



April 19, 2024

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

Via E-File

RE: MPSC Case No. U-21534

Dear Ms. Felice:

Attached please find the enclosed documents for filing:

- Petition to Intervene by Sierra Club;
- Appearances of Christopher Bzdok and Tracy Jane Andrews; and
- Proof of Service.

Thank you for your assistance in this matter. If you have any questions, please feel free to contact me.

Sincerely,

Christopher Bzdok
chris@tropospherelegal.com

CC: Parties to Case No. U-21534

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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

U-21534

**PETITION TO INTERVENE
OF SIERRA CLUB**

1. Sierra Club, a national, non-profit environmental organization, seeks to intervene in this case to represent the interests of its Michigan-based members in receiving reliable power that is generated and supplied in a cost-effective and environmentally sound manner.

2. Sierra Club has approximately 786,643 members, nationwide, dedicated to exploring, enjoying, and protecting the wild places of the earth; to practicing and promoting the responsible use of the earth's ecosystems and resources; to educating and enlisting humanity to protect and restore the quality of the natural and human environment; and to using all lawful means to carry out these objectives. Sierra Club has many years of experience working on energy and electric generation issues throughout the United States, including in Michigan.

3. Sierra Club has approximately over 20,000 members in Michigan, of which over 8,000 live, work, and pay electric bills in the DTE Electric Company's ("DTE Electric" or "Company") service territory. These members are directly affected by the rates, policies, terms, and conditions governing DTE's provision of electricity to them. As a result, these members have a strong interest in having their electricity provided in a dependable and environmentally responsible manner, and at costs that are competitive and relatively stable over the long term.

Collectively and individually, these members also have a strong interest in avoiding economic harm caused by unreasonable or imprudent utility practices.

4. DTE Electric seeks approval from the Michigan Public Service Commission (“MPSC” or “Commission”) to increase its annual revenues by \$622 million. The Company’s proposed rate increase represents a substantially higher cost of service for ratepayers located in DTE Electric’s service territory, including members of Sierra Club.

5. Before the Commission can approve any increase in an electric utility’s rates and charges, or otherwise approve any alteration, change, or amendment of an electric utility’s rate or rate schedules, MCL 460.6a(1) requires that all interested parties be provided with “a reasonable opportunity for a full and complete hearing.”

6. For purposes of intervention in Commission proceedings, the Commission has recognized that ratepayers have a special interest in proceedings that directly implicate changes to a utility’s rates. 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) (“*In re Detroit Edison*”), 8.

7. Commission rules and precedent provide that an association may be granted intervention to represent the interests of its members. See *In re Detroit Edison* at 8 (citing MPSC Rules of Practice and Procedure, Mich Admin Code R 460.17101(f), (g)(vii), and R 460.17201); see also *Drake v Detroit Edison*, 453 F Supp 1123, 1129 (WD 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 association can assert and represent the interests of its third-party members without specifically identifying each individual member whose interests are to be represented. *In re Detroit Edison* at

8. The Commission generally recognizes two types of intervention: intervention by

right and permissive 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 US 150 (1970); see also *Re Mich Consol Gas Co*, MPSC Case No U-10150 (December 8, 1992), 3. To satisfy the first prong of the *Data Processing* test, an intervenor (or, as in this case, the third-party members of an intervening association) 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. An increase in rates constitutes an injury-in-fact under this standard. *Drake*, 453 F Supp at 1127.

10. Sierra Club members who live and work within DTE Electric's service territory will suffer an injury-in-fact if the result of this proceeding is a decision ensuring that DTE Electric may substantially increase its electric rates. Sierra Club's members may also be injured by imprudent utility practices that results in higher electric bills, greater fluctuations in electricity prices, environmental harm, and safety concerns.

11. 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.*

12. Sierra Club's members are generally within the zone of interests protected by MCL 460.1 *et seq.* These statutes generally seek to protect ratepayer interests, and they provide for ratepayer participation and advocacy in Commission proceedings. Sierra Club's members are

specifically within the zone of interests protected by MCL 460.6a, moreover, which governs requests to increase electric utility rates in Michigan, and which requires the Commission to provide interested parties like Sierra Club's members with a hearing before rate maybe increased or changed.

13. Sierra Club meets both prongs of the *Data Processing* test because approximately 8,500 of its members are DTE Electric customers, because this case directly implicates these members' cost of electricity, and because these members are well within the zone of interests protected by MCL 460.1 *et seq.* For these reasons, Sierra Club has been permitted to intervene by right in a number of Commission proceedings, including DTE Electric's last several general rate cases – including Case Nos. U-17767, U-18014, U-18255, U-20162, U-20561, U-20836, and U-21297. Sierra Club now respectfully seeks to intervene by right in this proceeding.

14. The second type of intervention recognized by the Commission is permissive. Even if the Commission determines that a prospective intervenor is not entitled to intervention by right, the Commission has discretion to permit intervention where a party will provide a unique perspective on the issues raised by the case, or where the party's expertise and ability to provide useful information to the Commission outweighs any delay occasioned by the party's intervention. See *In re Detroit Edison* at 7; *In re Mascotech Forming Techs, Inc*, MPSC Case No. U-11057 (June 5, 1996), 1-2.

15. Sierra Club meets the Commission's test for permissive intervention because Sierra Club will provide useful information to the Commission and a unique perspective on the issues presented for its review in this proceeding.

16. Sierra Club will bring significant expertise to bear in this proceeding. This expertise encompasses a broad range of environmental and energy concerns that fully complement the myriad technical and policy issues parties will face in this proceeding. In particular, the Sierra

Club's staff and consultants have extensive experience in resource planning, analyzing the potential for cost effective energy efficiency, and in the laws and regulations regulating energy production. Sierra Club also has extensive expertise with likely compliance requirements associated with environmental regulations and implications for the reasonableness of the Company's investments at issue with this proceeding. Sierra Club has jointly or individually intervened and/or provided testimony on these issues in various Commission proceedings, as well as a multitude of similar proceedings in a number of other states, including Arkansas, Arizona, California, Colorado, Florida, Illinois, Iowa, Louisiana, Kentucky, Mississippi, Missouri, New York, New Jersey, Nevada, Ohio, Oklahoma, Oregon, South Carolina, Utah, Wisconsin, and Wyoming. The Sierra Club has also regularly presented testimony before the U.S. Congress and various state legislatures on issues related to the electric utility industry, including energy efficiency, renewable energy, and coal generation. In general, the Sierra Club's staff and expert witnesses have extensive knowledge and experience in the areas of ratepayer advocacy, electric generation and supply, and the effect of electric utility practices on rates and environmental quality. The benefits of Sierra Club's participation in this case will far outweigh the delay – if any – occasioned by its intervention.

17. Sierra Club will also bring a unique perspective to the issues raised in this case because Sierra Club has worked for years in Michigan, on behalf of its members, to help develop and advance energy policies that benefit both ratepayers and the state's environment.

18. Sierra Club plans to evaluate DTE Electric's application, testimony, and exhibits; to conduct and participate in discovery; and to take those positions that best serve the above-described interest of its members. Specifically, Sierra Club will take the general position that the Company's proposed rate increase cannot be approved unless it is just and reasonable.

19. Notwithstanding the above, Sierra Club may choose to alter, expand, or abandon

some or all of these positions as the evidentiary record in this case is developed. In addition, the Sierra Club reserves the right to take additional positions in this case, or to advance additional issues, as they may arise.

20. This petition to intervene is timely.
21. No other party adequately represents the interests of Sierra Club.
22. If allowed to intervene, Sierra Club requests that all notices and pleadings be served

on the following:

Christopher M. Bzdok
Tracy Jane Andrews
TROPOSPHERE LEGAL, PLLC
Counsel for Sierra Club
420 E. Front St.
Traverse City, MI 49686
(231) 709-4000
chris@tropospherelegal.com
tjandrews@tropospherelegal.com

and on:

Breanna Thomas, Legal Assistant
breanna@tropospherelegal.com

For all of these reasons, Sierra Club respectfully requests that the Commission grant this petition to intervene and treat Sierra Club as a party to this proceeding.

TROPOSPHERE LEGAL
Counsel for Sierra Club

Date: April 19, 2024

By: _____
Christopher M. Bzdok (P53094)
Tracy Jane Andrews (P67467)
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Traverse City, MI 49686
Phone: 231-709-4000
Email: chris@tropospherelegal.com
tjandrews@tropospherelegal.com

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 Electric Company Docket No. U-21534

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

1. (Name) Sierra Club (SC)
2. (Name)
3. (Name)
4. (Name)
5. (Name)
6. (Name)
7. (Name)

Name Christopher M. Bzdok
Address 420 E. Front Street

City Traverse City State MI
Zip 49686 Phone (231) 709-4000
Email chris@tropospherelegal.com
Date 04/19/2024

I am not an attorney
 I am an attorney whose:
Michigan Bar # is P- 53094
_____ Bar # is: _____
(state)

Signature:  Digitally signed by Christopher Bzdok
DN: cn=Christopher Bzdok, o=Troposphere Legal,
email=chris@tropospherelegal.com, c=US
Date: 2024.04.19 14:53:01 -04'00'

Save Form

EAHR1 - 09/29/2016

MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
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Please enter my appearance in the above-entitled matter on behalf of:

1. (Name) Sierra Club (SC)
2. (Name)
3. (Name)
4. (Name)
5. (Name)
6. (Name)
7. (Name)

Name Tracy Jane Andrews
Address 420 E. Front Street

City Traverse City State MI
Zip 49686 Phone (231) 709-4000
Email tjandrews@tropospherelegal.com
Date 04/19/2024

I am not an attorney
 I am an attorney whose:
Michigan Bar # is P- 67467
_____ Bar # is: _____
(state)

Signature:  Digitally signed by Tracy Jane Andrews
DN: cn=Tracy Jane Andrews, o=Troposphere Legal,
PLC, email=tjandrews@tropospherelegal.com, c=US
Date: 2024.04.19 14:51:59 -0400

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EAHR1 - 09/29/2016

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application of **DTE ELECTRIC COMPANY** for 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

Proof of Service

On the date below, an electronic copy of **Petition to Intervene by Sierra Club and Appearances of Christopher Bzdok and Tracy Jane Andrews** was served on the following:

Name/Party	E-mail Address
Administrative Law Judge Hon. Sally L. Wallace	wallaces2@michigan.gov
DTE Electric Company Paula Johnson-Bacon Jon P. Christinidis John A. Janiszewski Breanne K. Reitzel Andrea E. Hayden	mpsc filings@dteenergy.com paula.bacon@dteenergy.com jon.christinidis@dteenergy.com john.janiszewski@dteenergy.com Breanne.reitzel@dteenergy.com Andrea.hayden@dteenergy.com
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EVgo Services, LLC Nikhil Vijaykar	nvijaykar@keyesfox.com

The statements above are true to the best of my knowledge, information and belief.

Troposphere Legal, PLC
Counsel for SC

Date: April 19, 2024

By: _____

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420 E. Front St.
Traverse City, MI 49686
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Email: breanna@tropospherelegal.com