



# ENVIRONMENTAL LAW & POLICY CENTER

January 26, 2024

Ms. Lisa Felice  
Michigan Public Service Commission  
7109 W. Saginaw Hwy.  
P. O. Box 30221  
Lansing, MI 48909

RE: MPSC Case No. U-21291

Dear Ms. Felice:

The following is attached for paperless electronic filing:

**Petition to Intervene of The Ecology Center, The Environmental Law & Policy Center, Union of Concerned Scientists, and Vote Solar**

**Appearance of Nicholas Wallace**

**Proof of Service**

Sincerely,

Nicholas Wallace (P85745)  
Environmental Law & Policy Center  
35 E Wacker Dr., Ste. 1600  
Chicago, IL 60601  
312-673-6500  
[nwallace@elpc.org](mailto:nwallace@elpc.org)

cc: Service List, Case No. U-21291

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(312) 673-6500 • [www.ELPC.org](http://www.ELPC.org)  
Harry Drucker, Chairperson • Howard A. Learner, Executive Director  
Chicago, IL • Columbus, OH • Des Moines, IA • Grand Rapids, MI • Indianapolis, IN  
Minneapolis, MN • Madison, WI • North Dakota • South Dakota • Washington, D.C.

**STATE OF MICHIGAN  
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    )

Docket No. U-21291

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**PETITION TO INTERVENE OF  
THE ECOLOGY CENTER, THE ENVIRONMENTAL LAW & POLICY CENTER,  
UNION OF CONCERNED SCIENTISTS, AND VOTE SOLAR**

The Ecology Center, the Environmental Law & Policy Center (“ELPC”), the Union of Concerned Scientists (“UCS”), and Vote Solar (collectively, “Petitioners”) respectfully request leave to intervene in the above-captioned proceeding pursuant to Rule 410(1) of the Michigan Public Service Commission’s (“MPSC” or “Commission”) Rules of Practice and Procedure. Mich. Admin. Code R. 792.10410(1).

In support, Petitioners state:

1. On January 8, 2024, DTE Gas Company (“DTE” or the “Company”) filed an application requesting authority to increase rates, and amend its rate schedules and rules governing the distribution and supply of electric energy. Among other requests, DTE seeks authorization to increase its annual revenues by approximately \$266 million annually and proposes certain changes to DTE’s tariffs and rules and regulations. Petitioners have an established interest and historical practice of actively engaging with the Company to advocate for just and reasonable rate design that results in cost-saving and environmental benefits. Petitioners and their members’ interests in these matters remain strong.

2. **The Ecology Center** is a membership-based, nonprofit environmental organization based in Ann Arbor, Michigan. Founded by community activists after the country's first Earth Day in 1970, the Ecology Center is now a regional leader that works for a safe and healthy environment where people live, work, and play. The Ecology Center works for a just and healthy environment through grassroots organizing, advocacy, and demonstration projects, and has advocated for expanded use of renewable energy since the organization's founding in 1970. The Ecology Center has members throughout the state of Michigan, including in DTE's service territory, and has intervened and participated fully as a party in many recent MPSC cases involving Michigan utilities. The Ecology Center has intervened and participated fully as a party in recent MPSC cases involving Michigan utilities, including U-21193 and U-20471 (DTE IRP), U-21297, U-20836, and U-20162 (DTE Rate Cases). The Ecology Center has also intervened in a number of cases involving other utilities regulated by the Commission regarding the same or similar issues.

3. **ELPC** is a not-for-profit regional public interest environmental organization that works to achieve cleaner air, advance clean renewable energy and energy efficiency resources, improve environmental quality, protect clean water and preserve natural resources in Michigan and the Midwest. ELPC has members throughout the state of Michigan, including members who reside in DTE's service territory and members who are electric customers of DTE and will be directly impacted by the decision in this case. ELPC has intervened and participated fully as a party in many recent MPSC cases involving Michigan utilities, including U-21172 and U-18352 (DTE Voluntary Green Pricing), U-21193 and U-20471 (DTE IRP), and U-21297, U-20836, and U-20162 (DTE Rate Cases). ELPC has also intervened in a number of cases involving other utilities regulated by the Commission regarding the same or similar issues.

4. **UCS** is a national non-profit organization headquartered in Cambridge, Massachusetts, with additional offices in Washington, DC; Oakland, California; and Chicago, Illinois. UCS is a public interest organization with more than 50 years of experience advocating for science-based policies, including responsible energy policy and utility oversight at the state and federal level, and with more than 6 years working in Michigan on these issues. UCS has over 10,500 supporters, 1,300 members, and 658 Science Network members that live, use electricity, and pay electric bills in Michigan, including in DTE's service territory. UCS has been engaged in Michigan's energy future for several years, including advancing sound policies through the legislative process, ensuring appropriate enforcement of relevant regulations, and has intervened and participated fully as a party in recent MPSC cases, U-21297 (DTE Rate Case), and U-21193 and U-20471 (DTE IRP).

5. **Vote Solar** is an independent 501(c)(3) nonprofit working to repower the U.S. with clean energy by making solar power more accessible and affordable through effective policy advocacy. Vote Solar seeks to promote the development of solar at every scale, from distributed rooftop solar to large utility-scale plants. Vote Solar has over 90,000 members nationally, including over 2,600 members in Michigan. Vote Solar has members residing in DTE's service territory who are customers of the Company. Vote Solar is not a trade organization nor does it have corporate members. Since 2002 Vote Solar has engaged in state, local, and federal advocacy campaigns to remove regulatory barriers and implement the key policies needed to bring solar to scale. Vote Solar is a frequent party to state utility regulatory dockets throughout the nation. Vote Solar and its members have an interest in expanding prudent and cost-effective opportunities to provide solar power in DTE's service territory. Vote Solar's technical experts help regulators and other policymakers understand policy options, identify strong program and regulatory design, and

provide expertise on how to implement sustainable programs for solar growth. Vote Solar has intervened and participated fully as a party in recent MPSC cases involving Michigan utilities, including U-21193 and U-20471 (DTE IRP); U-21297, U-20836, U-20162 and U-20561 (DTE Rate Cases); and U-20713 and U-21172 (DTE Voluntary Green Pricing). Vote Solar has also intervened in a number of cases involving other utilities regulated by the Commission regarding the same or similar issues.

6. Petitioners and their members have an interest in rate changes that could potentially affect access to environmentally responsible electricity. As the company seeks to substantially increase revenues, the Petitioners and their members are interested in ensuring that rates are reasonable and relatively stable over time. Petitioners and their members are also interested in programs that provide environmental benefits and increase access to renewable energy, such as programs related to distributed generation, electric vehicles and residential battery storage, which the Company proposes to change or introduce.

7. The Commission rules and precedent provide that organizations may be granted intervention to advocate for the interests of the members that they represent. *See, e.g., In re Application of The Detroit Edison Co. for Authority to Increase its Rates*, MPSC Case Nos. U-15768 and U-15751 (January 11, 2010) at p. 8 (“*In re Detroit Edison*”); *see also Drake v Detroit Edison*, 453 F. Supp. 1123, 1129 (W.D. Mich. 1978) (noting that “a plaintiff may be granted standing when he asserts interests not of his own but of a third party that meet the zone of interests test.”). To establish standing to intervene in a Commission proceeding, an organization can assert and represent the interests of its third-party supporters and members without specifically identifying each individual member whose interests are to be represented. *In re Detroit Edison* at 8.

8. The Commission generally recognizes two types of intervention: intervention by right and permissive intervention. Petitioners qualify for both types of intervention.

9. To be granted intervention by right, a prospective intervenor must satisfy a traditional two-prong test for standing in Commission proceedings. *See In re Detroit Edison* at 7, citing *Ass'n of Data Processing Serv. Orgs. Inc. v Camp*, 397 U.S. 150 (1970); *see also Re Mich. Consol. Gas Co.*, MPSC Case No. U-10150 (December 8, 1992) at 3.

10. To satisfy the first prong of the *Data Processing* test, an intervenor must be likely to suffer an injury-in-fact as a result of the outcome of the proceeding. *In re Detroit Edison* at 7; *Drake*, 453 F. Supp. at 1127.

11. Petitioners and their members in the DTE service territory are directly affected by the rates, policies, terms and conditions governing DTE's provision of electricity to them. These members are likely to be harmed if they are required to incur higher costs or face environmental harm as a result of DTE's proposals. Petitioners seek to protect their members' interests from injury by advocating for prudent and reasonable rate design.

12. To satisfy the second prong of the *Data Processing* test for standing to intervene in Commission proceedings by right, a prospective intervenor must be within the zone of interests protected or regulated by the statute or statutes governing a particular proceeding. *In re Detroit Edison* at 7. "The zone of interests test does not present a difficult barrier for litigants to negotiate insofar as it must only be shown that the asserted interests are *arguably* within the zone of interests to be protected." *Drake*, 453 F. Supp. at 1129 (emphasis added). Indeed, the court in *Drake* noted that the zone of interests test is generally a liberal one. *Id.*

13. Petitioners and their members' interests are within the zone of interests protected by MCL 460.1, *et seq.* These statutes generally protect ratepayers and other interested persons

and provide opportunities for advocacy by groups to protect their interests in Commission proceedings. Here, petitioners seek to protect access to cost-effective and environmentally responsible electricity as the Company proposes to substantially raise annual revenues.

14. In addition to meeting the test for intervention by right, Petitioners also meet the test for permissive intervention. “[P]ermissive intervention is appropriate where the intervenor’s participation will provide a benefit that outweighs any resulting delay or expense. Permissive intervention has also been granted where a proceeding ‘raises novel questions and important issues of policy’ and the intervenor will ‘bring a unique perspective’ to the case.” *In re. the application of DTE Electric Co*, Case No. U-17319 (March 6, 2014) at 10. Furthermore, the Commission has granted permissive intervention “to an association that represents the interests of its members, where the members generally meet the zone of interests test.” *Id.*

15. Petitioners will provide useful information to the Commission and unique perspectives and expertise in the areas of environmental, energy and ratepayer advocacy that will benefit the process as a whole. Petitioners bring a unique perspective to this case because its staff and witnesses specialize in issues related to rate design and renewable energy.

16. Petitioners’ intervention will provide benefits far in excess of any delay or expense. Petitioners have intervened in numerous cases before the Commission in Michigan and in other cases throughout the Midwest and across the nation, both individually and in coalition. As has been Petitioners’ general practice in similar cases, Petitioners intend to coordinate closely with each other and with other intervenors in order to streamline their collective participation in discovery, testimony, and briefing in this case to ensure that the Commission has high-quality information and analysis provided through the most efficient process possible.

17. Petitioners plan to evaluate DTE's application, testimony, and exhibits, to conduct discovery, to raise issues, and ultimately to take positions that best serve the interests described above. Petitioners reserve the right to advance other issues as the case develops.

18. This petition to intervene is timely and within the period for intervention set in the Notice of Prehearing.

19. Petitioners request that all notices and pleadings be served on:

Nicholas Wallace  
Environmental Law & Policy Center  
35 E Wacker Dr., Ste. 1600  
Chicago, IL 60601  
[nwallace@elpc.org](mailto:nwallace@elpc.org)

*and on:*

Daniel Abrams  
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*and on:*

Alondra Estrada, Legal Assistant  
Environmental Law & Policy Center  
[astrada@elpc.org](mailto:astrada@elpc.org)

For the reasons just outlined, Petitioners respectfully request that the Commission grant this Petition to Intervene and treat Petitioners as parties to this proceeding.

Dated: January 26, 2024

By:   
Nicholas Wallace (P85745)  
Environmental Law & Policy Center  
35 E Wacker Dr., Ste. 1600  
Chicago, IL 60601  
312-673-6500  
[nwallace@elpc.org](mailto:nwallace@elpc.org)

MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
PUBLIC SERVICE COMMISSION

**ENTRY OF APPEARANCE IN AN ADMINISTRATIVE HEARING**

This form is issued as provided for by 1939 PA 3, as amended, and by 1933 PA 254, as amended. The filing of this form, or an acceptable alternative, is necessary to ensure subsequent service of any hearing notices, Commission orders, and related hearing documents.

**General Instructions:**

Type or print legibly in ink. For assistance or clarification, please contact the Public Service Commission at 517-284-8090.


*Please Note: The Commission will provide **electronic** service of documents to all parties in this proceeding.*

**THIS APPEARANCE TO BE ENTERED IN ASSOCIATION WITH THE ADMINISTRATIVE HEARING:**

Case / Company Name: DTE Gas Company Docket No. U- 21291

Please enter my appearance in the above-entitled matter on behalf of:

1. (Name) Environmental Law & Policy Center
2. (Name) Ecology Center
3. (Name) Union of Concerned Scientists
4. (Name) Vote Solar
5. (Name)
6. (Name)
7. (Name)

Name Nicholas Wallace  
Address 35 E. Wacker Drive  
Suite 1600  
City Chicago State IL  
Zip 60601 Phone 312-673-6500  
Email nwallace@elpc.org  
Date 01/26/2024  
Signature: 

<input type="radio"/> I am not an attorney
<input checked="" type="radio"/> I am an attorney whose: Michigan Bar # is P- <u>85745</u> _____ Bar # is: _____ ( state )

**STATE OF MICHIGAN  
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 )                   Docket No. U-21291  
governing the distribution and supply of )  
natural gas, and for miscellaneous accounting )  
authority )

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**PROOF OF SERVICE**

I hereby certify that a true copy of the foregoing *Petition to Intervene by Environmental Law & Policy Center, The Ecology Center, Union of Concerned Scientists, and Vote Solar and Appearance of Nicholas Wallace* was served by electronic mail upon the following Parties of Record, this Friday, January 26, 2024.

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