2016, which the company provides and Staff acknowledges is likely, is not consistent with the projected cost of TOV projects in 2021, especially for below grade TOV projects. As Staff points out, and DTE does not dispute, the average per-unit cost of TOV projects in 2016 was $25,544, and the company reports that the cost of above grade work has increased by $58,000 since 2016. Assuming that all work in 2016 was above grade, this results in an average per unit cost of $83,544, not the $108,000 the company used for its projection. Then, assuming that the average cost differential between above and below grade work for 2021 applied in 2016, the average cost for below grade work would have been about $128,000. This, added to the increase of $145,000 only equals $273,000, not even close to the $525,445 cost per project the company projects. The increase in costs for 2021 for regulator station TOV work, which are significantly above the increases that [DTE Gas's witness] reported since 2016, are unexplained.

PFD, pp. 69-70 (emphasis in original) (notes omitted). On this basis, the ALJ recommended that the Commission adopt the Staff's proposed $5.52 million disallowance for 2021.

In exceptions, DTE Gas argues that it demonstrated that the Staff's projected cost is incorrect because a single regulator has an estimated cost of $25,000 and each station replacement project requires a minimum of two regulators. Thus, the company contends, the ALJ's and the Staff's total projected cost of $25,544 is not reasonable for each station. The company argues that it has adopted six safety enhancements (mostly post-2020) that add to costs and therefore it is not appropriate to use 2020 capital costs as a proxy for 2021. 5 Tr 633. DTE Gas states that it quantified an additional $4.7 million in costs for 2021.

The Commission adopts the findings and recommendations of the ALJ. The Staff proposed a disallowance of $5.52 million out of the $78.6 million sought by the company for the bridge and test periods, to bring the 2021 projection for the cost of regulator stations without TOV down to the level of the 2020 projection, based on the lack of evidence supporting the 2021 projection. 5 Tr 1833-1835. As the ALJ showed, DTE Gas failed to adequately explain the more than ten-fold increase in the per unit cost between 2016 and 2021 or, as the ALJ notes, the $525,445 cost per project; nor did the company provide sufficient evidence supporting its calculations related to the difference between above ground and below ground work. The Commission agrees with the ALJ and adopts the Staff's disallowance for 2021.

g. Routine Transmission Plant

This cost category addresses routine transmission plant expenses. DTE Gas projected that it would incur $50.3 million in routine transmission plant expense for the bridge and test years (2020-2022), which is $10.6 million per year higher for these three years compared to the historical average for 2015-2019. 5 Tr 610. DTE Gas stated that the increase was associated with spending on remediation of exposed pipelines, replacement of aging large diameter valves, and the K-Line Pipe Replacement Project (made necessary by increased population density). 5 Tr 611-613; Exhibit A-12, Schedule B5.5 Revised.

The Attorney General argued that the company is needlessly replacing hundreds of feet of pipeline where only a few feet of pipeline are actually exposed, and she proposed an $11.8 million disallowance for 2021 and 2022 for eight pipeline remediation projects. 5 Tr 1654; Exhibit AG-87. DTE Gas countered that exposed pipes are ranked according to risk and the amounts projected by the company represent remediation for the highest-risk exposed pipes. 5 Tr 637. DTE Gas indicated that the segments of pipeline that are replaced are longer than simply the exposed lengths for several reasons, including: (1) avoiding significant impact to environmentally sensitive areas; (2) entry and exit space must be considered during construction, as well as angles that would allow for three feet of soil cover at below grade locations; and (3) allowance for in-line inspection (ILI) tools. 5 Tr 637-639. DTE Gas presented evidence regarding alternative solutions that have been explored to address pipeline exposures and reasons why they have not been deemed suitable, including the inability to receive permits from government agencies. 5 Tr 638-640.

The ALJ found DTE Gas's evidence to be persuasive and recommended rejection of the Attorney General's proposed disallowance. The ALJ noted that many of the pipelines at issue are older and located near stream crossings where the soil cover has eroded over many years, and she found that simply adding more cover might provide only a temporary solution. PFD, p. 74. She also noted that at the time the pipelines were installed they were not installed at the depths required under current gas safety standards.

In exceptions, the Attorney General argues that DTE Gas failed to demonstrate that it has explored other, less costly remediation options. The Attorney General notes that she requested, in discovery, copies of the permit applications and the permit denial letters for these eight projects and DTE Gas provided a response for only two of them. Exhibit AG-87. The Attorney General indicates that the ALJ's decision may be defensible for the Cedar Creek project, for which the company provided some persuasive documentation, but that the other seven projects should be denied because DTE Gas failed to provide any evidence that the permits could not be obtained; but the Attorney General goes on to indicate that the Commission would be justified in denying the full amount of $11.8 million.

In reply, DTE Gas argues that the Attorney General's exceptions do not respond to the company's evidence regarding the nature of these projects.

The Commission adopts the findings and recommendations of the ALJ. The Commission finds that DTE Gas provided convincing evidence explaining why the replaced segment of a pipeline may often need to be longer than the exposed segment, including environmental concerns, considerations of entry and exit space and angles that will allow for the necessary three feet of cover, and inspection and stabilization considerations, as well as permitting issues. 5 Tr 637-640. The Commission rejects the Attorney General's proposed disallowance for this cost category.

3. Large Capital Project Expense

   a. Traverse City/Alpena Reinforcement Project

DTE Gas describes TCARP as follows:

> TCARP entails looping the existing Lincoln-Traverse City pipeline with approximately 8.8 miles of 10" diameter pipe and looping the existing Frankfort pipeline with 14.4 miles of 8" diameter pipe; installation of six (6) interconnects with pipelines owned by DTE Michigan Gathering Holding Company (GSP-Gas Storage and Pipeline), an affiliate; installation of one (1) new gate station; and modifications to eleven (11) existing gate stations. TCARP will provide a redundant supply of gas, mitigating potential integrity and outage risks to approximately 91,000 customers.

5 Tr 1207. DTE Gas projects TCARP expense of $30,669,000 in 2020, $62,404,000 in 2021, and $715,000 in 2022. Exhibit A-12, Schedule B5. The Staff originally proposed a disallowance based on the fact that the project had not yet received approval under Public Act 9 of 1929 (Act 9). However, in the July 27, 2021 order in Case No. U-20894, the Commission granted Act 9 approval, and in the July 27, 2021 order in Case No. U-21102 the Commission approved regulatory asset treatment for transportation costs associated with TCARP. The Staff thereafter withdrew the disallowance proposal. The ALJ found that this issue was settled. PFD, p. 75. No party filed an exception on this issue and the Commission adopts the ALJ's finding.

   b. Van Born Project

The Van Born Project involves the installation of a new seven-mile pipeline and the reduction of pressure for the first seven miles of an existing pipeline. 5 Tr 1217. DTE Gas seeks to recover $964,390 for 2020, $9,900,000 for 2021, and $22,000,000 for the test year in costs associated with this project. Exhibit A-12, Schedule B5.5 Revised, p. 18. This project is not currently approved under Act 9, and the application for approval has not yet been submitted to the Commission. DTE Gas reports that the costs for 2020-2021 are associated with the company's preparation of its Act 9 application and the costs for 2022 are not, but are critical to the sequencing of the construction activities. 5 Tr 1254. DTE Gas stated that it plans to file its Act 9 application in the third quarter of 2021.

The Staff proposed a disallowance of $22 million for the test year because these costs are not associated with the Act 9 application and the construction costs do not yet belong in rate base. The Attorney General proposed a disallowance of the full $32.9 million in claimed costs because the project is premature.

The ALJ recommended that the Commission adopt the Staff's disallowance for the test year because the costs are construction costs and thus premature for inclusion in rate base. PFD, p. 78. She recommended that the Commission reject the Attorney General's proposed disallowance because DTE Gas presented sufficient evidence showing that those older costs are part of the preparation of the Act 9 application. 5 Tr 1262-1263.

In exceptions, the Attorney General argues that the full $32.9 million should be disallowed because it is premature to include any of these amounts in rate base. The Attorney General notes that no Act 9 application has yet been filed, and states that "the ALJ failed to address the AG's concerns that 25% of the total group would still be at risk of outage, even after spending almost $100 million to loop existing pipelines." Attorney General's exceptions, p. 7.

In exceptions, DTE Gas argues that the Staff's proposed disallowance is not appropriate, stating:

> the Van Born pipeline ranks as one of the top pipelines in DTE Gas's Transmission Renewal Program requiring remediation due to the high customer outage potential.

> The $22 million in capital expenditures is critical to timely sequencing of key activities necessary to meet the planned in-service date of January 2024. A delay in sequencing of activities could delay the in-service date one year, which would similarly extend the mitigation of the high customer outage potential another year (5T 1223, 1258–61; Exhibit A12, Schedule B5.6, DTE Gas's Gas Delivery plan, pp 47–49).

DTE Gas's exceptions, pp. 21-22. DTE Gas contends that the $22 million is necessary for the commencement of construction and procurement of materials. 5 Tr 1222, 1259-1265. The company emphasizes the importance of the project.

In replies to exceptions, the Attorney General states that DTE Gas's exceptions added nothing new to the discussion. The Attorney General argues that as there is still no indication of when the Act 9 application will be filed, and that the timing of this rate case dictates that any such costs should not be included in the test year.

In replies to exceptions, DTE Gas argues that it should be granted recovery of the full amount in rate base. The company states that the "Act 9 application is nearly complete and will be filed shortly," and reiterates that the $22 million for 2022 is required "for the commencement of construction." DTE Gas's replies to exceptions, p. 23.

The Commission adopts the findings and recommendations of the ALJ. The Commission agrees with the ALJ that $22 million in test year costs should be disallowed. DTE Gas provided evidence that these are construction costs, and, as the application process has not yet commenced, these costs are premature. The Commission approves the 2020-2021 costs because the company provided evidence that these costs were incurred in preparation of the Act 9 application and no party provided convincing evidence rebutting that testimony. 5 Tr 1259-1263. The Commission adopts the Staff's proposed disallowance of $22 million for the test year.

c. Middlebelt Deration Project

In its application, DTE Gas included the Middlebelt deration project as one of its large capital expenses and described the project as follows:

> The Middlebelt Deration Project entails the deration of approximately 2500' of existing 24" 300 psig [pounds per square inch gauge] High Consequence Area (HCA) transmission main on Middlebelt Road between Beverly and Van Born Roads to distribution main at 150 psig. The project scope of the Middlebelt deration includes:
>
> • Abandonment of approximately 250' of existing 24" 300 psig main, 2700' of existing 12" 150 psig main, and approximately 200' of existing 8" 300 psig main between Beverly Road and Van Born Road along Middlebelt Road;
>
> • Abandonment of all piping associated with the existing Middlebelt heater station at Middlebelt and Van Born including two district regulators;
>
> • Installation of approximately 800' of new 12" steel pipe;
>
> • Installation of a new district regulator station with associated inlet and outlet piping at Beverly and Middlebelt Roads;
>
> • Replacement of one 36" main line valve on the 36" 300 psig Van Born main; and
>
> • Installation of two new 24" take off valves to supply the new regulator station at Middlebelt and Beverly.

5 Tr 1228. DTE Gas stated that, from December 31, 2019 (the end of the historical test year), through December 31, 2022 (the end of the projected test year), the company will have spent $2.97 million on the Middlebelt deration project. 5 Tr 1232; Exhibit A-12. The company estimated that the project will result in operations and maintenance (O&M) cost savings of $0.5 million per inspection. DTE Gas further contended that the deration of the pipeline will not impact customer supply or deliverability. 5 Tr 1232.

As justification, DTE Gas explained that the Middlebelt deration project is necessary to address 249 maximum allowable operating pressure (MAOP) record gaps on the Middlebelt transmission and distribution mains that were identified in the company's MAOP records review process. 5 Tr 1228-1229. According to the company, it began its record review process in response to a 2011 advisory bulletin issued by the federal Pipelines and Hazardous Materials Safety Administration (PHMSA) and the Pipeline Safety, Regulatory Certainty and Job Creation Act of 2011. An update to federal pipeline safety regulations in 2019 also required DTE Gas to develop an MAOP reconfirmation plan by July 1, 2021, and to complete reconfirmation of 50% of defects by July 3, 2028, with the remaining to be completed by July 2, 2035. As the number one risk for distribution and planned remediation identified in the MAOP records review, DTE Gas stated that it found the prudent pathway, when compared to alternatives, to be remediation of all 249 record gaps with the single deration project. 5 Tr 1229-1232.

The Attorney General recommended that the Commission disallow 50%, or $1.485 million, of the Middlebelt deration project expenses. In support, the Attorney General characterized the 249 record gaps found by the company as alarming and attributed this number to insufficient records kept by DTE Gas. Attorney General's initial brief, p. 39. Despite the records requirements issued in 2011, the Attorney General argued that DTE Gas should have maintained records of pressure tests before placing pipelines and facilities into service. *Id*., pp. 39-40. According to the Attorney General, DTE Gas is solely responsible for maintaining records and therefore, customers should not bear the full cost of records remediation having already been saddled with $9.4 million in records review costs incurred from 2015 to 2020. *Id*., p. 40.

The ALJ adopted the position of the Attorney General and recommended that the Commission disallow $1.485 million of the Middlebelt deration project costs. PFD, p. 81. The ALJ agreed with the Attorney General that maintaining records of pressure tests has been required by the

Michigan Gas Safety Standards (MGSS) since 1957[4] and by PHMSA since 1970. Thus, the ALJ stated the record keeping requirements described by the company are not new but rather a response by PHMSA to the San Bruno incident[5] to tighten record requirements. Additionally, the ALJ recommended that, in future rate cases where the company requests record remediation costs, the Commission should require some cost-sharing unless the company can show that the facility that lacks records was installed prior to the records requirements established under the MGSS. *Id*., pp. 81-82.

DTE Gas takes exception, arguing that the ALJ failed to recognize that record gaps are an industry-wide issue and the PHMSA final rule's allowance of 15 years to remediate record gaps demonstrates the magnitude of the issue. DTE Gas's exceptions, p. 24. The company also contends that the ALJ's recommendation for cost sharing in future record remediation amounts to inappropriate pre-judgment. *Id*. The company contends that the Commission has previously permitted costs that were incurred to achieve compliance with regulations to be included in rate base. As an example, DTE Gas states:

> in Case No. U-18999, the Commission found DTE Gas should be allowed to recover costs related to TOVs [take-off valves] which were being brought into

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[4] The ALJ cites to Rule 861.2 under Chapter VI, Records and Reports, of the MGSS that were effective November 21, 1957. The rule states the following records are to be maintained:

> Records on pressure tests to prove strength of new construction and upgraded pipeline and main facilities qualified for operating pressures in excess of 100 psig or for a hoop stress exceeding 30% of the specified minimum yield. These records are to be kept until the tested facilities are abandoned or the test superseded by the new test.

[5] The San Bruno incident refers to the September 9, 2010 explosion on a natural gas transmission line operated by Pacific Gas and Electric Company in a neighborhood of San Bruno, California. *Pacific Gas and Electric Company; Natural Gas Transmission Pipeline Rupture and Fire; San Bruno, California; September 9, 2010 - Accident Report*, National Transportation Safety Board, available at https://www.ntsb.gov/investigations/AccidentReports/Reports/PAR1101.pdf.

> compliance with the MGSS that had been in place since 1957. On page 37 of its order the Commission found it was "not appropriate to deny cost recovery for necessary safety upgrades" especially when the condition resulted from decisions made long ago and had not been identified until recently.

Id. Therefore, DTE Gas argues that the Commission should allow full recovery of the capital expenses associated with the Middlebelt deration project.

In its replies to exceptions, the Attorney General states that while there may be instances where recovery of costs related to regulatory compliance is appropriate, the Middlebelt deration project is not one of those instances because the regulations at issue are not new. The Attorney General repeats her arguments regarding DTE Gas's responsibility to maintain its records and concludes that the ALJ made the proper recommendation regarding cost recovery on this issue. Attorney General's replies to exceptions, pp. 17-18.

The Commission finds that recovery of the capital costs related to the Middlebelt deration project should be permitted. The Commission agrees with the ALJ's findings that the 2019 PHMSA rules and 2011 advisory bulletin are not new record keeping requirements and that DTE Gas was required previously by the MGSS to perform strength tests, including MAOP tests, and to maintain those records for the life of the pipeline. However, the Commission is disinclined to disallow the capital costs associated with this project as they are necessary to reestablish the MAOP of the pipeline and to ensure safe operation. Safety is a core mission of the Commission's regulation of natural gas operations within the state, and safety has been emphasized by the Commission on numerous occasions. Namely, in DTE Gas's previous rate case, Case No. U-18999, the company sought recovery of the O&M expenses associated with record remediation in response to the 2019 PHMSA rules, which were pending at the time. While the company did not request recovery of capital expenses and the Commission disallowed the O&M expense because the federal rules were not yet finalized, the Commission spoke to the importance of safety:

> [G]iven the importance of safety issues associated with this rule and DTE Gas' level of preparation to date, the Commission finds that, should the federal rules become final in the near term, DTE Gas may record a regulatory asset for actual, prudently incurred costs of compliance, not to exceed $2.37 million. The company may include the regulatory asset in a subsequent rate case for prudence review and rate recovery.

September 13, 2018 order in Case No. U-18999, p. 77 (September 13 order). Considering the company's testimony that the Middlebelt deration project was ranked the highest distribution risk and among the highest risks for transmission, the Commission finds that the safety concern justifies cost recovery of the capital expense in this instance. 5 Tr 1230-1231. Also noting that no party contested the company's calculation of the Middlebelt deration project expense or the reasonableness of the cost itself, the company is authorized to recover the $2.970 million in base rates.

d. East Jefferson Project

DTE Gas requested a capital expense of $15.0 million for the East Jefferson project which:

> entails the installation of approximately 14.5 miles of new plastic main, installation of three new regulator stations, retesting of 1.5 miles of plastic main, and abandonment of approximately 11.5 miles of cast iron and unprotected steel main along East Jefferson Avenue from Mt. Elliot Street to Alter Road and on associated side streets in the city of Detroit.

5 Tr 1237. The company explained that the City of Detroit is planning to complete a road reconstruction public improvement contract starting in 2023 on East Jefferson Avenue and has requested that utility upgrades be completed prior to the start of the City of Detroit's project. *Id*. Per DTE Gas, because the company utilizes a right-of-way agreement with a governmental agency, in this case, the City of Detroit, for its gas facilities, DTE Gas is obligated to modify the affected gas facilities when the governmental agency performs renovations in the right-of-way. *Id*.

Citing the prematurity of the project, the Attorney General recommended disallowing the $15.0 million. The Attorney General noted that in a footnote on Exhibit A-12, the company indicated that the construction schedule is preliminary and subject to coordination with the City of Detroit and that the dollar amounts provided by DTE Gas for the project appear to be "ballpark amounts." Attorney General's initial brief, p. 38. The Attorney General contends that "the Commission has repeatedly rejected the inclusion of placeholder amounts in rate base." *Id*.

Recognizing that the East Jefferson project may be subject to the City of Detroit's plans and schedule, the ALJ nonetheless recommended approval of the $15.0 million capital expense for the East Jefferson project. The ALJ found that the company provided sufficient evidence that the project will go ahead in 2022 and that the cost estimates provided are based on current bid prices, which do not constitute placeholder amounts. PFD, p. 86.

The Attorney General excepts and argues that the ALJ's conclusion that the Attorney General failed to present evidence that DTE Gas's plans have been modified or delayed erroneously removed the burden from the company to support its costs. The Attorney General repeats her arguments that the project is in preliminary stages, pointing to company testimony that acknowledged that the project's design work was only 50% complete. Attorney General's exceptions, p. 8 (citing 5 Tr 1269-1270). The Attorney General argues that recovery is not appropriate until a schedule is more certain and costs are more accurately known. *Id*.

DTE Gas replies to the Attorney General's exceptions repeating its argument that the record supports the ALJ's recommendation and that the City of Detroit's project plans dictated the company's schedule meaning that the expenditures are non-discretionary. DTE Gas's replies to exceptions, pp. 24-25. The company also observes that the Attorney General abandoned her argument that the forecasted capital expenditures for the East Jefferson project appear to be ballpark placeholder amounts. To this point, DTE Gas argues that it provided detailed cost estimates based on engineering analyses and cost estimates prepared by the project management team, all of which support the recommended conclusion in the PFD. *Id*., p. 25 (relying on 5 Tr 1270-1271; Exhibit A-23, Schedule M8 – Confidential 2021 and 2022 East Jefferson Detailed Cost Estimate). Lastly, DTE Gas points out that the Attorney General conceded that the infrastructure renewal accompanying the East Jefferson project will have positive benefits. The company agrees, lists those benefits, and concludes that the ALJ properly rejected the Attorney General's proposed disallowance. *Id*., p. 26 (relying on 5 Tr 1238, 1271; Exhibit A-23, Schedule M7).

The Commission finds the ALJ's recommendation to be well-reasoned and supported by the record in this case. The Commission finds DTE Gas's testimony persuasive that the City of Detroit requested utilities to complete the necessary work ahead of the city's project start in 2023 and that DTE Gas will incur expenses in the test year. 5 Tr 1239; Exhibit A-12, Schedule B5.2; Exhibit A-23, Schedule M7. Therefore, the Commission adopts the ALJ's findings and conclusions and authorizes DTE Gas to include $15.0 million in rate base for the East Jefferson project.

4. Gas Information Technology

a. ClickSoft

DTE Gas represented that it plans to replace its current field service management system, Service Suite, and related software with a new cloud-based system offered by ClickSoft that will allow DTE Gas field personnel efficiency and will provide routing optimization, real time crew locations for dispatching, and quicker response times. 5 Tr 683-685. DTE Gas explained that the replacement is necessary because Service Suite is no longer supported by the vendor and "carries

[a] significant security and safety risk both in terms of security support and active field activity." *Id*., p. 685. To cope with the unsupported Service Suite, the company stated that it currently must perform monthly outages to address performance and security risk issues at a cost range of $10,000 to $15,000 annually. *Id*., p. 759. As to the cost of the ClickSoft replacement, DTE Gas stated that it will invest $6.8 million between 2020 and the end of 2022, with historical spending at $5,000. *Id*., p. 683; Exhibit A-12, Schedule B5.4.1.

The Attorney General recommended that the Commission disallow the ClickSoft expense. The Attorney General expressed skepticism regarding the company's claims that the current field management system is at the end of its life, noting that the company installed the system in 2014. Attorney General's initial brief, pp. 48-50. The Attorney General argued that DTE Gas failed to present a business case for the ClickSoft replacement at this time and that the company's arguments regarding cyber security threats do not support replacement because DTE Gas has an "elaborate cyberthreat security system outside of any specific software system that protects the company's systems." *Id*., p. 49.

The ALJ found DTE Gas's position to be reasonable, noting that the Attorney General did not address the company's rebuttal that the Service Suite system was originally implemented in 2007 under the name Advantex. Further, the ALJ found DTE Gas's explanation persuasive that after 14 years, the vendor, not the company, is no longer providing support or upgrades to the software. Citing the importance of a field management system for scheduling and deploying resources, the ALJ rejected the Attorney General's proposed disallowance and recommended that the Commission adopt DTE Gas's $6.8 million expense for ClickSoft. PFD, p. 90.

The Attorney General takes exception to the PFD and argues that DTE Gas failed to present a convincing business case or cost-benefit analysis to adequately support recovery of the forecasted

ClickSoft expenses. Attorney General's exceptions, pp. 8-9. The Attorney General asserts that the ALJ failed to address the company's lack of support and instead recommended recovery in rate base because field management systems are important for the scheduling and deployment of resources. *Id*., p. 9. Addressing the age of the program, the Attorney General asserts there is confusion on this issue.

> In response to discovery in U-20642, DTE [Gas] unequivocally indicates that the current Field Service Management system was installed in 2014. Then, in this case, in response to the same question, DTE [Gas] answered that the current system was implemented in 2007. The reason for the discrepancy is unclear and there is no explanation for why the answer to exactly the same question changed from one case to the next. In the absence of some cogent, reasonable explanation, this inconsistency should be held against DTE [Gas], as they are the party responsible for accurately and honestly answering discovery questions that are posed to them. It is still unclear to the [Attorney General] whether the system is 7 or 14 years old, the difference between which may have altered the ALJ's decision. While making sure IT [information technology] projects are adequately funded and address all reasonable security risks is important, the Commission should insist that DTE [Gas] rigorously support transitions to updated and upgraded systems, as there is significant incentive for both the vendors and the Company to repeatedly replace systems, often long before it may be necessary.

Id., p. 10.

DTE Gas replies to the Attorney General's exceptions contending that, contrary to the Attorney General's assertion, there is no confusion on the record regarding the age of the ClickSoft system. DTE Gas goes on to repeat the history of the program explaining that the program was originally implemented in 2007 but was known as Advantex and then in 2014, the vendor rebranded the software as Service Suite; thus the program is 14 years old. DTE Gas's replies to exceptions, p. 27. In response to the Attorney General's accusation that the company failed to present a business case, DTE Gas contends that it justified the program when it testified regarding the impact of outages on the company's dispatching and management system as well as the $10,000 to $15,000 annual cost associated with the planned monthly outages. *Id*., p. 28. The company argues that the Attorney General merely repeated her position and offered no substantive response and therefore, the Commission should accept the ALJ's recommendation. *Id*.

The Commission finds the ALJ's recommendation well-reasoned and supported on the record and therefore adopts the PFD. Contrary to the Attorney General's assertion, the company has presented sufficient evidence to persuade the Commission that a do-nothing approach will lead to security risks in its dispatch and field management system and will result in a $10,000 to $15,000 annual cost to address performance and security issues in a software that is no longer supported. 5 Tr 683-685. The Commission finds DTE Gas's replacement of software made obsolete by the vendor to be a reasonable expense. Further, while the Attorney General focuses on the age of the software and argues there is confusion as to whether the software is 7 or 14 years old, the Commission does not find the age of the software to be the deciding factor. Rather, it is the fact that the software is no longer supported by the vendor, and therefore presents a security risk to the company's field service management that the Commission finds determinative. To note, the Commission also finds that the company presented a sufficient explanation to support that the program is actually 14 years old. *See*, 5 Tr 758-759.

b. Electronic Gas Management System

As defined by DTE Gas, the Electronic Gas Management System (EGMS) "is the electronic nomination system utilized to accept, validate, schedule, and process inbound nominations on DTE Gas and DTE Gathering Pipelines." 5 Tr 682, n. 13. DTE Gas requested approval of $2.1 million in capital expense from 2020 through December 31, 2022, with a historical spend of $1.2 million in 2019 for its EGMS program. 5 Tr 690. The company explained that the application currently used for EGMS requires a software and security upgrade that will improve the company's ability to address security threats and comply with Federal Energy Regulatory

Commission (FERC) system monitoring guidelines required for pipelines that interconnect with FERC-regulated pipelines. 5 Tr 690-691.

The Attorney General requested that the Commission disallow the $3.3 million incurred and projected by DTE Gas from 2019 to 2022 and direct DTE Gas "to remove any disallowed amounts, previously capitalized, from plant balances to avoid inclusion of these amounts in rate base in future cases." Attorney General's initial brief, p. 53. The Attorney General argued that the company refused to provide the total cost of the EGMS project as well as the reason the company allowed the EGMS system to become obsolete and unsupported and instead reiterated that updates were required. Thus, according to the Attorney General, the company failed to properly maintain its EGMS system causing a problem of its "own making," the cost of which is unreasonable to pass on to customers. *Id*., pp. 51-52. The Attorney General also contended that DTE Gas should pay for the entire cost of the project when the system, according to the Attorney General, will be partially used by the company's affiliate, DTE Gathering Pipelines. *Id*., p. 52.

The ALJ disagreed with the Attorney General's recommended disallowance and recommended that the Commission allow DTE Gas to include the $3.3 million for EGMS actual and projected spending from 2019 through 2022 in rate base. The ALJ stated that the Attorney General's proposed disallowance is based on her assumption that previously available upgrades were free and the company's failure to install upgrades resulted in an obsolete system. The ALJ alternatively found that the Attorney General conflated system upgrades, which are usually provided at no cost, with system updates and argued that the company's failure to install updates degraded the system to a degree that it needed replacing. The ALJ explained that she found DTE Gas provided sufficient evidence to support its decision to prioritize spending on upgrades to other IT systems and its decision to purchase the upgraded system at issue here once the EGMS system became a priority due to its age and lack of vendor support. Lastly, the ALJ noted that she found persuasive the company's testimony that a DTE Gas affiliate will not be using the gas nomination system. PFD, pp. 93-94.

The Attorney General excepts to the ALJ's recommendation arguing that DTE Gas did not present a sufficient business case or cost-benefit analysis and also failed to answer discovery questions aimed at discovering the total cost of the system. Attorney General's exceptions, p. 11. The Attorney General asserts that the ALJ failed to address the company's lack of support and therefore erred in her recommendation. *Id*. Contending that the company is incentivized to include "new and more costly products" in rate base, the Attorney General asks that the Commission demand complete cost-benefit information to ensure the reasonableness and prudence of the costs. *Id*., p. 12. Lastly, the Attorney General points to the company's original filed testimony describing the EGMS system as being used to process gas nomination requests on the DTE Gas and DTE Gathering pipelines as evidence of affiliate use by DTE Gas Gathering. *Id*., p. 12. For these reasons, the Attorney General recommends that the Commission disallow $3.3 million for EGMS expenses. *Id*.

In its replies to exceptions, DTE Gas responds to the Attorney General's claims in exceptions that the company failed to justify the EGMS spending and repeats its arguments made in direct and rebuttal testimony that the system currently used is no longer supported. The company states that the system was reviewed for priority in the company's five-year IT plan and that it determined that completing the upgrade is prudent at this time. DTE Gas's replies to exceptions, p. 29. As to the Attorney General's concerns regarding DTE Gas Gathering pipelines, DTE Gas states its witness "clearly explained in his rebuttal testimony that there is a DTE Gas Gathering software module within the EGMS system, but all expense-related information presented in his testimony applies either to DTE Gas or the DTE Gas portion of a shared asset." *Id*. (citing 5 Tr 761).

The Commission finds that the ALJ's recommendation is well-reasoned and supported on the record and that, contrary to the Attorney General's assertion, the ALJ did not err in finding that the company's EGMS spending was reasonable. The Commission finds that the company's planned and historical spend to update the application used for the EGMS system at this time is reasonable and duly supported. 5 Tr 690-693. The Attorney General's reasoning behind her proposed disallowance rests, in part, on her contention that the system will be partially used by a DTE Gas affiliate, DTE Gas Gathering. The Commission finds that the company adequately explained its reference to DTE Gas Gathering, as stated below, and that there is no reason to disallow the otherwise reasonable costs on this basis.

> During the Audit and Discovery phase, AGDG-8-258b, Witness Coppola asked whether the cost reflected in Exhibit A-12, Schedule B5.4.1 line 9 included the portion applicable to DTE Gas Gathering. In response, [DTE Gas] stated, all expense related information included in the testimony for Witness Busby applies either to Gas-IT or the Gas-IT portion of a shared asset. With respect to DTE Gas Gathering as referred to in Busby's direct testimony, this is a software module within the EGMS system – thus the upgrade to the EGMS system as a whole included the Gathering module component. This is not in reference to our affiliate, DTE Gas Gathering.

5 Tr 761.

c. Gas Information Technology Application Health/Sustainment

As part of its gas IT capital expenditures, which total $28.2 million from 2019 through the end of 2022, DTE Gas requested approval of expenditures in the Gas IT subcategory of sustainment. The company described the Gas IT sustainment category of spending as being "required to 'run' the organization (e.g., basic internal labor, base [operation and] system maintenance cost)." 5 Tr 670. Per DTE Gas, "sustainment investments cover ongoing required activities for applying patches, data adjustments, performance tuning, administrative activities (data archiving, certificate expiration), and improvements that reduce manual effort." *Id*. Within Gas IT Sustainment, DTE Gas plans to spend, and seeks to recover in rate base, $3.2 million from 2020 through December 31, 2022, with a historical spend in 2019 of $0.8 million. The company contended that these expenditures will "ensure the health and stability of a suite of applications within the portfolio to support Energy Gas Operations[,]" apply "regular updates to Applications[,]" address security vulnerabilities, and "monitor and operate the production environment for Gas business units to ensure high availability." 5 Tr 681-682 (footnotes omitted).

The Attorney General objected to the inclusion of Gas IT application health/sustainment expenditures in rate base and recommended that the Commission disallow the company's projected and actual spend in this category, totaling $3,977,000 from 2019 through 2022. Attorney General's initial brief, p. 53 (citing Line 7 of Exhibit A-12, Schedule B5.4.1 for the precise dollar amounts in spending for each of the four years). Maintaining that these expenditures support routine O&M functions, the Attorney General was not satisfied with DTE Gas's explanation that "it follows its accounting policy whereby upgrades and enhancements are capitalized if it is probable that those expenditures will result in additional functionality, new software design, or changes to existing software design." Attorney General's initial brief, p. 54 (citing DTE Gas's discovery response in Exhibit AG-15). The Attorney General argued that these categories of spending should be expensed as O&M costs and adjusted her O&M expense by $780,000 to allow recovery of these expenditures for 2022. *Id*.

The ALJ rejected the Attorney General's proposed disallowance and agreed with the company that its categorization of Gas IT application health/sustainment spending was properly capitalized according to the company's capitalization policies. However, the ALJ also described the company's capitalization policy as "vague[,]" stating that "the only clear measure of capitalization of IT investments is the $10,000 threshold. The remainder relies on ambiguous criteria such as the probability that those expenditures will result in 'significant,' 'additional functionality.'" PFD, p. 96. Thus, the ALJ recommended that the Commission open a separate proceeding to review the reasonableness and prudence of DTE Gas's capitalization policies. *Id*.

In exceptions, DTE Gas agrees with the ALJ's rejection of the Attorney General's proposed disallowance. However, the company excepts to the ALJ's recommendation that the Commission open a separate proceeding to review the reasonableness and prudence of the company's capitalization policies calling the ALJ's recommendation "neither a finding of fact nor a conclusion of law" appropriate for a PFD. DTE Gas's exceptions, p. 26 (citing MCL 24.285 and Mich Admin Code, R 792.10435). The company maintains that its capitalization policies comply with Generally Accepted Accounting Principles (GAAP) and the Gas Plant Instructions within the Commission's Uniform System of Accounts (USOA) as outlined in Part 201 of Title 18 in the Code of Federal Regulations. *Id*. Lastly, DTE Gas notes that in its depreciation cases, it provides the Commission with a complete list of retirement units, which includes the basis for determining which costs should be capitalized. *Id*.

The Attorney General also takes exception to the ALJ's recommendation to allow the $3.977 million to be included in rate base but agrees with the ALJ's recommendation to open a separate proceeding to review DTE Gas's capitalization policies. Attorney General's exceptions, pp. 12-13. The Attorney General repeats her arguments that the functions described by DTE Gas are categorically O&M functions that should not be capitalized. *Id*., p. 13.

DTE Gas replies to the Attorney General's exceptions averring that the Attorney General merely maintained her position and did not dispute the ALJ's reasoning, which DTE Gas describes as an improper exception. The company also repeats its arguments against the Attorney General's proposed disallowance. DTE Gas's replies to exceptions, pp. 30-31. DTE Gas goes on to dispute the Attorney General's agreement with the ALJ's recommendation for the Commission to open a separate proceeding to review the company's capitalization policies. *Id*., p. 31.

The Attorney General replies to DTE Gas's exception regarding the recommendation to open a separate proceeding to examine the company's capitalization policies. Reaffirming her agreement with the ALJ, the Attorney General disagrees with DTE Gas that the recommendation was not in the ALJ's purview and argues that the ALJ properly identified a concern with how the company capitalizes certain items. Further, pointing to the citations to MCL 24.285 and Mich Admin Code, R 792.10435 that DTE Gas used to support its exceptions, the Attorney General contends that the citations are irrelevant and the ALJ was "well within her ability to make such recommendations based on findings of fact[.]" Attorney General's replies to exceptions, p. 19.

As to cost recovery of the $3.977 million associated with the company's Gas IT application health/sustainment, the Commission finds the ALJ's recommendation to be well-reasoned and duly supported by the record. These expenses are reasonable and prudent in that they are necessary for IT maintenance to prevent degradation and failure of the company's IT assets. 5 Tr 670. However, the Commission declines to adopt the ALJ's recommendation to open a separate proceeding to review the company's capitalization policies. While the ALJ described the company's policy as vague, the Commission is not convinced that the concerns raised by the Attorney General and the ALJ rise to the level of requiring a contested proceeding to examine the company's capitalization policies. As stated by DTE Gas, its capitalization policies comply with the GAAP and the Gas Plant Instructions within the Commission's USOA, and therefore, without further evidence of impropriety on the part of DTE Gas in capitalizing these assets, the Commission declines to adopt the ALJ's recommendation.

d. End of Life Gas Device Program

DTE Gas included the End of Life (EOL) Gas Device program as part of its Gas IT sustainment projects and stated that the company plans to invest approximately $5.7 million in a three-part program for the 36-month period ending December 31, 2022. 5 Tr 677; Exhibit A-12, Schedule B5.4.1. Specifying spending for each year including historical spend in 2019, the company's expenditures are $1,635,000 for 2019; $1,583,000 for 2020; $1,270,000 for 2021; and $2,870,000 for 2022, totaling $7,358,000. Exhibit A-12, Schedule B5.4.1, line 6. DTE Gas explained its reasoning for the spending as follows:

> The investment is primarily focused on sustaining Endpoint and Network devices to reduce degradation and unplanned failures, in addition to the specialized labor provided within the Master Services Agreement needed for the implementation of the overall Program. Typically, the device types have a known "life" or duration for which they can be used before negatively impacting business objectives, and DTE IT replaces enough devices each year to retire those that create risk or cause degradation.

5 Tr 677-678 (footnote omitted).

The Attorney General disputed the reasonableness and prudence of the company's decision to replace IT equipment on a five-year cycle, some of which may still be useful and functioning. Attorney General's initial brief, p. 55. The Attorney General suggested that a seven-year replacement cycle may be more appropriate and cost-saving and contended that DTE Gas failed to provide any evidence that it would experience significant failures if it did not utilize a five-year cycle as opposed to a seven-year cycle. The Attorney General further argued that the company's reliance on the manufacturer's suggested replacement schedule was unreasonable because the manufacturer is incentivized to sell more equipment. *Id*. Using its seven-year cycle proposal, the

Attorney General calculated a potential reduction in capital expenditures from 2019 through 2022 of $2,102,000, and thus, recommended that the Commission disallow $2,102,000 from the EOL gas device program. *Id*., p. 56.

The ALJ rejected the Attorney General's proposed disallowance and adopted the spending proposed by DTE Gas for the EOL gas device program. However, the ALJ also recommended that, in its next rate case, the company be required to provide an analysis of the potential cost savings associated with retaining equipment in this category for six and seven years and to include the cost of any back-up devices that might need to be purchased in the event of equipment failures. PFD, p. 98.

DTE Gas disagrees with the ALJ's recommendation to require the company to provide an analysis in its next rate case as to the potential costs savings associated with retaining devices for six or seven years. DTE Gas's exceptions, p. 26. DTE Gas argues that the recommendation is neither a finding of fact nor a conclusion of law appropriate for a PFD and that the ALJ's recommendation is unnecessary and contrary to the record. *Id*., p. 27 (citing MCL 24.285 and Mich Admin Code, R 792.10435). The company avers that the ALJ ignored the risk and cost associated with using IT devices past their serviceable lives as specified by the original manufacturer. *Id*.

The Attorney General agrees with the ALJ that the Commission should require DTE Gas to provide additional analysis in its next rate case on potential savings associated with retaining devices for six and seven years, but disagrees with the ALJ's recommendation to allow cost recovery. Attorney General's exceptions, p. 14. The Attorney General states that the ALJ failed to address the Attorney General's arguments in her decision and therefore, erred in her recommendation. The Attorney General also defends the consistency of her position with other arguments made in this proceeding stating that, "decisions DTE [Gas] makes regarding when to upgrade or update systems are not synonymous or akin to the decisions it makes regarding devices." *Id.*, p. 15.

In its replies to exceptions, DTE Gas attests that the Attorney General offered nothing new in exceptions that would serve as a basis for a different outcome from the ALJ's recommendation regarding cost recovery on this issue. The company states that the Attorney General claimed, without support, that the vendor and the company are incentivized towards a cycle of planned obsolescence, to which the company responds that the vendor is an expert in its own products. As to the Attorney General's suggested seven-year replacement cycle, the company contends that the position is contrary to law, unsupported, and that the company is not required to disprove the Attorney General's unsupported proposal. DTE Gas's replies to exceptions, pp. 31-32.

The Attorney General replies to DTE Gas's exceptions stating that the ALJ was correct to recommend that DTE Gas be required to provide in its next rate case an analysis of potential savings associated with a six- or seven-year replacement cycle. The Attorney General also maintains her disagreement with the ALJ's recommendation to allow cost recovery on this issue. Attorney General's replies to exceptions, p. 20, n. 64. The Attorney General disputes the company's contention that the ALJ's recommendation is inappropriate and contrary to the record. She asserts that the ALJ acted within her ability to make findings and suggest next steps. The Attorney General then repeats her arguments that the company's reliance on the manufacturer's replacement suggestion and "speculative assertions" regarding the risks of operating past an IT device's serviceable life are not supported in the record. *Id.*, p. 20.

The Commission finds the ALJ's recommendation to be well-reasoned and supported by the record in this case. The Commission agrees with DTE Gas that, without evidence suggesting otherwise, it is reasonable to follow the vendor's advice with respect to the useful life and replacement schedule of the IT devices in question. However, the Commission also agrees with the ALJ that an investigation by DTE Gas into whether these devices can be used beyond the five-year life suggested by the manufacturer would be prudent. DTE Gas stated in its discovery response to the Attorney General that it does not track device failures. 5 Tr 1674; Exhibit AG-15. Based on the record in this case, the Commission is not inclined to deny the company cost recovery on the Attorney General's assumption that a seven-year cycle is more reasonable because there is no information available on the record to support a longer replacement cycle and therein lies the Commission's reason for adopting the ALJ's recommendation – the need for this information. The company failed to evaluate any meaningful alternatives to its selected five-year cycle replacement apart from a do-nothing approach. 5 Tr 679. Thus, the Commission agrees with the ALJ that an analysis of longer replacement cycles in the next rate case should be provided to ensure this information is available in the future. The Commission finds that the data from tracking device failures as well as an analysis of a six- and seven-year replacement cycle as an alternative to the five-year replacement cycle will enable the Commission to make a better determination as to the reasonableness of the costs associated with the EOL gas device program and evaluate potential cost-savings for ratepayers.

e. BioGreenGas Program Redesign

DTE Gas requested approval for recovery in rate base of its planned investment of $840,000 in the BioGreen Gas program in the 24-month period ending December 31, 2021. 5 Tr 698-700; Exhibit A-12, Schedule B5.4.1. The company explained that the BioGreen Gas program is being replaced by the new DTE CleanVision Natural Gas Balance pilot that was approved by the Commission for inclusion in rate base in Case No. U-20839. Therefore, the company contended that several updates need to be made to the program's website and supporting software to reflect changes in features and functions in the new pilot program, including a new enrollment process, customer notifications, and a new marketing campaign. 5 Tr 699-700.

The Attorney General opposed inclusion of the costs associated with the BioGreen Gas program in the company's rate base. To begin, the Attorney General questioned whether the program's IT costs should be included in rate base when the costs of the program, by DTE Gas's own admission, are not being recovered in base rates. Attorney General's initial brief, p. 57. In response to DTE Gas's claim that the cost of the BioGreen Gas program and replacement pilot were approved by the Commission in Case No. U-20839 for inclusion in base rates, the Attorney General pointed out that the October 29, 2020 order in Case No. U-20839 (October 29 order) actually did the opposite. Per the Attorney General: "The Commission clearly stated that it was approving rates for customer participation in the program that would not impact other customers. It also states that any cost shortfalls, including administrative costs, will not be recovered in GCR or base rates." Attorney General's initial brief, p. 57. The Attorney General further argued that the benefits of the program are hard to justify and that the Commission should disallow the $800,000 in capital costs included for the BioGreen Gas program. *Id.*, p. 58.

The ALJ agreed with the Attorney General's proposed disallowance, although she corrected the amount to be a $840,000 disallowance. In her reasoning for the disallowance, the ALJ quoted provisions of the October 29 order:

> DTE Gas provided the Staff with marketing and administrative costs, RNG and carbon offset costs, and forecasted premium collections for the time period of 2020 through 2023. The company does not expect the program to be cost neutral until after 2023. However, DTE Gas stated that the shortfalls to program income will not be included as part of GCR or base rates and will be considered a non-recoverable cost for the company.

* * *

> The Staff agrees that this pilot program has been designed to meet the preferences of current customers regarding an affordable renewable gas program that also offsets emissions from their own natural gas usage. The Staff recommends *ex parte* approval of the application as the program is voluntary and would have no effect on existing customers' rates. MCL 460.6a(3).
>
> After reviewing the application and the Staff's recommendation, the Commission concludes that the proposed program is reasonable and in the public interest and should be approved. Further, because the voluntary emissions offset program will not result in a rate increase for non-participating customers, *ex parte* approval is appropriate.

PFD, p. 101 (emphasis in original; footnotes omitted) (quoting the October 29 order, p. 4). Relying on the October 29 order, the ALJ described DTE Gas's representations regarding the inclusion of the costs of the BioGreen Gas program in rate base as "demonstrably false" and recommended that the Commission adopt the $840,000 disallowance. PFD, p. 101.

In its exceptions, DTE Gas notes its agreement with the ALJ that $840,000 is the correct amount at issue. However, the company excepts to the ALJ's recommendation to disallow the $840,000 explaining that the ALJ misunderstands what program was approved in Case No. U-20839. DTE Gas's exceptions, p. 28. The company states that capital costs were not addressed in Case No. U-20839, and therefore, the company sought and supported recovery in this case. *Id*. DTE Gas goes on to state that it is not seeking recovery of the program costs but rather, it is seeking recovery of the costs of system updates outlined in Exhibit A-12, Schedule 5.4.1. *Id*. The company contends that system upgrades such as this are one of the "foundational systems that support all DTE technology and these require periodic updates" and therefore, full cost recovery is appropriate. *Id*.

In its replies to exceptions, the Attorney General argues that the ALJ did not confuse the company's request in the instant case with the approval granted in Case No. U-20839, as asserted by DTE Gas in exceptions.

> DTE [Gas]'s confusing combination of different arguments, which posits that the PFD's contrary proposal offers no substantive reason for a disallowance, completely ignores the ALJ's reasoning that DTE [Gas] misrepresents the Commission's U-20839 order, which did address costs, and that the costs of this program are not included in base rates. Where the system modification costs are not included in capital expenditures in this case, per Commission order, DTE [Gas] should clearly not be recovering IT costs.

Attorney General's replies to exceptions, p. 21.

The Commission finds that the ALJ's recommendation is well-reasoned and duly supported by the record in this case and the October 29 order. The Commission does not find, as suggested by DTE Gas, that the ALJ confused the requests between Case No. U-20839 and the request for recovery in the instant case. In Case No. U-20839, the Commission granted approval of the company's new renewable natural gas program on an *ex parte* basis stating explicitly, "because the voluntary emissions offset program will not result in a rate increase for non-participating customers, *ex parte* approval is appropriate. *See*, MCL 460.6a(3)." October 29 order, p. 4. Additionally, DTE Gas's representations in Case No. U-20839 and the October 29 order make clear that any shortfall to the program's income will not be included in GCR rates or rate base. The confusion on this issue is why DTE Gas now has made representations in the instant case that the new program "was approved by the Commission for inclusion in rate base as part of U-20839." 5 Tr 699. As the ALJ pointed out, this is demonstrably false and was also not addressed by the company in exceptions. As to DTE Gas's argument in exceptions, the company cannot now attempt to parse out costs attributable to the program and seek recovery from non-participating customers after receiving *ex parte* approval based on the representation that the program would be self-sufficient (although not cost neutral until after 2023) through payments from voluntarily participating customers. October 29 order, pp. 3-4. Therefore, the Commission finds that the $840,000 requested by DTE Gas for the BioGreen Gas program should be disallowed.

f. Field Sketch Enhancements Project

DTE Gas initially requested that the Commission include in rate base $0.9 million in expenditures in the 36-month period ending December 31, 2022, and a historical spend of $0.4 million for the Field Sketch enhancements project. DTE Gas explained that it released the application in November 2018, and in 2019 and 2020, additional functions were added to the application which improved efficiency in the program. 5 Tr 703. The company also described its plans for implementing further functionalities to the Field Sketch application in 2021 and 2022, which included system upgrades for integration with ClickSoft and further upgrades to the Mobile Information Management System. 5 Tr 703-705. DTE Gas attested that a do-nothing approach was not reasonable because the Field Sketch application "is the alternative to paper records and provides the ability to capture real-time mapping to improve mapping cycle-time (which is essential and critical to operating business decisions)." 5 Tr 705. However, in response to discovery, DTE Gas stated that it is no longer investing in the Field Sketch enhancements project. 5 Tr 1677.

Citing the company's discontinued investment contained in its discovery response, the Attorney General recommended a disallowance of the company's capital expenditures for 2019 through 2022, totaling $1.275 million. *Id*.

The company rebutted the Attorney General's full disallowance arguing that the Commission should approve the $825,000 in 2019 and 2020 spending for the Field Sketch enhancements project but agreed to a $450,000 disallowance for 2021 and 2022. *Id*., pp. 767-768. Regarding its discontinued spending, DTE Gas explained that it discovered incompatibility issues between the Field Sketch application and other related systems and that, in 2019, the company transitioned to a vendor-hosted cloud option as a cost savings measure. *Id*., p. 767. Further, the company stated that this transition reduced costs by $500,000 and that its 2020 investments focused on the upgraded version implementations. *Id*.

The ALJ agreed with the Attorney General's proposed disallowance, reasoning that the disallowance was appropriate without a sufficient explanation from DTE Gas as to why it would invest over $800,000 in the Field Sketch enhancements project and then chose to discontinue the program. The ALJ also noted that the company's rebuttal testimony was not clear as to how it related to the Field Sketch enhancements project. Thus, the ALJ recommended that the Commission disallow $1.275 million in this spending category. PFD, pp. 103-104.

In its exceptions, DTE Gas stated that it is no longer seeking recovery of any of the company's expenses related to the Field Sketch enhancements project. DTE Gas's exceptions, p. 2.

Finding the ALJ's recommendation well-reasoned and supported on the record and considering DTE Gas's withdrawal of its recovery request in exceptions, the Commission finds that DTE Gas's $1.275 million in historical and projected spending for the Field Sketch enhancements project should be disallowed from rate base.

5. Other Adjustments

The Attorney General requested a further disallowance of $5,195,000 in capital expenditures for 2020. The Attorney General explained that in response to a discovery request asking for actual capital expenditures in 2020, the company provided information showing a total actual capital expenditure of $233,407,000, which is $5,195,000 lower than the $238,602,000 amount that the company forecasted for 2020 capital expenditures. Attorney General's initial brief, p. 59; Exhibit

AG-18. Because the company did not actually spend the $5,195,000, the Attorney General argued that this amount should not be included in rate base. Attorney General's initial brief, p. 59.

In its reply brief, DTE Gas opposed the Attorney General's proposed disallowance arguing the following:

> The [Attorney General]'s calculation is for routine capital only (Exhibit AG-18). She neglects to include any difference between filed and actual large project or IRM [infrastructure recovery mechanism] expenditures. These expenditures may have exceeded the filed amounts. A review of DTE Gas's 2020 IRM annual filing with the Commission, filed in Case No. U-18999, shows that it spent $292 million compared to the $288 million included in DTE Gas's original filing. If one aspect of actuals is reflected, all aspects of actuals should be reflected. There are too many changes from the filing to actuals to be updated completely as a part of the rate case litigation process. Finally, a disallowance for 2020 actuals could end up double counting some areas that the [Attorney General] has already proposed disallowances for elsewhere. If the [Attorney General] proposes a disallowance of $6.8 million for Clicksoft IT capital expenditures, the 2020 actual spend could also reflect expenditures for 2020 less than those used to calculate the total $6.8 million capital expenditures. In such a hypothetical case, the reduction in expenditures would be reflected twice.

DTE Gas's reply brief, p. 37.

The ALJ found the Attorney General's disallowance to be reasonable stating that DTE Gas could have waited a few weeks to file its rate case application to allow for updating and auditing of its 2020 numbers, but the company opted not to. Therefore, the ALJ recommended that the Commission disallow $5,195,000 from rate base. PFD, p. 104. The ALJ rejected the Attorney General's recommended further disallowance of $2,476,000 in the capitalized incentive compensation amounts for 2022, but noted that this recommendation is discussed in further detail in Section VI, Adjusted Net Operating Income, of the PFD. *Id.*, p. 105.

DTE Gas takes exception, repeating its argument in its initial brief that the Attorney General calculated for routine capital only and neglected any difference between filed and actual spending for large projects, IRM, Gas IT, etc. that could have exceeded the filed amounts. DTE Gas's exceptions, p. 29. DTE Gas also takes issue with the ALJ's assumption that the company could have waited to file its rate case, arguing that the ALJ ignored "the realities of rate case timing" and that DTE Gas filed based on a need to "implement new rates to enable a reasonable opportunity to achieve its authorized return." *Id*., pp. 29-30. Further, DTE Gas avers that updating data is time consuming and would have delayed the company's filing by months, not weeks. *Id*., p. 30.

The Attorney General replies to DTE Gas's exceptions stating that, "this is a clear case of a utility gaming the timing of projected versus actual costs to recoup excessive monies from ratepayers." Attorney General's replies to exceptions, pp. 22-23. The Attorney General calls DTE Gas's argument speculative and without evidentiary basis in the record that the actual large capital expenditures could have exceeded the filed amounts and explains that it is unknown whether those spending categories exceeded the filed amount. Per the Attorney General:

> [w]hat is known is that DTE [Gas] overestimated its 2020 routine capital expenditures and $5.2 million that the Company forecast was not spent. There is no reason to burden customers with unnecessary costs *during the ratemaking process* when total actual capital expenditures for 2020 were provided by DTE and presented in the [Attorney General]'s testimony in this case.

Id., p. 23 (emphasis in original).

The Commission finds the ALJ's recommendation to be well-reasoned and supported by the record and adopts the ALJ's recommended disallowance. The company argues that the Attorney General did not account for any difference between filed and actual spends for large projects, IRM, Gas IT, etc. that could have exceeded the filed amounts and that the need to implement new rates dictated the timing of its filing. The Commission is not convinced by either argument. First, the company does not dispute that it did not spend the $5,195,000 for 2020 capital expenditures. Second, the company has not presented evidence that the actual spending for large projects exceeded filed amounts but merely argues that it is possible that the actual expenditures exceeded the projected spending. DTE Gas's speculation does not persuade the Commission when the Attorney General has demonstrated with evidence on the record that the company's 2020 actual spending surpassed its filed spending by $5,195,000. *See*, 5 Tr 1678; Exhibit AG-18; Exhibit A-12, Schedule B5.1, p.2. As to DTE Gas's second argument, the company is in control of the timing of filing its rate cases and the preparation involved with updating and auditing its numbers prior to filing. The company cannot expect the Commission to accept a possibility that actual expenses in another large projects category will compensate for the $5,195,000 projected but not spent in 2020 capital expenditures. If the company wishes to demonstrate this in the future, it may wait to file its rate case until it updates and audits its actual spending in all categories. Alternatively, the company may seek recovery of the actual investment in a future rate case upon a showing that the investment was, in fact, reasonable and prudent.

B. Working Capital

DTE Gas proposed a working capital amount for the projected test year of $1,029,290,000, which consists of a number of line items. Exhibit A-12, Schedule B. The Staff recommended reducing the company's proposed working capital by $2,364,000, inclusive of the following reductions: "1) a $391,000 reduction to intercompany accounts payable; 2) a $1,597,000 reduction to regulatory asset - pension; 3) and a $376,000 decrease to other accounts receivable." Staff's initial brief, p. 6. The Staff's reductions result in a working capital of $1,026,926,000. *Id*. The Staff explained that the items listed above are not related to the core utility function or, in the case of the regulatory asset – pension, were overstated, and therefore, should not be included in working capital. *Id*., pp. 7-8; Exhibit S-16.0.

The Attorney General proposed a reduction to the uncollectibles expense related to the effects of the COVID-19 pandemic. The ALJ noted that the Staff appeared to agree with the Attorney

General and that DTE Gas failed to address this adjustment. PFD, p. 107. Citing the Staff's observation that in the April 15, 2020 order in Case No. U-20757, the Commission authorized a deferral of COVID-19 pandemic related uncollectible expenses but did not approve regulatory asset treatment, the ALJ found this issue to be settled and recommended that the Commission disallow $10.7 million from working capital for the COVID-19 uncollectible expense regulatory asset. *Id*. Considering all of her recommended reductions, two of which are discussed below, the ALJ calculated a total working capital expense of $1,007,226,000. *Id*., p.110.

Finding the issue of the COVID-19 uncollectibles settled, the Commission agrees with the ALJ's recommendation. Therefore, the Commission disallows $10.7 million from rate base and denies approval of regulatory asset treatment for this expense. The ALJ also noted that DTE Gas conceded to the Staff's adjustments of $391,000 to intercompany accounts payable and $1,597,000 to regulatory asset – pension. PFD, p. 105. Finding these issues to also be settled, the Commission adopts the agreement between DTE Gas and the Staff and disallows $391,000 for intercompany accounts payable and $1,597,000 for the regulatory asset – pension category.

1. Mutual Aid

Citing the company's responses to discovery requests, the Staff indicated that DTE Gas opposed the reduction of $376,000 for mutual aid to out-of-state utilities located in the sub-account titled accounts receivable non-utility/non-core in other accounts receivable. Staff's initial brief, pp. 7-8; 5 Tr 385; Exhibits S-16.0 and S-16.1. In reply, DTE Gas argued that, in Case No. U-20631, the Commission initiated a mutual aid collaborative and directed stakeholders to "review and discuss development of mutual aid agreements." DTE Gas's reply brief, p. 46 (quoting the May 13, 2021 order in Case No. U-20631 (May 13 order)). According to DTE Gas, the costs associated with the utility implementing the Commission's recommendations should be considered core utility service and asserted that the Staff did not present a reason as to why mutual aid should not be considered core utility service. *Id*.

The ALJ agreed with the Staff that mutual aid to an out-of-state utility is not core utility service and found that the Commission was silent in the May 13 order as to how accounts receivable costs for mutual aid should be treated. Without guidance from the Commission on cost treatment, the ALJ recommended that the $376,000 associated with mutual aid be removed from working capital. PFD, p. 107.

DTE Gas takes exception and argues that the mutual aid expense is appropriate to include in working capital. DTE Gas repeats its argument that the Commission initiated a collaborative in Case No. U-20631 pertaining to the development of mutual aid agreements and that the company should not be refused recovery of the expenses associated with adopting the Commission's recommendations. The company further argues that mutual aid is a core utility service as it can help provide safer more reliable service as acknowledged by the Commission. DTE Gas's exceptions, p. 31 (citing the September 11, 2019 order in Case No. U-20464). The company disagrees with the ALJ that the mutual aid expense should be disallowed merely because the Commission did not specifically articulate cost treatment in Case No. U-20631. Lastly, DTE Gas contends that the Commission cannot request action by the utility and then deny the associated cost recovery. *Id*., pp. 31-32.

The Commission agrees with the ALJ's recommendation to disallow the $376,000 requested for mutual aid to out-of-state utilities in this instance but declines to make a finding that mutual aid is never recoverable because it is not a core utility service. As argued by the company, the Commission has acknowledged the importance of mutual aid between utilities of different states in restoring service after emergency or planned outages. *See*, September 11, 2019 order in Case No.

U-20631, p. 2; *see also*, May 13 order, pp. 11-12. However, the Commission is not convinced by the company's arguments in the instant case that mutual aid should be categorized as a core utility service and that there is indeed a direct benefit to customers such that ratepayers should be responsible for the costs associated with mutual aid. In the future, should DTE Gas seek recovery of mutual aid expenses, it may demonstrate the reasonableness and prudence of actual incurred amounts, explain the direct benefits received by ratepayers, and adequately explain why these costs should be included in working capital.

2. Customer Accounts Receivable

DTE Gas proposed a projected customer accounts receivable (PCAR) amount of $223.1 million, which it arrived at by adding one month's work of the $110 million revenue increase authorized in the August 20, 2020 order in Case No. U-20642. The company testified that its projected amount did not include any rate increase that may be authorized in the instant proceeding. 5 Tr 346, 384; Exhibit A-12, Schedule B4.2

The Attorney General recommended a reduction in DTE Gas's proposed working capital expense of $19.7 million, reducing the total working capital amount to $1,009,300,000.[6] Attorney General's initial brief, p. 61. The reductions proposed by the Attorney General consist of a $9.0 million reduction to PCAR, which sets this expense at the historical 2019 level of $214.1 million, and a $10.7 million reduction resulting from the removal of the COVID-19-related uncollectibles deferral, which is addressed above. *Id.*, pp. 61-63; Exhibit AG-20.

[6] As pointed out by the ALJ, the Attorney General included a working capital total of $1.001 billion in its initial brief, which appears to be in error. To avoid confusion, the Commission has listed the correct working capital total above.

As to the Attorney General's disallowance of $9.0 million to PCAR, the ALJ recounted the Attorney General's support in Exhibit AG-19 that showed that the average PCAR amount decreased from 17.7% in 2018, to 15.6% in 2019, leading the Attorney General to find this decrease consistent with the increase in the use of credit and debit cards to pay bills. PFD, p. 108 (citing 5 Tr 1681). DTE Gas rebutted the Attorney General's assertion that PCAR should decrease with the increase in the use of credit and debit cards, contending that the Attorney General failed to establish a correlation between the two occurrences. 5 Tr 384. In response, the Attorney General pointed out inconsistencies between the company's working capital projections in PCAR and higher income taxes as well as accounts payable. Attorney General's initial brief, pp. 62-63. DTE Gas argued that other working capital items are not relevant to PCAR. DTE Gas's reply brief, p. 45.

For PCAR, the ALJ agreed with the Attorney General stating that, "whether or not increased credit and debit card usage has reduced accounts receivable may be debatable; but the decreasing trend in arrearages from 2018 to 2019, whatever the cause, is not." PFD, pp. 109-110. Thus, the ALJ recommended that the Commission disallow $9.0 million for PCAR.

DTE Gas excepts to the ALJ's adoption of the Attorney General's position arguing that the Attorney General's comparison of only two years, 2018 and 2019, fails to constitute a trend as the PFD suggests. DTE Gas's exceptions, p. 33. DTE Gas explains that the company excluded 2018 from its three-year average calculation of uncollectibles because 2018 was an abnormally high year due to a billing system implementation issue. Per DTE Gas, "there is no support in the record for using a reduction in arrearages in the year following a year with 'abnormally high' arrearages to extrapolate a trend of declining arrearages to the test year." *Id.*, p. 34. Thus, DTE Gas argues that its PCAR amount should be adopted.

In her replies to exceptions, the Attorney General contends that the ALJ was correct in recommending a disallowance for PCAR. The Attorney General asserts that, in her initial brief, she pointed out inconsistencies in DTE Gas's presentation of the issue and contended that DTE Gas's argument that there is no trend between 2018 and 2019 spending in this category is misguided. The Attorney General explains:

> If the [Attorney General] were to have extrapolated a downward trend from two years, as DTE [Gas] suggests, her suggestion would have been that DTE [Gas]'s customer accounts receivable level should have been set *below* the 2019 level. However, that is not the [Attorney General]'s argument and not what the ALJ relied upon in coming to her recommendation. Instead, the [Attorney General] provided myriad evidence that there are numerous factors contributing to driving down accounts receivable as a percentage of revenues and therefore, use of the historic 2019 level is reasonable.

Attorney General's replies to exceptions, p. 24 (emphasis in original).

The Commission respectfully disagrees with the ALJ's recommendation pertaining to PCAR. The Commission is not persuaded by the Attorney General's argument and supporting data from 2018 and 2019, presented in Exhibit AG-19, that a decreasing trend in the PCAR exists such that the Commission should deviate from its previous approvals of the company's methodology in arriving at PCAR. *See*, December 9, 2016 order in Case No. U-17999, p. 17; 5 Tr 823-824 in Case No. U-17999; September 13 order, pp. 39-40; 3 Tr 910 in Case No. U-18999. The Commission agrees with DTE Gas that two data points from one year to the next, with one of those years including a billing system implementation issue, does not constitute a reliable trend. Therefore, the Commission declines to adopt the ALJ's recommendation and finds that the company's test year projection of $223.1 million for PCAR should be included in working capital. Additionally, while the ALJ did not find that the correlation between the increased credit card use by customers and the PCAR amounts was decisive, the Commission notes that neither the Attorney General nor the company provided any evidence on the record to support or disprove a correlating relationship between PCAR and the frequency of customers' credit card usage.

As addressed in the Customer Service O&M section of this order, DTE Gas is requesting recovery of $11.11 million in merchant fees (costs associated with processing credit card and debit card payments) for the test year. Exhibit A-13, Schedule C5.8, p. 1. While merchant fees are addressed more fully later in this order, the Commission finds it reasonable to inquire whether the increase in merchant fees that is tied to an increase in credit card/debit card usage provides a benefit to all customers in terms of reducing PCAR. The Attorney General concluded but did not properly support the contention that an increase in credit card use should draw down PCAR. In the future, the Commission directs the company to examine the relationship between the frequency of customer credit card use and PCAR that will enable the Commission to properly examine whether projected PCAR amounts are reasonable and prudent and whether ratepayers are receiving any benefit from the socialization of merchant fees among ratepayers.

IV. CAPITAL STRUCTURE AND COST OF CAPITAL

A. Capital Structure

DTE Gas requested a permanent capital structure of 51.9% common equity and 48.1% long-term debt, stating that its proposed capital structure aligns with the settlement agreement approved in the August 20 order. DTE Gas's initial brief, p. 46. The Staff recommended a capital structure of 51% common equity and 49% debt. Staff's initial brief, p. 44. According to the Attorney General, the Commission should approve a capital structure of 50/50 equity to debt, because it more accurately reflects the Commission's directive in the August 20 and September 13 orders. Attorney General's initial brief, pp. 68, 79. RCG also recommended a 50/50 equity to debt ratio. RCG's initial brief, p. 17.

DTE Gas asserted that the Commission should approve its proposed permanent capital structure because it is consistent with the company's current and optimal capital structure. DTE Gas explained that:

> Capital structure is critical because it determines a company's access to credit markets (the *availability* of capital) and ability to raise capital at reasonable terms and rates (the *cost* of capital). Companies with more equity in their capital structures are less risky from a financial perspective, and generally have a greater ability to obtain capital, and lower required returns on equity and costs of debt than companies with weaker capital structures. Increased debt levels result in increased debt costs, which in turn increase customer rates. If DTE Gas is unable to raise adequate capital, then the Company will be unable to invest in the equipment and systems necessary to ensure efficient, reliable, and safe delivery of gas to its customers (5T 537–39).

DTE Gas's initial brief, pp. 46-47 (emphasis in original).

In addition, DTE Gas contended that the company faces two types of risk: business risk and financial risk. DTE Gas explained that "[b]usiness risk is a result of systematic and non-systematic risk. Systematic risks are broad economic risks faced by all firms. Non-systematic risks are risks specifically identified as those faced by the individual firm. Financial risk is the risk that common equity shareholders face to the extent that a firm issues debt to finance its assets." 5 Tr 538. The company asserted that, in the event of a corporate bankruptcy, bondholders have priority over equity shareholders; the greater amount of debt held by the company, the greater the risk to common shareholders. Thus, the company contended that it must adjust its underlying debt and equity components to ensure a solid capital structure.

DTE Gas also asserted that a highly leveraged capital structure can impact the company's ability to obtain capital. DTE Gas stated that "a company with a highly leveraged capital structure may lose its investment grade rating from the rating agencies." *Id*. And, according to DTE Gas, "rating agencies allow little or no time for a company to correct and improve its capital structure before lowering its credit rating." *Id*. As a result, the company averred it is imperative that it achieve high credit ratings to withstand unexpected impacts to its credit metrics and to maintain the ability to access capital at reasonable rates.

In response to the Commission's directive to move to a 50/50 capital structure, DTE Gas argued that there are important business and financial reasons to maintain the company's equity layer of 52%, such as its high short-term debt balance, "potential for volatility in cash flows, and high level of future capital expenditures (5T 540-41)." DTE Gas's initial brief, p. 47. Moreover, DTE Gas claimed that there are additional reasons that maintaining the current 52% equity ratio is optimal for the company and its customers: (1) the 52% ratio is below the average 2019 equity ratio for peer local distribution companies (LDCs); (2) the "TCJA [Tax Cuts and Jobs Act of 2017] adversely affected DTE Gas and its credit rating;" (3) if the company's peak short-term debt of $300 million is added to debt, the equity ratio will fall to 48.6%; (4) "DTE Gas has higher short-term debt relative to other Michigan utilities;" (5) the company requires a higher level of short-term debt for gas purchases, which benefits customers; (6) "DTE Gas is significantly smaller than its peer Michigan utilities;" (7) because depreciation of gas utility assets is longer, the company has less cash flow and lower credit metrics; (8) "DTE Gas will be financing and funding over $1.5 billion of capital expenditures for the period of January 2020 through December 2022," and it is important that the company "be viewed as a financially-sound company with a solid investment grade rating to ensure the reasonableness and competitiveness of the Company's capital costs during this period of significant capital investment;" and (9) DTE Gas's credit metrics are at the median compared to its peer gas utilities and, if the "balance sheet was too strong, then its rating would be at the higher end as compared to its peers." *Id*., pp. 47-49.

DTE Gas contended that, if its debt/equity ratio is adjusted to 50/50, the company will need to shift debt from short-term debt and offset with higher permanent capital to minimize the impact to credit metrics and reduce the risk of a downgrade. According to the company, this change will result in higher costs for customers. 5 Tr 557.

The Staff did not dispute DTE Gas's proposed balances for short-term debt, preferred stock, job development investment tax (JDIT) credits, or net deferred income tax. In addition, the Staff did not object to the company's recommended cost rates for long-term debt, short-term debt, preferred stock, JDIT credits, or net deferred income tax. However, the Staff recommended a capital structure of 51% debt and 49% equity, which the Staff believes is more reasonable than the company's proposed debt-to-equity ratio.

The Staff stated that "[a]uthorizing an appropriate equity ratio is crucial to ratepayers as equity is more costly than debt. Thus, the higher the equity ratio, the higher customer rates are." *Id*., p. 1852. The Staff explained that:

> Using the Staff's recommendation, the cost of equity is approximately three times the cost of common debt. To illustrate this, a long-term debt rate of 3.97% will cost ratepayers 3.97 cents annually for each dollar of debt in the Company's capital structure. Whereas equity would have a cost rate of 9.50% which would cost ratepayers 12.87 cents per dollar annually. Note, that unlike debt, a tax adjustment must be made to the equity cost rate as the cost of equity is not deductible for tax purposes whereas interest payments are tax deductible. The true cost of equity can be expressed by the following equation *Pre-Tax ROE* [return on equity] = *ROE / (1-Tax Rate)*. Thus, 12.87% is the pre-tax cost of equity at the 9.50% rate Staff recommends. This illustrates why it is critical to have a proper debt to equity ratio to maintain reasonable costs to ratepayers.

Id., pp. 1852-1853 (emphasis in original) (footnote omitted).

In the Staff's opinion, DTE Gas's proposed ratio of 51.9% equity to 48.1% debt is too high and does not comply with the directive in the August 20 and September 13 orders to transition to a more balanced debt-to-equity ratio. Furthermore, the Staff asserted that the company has not presented:

> any strategy to return to a 50% equity ratio. Additionally, a "more complete analysis" would be one which clearly and mathematically shows the consequences of the Company not being approved a 52% equity ratio. However, the Company's witness on the issue, Mr. Solomon, did not include any mathematical explanations. Mr. Solomon did outline the non-systematic risks that DTE Gas faces, but [the Staff] respectfully disagree[s] with his conclusion that these risks are greater than its peers to the extent of warranting a departure from the Commission[']s previous directive.

5 Tr 1854.

Next, the Staff noted capital structure trends in the regulated gas industry. The Staff contended that the average authorized equity ratio for 2018, 2019, and 2020, are 50.09%, 51.75%, and 51.86%, respectively, which support the Staff's recommended equity to debt ratio of 51/49. *Id*., p. 1855. The Staff stated that if DTE Gas's equity ratio was lowered to 51%, "[t]he effect on the Company's credit rating would be no different than any other reduction to the revenue requirement. A Company can operate at any capital structure it chooses, regardless of the capital structure authorized by the Commission." *Id*., p. 1856.

In addition, the Staff explained that the financial ratios used by credit rating agencies, specifically funds from operations (FFO) to debt (or cash from operations (CFO) to debt) and earnings before interest, taxes, depreciation, and amortization to debt, are based on the operational capital structure of the company. The Staff noted that "Moody's [Investors Service] has stated that the CFO/Debt metric would be a concern if the metric fell to 15%. However, with Staff's adjustments of 51% equity and 9.50% return on equity (ROE), Staff calculates a basic CFO/Debt ratio of 17.5%." 5 Tr 1856 (footnote omitted). Although the Staff conceded that Moody's calculates CFO/Debt in a slightly different manner (Moody's reported a metric of 18.7% for DTE Gas in its last report), the Staff asserted that DTE Gas's CFO/debt ratio is sufficiently above the

15% threshold so that a reduction to 51% common equity will not affect DTE Gas's credit rating. *Id*.

Finally, the Staff acknowledged that Moody's downgraded DTE Gas from an Aa3 to A1 rating in 2019, a year after the company was placed on a negative outlook. However, the Staff contended that "the downgrade still leaves the Company a very comfortable 6 notches above the lowest investment grade rating. Ultimately DTE Gas still has a healthy credit rating, and this recent downgrade does not justify deviating from the previous Commission order in [Case No.] U-18999 or the Settlement agreement from [Case No.] U-20642." *Id*., p. 1857.

The Attorney General recommended a permanent capital structure of 50% common equity and 50% debt. To transition to a 50/50 capital structure, the Attorney General proposed reducing the level of common equity to $2.158 billion, which is an $82 million reduction from DTE Gas's proposed equity balance; she then added the $82 million to long-term debt. The Attorney General explained that a common equity level of 50% is reasonable because: (1) the common equity level of the peer group is approximately 47%; (2) in the August 20 order, the Commission directed DTE Gas to develop a plan to transition to a more balanced capital structure; and (3) DTE Gas is a subsidiary of DTE Energy Company (DTE), which is a publicly traded company, and DTE can make the common equity ratio of DTE Gas whatever it wants by taking on debt and infusing capital as equity into the subsidiary. *Id*., pp. 1682-1683.

The Attorney General disagreed with DTE Gas that the average equity ratio of the company's peer group is 56.8%, asserting that the company's information is flawed. She stated that the financial ratios presented by DTE Gas "reflect a single point in time of the capital structure during 2019 with some companies' capital structure balances as of September 2019 and others as of December 2019. This time inconsistency is superseded by the problem that the capital structures of these companies are not averaged over multiple periods during the year." *Id*., p. 1684. The Attorney General contended that DTE Gas should have used an average equity ratio over a 12-month period or over four quarters.

Moreover, she asserted that the companies cited by DTE Gas to calculate the peer group average equity ratio of 56.8% were not the same companies used to perform the company's ROE analysis, and "this presents a major disconnect between the financial risk of the selected companies for the 56.8% equity ratio and the companies used in the calculation of the cost of common equity." *Id*., p. 1685. Finally, the Attorney General argued that the 56.8% equity ratio is based on financial reports and is not representative of the average equity ratio approved by other state commissions.

The Attorney General also disputed the company's claim that reducing the equity ratio would be more costly to ratepayers. She contended that, in discovery, DTE Gas admitted that it had not performed an analysis demonstrating that increased debt costs will increase customer rates. Additionally, the Attorney General asserted that if the company's common equity level is reduced to 50%, it will not result in a CFO/debt ratio of 15% (or less) that would trigger a downgrade by Moody's. She stated that, "even if other factors occurred at some future date and the Company was downgraded by Moody's, from A1 to A2, the relevant consideration would be how much more interest would the Company pay on its long-term debt and whether the savings from using less common equity more than offset the higher debt cost." *Id*., p. 1688. In the event a downgrade were to occur, the Attorney General asserted "that issuing debt at a debt rating of A2/A instead of A1/A may result in an additional 15 basis points of debt cost. . . . However, the lower cost of having less equity in the capital structure would more than offset this additional cost." *Id*., p.

1689. Rather than costing ratepayers, the Attorney General averred that the 50% common equity ratio would save ratepayers between $5.2 million and $8.4 million annually.

Although the Attorney General acknowledged that some companies with lower credit ratings "increased their equity ratios since the TCJA was passed to avoid being downgraded," she contended that other utilities with strong credit ratings have not increased their equity ratios. *Id.*, p. 1689. In response to DTE Gas's claim that, in 2019, the TCJA negatively affected the company and resulted in a credit downgrade, the Attorney General stated that DTE Gas:

> attempts to position the Moody's downgrade of DTE Gas in 2019 as something just short of a cataclysmic event. In fact, prior to the downgrade, Moody's had the Company rated two notches higher than the other two credit agencies and simply lowered its rating to be more in line to where it should have been. It is important to point out that Moody's still rates DTE Gas one notch higher than the comparable ratings of the other two rating agencies, Standard & Poor's (S&P) and Fitch Investor Service (Fitch).

Id., p. 1690.

Responding to DTE Gas's concerns that its short-term debt amount of $300 million requires some level of common equity support, the Attorney General stated that "[t]he information provided by the Company shows that in the Moody's calculation the short-term debt for 2019 was at $167 million, which is far below the peak level that [DTE Gas] claimed to be relevant." *Id.*, p. 1691 (footnote omitted). In addition, the Attorney General disputed the company's claim that its assets depreciate over a longer period of time and, therefore, it needs more cash flow. She asserted that because DTE Gas is a natural gas distribution company, and not involved in the generation and distribution of power, DTE Gas does not require as much capital. And, although the Attorney General acknowledged that "weather can impact cash flows and earnings, it can either increase or reduce cash flows depending if weather is colder or warmer-than-normal." *Id.*, p. 1692. She argued that these are short-term variations in cash flow, and ratings agencies are not likely to react with a downgrade.

RCG requested that the Commission reduce DTE Gas's common equity to 50%, explaining that it "is necessary to establish just and reasonable rates, and to balance interests of utility stockholders and ratepaying customers." RCG's initial brief, p. 17. RCG asserted that the Attorney General and the Staff have provided sufficient testimony and exhibits supporting a 50/50 common equity/debt ratio.

DTE Gas disputed the Staff's claim that the company did not conduct analyses showing that a reduction in the equity ratio from 52% to 50% would result in higher costs to customers. Rather, DTE Gas asserted that it provided mathematical analyses in Q29, Q30, Q32, Q33, and Q37 of its witness's direct testimony demonstrating that "a change in capital structure to 50% equity would require a shift from lower costing short-term debt to higher costing long-term debt and equity and result in higher costs to customers" and that the Staff "offer[ed] no valid counterarguments as to why [DTE Gas's] positions are not valid." 5 Tr 569. In addition, the company objected to the Staff's claim that transitioning to a 50/50 capital structure would not result in a credit downgrade. DTE Gas argued that it has already experienced a credit downgrade while its common equity was at 52% and "[a] movement to 50% equity would put DTE Gas closer to the CFO/Debt 15% threshold (Staff's analysis shows 17.5% at 51%) while at the same time demonstrating an adverse change in Michigan's regulatory environment. Both will have a negative impact on the Company's current credit rating." *Id*., p. 570.

In response to the Attorney General's claim that the average equity ratio of the company's peer group is 47.2%, DTE Gas stated that the Attorney General's Exhibit AG-26 "use[s] the equity ratio of the peer holding companies and not operating LDC companies, which is an inapt apples-to-oranges comparison. It is important when comparing the capital structure of DTE Gas that it is compared to peer operating utilities and not holding companies." 5 Tr 571. The company asserted that, when the proper comparison is made, the equity ratio of peer group operating companies is 56.8%.

DTE Gas also objected to the Attorney General's contention that a 50% equity ratio would reduce costs for ratepayers. According to the company, the Attorney General's analysis "does not take into account the higher interest expense for the additional debt if the Company were at a 50% equity ratio" and "that in order to maintain the capital structure that supports the current ratings, short-term debt would need to shift to higher cost long-term debt . . . ." *Id*., pp. 573-574. DTE Gas asserted that Exhibit A-17, Schedule G5 demonstrates that, if common equity is moved to 51%, it results in a $3 million increase in projected revenue requirement, which increases costs for ratepayers.

Finally, DTE Gas disputed the Attorney General's claim that Moody's calculated the company's short-term debt to be $167 million in 2019. The company explained that "[t]he $167 million was a year-end number as of December 31, 2020. In 2020, the Company took actions to enhance liquidity to combat the disruptions in the commercial paper market due to the COVID-19 pandemic and the year-end number was lower than normal. The year-end balance does not reflect the fluctuations throughout the year." 5 Tr 574.

In the PFD, the ALJ found that DTE Gas:

> did not comply with the order in Case No. U-18999, nor with the settlement agreement in the company's previous rate case [Case No. U-20642], both of which directed the company to develop a plan for returning to a balanced capital structure, or provide "a more complete analysis [that] should be included to explain why such a result is reasonable and prudent. For example, a pro-forma debt capacity analysis using rating agency methodology ratio benchmarks could be included to bolster DTE Gas' arguments." Instead, the company simply rehashes the same claims

> regarding the need for a higher equity layer made by both DTE Gas and DTE Electric in their last several rate cases.

PFD, pp. 122-123. Therefore, the ALJ found that, without a proposal from the company, the Staff's and the Attorney General's alternatives are the only proposals available for evaluation.

The ALJ found the Staff's proposed ratio of 51% equity to 49% debt to be persuasive and recommended Commission approval. She stated that, as noted by the Staff, DTE Gas has the freedom to manage its capital structure as it chooses, and DTE may infuse as much equity capital into DTE Gas as it sees fit. However, the ALJ found that, "for ratemaking purposes, the capital structure must be fair to both the company and to its customers. Accordingly, this PFD adopts [a] capital structure of 51% equity and 49% debt as a reasonable step toward returning to a balanced capital structure." *Id*., p. 123.

In its exceptions, DTE Gas asserts that the ALJ disregarded the record and mischaracterized the company's presentation as repetition of the arguments made in the last several rate cases. *See*, DTE Gas's exceptions, pp. 35-36. The company also objects to the ALJ's recommended 51/49 equity to debt ratio. DTE Gas contends that it "presented an extensive evidentiary discussion in support of its own position and in response to the Staff and [Attorney General]" and has submitted a plan for moving toward a more balanced capital structure. *Id*., p. 36.

The company disputes the Attorney General's claim that the average common equity ratio of peer companies is 47%. According to DTE Gas, the Attorney General inappropriately compared holding companies to LDCs. The company states that "[i]t is more appropriate to compare the operating company equity ratio," and if DTE Gas uses the operating companies in the Attorney General's peer group, the average equity ratio is 56.8% for fiscal year 2019. *Id*., p. 38. The company also asserts that the Attorney General disregards the impact of weather on a smaller utility like DTE Gas, which has less cash flow: "[t]he need for additional equity to withstand swings in cash flows is greater for DTE Gas, and supports the need for a stronger equity component (5T 575).” DTE Gas's exceptions, p. 40. Finally, the company disagrees with the Attorney General that moving to a 50/50 equity to debt ratio would not increase costs for ratepayers. Rather, DTE Gas states that to implement the Attorney General's proposal, the company would need to shift short-term debt to higher cost long-term debt, which would increase the projected revenue requirement by $3 million.

In response to the Staff's claim that maintaining a 51% equity ratio would not result in a credit downgrade, DTE Gas notes that the company has already experienced a downgrade when it had a 52% equity ratio. DTE Gas asserts that, if the Staff's suggested 51% equity ratio is approved, it will signal a negative change in Michigan's regulatory environment and may trigger another credit downgrade. The company states that it “needs a strong equity component of its capital structure to maintain adequate access to capital at the lowest reasonable cost.” *Id*., p. 42.

In her exceptions, the Attorney General agrees with the ALJ that DTE Gas has failed to comply with the September 13 or August 20 orders, which directed the company to move to a more balanced capital structure or to provide a thorough, reasonable analysis explaining why DTE Gas need not move to a 50/50 structure. However, she objects to the ALJ's recommendation that the Commission adopt the Staff's proposed capital structure of 49% debt to 51% equity. The Attorney General states that the ALJ's recommendation “does not go far enough and that DTE Gas has had more than enough time to return to a balanced capital structure. The PFD provides no analysis or discussion on why customers should continue to pay higher rates while DTE [Gas] remains at an unbalanced capital structure a bit longer.” Attorney General's exceptions, pp. 16-17. She requests that the Commission approve a capital structure of 50% debt and 50% common equity because it better balances the company's risk and the cost to ratepayers.

In reply to the Attorney General, DTE Gas disagrees that the Commission should adopt a 50/50 capital structure. The company states that "[t]he [Attorney General] does not add anything new or meritorious to the discussion. It bears emphasis, however, that the [Attorney General]'s exception is tellingly devoid of any citation to the record as required by the Commission's Rules, and instead is based on propositions that are untrue and disproven." DTE Gas's replies to exceptions, pp. 34-35 (footnote omitted). DTE Gas reiterates the arguments set forth in testimony and exceptions, and requests that the Commission reject the Attorney General's proposed 50/50 capital structure and the ALJ's recommended 51/49 capital structure and, instead, approve the company's proposed 52% common equity and 48% debt.

Replying to DTE Gas, the Staff states that although "the Company alleges that Staff believes there is no financial consequences for changing the Companies [sic] equity ratio . . . this is not the case. Staff recognizes that there is a financial impact to the Company; however, this impact is no different from any other reduction to the revenue requirement." Staff's replies to exceptions, p. 7. In addition, the Staff disputes DTE Gas's claim that if its equity ratio is lowered more than 10 basis points, it will negatively affect the company's credit rating. The Staff asserts that the company is unlikely to experience a credit downgrade unless its FFO/debt ratio goes below 15%. The Staff reiterates that its proposed equity ratio will result in an FFO/debt ratio of 17.50%, which is sufficiently above the 15% threshold.

The Attorney General replies that:

> the ALJ fully considered each party's arguments, including DTE [Gas]'s. She provided both an overview of DTE [Gas]'s filed position, as well as a thorough recounting of DTE [Gas]'s rebuttal. After evaluation of DTE [Gas]'s presentation, she found that the Company had simply put forth the same unreasonable arguments and case that it has in recent electric and gas rate cases and recommended that it be rejected.

Attorney General's replies to exceptions, p. 26 (footnotes omitted). She asserts that, in exceptions, the company has not presented any reasonable objections to the Attorney General's, the Staff's, or the ALJ's analysis, and she requests that the Commission approve a 50/50 capital structure.

In its replies to exceptions, RCG disputes DTE Gas's contention that, if the Commission does not approve a 52/48 capital structure, the company will experience a credit downgrade or increased costs for ratepayers. According to RCG, the company's claims are "overstated and highly speculative." RCG's replies to exceptions, p. 7. RCG asserts that the Attorney General and the Staff have demonstrated that a 50/50 capital structure will not result in increased debt costs, and thus, will not increase costs for ratepayers.

In the September 13 order, the Commission approved a 52/48 equity to debt ratio for DTE Gas but encouraged the company "to move to a more balanced 50/50 capital structure" and directed DTE Gas, in its next rate case, to "present its strategy for returning to a balanced capital structure and a detailed outline of the steps it plans to take to accomplish this goal." September 13 order, pp. 43-44 (citation omitted). In DTE Gas's last rate case, Case No. U-20642, the Commission approved a settlement agreement, resolving all issues in the case. In the settlement agreement approved by the August 20 order, the parties agreed that the annual revenue increase reflected a common equity ratio of 52%; however, the settlement agreement stated that "DTE Gas will file a plan in its next rate case that moves toward a more balanced capital structure." August 20 order, Exhibit A, p. 5.

In this case, the Commission finds that DTE Gas's proposed 51.9% equity to 48.1% debt ratio is almost identical to the 52/48 capital structure approved in the company's last two rate cases and it does not reflect an effort to move to a more balanced capital structure. Additionally, in this case, the Commission finds that DTE Gas failed to present a plan for returning to a more balanced capital structure, as agreed in the settlement agreement approved in the August 20 order. Although the company asserts that Mr. Bennett provided a mathematical analysis demonstrating that DTE Gas is unable to adjust its equity ratio below 52%,[7] the Commission finds that the analysis focused on DTE Gas's FFO/debt ratio and a purported future credit downgrade, which is repudiated below. Therefore, as noted by the ALJ, the Staff's and the Attorney General's proposals to move to a more balanced capital structure are the only strategies available for evaluation.

The Commission agrees with the ALJ that the Staff's proposed 51/49 equity to debt ratio should be adopted. As stated by the Staff, DTE Gas "can operate at any capital structure it chooses," and as noted by Mr. Coppola, DTE can infuse as much equity capital into DTE Gas as it sees fit. 5 Tr 1682, 1856. However, the capital structure must fairly balance the interests of the company and its customers. The Commission finds that a capital structure of 51% equity and 49% debt is a reasonable transition to a more balanced capital structure.

DTE Gas claims that, if its equity ratio is reduced below 52%, it will impact the company's credit metrics, will increase the risk of a credit downgrade, and will result in higher costs for customers. The Commission disagrees. The Staff explains that credit rating agencies rely on financial ratios in their analyses, primarily FFO/debt (or CFO/debt) and earnings before interest, taxes, and amortization/debt, which are based on the operational capital structure of the company. *Id*., p. 1856. The Staff contends that, according to Moody's, a utility's credit rating may be negatively affected if its FFO/debt metric falls to 15% or below. *Id*. The Staff avers that, with a 51/49 equity to debt ratio, DTE Gas will have an FFO/debt ratio of 17.5%, which is sufficiently above the 15% threshold. *See*, 5 Tr 1856. This calculation is acknowledged by DTE Gas. *See*,

[7] *See*, 5 Tr 547-558.

id., p. 570. Thus, the Commission finds that a capital structure of 51% equity and 49% debt should not negatively affect the company's credit metrics.

Although the Commission acknowledges that DTE Gas experienced a credit downgrade in 2019, it was noted by the Attorney General that:

> the previous Moody's rating for DTE Gas of Aa3 was somewhat "out of line" and higher than the ratings assigned by the other agencies. The new Moody's credit rating of A1 (Stable) is still one notch above the A credit ratings by S&P and Fitch. This fact was outlined in an internal Company memorandum by the Manager of Corporate Finance. The internal memorandum also states that the Company does not expect to see an increase in the cost of debt from the Moody's downgrade. Exhibit AG-32 CONFIDENTIAL includes the Company's response to discovery question U20642-AGDG-1.73a.03 and supporting documents showing the credit rating misalignment. Mr. Solomon was a co-author of that internal correspondence.

5 Tr 1690. The Commission finds that the new Moody's rating places the company six notches above the lowest investment grade rating, which is still a healthy credit rating.

The Commission also finds persuasive the Staff's and the Attorney General's arguments that reducing DTE Gas's common equity ratio will not increase costs for customers. *See*, 5 Tr 1688, 1852-1853. In testimony, the Staff provided an example demonstrating that equity is more costly than debt and, as a result, the higher the equity ratio, the higher the customer's rates. *See*, *id*., pp. 1852-1853. Moreover, the Attorney General notes that, "[i]n discovery the Company was asked to provide the analysis to support his claim on page 8 of his testimony that '. . . increased debt costs will increase customer rates . . . .' In his response to the discovery request Mr. Solomon stated that the '. . . Company has not performed such an analysis . . . .'" *Id*., p. 1688, quoting DTE Gas's response to DR AGDG-6.200.

B. Return on Common Equity

The criteria for establishing a fair rate of return for public utilities is rooted in the language of the landmark United States Supreme Court cases *Bluefield Waterworks & Improvement Co v Pub*

Serv Comm of West Virginia, 262 US 679; 43 S Ct 675; 67 L Ed 1176 (1923) and *Federal Power Comm v Hope Natural Gas Co,* 320 US 591; 64 S Ct 281; 88 L Ed 333 (1944). The Supreme Court has made clear that, in establishing a fair rate of return, consideration should be given to both investors and customers. The rate of return should not be so high as to place an unnecessary burden on ratepayers, yet should be high enough to ensure investor confidence in the financial soundness of the enterprise. Nevertheless, the determination of what is fair or reasonable, "is not subject to mathematical computation with scientific exactitude but depends upon a comprehensive examination of all factors involved, having in mind the objective sought to be attained in its use." *Meridian Twp v City of East Lansing,* 342 Mich 734, 749; 71 NW2d 234 (1955). With these principles in mind, the Commission turns to the factors that form the basis for determining the rate of return for DTE Gas.

Four parties sponsored witnesses and submitted exhibits regarding ROE. DTE Gas's cost of capital witness was Dr. Bente Villadsen, a Principal with The Brattle Group. Joseph Ufolla, a Financial Analyst in the Commission's Revenue Requirements Division, presented the Staff's case. Sebastian Coppola, an independent business consultant, testified on behalf of the Attorney General. And, Billie S. LaConte, an energy advisor and Associate at J. Pollock, Inc., testified on behalf of ABATE.

Dr. Villadsen used two proxy groups, the first of which was comprised of nine regulated natural gas LDCs, and the second group was comprised of six regulated water utilities.

Dr. Villadsen stated that:

> water utilities provide a useful benchmark when evaluating DTE Gas's cost of equity because: (1) the natural gas distribution industry is expected to undergo substantial changes as customers, regulators, and the legislature focus on carbon reductions; (2) investors make comparisons across regulated industries; and (3) natural gas and water utilities are regulated, capital-intensive, network industries that have an obligation to serve and interface with the local community . . . .

DTE Gas's initial brief, p. 53. In addition, she contended that regulated "water utilities provide a relevant proxy for the risk profile of natural gas utilities including DTE Gas." 5 Tr 1525.

Dr. Villadsen estimated an ROE for each company using two versions of the capital asset pricing model (CAPM) (the traditional version of CAPM and the empirical CAPM (ECAPM)), and the discounted cash flow (DCF) approaches, along with an implied risk premium analysis and an analysis of DTE Gas's risks. *See*, *id*., pp. 1400-1461. In its initial brief, DTE Gas explained that Dr. Villadsen:

> combined the ROE estimates from the CAPM and DCF models with capital structure information. By determining the after-tax weighted-average cost of capital [ATWACC], she avoided inconsistencies that could arise from estimating the cost of equity for companies without considering differences in financial risk inherent in each company's capital structure (the higher the debt-to-equity ratio, the higher the financial risk, and the higher the cost of equity). She also considered Hamada adjustment procedures to provide further insight into the range of ROE estimates after adjusting for financial leverage . . . .

DTE Gas's initial brief, pp. 53-54.

Dr. Villadsen contended that capital markets have experienced historic changes since DTE Gas last filed a rate case. She stated that "the extent and length of the economic and financial impacts from COVID-19 are still unknown," interest rates are expected to increase, "[u]tility bond yield spreads have increased substantially recently as investors require additional compensation to hold non-government debt due to the increased business risks and economic uncertainties," and stock market volatility has increased. 5 Tr 1420, 1423, 1425, 1428. In addition, Dr. Villadsen asserted that DTE Gas has high capital expenditures compared to the average company in the gas sample, which is associated with higher risk. Moreover, she stated that "[t]he weak local economic conditions and declining population and industrial activity in the Company's service territory contribute to and exacerbate the effect of declining sales, which—in conjunction with a rate structure that relies on volumetric charges to recover fixed costs—increases the downside risk that DTE Gas may not be able to earn its authorized return." *Id*., p. 1460.

Next, DTE Gas contended that Dr. Villadsen demonstrated that there is an inextricable connection between a company's cost of equity and capital structure. According to the company:

> A lower equity ratio component (and a correspondingly higher debt component) in the capital structure creates a higher level of risk for shareholders and a corresponding need for a higher rate of return on equity. Dr. Villadsen's recommended ROE corresponds to a 51.9% equity ratio. If DTE Gas has less equity, however (and a corresponding increase in both debt leverage as well as financial risk), then DTE Gas's ROE must increase to compensate for the increased risk. A company with a lower equity share and higher financial leverage must earn a higher ROE in order to maintain the same overall return (5T 1411–15, 1461).

DTE Gas's initial brief, p. 60.

Dr. Villadsen determined an ROE range of 9.25%-10.25% for the gas utility proxy group, and 9.00%-10.50% for the full sample. 5 Tr 1403, 1461. She asserted that the estimates at the lower end of the range are not appropriate because DTE Gas faces higher risk than the average gas LDC and the lower estimates do not reflect current uncertain economic and financial conditions. Therefore, Dr. Villadsen recommended an ROE of 10.25% with a capital structure of 51.9% common equity. DTE Gas contended that, according to Dr. Villadsen, "[i]f DTE [Gas]'s capital structure is weakened . . . then the Company's cost of equity would increase, requiring a higher ROE (5T 1402–1404, 1461)." DTE Gas's initial brief, p. 61.

The Staff used a proxy group of nine gas utility companies to establish a reasonable range for the cost of equity. According to the Staff, a proxy company must: "1) be listed as a Natural Gas Utility by Value Line, 2) have a full Value Line report available, 3) be currently paying dividends to shareholders, 4) must not be the target of a merger or acquisition, and 5) have an investment grade credit rating." 5 Tr 1860. The Staff objected to DTE Gas's use of water utilities in the proxy group because they are dissimilar to DTE Gas and "do not experience the same risks as gas utilities." *Id*., p. 1861. In addition, compared to DTE Gas's proxy group, the Staff removed Chesapeake Utilities because its rating from Moody's was below investment grade, and replaced it with the UGI Corporation.

The Staff used statistics from the proxy group in its DCF and CAPM cost of equity models; the Staff does not employ the ECAPM model. 5 Tr 1861-1870. The Staff also relied on a risk premium model and reviewed the natural gas utility ROE authorizations from other state commissions from 2019-2020. *Id*., pp. 1870-1973. The Staff proposed an ROE of 9.50%, which is at the upper half of its recommended ROE range of 8.90%-9.90%. *Id*., pp. 1858, 1873-1874.

On behalf of the Attorney General, Mr. Coppola stated that he:

> started with the ten gas utility companies followed by the Value Line Investment Survey in its "Natural Gas Utility Industry" section. [He] removed two companies for the following reasons. . . . (1) UGI Corporation due to its foreign investments and propane investments, which is 50% of its business; and (2) Chesapeake Utilities, which had revenues of approximately $500 million in 2018, because of its relatively small size. The result is the group of eight companies shown in Exhibit AG-24, all of which have growing earnings and dividends.

5 Tr 1696-1697. Mr. Coppola also disagreed with DTE Gas's use of regulated water utilities in its proxy group. He contended that, compared to DTE Gas, the water utilities have much smaller annual revenues, low stock trading volume and high market-to-book equity ratios, illiquidity in the financial markets, and, unlike DTE Gas, are acquisition targets. Therefore, Mr. Coppola argued that it is not appropriate to include the water utilities in the peer group. *Id*., pp. 1697-1698.

Mr. Coppola applied the DCF, CAPM, and risk premium models, along with information regarding the current capital markets and the ROE authorizations from other state commissions from 2019-2020. *Id*., pp. 1700-1716. He objected to the company's use of ATWACC because it "is simply a mathematical process to drive an upward adjustment of the final ROE rate using stock market premiums over book equity values." *Id*., p. 1703. Mr. Coppola stated that the ATWACC is intrinsically circular and requested that the Commission reject it because:

> the ROEs awarded in regulatory proceedings would increase. The inflated ROEs would result in higher utility earnings, stock prices, and higher market to book ratios for utility common stocks. The subsequent calculated ROEs in new rate cases under the ATWACC method would then produce even higher awarded ROEs because the ATWACC would use the higher stock market equity capitalization.

Id., p. 1704.

Mr. Coppola stated that "[t]he range of returns for the industry peer groups is from 8.55% at the low end using the Utility Risk Premium approach and 9.40% at the high end using the DCF approach." Attorney General's initial brief, p. 96 (footnote omitted). After weighing the various approaches, he calculated an average cost of equity of 9.12% but increased his recommendation to 9.50% based on the uncertainty of higher interest rates, the historically low price of natural gas combined with mandated energy efficiency and conservation programs, and the Commission's reluctance to set an ROE for the company at the true cost of equity. *Id*., p. 97. Therefore, Mr. Coppola proposed, and the Attorney General recommended, an ROE of 9.50% as part of a gradual transition to the true cost of equity.

Ms. LaConte provided testimony on behalf of ABATE, recommending an ROE of 9.00% for DTE Gas. She stated that her proxy group included five utilities, comparable to DTE Gas, that have the following common characteristics:

- Consistently pays positive, quarterly cash dividends;
- Classified as a natural gas utility by Value Line Investment Survey (Value Line);
- Covered by more than one equity analyst;
- Gas revenues greater than 50% of total operating revenues;
- Moody's credit rating of Baa3 or higher;
- Has positive earnings growth by at least two of the following analysts: Value Line, Yahoo! Finance, or Zacks Investment Research (Zacks); and
- Not involved in any merger or acquisition related activities within the past six months.

5 Tr 209. According to Ms. LaConte, the company improperly included regulated water utilities in its proxy group that are not comparable to DTE Gas, which "results in a distorted ROE estimate." *Id*., p. 212.

Ms. LaConte applied the DCF, CAPM, and risk premium models and calculated an ROE range of 7.40% to 12.20%. Ms. LaConte argued that a 9.00% ROE is appropriate because: (1) DTE Gas maintains a stable credit rating and it is financially strong, (2) there is declining risk-free cost of capital, (3) the company's financial risk is minimal given Michigan's regulatory environment and DTE Gas's cost recovery mechanisms, (4) authorized ROEs are declining across the United States, and (5) the guiding principles of *Bluefield* and *Hope* require the Commission to balance investor and consumer interests when establishing a fair ROE. ABATE's initial brief, pp. 2-7.

The ALJ agreed with the Staff, the Attorney General, and ABATE that inclusion of water utilities in DTE Gas's proxy group is inappropriate. She noted that the company did conduct an ROE analysis with a gas-only proxy group and, therefore, the remainder of her analysis focused on this group. Next, the ALJ stated that "[w]hile DTE [Gas] quibbles with what it deems inconsistent application of screening criteria for proxy companies by other parties, the PFD disagrees and finds that both Staff and the Attorney General provided reasonable proxy groups on which to base their analyses." PFD, p. 127. She found that, although ABATE used gas-only groups in its proxy group, the very small size of the proxy group makes ABATE's analysis less reliable.

The ALJ agreed with the Staff and the Attorney General that the company's ROE recommendations that rely on an ATWACC adjustment should be rejected. She noted that the Attorney General pointed out in her initial brief that:

> It is likely because of this cost-inflating circularity and the complexity of the methodology that the ATWACC approach has not been embraced in the utility industry. In fact, DTE witnesses in prior rate cases have been able to cite only a handful of instances where it has been used. These instances pertain to (1) property taxation disputes in Colorado; (2) a valuation dispute before the FERC [Federal Energy Regulatory Commission]; and (3) revenue adequacy hearings for railroads, as well as a revenue adequacy hearing involving Alabama Power related to a special customer rate. Therefore, the Commission should disregard the ATWACC approach to calculating the DCF cost of common equity.

PFD, pp. 129-130, quoting the Attorney General's initial brief, pp. 86-87 (footnote omitted). As a result, the ALJ found that DTE Gas's simple DCF analysis, with the adjustment for ATWACC, should be given no weight in determining an appropriate ROE.

In addition, the ALJ found that the company's CAPM and ECAPM analyses are unreliable. She stated that, "[a]s Staff and the Attorney General point out, this Commission has never relied on ECAPM, and it is not widely used by U.S. [United States] regulatory commissions. Moreover, the Hamada adjustment, while similar, but not identical, to the ATWACC adjustment, appears to simply be another means to inflate ROE results to the company's advantage." PFD, p. 133.

The ALJ reviewed the risk premium analyses and other factors that affect DTE Gas's risk compared to other comparable companies in the proxy group. She noted that "the Commission has consistently taken a traditional approach to establishing ROE, focusing on the most commonly used, fundamental approaches to determining a just and reasonable ROE . . . ." *Id*., p. 139. As a result, the ALJ determined that "the 9.5% ROE recommended by Staff and the Attorney General is a fair rate of return, consistent with the requirements of *Hope Natural Gas* and *Bluefield Water Works*." *Id*., p. 138.

In its exceptions, DTE Gas objects to the ALJ's recommended ROE of 9.50% because "[t]he PFD did not articulate any particular reason for its recommendation other than vague agreement with the Staff and [Attorney General]'s 9.5% positions as allegedly considering both investors and customers." DTE Gas's exceptions, p. 43. Additionally, DTE Gas asserts that the ALJ mischaracterized the company's evidence.

DTE Gas contends that the Staff's, the Attorney General's, and ABATE's recommended ROEs are "understated due to analytical errors and the misperception that DTE Gas has average risk relative to sample companies." *Id.*, p. 44. According to DTE Gas, if the model-implementation errors of the other parties are corrected, the Staff's average ROE is 10.31%, the Attorney General's average ROE is 9.63%, and ABATE's average ROE is 9.71%. The company asserts that its 10.25% ROE recommendation is specifically supported by the Staff's adjusted 10.31% ROE and is at the high end of ABATE's adjusted ROE range.

The company also objects to the ALJ's exclusion of water utilities from the proxy groups. *See*, *id*., p. 44. According to DTE Gas, if all water utilities and some gas utilities are excluded, the resulting proxy groups are too small and do not provide adequate statistical predictions.

After reviewing the analyses used to develop the company's recommended ROE, DTE Gas reiterates its concerns with the other parties' analyses and recommended ROEs. *See*, DTE Gas's exceptions, pp. 46-53. The company states that "[i]ts ROE presentation includes well-known methodologies based on sound and well-recognized financial principles with the ATWACC and Hamada being two different approaches. They are not presented to 'inflate ROE results' as the PFD inaccurately suggests . . . ." *Id.*, p. 49. DTE Gas asserts that there is no change in underlying economic conditions that justify a reduction to the ROE and, in any event, this is a "particularly inopportune time to weaken the Company's credit metrics." *Id.*, p. 52.

Finally, the company contends that its cost of equity and capital structure are intertwined; a lower equity ratio results in a higher level of risk for shareholders and a corresponding need for a higher return on equity. DTE Gas states that its "recommended ROE corresponds to a 51.9%

equity ratio. If DTE Gas has less equity, however as the PFD recommends (and a corresponding increase in both debt leverage as well as financial risk), then DTE Gas's ROE must increase to compensate for the increased risk." *Id.*, p. 53.

In her exceptions, the Attorney General continues to recommend an ROE of 9.50%, as shown in Exhibit AG-21. Attorney General's exceptions, p. 18.

In reply to DTE Gas, the Staff disputes the company's contention that the Staff's ROE calculations contain errors. The Staff states that "the Company's exceptions were mostly a rehash of its earlier arguments and failed to bring to light any new arguments that should convince the Commission to depart from the position taken by the PFD." Staff's replies to exceptions, p. 10. The Staff recommends that the Commission adopt the ALJ's recommended ROE of 9.50%.

The Attorney General notes that, "[i]n its exceptions, DTE Gas makes numerous tangential arguments regarding a difficult economic environment in Michigan, heightened financial risks for the Company relative to other companies, and why its expert's inclusion of water utility companies in her peer group was appropriate." Attorney General's replies to exceptions, p. 28. She asserts that the ALJ correctly rejected these arguments and properly recommended an ROE of 9.50%.

ABATE replies that the Commission should approve the 9.50% ROE, as recommended by the ALJ. ABATE asserts that DTE Gas has exaggerated its business risk and the likelihood of a credit downgrade if its ROE is reduced. And, in response to the company's request that the Commission reject the 0.4% ROE reduction, ABATE states that:

> The Commission should not approve ROEs based on concepts like gradualism or deference to previously-approved ROEs; utility shareholders should only be permitted returns which are reasonable and commensurate with returns from enterprises having corresponding risks. A ROE above that recommended by the PFD in this case would not meet this standard and the Company's Exceptions on this point should be rejected.

ABATE's replies to exceptions, p. 3.

In its replies to exceptions, RCG asserts that "a Commission finding setting the common equity return at 9.5% would be well supported by the 'competent, material, and substantial' evidence on the whole record, which would constitute a clearly lawful and reasonable result." RCG's replies to exceptions, p. 8, quoting *Attorney General v Pub Serv Comm*, 165 Mich App 230, 235; 418 NW2d 660 (1987). Additionally, RCG states that, in setting DTE Gas's ROE, the Commission should consider: (1) the timely recovery of all of the company's gas commodity, storage, transportation, and other costs pursuant to the gas cost recovery clause; (2) DTE Gas's IRM; (3) the company's use of a projected test year; and (4) the allowance in rates for working capital, uncollectible expense, and other costs, "which further insulate DTE [Gas] from financial and business costs." RCG's exceptions, p. 8. As a result, RCG requests that the Commission approve the ALJ's recommended ROE of 9.50% because it balances the interests of the utility and ratepayers.

As stated in *Meridian Twp, supra,* there is no precise mathematical formula for determining an appropriate ROE. The Commission has considered several factors in setting an ROE for DTE Gas such as the company's solid credit rating, the current low-interest-rate climate, and the economic conditions in the company's service territory. As discussed in the Capital Structure section above, DTE Gas has a stable, healthy credit rating, the company provided no evidence that a credit rating agency has placed DTE Gas on a negative outlook, and the company did not demonstrate that DTE Gas's credit rating is likely to be downgraded.

Although the Commission acknowledges that DTE Gas experienced a decline in its total residential heating customer count between 2006 and 2011 because of economic conditions and declining population in the company's service territory, DTE Gas asserts that "[s]ince that time, residential customers have grown to a total of 1,177,058 as of 2020. Annual net total customer growth into the five-year 2021 - 2025 forecast period is projected to be approximately 10,000 annually, totaling roughly 50,000 over the coming five years." 5 Tr 820; Exhibit A-15, Schedule E3. And, although the Commission recognizes that, during 2006 to 2011, average consumption per customer declined, the company notes that "[s]ince 2016, however, normalized consumption per customer has stabilized and, perhaps, even rebounded a bit through 2019." *Id*., p. 821; Exhibit A-15, Schedule E4.

In addition, the Commission finds that the company's approved revenue decoupling mechanism (RDM) and IRM reduce the level of financial risk for DTE Gas. Ms. LaConte notes that, according to Moody's July 2020 credit update:

> DTE Gas benefits from several automatic adjustment mechanisms including a forward-looking gas cost recovery (GCR) mechanism and a revenue decoupling mechanism (RDM) intended to adjust for the impacts of weather and customer conservation efforts. In April 2013, the [Commission] also approved an infrastructure recovery mechanism (IRM) to allow recovery of the cost of service relating to annual investments in main renewal, meter relocation, and pipeline integrity. In November 2015, the [Commission] expanded the program to enable DTE Gas's pipeline renewal timeline to be cut in half to about 25 from 50 years. We view this type of continued automatic recovery mechanism as positive for cash flow and credit quality.

5 Tr 202 (footnote omitted).

Regarding the Staff's and intervenors' claims that ROEs are declining nationwide, the Commission has stated that it is not inclined "to give significant weight to ROE determinations resulting from evidentiary records that are not a part of this proceeding and that are exclusively related to geographically and structurally different utilities." September 8, 2016 order in Case No. U-17895, p. 20. Nonetheless, the Commission considers other ROEs and notes that the authorized ROEs for gas utilities in other states may have declined and, in some cases, are below 10.00%.

The Commission notes that, in the past, when there was a several-year interval between rate cases, it was more amenable to adjusting an ROE by 40-50 basis points. However, Public Act 286 of 2008 and Public Act 341 of 2016 have allowed for rate cases to be filed on a more frequent basis and DTE Gas has utilized that provision of the law, filing the instant case six months after an order was issued in its last rate case, Case No. U-20642. In the March 29, 2018 order in Case No. U-18322, p. 44, the Commission directed the parties to "to consider the degree of financial adjustment they are requesting the Commission to undertake in one proceeding, because it is not realistic to make a significant change in ROE absent a radical change in underlying economic conditions." In this case, the Commission finds that DTE Gas and the parties are requesting a change of 40 basis points or more without demonstrating that there has been a sustained "radical change" in economic conditions since the August 20 order was issued less than two years ago.

However, the Commission agrees with the company that the COVID-19 pandemic has had some impact on current economic and financial conditions. DTE Gas states that:

> The current determination of DTE Gas' allowed ROE takes place during uncertain economic and financial conditions due to the ongoing impacts of the COVID-19 pandemic, which has led to unprecedented low U.S. Treasury bond yields, substantial volatility in stock prices, and uncertainty on how long the recovery period will be. Measures of the premium that investors require over and above the risk-free rate to invest in equities and bonds have increased as well. Going forward, the length and extent of the impacts of the pandemic are unknown and will depend on how measures impacting commerce stay in place and when a vaccine becomes widely available.

5 Tr 1404-1405 (footnotes omitted). Thus, the Commission finds that some consideration should be given to the uncertainty surrounding the COVID-19 pandemic and current market volatility.

With these considerations in mind, the Commission finds that an ROE of 9.90% appropriately balances the interests of the company with those of its ratepayers. It is high enough to ensure investor confidence in the financial soundness of DTE Gas's business, but low enough to protect the company's customers from unnecessarily burdensome rates. Further, it accomplishes the objectives of adequately compensating DTE Gas for its company-specific business risk, ensuring the financial well-being of the utility, and maintaining a strong ability to attract capital.

The Commission notes that even as the average approved ROE across the utility sector has modestly declined in recent years, the spread between utility ROEs and other benchmarks such as the 20-year U.S. Treasury yield has increased. This could suggest that utilities, as a whole, may be benefiting from a premium in comparison to other investment opportunities, and that this premium may be in excess of the sector's risk profile. However, the data also suggests that the spread between the approved ROE for DTE Gas over the 20-year Treasury yield during this time is not materially different from the broader utility sector. This reinforces the Commission's decision to maintain the current ROE of 9.90%, but the Commission notes that it will continue to compare the ROE for DTE Gas to other benchmarks, including both the U.S. 20-year Treasury yield and the approved ROEs for comparable utility peers, to maintain an appropriate balance between risk and authorized return.

The Commission concurs with the ALJ's observation that "the Commission has consistently taken a traditional approach to establishing ROE, focusing on the most commonly used, fundamental approaches to determining a just and reasonable ROE, consistent with the principles of *Hope Natural Gas* and *Bluefield Waterworks*." PFD, p. 139. Accordingly, the Commission agrees with the ALJ that water utilities are not appropriately included in a proxy group for determining an appropriate ROE for a gas utility. In addition, the Commission acknowledges the Staff's and Attorney General's concern that consistent application of an ATWACC or Hamada adjustment may excessively inflate ROEs, stock prices, and market-to-book ratios for utilities.

Finally, the Commission observes that an ROE of 9.90% falls within DTE Gas's recommended range of 9.25-10.25% and is at the high end of the Staff's proposed ROE range. And, the record demonstrates that, for 2020, credit rating agencies provided the company with a stable outlook. Exhibit A-17, Schedule G1. Nevertheless, the Commission agrees with DTE Gas that because of the ongoing COVID-19 pandemic, there may be continued uncertainty in the capital markets that may affect the cost of capital. Accordingly, the Commission finds the Staff's and the Attorney General's proposed ROE of 9.50% to be too low. The Commission therefore approves an ROE of 9.90%.

C. Other Cost Rates

DTE Gas forecasted a weighted average long-term debt rate of 3.97%, using the net proceeds method, as of December 31, 2022. 5 Tr 563. In addition, the company proposed a 0.95% cost of short-term debt, which includes the interest rate on short-term debt and the facility fee. *Id*., pp. 563-564. The Staff and the Attorney General did not dispute DTE Gas's proposed long-term and short-term debt rates. The ALJ stated that, "[c]onsistent with the agreement of the parties, this PFD recommends a long-term debt cost rate of 3.97% and a short-term debt cost rate of 0.95%. Staff also agreed with DTE [Gas]'s recommended balances for short-term debt preferred stock, job development investment tax credits (JDITC), and deferred income tax (DFIT)." PFD, p. 139.

No exceptions were filed on this issue. The Commission finds that the ALJ's findings and recommendation are reasonable and prudent and should be adopted.

D. Conclusion

Based on the Commission's findings, DTE Gas's overall cost of capital is set as follows:

Description	Amount	Total Capital	Cost Rate	Weighted Cost
Long-Term Debt	$ 2,114,604,000	37.69%	3.97%	1.50%
Common Equity	2,200,914,000	39.23%	9.90%	3.88%
Short-Term Debt	194,565,000	3.47%	0.95%	0.03%
Net Deferred Income Tax	1,100,559,000	19.62%	0.00%	0.00%
TOTAL	$ 5,610,642,000	100.00%		5.41%

V. **ADJUSTED NET OPERATING INCOME**

Adjusted net operating income (NOI) is calculated by subtracting the company's operating expenses including depreciation, taxes, and allowance for funds used during construction (AFUDC) from the company's operating revenue. Adjusted NOI includes the ratemaking adjustments to the recorded NOI test year for projections and disallowances. On pages 140 through 277 of her PFD, the ALJ provided a thorough analysis of the issues and arguments. The issues raised therein are addressed below, *ad seriatim*.

In its application and testimony, DTE Gas projected an NOI of $169,973,000 for the 2022 test year. Exhibit A-13, Schedules C1, C1.1. This projection represented a $68.1 million decrease from $238,144,000 in the 2019 adjusted historical test year. 5 Tr 357; DTE Gas's initial brief, pp. 60-61. According to DTE Gas, this reduction is the result of increased operating costs, including growth in plant, higher O&M costs, and higher depreciation rates that were partially offset by increased distribution and off-system revenues. 5 Tr 357. In reply brief, DTE Gas adjusted its projected NOI to reach its final supported projection of $183,254,000 for the 2022 test year. DTE Gas's reply brief, Attachment A, p. 3. In testimony, the Staff recommended an NOI of $231,609,000 for 2022. Exhibit S-3, Schedule C1. Following adjustments made in briefing, the Staff came to a final recommended NOI of $238,144,000 for the 2022 projected test year. Staff's initial brief, p. 54. The Attorney General recommended an adjusted NOI of $271.3 million. Exhibit AG-73 The ALJ recommended an adjusted NOI of $240,206,000. PFD, Appendix A.

A. Throughput

Throughput represents the total gas sales and transportation volumes delivered to customers during the test year. Throughput is used to compute test-year revenues and is also used in determining certain rate design issues. DTE Gas projected a 1,311,592 total test year customer count, an additional 563 end-use transportation (EUT) customers, sales volumes of 151.9 billion cubic feet (Bcf), and transportation volumes of 146.2 Bcf. 5 Tr 429-431, 806-831.

The Staff removed DTE Gas's throughput adjustments made for COVID-19 and sponsored projected test year sales of 154.25 Bcf. 5 Tr 1987; Exhibit S-12.1 The Attorney General removed adjustments to throughput to account for the effects of the COVID-19 pandemic in the company's model for both the projected test year and for 2021, amounting to a total addition of 7,225 million cubic feet (MMcf). The Attorney General also added 395 MMcf of gas sold in 2022 to account for customer migrations from EUT service to GS-1 rates. Discovery Response AGDG-5.146; Exhibit AG-37; Attorney General's initial brief, pp. 99-100.

1. Weather Normalization

Weather normalization adjusts actual consumption from a past period to eliminate the impact of warmer or colder than normal weather that occurred during that period. Weather-normalized historical consumption is then used to forecast future consumption. 5 Tr 809.

DTE Gas used weather normalized actual consumption from 2006-2020 to forecast future consumption. The 15-year weather normalized forecast resulted in a 2020 customer usage of 153.6 Bcf. No party took issue with the weather normalization method or the 2020 results. PFD, p. 142. The Commission adopts the company's adjustment method and results.

2. Customer Usage

Beginning with the 2019 normalized customer usage of 159.9 Bcf, DTE Gas adjusted customer usage to reflect changes in the number of customers it serves; changes in consumption due to the company's gas heating value, demographic changes, and energy waste reduction (EWR); and the ongoing economic effects of the COVID-19 pandemic. 5 Tr 808-811. According to DTE Gas, the EWR and COVID-19-related behavioral changes were offset by increasing customer attachments, resulting in a projected weather-normalized customer usage of 151.9 Bcf. 5 Tr 813. DTE Gas revised the Residential A rate class, the GS-1 rate class, and the Rate S class downward from between 1% and 4% by rate schedule, due to large reductions in usage observed from April through August 2020, along with a 2020 economic projection from IHS Markit, Ltd. (IHS Markit) that forecasted economic activity in Michigan would not reach pre-pandemic levels until 2023. 5 Tr 1985.

The Staff accepted the company's projected addition of 34,602 customers, finding that this forecast was consistent with the general upward trend of customer additions. 5 Tr 1985. The Staff supported the company's linear regression methodology for forecasting gas sales along with the company's inclusion of adjustments to account for the effect of EWR. *Id*.

a. COVID-19 Impacts

The Staff and the Attorney General each recommended a revised 2022 sales forecast. The Staff disagreed with the company's adjustment for the ongoing effects relating to the COVID-19 pandemic in 2022, finding that the adjustment was not reasonable at this time. The Staff testified that an updated IHS Markit forecast from March 2021 shows Michigan returning to pre-pandemic levels of economic activity by 2021 and exceeding those levels in 2022. 5 Tr 1985-1986. The Staff found that there was no reasonable basis for continued inclusion of the COVID-19-related adjustments in the projected test year. 5 Tr 1986; Exhibit S-12.3. The Staff removed the company's adjustment made for the effects of the COVID-19 pandemic for 2022 for Rates A, GS-1, and S, resulting in a forecasted gas sales amount of 154,247 MMcf. Exhibit S-12.1. The Staff therefore recommended additional sales revenue be added to the company's projection in the amount of $8,169,000. Staff's initial brief, p. 58.

The Attorney General removed the company's COVID-19-related gas sales adjustment for both 2021 and 2022. The Attorney General testified that based on weather normalized sales data from August 2018 to April 2021 provided by DTE Gas, normalized residential gas sales declined by 1.9% during the 12-month period ended August 2020 from the 12-month period ended August 2019. 5 Tr 1724. However, during the 12-month period ended April 2021, normalized Residential Rate A sales increased by 1.2% in comparison to the 12-month period ended August 2020. *Id*. According to the Attorney General, "[t]his is a clear indication that the initial reduction in sales during the first half of 2020 has dissipated and apparently reversed." *Id*. The Attorney General recognized the same trend in the comparison of normalized sales for commercial sales Rate GS-1 and the School Rate S. 5 Tr 1724. The Attorney General found that a cumulative sales reduction of 7,225 MMcf was removed from the company's forecast to account for the effects of the COVID-19 pandemic and should be added back into the company's projection. The Attorney General recommended a sales revenue increase of $25,700,107 for 2022. Attorney General's initial brief, p. 101.

DTE Gas rebutted the Attorney General's analysis of its COVID-19-related adjustment. DTE Gas argued that the Attorney General's evaluation of customer behavior in response to the pandemic was based on total volumetric sales figures whereas the company made its economic adjustments based on per-customer usage factors. 5 Tr 838. DTE Gas testified that for residential customers under Rate A, consumption decreased from 100 dekatherms (Dth) per customer in 2019 to 97.6 Dth per customer in 2020 and then decreased slightly to 97.2 Dth per customer for the 12-month period ended April 2021. *Id*. DTE Gas also testified to similar trends in consumption in its Rate GS-1 commercial and small industrial customers and Rate S school customers with usage declining 8.6% and 0.8% respectively. 5 Tr 839-840.

In its initial brief, the Staff supported the Attorney General's proposed adjustment to remove COVID-19-pandemic-related impacts from the projected 2022 test year but argued that a complete removal of any COVID-19-related adjustment for 2021 adjustment was unwarranted at this time. Staff's initial brief, p. 57. The Staff noted that it used the company's model to develop its forecast and was able to adjust projected sales on a per-customer basis. *Id*.

b. Customer Migration

The Attorney General also discussed the migration of 12 EUT customers to Rate GS-1 in the test year. The Attorney General argued that the company's GS-1 sales are understated by 395,068 thousand cubic feet (Mcf) due to 12 former EUT customers who have moved to service under Rate GS-1. 5 Tr 1725.

According to DTE Gas, EUT customers use approximately 400,000 Mcf of gas per year, or 33,333 Mcf per customer. 5 Tr 843. The Attorney General testified that DTE Gas reported in response to discovery that the average usage for GS-1 customers was 411 Mcf per year. 5 Tr 1725. According to the Attorney General, "[t]his volume multiplied by the 12 customers who moved to GS-1 sales means that only 4,932 Mcf of gas sales were included in the 2022 gas sales forecast when those customers previously used 400,000 Mcf annually." Based on this analysis, the Attorney General argued that the company's sales forecast was understated by 395,068 Mcf. *Id*. Applying the current GS-1 distribution rate, the Attorney General calculated a $1,379,143 increase in gas sales revenue. Attorney General's initial brief, p. 105.

DTE Gas rebutted the Attorney General's calculations of increased sales for EUT customers migrating to GS-1. DTE Gas posited that if the 12 EUT customers that switched to GS-1 expected to continue their former, high-volume gas usage, it would not have been economical to switch from EUT to Rate GS-1. 5 Tr 843. The company asserted that these EUT customers also had the option to take service at the higher consumption GS-2 rate. *Id*. DTE Gas stated that it can logically be assumed that these customers do not intend to continue to burn at a rate greater than 14,000 Mcf, the break-even rate between GS-1 and GS-2, let alone at a rate greater than their historical usage levels. *Id*.

The Attorney General deferred to witness testimony and did not take up the adjustment made for customers migrating from EUT to GS-1 as an issue in brief.

The ALJ found that the Staff's and the Attorney General's recommended adjustment for gas sales in 2022 should be adopted. PFD, p. 147. Updated forecasts project that Michigan's economy is expected to rebound to pre-pandemic levels in 2021. *Id*. The ALJ found DTE Gas's per-customer methodology for forecasting persuasive. The Staff used the per-customer methodology for analyzing the COVID-19-pandemic-related impacts on usage and found that the Attorney General's customer sales adjustment for 2021 is unwarranted at this time. The ALJ rejected the Attorney General's customer sales adjustment for 2021. The ALJ agreed with DTE Gas that it would not be economical for customers to move from EUT to Rate GS-1 if they intend to continue using gas in excess of the average use by GS-1 customers, and therefore rejected the Attorney General's sales adjustment for the migration of 12 customers from EUT to GS-1. PFD, p. 148.

The Attorney General takes exception to the PFD on the basis that the ALJ erred in rejecting the Attorney General's adjustment to customer sales for 2021. Attorney General's exceptions, p. 18. The Attorney General reiterates her position that the company's adjustment made for the impacts of the COVID-19 pandemic in 2021 should be removed. The Attorney General argues that the adjustment made for sales losses relating to the COVID-19 pandemic was cumulative for 2021 and 2022, whereby the company made a cumulative reduction of 7,225 MMcf. *Id*., p. 19. Additionally, the Attorney General argues that if the IHS Markit forecast predicts that Michigan is returning to pre-pandemic levels of economic activity by 2021 and exceeding those levels in 2022, then it is logical to exclude the company's projected 2021 sales reduction. *Id*. The Attorney General argues that the Staff's notion that, "[i]f the relationship between [Gross State Product] and gas consumption holds, there is no reasonable basis for continued inclusion of the Covid-19 adjustments in the projected test year, since positive economic conditions affecting gas consumption are projected to be greater than those experienced in the historical test year" was inappropriately applied to only 2022. Attorney General's exceptions, pp. 19-20. The Attorney General contends that DTE Gas is already taking the reduction in customer usage into account as a reduction in forecasted gas sales and failing to remove the company's 2021 COVID-19 adjustment would result in a duplicative reduction in forecasted sales and related revenue. Attorney General's exceptions, p. 20.

The Attorney General also takes exception to the PFD regarding the adjustment for EUT customers migrating to Rate GS-1. *Id*., p. 21. The Attorney General argues that the ALJ failed to consider her rebuttal on the issue and continues to argue that DTE Gas's sales forecast is understated by 395,068 Mcf. The Attorney General recommends that the Commission increase the company's forecasted gas sales revenue by an additional $1,379,143. *Id*. The Attorney General again recommends that the Commission adopt a total revenue increase of $27,079,250 for the projected test year. *Id*., pp. 21-22.

DTE Gas agrees with the PFD that its method for forecasting sales is appropriate and that the Attorney General's proposed sales increase for 2021 is unwarranted. The company states that the PFD is unclear and that if an adjustment is made, the Staff's adjustment should be used rather than that proposed by the Attorney General. DTE Gas's exceptions, p. 56. DTE Gas argues that the Attorney General incorrectly double counted its reduction and the Staff's 2022 adjustment is correctly calculated. *Id*.

The Staff responds to the company's exceptions to point out that while the Staff and the Attorney General's proposed reductions are not exactly equal, they are similar in magnitude. The Staff notes that if the Commission were to adopt either the Staff's or the Attorney General's suggested COVID-19-pandemic-related modifications to the company's 2022 sales throughput forecast, the impact on revenue and the revenue requirement will be the same. Staff's replies to exceptions, pp. 4-5.

In its replies to exceptions, DTE Gas argues that the Attorney General's adjustment to customer usage should be rejected because her witness's analysis used volumetric sales figures as opposed to calculating adjustments on a per-customer basis. DTE Gas's replies to exceptions, pp. 38-40. DTE Gas again argues that the Staff correctly calculated its adjustment using the same methodology as the company but used an updated forecast. *Id*., p. 40. DTE Gas replies to the Attorney General's arguments that EUT has been historically under-projected, reasserting its argument that these customers would not have chosen to take service at a GS-1 rate if they did not expect to consume gas at lower volumes. *Id*.

The Attorney General continues to argue against the conclusion that the COVID-19-pandemic-related proposed sales adjustment for 2021 should be rejected and that the Staff's adjustment should be adopted. Attorney General's replies to exceptions, p. 29. The Attorney General outlines the methodology used to calculate the 2021 COVID-19 sales adjustment and argues that the company is being opportunistic in accepting a lower volume calculated by the Staff, instead of its own calculated volume. *Id*., p. 32. The Attorney General argues that the Staff's calculation is unsupported and understated. The Attorney General continues to recommend that the Commission accept its proposed sales increase of 7,225 MMcf, to remove the company's COVID-19-pandemic-related sales reductions for 2021 and 2022 and increase the gas sales revenue by $25.7 million related to this sales adjustment. *Id*., p. 33.

The Commission agrees with the ALJ's determination that the Staff's recommended adjustment for gas sales in 2022 should be adopted. As the Staff testified, updated forecasts project that Michigan's economy is expected to rebound to pre-pandemic levels in 2021. The Commission finds that there is not enough evidence to the contrary to extend a COVID-19 adjustment into the 2022 test year. The Commission finds that the Staff appropriately calculated the 2021 adjustment based on per-customer usage. The Commission agrees with the company's and ALJ's reasoning that it would not be economical for customers to move from EUT to Rate GS-1 if they intend to continue using gas above the normal rate of consumption for GS-1 customers. The Commission therefore rejects the Attorney General's proposed adjustment based on the migration of EUT customers to Rate GS-1. Accordingly, the Commission finds that the

Staff's gas sales amount of 154,247 MMcf is reasonable and its $8,169,000 adjustment to test year revenue should be adopted.

3. Exelon Energy Company

The special contract between Exelon Energy Company (Exelon) and DTE Gas was executed in 2000 to address concerns by the Staff and the Federal Trade Commission about the acquisition of MCN Energy by DTE Energy (DTE), the parent company of DTE Gas. The contract, in part, grants Exelon the right to provide energy sales in a designated portion of DTE Gas's service territory. DTE Gas projected a $7.9 million annual revenue from the Exelon agreement. No party took issue with the company's projected test year revenue. PFD, p. 148. The Commission adopts the company's projection.

4. Cost of Gas

DTE Gas projected a $2.9479 per Mcf jurisdictional cost of gas for the 2022 projected test year. 5 Tr 833. No party took issue with the company's cost projection. PFD, p. 148. The Commission adopts the company's projection.

5. End Use Transportation

DTE Gas reported that it had 573 EUT customers and 156.8 Bcf of gas volume delivered in the 2019 historical test year. 5 Tr 429. The company forecasted 563 customers and 146.2 Bcf of deliveries in the 2022 projected test year. *Id*. EUT revenues in 2019 totaled $87.4 million and are forecasted to be $101.3 million in the test year. 5 Tr 434; Exhibit A-13, Schedule C3.2.

The Staff and the Attorney General proposed adjustments to the company's EUT projections. The Staff found that the company's 2022 customer count forecast was reasonable and consistent with historical trends. 5 Tr 1987. The Staff did not propose any adjustment to forecasted volumes for Rate XXLT, noting that DTE Gas projects volumes on an individual basis for these large customers and is therefore in the best position to forecast their future natural gas demand. 5 Tr 1988. The Staff testified to a large reduction in EUT volumes for the remaining EUT schedules that was not explained by EWR savings or decreased customer numbers. *Id*.

DTE Gas explained that, in addition to its largest natural gas customers, DTE Gas also regularly discusses gas projections with all EUT customers. 5 Tr 473. DTE Gas stated in testimony that the reduction is primarily attributable to six customers transferring service to Exelon Easement, one automotive supplier and one steel foundry closing their businesses, optional decreases by two large steel industry customers, and planned installation of a bark-fueled boiler at an XLT packaging company. 5 Tr 433-434. The company explained in testimony and elaborated in rebuttal that the remaining decrease is the aggregate decrease in 2022 volumes spread out among the 526 EUT customers. 5 Tr 434, 473-474. DTE Gas did not agree with the Staff that a 3,080 MMcf adjustment to EUT sales was necessary. DTE Gas's initial brief, pp. 65-66.

The Attorney General recommended an increase to DTE Gas's EUT sales based on three adjustments to power plant deliveries, EUT deliveries, and EWR programs for EUT customers. The Attorney General argued that for power generation customers, DTE Gas used the five-year (September 2015 to August 2020) average annual delivery of 59.1 Bcf, which was adjusted to 61.4 Bcf for 2022. 5 Tr 1727. The Attorney General observed that except for 2017, deliveries to power generation customers were above 60 Bcf, with a 46.9 Bcf delivery as the 2017 outlier. 5 Tr 1728. The Attorney General testified that DTE Gas has had a pattern of underestimating gas deliveries to power plants over the company's last three rate cases. 5 Tr 1729. The Attorney General provided that actual power generation volumes exceeded projected volumes by 14.2 Bcf in Case No. U-17999, 17.3 Bcf in Case No. U-18999, and 1.9 Bcf in the first six months of the test year in Case No. U-20462. *Id*.

The Attorney General testified that using a five-year average of gas deliveries has resulted in significant under-projections of actual deliveries. *Id*. The Attorney General therefore recommended that the Commission use the average volumes of 63.1 Bcf for the most recent three calendar years, resulting in an increase in power plant deliveries of 1,747 MMcf, and increased power plant delivery sales revenues of $497,000. 5 Tr 1729-1730.

DTE Gas responded that the company used the most recent data available in developing the forecast for power plant deliveries, and that the issue regarding the number of years used to create the forecast was a disputed issue in Case No. U-18999. 5 Tr 479. In that case, the Commission found that a "'three-year calculation fails to reflect influencing factors and related variability in DTE Gas's EUT power generations volumes,' whereas the company's five-year average better captures the range of variations in generation customer volume, which can change with weather, gas prices, and power plant outages." September 13 order, p. 62.

In its initial brief, the Staff maintained its position that there should be an EUT delivery increase of 3,080 MMcf to the company's forecast. The Staff stated that while the additional information provided in rebuttal testimony was helpful, DTE Gas's clarification on the EUT delivery reductions still failed to account for 2,200 MMcf of unexplained volumes. Staff's initial brief, p. 60.

In its initial brief, the Attorney General repeated that a five-year average is not the appropriate basis to calculate a projection of power generation deliveries. Attorney General's initial brief, p. 108. The Attorney General again noted DTE Gas's pattern of underestimating deliveries to power generation facilities in its last three forecasts. *Id*. The Attorney General reiterated that removing the 2017 outlier from power generation deliveries results in 62.8 Bcf, an amount only slightly lower than the three-year average. *Id*.

Next, the Attorney General recommended an increase of 4.7 Bcf to the EUT deliveries, noting that the company's projected decrease was unexplained by DTE Gas. The Attorney General pointed out that 2020 EUT gas deliveries were 155.1 Bcf, only slightly below the 155.4 Bcf deliveries for 2019. The Attorney General argued that this shows 2020 customer volume losses were miniscule. 5 Tr 1731. The Attorney General testified that DTE Gas has historically underestimated EUT sales forecasts by 23.8 Bcf in Case No. U-18999, 14.5 Bcf in Case No. U-17999, and by 0.4 Bcf in the first six months of the test year for the most recent rate case, Case No. U-20462. *Id*. The Attorney General thus recommended an increase of 4.7 Bcf to EUT deliveries, increasing EUT revenue by $3,257,000. Attorney General's initial brief, p. 110.

DTE Gas replied that it explained 75% of the 4.7 Bcf reduction in EUT deliveries in rebuttal testimony and the remainder involves usage changes by 511 other EUT customers. DTE Gas reiterated that the methodology the Staff used to arrive at its 3,080 MMcf adjustment is unexplained and therefore the Staff's disallowance should be rejected. DTE Gas's reply brief, p. 60.

Finally, the Attorney General recommended that the company's 880 MMcf reduction to deliveries related to EWR programs, or energy optimization, for EUT customers be rejected. 5 Tr 1732. The Attorney General argued that the 880 MMcf reduction assumes that Rate ST and LT customers will achieve energy efficiency savings of 1% in the test year. The Attorney General stated that "there is no evidence presented in this rate case that transportation customers have actually achieved this level of energy reduction." *Id*. The Attorney General also noted that in Case No. U-20642, DTE Gas only projected EUT EWR savings of 401 MMcf, less than half the volume forecasted in this case. *Id*. The Attorney General recommended the Commission reject the EUT volume reduction of 880 MMcf and as a result increase EUT revenue for the projected test year by $918,000. *Id*.

DTE Gas responded that the Commission oversees the company's EWR programs and audits and reviews program savings. DTE Gas also noted that the company used the same methodology as the Staff and applied the 1% factor for EWR savings to Rate ST and LT deliveries. 5 Tr 480.

The ALJ agreed with the Staff's 3,080 MMcf increase to EUT sales. The ALJ noted that, as the Staff points out, despite providing additional clarification, the EUT delivery reduction was not fully explained. The ALJ also found it concerning that DTE Gas has underestimated its EUT sales over its last three rate cases. PFD, p. 156. The PFD suggested that the consistent underestimate may result from the fact that the company surveys its EUT customers regarding their anticipated gas deliveries. If, in DTE Gas's next rate case, it is found that the company again underestimated EUT deliveries for 2022, the ALJ recommended a new methodology for projecting EUT sales be considered. PFD, pp. 156-157. The ALJ rejected the Attorney General's recommended adjustments for power generation deliveries and EWR sales. The ALJ stated that the Commission has adopted a five-year average to determine power generation sales, and there is a separate review and audit process for EWR plans and energy savings results. PFD, p. 157.

The Attorney General agrees with the ALJ's recommendation that the Staff's adjustment to EUT sales be adopted but takes exception to the ALJ's recommended rejection of the Attorney General's reductions to power generation deliveries and EWR sales. Attorney General's exceptions, p. 22. The Attorney General argues that while the Commission has shown a preference for using a five-year average to determine power generation sales, the objective should be to develop the most accurate forecast. *Id*., pp. 22-23. The Attorney General states that while using historical data and a five-year average may provide a helpful rule of thumb, where there are clear anomalies, the goal of achieving the most accurate forecast should dictate excluding such anomalies.

Regarding EWR projections, the Attorney General takes exception to the PFD and reiterates her position that the Commission should reject the company's proposed reductions in volumes because they are not supported by evidence. Attorney General's exceptions, p. 23. First, the Attorney General argues that evidence provided to support the EWR reduction should have been provided in direct testimony instead of rebuttal. *Id*. Second, she argues that DTE Gas refers to EWR savings as commercial and industrial (C&I) savings and not EUT C&I savings for rate schedules ST and LT and this likely means that the EWR savings are not strictly EUT savings but also from C&I sales customers. *Id*. Last, the Attorney General argues that it is not known how the company determined the 2020 savings because the company did not provide any explanation in testimony. *Id*., pp. 23-24. The Attorney General continues to recommend that the Commission approve an increase of 7.33 Bcf to DTE Gas's EUT sales and increase the company's forecasted revenue by $4,672,241. *Id*., p. 24.

In exceptions, DTE Gas argues that it fully explained the 9 Bcf reduction in EUT volumes and takes exception to the PFD. DTE Gas also disagrees with the ALJ's adoption of the Staff's proposal to increase EUT volumes by 3,080 MMcf because the Staff did not explain the methodology it used to arrive at this recommendation on the record. DTE Gas's exceptions, p. 58. DTE Gas argues that the company's EUT forecast was created using the most recent 12-month data available when this case was prepared, adjusted for known and measurable changes, which is an appropriate methodology that has been approved in previous cases. *Id*., p. 59.

In replies to exceptions, the Staff maintains its position that the company's projected loss of 10.5 Bcf of usage from historical to projected test years is not supported by the effects of EWR or the net loss of customers taking EUT service from the company. Staff's replies to exceptions, p. 5. The Staff also replies that the positive relationship between the economy and sales throughput should apply to EUT customers. *Id*., pp. 5-6. The Staff agrees with the ALJ's finding that a five-year forecast should be used for natural gas power generation volumes, emphasizing that the company would need to be judicious with its data selection if a three-year average was to be adopted. Staff's replies to exceptions, p. 6.

In replies to exceptions, the Attorney General states that she supports her position in filed exceptions, but in the alternative supports the position outlined in the PFD. Attorney General's replies to exceptions, p. 34.

The Commission adopts the Staff's position in accordance with the PFD. The Commission agrees that a five-year average has been adopted to determine power generation sales and does not find it necessary to change that forecast methodology at this time. The Commission agrees with the ALJ that a separate EWR review and audit proceeding is the appropriate forum for addressing EWR plans and energy savings results. The Commission recognizes the significance of the Attorney General's evidence showing that using a five-year average of gas deliveries has resulted in significant under-projections of actual deliveries in the company's last three rate cases. 5 Tr 1731. The Commission therefore adopts the ALJ's recommendation that if this pattern of under-projection continues in the 2022 test year, a new methodology for projecting EUT sales should be considered.

B. Midstream Revenue

DTE Gas provides midstream services that consist of storage and transportation services to off-system customers. The company projected $101.0 million of Midstream revenue, consisting of

$31.6 million of storage revenue and $69.4 million of transportation revenue, a $3.4 million reduction from the projection of the company's previous rate case. 5 Tr 438-439.

DTE Gas explained that the $31.6 million storage revenue is comprised of $28 million for contract storage and $3.6 million of park and loan revenue. 5 Tr 442. DTE Gas testified that the pricing for contract storage services is generally dictated by the market and reflects the market differential between the projected withdrawal period and projected injection period. *Id*. DTE Gas's park and loan service provides unused storage capacity and delivery to off-system customers. 5 Tr 444-445. The company stated that it used three-year average revenues from 2017-2019 to arrive at its $3.6 million revenue projection for park and loan service. 5 Tr 445.

DTE Gas testified that it provides transportation services to off-system customers who want to transport gas from one point to another through the company's transportation system. 5 Tr 447. The company projected a total of $69.4 million in transportation revenue for the projected test period, comprised of $60.4 million for transportation and $9.0 million in exchange revenue. 5 Tr 447; Exhibit A-3, Schedule C3.3, lines 6, 7, and 8. Exchange services are:

> transportation services that facilitate a contemporaneous exchange of gas on a Gas Day. In an exchange DTE Gas agrees to deliver a quantity of natural gas to an interstate or intrastate pipeline connection. In exchange, the Off-System customer agrees to nominate an equal quantity of gas to DTE Gas at a DTE Gas city gate or storage facility location.

5 Tr 450. DTE Gas explained that the $9.0 million exchange revenue projection is also based on the three-year average of revenues from 2017-2019. *Id*.

The Attorney General testified that the company's forecast of off-system transportation revenues was reasonable, however, the revenue forecast for contract storage, park and loan services, and exchange services were understated. 5 Tr 1733. The Attorney General argued that the midstream revenue overall, when updated for 2020 actuals, was approximately $4.0 million higher than in 2019, noting that midstream revenues have been on a significant uptrend since 2018. 5 Tr 1734. The Attorney General calculated a three-year average revenue for contract storage, park and loan service, and exchange service. The total represents a revenue increase of $5,311,000 ($3,507,000 for contract storage, $679,000 for park and loan, and $1,125,000 for exchange services). 5 Tr 1734; Exhibit AG-45.

In rebuttal testimony, DTE Gas argued that using a three-year average for forecasting contract storage revenue is not appropriate, noting that while available capacity is fixed, the forward market rate used to determine contract storage revenue is uncertain. 5 Tr 481. DTE Gas explained that while using a three-year average is appropriate for park and loan and exchange service revenue, the convention from the last two rate cases was to use the historical year as the last year of the average, which would be 2019 in this case. 5 Tr 481. In its initial brief, DTE Gas reiterated that the Attorney General's projections for midstream revenue should be rejected. DTE Gas's initial brief, p. 69.

In her initial brief, the Attorney General maintained that DTE Gas's testimony contained "an estimated revenue and later a lower rate for short term usage contracts, but no explanation or support for why this is the applicable rate or how it is derived." Attorney General's initial brief, p. 115. The Attorney General responded to DTE Gas's assertion that she should have used a three-year average for off system transportation revenue. She stated that since 2018 off-system transportation revenue has increased significantly due to the new transportation contract the company has with NEXUS Gas transmission pipeline (NEXUS). *Id.*, p. 116. The Attorney General argued that "a three-year average that includes 2018 with only two months of NEXUS transportation revenue is not appropriate. The company's estimated revenues for the 2022 test year were in line with 2019 and 2020 actual revenues." *Id.*

The ALJ agreed that using a three-year average of revenues for projecting contract storage is not appropriate. PFD, p. 161. As DTE Gas explained, contract storage is comprised of receipts from storage already under contract plus forecasted revenues for unsold storage at market rates. *Id*. However, the PFD agreed that the Attorney General's updates from the company's 2017-2019 averages for park and loan services are reasonable. The ALJ found DTE Gas's claim that using the historical test year as the last year of the average is consistent with past practices unconvincing. While the company did not audit 2020 numbers in time for its filing in mid-February, the Attorney General obtained those figures and appropriately updated the revenues. *Id*. The ALJ agreed that there was no inconsistency in the Attorney General's approach. Accordingly, the ALJ found that midstream revenues should be increased by $1,804,000, as shown in Exhibit AG-45.

In exceptions, the Attorney General noted her agreement with the ALJ's recommendations that the Commission adopt the Attorney General's updates to DTE Gas's 2017-2019 average of revenues for projecting contract storage and that midstream revenues be increased by $1,804,000. Attorney General's exceptions, pp. 24-25. The Attorney General takes exception and continues to recommend the Commission adopt her briefed position in full. The Attorney General continues to argue that DTE Gas underestimated its revenue forecast for contract storage, park and loan services, and exchange gas service. The Attorney General argues that the Commission should adopt her updated three-year calculation and increase the company's Midstream revenue by $5,311,000. Attorney General's exceptions, p. 25.

DTE Gas agrees with the ALJ's determination that a three-year average of revenues for projecting contract storage is not appropriate, but otherwise takes exception to the PFD. DTE Gas argues that the Attorney General used 2020 actuals to calculate exchange services and park and loan services but accepted the company's revenue forecast relating to off-system transportation. DTE Gas's exceptions, p. 61. DTE Gas argues that the Attorney General's use of "shifting methodology, which changes by category to capture the most revenue" is inappropriate, and the ALJ's adoption of the Attorney General's resulting calculations should be rejected. *Id*. In replies to exceptions, DTE Gas reiterates its position that contract storage revenue should be based on forward markets, not historical pricing. *Id*., p. 45. The company argues that it properly calculated contract storage revenue by adding the revenue associated with capacity under contract plus the forecasted revenue from unsold capacity at market rates. *Id*. Finally, DTE Gas notes that historical averages are appropriate to calculate park and loan and exchange services, but the methodology applied in prior cases uses the historical test period as the last year in the average. *Id*., pp. 45-46.

In replies to exceptions, the Attorney General continues to support the use of three-year average revenues for projecting contract storage. Attorney General's replies to exceptions, p. 35. The Attorney General notes that she agrees with the ALJ's updates to DTE Gas's 2017-2019 averages for park and loan exchange services.

The Commission adopts the ALJ's findings and recommendation. Consistent with previous rate cases, the Commission finds that a three-year historical average is not a reliable predictor of future off-system transportation. The Commission finds that the company's projection should be based on the most recent available data. Audited 2020 numbers were available for the company's filing in mid-February. The Attorney General obtained those figures and appropriately updated the revenues using a consistent approach. Accordingly, the Commission finds that midstream revenues should be increased by $1,804,000 as recommended by the Attorney General and consistent with the PFD.

C. Other Operating Revenue

Other operating revenue consists of various payments such as late payment/non-sufficient funds charges, miscellaneous service revenue, rent from gas property and inter-department rent, Vector Pipeline lease interest, and Grantor Trust Investment Fund; and revenue-producing programs, including the company's appliance service program (ASP). 5 Tr 362. DTE Gas projected its other operating revenue to be $119.0 million in 2022. Exhibit A-13, Schedule C3.

1. Appliance Repair Service Revenue

DTE Gas offers the Home Protection Plus ASP. In the projected test year, the company expects to maintain its enrollment levels and revenues consistent with the historical test period of approximately 222,000 customer enrollments and $82.2 million in gross revenue. 5 Tr 453.

The Attorney General testified that the ASP profit margin, calculated as ASP revenue less ASP expense, that DTE Gas forecasted for the test year is based on the same revenue of $82.2 million as was billed in 2019. 5 Tr 1734; Exhibit A-13, Schedule C3. The Attorney General argued that the ASP has demonstrated a steady increase in revenues from 2014 through 2020, with 2020 revenues reaching $86.6 million, $4.4 million above 2019 revenues. 5 Tr 1735. The Attorney General argued that revenues for 2019 were not representative of 2020 or any of the previous five years. *Id*. Thus, "using the 2019 revenues, operating expenses, and profit margin as a proxy for future test years amounts would result in an inaccurate and unreasonable forecast amount." *Id*. The Attorney General recommended keeping with the company's recommended approach of using the most recent historical revenues. The Attorney General recommended using 2020 actual revenues of $86.6 million, a 2020 operating expense of $60.6 million, and the 2020 profit margin of $26.6 million to forecast ASP revenues. *Id*. These changes result in an increase to other operating revenue of $6.6 million. *Id*.

In response to discovery, DTE Gas claimed that it performed fewer appliance repair calls in 2020 due to warmer-than-normal (WTN) weather and customer concerns with the COVID-19 virus. 5 Tr 1735. The Attorney General testified that these concerns are not credible. *Id*. The Attorney General pointed out that: (1) customer concerns would not have prevented customers from having necessary appliances repaired; (2) the company provided no analysis to demonstrate that WTN temperatures would affect the number of service calls made; and (3) the company's revenues increased by $4.4 million in 2020, contradicting the premise that fewer calls were made in 2020. 5 Tr 1736. The Attorney General also argued that DTE Gas is inclined to understate the forecasted revenue and operating income of the ASP. *Id*.

In rebuttal, DTE Gas testified that using the historical test year to project ASP revenues was consistent with prior rate case orders, including the settlement agreements approved in Case Nos. U-16999 and U-20642 and the Commission orders in Case Nos. U-17999 and U-18999. 5 Tr 483. DTE Gas added that due to competition from independent contractors, the number of customers, revenues, and costs for the ASP are highly uncertain going forward. *Id*. DTE Gas reiterated that the number of repair calls is driven by outside factors such as appliance age, weather (which can increase or decrease appliance usage) and that at the height of the pandemic in 2020, many appliance repairs were delayed. *Id*. DTE Gas argued that given these factors, 2019 ASP revenues more accurately represent a normal operating year for the ASP program and related revenues and expenses than 2020. Attorney General's initial brief, pp. 69-70.

The ALJ found the Attorney General's arguments for using the most recent historical revenues persuasive, including actual 2020 ASP revenues, operating costs, and profit margin. PFD, p. 164. The ALJ pointed out that, of the settlement agreements and Commission orders DTE Gas uses to support its arguments, only Case No. U-18999 squarely addresses revenue projections for the ASP.

Id. In that case, DTE Gas used the 2016 historical year's revenue amounts and customer numbers to project the test year ASP revenues. September 13 order, p. 2. The Attorney General calculated an average growth rate for the program of 7% per year in revenues and applied it to actual 2017 revenues of $73.4 million. *Id*., p. 68. Using an average profit margin percentage of 27% for 2015-2017, the Attorney General calculated a gross margin of $21.9 million for 2018. *Id*. In that case, the Commission approved the company's ASP revenue projection of $70.7 million for 2018, finding that the Attorney General's proposed growth rate was unreasonable and unsupported. *Id*., p. 69.

The ALJ noted that for 2018, actual ASP revenues were $75.4 million, $4.7 million more than the amount the Commission approved. PFD, p. 165. The ALJ reasoned that this fact supports the Attorney General's assertion that DTE Gas has underestimated ASP revenue by proposing to use the actual revenue from the historical year. The record shows that although the ASP growth rates are uneven, the program is still growing annually. Exhibit AG-26. The ALJ concluded that "using the most recent year available to project test year revenues, costs, and margins will still likely underestimate the results, just not as much as using the historical year." PFD, p. 165.

The ALJ agreed with the Attorney General that DTE Gas's claim that the ASP results were affected by winter temperatures and the COVID-19 pandemic is unsupported. The ALJ thus recommended that other income be increased by $6.6 million as the Attorney General suggested. *Id*.

DTE Gas takes exception to the PFD on the bases that: (1) the use of 2019 revenues and costs is consistent with accepted practice in the last four rate cases, (2) 2019 more accurately reflects a normal operating year due to the COVID-19 pandemic, and (3) there is no legal authority which permits imputation of a greater revenue amount to offset rates even if revenues were projected to be higher. DTE Gas's exceptions, p. 63. DTE Gas reiterates its arguments on the first two points and adds that the company believes its forecasts are accurate in this case and imputation of a greater amount is not permissible under MCL 460.10ee(12). The company concludes that the proposed $6.6 million increase in income should be rejected.

The Attorney General replies to DTE Gas's exceptions, arguing that the company is attempting to use the pandemic to argue against 2020 actuals that are less advantageous and that the ASP revenues have historically been underestimated. Attorney General's replies to exceptions, p. 37.

The Commission agrees with the ALJ and the Attorney General that DTE Gas has underestimated ASP revenue by proposing to use the actual revenue from the historical year. The record shows that although the ASP growth rates are uneven, the program has been growing annually for the last seven years; thus, using the most recent year available to project the test year revenues, costs, and margins will likely still result in an underestimate of the results. As Exhibit AG-46 illustrates, in 2020 the ASP program grew by $4.4 million above 2019 revenues. The Commission finds that DTE Gas's claim that the ASP results were affected by winter temperatures and the COVID-19 pandemic is unsupported. The Commission approves the $6.6 million increase to the company's projected ASP revenue.

2. Residential Income Assistance

DTE Gas projected that 70,000 residential income assistance (RIA) credits will be issued in 2022. The Staff accepted the company's projection but objected to DTE Gas's request to increase the low-income assistance customer count to 45,000, as discussed more fully below. The ALJ agreed with the Staff's method and projected customer count. The PFD adopted a revenue adjustment of $4,320,000. PFD, p. 166. The Commission adopts the ALJ's recommendation to use the Staff's methodology and projected customer count and adopts the revenue adjustment of $4,320,000.

D. Operation and Maintenance Expenses

DTE Gas projected $507,916,000 of O&M expenses. The ALJ recommended $485,508,000 in O&M expenses.

1. Inflation

DTE Gas requested a composite inflation factor of 2.8% for 2020, 2.9% for 2021, and 3.0% for 2022. DTE Gas testified that the inflation factors the company used are weighted rates based on the Consumer Price Index (CPI)-Urban as of September 2020 for non-labor costs and expected wage increases for labor costs. 5 Tr 364; Exhibit A-13, Schedule C12. DTE Gas testified that the company's collective bargaining agreements and increases in base pay result in an annual labor inflation escalation rate of 3%. 5 Tr 875.

The Staff disagreed with the company's use of CPI-Urban projected inflation indexes and instead used an inflation rate of 1.24% for 2020 and incorporated updated projections of 2.47% for 2021 and 1.93% for 2022. 5 Tr 1874; Exhibit S-4, Schedule D-3b. The Staff opposed DTE Gas's use of a blended inflation rate, noting that the Commission previously rejected this approach in general rate cases. 5 Tr 2010. The Staff argued that the company has significant control over labor costs. The Staff recommended an inflationary downward adjustment of $8,794,000. 5 Tr 2010; Exhibit S-9.3; Staff's initial brief, pp. 69-70.

The Attorney General testified that approximately $20.6 million of DTE's requested O&M increase is inflation, noting that the use of blended labor and non-labor inflation factors has been repeatedly rejected by the Commission. 5 Tr 1748. The Attorney General explained that the company has not experienced O&M cost increases above the inflation trend line from 2008-2019 despite its request for inflation-related cost increases. 5 Tr 903. According to the Attorney General, DTE Gas has also stated in testimony that investments in technology will result in increased operating efficiencies and reduction in O&M costs. These cost savings should offset inflation. 5 Tr 1748.

The Attorney General argued that although the Commission has allowed some inflation in previous rate cases, the use of a blended inflation rate has been repeatedly rejected. The Attorney General testified that the company controls the rate of wage increases through collective bargaining and contract negotiations. 5 Tr 1750. The Attorney General argues that any inflation applied to O&M costs is not justified. However, if the Commission decides that some inflationary adjustment is appropriate, the Attorney General recommended that the Commission adopt updated CPI-urban rates of 1.2% for 2020, 2.2% for 2021, and 1.5% for 2022. 5 Tr 1751. If the Commission incorporates this alternative recommendation, DTE Gas's O&M costs would be reduced by $13.6 million. *Id*.

ABATE also disputed the company's proposed inflation costs. ABATE testified that in a November 2020 presentation at the Edison Electric Institute (EEI) Financial Conference, DTE Gas noted that it has successfully controlled its costs over the last several years. In this presentation, the company stated that its average annual increase in O&M expenses from 2008-2019 was only 1%. 5 Tr 234. ABATE stated that it is not unreasonable to expect that DTE Gas will continue to control its costs, which should be reflected in its projected year O&M expenses. *Id*. ABATE quoted DTE Gas's testimony, stating "the Company's 2019 O&M expense is $103.4 million less than if the Company's normalized 2008 O&M expense had increased by the rate of inflation." 5 Tr 903. ABATE argued that DTE Gas's historical performance for containing its O&M expense demonstrates that its projected increase in O&M expense is overstated. 5 Tr 234.

In rebuttal, DTE Gas pointed out that the company has experienced and will continue to experience inflationary pressures, reiterating that much of the increase is driven by collective bargaining agreements and regular wage increases. 5 Tr 1326. In its reply brief, DTE Gas noted that the Commission has previously rejected the Attorney General's recommendations to include inflation costs in O&M. DTE Gas's reply brief, pp. 65-66.

The ALJ agreed with ABATE that, given the company's statements in testimony and at the EEI Financial Conference, an annual inflation cost of 1% for 2020-2022 is reasonable. PFD, p. 169. The ALJ found that DTE Gas "has demonstrated for over a decade that it is able to manage O&M costs, including regular wage increases, at well below the inflation rate." PFD, p. 169. The ALJ stated that nowhere in the record nor in the parties' briefs does anyone suggest that DTE Gas violate its collective bargaining agreements or refuse reasonable wage increases to its non-represented employees. *Id*. The parties and the ALJ recognized DTE Gas's ability to control its O&M cost increases to less than the rate of inflation, in part due to investments paid for by ratepayers, which are intended to increase productivity and mitigate inflationary pressure. *Id*. Therefore, the ALJ recommended that the Commission adopt ABATE's adjustment which reduces DTE Gas's projected O&M costs by $20.2 million. *Id*.

DTE Gas takes exception to the ALJ's assertion that the company can continue to mitigate the effect of labor and inflationary increases. DTE Gas argues that there is nothing in the record to support the argument that the company can offset 66.2% of the impact of inflation, as the ALJ's $20.2 million reduction implies. DTE Gas's exceptions, p. 65. DTE Gas reiterates that the company's proposed blended inflation rate properly captures inflation and that the company will continue to experience inflationary pressures and labor cost increases. The company requests that the Commission reject the ALJ's recommendation and instead adopt the company's proposed inflation rate and associated O&M expense increase. *Id*., p. 67.

ABATE replies to the company's exceptions, arguing that a 1% inflation rate is reasonable and consistent with DTE Gas's historical actual inflation rate as well as prior Commission decisions. ABATE's replies to exceptions, p. 3. ABATE argues that the record shows DTE Gas's consistent historical success in controlling its costs and that historical performance is a reasonable indicator of future performance. *Id*., p. 4. ABATE reiterates that the Commission has repeatedly rejected a blended inflation rate approach and reiterates that it should again be rejected here. *Id*., pp. 5-6. ABATE argues that there is no reason to deviate from the company's proven accomplishments and that doing so would unreasonably increase customer costs. *Id*., p. 6.

In replies to exceptions, the Attorney General continues to argue that there is no justification for applying any level of inflation to O&M costs. Attorney General's replies to exceptions, p. 38. The Attorney General recommends that if the Commission supports the application of an inflationary adjustment, then the ALJ's recommendation be adopted. *Id*., pp. 37-38. The Attorney General argues that DTE Gas's demonstrated ability to manage O&M costs well below the rate of inflation makes a 1% inflation rate for 2020-2022 reasonable. *Id*., pp. 38-39.

The Commission does not find ABATE's reasoning to be persuasive on the issue of inflation. The Commission finds that DTE Gas's comment at the EEI Financial Conference is not substantial enough evidence on which to support a finding that the company has not and will not experience inflationary pressures. The Commission declines to adopt the ALJ's recommendation and finds that the Staff's proposed use of updated CPI-Urban inflation projections using actual 2020 inflation of 1.24% and updated projections of 2.47% for 2021 and 1.93% for 2022 should be approved. The Commission does not support DTE Gas's use of a blended inflation rate. As noted on the record, the Commission has previously rejected this approach in general rate cases.[8]

2. Storage, Transmission and Distribution Operations and Maintenance Expense

DTE Gas presented O&M expenses of $14.1 million for gas storage, $89.6 million for transmission, and $132.4 million for distribution. 5 Tr 937-967; Exhibit A-13, Schedules C5.1, C5.2, and C5.3. The Commission, like the ALJ, addresses individual issues regarding the storage, transmission, and distribution expenses below.

a. Traverse City/Alpena Reinforcement Project Demand Charges

DTE Gas withdrew its request for $11.6 million in demand charges for the TCARP, in conjunction with the approvals granted in the July 27, 2021 order in Case No. U-21102. *See*, DTE Gas's initial brief, pp. 72-73 (citing 5 Tr 1323-1324). Given the withdrawal, the ALJ concluded that the expenses related to TCARP are settled. PFD, p. 170. No party filed exceptions pertaining to TCARP expenses.

The Commission agrees with the ALJ's conclusion and accepts the company's withdrawal of the $11.6 million TCARP expense.

b. Transmission Integrity Management Program and Maintenance

DTE Gas proposed $19.2 million for the federally mandated Transmission Integrity Management Program (TIMP), and the Attorney General proposed a $6.6 million disallowance based upon the average actual TIMP pipeline integrity expenses for 2018 to 2020. DTE Gas's initial brief, p. 73; 5 Tr 1755. The ALJ concluded that the Attorney General's proposed

[8] *See*, May 2, 2019 order in Case No. U-20162, p. 74, stating "[t]he Commission agrees with the ALJ that DTE Electric has not presented sufficient evidence in this case to induce the Commission to depart from its decision in the 2018 orders and previous rate cases rejecting a blended inflation rate;" and September 13 order, p. 73, where the Attorney General argued "the Commission has rejected blended (or composite) inflationary rates in general rate cases."

disallowance was reasonable based upon the company's past divergence in the projected versus actual expense. Therefore, the ALJ recommended that the $6.6 million disallowance should be adopted by the Commission. PFD, p. 173.

DTE Gas takes exception arguing that there are many factors that cause TIMP expenses to vary from year to year. The company avers that the Attorney General's "proposed use of a historical average is also inappropriate to predict the amount and type of remediation, which is based on the assessments, and a significant expense for TIMP Pipeline Integrity." DTE Gas's exceptions, pp. 68-69 (citing 5 Tr 959-990). DTE Gas further states that, considering the work forecasted to meet federal regulations in 2022, the Commission should reject the Attorney General's proposed disallowance.

The Attorney General replies to DTE Gas's exceptions, arguing that the company merely restated its testimony that the Commission should reject the ALJ's recommendation. Therefore, she states "the Commission should reject DTE[Gas]'s repeat of its testimony arguments and adopt the ALJ's recommendations." Attorney General's replies to exceptions, p. 39.

The Commission finds that the record reflects a divergence in the actual TIMP expense and the projected expenses. As noted by the Attorney General, DTE Gas previously set forth intentions to ramp up TIMP spending which did not materialize in actual expenses. 5 Tr 1754-1755. Therefore, the Commission concludes that the use of a historical average in this instance is more reasonable than the company's projections. Given the above, the Commission finds the ALJ's recommendation well-reasoned and adopts the $6.6 million disallowance.

c. Maximum Allowable Operating Pressure Records Remediation

DTE Gas projected an O&M expense of $5.9 million for MAOP records remediation for the test year. 5 Tr 948. The Attorney General proposed a disallowance of $2.95 million, arguing that

DTE Gas is responsible for maintaining its records and ratepayers should not be responsible for the full cost. *Id*., p. 1759. The ALJ agreed with the Attorney General because "the cost of reviewing the company's MAOP records is reasonable and should be included as part of O&M" but that "in cases where there are record gaps, and remediation expense is required, some cost sharing is appropriate, particularly for facilities that post-date the record-keeping requirements contained in the 1957 MGSS." PFD, p. 174 (emphasis in original; footnote omitted).

The company states in exceptions that record gaps are an industry issue which the ALJ neglected to recognize in the PFD. DTE Gas argues that the Commission has previously "ruled in support of inclusion of costs in rates which were incurred to bring the Company into compliance with regulations intended to ensure the safety and reliability of its system" and that it should do the same in this case by allowing recovery of the full $5.9 million expense to comply with the 2019 PHMSA rules and 2011 advisory bulletin. DTE Gas's exceptions, p. 70.

In reply, the Attorney General again argues that the company merely restated its testimony to propose that the Commission should reject the ALJ's recommendation. Therefore, she states "the Commission should reject DTE[Gas]'s repeat of its testimony arguments and adopt the ALJ's recommendations." Attorney General's replies to exceptions, p. 39.

As noted above, the Commission finds that necessary safety upgrades, such as the capital costs related to the Middlebelt deration project, should be permitted for recovery. However, the Commission again notes its agreement with the ALJ's findings that the 2019 PHMSA rules and 2011 advisory bulletin are not new record keeping requirements. The Commission acknowledges that there have been changes to the federal regulations, specifically, additions to 49 CFR 192.619 and the new requirements in 49 CFR 192.624. However, in future rate proceedings, DTE Gas must adequately justify that the required work is a direct result of the new requirements in the regulations and not a result of the company's historically poor record keeping practices. The company has failed to demonstrate that the remediation of record gaps caused by the company's failure to properly maintain its records should be fully funded by ratepayers. The mere contention that record gaps are an industry issue is an inadequate rationale to justify the company's failure to adequately maintain its records given previous requirements such as those found in the MGSS. Therefore, the Commission concludes that cost sharing is appropriate for the records remediation O&M expense and adopts the ALJ's findings and conclusions, including the $2.95 million disallowance for record remediation.

d. Pipeline Safety Management System

DTE Gas requested an O&M expense of $2.0 million for its Pipeline Safety Management Systems (PSMS). 5 Tr 948; Exhibit A-13, Schedule C5.2. The Attorney General argued that the Commission should disallow $1.0 million based upon discrepancies in the company's PSMS projected and actual expense from prior years. 5 Tr 1759-1760.

The ALJ concluded that DTE Gas supported the 2022 O&M expense pertaining to PSMS noting that "the implementation of PSMS is a key recommendation of the AGA [American Gas Association] and the SEA [Statewide Energy Assessment]" and that the company explained its spending discrepancy for 2019. PFD, p. 176. Therefore, the ALJ adopted DTE Gas's projected expense of $2.0 million for PSMS.

In exceptions, the Attorney General opines that the ALJ did not address her concerns "that the forecasted spending is not as critical in nature" as DTE Gas contends given the company significantly cut back its spending in 2020. The Attorney General reiterates her position that O&M spending for the PSMS was far below the company's projections in 2019 and 2020, and

"$1.0 million appears to be a reasonable, appropriate level" for the expense. Attorney General's exceptions, p. 26 (citing Attorney General's initial brief, pp. 143-144).

DTE Gas replies that, due to the COVID-19 pandemic, it did, in fact, spend less than planned in 2020 "but those items are moving forward in 2021 and will continue to increase in 2022 with the establishment of new initiatives and required ongoing support. Therefore, DTE Gas's request for $2.0 million of O&M expense should be fully approved." DTE Gas's replies to exceptions, p. 47. DTE Gas further disputes the Attorney General's assertion that the full PSMS expense was not "vital," reiterating that the company did spend what was necessary, albeit less than planned due to the ongoing COVID-19 pandemic. *Id*.

The Commission agrees with the ALJ regarding the importance of PSMS spending. The company has effectively rebutted the Attorney General's evidence regarding reduced spending on this expense in 2020. Given the COVID-19 pandemic, the Commission is persuaded that DTE Gas spent less than planned but that those initiatives are moving forward and require additional funds going into 2022. *See*, 5 Tr 993-994. Therefore, the Commission adopts the ALJ's findings and recommendations regarding the PSMS O&M expense.

e. Meter Abnormal Operating Condition Initiative

DTE Gas proposed an O&M expense of $1.5 million for the Meter Abnormal Operating Condition (AOC) Initiative. 5 Tr 966-967; Exhibit A-13, Schedule C5.16. The Attorney General proposed that the entire expense be disallowed given that AOC meters are not new and the company did not justify the significant increase in the expense. 5 Tr 1760-1762. In rebuttal, the company indicated that it has made improvements to "training and meter data integrity" which led to 127% more meter AOCs on average each year for 2018-2020 than from 2015-2017. 5 Tr 996 (citing Exhibit A-32).

The ALJ concluded that the company explained the increased number of AOC meters in its rebuttal, and found DTE Gas's $1.5 million expense to be supported, rejecting the Attorney General's proposed disallowance. PFD, p. 178.

The Attorney General excepts, arguing that the company's case demonstrates a 127% increase in AOC meters identified for remediation but a nearly 425% requested increase in funding. She further states that the "discrepancy is unexplained and unaddressed by the ALJ." Attorney General's exceptions, p. 27. The Attorney General also contends that the company's discovery responses contradict its rebuttal and that there was no backlog in 2020 which "remains unexplained." *Id*.

In reply, the company argues that the ALJ's determination is supported by the record and that it expects the increase in AOC meters to continue which justifies the expense. Moreover, DTE Gas states that "remediation of AOCs is required by the Michigan Gas Safety Code and is otherwise important to ensuring that the Company's system can continue to provide safe and reliable service to customers." DTE Gas's replies to exceptions, p. 49.

The Commission agrees that the remediation of AOC is important to the safety and reliability of the company's gas service. Given the record evidence demonstrating the increase in the identification of AOC meters, the Commission concludes that DTE Gas has supported its requested expense of $1.5 million for the test year. Therefore, the Commission adopts the findings and recommendation of the ALJ.

3. Customer Service Operations and Maintenance Expense

DTE Gas forecasted customer service O&M expenses of $73 million for the projected test year. 5 Tr 792-794; Exhibit A-13, Schedule C5.4. The disputed components of this expense are discussed more fully below.

a. Meter Reading

DTE Gas proposed a $5,349,000 O&M expense for nine meter read employees. Exhibit A-13, Schedule C5.4. The Staff proposed a disallowance of $1,603,493 while the Attorney General proposed a disallowance of $1,637,620. 5 Tr 1899-1902, 1763-1764. In rebuttal, the company explained that the proposed expense relates to all nine meter read staff and not just the sole meter reader, and that the increase in expense is due to contractor rates and travel distances. The ALJ found DTE Gas's rebuttal persuasive and recommended that the Commission reject the proposed disallowances for the meter reading O&M expense. PFD, p. 182.

In exceptions, the Attorney General argues that it is "illogical that the number of meter readers would decline significantly, while somehow the meter reading expense would go up." Attorney General's exceptions, p. 28. The Attorney General indicates that the 25% cost increase pertaining to contractor costs and longer travel distance was new information presented at rebuttal which, she avers, prevented "a full analysis of the validity of this explanation or determination of what the true impact is on 2022 expense and the ALJ's reliance upon it is in error." *Id.*, p. 29. The Attorney General further contends that her calculation of the meter reading expense for 2020 already accounted for the wider dispersion of meters geographically through the 50% reduction in the rate of decline for meters to be manually read. Therefore, the Attorney General contends her recommended disallowance should be adopted by the Commission.

DTE Gas replies that the Attorney General's exceptions do not recognize that the requested O&M expense is for nine total employees including actual meter reading, other office, customer service, and meter analysis employees. The company avers that this was clarified by the ALJ in the PFD and that "[t]he remainder of the [Attorney General's] discussion similarly attempts to cast doubt on the record evidence but offers no sound basis for a different conclusion." DTE Gas's replies to exceptions, p. 50. DTE Gas also notes that its testimony explains that there are fewer meters read per hour and the increased expense is justified and reasonable.

The Commission finds that the company has presented testimony to demonstrate that the meter reading expense is not solely related to the actual reading of meters but also additional staff. *See*, 5 Tr 986-987. Contrary to the Attorney General's assertion, the ALJ properly relied upon DTE Gas's rebuttal testimony which further clarified the increase in contractor costs and travel distance between meter reads. Overall, the Commission finds that the ALJ's determination is well-reasoned and supported on the record. Therefore, the Commission adopts the findings and recommendations of the ALJ in adopting the company's $5,349,000 O&M expense pertaining to meter reading.

b. Customer Experience and Customer Service Representatives

DTE Gas included a $3.8 million O&M expense for Customer Experience, which the company stated was driven by wages for Customer Service Representatives (CSRs). 5 Tr 792-793. The Attorney General proposed a disallowance of $3,115,000, contending that the increased expense is unsupported and that the addition of new employees is unnecessary given the new digital tools which the company admits have reduced customer calls. 5 Tr 1769-1770.

The ALJ agreed that the company only discussed wage increases for existing CSRs; however, she indicated that wage increases were a very small portion of the overall $3.8 million expense. In addition, the ALJ found that DTE Gas's testimony highlighted cost savings from digital enhancements but that the company proposed to take up almost half of the purported savings with higher CSR staffing levels. Overall, the ALJ found that the Attorney General's proposed disallowance was supported and should be adopted. PFD, p. 185.

In exceptions, DTE Gas reiterates its testimony that the Attorney General's proposed disallowance conflates the longer-term goal "to reduce call volume and improve the Call Center's average speed to answer" through digital enhancements and the current need for increased staffing due to "changes to call handling requirements, and the need for continuous training and development[.]" DTE Gas's exceptions, p. 71. The company argues that the digital enhancements do not address the average handle time of calls "which has increased and is expected to remain increased due to call complexities related not only to low income customers, but also to general billing issues, move-ins, restorations and commercial calls." *Id*., p. 72 (citing 5 Tr 797).

The Attorney General replies that DTE Gas "has still failed to support why these arbitrary customer call answer target volumes and times are integral to the Company's business, provide any kind of cost-benefit analysis, or otherwise show why millions of dollars of additional spending for extra call service representatives is reasonable or appropriate." Attorney General's replies to exceptions, p. 40.

The Commission concludes that the company's proposed addition of 120 CSRs is not supported when considered along with the testimony regarding investments in digital customer service and the reduction in call volume and return calls. *See*, 5 Tr 1146-1149. The ALJ recognized the strain that the COVID-19 pandemic likely placed on the company's call center, but ultimately found that DTE Gas did not support the continued need for increased staffing. The Commission agrees that the findings and recommendations of the ALJ are supported on the record. Therefore, the proposed disallowance of $3,115,000 is adopted.

c. Merchant Fees

DTE Gas initially sought recovery of $11.11 million for merchant fees based upon the costs associated with the processing of credit and debit card payments. Exhibit A-13, Schedule C5.8.

The company indicated that, based upon the settlement agreement approved by the August 20 order, its request was limited to the recovery of costs associated with residential customers and businesses with aggregate bills of $75,000 or less per year, reducing the merchant fee expense by $2.53 million. 5 Tr 648-649. The Staff recommended a disallowance of $347,253 based upon its calculation of a three-year average of credit and debit card use. 5 Tr 2037-2038. In its reply brief, DTE Gas indicated no objection to the Staff's adjustment. In addition, the Attorney General argued that merchant fees should be further limited to $7.523 million. 5 Tr 1768-1769.

The ALJ agreed with the company and the Staff and recommended that the Commission adopt the $10.762 million merchant fee expense. She noted that "the true driver of the increase in merchant fee expense is the rate per transaction charged by the credit card companies and banks" rather than the number of customers paying utility bills with credit or debit cards. PFD, p. 187 (footnote omitted).

The Attorney General excepts to the ALJ's recommendation and argues that DTE Gas has failed to support its expense for merchant fees. Specifically, the Attorney General notes that the 2020 actual merchant fee expenses demonstrated only a 4% increase between 2019 and 2020. The Attorney General states:

> As shown in Ex. A-13, the Company's 2020 projection was $7.738 million, which it then continued to add the 22.4% and 32.2% growth rates to. However, the 2020 actual amount of $6,955,000 is *already known* and was included in testimony in this case. That is a difference of $783,000, which is significant and unequivocally corroborates the [Attorney General]'s point that the growth rates are inflated and will not continue through the test year. This will do nothing more than provide a windfall to DTE [Gas] at customer expense.

Attorney General's exceptions, p. 30 (emphasis in original).

DTE Gas replies that the Attorney General inappropriately focuses only on the increase in merchant fees between 2019 and 2020 whereas the company utilized a three-year growth rate "to avoid anomalies from any specific year (such as 2020, which was impacted by the COVID-19 pandemic).” DTE Gas’s replies to exceptions, p. 51 (citing 5 Tr 652). The company further reemphasizes its testimony that “merchant fees are driven primarily by the volume of payment transactions and the rate of fees being charged by the various credit and debit card companies and banking institutions” and not the number of customers paying bills by credit cards. *Id*., p. 52.

In Case No. U-18322, a Consumers Energy Company (Consumers) electric rate case, the Commission held that “all customers benefit from the additional payment channels” due to the removal of the added fee for payment of a customer’s utility bill by credit card. March 29, 2018 order in Case No. U-18322, p. 71. Although not relied upon by the Commission in reaching its determination, the record in that case suggested potential benefits of allowing recovery of merchant fees pertaining to uncollectibles and the ability of low-income customers to pay by credit card, without incurring the additional fee. In Case No. U-20162, a DTE Electric rate case, the Commission recognized the convenience to ratepayers of allowing credit card payments without additional fees but signaled its concerns pertaining to the benefit of the socialized merchant fee expense and required the utility to “provide information on the reduction in uncollectibles attributable to credit card payments” in DTE Electric’s next rate case. May 2, 2019 order in Case No. U-21062, p. 85.

In the current case, however, DTE Gas admits that it “has made no claims regarding the benefits of allowing payment by credit card beyond customer convenience. The Company has also not established a definitive correlation between credit card usage and a reduction in uncollectible expense or arrears outstanding on the balance sheet.” DTE Gas’s exceptions, p. 33 (citing 5 Tr 653). For these reasons, and given the concerns articulated by the Commission in previous cases, the Commission is no longer convinced that all customers receive benefits from the socialization of merchant fees. Further, the socialization of merchant fees may in fact result in an inequitable financial burden on low-income customers unable to pay by credit card. Therefore, on a going forward basis, the Commission will scrutinize merchant fee expense requests more critically. As noted previously, the Commission directs the company to examine the relationship between customer credit card use and PCAR to enable the Commission to fully examine the reasonableness and prudency of projected PCAR amounts. The company shall also demonstrate a basis for the recovery of merchant fees in terms of actual benefits accruing to all customers going forward. As such, the Commission directs DTE Gas to present additional information pertaining to actual benefits to all customers from the inclusion of merchant fees in rates in its next general rate case including, but not limited to, the reduction in uncollectibles attributable to payments by credit cards.

Notwithstanding the above, the Commission concludes that the company, on this record, has supported the recovery of the $10.762 million merchant fee expense. As noted by the ALJ, the increase demonstrated on the record pertains more to the fees charged by credit card companies than the number of customers utilizing the credit card payment option. Therefore, the Commission adopts the findings and recommendations of the ALJ.

4. Marketing and Administrative and General Operations and Maintenance

a. Injuries and Damages

DTE Gas included an injuries and damages expense of $6,824,000 for the projected test year, based on a five-year average of such expenses from 2015-2019. Exhibit A-13, Schedule C5.6. The Attorney General recommended a $1 million disallowance, based on a five-year average using 2016-2020 expenses. 5 Tr 1771-1772; Attorney General's initial brief, p. 163; Exhibits AG-63, AG-64. During briefing, the Staff withdrew its earlier recommended adjustment for this expense.

Staff's initial brief, pp. 64, 68-69. The Attorney General, however, maintained her $1 million recommended disallowance. Attorney General's reply brief, p. 23.

Based on the Staff's withdrawal of its recommended adjustment, the ALJ implied that contention regarding this expense resolved during briefing. PFD, p. 187. The ALJ, by way of no adjustment in Appendix C to the PFD, thus recommended that DTE Gas's injuries and damages expense projection of $6,824,000 be approved. The ALJ did not mention or address the Attorney General's $1 million recommended disallowance.

No exceptions were filed on this issue. However, considering the overall downward trend in this expense category and the use of the most recent five-year average utilizing 2020 expenses, which the Attorney General maintained as appropriate during this entire proceeding and which DTE Gas did not rebut, the Commission finds that the Attorney General's $1 million disallowance recommendation is reasonable and prudent and should be adopted.

MCL 24.281(3).

b. Shared Asset Information Technology Rent Expense and Information Technology Operations and Maintenance

For its proportionate use of certain assets owned by DTE Electric, DTE Gas included a shared asset charge (or rent) expense of $46,194,000 for the projected test year. DTE Gas's initial brief, p. 91. According to DTE Gas, the sharing of assets (existing and new) allows:

> DTE Electric and DTE Gas [to] leverage economies of scale by utilizing common assets to serve customers of both utilities, thus creating efficiencies and lowering costs to customers. The Shared Asset charge represents an intercompany billing for the cost of jointly used assets such as buildings and IT systems, and this mechanism has been in place for almost 20 years.

DTE Gas's reply brief, p. 75. The Staff and the Attorney General recommended disallowances based on several concerns, which DTE Gas conceded and rebutted, in part. Staff's initial brief, pp. 70-86; Attorney General's initial brief, pp. 163-181; DTE Gas's reply brief, pp. 76-89.

Beginning with the Staff's recommended disallowances, the ALJ first rejected the Staff's $20,923,000 recommended disallowance for shared IT asset rent expenses in the company's existing assets bucket, agreeing with DTE Gas that such costs are actual unitized[9] costs that have been found to be reasonable and prudent in a prior DTE Electric rate case and were costs intended to be shared. PFD, pp. 192-193; 5 Tr 1925; Exhibit S-11.25, p. 8. The ALJ stated that a cost issue with a project in the existing assets bucket, in this regard, is best suited for DTE Electric's next rate case, as this is where the costs were approved in the first place. The ALJ also agreed that relitigating these costs here "is unreasonable and a waste of resources," with the ALJ highlighting, as set forth by DTE Gas, that this "shared asset system has been in place for over 20 years now, and some of these shared assets have been in the existing assets bucket for a decade or more." *Id*., pp. 193-194. The ALJ did note here, however, the Commission's authority under MCL 460.56 to undertake a detailed audit of DTE Electric's or DTE Gas's books, if the Staff still has concerns about shared assets. *Id*., p. 194, n. 511. And relatedly, given this decision, the ALJ also rejected the Staff's $11,345,000 recommended disallowance for IT O&M costs associated with this bucket of existing assets. *Id*., p. 194.

Next, the ALJ discussed the Staff's proposed disallowance of $792,000 in shared asset costs for 16 new IT projects without final business cases. The ALJ stated that DTE Gas agreed with the

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[9] Per DTE Gas:

> For all DTE Electric and DTE Gas projects (not just those at issue in the Shared Asset charge), once a project is placed into service, the total cost of the project is reclassified from construction work in progress into specific plant asset accounts within the Company's plant ledger. This process is called unitization. Tracking by project level ceases, and accounting and depreciation by plant account begins (5T 388–89).

DTE Gas's initial brief, p. 85.

Staff and thus removed such costs from its shared assets request in this case, noting that the company will seek recovery of the same in a future proceeding. *Id*. (citing 5 Tr 755-756).

The ALJ then discussed the Staff's recommended disallowance of $955,000 for new customer IT projects without final business cases, $816,000 of which DTE Gas agreed to remove on rebuttal for 11 of the 13 projects at this time but which it will seek recovery of in a future proceeding. PFD, pp. 194-195 (citing 5 Tr 755-756); DTE Gas's initial brief, pp. 91-92. However, for the remaining two projects—Enhanced Training Environments and Speech Analytics—the ALJ noted the company's contention on rebuttal that it completed business cases for them and provided substantial evidence of their benefits, with the ALJ further noting the company's cost reduction of the same also during the rebuttal phase of the case from $139,000 to $111,000, which the company continues to seek recovery of in this case. PFD, p. 195 (citing Exhibit A-27, Schedule Q1); 5 Tr 1137-1138, 1149-1150, 1165-1166; Exhibit A-27, Schedules Q3 and Q4. The ALJ then mentioned the Staff's objection to the company's update of these two projects during rebuttal and agreed with the Staff "that updating cost estimates or providing a revised or complete business case in the rebuttal phase of the proceeding is not reasonable and leaves the other parties with little time to address the updates or revisions." PFD, p. 195. The ALJ thus recommended that DTE Gas's revised request of $111,000 for these two projects be disallowed.

Next, the ALJ discussed the Staff's recommended disallowance of $968,169 for 21 projects. The ALJ stated that the Staff's disallowance is based on discrepancies in capital cost projections when comparing rate case exhibits and using minimum amounts provided by the company, along with the Staff's assertion that there should be no shared asset charges when DTE Electric is not incurring any costs. PFD, pp. 195-196 (citing 5 Tr 1930-1931); Exhibit S-11.31, p. 4. Here, the ALJ also mentioned the Staff's $1 million disallowance for DTE Gas's Digital Experience Group

(DEG) project alongside the unreadability of the company's original supporting document for the project. PFD, p. 196; 5 Tr 1169, 1930-1931, 1937. The ALJ detailed the company's rebuttal, along with the Staff's response thereto, and found that:

> although there may be some merit to Staff's recommendation to use the lowest reported cost (raising a concern that the company may be understating the costs of IT projects in its business cases in order to obtain Commission approval), as discussed above, issues concerning higher-than-projected costs for shared assets should be addressed in a DTE Electric case. The [ALJ] agrees that DTE [Gas]'s rebuttal explained why there are shared asset costs when there is no capital spend by DTE Electric. In the future, if Staff is presented with an illegible document during the audit and discovery phase of the case, it should contact the party offering the document and request that a clear copy be submitted.

PFD, pp. 198-199; *see also*, *id*., pp. 196-198 (citing 5 Tr 395-396, 753-755; Staff's initial brief, pp. 82-83).

Finally, the ALJ discussed the Staff's recommended rent O&M expense reduction of $103,000 for an IT–platform integration adjustment, $52,000 for an IT–DevOps tooling adjustment, and $80,000 for an IT–enhanced training environment adjustment, given the lack of final business cases for the projects. PFD, p. 199; 5 Tr 1951-1952; Exhibit S-10.3. The ALJ stated that costs for the Enhanced Training Environments project were discussed and rejected earlier but found that the Staff's other two disallowance recommendations here should also be adopted, indicating that it did not appear that DTE Gas addressed these in rebuttal or in briefs.

Moving on to the Attorney General, the ALJ began by addressing the Attorney General's dispute over rent expense associated with buildings, furniture, and equipment set forth in Exhibit A-13, Schedule C5.15, specifically expenses associated with remodeling DTE Energy Company's (DTE's) headquarters, an outdoor plaza area, the Shelby Service Center, and other unspecified work in 2022, considering current employee work arrangements and the lack of immediate need for renovations at this time. PFD, pp. 199-200; Attorney General's initial brief, pp. 164-165;

Exhibit AG-65. The ALJ found that, although DTE Gas provided discovery responses regarding these projects, the company failed to provide rebuttal justifying their immediate need. The ALJ also noted that DTE Gas did not address this disallowance in briefing and thus recommended that the Attorney General's $685,000 rent expense disallowance here be adopted. PFD, p. 200; 5 Tr 1773-1774; Attorney General's initial brief, p. 166.

From there, the ALJ discussed the Attorney General's recommended disallowance of $2,871,000 for nine customer service IT projects due to various reasons including projects being premature (i.e., not ready for inclusion in rate base) and those that should pay for themselves through increased efficiency. PFD, p. 201; Attorney General's initial brief, pp. 168-174; Exhibit A-13, Schedule C5.14, lines 11, 12, 14, 16 + 18, 27, 28, 30 + 31, 34, 37. Although noting confusion in company testimony on these projects, the ALJ indicated that costs for five of these projects were removed, as discussed above, leaving four projects remaining in dispute—SAP Redesign, Construction Management Center, Interactive Voice Response (IVR) Natural Language/Virtual Assistant, and DEG and Digital Transactional Experience. PFD, p. 201; 5 Tr 1170. For the first two projects—SAP Redesign and Construction Management Center—the ALJ agreed with the Attorney General's recommended disallowance of $352,000 for the company's own errors and actions, noting that DTE Gas did not specifically address this in rebuttal or in briefing. *Id.*, p. 202 (citing 5 Tr 1779-1780; Exhibit AG-68). And for the last two projects—IVR Natural Language/Virtual Assistant and DEG and Digital Transactional Experience—the ALJ agreed with the Attorney General that these projects will likely pay for themselves, eventually, but opined that the cost savings should be reflected elsewhere, thus "urg[ing] the parties to track not only IT costs, but also the benefits to ensure that the cost savings that are expected to accrue actually materialize." PFD, p. 203; 5 Tr 1780-1781. In total, after considering DTE Gas's

$816,000 concession above, along with the $111,000 disallowance for business cases updated in rebuttal, the ALJ calculated an additional disallowance of $475,000 here in the PFD.[10] PFD, p. 204.

Finally, the ALJ discussed the Attorney General's recommended disallowances for seven shared IT projects totaling $1,248,000 due to a lack of a benefit/cost analysis from DTE Gas for many IT investments and a refusal by the company to provide a complete forecast of total project costs. *Id*. (citing 5 Tr 1782); Attorney General's initial brief, pp. 174-181; Exhibits AG-69 and A-13, Schedule C5.13.1, lines 17, 19, 23, 29, 31, 58, 104. As detailed in the PFD, the ALJ agreed with the Attorney General on the $290,000 disallowance for the company's Automated Application Monitoring Program, noting that aside from reliance on evidence provided on direct, the company had nothing more to add in rebuttal to justify this project. PFD, pp. 205-206. And with the remaining six shared IT projects, the ALJ agreed with DTE Gas and thus rejected the Attorney General's proposed disallowances. PFD, pp. 206-209.

In exceptions, DTE Gas states that it agrees with the ALJ's recommendation as it relates to existing assets but objects to other recommended disallowances made by the ALJ, with the company first objecting to the ALJ's recommended disallowance for its Enhanced Training Environments and Speech Analytics projects. Referencing MCL 24.272(4), DTE Gas asserts that there is a right to submit rebuttal and that "it was entirely appropriate for the Company to support its rate case in rebuttal," specifically since the Staff desired business cases, which the company then provided. DTE Gas's exceptions, p. 74. Additionally, per DTE Gas, the company "largely

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[10] In line 14, column (h) of Appendix C to the PFD, the disallowance for this portion of the PFD is listed as a disallowance of $450,000. Based on the ALJ's recommendations as it relates to the company's SAP Redesign and Construction Management Center projects, the Commission believes this amount should instead reflect a combined disallowance amount of $352,000 and, thus, applies this amount to its decision on this issue.

accepted Staff's proposals and otherwise eliminated disputed issues, so the rebuttal cannot fairly be characterized as burdensome," and the "Staff also did not dispute the business cases being in the record or offer substantive criticism of them." *Id*. DTE Gas thus asserts that the ALJ's recommendation here should be rejected.

With the Staff's proposed disallowances for variances between cost estimates, DTE Gas agrees with the ALJ that these should be rejected but excepts to the ALJ's statement about the company possibly understating costs in business cases to obtain Commission approval and about issues with higher-than-projected costs being addressed in a DTE Electric rate case. DTE Gas argues that:

> there is no evidence to support [this suggestion from the ALJ]. Cost estimates for IT projects are not prepared for the purpose of obtaining approval. Rather they are prepared at a specific point in time with all information available to the Company. There is some passage of time between when the initial cost estimate is developed, the project is approved internally, and implementation which impacts the evolution of costs. The Commission, in its Order in Case No. U-20561, recognized that is an issue, stating "[p]roject-level detail and support may be difficult to predict even two years into the future." Case No. U-20561 June 23, 2020 Order, p.151 (which it does not, as discussed at 5 T 753–54)[.] Additionally, the Commission ordered DTE Electric in Case No. U-20162 to provide an exhibit in subsequent rate case filings showing cost variances greater than 10% for projects over $500,000. The Company therefore believes that this issue does not need to be addressed further.

DTE Gas's exceptions, p. 75 (second alteration in original); PFD, p. 198.

Moving onto the Attorney General's proposed disallowances, DTE Gas states that it appears that the ALJ rejected those relating to the company's IVR Natural Language/Virtual Assistant and DEG and Digital Transactional Experience projects and that the company agrees with that outcome. However, DTE Gas takes exception because the PFD is unclear in also agreeing with the Attorney General that these projects likely will pay for themselves eventually. Thus, to the extent the PFD is construed to suggest a disallowance, DTE Gas expresses disagreement "because the [Attorney General]'s reasoning is inconsistent with regulated, cost-of-service ratemaking, which does not dismiss recovery of capital invested in a particular year because there could be operational savings in a subsequent year." DTE Gas's exception's, p. 76 (citing PFD, p. 203). DTE Gas maintains its request seeking full recovery of these projects, along with the other two (Construction Management Center and SAP Redesign) in this customer IT projects category.

Lastly, DTE Gas takes exception to the ALJ's disallowance recommendation for the company's Automated Application Monitoring Project. DTE Gas states that it did, in fact, provide testimony discussing the need for this project, business outcomes, benefits, and additional cost details on direct and on rebuttal. Per DTE Gas:

> In general, the project will enable the Company to proactively detect and resolve performance issues that may prevent customers from reporting safety concerns such as outages, gas leaks, and move-in move-out requests via DTE channels (5T 737–39, 768–69). The [Attorney General]'s proposed disallowance is based on the supposition that DTE Gas should have completed a cost benefit analysis to support the project. However, as DTE Gas explained in discovery this is not how the Company evaluates whether it will move forward with IT projects (See Ex. AG - 70). Instead, the Annual Planning Cycle (APC) is how the Company (as well as DTE Electric) refines its IT investment strategies, establishes financial targets, and sanctions work.

DTE Gas's exceptions, p. 77. The company repeats testimony on this APC process and argues that an IT project "goes through a rigorous budgeting and approval process, and the information that is used in that process was provided by the Company in its testimony and exhibits in support of the project costs." *Id*., p. 78; *see also*, *id*., pp. 77-78 (quoting 5 Tr 665). DTE Gas asserts that "[s]imply because the [Attorney General] wishes to have the project evaluated in a different way by creating an analysis that doesn't exist, does not mean that the Company has not supported the reasonableness of the project." DTE Gas's exceptions, p. 78. DTE Gas thus argues that the Attorney General's disallowance for this project should be rejected.

The Staff takes exception to the existing shared asset IT and related O&M conclusions in the PFD, specifically that these costs were approved in DTE Electric's rate case. The Staff references the briefing stage where it "provided evidence and multiple arguments on why existing Shared

Asset IT costs have not undergone a reasonableness and prudency review" and objects to the PFD "for tying approval of DTE Gas's O&M costs to approval of capital costs in DTE Electric's rate case." Staff's exceptions, pp. 5-6. The Staff asserts:

> The [ALJ] does not recognize the significant issues with non-existent evidence to support existing shared asset IT cost recovery from DTE Gas customers when the burden of proof lies with the Company. Though the [ALJ] and Company note the current shared asset cost system has been in place for 20 years, the duration of current shared asset cost accounting method's existence should not replace the need for evidence supporting reasonableness and prudency. Similarly, 20 years of using the accounting system alone should not justify its continuation once its flaws come to light.

Id., p. 6. The Staff excepts to the PFD for leaving these significant issues unresolved and argues that:

> [t]here is no evidence on the record of the actual costs of existing shared asset IT projects and whether DTE Gas customers actually benefit from all the projects included in the existing shared asset IT amount. Given the lack of evidence for reasonableness and prudency of the existing asset expenditure, DTE Gas rate payers may be paying for projects classified as shared asset IT projects by DTE Electric from which they do not actually benefit.

Id. Given this, the Staff proclaims that the Commission should reject the ALJ's recommendation and adopt the Staff's recommended disallowances for DTE Gas's shared asset and associated O&M costs or, in the alternative, require that DTE Gas "provide a standardized process that ensures accountability to DTE Gas ratepayers for all shared asset costs moving forward, one where evidence can be provided to support rate recovery requests and that customers are justly and reasonably charged." *Id*., pp. 6-7.

The Staff also excepts to the ALJ's suggestion that it request that DTE Gas provide legible documents after illegible documents have been submitted. According to the Staff, the ALJ mischaracterizes this issue and "plac[es] the burden on the Staff to ensure that the Company submits legible documents in a timely fashion." *Id*., p. 7. The Staff states that DTE Gas submitted illegible documents with its original rate case filing and made no attempt to correct this issue until rebuttal. The Staff argues:

> The burden to prove its case is on the Company. The submission of illegible content with the initial rate case application should not be accepted. If so, Staff will be significantly hampered as a portion of the already limited audit and discovery period will be used to request legible documentation. This will delay Staff's analysis during an already truncated schedule. DTE [Gas], not Staff, chooses the filing date for its cases, and it can allow adequate lead time to review its filing.

Id., p. 8. Considering this, the Staff asserts that the Commission should reject the ALJ's recommendation and instead "set clear expectations regarding the readability of the Company's initial rate case filing and supporting documentation." *Id*.

The Attorney General takes exception to the ALJ's rejection of her recommended disallowances for five of the six additional IT projects set forth by the company, namely: (1) the Success Factors Program, (2) the Customer Legacy Application Health Project, (3) the Hybris Application Health Project, (4) the Cloud Center of Excellence setup project, and (5) the Private Cloud Transformation Project.[11] Attorney General's exceptions, p. 31 (citing PFD, pp. 206-209).

For the Customer Legacy Application Health Project, the Attorney General disagrees with the ALJ's reliance on rebuttal provided by the company and argues that:

> The ALJ failed to address the [Attorney General]'s concerns that it is unclear why this spending only occurs in 2021 and 2022, with no spending in 2019 and 2020. If, as the ALJ posits, this is ongoing maintenance for which it is impossible to provide cost information from inception to completion, certainly there would be activities in 2019 and 2020. Additionally, with spending of this magnitude it is neither reasonable nor prudent for DTE [Gas] to be unable to assign certain dollar amounts to what the $4 million will be spent on.

Attorney General's exceptions, pp. 31-32.

[11] The Attorney General did not mention the Purchase to Pay system project in exceptions.

With the Hybris Application Health Project, the Attorney General respectfully disagrees with the ALJ's comment here that the costs are *de minimis*. The Attorney General also argues that:

> the ALJ provided no analysis in the PFD and no response to the [Attorney General]'s concerns that, even if this is an electric project with only a portion of the shared costs billed to DTE Gas, gas customers should not pay for an expense that has nothing to do with the gas business. On a broader level, this crossing over between DTE's Electric and Gas businesses makes the [Attorney General] uneasy as it makes accounting more difficult and substantially increases the risks that DTE will recover the same costs from both its electric and gas customers.

Attorney General's exceptions, p. 32.

For the two cloud computing projects (the Cloud Center of Excellence setup program and the Private Cloud Transformation Program), the Attorney General again disagrees with the ALJ and asserts that:

> DTE [Gas] has failed to provide a reasonable, thorough economic rationale upon which the requested costs can be approved. The [Attorney General]'s argument, which the ALJ glosses over, is that if this shifts to cloud computing plays out as DTE [Gas] states that it will, the avoided capital investments for on-premises systems, which DTE [Gas] is already collecting in rates, plus O&M cost savings, should more than self-fund these projects. Collecting additional monies from ratepayers here would provide DTE [Gas] a windfall as it would double-collect.

Attorney General's exceptions, p. 33.

Finally, with the Success Factors Program, the Attorney General argues that:

> the ALJ simply echoes DTE [Gas]'s rebuttal, basing her rejection of the [Attorney General]'s argument on approval of this investment in [Case No.] U-20162. [Case No.] U-20162 was an electric rate case and approval or inclusion of the costs of the project in an electric rate case does not mean that DTE Gas should receive approval with no review in this case. Additionally, as the [Attorney General] points out, in [Case No.] U-20561, DTE [Electric]'s more recent electric rate case, the Commission did not specifically approve this project. The ALJ's one sentence dismissal of the [Attorney General]'s disallowance is devoid of record support or analysis and as such should be rejected by the Commission.

Attorney General's exceptions, p. 33 (footnotes omitted) (citing PFD, p. 209; Exhibit AG-97).

In replies to exceptions, DTE Gas argues that the Staff's exception on the approval of Shared Asset costs in DTE Electric's rate case should be rejected as an improper exception. DTE Gas states that the "Staff does not cite any page in the PFD to focus the discussion, let alone cite any law or evidence to support its assertions." DTE Gas's replies to exceptions, p. 54. Nevertheless, should the Commission consider this exception from the Staff, DTE Gas avers that "the controlling law and record evidence overwhelmingly support the [ALJ]'s recommended rejection of Staff's proposal to completely disallow Shared Asset IT expenses." *Id.*; *see also*, *id.*, pp. 55-57; PFD, pp. 192-194. On this issue of existing assets, DTE Gas additionally states:

> Staff further implies that the Company has failed to carry its burden with respect to the Existing Assets in the Shared Asset charge, and so customers should not bear this burden. The Company disagrees that it has not fully supported its request in this case. Staff continues to suggest that the Company should have done something different than what it has done for almost 20 years, but the Company's evidentiary presentation in this case followed past regulatory practice and consistent accounting standards. The extreme disallowance proposed by Staff for not fulfilling an evidentiary criterion that has never been articulated (let alone established) is unwarranted.

DTE Gas's replies to exceptions, p. 57. DTE Gas asserts that the Commission should treat this bucket in the same manner as other plant in service and, as recommended by the ALJ, reject the Staff's proposed disallowance. DTE Gas further asserts that the Staff's alternative here should also be rejected, as "[i]t is not clear what process Staff is seeking or what support they rely on in making this request." *Id.*, pp. 57-58. And, with regard to IT O&M for existing assets, DTE Gas argues that, while not addressed by the Staff directly in exceptions, the Staff's suggested disagreement again does not merit consideration, given the lack of citation to any point of contention or any basis for a different outcome. To the extent considered, however, DTE Gas again asserts that the record fully supports the PFD and reminds the Commission about its protections against takings, protections against confiscatory rates, and entitlement to recovery, through rates, for investments that provide service to customers. *Id*., pp. 58-60.

As it relates to new assets, DTE Gas first addresses the Staff's exception regarding illegible documents and asserts that it was not aware of any legibility issue until the Staff's witness raised it in testimony, at which point the company submitted a more legible copy in rebuttal. Per DTE Gas, the ALJ did not mischaracterize this issue but instead made an accurate and appropriate recommendation for the Staff to "simply request a clear copy of a document if Staff has some issue regarding legibility." *Id*., p. 62. DTE Gas continues:

> Staff suggests that the "submission of illegible content with the initial rate case application should not be accepted" (Staff Exceptions, p 8). But rate cases involve massive filings with hundreds of pages of testimony and exhibits. DTE Gas makes all attempts to provide legible materials in useful formats, and inadvertently included a blurry copy of the DEG business case. The Company would have provided a new copy at any point in time if brought to its attention through audit and discovery or otherwise.
>
> Staff further suggests that it would be "hampered" if it has to request legible documentation (Staff Exceptions, p 8). To the contrary, requesting a legible copy is a simple and practical way to clarify a matter and possibly avoid any controversy. In contrast, Staff in this case used an illegible document to propose a disallowance that had no sound basis. Staff offered no substantive response to the legible copy that the Company provided in rebuttal, and does not dispute the document's accuracy (so there is no substantive basis to suggest any disallowance). Yet, Staff insists that its flawed procedure was proper, forcing the ALJ, and now the Commission, to address the matter.

Id.

Next, DTE Gas argues that, contrary to exceptions, the ALJ was not statutorily required to address the Attorney General's concerns regarding the Customer Legacy Application Health Project. *Id*., p. 63; Attorney General's exceptions, pp. 31-32; MCL 24.281(2). DTE Gas also asserts that the Attorney General "fails to either address the [ALJ]'s reasoning or provide any citation to law or the record that would support a different outcome." DTE Gas's replies to exceptions, p. 63. Per DTE Gas, the ALJ's recommendation here is soundly based on company testimony that is quoted at length in the PFD. *Id*. (citing PFD, pp. 206-207; 5 Tr 740, 769).

With the Hybris Application Health Project, DTE Gas asserts that the Attorney General mischaracterizes the project in exceptions and that the Attorney General again "fails to provide any citation to law or evidence that could support a different outcome." DTE Gas's replies to exceptions, p. 64; Attorney General's exceptions, p. 207. DTE Gas avers that the ALJ's recommendation here is also soundly based on company testimony.

With the Attorney General's exceptions as it relates to the Cloud Center of Excellence Project and the Private Cloud Transformation Project, DTE Gas contends that the Attorney General "again mischaracterize[es] the record and fail[s] to provide anything that could support a different outcome." DTE Gas's replies to exceptions, p. 64 (citing Attorney General's exceptions, pp. 32-33). Per DTE Gas, the Attorney General ignores company testimony and then suggests that the company did not support the projects for cost recovery purposes. DTE Gas continues:

> The [Attorney General] further claims without support that "[c]ollecting additional monies from ratepayers here would provide DTE a windfall as it would double collect" ([Attorney General]/CUB Exceptions, p 33). The claim is apparently related to the [ALJ]'s statement (quoted above) that the [Attorney General] acknowledged that the project would lead to lower costs in the future (which the [Attorney General] does not dispute). The [Attorney General]'s reasoning is inconsistent with regulated, cost-of-service ratemaking, which does not dismiss cost recovery in a particular year because there could be operational savings in a subsequent year. The [Attorney General]'s argument is also backwards - it is the [Attorney General] that seeks a "double" result here at DTE Gas's expense (first no cost recovery here for programs that will likely result in cost savings, plus the future cost savings from those programs)[.]

DTE Gas's replies to exceptions, p. 65.

Finally, with regard to the Success Factors Program, DTE Gas states:

> The [Attorney General] acknowledges that the program was approved in Case No. U-20162 as reflected in the PFD, but asserts that it should be re-litigated here, and offers nothing to support a different outcome ([Attorney General]/CUB Exceptions,

> p33). The Company disagrees based on controlling law and the record. Mr. Busby explained that this is an ongoing, multi-year program that was previously authorized in Case No. U-20162. Implementing the planned additional SuccessFactors integrations and modules will improve payroll accuracy, reduce pay inflation and erroneous conditions, improve supervisor time savings, reduce controllable overtime, and reduce unplanned absences (5T 714–15, 773–74). The [Attorney General]'s re-litigation proposal is contrary to fundamental law and practice, and would be a waste of the Commission's resources.

DTE Gas's replies to exceptions, pp. 65-66.

The Attorney General asserts that the ALJ was partially correct in her analysis and recommendation concerning the Attorney General's proposed disallowance related to new assets. That said, and in responding to the company's exceptions, the Attorney General first agrees with DTE Gas that the ALJ's decision on page 203 of the PFD is unclear, as it relates to the IVR Natural Language/Virtual Assistant and DEG and Digital Transactional Experience projects, but disagrees with what the company proposes in exceptions. Attorney General's replies to exceptions, p. 41; DTE Gas's exceptions, p. 76. Per the Attorney General:

> To the extent the ALJ was in agreement with the [Attorney General] on this topic, the Commission should adopt that recommendation. However, to the extent the [ALJ] is recommending rejection of the [Attorney General]'s position, the Commission should reject that conclusion and adopt the [Attorney General]'s argument as laid out in her brief.

Attorney General's replies to exceptions, p. 41 (citing Attorney General's initial brief, pp. 171-173). Secondly, the Attorney General argues that, contrary to DTE Gas's misconstrued argument in exceptions, she "does not desire to have projects evaluated in a 'different' or specific way or otherwise require DTE [Gas] to produce analyses that do not exist;" rather, while there are multiple ways to provide ample and reasonable support for spending, the point here is that DTE Gas "failed to meet that threshold in this case, as recognized by the ALJ." Attorney General's replies to exceptions, pp. 41-42; DTE Gas's exceptions, p. 78.

RCG asserts that, contrary to DTE Gas's exceptions, there are several problems with the company's Shared Asset costs and that these costs should thus be disallowed in this case. Specifically, RCG argues that there appears to have been no audit to scrutinize the reasonableness and prudence of the company's charges, that there "appears to be a mismatch as to when the Commission reviews and sets rates for DTE Electric as compared to DTE Gas," that these affiliate charges appear to have not been scrutinized and examined pursuant to the Code of Conduct, and that "there exists a total lack of arms-length bargaining as between DTE Electric and DTE Gas compared to a transaction undertaken by independent third parties." RCG's replies to exceptions, pp. 9-10. RCG avers that the Commission should "defer any grant of [S]hared [A]sset charges in customer rates for purposes of this case and . . . formulate a more comprehensive approach to investigate and review said charges for purposes of DTE [Gas]'s next case and on an ongoing basis." *Id.*, p. 10.

The Commission agrees with the ALJ in the entirety of her decisions on this overall issue. The Commission addresses the parties' arguments below.

Beginning with the Staff's adjustments, the Commission agrees with the ALJ's rejection of the Staff's recommended disallowances for the company's existing IT assets bucket. As stated by the ALJ, costs in this bucket are "based on costs that are actual, that have been found reasonable and prudent, and that were intended to be shared," and as stated by DTE Gas, the company follows the Uniform System of Accounts for these Shared Asset capital investments. PFD, p. 193; DTE Gas's initial brief, p. 55. The Commission however reminds the Staff, as noted by the ALJ, that it can audit the underlying books and records for current costs contained in this bucket if concerns remain. PFD, p. 194, n. 511; MCL 460.56. Further, as was agreed to by the company, the

Commission expects DTE Gas to provide support for new Shared Asset costs that it seeks recovery of in future rate cases. DTE Gas's reply brief, p. 89.

With the company's Enhanced Training Environments and Speech Analytics projects, the Commission agrees with the ALJ's recommendation that DTE Gas's revised request of $111,000 for the two projects should be disallowed in this case. While DTE Gas is correct that there is a statutory right to submit rebuttal evidence in contested cases, rebuttal in rate cases with strict 10-month statutory deadlines does not afford intervenors proper time to review, and challenge if so inclined, full business cases and updated figures submitted at that time. Cost recovery requests in a rate case need to be fully justified in a utility's direct case. *See*, September 26, 2019 order in Case No. U-20322, p. 39.

Regarding the issue surrounding cost discrepancies among evidentiary documents submitted for projects in the case and the ALJ's suggestion that the company may be understating costs in its business cases to obtain initial approval, the Commission acknowledges and accepts DTE Gas's response in exceptions. DTE Gas's exceptions, p. 75; PFD, p. 198. A DTE Electric rate case, however, would be the appropriate forum to address any issues concerning higher-than-projected costs for shared assets, as stated by the ALJ, and with the illegible document issue interwoven here, the Commission notes the need, though obvious, for legible documentation submitted in cases before the Commission, particularly in 10-month rate cases and on the front end for the utility holding the burden of proof in the case.

For the company's IVR Natural Language/Virtual Assistant and DEG and Digital Transactional Experience projects, the ALJ did not recommend a disallowance, and the Commission agrees with that decision. PFD, p. 203, Appendix C. However, cost savings should be documented and tracked, as suggested by the ALJ. The Commission thus finds that DTE Gas should be required to submit, starting in its next rate case, documentation tracking both IT costs and associated savings, beginning with IT costs authorized in this case. And with the other two customer IT projects (Construction Management Center and SAP Redesign), which the company broadly references in exceptions as part of the four projects it seeks Shared Asset cost recovery for here, the Commission also agrees with the ALJ, for the reasons set forth in the PFD. DTE Gas's exceptions, p. 76; PFD, p. 202.

With regard to the company's Automated Application Monitoring Project, the Commission also agrees with the ALJ. Without quantification of benefits versus total cost here, the Commission cannot confirm that this project is reasonable and prudent for inclusion of costs in this case. *See*, PFD, pp. 205-206.

While the Commission acknowledges the Attorney General's concern with DTE Gas's use of the word "ongoing" relative to the need for support and maintenance for the company's Customer Legacy Application Health Project, the Commission does not find anything in the record indicating that the lack of expenditures in 2019 and 2020 decreases or eliminates the indicated need for expenditures in 2021 and 2022, as explained by the company. Further, the Commission is satisfied with the company's explanation of what the $4 million will overall be spent on within this project. 5 Tr 739-740; Exhibit A-13, Schedule C5.13.1, line 29. However, considering the lack of expenditures in 2019 and 2020, the company's justification provided in this case, and the Commission's decision authorizing expenditures in 2021 and 2022, the Commission would expect to see documented actual expenditures for this project in the evidence filed by DTE Gas in its next rate case.

With the company's Hybris Application Health Project, the Commission is not convinced that this project "has nothing to do with the gas business," as asserted by the Attorney General.

Attorney General's exceptions, p. 32. In rebuttal testimony, DTE Gas showed that, along with outcomes and benefits of the project being provided on direct, clarification on this electric shared asset project was also provided in discovery, and in looking at page 8 of Exhibit AG-70, the company mentions that the project supports, among other things, Natural Gas Balance, a program which is offered to DTE Gas customers. 5 Tr 770. The Commission further believes that auditing the books and records, if pursued by the Staff, and the requirement for DTE Gas to track IT costs and savings moving forward should assist with the Attorney General's broader level cross-over concerns mentioned here in exceptions. Attorney General's exceptions, p. 32. It is further known to utilities that double recovery of costs is not permitted.

For the two cloud computing projects, the Commission believes that the required tracking for DTE Gas to follow moving forward addresses the Attorney General's cost versus savings concern, while maintaining ratemaking principles and acknowledging that cost savings for these projects will not be immediate.

With the Success Factors Program being a shared asset already approved in Case No. U-21062, the Commission, harmonious with its decision above, agrees with the ALJ's decision for the program's associated costs to be included in this case. The Commission, however, notes again here the Staff's ability to audit books and records and the requirement for the company to implement tracking for this area of expenses moving forward.

Lastly, while RCG mentions Code of Conduct concerns over the company's Shared Asset costs, the Commission finds that the concern, raised for the first time in RCG's replies to exceptions, is mentioned too late in the case for the Commission to address the issue in this order. Concerns like these need to be, at the very least, raised in initial briefs (with evidentiary support).

And RCG's mismatch concern is addressed by the Shared Asset Deferral Mechanism discussed in accounting requests within Part VII, Section G, below.

c. Contingency

The Staff recommended "a disallowance of $224 for Regulatory Commission Expenses and $409,615 for Administrative and General Salaries" which yielded "a total O&M disallowance of $409,839 for the inclusion of contingency in the rate case." 5 Tr 1898. The Staff argued that DTE Gas's continued request for recovery of projected contingency "when the Commission has clearly and consistently provided guidance that it is not acceptable for rate making purposes, is not a reasonable or prudent use of ratepayer funds." *Id*., p. 1899. DTE Gas countered that there are no contingency costs in the company's O&M expense and that merely because an expense has been disallowed previously, does not preclude the company from presenting its case because "[t]he Commission may reach a different decision based on changes in the law and/or the record in a particular case." DTE Gas's initial brief, p. 97 (footnote omitted).

The ALJ agreed with the company and found that the Staff's proposed disallowance should be rejected. The ALJ noted that the Commission has held that contingency costs may be appropriate in the planning process even if those expenses should not be recovered through base utility rates. Further, she stated that DTE Gas's contingency amounts "were clearly delineated in the company's exhibits. Thus, Staff and intervenors merely needed to provide a response to the company's lawful request." PFD, p. 211.

The Staff takes exception to the ALJ's recommendation and argues that the relitigation of contingency costs "regardless of unchanged circumstances, henceforth is unreasonable and a waste of resources given the Commission's continued, repeated, and consistent guidance that contingency costs are unsuitable for ratemaking practices." Staff's exceptions, p. 4. The Staff avers that its recommendation is not to remove contingency costs from O&M. Rather, the Staff states the recommendation is to disallow the company's O&M expenses relating to its request and relitigation of contingency costs in this proceeding.

DTE Gas replies that the Staff's proposed disallowance would constitute a penalty against the company for making a lawful request for contingency recovery under capital expenditures. The company argues that there is no legal authority to support imposing such a penalty. Moreover, DTE Gas avers that implementing such a penalty "is unsound and contrary to established regulatory practice." DTE Gas's replies to exceptions, p. 67. The company reiterates that presenting an argument that has been previously rejected is common and allowed as "[t]he Commission may reach a different decision based on changes in the law and/or the record in a particular case." *Id*. (footnote omitted). DTE Gas also argues that the disallowance requested is not supported on the record because the Staff's calculation takes a percentage of time to compute the company's contingency request. *Id*., p. 70.

The Commission concludes that, although contingency costs have not been permitted historically, the company should not be penalized for presenting its case. As noted by the ALJ, DTE Gas made a lawful request to recover its costs and the Staff and intervenors were able to dispute the costs, explaining why they should not be included in rates. Therefore, the Commission adopts the findings and recommendations of the ALJ on this issue.

5. Employee Benefits Expense

The company projected an O&M expense of $44.3 million for employee pensions and benefits or $40.0 million for the projected test year when "adjusted for the impact of the portion of these costs to be transferred and capitalized and the elimination of costs allocated to the Company's separate surcharge program . . . ." 5 Tr 874; Exhibit A-13, Schedule C5.9.

a. Pension

DTE Gas indicated that its annual pension costs are expected to decrease from the historical test period expense of $8.1 million to negative $9.8 million in the projected test year, producing a negative pension expense of $5.4 million after adjustments of capitalized pension costs. 5 Tr 856-857; Exhibit A-13, Schedule C5.10. Given the previous exclusion of negative pension costs from revenue requirements, the company proposed to continue its accrual of its regulatory liability and continue deferring the projected negative pension expenses. *See*, April 28, 2005 order in Case No. U-13898. RCG argued that the Commission should adopt rate adjustments to account for DTE Gas's proposal to transfer $50 million in pension funds to DTE Electric in 2022 and an additional $50 million in 2023. RCG's initial brief, pp. 20-21.

The ALJ held that RCG's concerns were not clear. Moreover, the ALJ indicated that the working capital in this case had "been adjusted for the 2022 transfer of pension funds, and the additional $50 million transfer in 2023 is outside the test year in this case." PFD, p. 213. Therefore, she recommended approval of the company's expense and deferral of the negative expense as a regulatory liability.

No party took exception to the ALJ's recommendation regarding the pension expense.

The Commission has reviewed the record on this issue and finds that the ALJ's determination is well-reasoned and, therefore, adopts the ALJ's findings, analysis, and conclusions on this issue.

b. Other Post-Employment Benefits Expense

DTE Gas stated that its other post-employment benefit (OPEB) expenses relate to the provision of medical, dental, prescription drug, and life insurance benefits. The company projected a decrease in OPEB expenses from a negative $18.9 million to a negative $25.3 million in the projected test year or negative $13.3 million after adjustments of capitalized pension costs.

5 Tr 859; Exhibit A-13, Schedule C5.11. Similar to the pension expense, DTE Gas proposed to continue the deferral of the net negative OPEB expenses to a regulatory liability, consistent with prior Commission approvals. *See*, December 9, 2016 order in Case No. U-17999.

The ALJ also noted the prior Commission approval of the deferral of negative OPEB costs to a regulatory liability and adopted the company's proposed treatment of similar expenses in this proceeding. PFD, p. 213.

No party filed exceptions pertaining to the OPEB expense and treatment of such negative expenses as a regulatory liability.

The Commission has reviewed the record on this issue and adopts DTE Gas's proposal regarding OPEB.

c. Active Employee Benefits Expense

DTE Gas projected an increase in active employee benefits from $17.0 million in the historical test year to $21.3 million in the projected test year. 5 Tr 862; Exhibit A-13, Schedule C5.9. The company explained that the largest component of this expense was the active healthcare expense which reflected "the normalization of the historical Active Healthcare costs to reflect an historical average of constant dollar costs and annual escalations for the adjusted medical plan trend of 5.7% in 2020, 5.0% in 2021 and 4.7% in 2022 . . . ." 5 Tr 862. The Attorney General proposed a $2.8 million disallowance by using a 3% annual rate of increase, which she averred reflects inflation increases. 5 Tr 1765-1766.

The ALJ adopted the Attorney General's proposed disallowance reasoning that "the Commission has never used DTE[Gas]'s proposed method for projecting health care expense" and "the use of multi-year averages for amounts and to determine trends has consistently been adopted for expenses that tend to be volatile." PFD, p. 217.

In exceptions, the company argues that the fact that the Commission has not yet approved a constant dollar normalization adjustment for active healthcare cost does not justify the rejection of the adjustment which "addresses the fundamental issue of inherent volatility in the Company's Active Healthcare costs and the need to establish a representative base level of Active Healthcare costs before any further adjustments for projected increases in those costs." DTE Gas's exceptions, p. 80. DTE Gas further states that there is significant volatility in active healthcare expenses as shown over the 10-year period of 2010 to 2020, and reiterates its arguments on the record to support its application of the constant dollar normalization adjustment. The company also argues that the adoption of the Attorney General's four-year historical average is not supported and "is an unreliable measure of likely future increases." *Id*., p. 83. Reiterating its record evidence, DTE Gas claims that it is better to escalate normalized historical costs than to use the historical average and that "is deemed more credible than a single company's experience and reflects consensus expectations of both Aon's internal experts and other external resources." *Id*., p. 84 (citing 5 Tr 917-918).

The Attorney General replies to DTE Gas's exceptions, arguing that the company's "novel approach simply compounds inflationary increases on top of inflationary increases." Attorney General's replies to exceptions, p. 42. Continuing, the Attorney General states that the company repeated its testimony and did nothing to refute the ALJ's analysis. Therefore, the Attorney General requests that the Commission adopt the ALJ's recommendation.

The Commission agrees with the ALJ's reasoning and concludes that the historical annual rate of increase, as proposed by the Attorney General, is the most reasonable and prudent method for calculating active healthcare costs in this case. The Commission does not find persuasive the company's argument that the constant dollar normalization adjustment is appropriate because the expense is volatile. Rather, the Commission finds a multi-year average adequately captures the volatility of the expense. Therefore, the Commission adopts the ALJ's findings and recommendations pertaining to the active employee benefit expense.

d. Other Employee Benefits Costs

DTE Gas described its O&M expense for other employee benefits as including accrued vacation pay, supplemental severance plan costs, long-term disability claims, costs associated with the Affordable Care Act, the company's wellness program, and the supplemental savings plan and deferred compensation plan costs. The company indicated that the other employee benefits expense was expected to decrease from $6.5 million in the historical test year to $4.4 million in the projected test year. 5 Tr 869; Exhibit A-13, Schedule C5.9. The Attorney General proposed a $0.7 million disallowance pertaining to the supplemental severance plan costs. 5 Tr 1766-1767.

The ALJ noted that the supplemental savings plan costs have been included in prior rate cases and that the Attorney General had made similar arguments which were previously rejected. Therefore, she recommended that the Commission approve the costs for the supplemental severance plan. PFD, p. 217.

In exceptions, the Attorney General argues that the ALJ's determination was in error. The Attorney General argues that, because the Commission has previously approved a similar expense, it does not mean it should be approved in the instant matter. She further reiterates that the supplemental severance plan "belongs squarely as a DTE Energy corporate expense, given the history of the merger between MCN [MCN Energy Group Inc.] and DTE and the fact that DTE waited 15 years to begin to attempt to recover these costs" and that ratepayers "should not have to pay for a DTE corporate acquisition expense." Attorney General's exceptions, p. 34.

In reply, DTE Gas argues that the Attorney General's position disregards prior cases given that the disputed costs for the supplemental severance plans "were included and unopposed" in previous DTE Gas and DTE Electric cases and that the Attorney General's similar disallowance request was rejected by the Commission in Case No. U-21062. DTE Gas's replies to exceptions, p. 70 (citing 5 Tr 920-922). The company also argues that the Attorney General's claim that the company delayed adopting the supplemental severance plans is without merit and that it was "adopted in response to fairness concerns expressed by DTE Energy employees and provides benefits to eligible former MCN non-represented employees (still covered under MCN's traditional pension plan) that are comparable to what those employees would receive if they were covered by DTE Energy's traditional pension plan." *Id*. Further, the company argues that the Attorney General does not dispute the reasonableness of the expense and, even if it is accepted that the supplemental severance plan expense is the result of the merger, "the merger produced substantial cost savings that flowed through to customers, as the Commission previously recognized in its Order in Case No. U-13898." *Id*.

As reflected in the ALJ's reasoning, the supplemental severance plan costs have been deemed reasonable by the Commission and previously included in rates. *See*, April 18, 2018 order in Case No. U-18255; *see also*, September 13, 2018 order in Case No. U-18999. The Commission further concludes that the Attorney General's claims are based upon speculation and not supported by the record. Therefore, the Commission adopts the ALJ's findings and recommendations pertaining to the other employee benefits O&M expense.

6. Employee Compensation

DTE Gas requested recovery of $17 million for incentive plans for both executive and non-executive employees but excludes incentive compensation for the company's top five executives. 5 Tr 885. The company argued that the expense, which relates to both operating and financial metrics, is supported on the record by its cost/benefit analysis. The Staff recommended a disallowance of $11,732,000, representative of the compensation expense related to financial metrics as ratepayers should not be required to pay incentives for the achievement of financial goals which benefit the company's shareholders. 5 Tr 2036. ABATE also recommended the disallowance of the expense relating to financial metrics. ABATE's initial brief, pp. 28-29. In addition to the disallowance of the incentive compensation expense pertaining to financial metrics, the Attorney General also recommended that the Commission only allow 20% of the incentive compensation pertaining to operational metrics. 5 Tr 1793. DTE Gas responded that prior disallowances by the Commission are not relevant and that the Commission has previously rejected similar arguments made by the Attorney General in this case. DTE Gas's reply brief, p. 99.

The ALJ adopted the Staff's and ABATE's recommendation, disallowing incentive compensation relating to financial metrics. The ALJ reasoned that "DTE Gas raises no new issues or arguments with respect to the purported ratepayer benefits of incentive compensation for achieving financial objectives that have not been raised and addressed before." PFD, p. 222. Therefore, the ALJ recommended that the Commission adopt the disallowance of $11,732,000 for incentive compensation.

DTE Gas takes exception and disagrees that "incentive compensation expense for achieving financial objectives should be disallowed simply because it has been disallowed in the past." DTE Gas's exceptions, p. 86. The company avers that each case must be evaluated on its own record and that it is not lawful for the Commission to categorically disallow the expense. DTE Gas argues that its incentive compensation programs are not additional income and that without a demonstration that the compensation is excessive, which was not argued on the record, "there is no legitimate basis for disallowing any portion of that compensation, regardless of the method used to determine the compensation." *Id*., p. 87 (citing 5 Tr 928). DTE Gas reiterates its record evidence regarding its analysis which it contends showed that the company's compensation was comparable to market. The company avers that "[t]he proposed exclusion of financial measures is based on a broad policy viewpoint that these measures benefit only shareholders and not customers" and contends that "[c]ustomers also benefit every day from employees who have the requisite skills and experience to ensure the delivery of safe, reliable, and high-quality customer service." *Id*., p. 89. DTE Gas argues that "paying compensation solely in salary would diminish the motivational incentives for employees to provide superior service to customers" and that "incentives ensure that employees have an element of at-risk compensation that allows DTE Gas to differentiate pay partly based on performance and allocate compensation to those employees that are most deserving." *Id*., p. 90. Therefore, the company states that it "has demonstrated in detail that its incentive compensation plans have customer benefits that significantly outweigh their costs, that its total compensation is reasonable compared to its peers, and that there is no valid reason to disallow the Company's requested cost recovery." *Id*.

The Attorney General also takes exception and argues that the company's "plan is skewed too heavily toward shareholders and that there are almost zero customer benefits." Attorney General's exceptions, p. 35. The Attorney General avers that the ALJ did not specifically discuss why she did not adopt the Attorney General's plan, but opines that it could be due to the company's rebuttal testimony that the Commission has previously rejected similar arguments. Notwithstanding, the Attorney General states that her disallowance of $12.9 million pertaining to financial metrics should be adopted "as it is a more accurate calculation than [the] Staff's number." *Id*., pp. 35-36.

The Attorney General also contends that the Commission should adopt her recommended disallowance pertaining to performance measures as "the last five years of actual performance results show that the Company was able to achieve target level performance only 20% of the time with certain years as low as 8% and some years as high as 31%." *Id*., p. 36. Overall, the Attorney General reiterates her recommendation to disallow $17.1 million of the incentive compensation expense.

In reply, the Attorney General notes her agreement with the company "that simply because the Commission has ruled one way in the past does not mean that . . . the Commission should continue to rule in the same way in future cases." Attorney General's replies to exceptions, p. 44. However, The Attorney General asserts that the ALJ based her determination on the entire record wherein the company failed to present new evidence and has not demonstrated how incentive pay based on financial measures benefit ratepayers. Quoting the December 22, 2005 order in Case No. U-14347, the Attorney General argues that the company must meet a three-part burden to recover incentive pay and must demonstrate: "(1) that benefits accrue to ratepayers as a result of the bonus and incentive plans; (2) that those benefits are at least equal to the cost; and (3) exactly how ratepayers are benefited by the incentive pay plan." Attorney General's replies to exceptions, p. 45. The Attorney General reemphasizes that the company failed to meet this burden and that DTE Gas's arguments regarding constitutional takings and confiscatory rates are unsupported and have been repeatedly rejected by the Commission. In addition, the Attorney General reiterates her request that the Commission disallow $17.1 million in incentive compensation but "in the alternative the Commission should adopt the ALJ's recommendation and disallow $11,732,000." *Id*., p. 46.

ABATE replies that DTE Gas's "claim that unless a total amalgamation of costs is demonstrably excessive then no subset of those costs can be analyzed and reviewed on its own merits" is unreasonable and that only the portion of compensation "which is tied to serving the utility's customers should be recovered from those customers." ABATE's replies to exceptions, p. 7. ABATE contends that having compensation that meets market medians is not relevant to providing benefits to ratepayers and that rates should only compensate the company for providing service to the customers.

RCG also replies that the ALJ properly disallowed incentive compensation tied to financial performance, which it contends may directly benefit the company's shareholders but do not provide benefits to ratepayers. Moreover, RCG avers that the Commission need not only disallow such compensation based on prior case history but also because allowing recovery of incentive compensation tied to financial performance "would result in increased unnecessary burdens upon ratepayers contrary to the Commission's overriding duty to set just and reasonable rates and to balance the interests of stockholders and customers." RCG's replies to exceptions, p. 10. Finally, RCG disputes DTE Gas's assertion that a disallowance in this instance would constitute confiscatory rates because "the subject incentive costs are not tied to increased operational performance, the rendering of more reliable service to customers, but rather provides incentives for the company to enhance stockholder profits and not to enhance the efficiency and reliability of utility service in a manner benefitting ratepayers." *Id*., p. 11.

The Commission finds that the ALJ properly recommended the disallowance of recovery for incentive compensation tied to financial metrics. In Case No. U-14347, the Commission held that the utilities have the burden to demonstrate how incentive programs benefit ratepayers and reiterated that the benefits "at a minimum, will be commensurate with the programs' costs."

December 22, 2005 order in Case No. U-14347, p. 34. The company has not demonstrated, on this record, actual benefits that would accrue to ratepayers from the recovery of incentive compensation tied to financial metrics. DTE Gas's mere contention that customers receive benefits from well-compensated employees is insufficient to demonstrate that incentive compensation specifically tied to financial performance does not primarily benefit shareholders or that such benefits to ratepayers are commensurate with the proposed expense. The Commission, therefore, adopts the ALJ's findings and conclusions pertaining to incentive compensation based on financial metrics.

The Commission further notes its concern regarding the current approach to recovery of incentive compensation for operational metrics. The company's request is for recovery of the full incentive compensation amount, assuming 100% target level performance in each of the operational measures. However, as demonstrated by the Attorney General, the "last five years of actual performance results show that the Company was able to achieve target level performance only 20% of the time with certain years as low as 8% and some years as high as 31%." 5 Tr 1793; *see also*, Exhibit AG-72. Therefore, the Commission is persuaded that DTE Gas should not recover as if it will achieve all operating measures at the 100% target level. Instead, the Commission adopts the proposal from the Attorney General to allow recovery of 20% of the incentive compensation for meeting operational metrics. In addition, the Commission authorizes DTE Gas to implement a two-way tracker mechanism, which will require refunds to customers if the 20% target level is not achieved or will allow the company to recover additional funds if it exceeds the 20% target level, up to a maximum of 100% target level. DTE Gas shall record the over- or underrecovery, compared to the 20% base, in a regulatory asset or regulatory liability to be included in the company's next general rate case. The Commission also directs the company to present clear operational metrics in its next general rate case as the individual operational metrics will be scrutinized more critically going forward.

Given the above, the Commission adopts the Attorney General's proposed disallowance of $17.1 million for the employee compensation O&M expense.

E. Manufactured Gas Plant Expense

The company testified regarding its manufactured gas plant (MGP), MGP site owners' obligations, steps taken to minimize remediation costs, and DTE Gas's MGP remediation expense of $2.7 million for August 2019 through October 2020, offset by a $2.0 million settlement payment, for a net MGP expense of $0.7 million. 5 Tr 1039-1053. The Staff performed a technical and engineering review of the company's MGP activities and found them to be reasonable and prudent, and recommended that $0.7 million in costs should be recovered.

The ALJ recommended adoption of the proposal indicating no party opposed. PFD, p. 222. The Commission finds the proposal to be reasonable and adopts the recommendation of the ALJ.

F. Uncollectible Expense

DTE Gas defined uncollectible expense as "the income statement impact of the portion of accounts receivable that is considered uncollectible from customers who used gas service." 5 Tr 1017. DTE Gas projected an uncollectible expense amount, using the 2019 historical expense of $37.8 million plus a deferred COVID-19 uncollectible expense of $2.4 million, to arrive at a 2022 projected amount of $40.2 million. 5 Tr 1019; Exhibit A-13, Schedule C5.7. In its initial brief, DTE Gas reduced its uncollectible expense by $2.4 million for the deferred COVID-19 expense, resulting in an updated uncollectible expense of $37.8 million. DTE Gas's initial brief, pp. 70-71. DTE Gas used the 2019 historical amount to develop its uncollectible expense, because the 2016, 2017, and 2019 average of $31.6 million is not representative of recent collections, noting that 2018 was excluded because uncollectibles were particularly high that year due to system issues. 5 Tr 1020.

The Attorney General argued that, in developing its uncollectible expense amount, DTE Gas started with an average of three years of expense that the company estimated and recorded in its books, which does not reflect actual bad debt charge-offs in those years. 5 Tr 1738. In addition, the Attorney General pointed out that DTE Gas rejected the three-year average approach and assumed that a single year was representative for projecting test year uncollectibles. 5 Tr 1738. The Attorney General recommended that, rather than using booked uncollectible expense for its projection, DTE Gas should implement the Commission-approved method for forecasting uncollectible expense, using a three-year average of charge-offs to revenues. 5 Tr 1742. As shown in Exhibit AG-50, the Attorney General calculated an uncollectible expense amount of $35,877,000.

The Staff did not support DTE Gas's method for forecasting uncollectible expense, testifying that DTE Gas's approach is unreasonable because it does not take gas revenues into account in its projection, and it includes deferrals of amortized uncollectibles. 5 Tr 2007. The Staff recommended a direct write-off method for projecting uncollectible expense, contending that the Commission has approved this method in recent cases. Staff's initial brief, p. 98. The Staff initially calculated an uncollectible expense amount of $33,706,000. 5 Tr 2007. Subsequently, the Staff updated this to $35,399,000 in its initial brief, based on the company's rebuttal. Staff's initial brief, p. 99.

In rebuttal, DTE Gas disagreed that the Staff's and the Attorney General's proposals to use the cash basis method for projecting uncollectibles were appropriate. According to DTE Gas, the estimation of future expenses should be consistent with the practice used to record the actual expenses to ensure recovery of the company's prudent and reasonable costs. 5 Tr 1024. Additionally, DTE Gas explained that if the Commission adopts the Staff's or the Attorney General's cash-basis approach for projecting uncollectible expense, two errors must be corrected: (1) direct charges related to low-income customer assistance must be included in uncollectible expense; and (2) the write-off ratio should be applied to the Staff's proposed revenue rather than present revenues. 5 Tr 1025. As noted above, the Staff partially agreed and adjusted its projection accordingly.

The ALJ agreed with the Staff and the Attorney General that using uncollectible accounts charge-offs, net of recoveries, as a percent of revenues to calculate future uncollectible expense is a more accurate method for projecting uncollectible expense, as the Commission found in Case Nos. U-20162 and U-20322. Consistent with this practice, the ALJ recommended that the Staff's recommended uncollectible expense amount of $35,399,000, as adjusted in the Staff's initial brief, should be adopted. PFD, p. 226.

In exceptions, DTE Gas asserts that the Staff's and the Attorney General's methodology is based on the cash-basis method and is inconsistent with how the expense is recorded. DTE Gas reiterates its support for the analysis the company provided in its initial brief. DTE Gas's exceptions, pp. 91-92. DTE Gas requests that the cash-basis method not be used and that the Commission approve a $37.8 million uncollectible expense, or in the alternative, if the cash-basis method is used, the two flaws in the calculation be corrected resulting in a $36.6 million uncollectible expense. DTE Gas's exceptions, p. 92.

The Attorney General responds that the ALJ's recommendation is reasonable and should be adopted. The Attorney General replies that DTE Gas's disagreement with the PFD is merely because DTE Gas does not like the method and adds nothing new to the arguments previously presented. Attorney General's replies to exceptions, pp. 46-47.

The Staff replies that the ALJ relied on the Staff's evidence and arguments to support a return to a long-standing overall method of allocation better reflective of cost causation and requests the Commission adopt the ALJ's recommendation. Staff's replies to exceptions, pp. 13-14. Further, the Staff contends that its projections corrected any error DTE Gas provided and should be approved at the amount provided by the ALJ. *Id.*, p. 14.

The Commission adopts the ALJ's findings and recommendation. The Commission finds the Staff's and the Attorney General's evidence to be persuasive. The cash-basis methodology is reasonable and prudent and consistent with the calculation method approved in recent rate cases. Therefore, consistent with application of this methodology, the Commission adopts the Staff's recommended uncollectible expense in the amount of $35,399,000.

G. Lost and Unaccounted for, Company Use, and Gas-in-Kind

DTE Gas included 4.6 billion cubic feet (Bcf) of lost and unaccounted for (LAUF) gas for 2022, calculated consistent with the methodology used in the company's last five rate cases. In addition, DTE Gas included 4.7 Bcf of company-use gas consistent with the method used in the company's previous rate cases. DTE Gas's initial brief, pp. 116-117; Exhibit A-15, Schedule E-9. Disputes concerning Gas-in-Kind (GIK) rates for EUT customers raised by Detroit Thermal/Vicinity are addressed below under Cost of Service. The ALJ made no recommendation on the LAUF or company use gas rates as no party objected. PFD, p. 226. The Commission adopts the proposed LAUF and company use gas rates and addresses the GIK rate below.

H. Depreciation and Amortization Expense

The differences in depreciation and amortization expense arise from the differences in capital expense amounts recommended by the parties. The ALJ recommended this expense be recalculated consistent with the determinations in this order. PFD, p. 227. The Commission adopts the ALJ's recommendation.

I. Property and Other Taxes

The Staff and DTE Gas agreed on a property tax expense of $89,697,000 as well as a $16,610,000 expense for other general taxes. Staff's initial brief, p. 100. The ALJ made no explicit recommendation as no party objected. PFD, p. 227. The Commission adopts the expenses.

J. Income Tax Expense

The differences between the Staff and the company's projections for state and local income taxes and federal income taxes are the result of the Staff's adjustments to projected revenues and expenses. The ALJ recommended that the taxes be recalculated consistent with the determinations in this order. PFD, p. 227. The Commission adopts the ALJ's recommendation.

K. Other Adjustments

The Staff recommended an allowance for funds used during construction (AFUDC) amount of $4,627,000, or $243,000 more than the company's projection. Staff's initial brief, p. 100. DTE Gas agreed. *See*, DTE Gas's reply brief, Attachment A, p. 3; Exhibit S-16.2. The ALJ made no recommendation and no party opposed. PFD, p. 227. The Commission adopts this allowance.

VI. OTHER REVENUE RELATED ISSUES

A. Revenue Decoupling Mechanism

DTE Gas explained that revenue decoupling removes the link between gas sales and revenue in order to eliminate the negative financial impact from energy efficiency programs. 5 Tr 1302. DTE Gas currently has a revenue decoupling mechanism (RDM) that was approved in the settlement agreement in the company's last rate case. 5 Tr 1303. The RDM is limited to 150% of EWR targets, resulting in a revenue cap, excess or shortfall, of 2.25%. In addition, the RDM excludes GS-2 and EUT customers. 5 Tr 1303-1304. DTE Gas's witness testified that the company is proposing the same RDM and reconciliation process as was approved in the company's previous rate case.

The Staff supported the RDM proposed by the company as it is the same mechanism approved in the company's previous rate case. 5 Tr 1844-1845.

The ALJ recommended adoption of DTE Gas's proposed RDM based on the company testimony. PFD, pp. 228-229. The Commission finds the proposal to be reasonable and adopts the recommendation of the ALJ.

B. Infrastructure Recovery Mechanism

DTE Gas explained that the Commission granted approval of a settlement agreement in Case No. U-20642 allowing DTE Gas's infrastructure recovery mechanism (IRM) to recover the predetermined incremental revenue requirement for annual infrastructure capital expenditures made in the company's Main Renewal Program (MRP), Meter Move-out (MMO) Program, Meter Assembly Check/Meter Move-out (MAC/MMO) Program, and Pipeline Integrity (PI) Program for each year in the five-year period of 2021-2025. DTE Gas stated that the IRM surcharge is calculated on a calendar-year basis for each year of the five-year investment period and is based on the predetermined cumulative incremental revenue requirement associated with the incremental capital investment. Furthermore, the company files an annual reconciliation in the first quarter of the year for the capital invested in the prior year for the Commission to review. 5 Tr 1305. DTE Gas explained that all capital invested in the IRM through December 2021 would be rolled into rate base and that it intended to continue the IRM with one adjustment that would combine the financials for the MRP and MMO into a single Gas Renewal Program (GRP). DTE Gas stated that the cost of the IRM capital expenditures for all programs total $288.2 million in 2020, $299.4 million in 2021, and $287.3 million in 2022-2026. 5 Tr 1335; Exhibit A-12, Schedules B5, B5.3, and B6.

DTE Gas argued that the Staff recommended approval of the GRP and that overall, the Staff supported the company's requested capital expenditures for the GRP, MAC/MMO, and PI programs, noting that based on a review of the company's annual reports, it has met or exceeded its 2020 performance targets. 5 Tr 1828-1832.

MPLP argued that DTE Gas is again requesting an increase in its IRM surcharge, noting that the current IRM has only been in effect since February 2021. 4 Tr 83-84. MPLP recommended that the Commission should limit the use of tracking mechanisms like the IRM because: (1) customers pre-pay the costs of capital investments, the IRM shifts the risk from the investors to the company's customers if the investment is not made; (2) the IRM is an example of single-issue ratemaking, which limits the Commission's ability to evaluate the all company's costs and revenues in a comprehensive manner; (3) trackers like the IRM do not incentivize the company to control costs between rate cases; (4) IRM costs are not volatile or outside the utility's control; and (5) the IRM has not reduced the frequency of rate cases filed by DTE Gas. 4 Tr 84. MPLP further argued that the IRM be eliminated or, if approved, that the amount collected through the surcharge should not be increased above the amount currently approved. 4 Tr 88. MPLP stated that, although the IRM was a small part of DTE Gas's rates, it has now expanded to the point where it is a significant portion of the company's revenues. MPLP's initial brief, p. 24. MPLP urged the Commission to reconsider its approval of the IRM, pointing out that the Commission recently rejected a proposed IRM for DTE Electric in Case No. U-20162, finding the proposal "overreaching and inadequately supported . . . too expensive [and] too expansive." MPLP's initial brief, p. 24, quoting May 2, 2019 order in Case No. U-20162, pp. 117-118. MPLP argues that the $462 million incremental revenue requirement from 2021-2025 for the IRM in this case is larger than the IRM rejected in the DTE Electric case as "too expensive." MPLP's initial brief, p. 24, quoting May 2, 2019 order in Case No. U-20162, pp. 117-118. In its reply brief, MPLP notes that no party opposed its recommendation to end the IRM and therefore it should be removed. MPLP's reply brief, p. 9.

The ALJ found that MPLP's recommendation to disallow the IRM should be rejected. As discussed at length in the Commission's June 3, 2010 order in Case No. U-15985, pp. 102-105, DTE Gas's (then Michigan Consolidated Gas Company's or Mich Con's) distribution system was seriously degraded. The ALJ agreed that the IRM is costly, but it is also being undertaken at a time when gas commodity prices are exceptionally low, and it could, in theory, be scaled back if gas prices increase. As for the remainder of MPLP's objections to the IRM, the Commission addressed the concerns about trackers in the order in Case No. U-16999. The MRP has been significantly expanded since 2013, and the MAC/MMO program was approved in Case No. U-18999. The ALJ found that given the limited uses allowed for IRM funds, MPLP's concerns about ratepayer risk have been addressed, and the Commission also responded to general policy concerns about the IRM. PFD, pp. 234-235.

In exceptions, MPLP argues that the ALJ erred in failing to recommend that the Commission reject DTE Gas's IRM proposal or in the alternative not allow the substantial increase in the charges requested by DTE Gas. MPLP argues that DTE Gas has not demonstrated a need to recover through a tracking mechanism and that DTE Gas's planned investments are within its control and should be recovered through the traditional rate case process to ensure the investments are made prudently. MPLP's exceptions, pp. 20-24.

DTE Gas replies that the ALJ addressed MPLP's concerns and arguments in the PFD and that the Commission should adopt the ALJ's recommendation. DTE Gas's replies to exceptions, pp. 74-75.

The Commission adopts the findings and recommendations of the ALJ. The Commission finds that DTE Gas provided convincing evidence on the modification to the IRM, and the ALJ adequately addressed the arguments from MPLP and found them unpersuasive.

1. Gas Renewal Program

DTE Gas proposed to combine the MRP and MMO into one program, the GRP, citing both performance and financial efficiencies to be gained by integrating the two programs. 5 Tr 1335-1337. DTE Gas proposed capital expenditures for 2020 that are lower than forecasted and higher for 2021 than forecasted in the company's last rate case. DTE Gas detailed the company's efforts to mitigate cost pressures, explaining that these efforts have reduced costs by $25 million from 2018 to 2020. Due to the cost reduction achieved, the company is not requesting an increase in the IRM for the GRP. 5 Tr 1341-1343.

In its initial brief, the Staff raised a concern that the company is including some non-

IRM work in the IRM. The Staff noted that, in the company's previous rate case, the Coolidge Expansion and Three Mile Road renovation were categorized as routine general plant-structures and improvements by the company. The Staff stated that it has no issue with the capital expenditures for these projects but does not believe they are appropriate for inclusion as MRP costs. Staff's initial brief, p. 30. The Staff stated that the Commission has made clear that the IRM has specific criteria for project inclusion and that the purpose of the IRM program is to accelerate infrastructure replacement. The Staff recommended that, going forward, the Commission direct the company to remove discretionary projects normally categorized as routine general plant-structures and improvements. Staff's initial brief, p. 31.

In its reply brief, DTE Gas agreed with the Staff that IRM funds should only be spent on MRP and MMO activities, and that the inclusion of the two projects cited by the Staff were inadvertent and were not intended to be included in the IRM reconciliation. DTE Gas's reply brief, pp. 107-108. The ALJ agreed that while there have been some incidental costs for tools, vehicles, and equipment included in the IRM, the company should be mindful of the Commission's directive in Case No. U-16999 that only costs directly related to the MRP and MMO and PI programs should be included in IRM spending. PFD, p. 235. The ALJ noted that the Staff supports the combination of the MRP and MMO, and proposed targets and spending in the GRP; therefore, the ALJ recommended approval. PFD, p. 236.

The Commission finds the GRP with the Staff's comments to be reasonable and adopts the recommendation of the ALJ.

2. Meter Assembly Check/Meter Move-Out

DTE Gas testified that the MAC/MMO program addresses meters that have overdue MAC inspections to address the company's issues with accessing indoor meters as well as the decreasing number of inside meters due to customer construction activities. 5 Tr 1333. DTE Gas explained that the MAC/MMO backlog was 106,445 at the beginning of 2019. At the end of 2019, DTE Gas had removed 42,072 expired MACs from the backlog, and an additional 17,899 MACs had expired, resulting in a year-end backlog of 82,272. 5 Tr 973. For 2021, the company projected that it would remove 51,223 expired MACs from the backlog and an additional 32,223 would expire, resulting in a backlog of 40,000 expired MACs. *Id*., p. 974.

The company requested an increase of $4.5 million for the MAC/MMO program to address $2.2 million internal labor cost increases for full time employees. 5 Tr 1345-1346. The company stated that it did not project any changes to the targets of the program since the company's previous rate case and that the Staff recognizes and supported the IRM cost increase. The Staff therefore recommended that the Commission approve the MAC/MMO portion of the IRM. 5 Tr 1831-1832. The ALJ agreed that the increased capital expenses for the MAC/MMO program are reasonable and recommended that the program and its costs continue to be included in the IRM. PFD, p. 238.

The Commission finds the MAC/MMO program to be reasonable in accordance with the Staff's comments and adopts the recommendation of the ALJ.

3. Pipeline Integrity Program

The pipeline integrity program (PIP) consists of: (1) pipeline integrity assessments; (2) in-line inspection (ILI) expansion; (3) remote control valves; (4) MAOP record review; and (5) records management system development. 5 Tr 1348. DTE Gas explained that PI expenditures are higher in 2020 through the end of the test year because the company plans to implement a probabilistic risk assessment model and to cover the cost to retrofit for ILI expansion the Northeast Beltline pipeline, a major supply line to Ann Arbor. 5 Tr 1348.

The Attorney General took issue with the increased costs of the Northeast Beltline ILI Project and the cost overruns. DTE Gas stated that 80%, or $3.7 million, of the increase was due to unexpected complexities and project delays. 5 Tr 1664-1665. The Attorney General calculated the cost overrun to be $4,625,000 which represented "more than 400% of the original cost estimate." 5 Tr 1665.

In rebuttal, DTE Gas argued that, while the costs of the project were higher than projected, they were necessary and important to ensure the safety of the public and reliability of service to customers. 5 Tr 1369. DTE Gas added that all costs were reasonably and prudently incurred. 5 Tr 1371. DTE Gas also stated that the Attorney General's claim that there was a cost overrun of 400% for the project is incorrect because the Attorney General based her calculations on an assumption that the original budget for the project was $1,142,000, when in fact the original project budget was $6,655,461, making the project over budget by 67%. 5 Tr 1369-1370.

In her initial brief, the Attorney General argued that it is necessary to review the original cost of the project, $6.6 million, approved by the Commission in Case No. U-18999, contrary to the Attorney General's recommendation in that case. Attorney General's initial brief, p. 45. The Attorney General continued to contend that the Northeast Beltline project was planned and implemented in an unreasonable and imprudent manner and that additional costs of $4,625,000 should be removed from 2020 and 2021 capital expenditures. *Id*., pp. 45-46.

In response, DTE Gas reiterated that the Attorney General's disallowance is overstated, and it was based on an incorrect assumption about the original cost of the project. DTE Gas further stated that it does not conduct business by threatening its customers with legal action. DTE Gas's reply brief, pp. 109-110.

The ALJ found that the Attorney General's recommended disallowance should be rejected, stating that DTE Gas provided sufficient evidence that its original cost estimate was based on the reasonable assumption that the project would be typical and that the Township's additional requirements for the pig receiver site were unusual. The company also met with the Township early in the process to coordinate the project and ensure that it met the unique local requirements. Nevertheless, consistent with other areas of the PFD, the ALJ recommended that in future rate cases, DTE Gas should be required to explain any project cost overruns as part of its direct case. PFD, p. 242.

In exceptions, the Attorney General reiterate their arguments and again recommend that the Commission disallow $4.625 million related to DTE Gas's PIP. Attorney General's exceptions, pp. 37-38.

In replies to exceptions, DTE Gas agrees with the PFD. DTE Gas's replies to exceptions, pp. 75-77.

The Commission finds the rationale and reasoning of the ALJ to be thorough and thoughtful and adopts the recommendations of the ALJ. Additionally, the Commission agrees that DTE Gas shall be required to explain any project cost overruns as a part of its direct case in the future.

C. Leak Backlog

In the June 3, 2010 order in Case No. U-15985, the Commission directed the company to "file information addressing the capital expenditures associated with, and progress made in, reducing the backlog of leaks" in future rate cases. Consistent with that directive, DTE Gas stated it began 2019 with a backlog of 586 leaks, and there were an additional 7,122 new leaks during the year. 5 Tr 976. The company repaired 7,082 leaks leaving a backlog of 546 at the end of 2019. For 2020 and 2021, DTE Gas projected a year-end leak backlog of 2,400 and 1,464 respectively, noting that the increased backlog in 2020 was the result of COVID-19 restrictions including a temporary shutdown, after which, "DTE [Gas] balanced leak repairs with other work obligations at a reduced headcount from quarantined employees." 5 Tr 976, Table 2; Exhibit A-20, Schedule J1.

No party took issue with the company's report. The ALJ commented that DTE Gas's decision to forgo leak repair work in 2020 is concerning, as is the considerable increase in the leak backlog. The ALJ suggested that in the future, if the company finds it necessary to limit its leak repair program, it should inform the Commission before doing so. PFD, p. 243.

The Commission accepts the report and agrees with the ALJ that if DTE Gas decides to forgo or limit the company's leak repair program in the future DTE Gas should provide notice to the Staff.

D. Research and Development Cost Recovery

DTE Gas stated that the Commission has approved research and development (R&D) costs in past gas rates cases, finding them reasonable and prudent. DTE Gas's initial brief, pp. 126-127, quoting December 21, 2006 order in Case No. U-14651, p. 5. Further, DTE Gas noted that the Commission has previously approved the company's request to include $350,000 per year for dues in the GTI Utilization Technology Development program. DTE Gas's initial brief, p. 127. In this case, DTE Gas requested costs for two additional R&D initiatives: (1) another program through GTI, Operations Technology Development (OTD), which focuses on critical distribution system safety methods and pipeline integrity; and (2) the Low Carbon Resource Initiative (LCRI), a joint effort between the Electric Power Research Institute and GTI. The total cost for participation in the two R&D programs is $900,000 ($300,000 for the LCRI and $600,000 for the OTD) per year. DTE Gas's initial brief, p. 127.

The company described the LCRI as an international collaborative between the electric and gas industry sectors seeking to achieve deep de-carbonization throughout the economy. 5 Tr 464. The company further pointed out that DTE Gas is one of the largest gas utilities in the U.S., and the company has made a commitment to decarbonizing by 2050. DTE Gas explained that the various R&D activities that the LCRI will undertake include assessment of carbon reduction in production, delivery, storage, and end use, a world-wide literature review, and the long-term development of codes and standards for decarbonization. 5 Tr 465-466. In terms of benefit to DTE Gas's customers, DTE Gas will be able to leverage its participation with that of over 20 peer utilities (including DTE Electric and Consumers Energy) and obtain additional funding and support from governmental and non-governmental organizations. Furthermore, DTE Gas states LCRI will assist the company in understanding the operational challenges of integrating low-carbon resource technologies into its business and to guide repurposing existing infrastructure for a low-carbon future through the most economical means. 5 Tr 466.

The Staff opposed the inclusion of costs for the LCRI stating that description of the goals of the LCRI were unclear concerning how the company's participation in the initiative would benefit customers, although it might help the company reach its decarbonization goal. 5 Tr 2025. The Staff argued that funding for the LCRI is similar to funding for a pilot, except that in the case of a pilot program, it is assumed that there could be some benefit to customers if the program is successful; however, DTE Gas failed to show how the LCRI would provide any benefit to customers. 5 Tr 2025-2026. The Staff posits that corporate goals should be shareholder-funded, rather than ratepayer-funded. 5 Tr 2026-2027. Additionally, the Staff stated that Consumers' participation in the LCRI does not justify DTE Gas's proposal here, noting that DTE Gas did not show that Consumers included LCRI dues in base rates, nor did the Staff's review indicate that such an expense is included. 5 Tr 2027.

Detroit Thermal and Vicinity argued that while supportive of the company's carbon reduction efforts, Detroit Thermal and Vicinity purchase gas from alternative suppliers that have their own carbon reduction goals, the R&D costs of which are funded in part by the cost of gas. Therefore, the costs of the LCRI should be allocated only to customers that purchase gas from DTE Gas, and the Commission should reconsider allocating any R&D costs to EUT customers. 5 Tr 1616.

In rebuttal, DTE Gas reiterated that it has established net-zero carbon objectives for both electric and gas utilities and that the best way for DTE Gas to achieve this target is by pooling resources with others in the electric and gas industry to develop new, affordable technologies for both electric and gas sectors. 5 Tr 476.

DTE Gas disagreed that the company's membership in the LCRI will provide no benefit to current DTE Gas ratepayers, pointing to Governor Gretchen Whitmer's Executive Directive 2020-10 establishing a goal of 100% carbon neutrality by 2050, and arguing that achieving that goal will require the involvement of the company, its suppliers, and its customers and require the development of new technologies that are currently not cost effective, and that these technologies can be developed and made cost-effective through LCRI initiatives. 5 Tr 476-477.

In its initial brief, the Staff maintained that DTE Gas's rebuttal still did not demonstrate how DTE Gas customers will benefit from the company's participation in the LCRI. Staff's initial brief, p. 64.

In reply, DTE Gas maintained that the objectives of the initiative have been clarified and customers will benefit by assisting the company's decarbonization efforts in a cost-effective manner through LCRI research into advanced technologies. DTE Gas's reply brief, p. 112.

The ALJ agreed with the Staff that LCRI costs should be disallowed. The Staff argued that the primary purpose of the company's participation in the initiative is to further certain corporate goals, the costs of which should not be covered by customers. Moreover, the degree to which the benefits of the LCRI would accrue to the gas side, as opposed to the electric side of the business, appear much more attenuated. PFD, p. 248.

In exceptions, DTE Gas reiterates its argument that the Commission has approved R&D costs in the past and should do so in this case for policy reasons. DTE Gas's exceptions, pp. 92-96.

In reply to exceptions, RCG contends that the Commission should also disallow DTE Gas's request to include membership dues in the GTI Utilization Technology Development Program and the LCRI because the benefits of membership in these organizations inure to DTE Gas's stockholders and not the ratepayers. RCG requests that the Commission limit the burdens of these memberships by requiring DTE Gas's stockholders to defray the costs of such memberships. RCG's replies to exceptions, pp. 11-12.

In reply to exceptions, the Staff agrees with the PFD. Staff's replies to exceptions, pp. 2-3.

While the Commission recognizes the potential value in R&D to improve the continuity of the business and to reduce risks, the resulting benefits are shared between the shareholders and the customers. As such, the Commission would encourage the company to allocate the costs between its shareholders and its customers. In addition, the Commission would expect to see a better correlation between the costs of R&D with the reduction of risk and benefits of sustained services for customers in order to support that some portion of these expenses be included in customer rates. However, the record evidence in this case only supports the company's policy objectives and does not provide information on how the R&D will sustain the business and reduce long term risks to the customer. Therefore, the Commission finds the ALJ's recommendation reasonable and adopts the disallowance for the LCRI costs. Should the company seek to include a portion of similar R&D initiatives in rates as part of future cases, it will need to provide fuller support for the expected benefits to its customers, including reduced risk, increased resilience, and cost savings resulting from an optimized approach to decarbonization.

E. Demand Response

The company stated that in the settlement agreement approved in Case No. U-20642, the company agreed to hold a conference with interested parties on a demand response (DR) pilot, implement a pilot project in 2021, defer the costs of the pilot up to $4.0 million as a regulatory asset, and seek recovery of the reasonable and prudent costs of the pilot in a future rate case. The company held a DR collaborative in November 2020, at which it introduced its DR pilot and invited feedback from the participants. The company plans to begin enrolling participants in the DR pilot in the second quarter of 2021. 5 Tr 1309.

No party took issue with the DR pilot, therefore, the ALJ did not make a recommendation on this issue. The Commission finds the pilot to be reasonable and will evaluate the reasonableness and prudence of the pilot costs when presented in a future proceeding.

F. Advanced Metering Infrastructure

The company represented that the goal of its gas advanced metering infrastructure (AMI) program is to replace all non-transmitting meters with an AMI module, and as of the end of 2020, the project is 96% complete. 5 Tr 977, 980. The benefits of AMI include reduced costs from automated meter reading, elimination of estimated bills, reduced injuries to employees, and reporting of theft or meter tampering. 5 Tr 980. DTE Gas presented the financial benefits of implementing AMI in Exhibit A-21, Schedule K1 and the historical benefits of the technology in Exhibit A-12, Schedule K2.

While no party took issue with DTE Gas's AMI program, there were AMI recommendations in other areas of this order. The ALJ did not make an explicit recommendation on this issue. The Commission finds the pilot to be reasonable and will evaluate the reasonableness and prudence of the pilot when presented in a future proceeding.

DTE Gas testified that replacement of non-transmitting meters with AMI or AMR modules was 96% complete as of the end of the year 2020, and that the meter replacements have resulted in a 54% reduction in meter reading costs,[12] as well as eliminated estimated billing, reduced employee field injuries, and reduced the timeframe for identification of possible theft or tampering. 5 Tr 932-998. The ALJ reported that no party voiced issues with DTE Gas's AMI program (except as discussed elsewhere in this order). PFD, p. 249; 5 Tr 977-982; *see*, Exhibit A-21, Schedule K1; Exhibit A-12, Schedule K2.

No party filed exceptions on this issue. The Commission approves the program as proposed by the company and recommended by the ALJ.

G. Accounting Requests

The ALJ stated that DTE Gas made the following accounting requests:

> (1) confirmation that capitalized implementation costs for cloud computing should continue to be recorded in Plant in Service, with any deferred costs (like prepayments) included in Other Assets, consistent with FASB [Financial Accounting Standards Board] Accounting Standards Update 2018-15;
>
> (2) a Low Income Mechanism to record a regulatory asset or liability for the difference between actual LIA [Low-Income Assistance] and RIA [Residential Income Assistance] credits issued;

[12] The 54% reduction is based on meter reading costs from 2008 to 2020. *See*, PFD, p. 249; 5 Tr 977-982.

> (3) continued deferral of OPEB [other post-employment benefits]and pension expense;
>
> (4) a continuation of the accounting authority for the IRM approved in the company's previous rate case; and
>
> (5) a Shared Asset Deferral Mechanism (SADM) to address circumstances where DTE Gas's rates are based on IT projects that have not been approved in a DTE Electric case.

PFD, pp. 249-250. The ALJ recommended approval of DTE Gas's accounting requests one through four because they were unopposed but noted that the LIA credit cap has not been lifted, as discussed below. *Id*.

Regarding the SADM accounting request, DTE Gas testified that the SADM is necessary because the shared asset amounts have been synchronized in the company's electric and gas rate cases in the past, but the historical and projected test years for its last electric rate case and the instant gas case are different, resulting in DTE Gas's projection not being a reasonable forecast of actual shared asset charges and that the SADM would allow for deferral of amounts for shared assets above or below the base shared asset charge used to calculate the revenue requirement in this case. 5 Tr 1295-1297. DTE Gas testified that, in a future rate case, the company would amortize the deferred amount and carry charges into O&M and collect the total over a five-year time period and that "the charge is necessary because of lapse between the filing of DTE Electric's rate case and the instant case, coupled with the difference in test years." PFD, p. 250; *see*, 5 Tr 1295-1298.

The Staff opposed the SADM and testified that, in Case No. U-20642, the Staff recommended a synchronization adjustment "because both companies used the same historic test period and seven months of the projected test year, considering the significant overlap in the cases to be an apples-to-apples comparison." PFD, p. 250 (citing 5 Tr 1995). The Staff testified that it did not do so in the instant case because the length of time between DTE Electric's last rate case and the instant case make a synchronization adjustment inappropriate, i.e., an apples-to-oranges comparison. The Staff argued that the company's proposal in the instant case should be rejected because any differences in projected shared asset charges and actual shared asset charges where there is no overlap with an electric rate case are a normal part of ratemaking. *Id*.; *see*, 5 Tr 1994-1996. The Staff asserted that "[r]egulatory asset treatment should be the exception not the norm and this SADM request has not risen to the level of regulatory asset consideration" but also added that it would recommend a synchronization adjustment on the electric side in DTE Electric's next rate case if it was filed in the near future. 5 Tr 1996.

DTE Gas rebutted the Staff's testimony, stating that if the test years were the same for DTE Gas and DTE Electric, the two sides should have equal shared asset revenues and expenses; however, in the most recent rate cases, the DTE Electric revenue did not match the DTE Gas expense, potentially resulting in subsidization of one side by the other. PFD, pp. 251-252; *see*, 5 Tr 1318-1322. DTE Gas also testified that "DTE Electric may file an electric case before the end of 2021, and may receive authority for additional shared assets that are not reflected in the shared asset charge approved in this case. In that case, DTE Electric customers will be subsidizing DTE Gas customers." PFD, p. 251; *see*, 5 Tr 1320-1321. According to DTE Gas's witness:

> At a minimum, DTE Gas should be allowed to record a regulatory asset for the difference between the revenue credit used to calculate DTE Electric's rates approved by the Commission, and the Shared Asset charge currently reflected in DTE Gas's rates. Such a deferral would begin in the month DTE Electric's new rates are implemented and continue until DTE Gas implements rates reflecting the Shared Asset charge from DTE Electric's most recent general rate order.

5 Tr 1321.

In its reply brief, RCG argued against the SADM, stating that it would not be possible to determine the reasonableness and prudence of the SADM charges leading to potential for abuse due to the revenues and expenses being between affiliated parties. PFD, p. 252; *see*, RCG's reply brief, p. 3.

The ALJ rejected RCG's and the Staff's arguments against the SADM and opined that it should be approved as proposed by DTE Gas. She agreed with the company that, in the past, synchronization problems have occurred in shared asset revenues and expenses resulting in the electric side of the company subsidizing the gas side. The ALJ pointed out that the reasonableness and prudence of the shared asset charges are reviewed in rate cases and that the SADM is merely a way of accounting for the costs of the shared assets. PFD, p. 252.

No party filed exceptions on this issue.

The Commission is persuaded that the ALJ's analysis and recommendation regarding the use of the SADM is supported in the record and is reasonable and prudent. Accordingly, the Commission adopts the ALJ's recommendation.

VII. REVENUE DEFICIENCY

The Commission finds that for the test period ending December 31, 2022, DTE Gas will experience a total revenue deficiency of $84,173,000, as follows:

Rate Base	$5,537,080,000
Required Rate of Return	5.41%
Income Required	$299,650,000
Adjusted Net Operating Income	$237,515,000
Income Deficiency	$62,135,000
Revenue Conversion Factor	1.3547
Revenue Deficiency	$84,173,000

VIII. COST OF SERVICE, RATE DESIGN, AND TARIFFS

A. Cost of Service/Allocation of Revenue Deficiency

The ALJ quoted DTE Gas's witness regarding the cost-of-service study (COSS) for the projected test year:

> The Company's rate design reflects the Commission's long-standing approval of two demand/capacity allocation methods, which are the Average and Peak (A&P) method for functionalized transportation costs and non-customer related distribution costs; and a blended method (50% cost allocation on the Peak method and 50% cost allocation on the percentage of storage capacity) for storage costs.

PFD, p. 253; *see*, 5 Tr 1065-1067).

1. Allocation of Uncollectibles Expense

The ALJ stated that the Staff proposed minor changes to the COSS, one of which was that uncollectibles currently allocated on the basis of allocator 21, Net Write-offs, instead be allocated using allocator 20, Cost of Service plus Cost of Gas and that costs be spread over all the rate classes.[13] The Staff testified that, even though DTE Gas's allocation is currently approved by the Commission, it does not accurately reflect the way that uncollectible costs are incurred or how the costs should be allocated to the rate/customer classes. The Staff asserted that uncollectibles are attributable only to individual customers and, as such, should not be allocated to a particular customer class, but rather are a normal cost of doing business to be shared by all customers. PFD, pp. 253-254; 5 Tr 2099-2100.

DTE Gas rebutted the Staff's testimony and stated that whether a particular rate class pays its bills does not correlate to its cost of service or cost of gas, and to allocate uncollectibles in the

[13] *See*, Exhibit A-16, Schedule F1.1, p. 7, lines 20 and 21. In DTE Gas's projection, Rate A bears 91.368% of the cost of uncollectibles, while the remaining rate classes bear little to no costs for uncollectibles. *See*, Exhibit A-16, Schedule F1.1, p. 7, columns (d) through (k).

manner suggested by the Staff would unfairly assign to rate payers costs they did not cause. 5 Tr 1098. DTE Gas also asserted that "the Commission approved the company's proposed allocation method in Case No. U-17999" and had previously approved the method for DTE Electric and Consumers. PFD, p. 254. The ALJ quoted DTE Gas's witness:

> One test to assess the suitability of a proposed method of allocating uncollectibles expense is how well it reflects cost causation. Using cost of service plus cost of gas as the basis for allocating uncollectibles expense would imply that a classes' [sic] revenue requirement correlates with the classes' [sic] failure to pay their bills. However, that is not the case. In 2019, Rate A was responsible for 91.4% of net write-offs but only 64.5% of the revenue requirement. (See Exhibit A-16, Schedule F1.1). Therefore, the Company's use of the Commission approved method for allocating uncollectibles expense based on Net Write-Offs better reflects cost causation than does the Staff's proposed method.

PFD, p. 254 (citing 5 Tr 1098).

ABATE also disagreed with the Staff and asserted that members of certain customer classes are less likely to pay their power bills than members of other customer classes and, accordingly, contribute more to the uncollectible expense. ABATE argued that those classes should bear the costs of uncollectibles rather than allocating "these expenses based on total delivery revenue requirements plus the cost of gas" and, to do otherwise, is inconsistent with cost causation. ABATE's initial brief, pp. 23; 5 Tr 307-308; 5 Tr 309, Table 1. *See*, ABATE's initial brief, pp. 23-27.

The ALJ found that the Staff's suggestion to reassign uncollectibles to the cost of service plus cost of gas category was appropriate because the inability to pay a power bill is attributable to individual customers rather than an entire rate class, and she agreed that uncollectibles expense is a cost of doing business to be borne by all customers. In the alternative, if the Commission rejects the reassignment, the ALJ recommended that the Commission adopt a three-year average of uncollectibles expenses. PFD, pp. 254-255; 5 Tr 2073-2074; Staff's initial brief, p. 104.

DTE Gas excepts to the ALJ's recommendation because its allocation in the instant case is the same allocation that the Commission supported in the past. DTE Gas relies on the December 9, 2016 order in Case No. U-17999 (December 9 order), and quotes:

> The Commission recently conducted an examination of this issue in Case No. U-17689 and concluded that Staff's argument should be rejected, finding that: "It is appropriate and consistent with regulatory ratemaking principles to directly assign such costs to the class that caused the costs." June 15, 2015 Order in Case No. U-17689, p 27. The Commission favors consideration of "how different classes of customers are actually causing the costs." *Id*. Nothing persuades the Commission that it should return to a method that assigns uncollectibles as a general cost of providing service.

DTE Gas's exceptions, p. 97 (quoting December 9 order), p. 57. DTE Gas argues that nothing has changed since the December 9 order and that the Staff presented no new arguments or evidence to support its recommendation. *Id*.

ABATE also takes exception to the ALJ's recommendation and argues that DTE Gas's current approach to allocation of uncollectibles, approved by the Commission in the past, reflects cost causation and is the most reasonable manner by which to allocate uncollectible costs. ABATE's exceptions, p. 4. ABATE asserts that "Staff's proposal would . . . unreasonably divorce the utility's costs from the classes which cause them and would not provide for cost-based rates." *Id*., p. 5. ABATE also points out that the Commission has rejected the Staff's argument that uncollectibles are a cost of doing business to be shared by all classes in the past, in favor of an allocation that allocates uncollectibles to a class in which the uncollectibles occur. *Id*.

The Staff replies to DTE Gas's and ABATE's exceptions, stating that the:

> Staff proposed returning to the uncollectibles allocator that had been in place for many years prior to the change to net write-offs, as this method reflects the reality that uncollectibles are not the [sic] caused by other customers who happen to share a class with customers who do not pay their bills. (5 TR 2099-3000.) The proposed method, utilizing overall cost of service, better reflects cost-causation, as this measure reflects the manner in which customers are billed (and so those bills

> that become uncollectible) while recognizing that uncollectibles are not properly attributed by class, but are a general cost of doing business for the utility.

Staff's replies to exceptions, p. 13 (citing Staff's initial brief, p. 102).

The Commission agrees with the ALJ's recommendation to return to allocating uncollectibles on Cost of Service plus Cost of Gas, as proposed by the Staff. While the Commission recognizes that this is a departure from the currently-approved methodology, the Commission finds that the allocation of uncollectibles as a general cost of doing business more accurately reflects both cost of service principles and, as the ALJ noted, the approach used by most other companies. PFD, p. 254. At its heart, DTE Gas's argument is that allocating uncollectibles in the manner suggested by the Staff–and the manner approved by this Commission for many years prior to the change made just five years ago–would unfairly assign to ratepayers costs they did not cause. 5 Tr 1098. Yet as Mr. Revere (the Staff's witness) notes, the current allocation approach does just that–assigning the costs of the company's uncollectibles largely to residential customers, even though "one customer who does not pay their bill does not 'cause' another to pay or not pay, regardless of which class the customers are in." PFD, p. 254. Indeed, while DTE Gas's expert witness on this issue describes a "classes' (sic) failure to pay their bills," (5 Tr 1098) the Commission finds that such a description is off point. The question of whether to pay–or not to pay–the utility bill rests with the individual customer, not the class in which that customer is situated.[14] Because these costs tie much more closely to the company's basic cost of doing business than to the current allocation

[14] *See*, dissenting opinion of Commissioner White in the June 15, 2015 order in Case No. U-17689, p. 42 ("Customers who pay their bills play no role in whether other customers' bills become uncollectible, and they should not be punished for paying their bills simply because they share characteristics as a group.")

approach that conflates cost causation with mere class membership, the Commission adopts the PFD's allocation of uncollectibles on the Cost of Service plus Cost of Gas allocator.

2. Cost-of-Service Study, Distribution Main Allocation Method

DTE Gas testified that the company used the long-standing, Commission-approved[15] average and peak (A&P) method[16] to allocate distribution costs. The company used the blended peak method (50% cost allocation on the peak method and 50% cost allocation on the percentage of storage capacity) for storage cost projections. 5 Tr 1065.

MPLP testified that DTE Gas should switch to a peak day demand allocation method because the A&P method causes overallocation of costs to high load factor customers, thus making its industrial rates "less competitive and less attractive compared to rates not based on throughput allocations." 4 Tr 73. MPLP asserted that it prepared a COSS using peak day demand method with data included in DTE Gas's COSS and eliminating the "distribution-other" allocation[17] that supports "a sizeable revenue decrease in the range of 9% - 17% to the Rate XXLT class, at proposed rate levels." 4 Tr 78. MPLP also testified that "[t]he peak day demand study is most reflective of system design and cost causation. Use of the peak day demand study would also make DTE [Gas's] Rate XXLT much more competitive which is consistent with the purpose of the rate." *Id*. MPLP opined that peak day demand method would comport with the National

[15] DTE Gas cited Case Nos. U-16999, U-17999, U-18999, and U-20642 as cases in which the Commission affirmed the use of the A&P method for allocating "functionalized transportation costs and non-customer related distribution costs." 5 Tr 1065.

[16] "The A&P method uses average consumption schedule as an integral part in allocating demand costs. Under the A&P method, the portion used to meet the maximum system load is determined by dividing each rate class's peak day consumption by 2 total peak day consumption." 5 Tr 1065-1066.

[17] The "Distribution-other" allocation is discussed later in this order.

Association of Regulatory Commissioners (NARUC) manual, as well as being the method endorsed by the Federal Energy Regulatory Commission (FERC). *Id*., pp. 75-80; Exhibit MPL-3. MPLP also testified that, alternatively, but less desirable, a 75/25 (75% peak and 25% throughput) method would help to eliminate unfair cost allocation. *Id*., pp. 79-80; Exhibit MPL-4.

The ALJ rejected MPLP's proposed method and pointed out that "near identical proposals, evidence, and arguments" were presented in Case No. U-18999 and were rejected by the Commission. The ALJ quoted the September 13, 2018 order in Case No. U-18999 (September 13 order), p. 100, which quoted the December 9 order, pp. 58-59).

> As the Commission has stated before, there are sound reasons for allocating some portion of demand related costs on the basis of non-peak throughput. October 28, 1993 order in Case No. U-10150, p. 96. Contrary to ABATE's assertion, the Commission does not rely on precedent simply because it is old, but because it is correct. ABATE fails to point to any factor existing today that negates the reasoning that the Commission used in that 1993 order or previous orders. A gas distribution system has to produce both peak day service and off-peak service to be economically viable. "Peak day load alone is insufficient to pay for the cost of building the plant." Id. As the Staff puts it, "To focus only on the peak demand services that the system provides completely ignores how the system operates every other day of the year, when customers still expect the safe, reliable delivery of natural gas.

PFD, pp. 255-256 (footnotes omitted). The ALJ also stated that MPLP had not brought any new argument or evidence to merit a change in the Commission's previous holding. *Id*., p. 256.

MPLP takes exception to the ALJ's determination that it brought no new argument or evidence to "negate the Commission's previous determinations" and points out that its case presentation included discussion of the importance of "adhering to cost-of-service principles" and "rate stability." MPLP's exceptions, p. 7. MPLP reiterated its case presentation, stating that the "Commission should adopt a peak design day methodology" because the A&P method is "inherently inequitable." *Id*., p. 7. Further, MPLP argues that the ALJ did not consider the 75/25 study that MPLP proposed as a less preferable, but viable COSS method alternative to the A&P method. *Id*. *See also*, *id*., pp. 10-12.

The Staff replies to MPLP's exceptions:

> MPLP argued in its exceptions that the peak day demand method is superior to the average and peak method for allocating distribution costs. (MPLP Exception, pp 6-10.) While MPLP is claiming that these are new arguments, they are and continue to be arguments that have been made and rejected by the Commission in previous cases. Staff argued for the average and peak method in both its brief (Staff Initial Brief, pp 105-107) and reply brief. (Staff Reply Brief, pp 24-25.) The ALJ correctly supported those recommendations in the PFD. MPLP's exception to the PFD on the peak day method for allocating distribution costs proposed by MPLP should be rejected.

Staff's replies to exceptions, p. 12. Additionally, the Staff argues that it presented the necessary contrary evidence related to the 75/25 allocation method in testimony as well as in its initial brief and that the "ALJ correctly determined that the arguments supporting the current method are still valid, and the evidence to the contrary presented by MPLP was the same as previously rejected evidence." *Id*. *See*, PFD, p. 256; Staff's initial brief, pp. 107-108; Staff's reply brief, p. 26. The Staff urges the Commission to reject the 75/25 method for cost allocation because the current method has been proven superior. Staff's replies to exceptions, pp. 12-13.

In its replies to MPLP's exceptions, DTE Gas urges the Commission to adopt the A&P method because "the Commission has consistently approved the use of the A&P method since December 1988 in DTE Gas's general rate case U-8812" and the Staff "continues to support the A&P method as the most appropriate allocator of distribution costs." DTE Gas's replies to exceptions, p. 79 (citing 5 Tr 1097, 2084, Staff's initial brief, pp. 105-108).

The Commission agrees with the ALJ, as well as with DTE Gas and the Staff, regarding the A&P method for cost allocation. The Commission is not persuaded by MPLP's case presentation that the peak day demand method or the 75/25 method for weighting demand and throughput properly reflect the design of DTE Gas's system or reflect that a system must provide not only peak demand service but also off-peak service to be economically viable. The Commission recalls and agrees with the Staff's explanation set forth in the September 13 order:

> Staff proposed using the A&P allocation method because of its nature as a compromise between the interests of high and low load factor customers. High and low load factor customers use the distribution system differently, so it is not fair to allocate the costs for using that system as if it were used for a single purpose: to meet designed peak demand. Because customer classes use the distribution system differently, it is reasonable to use an allocation method that combines how those disparate classes cause costs. Staff maintains that the reasonable method is A&P allocation.

September 13 order, p. 100 (quoting 4 Tr 1289 from that docket). The Commission finds the ALJ's analysis and recommendation is supported in the record and is reasonable and prudent. Therefore, the Commission adopts the ALJ's recommendation regarding the use of the A&P method.

3. Classification of Distribution Mains

As set forth above, DTE Gas testified that it employed the A&P method to allocate distribution costs. 5 Tr 1065. ABATE disagreed with this method and testified that failure to recognize the customer-component in the cost of distribution mains leads to misallocation of cost responsibility to rate classes because, for example, a single industrial customer with a peak demand of 500 dekatherms (Dth) would require fewer distribution mains footage than a neighborhood with 1000 customers that also requires 500 Dth. 5 Tr 280-282. ABATE asserted that, "based on annual system load factor, 33% of distribution main costs are based on throughput" without consideration of the number of customers on the main. ABATE testified that 40% of low-pressure distribution main costs should be based on the number of low-pressure gas customers on the main. *Id*., p. 284; Exhibits AB-18, AB-19, and AB-20; PFD, p. 256.

The Staff disagreed with ABATE and testified that customer count is only indirectly related to distribution mains investment. 5 Tr 2080.

The ALJ found that the arguments and evidence presented by ABATE in the instant case are duplicative of those that were addressed and rejected by the Commission in the September 26, 2019 order in Case No. U-20322 (September 26 order) and so should be rejected in the instant case for the same reason, i.e., that distribution mains are not built to serve a specific number of customers, but to serve the demand of customers. In support of her recommendation, the ALJ included a quote from the September 26 order:

> As stated by the Staff, customer demand affects the diameter of distribution main required, and the first customer requiring service causes the company to construct the main. However, as argued by the Staff, the ensuing additional customers only require new service laterals until demand exceeds the amount that may be served by that particular main. Further, the Staff asserted that, "if customers decide to leave the system, then the Company will still have invested in distribution main for those customers. If the demand of the remaining customers increases such that total demand returns to the previous level, but with fewer customers, the investment in distribution main change [sic] does not change, because distribution mains are built and maintained to serve the natural gas demand of customers, and not to serve a specific number of customers." 7 Tr 2073-2074. The Commission agrees.

PFD, p. 257 (quoting September 26 order, p. 117).

ABATE takes exception and argues that the ALJ merely quoted from a previous Commission order and did not address its concerns related to allocation of the cost of distribution mains. ABATE repeats the arguments that it put forth in its case presentation and asserted that the Staff's argument is flawed because the argument itself, which stated that the existence of customers causes the company to invest in distribution mains, regardless of demand, thereby "demonstrates that distribution main costs are not entirely related to or resultant from customer demand alone; they are caused by the addition of new customers. As such, a portion of distribution mains costs should be classified as customer-related." ABATE's exceptions, pp. 7-8.

The Staff replies:

> ABATE fails to recognize that, as those are duplicative of the prior arguments the Commission has rejected, relying on the prior Commission rejections of those arguments, as the ALJ did, is appropriate. All of the logic underlying those rejections, supported by the same evidence presented by Staff in the instant case, remains valid. (Staff Initial Brief, pp 105-107; Staff Reply Brief, pp 24–25.) The PFD relies on the fact that there was no new record evidence to cause the Commission to come to a different result.

Staff's replies to exceptions, pp. 10-11.

The Commission is not persuaded by ABATE's argument that the ALJ did not answer its concerns - to the contrary, her quotes from the previous order and her finding that ABATE's argument was addressed in that previous order were appropriate responses. Further, the Commission takes note of the Staff's testimony that customer count is only indirectly related to distribution mains investment[18] and is not persuaded that a portion of the cost of distribution mains should be allocated as a customer cost. Additionally, the Staff persuasively argued that "[a]ll of the logic underlying those rejections, supported by the same evidence presented by Staff in the instant case, remains valid." *Id*. Paraphrasing the ALJ and the September 26 order, distribution mains are not built to serve a specific number of customers, but to serve the demand of customers. PFD, p. 257. *See*, September 26 order, p. 117. The Commission finds that the ALJ's recommendation on this matter is supported in the record and is reasonable and prudent. Therefore, the Commission adopts the ALJ's recommendation that ABATE's proposal on the matter be rejected.

4. January Peak Design

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[18] *See*, 5 Tr 2080.

DTE Gas testified that, for the projected test year, the company employed a January design peak day requirement of 2.59 billion cubic feet (Bcf) taken from its gas cost recovery (GCR) plan in Case No. U-20816[19] because this method is the most appropriate for cost-of-service allocation. PFD, pp. 257-258. DTE Gas's witness Jennie A. Aud testified[20] that the company's design peak day is evaluated annually, that the mix of customers affects the design peak day volume because different classes have different sensitivity to temperature, and that, in the instant case, the Detroit area's design peak figure was based on the January 30, 2019 temperature in the Detroit/Ann Arbor service area which was -6° Fahrenheit. 5 Tr 516-517. DTE Gas "explained that it would be incorrect to use XXLT demand from a different time period, such as the summer, because the design peak day is defined as the consumption expected on a day with an average temperature of minus 6 degrees Fahrenheit. PFD, p 258 (citing 5 Tr 516-517, 5 Tr 1095-1096).

Detroit Thermal/Vicinity testified that Rate XXLT customers use more gas in the summer than in the winter and, accordingly, a winter peak design day does not recognize the needs of this rate class. 5 Tr 1619-1622. Detroit Thermal/Vicinity recommended that the Commission "[r]eview whether DTE Gas should consider alternative means to calculate the peak day demand of the XXLT rate class that is not dependent upon heating requirements, and that may be in better alignment with XXLT peak summer month transportation volumes." *Id*., p. 1622.

Relying on Ms. Aud's testimony, DTE Gas rebutted Detroit Thermal/Vicinity's recommendation, stating that it would be incorrect to use a different peak day for the XXLT rate

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[19] A contested proceeding for Case No. U-20816 was pending before the Commission at the same time as the instant case. As of the date of the issuance of the order in the instant case, no final order in Case No. U-20816 has been issued.

[20] Ms. Jennie A. Aud, Director of Gas Control and Planning at DTE Gas, testified on behalf of DTE Gas. Her testimony is found, in its entirety, at 5 Tr 502-517.

class than used for other rate classes in the Detroit area. 5 Tr 1095-1096. Detroit Thermal/Vicinity disagreed with DTE Gas's reasoning and stated that the winter peak day makes sense for residential rate classes because they have peak to average ratios as high as 480%, but it does not meet the peak day demand of the XXLT class which is 110%. 5 Tr 1619; Detroit Thermal's initial brief, pp. 16-17.

The ALJ agreed with DTE Gas and quoted the company's testimony that '"design peak day is appropriate because it represents a consumption level most reflective of the design of the utility's system versus historical demands [and] is superior to the use of other allocation methodologies that might use historical peak day, normal peak day, annual through put or average customers."' PFD, pp. 258-259; 5 Tr 1067-1068.

No party filed exceptions to the ALJ's recommendation.

The Commission is persuaded that the ALJ's analysis and recommendation regarding the use of DTE Gas's selected winter peak day is supported in the record and is reasonable and prudent. Accordingly, the Commission adopts the ALJ's recommendation that Detroit Thermal/Vicinity's proposal that the company should employ a summer peak day for the XXLT rate class be rejected.

5. Allocation of "Distribution Other" Costs to Rate XXLT

MPLP testified that DTE Gas has overallocated costs to the XXLT rate class, particularly in the "distribution-other" category because XXLT is a high-pressure transmission rate class, so it would not have distribution costs. MPLP recommended the category not be allocated to the XXLT rate class. 4 Tr 67, 72-73, 78; Exhibit MPL-3. DTE Gas testified that some XXLT customers take service at the distribution level and that the Commission's approval of the allocation of these costs is longstanding, referencing the June 3, 2010 order in Case No. U-15985

(June 3 order).[21] 5 Tr 1096-1097; 5 Tr 1078, Table 3. The ALJ agreed with DTE Gas, acknowledging that, because some XXLT customers take service at the distribution level, a "distribution plant-other" allocation to the XXLT rate class is appropriate. PFD, p. 259.

MPLP takes exception to the ALJ's recommendation on the "distribution-other" cost allocation, arguing that the ALJ erred when she did not recommend that the allocation be removed from the XXLT rate. MPLP argues that the Commission has previously decided that the XXLT rate class should not include distribution costs and that the Commission's rulings in the June 3 and the December 9 orders are valid precedent.[22] MPLP's exceptions, pp. 14-16.

DIG takes exception to being treated as a transmission customer, as they have been in the past, despite being served at high-pressure distribution level. In support of its argument, DIG relies on the June 3 order and orders in subsequent rate cases wherein, DIG states, it was not assigned distribution costs. DIG's exceptions, pp. 6-8.

DTE Gas replies to MPLP's exceptions and states:

> The record reflects that the "distribution plant-other" costs (shown in Exhibit A-16, Schedule F1.1 page 3, line 4) contain facility-related costs that are used by all distribution-served customers. A portion of XXLT volumes are taken at the distribution level, so it is appropriate to allocate these costs to the XXLT class. The Commission has also approved the allocation of these costs to the XXLT class in all recent DTE Gas cases since at least Case No. U-15985.

DTE Gas's replies to exceptions, p. 79 (citing 5 Tr 1096-1097).

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[21] Case No. U-15985 is a rate case filed by Michigan Consolidated Gas Company (now DTE Gas Company) on June 9, 2009. The Commission issued an order on June 3, 2010, that addressed the XXLT rate class and distribution charges. Post the June 3 order, the Commission issued additional orders on July 27, 2010, and October 4, 2011, respectively, and the Court of Appeals issued an opinion on July 21, 2011. These subsequent orders did not address distribution cost allocation to the XXLT rate class.

[22] The Commission approved removal of $19.3 million of distribution plant and $704,000 of distribution operating expenses that were attributed to DIG from the XXLT rate class when DIG was not a member of that class. *See*, June 3 order, pp. 112-113.

The Staff replies to DIG's argument that it should be treated as a transmission customer as follows:

> DIG takes exception to the lack of detail on DIG's prior treatment as a transmission customer and recommends that treatment continue as no appropriate justification for the change in treatment has been given. (DIG Exceptions, pp 6-8.) The treatment referred to is the allocation of distribution costs to XXLT, the rate schedule on which DIG takes service, and Staff, in fact, did provide the justification for that change in treatment:
>
> > "DIG further argues that it is inappropriate to allocate distribution costs to XXLT, as no distribution costs have been allocated to the rate since its inception. (DIG Initial Brief, pp 12-14.) This is incorrect. The justification for the rate not being allocated distribution costs was that no such costs should be so allocated as the customers should not be responsible for them due to the nature of their service. (5 TR 2100-2101.) As that justification no longer holds, it is appropriate for such costs to be allocated to XXLT. (Id.)"

Staff's replies to exceptions, pp. 16-17 (quoting the Staff's reply brief, p. 30).

The Staff also replies to MPLP's argument that "the Commission has previously determined distribution costs should not be allocated to XXLT even knowing that customers were served by the distribution system, and that this should continue. (MPLP Exceptions, pp 13-16.)" Staff's replies to exceptions, p. 17. The Staff argues that:

> MPLP claims that the Commission intentionally excluded distribution costs from XXLT with the knowledge that XXLT would be served at least partially from distribution. (MPLP 31 Initial Brief, pp 14-17). A review of the record in the case approving XXLT shows this not to be the case. The Company's supporting witness Wayne E. Fox characterized XXLT as a cost-based rate. (MPSC Case No. U-15985, 5 TR 1207). In addition, Staff initially included distribution costs in the allocation to XXLT, which were opposed on the basis that they were not required to provide service under the rate, and which removal was therefore agreed to by Staff. (MPSC Case No. U-15985; Staff Initial Brief, pp 33-34). MPLP also claims that the Commission's rejection of ABATE's proposed transmission-only rate supports their claim that the Commission knowingly approved a rate for distribution-served customers that excluded distribution costs. (MPLP Initial Brief, pp 15, 17). Again, this is incorrect based on a simple review of the record. The proposal was rejected based on a lack of evidence supporting the rate, as well as the lateness of the proposal, not for the reasons claimed by MPLP. (MPSC Case No. U-15985, 18 6/3/2010 Order, pp 94-95). For these reasons, it is incorrect to

> conclude that the Commission believed it was approving a rate for distribution-served customers that excluded distribution cost.

Staff's replies to exceptions, pp. 17-18 (quoting Staff's reply brief, pp. 30-31).

The Commission is not persuaded that the ALJ erred in recommending that "distribution other" expenses be allocated to rate XXLT, or that DIG, specifically, should not be allocated distribution-other expenses. In the instant case, rate XXLT now has customers taking service at the distribution level (even though this may not have been the case at one time in the past) and so XXLT is not solely a transmission rate class. Further, DIG's special contract has ended and it is no longer required to be accounted for separately, resulting in its assignment to the XXLT rate class. As such, it will no longer be excluded from the allocation of distribution costs–as a member of the XXLT class, it must pay costs that are appropriately allocated to XXLT. *See*, Exhibit A-16, Schedule F1.2.

The Commission finds the Staff's arguments to be on point and persuasive and also finds that the ALJ's recommendation is supported in the record and is reasonable and prudent. Therefore, the Commission adopts the ALJ's recommendation that "distribution-other" costs are appropriately allocated to the XXLT rate class and to DIG, specifically.

6. Peak Day Demand

ABATE testified that, in its next rate case, DTE Gas should develop peak day demands by service level, as well as by rate class. PFD, p. 259, 5 Tr 264, 266-267. DTE Gas responded that the company does not have the required information available to do so and that to obtain it would be unnecessarily burdensome. The company explained that it is able to calculate EUT rates under the "long-standing volumetric EUT rate class structure." PFD, p. 259, citing 5 Tr 1091. The ALJ decided that ABATE's proposal would be better discussed after a "decision is made on the appropriate COSS approach for allocating costs to EUT customers." PFD, p. 260.

DTE Gas excepts to the ALJ's decision, reiterating that:

> the proposal is burdensome and unnecessary. The Company does not have the necessary information readily available to develop peak day demands by service level, and it would take a substantial amount of time and analysis to prepare such information. The development of peak day demands by service level is also unnecessary to calculate EUT rates under the long-standing volumetric EUT rate structure.

DTE Gas's exceptions, p. 97; 5 Tr 1091. The company goes on to argue that it completed the study splitting high-pressure and low-pressure distribution system costs as agreed in the settlement approved in the August 20, 2020 order in Case No. U-20642 (August 20 order) and has reviewed "how direct-served transmission volumes are determined and classified to all rate schedules," also in compliance with the August 20 order. *Id*., p. 98 (quoting the settlement agreement approved in the August 20 order). DTE Gas repeats that "there has been no determination that this new allocation method would better align cost causation with cost allocation for all rate classes." *Id*. (referencing 5 Tr 1099).

The Commission has determined that DTE Gas should provide a COSS consistent with the Staff's second alternate COSS as discussed below in Section B, High-Pressure/Low-Pressure Distribution Main Study and Recommendations, i.e., provide a high-pressure, low-pressure distribution main cost-of-service study, with demand by service level.

7. Other Cost-of-Service Study and Allocation Issues

Detroit Thermal/Vicinity made four recommendations related to certain rate classes:

> (1) DTE Gas should remove the allocation of any capital costs associated with new customer attachments from rate EUT;
>
> (2) the Commission should cap the rate design adjustment credit to the XXLT class at $5 million;

> (3) DTE Gas should be required to refine Allocation #5 "so that the weighted average installed meter cost for EUT customers reflects the costs shown in the model provided in DTDG-3.3;" and
>
> (4) DTE Gas should reduce the GIK [gas-in-kind] rate to Rate XXLT EUT customers from 1.00% to .54%.

PFD, p. 260; *see*, 5 Tr 1621-1622.

DTE Gas defended the inclusion of capital costs for new attachments for EUT customers, stating that:

> new attachments include new EUT customers, resulting in more gas delivered to these customers, thereby spreading costs over a higher volume. DTE adds that adding residential and commercial customers keeps overall volumes delivered to these customers flat, despite the fact that usage per customer is decreasing. This, in turn, keeps EUT customers from having to assume more costs.

5 Tr 486-487.

DTE Gas disagreed with Detroit Thermal/Vicinity's suggestion of capping the rate design credit at $5 million:

> DTE Gas points to [its witnesses] Mr. Maroun's[23] and Mr. Decker's[24] testimony regarding the need for rate design adjustments as a necessary tool in setting economic breakevens between EUT classes. DTE Gas adds that
>
>> "[a]n artificial cap would constrain the calculation and prevent the Company from achieving breakevens. Changes to the target breakeven points could then make it economical for EUT customers to move between customer classes. The resulting customer migration would cause the Company unjust and unreasonable financial harm by preventing collection of the full revenue requirement for each EUT class."

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[23] Mr. Habeeb Maroun, Principal Analyst-Revenue Requirements for DTE Gas, testified on behalf of DTE Gas. His testimony is found, in its entirety, at 5 Tr 1057-1099.

[24] Mr. Henry J. Decker, Director of Energy Gas Sales and Marketing for DTE Gas, testified on behalf of DTE Gas. His testimony is found, in its entirety, at 5 Tr 418-497.

PFD, pp. 260-261 (quoting DTE Gas's initial brief, pp. 137-138); 5 Tr 459-460, 1093; *see also*, 5 Tr 2047-2049.

The Staff also disagreed with Detroit Thermal, similarly arguing that "[t]his proposal is inappropriate as it ignores the fact that the purpose of the adjustment is to maintain the breakevens and does not reflect the fact that XXLT currently is inappropriately not held responsible for nontransmission costs that should be appropriately allocated to XXLT." Staff's initial brief, p. 113; *see also*, 5 Tr 2104-2105.

Next, DTE Gas rebutted Detroit Thermal's recommendation regarding Weighted Customer Allocation #5, testifying that some EUT customers have multiple meters and, consequently, the DTE Gas study estimates cost per meter. DTE Gas asserted that Detroit Thermal did not consider that EUT customers may have multiple meters. 5 Tr 1094. DTE Gas further testified that, "in total XLT and XXLT customers are only allocated $70,000 out of a total of $54.6 million (0.0127%) for meter reading and customer records expense" and that calculation of a separate weighting factor would be "excessive and unnecessary" for a relatively small amount. PFD, pp. 261-262; 5 Tr 1095; Exhibit A-16, Schedule F1.1, p. 2, lines 7-8; DTE Gas's initial brief, p. 138. DTE Gas also testified that the method employed in Allocation #5 is long-standing and has been approved by the Commission in numerous rate cases. *Id*., p. 1094.

Finally, DTE Gas and the Staff opposed reducing the GIK percentage for XLT customers:

> Staff and DTE Gas maintain that the GIK rates for EUT do not result in a subsidy to other customers. Staff points out that Detroit Thermal "ignores that transmission losses are negative due to metering error and would result in crediting this metering error against Company Use and losses such that EUT customers would no longer be responsible for costs properly attributed to them. (5 TR 2105-06.) Staff adds, "The Company's proposed GIK rates balance the risk of metering error and associated subsidization between sales and EUT and should therefore be approved."
>
> DTE [Gas] asserts that "the existing GIK rates support the current off-system and EUT competitive business environment without additional risk to load and revenue

loss. Other interstate pipelines also charge similar GIK rates, so the Company is competitive with these other options."

PFD, p. 262 (quoting DTE Gas's initial brief, p. 146, and the Staff's initial brief, pp. 116-117).

DIG also proposed a cap on XXLT's rate increase and testified that DTE Gas's COSS indicates that the XXLT class's rate increase should be 29.05% or less; however, the increase is 45.35%.[25] 4 Tr 107-108; 5 Tr 428, 1076. DIG explained that DTE Gas implemented a rate design adjustment for transportation classes based on the break-even point analysis which has been approved by the Commission in the past; however, the company's proposed rate design adjustments in this case require XXLT customers to pay "$3.875 million per year more than their allocated costs to serve based on DTE Gas's current COSS." *Id*., p. 108. DIG asserted that the increase is excessive, unjust, and unreasonable. DIG recommended that the Commission reject DTE Gas's proposed rate increase for the XXLT rate class and limit its rate increase to no more than 1.25 times the system average increase. *Id*.

The ALJ agreed with DTE Gas and the Staff that Detroit Thermal/Vicinity's recommendations relating to removal of allocation of any capital costs associated with new customer attachments from rate EUT, imposing a $5 million rate adjustment credit cap, refining Allocation #5 "so that the weighted average installed meter cost for EUT customers reflects the costs shown in the model provided in DTDG-3.3," and reducing the GIK rate to Rate XXLT EUT customers from 1.00% to .54%, should be rejected. PFD, p. 262.

DIG takes exception to the ALJ's lack of analysis of its proposal to cap the XXLT's rate increase to 1.25 times the system average increase and the failure of DTE Gas to continue to treat DIG as a transmission customer. DIG's exceptions, pp. 3-8.

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[25] DIG prepared two tables with data selectively taken from DTE Gas's COS evidence to arrive at its recommendation. *See*, 4 Tr 111-112, Tables 1 and 2.

The Staff replies that it disagrees with DIG's argument that "the increase to XXLT should be limited to 1.25 times the system average increase to avoid rate shock" and repeats the argument, set forth on page 114 of its initial brief:

> [T]he Company's current COSS method excludes costs that should be attributed to XXLT, and therefore even with the rate design adjustment XXLT rates do not reflect the cost to serve them. (5 TR 2107.) In addition, the claim of rate shock is in error, as when appropriately considering gas costs the increase is lower than the threshold of 10%. (5 TR 2107-08.) It would also be unreasonable to set the expectation that success in negotiating an increase below that required by the COSS in settlements caps future increases, forcing other customers to subsidize XXLT further. (5 TR 2108.) Capping the increase to XXLT as proposed would be unreasonable, as it ignores the realities of the cost to serve the customers as well as how a breakeven based rate design functions.

Staff's replies to exceptions, p. 16.

The Commission is not persuaded by Detroit Thermal/Vicinity's or DIG's arguments that the XXLT rate should have an arbitrary cap on its rate increase, regardless of whether it is an overall rate adjustment cap set in dollar amounts as suggested by Detroit Thermal/Vicinity or a cap limited to a percentage of the increase in other rate classes as DIG suggested. Artificial caps or limits on rate increases do not have a sound basis in rate making principles, as discussed by the Staff, above. The Commission finds, for the reasons discussed above, that DIG's proposed limitation on the XXLT's rate increase should be rejected.

Related to the above discussion of break-even points and caps on rate increases, DTE Gas proposed that the economic break-even point for the XLT and XXLT rate classes should be 3.5 Bcf per year. 5 Tr 460. *See*, Exhibit A-16, Schedule F2, p. 3.

ABATE contended that DTE Gas artificially adjusts the customer charges for EUT customers to "maintain specific economic break-even points between rates." 5 Tr 268-269.

MPLP also testified that DTE Gas added excess costs as a rate design adjustment and advocated stand-alone rates for EUT. 4 Tr 67, 82-83.

MPLP takes exception to the rate design adjustment, arguing that rates proposed by DTE Gas and the Staff have "no basis in cost of service." MPLP's exceptions, pp. 16-17. MPLP argues that the rate adjustment is a manipulation to try to maintain revenue stability for the utility. MPLP states:

> If setting rates at cost of service, however, would result in customers migrating to different rates to lower their overall energy costs, then the utility's revenues are affected. To avoid this inter-rate case risk, the utility proposes to adjust the amount of costs recovered by each rate, inflating some rates while lowering others, so that customers will not migrate between the various transportation rates. This rate manipulation results in unjust and unreasonable subsidies. Typically, rate adjustments to maintain break-even points are small and are more in the nature of fine-tuning rates. Even when small, such rate adjustments are disfavored because of the rate subsidy concerns. In this case, however, the proposed rate adjustments are not small. In the present case, the proposed rate adjustments are significant and an unwarranted distortion that creates harsh over-charges for Rate XXLT customers. Both DTE's and the Staff's proposed rate adjustments exceed $3.5 million per year.

Id., p. 17. MPLP goes on to point out that the rate adjustment that DTE Gas proposed amounts to a 44% increase in the XXLT rate, and the Staff's proposed adjustment adds a $3.560 million rate adjustment to the cost-based increase of $1.516 million. *Id*.[26]

MPLP also argues that the XXLT rate should be established as a stand-alone rate class because the class is large and unique and that setting the minimum service level at the 3.5 MMcf would eliminate migration between rates. For example, XXLT could be limited to those customers that have projected annual usage of 3.5 MMcf or more. MPLP's exceptions, pp. 16-19.

The Staff replies that "the classes being defined in the COSS are not based on how service differs amongst and between those classes, but directly on the usage levels defined by the

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[26] MPLP references Exhibit S-6, Schedule F2, p. 1 of 4, line 17, for the Staff's recommended revenue increase; and Exhibit S-6, Schedule F3, p. 4 of 4, for the Staff's recommended rate adjustment.

breakevens." Staff's replies to exceptions, p. 18 (citing the Staff's initial brief, p. 114). The Staff further argues that "[t]o ignore the very break-evens used to define the classes the costs are allocated based on is not appropriate." *Id.*, pp. 18-19 (citing Staff's reply brief, pp. 33-34).

The Commission is not persuaded by ABATE's implication that the establishment of break-even points and related rate adjustments are an unreasonable mechanism employed to keep rates artificially high or by MPLP's argument that they have no basis in determining cost to serve. The Commission agrees with the ALJ that the purpose of the rate adjustment is to maintain the break-evens and that the XXLT class is not currently "held responsible for non-transmission costs that should be appropriately allocated to XXLT." PFD, p. 261; *see also* Staff's initial brief, p. 113. As DTE Gas asserted, "[c]hanges to the target breakeven points could then make it economical for EUT customers to move between customer classes. The resulting customer migration would cause the Company unjust and unreasonable financial harm by preventing collection of the full revenue requirement for each EUT class." PFD, p. 261; *see also* DTE Gas's initial brief, pp. 137-138. The Commission agrees and finds that DTE Gas's break-even points are necessary and appropriate and should be maintained in the manner described by the Staff. Further, in the instant case, the Commission does not find the record to be compelling that XXLT should be established as a stand-alone class.

B. High-Pressure/Low-Pressure Distribution Main Study and Recommendations

A matter of particular interest in this case are the two supplemental studies submitted by DTE Gas to comply with Item 18 of the settlement agreement that was approved by the Commission in the August 20 order, which states, in pertinent part that "[f]or the next rate case, DTE Gas will perform a study on splitting out high-pressure and low-pressure distribution system costs." *See*, August 20 order, Attachment A, p. 7. The company submitted the <u>High-Low Mains Study #1</u>

(Study 1) which was intended to "[d]etermine the percentage split of distribution main plant (account 376) through year end-2019 between high-pressure (100 psig [pounds per square inch gauge pressure] or greater) and low-pressure (less than 100 psig) and the Volumes by Type Study #2 (Study 2) which was intended to "[c]alculate the percentage split of 2019 volumes by delivery type between low-pressure, high-pressure, and transmission for every rate class." 5 Tr 1077. Study 1, Table 2, indicates that year-end 2019 volumes had total high-pressure costs of $268,705 or 14.6% of total costs, and the same period had total low-pressure costs of $1,569,052 or 85.4% of total costs. Study 2, Table 3 separates high-pressure, low-pressure, and transmission volumes and percentages by rate class. PFD, p. 263. *See*, 5 Tr 1078, Tables 2 and 3.

The ALJ set forth the Staff's testimony related to DTE Gas's two studies:

> It would be inappropriate to utilize the first alternate, as it fails to go far enough in splitting costs and allocation by relevant levels of service. In the instant case it would also be inappropriate to utilize the second alternate COSS directly, as recognizing the difference in costs in rates should be accompanied by a reexamination of the structure of rates. If the second alternate COSS were to be used directly, it may also be appropriate to set up different rates for different levels of service, as only the customers served at each of those levels are responsible for the costs allocated based on volumes at those levels. The scope of this redesign, as well as determining the best way to approach it, is too large for the context of a 10-month rate case. Instead, as a stopgap, Staff has used the second alternate COSS, as modified for Staff's adjustments (hereafter referred to as Staff's Alternate COSS) as a guide to how revenue responsibility should be shifted between transportation schedules when adjustments must be made to maintain the current breakeven points. This better reflects the differences in cost between the current schedules and the mix of service levels on each, moving toward a more rational distribution of revenue responsibility. To effect this, [Staff witness Mr. Revere][27] instructed Staff witness Madison S. Todd[28] to keep each transportation schedule's share of the total transportation revenue requirement between the results of the

[27] Mr. Nicholas M Revere, Manager of the Rates and Tariffs Section of the Regulated Energy Division at the Commission, testified on behalf of the Staff. His testimony is found, in its entirety, at 5 Tr 2095-2111.

[28] Mr. Madison S. Todd, Departmental Analyst in the Rates & Tariff Section of the Regulated Energy Division at the Commission, testified on behalf of the Staff. His testimony is found, in its entirety, at 5 Tr 2042-2057.

> COSS using the current methods of allocation and Staff's alternate COSS while conducting rate design. This is a reasonable interim solution, which is a step toward the current state of Consumers Gas' transportation rate design. Staff recommends the Company be required to include the second alternate COSS, updated for the Company's filing information, in future rate cases so that this method can continue to be utilized, and continue to explore the best way to modify rate design to directly utilize this alternate COSS.

PFD, pp. 263-264 (quoting 5 Tr 2101-2102).

DTE Gas rebutted the Staff's recommendation that a second alternate COSS be provided in future rate cases and testified that "[p]erforming this study requires considerable time and resources and it has not yet been determined by the Commission that this new allocation method splitting distribution mains between high- and low-pressure better aligns cost causation with cost allocation for all rate classes." PFD, p. 264 (citing 5 Tr 1099).

The ALJ agreed with the Staff and recommended that DTE Gas be required to submit a COSS consistent with the Staff's suggestion because it is the "method used by Consumers Gas for transportation rates, and should result in more accurate cost allocation." PFD, p. 264.

DTE Gas excepts, stating that it has completed the high-pressure/low-pressure volumetric studies as agreed to in the settlement approved in the August 20 order, that the additional recommended study would require "considerable time and resources," and "there has been no determination that this new allocation method would better align cost causation with cost allocation for all rate classes." DTE Gas's exceptions, pp. 97-98 (citing 5 Tr 1099).

The Staff replies to DTE Gas's exception that the time and resources required for the alternative COSS recommended by the ALJ would be well-spent. Staff's replies to exceptions, p. 14.

ABATE takes exception to the ALJ's agreement with the Staff that restructuring the EUT rate classes is too large for the context of a 10-month rate case and asserts that its proposal merited more discussion in the PFD. ABATE argues that it proposed a reasonable approach that should not be put off until the next rate case. ABATE's exceptions, pp. 1-2.

The Staff replies that its concerns related to ABATE's proposal were unresolved in the instant case, and that "the time between ABATE's proposal being filed to the docket and the closing of the record was insufficient to examine all the details of ABATE's proposal." Staff's replies to exceptions, p. 11.

The Commission is not persuaded by DTE Gas's arguments and finds that a COSS, consistent with the Staff's second alternate COSS, will provide valuable information to inform the Commission's decisions in the next DTE Gas rate case related to the allocation of costs. The Commission finds that the ALJ's analysis and recommendation on this matter is supported in the record and is reasonable and prudent. Accordingly, the Commission adopts the ALJ's recommendation that DTE Gas, in its next rate case, should provide a COSS that is consistent with the Staff's second alternate COSS.

Regarding ABATE's suggestion that the EUT rate classes should be restructured, the Commission is not persuaded that the Staff (and the ALJ) were wrong in stating that "[t]he scope of this redesign, as well as determining the best way to approach it, is too large for the context of a 10-month rate case" and finds the ALJ's recommendation that, in the instant case, a reasonable and prudent approach is to employ the Staff's alternate COSS and to require DTE Gas, in its next rate case, to submit a COSS consistent with the Staff's second alternate COSS.[29] [30]

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[29] *See*, ABATE's exceptions, pp. 1-2.

[30] *See*, PFD, pp. 263-264; 5 Tr 2101-2102.

C. Tariff Changes for All Customers

The ALJ noted that “DTE Gas summarized tariff changes in Exhibit A-16, Schedule F5. Revised tariff pages can be found in Exhibit A-16, Schedule F5.1.” PFD, p. 265.

The ALJ did not include a recommendation on this issue; however, the Commission finds that it is likely that she intended to support her earlier recommendations related to tariff changes.

D. Tariff Changes for Sales Customers

In this section, the PFD noted DTE Gas’s revised IRM and discussed proposals for changes in low-income energy assistance.

1. Revised Infrastructure Mechanism

The ALJ referenced DTE Gas’s initial brief, p. 141, and proposed Sheet No. D-2.01, Section D2.2 of the company’s rate book, and remarked that “Exhibit A-18, Schedules H1 through H4 provides the revenue requirement and IRM [revised infrastructure mechanism] surcharges for the IRM proposed in this case. DTE Gas notes that the monthly charges will be effective January 1, 2022, and may be subject to changes based on the annual IRM reconciliations.” PFD, p. 265.

The Staff testified that all aspects of Consumers’ proposed IRM surcharge are reasonable except for the continued use of IRM surcharge caps. The Staff stated that leaving the caps in place may, over time, cause issues with cost-of-service in some rate classes and recommended “that the IRM surcharge be recalculated for the order to reflect all final adjustments that might impact the IRM, such as the level of the recommended cap, capital expenses, and the approved weighted cost of capital.” 5 Tr 2075. In its initial brief, the Staff noted that “some parties opposed the IRM altogether and therefore did not comment on the cap.” Staff’s initial brief, p. 105. However, the Staff reiterated that “[c]aps prevent rates from reflecting full cost-of-service.” *Id.*

The ALJ did not include a recommendation in this section of the PFD on the above or discuss the Staff's proposal; however, it appears likely that she intended to support her earlier recommendations related to revenue requirement and IRM surcharges.

The Staff takes exception to the ALJ's lack of discussion relating to the IRM cap, stating that:

> [i]n the PFD, the ALJ recommended accepting the IRM as proposed by the Company. While the PFD did not specifically mention the surcharge cap, it seems implied that accepting the Company's proposal would mean accepting the proposed surcharge cap. Staff disagrees with such a result. Staff argued in its initial brief that the caps on the IRM surcharge should be lifted because the caps allow rates to drift away from the cost-of-service over time and cause problems when the Company comes in with its next rate case. (Staff Initial Brief, p 105.) The caps on the IRM surcharge should be lifted.

Staff's exceptions, p. 7.

The Commission is not persuaded, in this case and at this time, that the IRM cap prevents rates in some classes from being cost-of-service based and so adopts the IRM cap as proposed by DTE Gas, and additionally adopts the company's proposed rate book changes, consistent with any changes or modifications addressed in its findings in this order.

2. Low-Income Energy Assistance

The ALJ outlined DTE Gas's proposals for rate book changes to low-income energy assistance:

> 1. Eliminate duplicative language by adding a "Low Income Energy Assistance Programs" section to the company's rate book containing all common program features and providing the individual program details;
>
> 2. Increase maximum income qualifications to 200% of Federal Poverty Level (FPL) from 150% of FPL;
>
> 3. Clarify that the credits will be distributed at DTE [Gas's] discretion;
>
> 4. Add a low-income self-attestation for the LIA program;
>
> 5. Update the RIA [Residential Income Assistance] credit to $14.70 per month, which is the amount that DTE Gas proposes as the monthly customer charge;

6. Increase the number of LIA customers from 33,000 to 45,000;

7. Clarify that assistance credits are applied in the same manner as the customer charge; and

8. Remove requirement of RIA enrollment to qualify for LIA enrollment.

PFD, pp. 265-266; 5 Tr 1015-1016, 1082-1083.

All of the above-listed proposals were unopposed except for DTE Gas's request to raise the maximum income to qualify for LIA and RIA from 150% of the FPL to 200% of the FPL; its request to increase the cap on the number of LIA enrollees from 33,000 to 45,000; and its request to increase the RIA credit from $12.25 per month to $14.70 per month. DTE Gas also proposed to eliminate the RIA enrollment requirement for non-Low Income Self Sufficiency (LSP) LIA customers.[31] 5 Tr 1015-1016. Exhibit A-16, Schedule F5.1, Sheet D-10.00.

Also, Detroit Thermal/Vicinity proposed that "EUT customers be exempt from the allocation of low-income pilot program expenses." PFD, p. 266.

DTE Gas testified that the RIA credit offers eligible low-income customers a monthly credit on their bill that is equal to the monthly customer charge. The LIA credit offers eligible low-income customers a monthly $30.00 credit on their bill for so long as they have received energy assistance in the last 12 months. Low-income for both RIA and LIA is defined as households that do not have income that exceeds 150% of the FPL. To qualify for LIA, applicant customers must be currently enrolled in RIA. Although LSP customers are also enrolled in LIA (if eligible) which assists with defrayal of LSP program costs, it is not required that LIA customers be enrolled in

[31] The LSP is a 24-month program that offers an affordable payment plan, specific customer service, shutoff protection, and self-sufficiency training. *See*, https://newlook.dteenergy.com/wps/wcm/connect/dte-web/home/billing-and-payments/common/energy-assistance/low-income-self-sufficiency-plan.

LSP because: 1. LSP has a 24-month time limit and LIA does not, 2. not all LSP customers qualify for LIA because of the current cap on LIA enrollees and, 3. other reasons. The company reported that when LIA credits are first combined with the LSP, customers are more successful in preventing missed payments, even after the 24 months of LSP eligibility has ended. DTE Gas stated that it anticipated continued need for these programs. 5 Tr 1010-1013, 1016.

DTE Gas asserted that the proposed higher cap on LIA enrollment is based on the company's projection of 70,000 RIA customers as well as the desirability to align LIA eligibility with LSP eligibility, i.e., if all current LSP customers were eligible for LIA, in addition to the forecasted increase in new LSP customers, the company could enroll 45,000 customers in LIA. DTE Gas further testified that LIA enrollment has increased 109% since pairing it with the LSP. 5 Tr 1028-1029. The company stated that the request for an increase in the LIA cap is also due to increased requests for the credit by its customers. *Id*., pp. 1014, 1028.

Additionally, DTE Gas testified that the company uses the 200% of the FPL standard in other programs, that with the increase, more needy customers would be eligible, and that the increase would be consistent with other low-income programs and that there are "over 60,000 RIA customers with active arrears that could benefit from greater energy assistance." 5 Tr 1014-1015.

The Staff testified that 150% of the FPL definition of eligibility is a statutory requirement pursuant to MCL 460.11(8):[32]

> "Eligible low-income customer" means a customer whose household income does not exceed 150% of the poverty level, as published by the United States department of health and human services, or who receives any of the following: (i) Assistance from a state emergency relief program. (ii) Food stamps. (iii) Medicaid.

[32] Although the Staff refers to MCL 460.11(8), it is likely it meant MCL 460.11(2) which adopts the definition of eligible low-income person set forth in MCL 460.10t(6)(b).

5 Tr 2052. The Staff also stated that, instead of seeking a higher number of customers for LIA and lacking "detailed income information for the low-income credits specifically," the company should focus on enrolling "customers who require the most assistance," i.e., up to the currently approved cap. 5 Tr 2053-2054. *See*, Exhibit S-7.2, p. 22; Staff's initial brief, pp. 110-111. The Staff recommended that the percentage of LSP customers be proportional between LIA and RIA. *Id*., p. 2052; Staff's initial brief, p. 111.

The Staff further testified that, contrary to assertions by DTE Gas, enrollments in low-income credits have decreased thereby making an increase in the LIA cap unreasonable and, if approved, would permit the company to increase revenue to be collected from other customers amounting to $11.34 million and $16.2 million annually for RIA and LIA respectively. 5 Tr 2050-2051. Additionally, the Staff asserted that the current LIA enrollment cap is reasonable based on Customer Service Bureau Unit figures that a five-year average in the years reporting for LIA customers was 24,782 and that the percentage of income pilot program (PIPP)[33] should reach its full conclusion before any change in income levels should be made, and then, the changes must comply with the law. *Id*., pp. 2053-2054. The Staff also testified that the rate case projection of RIA enrollees is not related to the number of RIA credits that the company supplies to its customers because all eligible customers must be given RIA credits regardless of the projection. *Id*., p. 2050.

The ALJ agreed with the Staff that an increase in the cap of LIA customers to 45,000 is not justified at this time and that the income limit of 150% of the FPL is set by statute. She

[33] PIPP, approved in the April 21, 2021 order in Case No. U-20929 (April 21 order), has enrollees who have income from 151% to 250% of the FPL. The April 21 order refers to the program as a payment stability plan (PSP). The terms PSP and PIPP are interchangeable.

recommended that the RIA credit be increased to "$13.50, consistent with the recommended customer charge." PFD, p. 267. The ALJ also disagreed with Detroit Thermal's proposal that EUT customers should not be required to pay for low-income program costs because MCL 460.11(2)[34] requires that the costs should be allocated across all customer classes. PFD, p. 267.

DTE Gas excepts to the ALJ's rejection of its requested increase in the LIA enrollment cap, its request to increase income limits for LIA and RIA, and its request for a monthly RIA credit of $14.70. The company argues that the ALJ's reliance on the approval of the low-income tracking mechanism as part of the basis for disapproval of the increased cap and income limits is misplaced:

> DTE Gas proposes (and the PFD recommends) a Low-Income Mechanism to account for any LIA and RIA credits provided to customers above or below the total LIA/RIA funding amounts approved in this case as a regulatory asset or liability to be recognized in a subsequent period. This proposal aligns with the Commission's regulatory asset treatment for the enrollment of additional DTE Electric customers (May 8, 2020 Order in Case No. U-20561, p 239) and addresses any concerns about the Company over-projecting customer counts.

DTE Gas's exceptions, p. 101 (referencing 5 Tr 360-61, 1013-15, 1032, 1310). Further, the company argues that the Commission has previously made exceptions to the 150% of FPL limit in programs that do not involve state or federal funds. The company reiterates that the monthly customer charge and, therefore, the RIA credit, should be $14.70 per month. DTE Gas's exceptions, p. 100.

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[34] MCL 460.11(2) states, in pertinent part:

> Notwithstanding any other provision of this act, the commission may establish eligible low-income customer or eligible senior citizen customer rates. Upon filing of a rate increase request, a utility shall include proposed eligible low-income customer and eligible senior citizen customer rates and a method to allocate the revenue shortfall attributed to the implementation of those rates upon all customer classes.

The Staff replies that the Commission should reject DTE Gas's requested structural changes to the RIA and LIA programs:

> The Company continues to mischaracterize several outstanding low-income matters. Firstly, in case U-20642 the RIA was not authorized for an enrollment of 70,000 customers. (Company's Exceptions, p 99.) The Commission only approved a projection of the number of customers who would receive the RIA credit, and the Company must in fact enroll eligible customers above the projection assumed in setting rates.

Staff's replies to exceptions, pp. 14-15 (citing Staff's initial brief, pp. 110-111).

The Staff also replies that the ALJ was correct in her rejection of DTE Gas's request to increase the LIA cap on customer enrollment and points out that:

> contrary to DTE's claims, the number of customers receiving the LIA credit decreased in 2019 from previous years." (Id.) The Company's argument for an increase in LIA customers is based on 7,000 customers enrolled in the LSP not currently receiving the LIA (Company's Exceptions, p 101) and expanding the eligibility from 150% to 200% of FPL, which would be inappropriate as discussed above. It is unclear based on the record in this case if those 7,000 are eligible for the LIA under the current eligibility (which should remain in place).

Staff's replies to exceptions, pp. 15-16.

The Staff additionally replies that the Commission should reject DTE Gas's request to raise the income limit for low-income customer enrollment from 150% of FPL to 200% of FPL because '"the income eligibility limit for utility low-income programs is set by MCL 460.11[8], and it applies to low-income utility programs funded by rates."' Staff's replies to exceptions, p. 15 (quoting the PFD, p. 267).

The Commission is not persuaded by DTE Gas's arguments to raise the income limit for RIA and LIA to 200% of the FPL or by the company's arguments to raise the LIA enrollment cap. The Commission is certainly supportive of assisting as many low-income customers as possible; however, the Commission does not have the authority to unilaterally raise the income limit set by the Legislature in MCL 460.11(2) as DTE Gas is urging the Commission to do.

Additionally, such decisions must be made with an eye towards the most efficient use of the funds available for these programs. Although the record suggests that a number of customers with income up to a 200% FPL limit could be enrolled in RIA and/or LIA if the enrollment and income caps were increased, the record also suggests that enrollments of customers with income 150% of the FPL or less have not reached the current LIA cap–a situation that the company would do well to focus on improving because the program should first assist its most needy customers, i.e., customers whose income is under 150% of the FPL. Further, the Commission finds that the PIPP, which enrolls customers whose income is over 150% but under 200% of the FPL, should reach its conclusion prior to discussion of increased low-income program income limits and enrollment caps so that the efficacy of the program may be fully evaluated and intelligently inform such decisions. As well, the Commission is currently engaged in the Energy Affordability and Accessibility Collaborative, which will also inform its future decisions related to low-income programs and pilots.

Further, relating to the company's request to increase the LIA enrollment cap to align the LIA with the LSP, the Commission recalls and agrees with the Staff's testimony in Case No. U-20642 that the company's desire to tie eligibility for LIA with LSP eligibility is, in effect, a request for ratepayers to subsidize the LSP program when the LSP is supposed to be funded largely by taxpayers. *See*, Case No. U-20642, filing #U-20642-0243, p. 1199.

Finally, the Commission is not persuaded that the ALJ's reliance on the low-income tracker as support for denial of the requested increases in income limits and enrollment caps is misplaced. While the tracker may reveal over-projections of customer enrollments, it also may reveal under-enrollments. The Commission is unclear as to the reasons the neediest customers (those with income 150% of FPL or less) remain underserved. In any case, aside from use of the tracker, the reasons discussed above for disapproving the proposed increases remain as concerns.

For these reasons, the Commission finds that the ALJ's recommendations that the Commission deny DTE Gas's request for an increased LIA enrollment cap, increased income limits for LIA and RIA, and a monthly RIA credit of $14.70 are supported in the record and are reasonable and prudent. The Commission, therefore, adopts the ALJ's recommendations on these issues. The monthly RIA credit is set at $13.50, matching the monthly customer charge as discussed below.

Answering Detroit Thermal/Vicinity's request for EUT customers to be exempt from the allocation of low-income pilot program expenses, the Commission notes that low-income program costs are required by MCL 460.11(2) to be allocated to all customer classes. Accordingly, Detroit Thermal/Vicinity's proposal is rejected.

E. Tariff Changes for End-Use Transportation Customers

The ALJ set forth DTE Gas's "proposed changes for EUT service under Section E1 through E14 of its ratebook as follows: (1) list the company's monthly service and transportation charges for each EUT rate schedule in Section E14; and (2) retain the current GIK rates applicable to the EUT rate schedules as previously approved." PFD, pp. 267-268 (citing DTE Gas's initial brief, p. 144).

Besides noting the company's proposed changes, the ALJ did not provide a recommendation in the PFD. No exceptions were filed and the Commission approves DTE Gas's proposed rate book changes consistent with any changes recommended in its findings in this order.

F. Tariff Changes for Off-System Storage and Transportation Service

The ALJ noted that no party opposed DTE Gas's proposal to increase the TOS-F (Section E25) and TOS-I (Section E26) not-to-exceed rate from $0.3537 per MMBtu to $0.5278 per MMBtu. PFD, p. 268; 5 Tr 1084; Exhibit A-16, Schedule F6. Besides noting the company's proposed changes, the ALJ did not provide a recommendation in the PFD. No exceptions were filed and the Commission finds DTE Gas's proposals are supported in the record and are reasonable and prudent and, accordingly, approves DTE Gas's proposed rate book changes consistent with any changes recommended in its findings in this order.

G. Monthly Customer Charges and Economic Break-Even Points

DTE Gas proposed that the monthly service charge for residential customers[35] be increased from $12.25 to $14.40 per month and that the monthly service charge for small commercial customers[36] be increased from $32.00 to $40.00. The Staff recommended monthly customer charges of $13.50 for residential customers but agreed with the $40.00 and $225 for Rates GS-1 and S as requested by the company. 5 Tr 2048. DTE Gas did not oppose the Staff's reduction in the residential service charge recommendation. PFD, p. 268.

The Attorney General argued that the increase for the monthly residential customer charge is only slightly less than 18% and the increase for the small commercial class is 25% which will cause rate shock to customers and will discourage energy conservation. The Attorney General recommended that DTE Gas maintain its current residential customer charge of $12.25 per month, but if an increase is necessary, limit the increase to $1.00 or less. The Attorney General

[35] Rate Schedules A and 2A.

[36] Rate Schedule GS-1.

recommended these same limitations for the small commercial customer class. Attorney General's initial brief, pp. 189-190; PFD, pp. 268-269.

The Staff rebutted the Attorney General's proposal, stating that the previous customer charge was established pursuant to a settlement and was not COSS-based, and that an increase above 10% for the entire bill is considered to be rate shock rather than an increase above 10% for a portion of the bill when the entire increase in the bill is less than 10%. PFD, p. 269; 5 Tr 2107.

The ALJ agreed with the Staff's recommendation on the customer charges because, as the Staff testified, the customer charges in the last rate case were not COSS-based but due to a settlement agreement and rate shock is a concern on the customer's entire bill, not just one component of the bill as argued by the Attorney General. PFD, pp. 269-270.

The Attorney General takes exception, arguing first, that the ALJ erred when it did not adopt her suggestion of limiting the increases to the fixed portion of a customer's bill to no more than $1.00, and second, that the ALJ did not discuss that fixed charges that result in an increase in customer billing does not encourage energy efficiency. Attorney General's exceptions, pp. 38-40.

The Commission finds that the ALJ did not err in rejecting the Attorney General's proposed increase of $1.00 or less in fixed charges or in failing to discuss that fixed charges do not encourage energy efficiency. The Commission continues to utilize the same method for determining the appropriate costs to include in a customer charge that it has employed for the past 40 years. Avoiding an increase in a customer charge is not a sound reason to establish a customer charge that does not properly allocate or include these appropriate costs.

The Commission finds the ALJ's analysis and recommendation on this issue to be well-reasoned, prudent, and supported in the record and, therefore, adopts the ALJ's recommendation. Regarding the Attorney General's request for a discussion of the relationship of energy efficiency to fixed charges, the Commission is unclear as to the Attorney General's purpose in raising this issue and so cannot respond.

THEREFORE, IT IS ORDERED that:

A. Based on this order's findings adopting a January 1, 2022 through December 31, 2022 test year, rate base of $5,537,080,000, an authorized rate of return on common equity of 9.9%, and a required rate of return of 5.41%, DTE Gas Company is authorized to implement rates that increase its annual revenues by $84,173,000 over the rates approved in the August 20, 2020 order in Case No. U-20642, on an annual basis, effective on and after January 1, 2022, via the rate design set forth in Attachment A.

B. Within 30 days of the date of this order, DTE Gas Company shall file revised tariff sheets substantially similar to those shown in Attachment B.

C. DTE Gas Company shall begin tracking device failures in the End of Life Gas Device Program as described in this order. DTE Gas Company shall provide the resulting data in its next rate case, along with an analysis of the potential use of and cost savings associated with a six- and seven-year replacement cycle for gas information technology devices, including the cost of any back-up devices that may need to be purchased in the event of device failures.

D. DTE Gas Company shall, in its next rate case, submit documentation tracking both information technology costs and associated savings, beginning with information technology costs authorized in this case.

E. DTE Gas Company shall, in its next rate case, provide an alternative methodology for determining end use transportation deliveries if the delivery amount is again underestimated for 2022.

F. DTE Gas Company shall, in its next rate case, present detailed information pertaining to actual benefits to all customers from the inclusion of merchant fees in rates including, but not limited to, the reduction in uncollectibles attributable to payments by credit card.

G. DTE Gas Company is approved to recover 20% of incentive compensation related to operational metrics as described in this order. The Commission authorizes DTE Gas Company to implement a two-way tracker mechanism, which will require refunds to customers if the 20% target level is not achieved or will allow the company to recover additional funds if it exceeds the 20% target level, up to a maximum of the 100% target level. DTE Gas Company shall record the over- or underrecovery, compared to the 20% base, as a regulatory asset or regulatory liability to be included in the company's next general rate case. DTE Gas Company shall, in its next rate case, present detailed information in support of the operational metrics, as individual operational metrics will be scrutinized more critically going forward.

H. DTE Gas Company shall, in its next rate case, file an alternative cost of service study consistent with the Commission Staff's proposal regarding end use transportation customers as described in this order.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, under MCL 462.26. To comply with the Michigan Rules of Court's requirement to notify the Commission of an appeal, appellants shall send required notices to both the Commission's Executive Secretary and to the Commission's Legal Counsel. Electronic notifications should be sent to the Executive Secretary at mpscedockets@michigan.gov and to the Michigan Department of the Attorney General – Public Service Division at pungp1@michigan.gov. In lieu of electronic submissions, paper copies of such notifications may be sent to the Executive Secretary and the Attorney General – Public Service Division at 7109 W. Saginaw Hwy., Lansing, MI 48917.

MICHIGAN PUBLIC SERVICE COMMISSION

Daniel C. Scripps, Chair

Tremaine L. Phillips, Commissioner

Katherine L. Peretick, Commissioner

By its action of December 9, 2021.

Lisa Felice, Executive Secretary

Michigan Public Service Commission
DTE Gas Company
Summary of Projected Test Year Ending 12/31/2022
Proposed Gas Revenue Increase

MPSC Case No: U-20940
ATTACHMENT A

	(a)	(b)	(c)	(d)	(e)	(f)
			Annual Operating Revenues ($000)			
Line		**Test Year**	**Test Year**		**Increase/Decrease**	
No.	**Rate Class**	**MMcf**	**Current**	**Proposed**	**Revenues ($000)**	**Percent**
	Residential					
1	Rate A	109,525	881,101	896,764	15,663	1.78%
2	Rate 2A	4,154	28,909	29,442	533	1.84%
3	Total Residential Services	113,678	910,010	926,206	16,195	1.78%
4						
5	**General Services**					
6	GS-1/GS-2	39,024	255,544	268,495	12,950	5.07%
7						
8	**School**					
9	Rate S	1,545	7,500	8,052	552	7.36%
10						
11	Subtotal Gas Sales Revenues	154,247	1,173,054	1,202,752	29,698	2.53%
12						
13	**Transportation**					
14	Rate ST	17,343	39,247	41,655	2,408	6.14%
15	Rate LT	19,769	24,463	26,458	1,995	8.15%
16	Rate XLT	30,172	23,814	26,158	2,344	9.84%
17	Rate XXLT	82,015	23,947	30,208	6,261	26.14%
19	Exelon	9,842	7,867	11,658	3,791	48.19%
20	Total Transportation Services	159,141	119,339	136,137	16,799	14.08%
21						
22	**Total**	313,388	1,292,393	1,338,890	46,497	3.60%
23						
24	Less: GCR Revenues (included above)		375,709	375,709	-	
25						
26	Less: Currently Approved IRM Surcharge Revenue (included above)		53,327	-	(53,327)	
27						
28	Less: 2022 IRM Surcharge Revenue (included above)		-	15,651	15,651	
29						
30	Base Revenues		863,357	947,530	84,173	9.75%

Line No.	(a) Rate Class	(b) Current Rates ($/Mcf)	(c) Proposed Rates ($/Mcf)
	Residential		
1	Rate A		
2	Customer Charge	12.25	13.50
3	Low Income Assistance Credit	(30.00)	(30.00)
4	RIA Credit	(12.25)	(13.50)
5	Distribution Charge	3.6930	3.8859
6			
7	Rate 2A		
8	Customer Charge Meter Class 1	12.25	13.50
9	Customer Charge Meter Class 2	32.00	40.00
10	Distribution Charge	3.6930	3.8859
11			
12	Rate S		
13	Customer Charge	200.00	225.00
14	Distribution Charge	2.2720	2.7736
15			
16			
17	**General Services**		
18	GS-1		
19	Customer Charge	32.00	40.00
20	Distribution Charge	3.4909	3.8069
21			
22	GS-2		
23	Customer Charge	700.00	750.00
24	Distribution Charge	2.9183	3.1984

	(a)	(b)	(c)
Line No.	**Rate Class**	**Current Rates ($/Mcf)**	**Proposed Rates ($/Mcf)**
	Transportation Service		
1	Rate ST Small Transportation Serivce		
2	Customer Charge	2,600	2,780
3	Transportation Charge - Cost Based	1.2902	1.4906
4	Transportation Charge - Market Floor	0.2300	0.2300
5	Transportation Charge - Market Ceiling	1.7166	2.7512
6			
7	Rate LT Large Transportation Serivce		
8	Customer Charge	6,500	6,780
9	Transportation Charge - Cost Based	0.7637	0.9427
10	Transportation Charge - Market Floor	0.2300	0.2300
11	Transportation Charge - Market Ceiling	1.0930	1.6554
12			
13	Rate XLT Extra Large Transportation Serivce		
14	Customer Charge	14,000	17,250
15	Transportation Charge - Cost Based	0.5777	0.7060
16	Transportation Charge - Market Floor	0.1800	0.1800
17	Transportation Charge - Market Ceiling	0.8567	1.2321
18			
19	Rate XXLT Extra Large Transportation Serivce		
20	Customer Charge	145,000	169,835
21	Transportation Charge - Cost Based	0.1401	0.1933
22	Transportation Charge - Market Floor	0.0500	0.0500
23	Transportation Charge - Market Ceiling	0.8567	1.2321

(Continued from Sheet No. C-4.00)

C1. CHARACTERISTICS OF SERVICE (Contd.)

C1.7 Modification by Employee or Agents

No employee or agent of Company shall have the power to amend, modify, alter or waive any of the conditions of any gas service Contract, except as approved and executed in compliance with the Company's enterprise policies for a) signature authority for contracts, b) establishment of contracts, c) contract management and administration, and d) record retention to bind Company by making any promise or representation contrary to or inconsistent with these Rules and Regulations or with the provisions of any Contract.

C1.8 Amendments

Subject to the approval of the Commission, Company may alter or amend its Rules and Regulations from time to time, and add such further and other Rules and Regulations as experience may suggest. Effective upon approval by the Commission, all such amendments shall be incorporated in and modify, if applicable, any existing gas service Contract.

C1.9 Alternative Shut Off Protection Program for Eligible Low-Income and Senior Citizen Customers

A. As used in this Section:

(1) **Eligible customer** means either a Low-income or Senior citizen customer whose arrearage has not accrued as a result of theft or unauthorized use.

(2) **Low-income customer** means utility customer whose household income is at or below 200% of the Federal Poverty Level (FPL) and provides proof of meeting the eligibility requirement at the time of enrollment.

(3) **Senior citizen customer** means utility customer who is ***65*** years of age or older and provides proof of meeting the eligibility requirement at the time of enrollment.

B. Customers eligible to participate under the Winter Protection Plan, Rule B2, Consumer Standards and Billing Practices for Electric and Gas Residential Service, Part 9, will be required to waive their rights to participate under the Winter Protection Plan in order to participate under the Alternative Shut-off Protection Program for Eligible Low-Income and Senior Citizen Customers.

(Continued from Sheet No. C-41.00)

C8. CUSTOMER ATTACHMENT PROGRAM (Contd.)

C8.9 Model Assumptions

A. Incremental Revenues

The incremental revenues will be calculated based on current rates and a forecast of the timing and number of Customer attachments as well as Customers' annual consumption levels.

B. Incremental Costs

(1) Carrying Cost Rate

The Carrying Cost Rate will be a pre-tax weighted rate of long-term debt and common equity. The cost will be equal to and weighted in proportion to those authorized in Company's most recent rate order. Based on DTE Gas's rate order in Case No. ***U-20940,*** dated, ***December 9, 2022,*** the Carrying Cost Rate is equal to ***8.78%***.

(2) Plant in Service

Plant in Service shall reflect Company's estimated cost to construct distribution mains, Customer service lines, meters and pressure regulators or regulating facilities for the Project. The timing of the facility investment, primarily service lines, will correspond with the projected timing of Customer attachments.

(3) Carrying Costs

The Carrying Costs will be the product of the average of beginning and end-of-year net plant, Plant in Service minus accumulated depreciation minus deferred taxes, multiplied by the Carrying Cost Rate, noted in paragraph (1) above.

(Continued on Sheet No. C-43.00)

(Continued from Sheet No. C-42.00)

C8. CUSTOMER ATTACHMENT PROGRAM (Contd.)

C8.9 Model Assumptions (Contd.)

(4) Depreciation

Depreciation expense will be the product of Plant in Service multiplied by the appropriate prescribed depreciation rates approved for Company.

(5) Property Taxes and Other Operating Expenses

Property Taxes will be the product of Plant in Service multiplied by Company's average property tax rate. All Other Incremental Operating Expenses will be included as identified. Incremental O&M will, at a minimum, include a proportional cost for monthly meter reading, billing and mailing.

(6) Discount Rate

The Discount Rate will be a weighted rate of long-term debt and common equity. The cost will be equal to and weighted in proportion to those authorized in Company's most recent rate order. Based on DTE Gas's rate order in Case No***. U-20940***, dated ***December 9***, ***2021***, the Discount Rate is equal to ***6.99%***.

C8.10 Customer Attachment Project Areas

All gas sold in any area specifically listed below is subject to the following Customer Attachment Project (CAP) charges. CAP areas and charges shall be added to or removed from the list from time to time by Company.

CAP No	Charge	Cap Area	County	End
47040	$30.03	2134 S Us Highway 23 Greenbush	Alcona	09/18/2024
48530	$45.53	Sunrise Dr Greenbush	Alcona	12/12/2024
48898	$16.50	Crescent Rd, Harrisville	Alcona	09/11/2025
51124	$23.03	155 S Barlow Harrisville	Alcona	12/13/2026
45090	$12.00	N7048 Shady Lane	Alger	10/21/2021
48173	$24.57	E9256 Shannon Drive	Alger	10/02/2025
48669	$49.87	Gates Road	Alger	07/10/2025
48824	$38.34	North Shore Road	Alger	08/17/2025
02823	$28.25	Chapel Dr	Alger	09/26/2021
45936	$102.66	17965 Shubert Highway Alpena	Alpena	10/29/2022
47273	$98.46	7400 Cathro, Alpena Mi	Alpena	08/21/2024
47151	$42.48	Bayview Drive Alpena Michigan	Alpena	12/03/2024
47149	$20.53	Lakewood Dr Alpena Mi	Alpena	08/26/2024
49032	$34.47	7642 Weiss Alpena	Alpena	10/27/2025

(Continued on Sheet No. C-44.00)

(Continued from Sheet No. C-53.00)

D2. SURCHARGES AND INFRASTRUCTURE RECOVERY MECHANISM

D2.1 Surcharges

	Rate Schedule No.	U-20940 IRM Surcharge $/customer
A	Residential	***$ 0.63***
2A	Multifamily Dwelling Class I	***$ 4.06***
2A	Multifamily Dwelling Class II	***$ 4.06***
GS-1	Non-Residential General Service	***$ 2.91***
GS-2	Large Volume	***$ 2.91***
	<100,000 Mcf	
	>100,000 Mcf	
S	School	***$ 38.60***
ST	Small Volume Transportation	***$ 146.55***
LT	Large Volume Transportation	***$ 712.40***
XLT	Extra Large Volume Transportation	***$ 4,046.38***
XXLT	Double Extra Large Volume Transportation	***$ 998.54***
	C&I/EUT Exploratory Program	

In addition to the above surcharges/ (credits), Rate Schedules A, 2A, GS-1, GS-2, and S are subject to Rule C7, Gas Cost Recovery, and may be subject to Rule C8, Customer Attachment Program.

The IRM is effective beginning with the first cycle of the January 2022 billing month and will change on a bill cycle basis thereafter each January based on the tables on Sheet No. D-2.01

D2. SURCHARGES AND INFRASTRUCTURE RECOVERY MECHANISM (Contd.)

D2.2 Infrastructure Recovery Mechanism (IRM)

The IRM, approved in Case No. U-***20940***, is implemented on a bill ***cycle*** basis. The IRM is effective beginning with the first cycle of the ***January 2022*** billing month and will change on a bill cycle basis thereafter each January based on the tables on Sheet No. D-2.01. The IRM is subject to an annual reconciliation of spend process and rates below any applicable cap may change based on the outcome of this process. Once implemented, the rate will be applied on the same basis as the monthly Customer Charge. The IRM will not expire until a final rate order superseding the IRM is issued in a general rate proceeding, however the rate may be lowered as a result of the annual reconciliation.

IRM for Sales Rate Schedule Customers:
$ per Month

	A	2A I/2A II	GS-1/ GS-2	S
2022	***$ 0.63***	***$ 4.06***	***$ 2.91***	***$ 38.60***
2023	***$ 2.19***	***$ 14.03***	***$ 10.06***	***$ 133.58***
2024	***$ 3.78***	***$ 23.74***	***$ 17.05***	***$ 225.28***
2025	***$ 5.36***	***$ 33.14***	***$ 23.83***	***$ 313.73***
2026-beyond	***$ 6.92***	***$ 42.26***	***$ 30.42***	***$ 399.21***

IRM for Transportation Rate Schedule Customers:
$ per Month

	ST	LT	XLT	XXLT
2022	***$ 146.55***	***$ 712.40***	***$ 4,046.38***	***$ 998.54***
2023	***$ 507.24***	***$ 2,466.62***	***$ 14,011.30***	***$ 3,502.51***
2024	***$ 855.24***	***$ 4,158.81***	***$ 17,065.00***	***$ 5,923.43***
2025	***$ 1,190.80***	***$ 5,790.49***	***$ 17,065.00***	***$ 8,263.78***
2026-beyond	***$ 1,515.00***	***$ 6,780.00***	***$ 17,065.00***	***$ 10,531.34***

D5. RESIDENTIAL SERVICE RATE A

Character of Service

Who May Take Service

Subject to limitations and restrictions contained in orders of the Commission in effect from time to time and in the Rules and Regulations of the Company, service is available under this Rate Schedule to any residential customer for residential service as hereinafter defined. As used in this Rate Schedule "residential service" means service to any residential customer for any purpose, including space heating, by individual meter in a single family dwelling or building; or in an individual flat or apartment, or to not over four households served by a single meter (one customer) in a multifamily dwelling, or portion thereof. Residential premises also used regularly for professional or business purposes (such as doctor's office in a home, or where a small store is integral with the living space) are considered as residential where the residential use is half or more of the total gas volume; otherwise, these will be provided service under General Service Rate GS-1.

For purposes of rate application "residential usage" shall be usage consumed within an individual household, or reasonably appurtenant and related to, and normally with such a household, for such applications as space conditioning, cooking, water heating, refrigeration, clothes drying, incineration, lighting and other similar household applications.

Hours of Service

Twenty-four hours per day.

Rate

Customer Charge:	$***13.50*** per Meter per month, plus
Distribution Charge:	$***0.38859*** per 100 cubic feet
Gas Cost Recovery Charge:	As set forth on Sheet No. D-3.00

(Continued on Sheet No. D-10.00)

(Continued from Sheet No. D-9.00)

D5. RESIDENTIAL SERVICE RATE A (Contd.)

***Low* Income Energy Assistance Programs**

When service is supplied to a customer taking service under Rate A at their primary residence, where the total household income does not exceed 150% of the Federal poverty level, ***either the Residential Income Assistance Service Provision*** credit ***or the Low Income Assistance Credit*** shall be applied during all billing months. ***These credits will be distributed at the Company's discretion.***

To qualify for the Residential income Assistance Service Provision credit or Income Assistance Service Provision credit, a customer must verify they meet at least one of the following requirements in the past 12 months:

1. ***Receipt of:***
   a. Home Heating Credit
   b. State Emergency Relief;
   c. Michigan Energy Assistance Program
   d. Medicaid ***or***
   e. Supplementary Nutrition Assistance Program
2. ***If a low income customer cannot verify they meet any of the above requirements, a self-attestation form must be completed and provided to the utility.***

If any Low Income Energy Assistance program results in a credit balance, that credit balance may only be applied to future billed amounts related to utility service provided to that customer under Rate A. In no case will a refund of such a balance be issued.

Residential Income Assistance Service Provision

The monthly credit for the residential Income Assistance Service Provision shall be applied as follows: Income Assistance Credit: $(***13.50***) per meter per month ***consistent with and equal to the Customer Charge.***

Low Income Assistance Credit Pilot

This credit is available to up to 33,000 qualifying customers taking service under Rate A.

In addition to the income verification methods listed above, a customer may qualify for the Low Income Assistance Credit Pilot ***with proof of Enrollment in the Company's affordable payment plan as sanctioned under the Michigan Energy Assistance Program (MEAP) or having received one-time MEAP assistance*** in the past 12 months.

The monthly credit for the residential Low Income Assistance Credit shall be applied as follows: Income Assistance Credit: $(30.00) per meter per month.***, consistent with the Customer Charge.***

General Terms and Surcharges

This Rate is subject to all General Terms and Conditions shown on Sheet No. D-1.00 and Surcharges shown on Sheet No. D-2.00.

(Continued from Sheet No. D-13.00)

D*6*. MULTIFAMILY DWELLING SERVICE RATE 2A (Contd.)

Rate

Customer Charge (One of the following charges per Customer per month will be applied).

Meter Class I:	$***13.50*** per Meter per month
Meter Class II:	$***40.00*** per Meter per month
Distribution Charge:	$***0.38859*** per 100 cubic feet
Gas Cost Recovery Charge:	As set forth on Sheet No. D-3.00

General Terms and Surcharges

This Rate is subject to all General Terms and Conditions shown on Sheet No. D-1.00 and Surcharges shown on Sheet No. D-2.00.

Late Payment Charge and Due Date

A late payment charge of 2% of the bill, net of taxes, not compounded, may be added to any bill which is delinquent. The due date shall be 21 days following the date the bill was sent.

Gas Cost Recovery

This rate is subject to adjustments for fluctuations in the cost of gas as stated in Rule C7 of the applicable Rules and Regulations of Company.

Customer Contract

Applications for Gas Service shall be in writing upon application forms to be supplied by Company. Existing Customers who wish to connect space heating equipment must make written application for such service on forms to be provided by Company.

Meter Classification

For application of the Monthly Customer Charge in this Rate, Company's gas meters are designated in one of the following classifications:

Meter Class 1:	Meters with a rating of 400 Cubic Feet per Hour (Cfh) or less:
Meter Class II:	Meters with a rating in excess of 400 Cubic Feet per Hour (Cfu)

(Continued on Sheet No. D-15.00)

D7. GENERAL SERVICE RATE GS-1 AND GS-2

Availability

Subject to limitations and restrictions contained in orders of the Commission in effect from time to time and in the Rules and Regulations of Company, service is available under this Rate Schedule to any non-residential Customer, for any purpose.

Rates and Charges

Service Category	Customer Charge per Month	Distribution Charge
GS-1	$***40.00*** per meter	$***0.38069*** per 100 cubic feet
GS-2	$***750.00*** per Customer	$***0.31984*** per 100 cubic feet

Customer Charge for GS-2 is "per meter or Contiguous Facility."

Optional Remote Meter Charge $25.00 per Meter per Month

Customers may choose the Service Category under which they take service, consistent with the provisions of Rules C4.1, Classes of Service, C4.2, Choice of Rates and C4.3, Gas Not to be Submetered for Resale. When a Customer is selecting its initial Service Category, Company must advise them that the economic break even point between GS-1 and GS-2 is approximately 14,000 Mcf per year. After the initial selection is made, then it is Customer's responsibility to determine when it is appropriate to switch Service Categories, as permitted by Rule C4.2, Choice of Rates.

Gas Cost Recovery Charge

The gas cost recovery factors are shown on Sheet No. D-3.00. The rate is subject to adjustments for fluctuations in the cost of gas as stated in Rule C7 of the applicable Rules and Regulations of Company.

General Terms and Surcharges

This Rate is subject to all General Terms and Conditions shown on Sheet No. D-1.00 and Surcharges shown on Sheet No. D-2.00.

Late Payment Charge and Due Date

A late payment charge of 2% of the bill, net of taxes, not compounded, may be added to any bill which is not paid on or before 21 calendar days from the date of mailing.

(Continued on Sheet No. D-18.00)

(Continued from Sheet No. D-18.00)

D*8*. SCHOOL SERVICE RATE S

Character of Service

Who May Take Service

Subject to limitations and restrictions contained in orders of the Commission in effect from time to time and in the Rules and Regulations of Company, service is available under this Rate Schedule to each individual school which shall make application for service and which shall by contract in writing agree that the gas supplied hereunder shall, during the term of such contract, be used only in the following buildings:

A. Buildings on property exempt from taxation under the laws of the State of Michigan which are located on the same site and used for school purposes to impart instruction to children, grades kindergarten through twelve, when provided by any public, private, denominational or parochial school, including all adjacent and appurtenant buildings owned by the same Customer which are located on the same site and which constitute an integral part of such school facilities.

B. Buildings on property exempt from taxation under the laws of the State of Michigan which are located on the same campus and used to impart instruction provided by colleges and universities when being operated under the laws of said State, including all adjacent and appurtenant buildings owned by the same Customer which are located on the same campus and which constitute an integral part of such college or university facilities.

Rate

Customer Charge:	$***225***.00 per Customer per month, plus
Distribution Charge:	$***0.27736*** per 100 cubic feet
Gas Cost Recovery Charge:	As set forth on Sheet No. D-3.00

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Customer Charge is “per meter or Contiguous Facility.”

Optional Remote Meter Charge	$25.00 per Meter per Month

General Terms and Surcharges

This Rate is subject to all General Terms and Conditions shown on Sheet No. D-1.00 and Surcharges shown on Sheet No. D-2.00.

Late Payment Charge and Due Date

A late payment charge of 2% of the bill, net of taxes, not compounded, may be added to any bill which is not paid on or before 21 calendar days from the date of mailing.

(Continued on Sheet No. D-20.00)

(Continued from Sheet No. E-13.00)

Applicable for End-Use Transportation Service

E14. TRANSPORTATION SERVICE RATES ST, LT, XLT, XXLT

Availability

Subject to any restrictions, service under this Rate Schedule is available to any Customer who could otherwise purchase gas under any other Company Rate Schedule.

Customer that selects transportation service under this Rate Schedule must remain on this Rate Schedule for at least 12 Months before Customer is eligible for a non-Transportation Service Rate and shall continue on this rate Year to Year after the initial term of the Transportation Contract has expired unless otherwise agreed upon between Company and Customer. Customer eligible to request a return to sales rates must provide a minimum of 12 Months written notice to Company of its election to return to sales rates.

Company reserves the right to deny a return to sales rates subject to Company's Controlled Service Rule C2.

Under this Rate Schedule, Company will transport gas for Customer from the Receipt Point(s) to the Delivery Point(s).

Rates and Charges

Service Category	ST	LT
Monthly Charges		
Customer Charge	$***2,780*** Per Customer	$***6,780*** Per Customer
Customer Charge is "per meter or Contiguous Facility."		
Optional Remote Meter Charge	$25.00 Per Meter	$25.00 Per Meter
Transportation Rates		
Cost Based Rate	$***0.14906*** Per Ccf	$***0.09427*** Per Ccf
Optional Rates:		
Maximum Rate	$***0.27512*** Per Ccf	$***0.16554*** Per Ccf
Minimum Rate	$0.02300 Per Ccf	$0.02300 Per Ccf

(Continued on Sheet No. E-15.00)

(Continued from Sheet No. E-14.00)

Applicable for End-Use Transportation Service

E14. TRANSPORTATION SERVICE RATES ST, LT, XLT, XXLT (Contd.)

Rates and Charges

	Service Category	
	XLT	**XXLT**
Monthly Charges		
Customer Charge	$***17,250*** Per Customer	$***169,835*** Per Customer
Customer Charge is "per meter or Contiguous Facility."		
Remote Meter Charge	$100.00 Per Meter	$100.00 Per Meter
Transportation Rates		
Cost Based Rate	$***0.07060*** Per Ccf	$***0.01933*** Per Ccf
Optional Rates:		
Maximum Rate	$***0.12321*** Per Ccf	$***0.12321*** Per Ccf
Minimum Rate	$0.01800 Per Ccf	$0.00500 Per Ccf

Annual Contract Quantity or ACQ

ACQ means an annual quantity of natural gas specified in the Contract between Customer and Company, that can be delivered to Company and is based on Customer's average 12 Month usage (determined from the last 36 Months of data), plus adjustments, approved at Company's sole discretion, for known or expected changes or special operating conditions (including Standby Service per Section C4.5). Company will utilize their best efforts to ensure that Customer's ACQ is reflective of Customer's annual consumption and allow Customer all reasonable opportunities to minimize the risk of Unauthorized Gas Usage Charges.

Maximum Daily Quantity or MDQ

MDQ means a daily quantity of natural gas specified in the Contract between Customer and Company, that can be delivered to Company and is based on Customer's highest historical Month usage (determined from the last 36 Months of data) divided by the number of days during that Month and multiplied by 110%, plus adjustments, approved at Company's sole discretion, for known or expected changes or special operating conditions (including Standby Service per Section C4.5). Provided, however, during September, October, and November, Customer's MDQ will be based on the daily average of Customer's September, October, and November, usage from the previous three years, plus 1.43% of Customer's ACQ divided by 30 days. The MDQ may be calculated and changed independently from the ACQ**.** Company and Customer may agree to use a different MDQ as part of the negotiations for an optional discount from the cost based rates set forth in the tariff. Company will utilize their best efforts to ensure that Customer's MDQ is reflective of Customer's maximum daily consumption and allow Customer all reasonable opportunities to minimize the risk of Unauthorized Gas Usage Charges.

(Continued on Sheet No. E-16.00)

(Continued from Sheet No. E-34.00)

Applicable for Off-System Storage and Transportation Service

E25. TRANSPORTATION OFF-SYSTEM (FIRM) SERVICE RATE TOS-F (Contd.)

Imbalance

Company and Customer shall work to keep the gas flow in balance at all times. If at any time, the volumes of gas received by Company at the Receipt Point(s) are greater or lesser than the gas delivered at the Delivery Point(s), Company may refuse, increase or decrease deliveries to correct the imbalances. If, upon termination of a Contract, Customer has not delivered to Company quantities of gas that are equal to those Customer has taken at the Delivery Point(s), Customer must deliver the deficient volumes to Company, within 60 days of the termination of Contract, at a mutually agreeable rate of delivery. If Customer fails to correct the imbalance within the 60 day period, then Customer shall pay an Unauthorized Gas Usage Charge to Company. The charge for such Unauthorized Gas Usage shall be $10.00 per MMBtu plus the highest price reported in Gas Daily in the midpoint column of the Daily Price Survey for the following locations for the month in which the Unauthorized Gas Use occurred: Dawn, Ontario; ANR, ML7; Chicago city-gates; Consumers city-gate; or MichCon city-gate. In the event Gas Daily discontinues its reporting such prices, the Company will select a comparable reporting service.

Gas in Kind

Company shall retain 1.00% of all gas received at the Receipt Point(s) to compensate it for the allowance for company-use and lost-and-unaccounted-for gas on Company's system. This volume shall not be included in the quantity available for delivery to Customer. In no event will Customer pay Gas-in-Kind more than once on the same volumes.

Rates

A. For contracts less than 365 days, a rate as mutually agreed to by Customer and Company and set forth in Contract, consisting of a demand portion and/or a commodity portion.

B. For contracts equal to or exceeding 365 days, a rate not to exceed $***0.4233*** per MMBtu, consisting of a demand portion and/or a commodity portion shall be mutually agreed to by Customer and Company and set forth in Contract.

Late Payment Charge and Due Date

A late payment charge of 2% shall be applied to the unpaid balance outstanding if the bill is not paid in full on or before the date on which the bill is due. The due date of Customer's bill shall be 21 days from the date bill was sent.

(Continued on Sheet No. E-35.01)

(Continued from Sheet No. E-36.00)

Applicable for Off-System Storage and Transportation Service

E26. TRANSPORTATION OFF-SYSTEM (INTERRUPTIBLE) SERVICE RATE TOS-I (Contd.)

Imbalance

Company and Customer shall work to keep the gas flow in balance at all times. If at any time, the volumes of gas received by Company at the Receipt Point(s) are greater or lesser than the gas delivered at the Delivery Point(s), Company may refuse, increase or decrease deliveries to correct the imbalances. If, upon termination of a Contract, Customer has not delivered to Company quantities of gas that are equal to those Customer has taken at the Delivery Point(s), Customer must deliver the deficient volumes to Company, within 60 days of the termination of Contract, at a mutually agreeable rate of delivery. If Customer fails to correct the imbalance within the 60 day period, then Customer shall pay an Unauthorized Gas Usage charge to Company. The charge for such Unauthorized Gas Usage shall be $10.00 per MMBtu plus the highest price reported in Gas Daily in the midpoint column of the Daily Price Survey for the following locations for the month in which the Unauthorized Gas Use occurred: Dawn, Ontario; ANR, ML7; Chicago city-gates; Consumers city-gate; or MichCon city-gate for all gas taken by Customer in excess of the cumulative volume delivered to Company (less Gas-in-Kind) on behalf of Customer. In the event Gas Daily discontinues its reporting such prices, the Company will select a comparable reporting service.

Gas in Kind

Company shall retain 1.00% of all gas received at the Receipt Point(s) to compensate it for the allowance for company-use and lost-and-unaccounted-for gas on Company's system. This volume shall not be included in the quantity available for delivery to Customer. In no event will Customer pay Gas-in-Kind more than once on the same volumes.

Rates

A. For contracts less than 365 days, a rate as mutually agreed to by Customer and Company and set forth in Contract, consisting of a demand portion and/or a commodity portion.

B. For contracts equal to or exceeding 365 days, a rate not to exceed $***0.4233*** per MMBtu, consisting of a demand portion and/or a commodity portion shall be mutually agreed to by Customer and Company and set forth in Contract.

Late Payment Charge and Due Date

A late payment charge of 2% shall be applied to the unpaid balance outstanding if the bill is not paid in full on or before the date on which the bill is due. The due date of Customer's bill shall be 21 days from the date the bill was sent.

(Continued on Sheet No. E-37.01)

P R O O F   O F   S E R V I C E

STATE OF MICHIGAN)

Case No. U-20940

County of Ingham)

Brianna Brown being duly sworn, deposes and says that on December 9, 2021 A.D. she electronically notified the attached list of this **Commission Order via e-mail transmission**, to the persons as shown on the attached service list (Listserv Distribution List).

Brianna Brown

Subscribed and sworn to before me
this 9th day of December 2021.

Angela P. Sanderson
Notary Public, Shiawassee County, Michigan
As acting in Eaton County
My Commission Expires: May 21, 2024

Service List for Case: U-20940

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