

VIA ELECTRONIC FILING

May 7, 2024

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

Re: Case No. U-21534

Dear Executive Secretary Felice:

Please find the attached filings submitted on behalf of Electrify America, LLC. in the above-referenced proceeding:

- **Late-Filed Petition to Intervene of Electrify America, LLC**
- **Appearances of Stephen Bright and Jennifer A. Morante (P64892) on Behalf of Electrify America, LLC**
- **Proof of Service**

Please contact the undersigned if you have any questions or concerns regarding this letter.

Sincerely,

/s/Jennifer A. Morante
Jennifer A. Morante (P64892)
GORDON REES SCULLY
MANSUKHANI
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STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application of **DTE** :
ELECTRIC COMPANY for authority to : Case No. U-21534
increase its rates, amend its rate schedules and :
rules governing the distribution and supply of : ALJ Sally Wallace
electric energy, and for miscellaneous :
accounting authority. :

LATE-FILED PETITION OF ELECTRIFY AMERICA, LLC FOR LEAVE TO INTERVENE

Electrify America, LLC (“Electrify America”), by and through its counsel in this matter, Gordon Rees Scully Mansukhani, hereby submits this Late-Filed Petition for Leave to Intervene (“Petition”) in the above-referenced proceeding pursuant to Rule 410 of the Rules of Practice and Procedure of the Michigan Public Service Commission (“Commission”), R 792.10410. In support of its position, Electrify America states as follows:

1. On March 28, 2024, DTE Electric Company (“DTE”) filed with the Commission an application requesting authority to increase rates and amend its rate schedules and rules governing the distribution and supply of electric energy (“Application”). The Application includes a new, electric vehicle (“EV”) fast charger rate, as well as other proposals relating to electric vehicle infrastructure.

2. Electrify America, the largest open DCFC network in the United States, is investing more than \$2 billion over ten years on Zero Emissions Vehicle (“ZEV”) infrastructure, education and awareness. This investment will enable millions of Americans to discover the benefits of electric driving and support the build-out of a nationwide network of ultra-fast community and highway chargers that are convenient and reliable. To date, Electrify America has built a coast-to-coast network of DCFC stations across over 900 locations and with over 4,000 individual DC fast

chargers in total, including 9 locations with 42 individual DC fast chargers in Michigan. Within DTE's service territory, Electrify America currently operates 3 stations with 14 individual DC fast chargers and is currently taking service on DTE's General Service Rate D3. Electrify America's chargers range from 150 kW to 360 kW of power based on anticipated needs and use cases, as well as available real estate and power. The ultra-fast 360 kW chargers are the most powerful public chargers on the market today, capable of recharging speeds close to gasoline fueling.

3. Electrify America anticipates further expansion in Michigan within DTE's service area, particularly given the presence of major highway corridors, metropolitan areas, and the expected influx of \$110 million dollars in Federal funding through the National Electric Vehicle Infrastructure ("NEVI") Formula Program. Electrify America is uniquely situated as a non-proprietary charging network capable of providing up to 360 kW to capable vehicles in Michigan, and more broadly is one of few charging networks statewide providing the fastest and most customer-friendly refueling speeds. Faster refueling speeds are widely recognized as instrumental in allowing Michigan to realize its EV adoption and transportation electrification goals.

4. As such, Electrify America has direct interests that will be impacted by the outcome of this proceeding. As a customer of DTE, Electrify America will be directly affected by the proposed modifications to the rates, terms and conditions, and policies set forth in DTE's Application, specifically: DTE's EV fast charger rate, its proposed updates to its contribution in aid of construction ("CIAC") allowance table, and the proposed Business Charger Rebate program.

5. Electrify America plans to evaluate DTE's Application, including its testimony and exhibits, and to fully participate in the Commission's investigation of the Application. As indicated by DTE's witness, Aaron Willis, "the data constraints and generally small customer set indicate that this proposal should be used as a starting point for discussion only and not as a rate to be

implemented at the conclusion of this case.”¹ Electrify America has participated in proceedings before public utility commissions throughout the country, supporting such discussions by contributing its unique expertise and knowledge of EV charging infrastructure to advocate for incentives and rates that support the financial sustainability of continued EV infrastructure operation.

6. Electrify America seeks to do so in this proceeding, as well, and support DTE, the Commission, and other parties in the orderly administration of the Commission’s review of the Application.

7. The Commission has interpreted its procedural rules to recognize two types of intervention: intervention by right, and permissive intervention.² Electrify America meets the Commission’s tests for both types of intervention.

8. The Commission applies a two-prong test for intervention by right.³ This test, when applied to utility proceedings⁴, requires that prospective intervenors demonstrate that 1) they would likely suffer injury in fact as a result of the outcome of the proceeding⁵; and 2) their interests that are allegedly endangered are within the zone of interests to be protected or regulated by the statute under consideration.⁶ On this second prong, the zone of interests test is not strictly interpreted, instead “it must only be shown that the asserted interests are arguably within the zone of interests to be protected.”⁷

¹ *In the matter of the Application of DTE Electrify 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*, MSPC Case No. U-21534, Direct Testimony of Aaron Willis, p. 36, lines 14-17.

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

³ 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.

⁴ *Drake v The Detroit Edison Co*, 453 F. Supp 1123 (WD Mich 1978).

⁵ *In re Detroit Edison* at 7; *Drake*, 453 F. Supp. at 1127.

⁶ *In re Detroit Edison* at 7.

⁷ *Drake*, 453 F. Supp. at 1129.

9. Electrify America meets this first test, as it is a customer of DTE and will be substantially and directly impacted by the Commission’s decision on the proposed rate schedules and rules governing the distribution and supply of electric energy. Electrify America could face significantly higher operating costs depending on the outcome of this proceeding, and therefore Electrify America’s interests fall within the zone of interests to be protected by the Commission’s findings in this proceeding. As such, Electrify America meets the conditions for intervention by right.

10. Electrify America likewise meets the Commission’s test for permissive intervention. The Commission allows for permissive intervention if “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.”⁸ As the Commission has stated “[t]he granting of permissive intervention without satisfying the two-pronged test is a long-established Commission practice.”⁹

11. As indicated above, Electrify America has significant expertise on matters related to the impacts of electric utility tariffs on the development and operation of electric vehicle charging stations. This expertise is directly impacted by the issues raised in the application, and as such Electrify America satisfies the test for permissive intervention. Additionally, Electrify America’s interests are not adequately represented by any other party and, therefore, it would be detrimental to the public interest to deny this petition to intervene.

12. Electrify America acknowledges that the pre-hearing conference has already occurred in this proceeding, and the procedural schedule has already been determined. Electrify

⁸ *In re. the application of DTE Electric Co*, Case No. U-17319 (March 6, 2014) at 10

⁹ *In re DTE Gas Co*, Case No. U-17332, at 4 (May 13, 2014)

America agrees to be bound this procedural schedule and the record as it currently exists, and its participation therefore will not contribute to any undue delay in this proceeding, nor will it unduly prejudice any party.

13. Additionally, good cause exists to grant Electrify America's petition. Due to administrative error and the compressed timeline between the date of the Application's filing and the deadline set for intervention, Electrify America did not become aware of the deadline until after it had already passed. As soon as practicable after Electrify America became aware of the deadline, it submitted this petition in accordance with the Commission's procedural rules.

14. Concurrent with the filing of this Petition, Electrify America's undersigned counsel, Jennifer Morante, is filing the requisite motion for Electrify America's counsel, Stephen Bright, to appear before the Commission pro hac vice with the sponsorship of Jennifer Morante.

15. Electrify America requests that all notices and pleadings related to this proceeding be served on:

Jennifer A. Morante (P64892)
Gordon Rees Scully Mansukhani
37000 Woodward Avenue, Suite 225
Bloomfield Hills, MI 48304
jmorante@grsm.com

and

Stephen Bright, Esq.
Electrify America, LLC
1950 Opportunity Way, Suite 1500
Reston, Virginia 20190
Phone: (781) 206-7979
Steve.Bright@electrifyamerica.com

WHEREFORE, Electrify America respectfully requests that the Commission grant this Late-Filed Petition to Intervene and provide Electrify America with full party status in this proceeding.

Respectfully submitted,

/s/ Jennifer A. Morante

Jennifer A. Morante (P64892)
Gordon Rees Scully Mansukhani
37000 Woodward Avenue, Suite 225
Bloomfield Hills, MI 48304
313-426-9815
jmorante@grsm.com

Dated: May 7, 2024

Counsel for Electrify America, LLC

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electric energy, and for miscellaneous :
accounting authority.

PROOF OF SERVICE

On May 7, 2024, an electronic copy of the Motion for Admission *Pro Hac Vice* was served on the following via email:

DTE Electric Company

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Respectfully submitted,

/s/ Jennifer A. Morante

Jennifer A. Morante (P64892)

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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) Electrify America, LLC
2. (Name)
3. (Name)
4. (Name)
5. (Name)
6. (Name)
7. (Name)

Name Jennifer Morante
Address GORDON REES SCULLY MANSUKHANI
37000 Woodward Avenue, Suite 225
City Bloomfield Hills State MI
Zip 48304 Phone 3134269815
Email jmorante@grsm.com
Date 05/07/2024

<input type="radio"/> I am not an attorney
<input checked="" type="radio"/> I am an attorney whose: Michigan Bar # is P- <u>64892</u> _____ Bar # is: _____ (state)

Signature: Jennifer A. Morante

MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
PUBLIC SERVICE COMMISSION

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

1. (Name) Electrify America, LLC
2. (Name)
3. (Name)
4. (Name)
5. (Name)
6. (Name)
7. (Name)

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Email steve.bright@electrifyamerica.com

Date 05/07/2024

Signature: 

I am not an attorney

I am an attorney whose:

Michigan Bar # is P- _____

MA Bar # is: 681596

(state)