

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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.

MPSC Case No. U-21291
(Paperless e-file)

Michigan Attorney General's Notice of Intervention

The Michigan Attorney General Dana Nessel (Attorney General) gives her Notice of Intervention, by and through Assistant Attorney General Joel B. King, as a party in this proceeding. In response to the Application filed by DTE Gas Company ("DTE Gas" or "the Company") and the Notice of Hearing issued by the Michigan Public Service Commission (Commission), the Attorney General states:

I. Statement of Interest

1. Michigan Attorney General Dana Nessel is the duly elected and qualified Attorney General of the State of Michigan and holds such office by virtue of and pursuant to Const 1963, art 5, § 21, and by mandate of the qualified electorate of the State of Michigan. She is head of the Department of Attorney General created by the Executive Organization Act, 1965 PA 380, Ch 3; MCL 16.150. The State of Michigan is a body politic established under the Constitution of the United States and admitted into the Union by Act of Congress under date of January 26, 1837.

2. The Attorney General intervenes and appears in this proceeding for and on behalf of the People of the State of Michigan and for and on behalf of the State of

Michigan, its departments, commissions, and agencies, as customers and ratepayers of the Company. DTE Gas serves approximately 1.3 million customers as part of its natural gas services. The interest of these customers is public in nature, being common among virtually all natural gas customers in the Company's service area. The State of Michigan is also a substantial user of and customer for the Company's natural gas services.

3. Both statutory and common law authorize the Attorney General's intervention and appearance in this proceeding. MCL 14.28 provides, in pertinent part:

[T]he attorney general . . . may, when in [her] own judgment the interests of the state require it, intervene in and appear for the people of this state in any other court or tribunal, in any cause or matter, civil or criminal, in which the people of this state may be a party or interested.

The Attorney General has the right to intervene whenever the Attorney General, in her own discretion, deems it in the public interest to do so. *People v O'Hara*, 278 Mich 281; 270 NW 298 (1936); and *Gremore v People's Community Hosp Auth*, 8 Mich App 56; 153 NW2d 377 (1967). In her capacity as Michigan's chief law officer, the Attorney General has common law authority to represent public interests as she may deem necessary for the protection of public rights. *In re Certified Question (Wayne Co v Philip Morris, Inc)*, 465 Mich 537, 543-545; 638 NW2d 409 (2002); and *Withee v Lane & Libby Fisheries Co*, 120 Me 121, 123; 113 A 22, 23 (1921).

4. Furthermore, when the Attorney General deems it in the public interest to do so, she may intervene in any administrative proceeding at any stage of such a

proceeding. *Attorney General v Liquor Control Comm*, 65 Mich App 88; 237 NW2d 196 (1975).

5. The Attorney General, in her judgment, has determined that the interests of both the State and the People of the State of Michigan require her to intervene in this proceeding on their behalf. This proceeding will directly affect the State and a significant number of the People of this State who are customers of DTE Gas. The State and correspondingly the taxpayers of this State pay significant amounts for utility service for the State in the conduct of the People's affairs. In addition, the People of this State who are customers of DTE Gas pay large sums for utility service for their homes and businesses. Any action taken in this proceeding will directly affect both the economy of the State and the general well-being of the citizens and residents of this State.

II. Statement of Positions

6. On January 5, 2024, DTE Gas Company filed its application in this case together with supporting testimony and exhibits.

7. DTE Gas requests the Commission to authorize an annual increase of approximately \$266 million for providing service to its natural gas customers. The Company's filing is based on a projected 12-month test year ending September 30, 2025.

8. The Company asserts additional revenues are necessary to pay for the impacts of extensive infrastructure investments, increasing operations and

maintenance costs, an Infrastructure Recovery Mechanism (IRM), and certain accounting requests and increased credits.

9. The Company also requests a continuation of its gas revenue decoupling mechanism (RDM) and is “asking for deferral accounting for the projected increase in leak detection and repair costs if the Commission does not allow for current recovery.”¹

10. The Attorney General takes the position that DTE Gas has the burden of proving all elements of its case by a preponderance of the evidence.

11. The Attorney General takes the position that DTE Gas must file its application and corresponding materials in accordance with the Commission’s Orders in MPSC docket No. U-18238, implementing 2016 Public Act 341, and any other Commission directives with regard to rate cases.

12. The Attorney General takes the position that the Commission should not approve DTE Gas's requests without first developing an evidentiary record and conducting proceedings pursuant to Chapter IV of the Administrative Procedures Act [MCL 24.271 *et seq*].

13. The Attorney General takes the position that the decisions underlying the Company's projected costs may not be just and reasonable.

14. The Attorney General takes the position that DTE Gas has the burden of proving that all plant expenditures included in DTE Gas's proposed rate base are used and useful. In addition, the Attorney General takes the position that before the

¹ DTE Gas Company’s Rate Case Summary, p. 4.

Commission can include capital expenditures in DTE Gas's rate base and test year expenses, DTE Gas has the burden of proving the justness and reasonableness of those expenditures.

15. The Attorney General takes the position that DTE Gas has the burden of proving that the Company's projected O&M expenditures are just and reasonable before the Commission can approve any proposed rate changes resulting from those projections.

16. The Attorney General takes the position that DTE Gas's proposed need for additional revenues may not be just and reasonable.

17. The Attorney General takes the position that DTE Gas's proposed rate design, tariffs, and other proposals may not be just and reasonable.

18. The Attorney General reserves the right to take additional and different positions based upon future discovery and evidence in this case and/or based on how the case evolves.

III. Relief Requested

Attorney General Dana Nessel requests that the Michigan Public Service

Commission:

- a. Enter this Notice of Intervention into the official record of the captioned case and treat her as a party to these proceedings for all purposes;
- b. Develop an evidentiary record and conduct proceedings pursuant to Chapter IV of the Administrative Procedures Act [MCL 24.271 *et seq.*];
- c. Establish just and reasonable rates according to the whole record developed in this case; and
- d. Grant any further and additional relief the Commission may decide is reasonable and lawful.

Respectfully submitted,

Dana Nessel
Attorney General

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January 9, 2024

PROOF OF SERVICE - U-21291

The undersigned certifies that a copy of the *Attorney General's Notice of Intervention* was served upon the parties listed below by e-mailing the same to them at their respective e-mail addresses on the 9th day of January 2024.

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