

124 West Allegan Street, Suite 1000
Lansing, Michigan 48933
T (517) 482-5800 F (517) 482-0887
www.fraserlawfirm.com

Sean P. Gallagher
sgallagher@fraserlawfirm.com
(517) 377-0820

January 29, 2024

BY ELECTRONIC FILING

Ms. Lisa Felice, Executive Secretary
Michigan Public Service Commission
7109 W. Saginaw Hwy.
Lansing, Michigan 48917

RE: MPSC Docket No.U-21291, *In the matter on 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*

Dear Ms. Felice:

Enclosed for filing on behalf of Dearborn Industrial Generation, L.L.C. please find the *Petition to Intervene of Dearborn Industrial Generation, L.L.C.*, an *Entry of Appearance in an Administrative Hearing* for the undersigned, and a *Certificate of Service*.

If you have any questions regarding the attached, please do not hesitate to contact me.

Very truly yours,

Fraser Trebilcock Davis & Dunlap, P.C.

Sean P. Gallagher

Enclosures

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) Dearborn Industrial Generation, L.L.C.
2. (Name)
3. (Name)
4. (Name)
5. (Name)
6. (Name)
7. (Name)

Name Sean P. Gallagher
Address Fraser, Trebilcock, Davis & Dunlap, P.C.
124 West Allegan Street, Suite 1000
City Lansing State MI
Zip 48933 Phone 517.377.0820
Email sgallagher@fraserlawfirm.com
Date 01/29/2024

<input type="radio"/> I am not an attorney
<input checked="" type="radio"/> I am an attorney whose: Michigan Bar # is P- <u>73108</u> _____ Bar # is: _____ (state)

Signature: _____

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter on 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-21291

PETITION TO INTERVENE OF
DEARBORN INDUSTRIAL GENERATION, L.L.C.

Dearborn Industrial Generation, L.L.C. ("Petitioner" or "DIG"), by and through its attorneys, Fraser Trebilcock Davis & Dunlap, P.C., and hereby petitions the Michigan Public Service Commission ("Commission") and the Administrative Law Judge for leave to intervene in the above-entitled proceeding pursuant to Rule 410 of the Commission's Rules of Practice and Procedure. (R 792.10410.) In support of this Petition, Petitioner states as follows:

I. BACKGROUND

1. On January 8, 2024, DTE Gas Company ("DTE" or the "Company") filed an Application to increase its natural gas service and transportation rates and for other relief, following a filing announcement made on September 21, 2023, and a rate case summary filed December 28, 2023.

2. The Application proposes to add additional revenue of \$266 million effective on or after October 1, 2024, January 1, 2022, with a base revenue increase of 27.32% and an average rate increase of 9.31%. See Case No. U-21291, Document No. 6, January 8, 2024 Application at 1-2 and Attachments 1 and 2.

3. The Application proposes an average increase to natural gas transportation rates of 15.30% and an increase to Rate Class XXLT of 14.73%. *Id.*, Attachment 2.

4. On January 9, 2024, the ALJ issued a scheduling memorandum providing notice of a Monday, February 5, 2024 pre-hearing conference.

5. DIG is a 770-megawatt (“MW”) natural gas and waste gas cogeneration power plant in Dearborn, Michigan. DIG uses natural gas in two combined-cycle gas turbine generators that are coupled with multiple steam boilers that capture the gas turbine exhaust energy to produce steam through a steam turbine, and a simple-cycle gas turbine. DIG also operates boilers that primarily burn blast furnace gas recovered from adjacent steel-making operations and are supplemented with natural gas.

6. Located across from Ford Motor Company’s Rouge Complex, the DIG plant’s electric output is sold into the Midcontinent Independent System Operator, Inc. (“MISO”) market or is otherwise committed through contractual arrangements with other offtakers. DIG also fulfills steam heating and processing needs for adjacent industrial businesses.

7. Since coming online in 1999, DIG has taken natural gas transportation and storage services from DTE (formerly Michigan Consolidated Gas Company) pursuant to special gas transportation and storage agreements approved by the Commission by virtue of the benefit of these contracts to DTE, its other natural gas system customers, and DIG, in part because of the substantial load that DIG represented and still represents on DTE’s system. As of DTE’s last general rate case, U-20240, DIG has taken service as a Rate XXLT customer.

8. DIG’s natural gas consumption, which relies on transportation and storage services provided by DTE, annually exceeds 30 billion cubic feet (“Bcf”), making it one of the largest customers in DTE’s XXLT natural gas transportation rate class (if not the largest such customer).

9. DIG has participated in past DTE rate cases, including the Company's most recently decided general rate case, filed and decided in 2021, Case No. U-20940.

10. The Application, which proposes to implement rates effective October 1, 2024, will affect the rates and terms of service under which DIG takes natural gas transportation and storage services from DTE.

11. Rule 410(1) states, in relevant part:

A person who is not a complainant, respondent, protestant, applicant, or staff, as defined in these rules, and who claims an interest in a proceeding may petition for leave to intervene.

R792.10410.

12. DIG claims an interest in this proceeding because it takes natural gas transportation and storages services from DTE at its facility in Dearborn.

13. DIG will be subject to the rates, terms, and conditions of service approved in this proceeding and is interested in keeping its business costs for procurement of natural gas transportation and storage services as reasonable and prudent as possible. Therefore, DIG seeks leave to intervene in this matter by right.

14. Although Rule 410 is framed in terms of leave to intervene, the Commission has indicated that it considers the ability to intervene to be one of right when a petitioner can meet the two-prong test for standing.¹ This test requires a showing that the prospective intervenor will (1) suffer an injury in fact as a result of the outcome of the case; and (2) the interests allegedly

¹ The United States Supreme Court established the two-prong test for standing in *Association of Data Processing Service Organizations, Inc. v Camp*, 397 US 150; 90 S Ct 827; 25 L Ed 2d 184 (1970), applied to utility matters in *Drake v The Detroit Edison Co*, 453 F Supp 1123, 1127 (WD Mich 1978), and adopted by the Commission in its November 10, 1988 Order in Case No. U-9138, p 5.

endangered fall within the zone of interests intended to be protected or regulated by the statute or constitutional guarantee in question.²

15. DIG meets the two-prong test for standing. First, DIG has a direct financial interest in the rates to be set in this proceeding since the proposals set forth in the Application will directly impact the terms of service and the rates it pays DTE for gas transportation and storage services, of which increases to DIG's rates alone will cause an injury in fact to DIG.

16. Second, DIG maintains an interest in the adoption of reasonable and prudent natural gas transportation and storage rates and service terms which affect DIG's costs of doing business, which falls within the zone of interests to be protected by the Commission's consideration of the issues in this proceeding.

17. In addition to meeting the conditions for intervention by right, DIG meets the Commission's criteria for permissive intervention. As recognized in prior Commission orders, "the Commission's discretion to grant leave to intervene is broader than the two-prong test...Unlike a court of law, an administrative agency can allow intervention whenever the resulting delay will likely be outweighed by the benefit of the intervenor's participation."³

18. Permissive intervention has been granted where a proceeding "raises novel questions and important issues of policy" and the intervenor will "bring a unique perspective" to the case.⁴

² *In re Consumers Energy for authority to implement a power supply cost recovery plan*, MPSC Case No. U-17317, March 6, 2014 Order, p 4.

³ *In re Michigan Consolidated Gas Company for authority to increase its rates*, MPSC Case No. U-10150, December 8, 1992 Order, p 5.

⁴ *In re Consumers Energy to fully comply with Public Act 295 of 2008*, MPSC Case No. U-17771, October 27, 2015 Order, p 6, citing *In re Mascotech Forming Technologies*, MPSC Case No. U-11057, June 5, 1996 Order, pp 2-3.

19. As one of the largest customers on DTE's natural gas transportation system, a generator of electric energy sold into the MISO marketplace, and a past participant in DTE rate cases, DIG brings a unique perspective to this proceeding.

20. DIG anticipates examining the reasonableness and prudence of DTE's rate proposals, and, as necessary, may take further actions, such as developing positions with counsel and expert resources, reviewing and pursuing discovery, and filing briefing to present its perspective to the Commission and protect its interests.

21. DIG will seek an order in this proceeding approving only those rates and terms of service that are reasonable and lawful.

22. The interests of DIG are not adequately represented by any other potential intervenor party to this case. Therefore, it would be detrimental to the public interest to deny this petition to intervene.

23. DIG reserves the right to take other positions and/or seek other relief based on a review of the various filings, the responses to discovery, or positions taken in briefs by other participants.

24. Therefore, respectfully, DIG requests that the Commission and the Administrative Law Judge grant this Petition to Intervene that it be treated as a full party hereto.

25. DIG further respectfully requests that the parties serve electronic copies of all pleadings, correspondence, and discovery in these proceedings to the offices of their legal counsel listed below, per established Commission practice and procedure.

II. RELIEF

26. Dearborn Industrial Generation, L.L.C. requests the Commission and the Administrative Law Judge hear this Petition to Intervene at the February 5, 2024 prehearing conference, enter an order granting Petitioner's request to intervene as a full party of record, and issue other relief as is just and proper.

Respectfully Submitted,

Fraser Trebilcock Davis & Dunlap, P.C.

Dated: January 29, 2024

By: _____

Sean P. Gallagher (P73108)
124 West Allegan Street, Suite 1000
Lansing, Michigan 48933
Telephone: (517) 482-5800
Facsimile: (517) 482-0887
sgallagher@fraserlawfirm.com
Attorney for Dearborn Industrial Generation, L.L.C.

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter on 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-21291

CERTIFICATE OF SERVICE

Sean P. Gallagher hereby certifies that on January 29, 2024, he did cause to be served the foregoing **Petition to Intervene of Dearborn Industrial Generation, L.L.C., Appearance of Sean P. Gallagher**, and this **Certificate of Service** by electronic mail to the persons identified on the attached service list.

Sean P. Gallagher

SERVICE LIST
MPSC Case No. U-21291

<p>Executive Secretary Michigan Public Service Commission Lisa Felice</p>	<p>mpscdockets@michigan.gov</p>
<p>Administrative Law Judge Hon. Jonathan Thoits</p>	<p>thoitsj@michigan.gov</p>
<p>Counsel for DTE Electric Company Paula Johnson-Bacon Andrea E. Hayden Jon P. Christinidis David S. Maquera Carlton D. Watson Mark W. Madden Breanne K. Reitzel</p>	<p>mpscfilings@dteenergy.com paula.bacon@dteenergy.com andrea.hayden@dteenergy.com jon.christinidis@dteenergy.com maquerad@dteenergy.com carlton.watson@dteenergy.com mark.madden@dteenergy.com Breanne.reitzel@dteenergy.com</p>
<p>Counsel for MPSC Staff Heather M.S. Durian Michael J. Orris Monica M. Stephens Anna B. Stirling</p>	<p>durianh@michigan.gov orrism@michigan.gov Stephensm11@michigan.gov stirlinga1@michigan.gov</p>
<p>Attorney General Dana Nessel Joel King</p>	<p>Kingj38@michigan.gov Ag-enra-spec-lit@michigan.gov</p>
<p>Michigan Limited Power Partnership Retail Energy Supply Association Jennifer Utter Heston</p>	<p>jheston@fraserlawfirm.com</p>
<p>Citizens Utility Board of Michigan Michigan Environmental Council Christopher M. Bzdok Holly L. Hillyer</p>	<p>chris@tropospherelegal.com holly@tropospherelegal.com</p>
<p>Billerud Americas Corporation Timothy Lundgren Justin K. Ooms</p>	<p>tjlundgren@potomaclaw.com jkooms@potomaclaw.com</p>
<p>City of Ann Arbor Valerie J.M. Brader Valerie R. Jackson</p>	<p>valerie@rivenoaklaw.com valeriejackson@rivenoaklaw.com</p>

Environmental Law & Policy Center Union of Concerned Scientists Vote Solar Nicholas Wallace	nwallace@elpc.org
Urban Core Collective Amanda Urban	t-9aurba@lawclinics.uchicago.edu