

Potomac LAW GROUP

Potomac Law Group PLLC

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April 9, 2024

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

Re: **MPSC Case No. U-21534**

Dear Ms. Felice:

Attached for electronic filing in the above-referenced matter, please find the Joint Petition for Leave to Intervene of Michigan Energy Innovation Business Council, Institute for Energy Innovation and Advanced Energy United, together with the Proof of Service. Thank you for your assistance in this matter.

Very truly yours,

Laura A. Chappelle

LAC/srd
Enclosure

c. All parties of record.

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application of)
DTE ELECTRIC COMPANY)
authority to increase its rates, amend its rate)
schedules and rules governing the)
distribution and supply of electric energy,)
and for miscellaneous accounting authority.)

Case No. U-21534

JOINT PETITION FOR LEAVE TO INTERVENE OF
MICHIGAN ENERGY INNOVATION BUSINESS COUNCIL,
INSTITUTE FOR ENERGY INNOVATION AND
ADVANCED ENERGY UNITED

Michigan Energy Innovation Business Council (“Michigan EIBC”), Institute for Energy Innovation (“IEI”) and Advanced Energy United (“United”) collectively, “MEIU,¹ by their attorneys, Potomac Law Group, PLLC (“PLG”), hereby petition the Michigan Public Service Commission (“MPSC” or “Commission”) for leave to intervene in the above-captioned proceeding pursuant to R 792.10410 (Rule 410) of the Commission's Rules of Practice and Procedure and the Michigan Administrative Procedures Act, MCL § 24.201 *et seq.* In support of its petition, MEIU state as follows:

1. On March 28, 2024, DTE Electric Company (“DTE” or the “Company”) filed its application (“Application”) with supporting testimony and exhibits, requesting that the Commission grant authority to increase its rates, amend its rate schedules and rules governing the distribution and supply of electric energy, and for miscellaneous accounting authority.

¹ The comments expressed in this filing represent the positions of Michigan EIBC, IEI and United as organizations but may not represent the views of any particular member of Michigan EIBC, IEI and/or United.

2. In its Application, DTE seeks an adjustment in its retail rates for the generation and distribution of electricity to provide additional revenue in the amount of approximately \$456.4 million, with a Return on Equity of 10.50%.

3. DTE's Application also seeks, in part, certain changes to the Company's tariffs, and rules and regulations, to accommodate several new pilot programs pertaining to electric vehicle ("EV") charging, distribution non-wire alternatives ("NWA"), battery energy storage, and demand response ("DR") initiatives.

4. On April 1, 2024, the Commission issued a Revised Notice of Hearing setting the date of intervention by April 19, 2024, and the date and time of the Prehearing Conference in this proceeding on April 26, at 10 a.m.²

Identification of Petitioners

5. Michigan EIBC is a business trade association representing companies in Michigan's advanced energy sector. Michigan EIBC's mission is to grow Michigan's advanced energy economy by fostering opportunities for innovation and business growth and offering a unified voice in creating a business-friendly environment for the advanced energy industry in Michigan. Michigan EIBC member companies represent the full range of the advanced energy sector, including advanced materials, biomass/biofuels, energy efficiency, energy storage, lighting, smart grid, solar, transportation, and wind, and they include some who are customers of DTE who are interested in accessing advanced energy options.

6. IEI is a partner organization of Michigan EIBC and is a Michigan non-profit, 501(c)(3) organization, whose mission is to promote greater public understanding of advanced and renewable energy and its economic potential for Michigan and to inform the public and policy

² Case No. U-21534-0024, dated April 1, 2024.

discussion on Michigan's energy challenges and opportunities, including by engaging with the public and representing ratepayers' interests in administrative and other proceedings at the state level.

7. United is a national association of advanced energy business leaders who are making the global energy system more secure, cleaner and more affordable. United educates, engages, and advocates for policies that allow its member companies to compete to repower the economy with 100% clean energy. United is active at the federal level and in numerous states across the country, working with a coalition of state partner organizations, including Michigan EIBC. United's membership includes providers of advanced energy technologies and services as well as large energy users seeking to procure renewable energy. United has worked collaboratively with corporate purchasers and renewable energy suppliers to build consensus around solutions that work for both. United's membership includes full-service customers of DTE who are interested in accessing renewable and advanced energy options and who would be eligible for participation in many of DTE's programs as purchasers.

8. Michigan EIBC, IEI and United intend to cooperate in this proceeding and to make joint filings, which should increase efficiency in this proceeding.

Interests of Petitioners and Grounds for Intervention

9. Michigan EIBC and United, as trade associations, represent businesses in the advanced and renewable energy industry and customers of DTE who are interested in accessing advanced energy options, have an interest in this proceeding and will be directly affected by the outcome.

10. Michigan EIBC and United, as well as its members, are directly affected by this proceeding because rates, rate schedules, and cost allocations that affect Michigan EIBC and

United and its members are subject to alteration in this proceeding. Michigan EIBC and United members are customers of DTE, and those rate and tariff changes that are approved will directly affect the rates and costs paid to DTE by Michigan EIBC's and United's members.

11. Furthermore, certain Michigan EIBC and United members' businesses will be directly affected by DTE's newly-proposed pilots in this proceeding and by determinations about how those pilots should be carried out.

12. MEIU intend to participate in these proceedings to the extent necessary to protect the interests of its members and to evaluate the other requested tariff and rate changes in the Application. Specifically, MEIU intend to ensure that the programs, rate changes, rate schedule changes, and cost allocation changes proposed by DTE and other parties in this docket result in charges or other impacts on MEIU's members that are just, reasonable, and lawful. These interests of MEIU and its members in this proceeding cannot be adequately represented or protected by any other party.

13. Michigan EIBC and United meet the criteria for intervention as of right. The Commission has long recognized the two-prong test for standing that requires a prospective intervenor to show (i) that it will suffer an injury in fact, and (ii) that the interests allegedly endangered are within the zone of interests to be protected or regulated by the statute or constitutional guarantee in question. See *In re Application of The Detroit Edison Co for Authority to Increase its Rates*, Case Nos. U-15768 and U-15751 (January 11, 2010) ("*In re Detroit Edison*"); *Association of Data Processing Service Organizations, Inc. v Camp*, 397 US 150 (1970) ("*Data Processing*"); and *Drake v The Detroit Edison Company*, 453 F Supp 1123, 1127 (WD Mich 1978) ("*Drake*").

14. Michigan EIBC and United meet the “injury in fact” test because its members are customers of DTE who will be directly affected by the rate and tariff changes proposed in this proceeding. These members, as customers of DTE, are within the zone of interest protected by the statutes under which this rate case has been brought, namely MCL 460.6 *et seq.*

15. Michigan EIBC and United therefore respectfully submit that they meet both prongs of the Commission’s test for intervention in this case.

16. IEI, as the partner organization for Michigan EIBC that is involved in public policy on the issues of advanced and renewable energy, should be granted permissive intervention. IEI has already been granted intervention in previous Commission proceedings, a status which was explicitly affirmed by an order of the Commission. In Case No. U-17319, the Commission, in a challenge to IEI’s intervention in DTE’s power supply cost recovery proceeding, noted that:

permissive 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. June 5, 1996 order in Case No. U-11057, pp. 2-3. The Commission has also granted permissive intervention in a rate case to an association that represents the interests of its members, where the members generally meet the zone of interest test. January 11, 2010 order in Case No. U-15768 et al, p. 8; see, also, Drake, 453 F Supp at 1129.

Order of March 6, 2014, in U-17319, p. 10. In affirming the Administrative Law Judge’s grant of permissive intervention to IEI, the Commission additionally observed: “The Commission recognizes the importance of policy and economic considerations related to the integration of advanced technologies into the electric supply mix, particularly given the dynamic environment in which utilities are operating and the changing mix of generation resources over the next five to ten years.” *Id.* at 11.

17. Even if MEIU did not satisfy the test for intervention as of right, MEIU should be permitted to intervene under the Commission's permissive intervention standards. As the Commission has noted, "the Commission's discretion to grant leave to intervene is broader than the two-prong test. As recognized in prior Commission orders, the requirements for standing before the Commission are not as strict as those applied by the courts. 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." *In re Michigan Consolidated Gas Co*, Case No. U-10150, at 5 (December 8, 1992) (finding that discretionary intervention was appropriate, and "a detailed discussion of the two-prong test is unnecessary"). Furthermore, the Commission has recently stated that, "[t]he granting of permissive intervention without satisfying the two-pronged test is a long-established Commission practice." *In re DTE Gas Co*, Case No. U-17332, at 4 (May 13, 2014).

18. The Commission has also stated that, "permissive 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 in a rate case "to an association that represents the interests of its members, where the members generally meet the zone of interests test." *Ibid.*

19. Because IEI will coordinate its involvement with Michigan EIBC and United, its involvement in this proceeding will not result in any additional delay.

20. For these reasons, MEIU should be granted full participation in this proceeding as coordinating intervenors so that they may provide useful expertise and information on a range of

applicable issues affecting DTE's proposed increase in its rates and amendments of its rate schedules.

21. MEIU reserve the right to take other positions and/or seek other relief based on a review of the Applicant's and other parties' filings, the responses to discovery, or positions taken in briefs.

Prayer for Relief

WHEREFORE, MEIU respectfully request that the Commission:

- a. Grant Michigan MEIU's Petition for Leave to Intervene; and
- b. Grant such other and further relief as is deemed lawful and appropriate.

Respectfully submitted,

Potomac Law Group, PLLC
Attorneys for the Michigan Energy
Innovation Business Council, Institute for
Energy Innovation and Advanced Energy United

April 9, 2024

By: _____
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PROOF OF SERVICE

STATE OF SOUTH CAROLINA)
) ss.
COUNTY OF BERKELEY)

Summer R. Dukes, the undersigned, being first duly sworn, deposes and says that she is a Paralegal at Potomac Law Group PLLC and that on the 9th day of April, 2024 she served the Joint Petition for Leave to Intervene of Michigan Energy Innovation Business Council, Institute for Energy Innovation and Advanced Energy United, via email, upon those individuals listed on the attached Service List.

Summer R. Dukes

Administrative Law Judge

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Michigan Energy Innovation Business Council

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Advanced Energy United

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