

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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

MPSC Case No. U-21291
(Paperless e-file)

ATTORNEY GENERAL'S REPLY BRIEF

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Dated: July 31, 2024

TABLE OF CONTENTS

Introduction.....	1
Argument.....	1
I. RATE BASE.....	3
A. Routine Capital Spending.....	3
1. Public Improvements	3
2. System Reliability.....	4
3. Communications & Control - Meters.....	4
4. Leak Detection and Repair.....	5
5. Routine Transmission Plant.....	6
6. Gas Storage Plant	6
7. Transportation Vehicles & Equipment.....	8
B. Large Capital Projects	9
1. Fort Street Main Replacement.....	9
2. Van Born Project.....	9
3. CMS Line 2700 & DTE Gas E-Line Interconnect Project.....	10
4. Traverse City Alpena Reinforcement	10
C. Infrastructure Recovery Mechanism (IRM).....	11
II. CAPITAL STRUCTURE AND RATE OF RETURN	16
A. Capital Structure	16
B. Return on Common Equity (ROE).....	17
C. Overall Rate of Return.....	18
III. ADJUSTED NET OPERATING INCOME AND OTHER REVENUE- RELATED ISSUES	18

A.	Throughput	18
1.	Sales Forecast.....	18
2.	Customer Usage	19
3.	End-Use Transportation (EUT)	20
4.	Midstream Revenue.....	20
5.	Other Operating Revenue – Appliance Service Program.....	21
6.	Operating and Maintenance (O&M) Expenses.....	21
7.	Uncollectible Expense	26
8.	Lost and Unaccounted for and Company Use Gas, Gas-in-Kind	27
9.	Depreciation and Amortization	28
10.	Property and Other Taxes.....	28
IV.	OTHER ISSUES.....	28
A.	Responsibly Sourced Gas (RSG)	28
V.	REVENUE DEFICIENCY AND REQUESTED RATE RELIEF	29
VI.	RATE DESIGN AND TARIFFS	29
A.	Proposed Monthly Customer Charges	29
	Conclusion and Relief Sought.....	30

Introduction

The Attorney General (AG) files this reply brief to respond to or otherwise address arguments made by other parties in their initial briefs. The AG's decision not to address certain issues in this reply brief is neither a waiver of those issues nor an acceptance of the other parties' position(s). All the AG's briefs, testimony, and exhibits should be considered in evaluating her positions on the issues in this case.

Argument

While considering the AG's arguments and objections, the Commission should keep in mind the applicable law/argument section as laid out in her initial brief.¹

REPLY TO DTE GAS' INITIAL BRIEF

1. Introduction

DTE Gas's initial brief closely tracks its application, testimony, and rebuttal. The AG's initial brief carefully and extensively addressed those issues and these replies are limited to references to the AG's initial brief and points of clarification.

In its initial brief, DTE adjusted its projected revenue deficiency by \$3 million, from its filed position of \$265.5 million to \$262.5 million.² The reduction is due to "a reduction in the Company's shared asset amortization, incentive comp amortization, and allowance for Working Capital, and an increase in end use transportation revenue."³ The

¹ See Attorney General Initial Brief, pp. 4-6.

² DTE Gas Initial Brief, p. 158.

³ DTE Gas Initial Brief, p. 1.

AG continues to advocate that the Company has a revenue deficiency of no more than \$112.2 million in the projected test year.

2. Applicable Law etc.

DTE’s “Jurisdiction, Standard of Review and Rate Setting Law” section is a confusing jumble of different burdens of proof and argument.⁴ In the first sentence of the second paragraph of this section, DTE attempts to confuse the standard of proof the Commission and ALJ apply in evaluating the evidentiary record with the standard of judicial review used by a reviewing court.⁵ DTE does eventually acknowledge that it has the burden of proving its case by a preponderance of the evidence, which is the correct standard.⁶

However, DTE then shifts gears to discussing what a low bar the preponderance of the evidence standard is and the burdens that are placed on *other* parties to demonstrate that their positions are correct. It bears reiterating that, regardless of whether Staff or Intervenors presents any information, evidence, or testimony challenging a specific issue, DTE has the burden of proof on that issue.⁷

For a thorough, well-written analysis of the legal standards and applicable law in these cases, which untangles these very issues, correctly identifies the burdens of proof,

⁴ Id. pp. 7-13.

⁵ Id. p. 7.

⁶ Id. p. 8.

⁷ *In the matter of the application of DTE Gas Company for a gas cost recovery Reconciliation proceeding for the 12 months Ending March 31, 2014*, Proposal for Decision, December 14, 2015, MPSC Case No. U-17131-R, pp. 39-42.

and recommends Commission censure for DTE's continued repeat of rejected positions, refer to the PFD in case U-20561.⁸

I. RATE BASE

Capital Expenditures (DTE Initial Brief IV. B. 2.)

A. Routine Capital Spending

1. Public Improvements

In its initial brief, DTE disagrees with the AG's proposed disallowance of a portion of public improvement costs.⁹ The AG addressed this fully in her initial brief¹⁰ and continues to argue that removing major, outlier projects is an appropriate measure to normalize costs and is important when using fully projected test years.

DTE's statement in its brief that these four projects "are ongoing endeavors that will recur over time and ought to be factored in when forecasting capital expenditures," is a blatantly misleading paraphrase of Mr. Abona's rebuttal.¹¹ What Mr. Abona's rebuttal claimed is that "similar large-scale projects in the future" *could* cause costs akin to these four projects.¹² There is no intimation in DTE's rebuttal that these four projects are "ongoing" or somehow "will recur."

Accordingly, DTE has not supported its projections and the Commission should reject its misleading discussion. The Commission should keep DTE to a more moderate

⁸ U-20561 PFD, pp. 57-68.

⁹ DTE Gas Initial Brief, pp. 18-20.

¹⁰ Attorney General Initial Brief, pp. 15-18.

¹¹ DTE Gas Initial Brief, p. 20.

¹² 3 Tr 385-86.

level of spending and remove \$1,160,000 for the 9 months ending September 2024 and \$2,574,000 from the capital expenditures forecasted by the Company for public improvements.

2. System Reliability

In its initial brief, DTE disagrees with the AG's proposed disallowance related to the Company's projected unit counts for 2024 and 2025.¹³ The AG fully addressed this in her initial brief.¹⁴ The Company has every incentive to inflate these numbers and the risk of DTE not achieving its projected unit counts falls fully on customers. The average of actual unit figures, from 2021-2023, provides the best possible data point and projection possible and should therefore be used. Accordingly, the Commission should remove the \$7,019,000 from the Company's forecasted capital expenditures for the 9 months ending September 2024 and \$6,573,000 for the 12 months ending September 2025.

3. Communications & Control – Meters

In its initial brief, DTE disagrees with the AG's proposed disallowance of a portion of the capital expenditures for Communications & Control – Meters.¹⁵ This was fully addressed in the AG's initial brief.¹⁶ Like the above, the AG's calculation is straightforward, common-sense, and based on the best data point and projection for this

¹³ DTE Gas Initial Brief, pp. 20-21.

¹⁴ Attorney General Initial Brief, pp. 18-20.

¹⁵ DTE Gas Initial Brief, pp. 21-23.

¹⁶ Attorney General Initial Brief, pp. 21-24.

scenario and should therefore be used. DTE has every incentive to improperly inflate costs related to these meters and the Commission should remove the certain capital expenditures as detailed on page 24 of the AG's brief.

4. Leak Detection and Repair

In its initial brief, DTE disagrees with the AG's proposed disallowance of capital expenditures related to leak detection and repair (LDAR).¹⁷ The AG fully addressed this in her initial brief.¹⁸ In its conclusion in this section, DTE appears to accept Staff's recommended \$8.97 million disallowance, but continues to argue that it should be able to recover the additional \$6 million cited by Mr. Coppola.¹⁹

However, the ALJ and Commission should not be swayed by this seeming concession, into adopting what DTE sets up as a 'middle ground.' DTE's responses to discovery confirmed that recovery is still premature – the Company is waiting for the final rule to be published and has prepped no plan to comply with the new rule.²⁰ DTE is likely waiting to prep that plan because it makes the most sense to wait until a final rule is published and *then* create a plan that is tailored to adhere to the rule, since the contours of the rule are known.

It does not make sense to rush into this and burden customers with costs that may be avoided simply by waiting to get full information. The Commission should reject the

¹⁷ DTE Gas Initial Brief, pp. 23-25.

¹⁸ Attorney General Initial Brief, pp. 21-24.

¹⁹ DTE Gas Initial Brief, p. 25.

²⁰ Attorney General Initial Brief, pp. 25-26.

\$14,970,000 of capital expenditures and the \$10,276,000 of O&M expense forecasted by the Company for the projected test year.

5. Routine Transmission Plant

In its initial brief, DTE disagrees with the AG's proposed disallowance of certain capital expenditures related to routine transmission plant.²¹ This was fully addressed in the AG's initial brief.²² DTE's brief repeats Mr. Abona's rebuttal and argues that the projects "fully align with the projected test year."²³ Such a conclusory statement is belied by the fact that DTE has yet to begin engineering work on this project.²⁴ Allowing DTE recovery in this case would place all the risk on customers and let DTE further game the system, when there is no reasonable and prudent evidence that these costs will be incurred within the projected test year.

The Commission should reject DTE's discussion and disallow \$6,809,000 of capital expenditures for the projected test year.

6. Gas Storage Plant

In its initial brief, DTE disagrees with the AG's proposed disallowance of certain capital expenditures related to gas storage plant.²⁵ The AG fully addressed this in her initial brief.²⁶ DTE's brief repeats Mr. Abona's rebuttal and argues that "the AG fails to

²¹ DTE Gas Initial Brief, pp. 25-26.

²² Attorney General Initial Brief, pp. 35-37.

²³ DTE Gas Initial Brief, p. 26.

²⁴ Ex. AG-56, p. 5.

²⁵ DTE Gas Initial Brief, pp. 26-27.

²⁶ Attorney General Initial Brief, pp. 41-43.

recognize the complex and costly nature of planned units for 2024 and 2025.”²⁷ DTE also argues that the AG’s preferred approach of using the average cost per unit from 2021 to 2023 does not “reflect the rigor and corresponding cost of planned projects for 2024 and 2025.”²⁸

The problems with such conclusory statements are clear. DTE could roll out this justification for *any* level of heightened costs, above historical levels, arguing that, ‘well, Staff and intervenors just fail to recognize that the scope and complexity of project X has changed, so the costs are much higher.’ If accepted, such rationale can serve only to drive up costs. Where there is a clear record of historical costs, such as in this case, that is almost always the best barometer for future costs. To deviate so significantly from historical costs, as DTE asks to do in this instance, a utility must present a much more rigorous, well-supported explanation. Additionally, as pointed out in the AG’s brief, *all* information must be presented in a timely manner.²⁹

The Commission should reject the excess capital expenditures of \$9,506,000 for the 9 months ending September 2024 and the \$3,819,000 for the 12 months ending September 2025.

²⁷ DTE Gas Initial Brief, p. 27.

²⁸ *Id.*

²⁹ Attorney General Initial Brief, p. 42.

7. Transportation Vehicles & Equipment

In its brief, DTE disagrees with the AG's proposed disallowance of capital expenditures related to transportation vehicles and equipment.³⁰ The AG addressed this in her initial brief.³¹ DTE's brief repeats Mr. Abona's rebuttal and argues that the "average cost per vehicle is projected to rise due to the Company's acquisition of a different mix of vehicles," and that "the AG fails to account for the fact that the cost per vehicle in 2024 and 2025 is significantly higher than previous years."³²

Like the above, such statements are conclusory and circular. They amount to the argument that 'because the AG fails to recognize that our projected costs are higher, her disallowance should be rejected.' Such thinking is not backed by sound logic. Again, the AG's process of using known, 2021-2023 costs and adjusting for an inflation factor is clearly the proper methodology. DTE's process, which results in costs that are 57-70% above the most recent data points, is excessive on its face and unsupported by the record. The Commission should remove the excess capital expenditures of \$7,097,000 for the 9 months ending September 2024 and \$11,378,000 for the projected test year.

³⁰ DTE Gas Initial Brief, pp. 27-28.

³¹ Attorney General Initial Brief, pp. 43-45.

³² DTE Gas Initial Brief, p. 26.

B. Large Capital Projects

1. Fort Street Main Replacement

In its initial brief, DTE disagrees with the AG's proposed disallowances related to the Fort Street Main Replacement.³³ The AG covered this in her initial brief and continues to rely upon that analysis.³⁴ As discussed in rebuttal, whether or not the comparison to the noted East Jefferson project is apt is irrelevant for this issue. DTE failed to provide adequate assurances and support that this project will proceed on the timeline contemplated. The Company is still awaiting further information from MDOT and it is unlikely that this money will be spent during the projected test year. The Commission should remove the \$32,753,000 forecasted by DTE for the projected test year.

2. Van Born Project

In its initial brief, DTE disagrees with the AG's proposed disallowance of capital expenditures related to its Van Born project.³⁵ The AG covered this extensively in her initial brief and continues to rely upon that analysis.³⁶

DTE's brief provides only a brief, uncited paragraph arguing that "[i]t was in customers' best interest for DTE Gas to reevaluate the Van Born Project scope given the substantial increase in the cost estimate."³⁷ Such argument does not relieve DTE of its burden to support its cost requests and it is still very unclear what the remaining \$6.7

³³ DTE Gas Initial Brief, pp. 32-33.

³⁴ Attorney General Initial Brief, pp. 26-28.

³⁵ DTE Gas Initial Brief, pp. 35-37.

³⁶ Attorney General Initial Brief, pp. 28-30.

³⁷ DTE Gas Initial Brief, p. 37.

million of project costs incurred prior to May 2022 pertain to. The AG should not have to jump through hoops to try to suss out where DTE is getting its projections; and then when the AG *does* do that, providing vague references to general “engineering” work, for only a part of the questioned costs, is insufficient.

The AG continues to recommend that the Commission remove the remaining \$6.7 million of project costs incurred prior to May 2022 from rate base.

3. CMS Line 2700 & DTE Gas E-Line Interconnect Project

In its initial brief, DTE disagrees with the AG’s proposed disallowance of capital expenditures related to the CMS Line 2700 & DTE Gas E-Line Interconnect Project.³⁸ The AG covered this extensively in her initial brief.³⁹

The Company’s brief continues to make it clear that recovery for this project is premature. Engineering has not been completed and the in-service date is outside of the test year. It would be unreasonable to burden customers with costs at this stage of project development. The AG continues to recommend that the Commission disallow the forecasted capital expenditures of \$100,000 for 2023, \$1.1 million for the 9 months ending September 2024, and \$4.7 million for the projected test year.

4. Traverse City Alpena Reinforcement

In its initial brief, DTE disagrees with the AG’s proposed disallowance of capital expenditures related to the Traverse City Alpena Reinforcement project.⁴⁰ The AG

³⁸ DTE Gas Initial Brief, pp. 40-41.

³⁹ Attorney General Initial Brief, pp. 39-40.

⁴⁰ DTE Initial Brief pp. 37-38.

covered this in her initial brief.⁴¹ DTE’s brief recounts Ms. Fedele’s rebuttal, but as laid out by the AG, that discussion falls short of justifying as reasonable and prudent why DTE’s customers should pick up these cost overruns. There is no indication of why DT Midstream changed its in-service date or if DTE should have advocated for sticking with the original schedule. DTE has failed to provide sufficient evidence for stakeholders and the Commission to understand the relationship between DTE Gas, DT Midstream, and these costs.

The risk here is clear; that these costs just get passed through to ratepayers as the ‘path of least resistance,’ rather than receiving adequate oversight. The Commission should remove the \$323,000, related to costs that should have been billed to DT Midstream (or “DMLC”), from rate base in this case and instruct the Company to remove the amount permanently from future rate cases.

C. Infrastructure Recovery Mechanism (IRM)

In its initial brief, DTE provides 12-13 pages on its IRM requests.⁴² The Company frames the costs as “not optional” and attempts to align the costs with the “safety and reliability” of its system.⁴³ Obviously that all sounds good – nonoptional costs that relate to safety and reliability – who could argue against that? However, this rhetorical, hyperbolic framing of these costs and the abandonment of the regulatory construct leaves no incentive for DTE to moderate or rein in spending. If the Commission does not

⁴¹ Attorney General Initial Brief, pp. 40-41.

⁴² DTE Gas Initial Brief, pp. 47-59.

⁴³ DTE Gas Initial Brief, p. 47.

moderate these costs through a cap, rejection, or some other manner, they will continue to mushroom to even more untenable levels.

The AG addressed this fully in her initial brief.⁴⁴ DTE's IRM section is broken up by program. With regard to the Gas Renewal Program, which includes the original GRP and the MAC/MMO program, the AG recommends that the Commission approve inclusion of \$48 million in capital expenditures in the IRM for 2025. DTE does not seem to take issue with this. With regard to the Pipeline Integrity/ILI Expansion, DTE disagrees with Mr. Coppola's recommended disallowances.⁴⁵ DTE argues that the timelines for the projects are known and its two-year cycle for engineering and construction is reasonable. However, DTE has not made a compelling case that these costs are more critical than others, or that it is likely the projects are actually on a timeline to be completed during the projected test year. So much can happen between now and completion, and DTE has provided no testimony that its engineering is even complete. Projects like these are the reason for DTE's enormous IRM request.

As to the cathodic protection, DTE disagrees with Mr. Coppola's recommendation "because cathodic protection is a strategic capital improvement."⁴⁶ It also argues that "[i]ncluding cathodic protection expenditures in the IRM will provide DTE Gas greater long-term certainty on recovery of these reasonable and prudent costs that are necessary

⁴⁴ Attorney General Initial Brief, pp. 30-35.

⁴⁵ DTE Gas Initial Brief, p. 52.

⁴⁶ Id. p. 54.

to improve the safety and reliability of the gas distribution system.”⁴⁷ That is a sentence filled with circular reasoning and unsupported buzzwords. DTE has not met its burden to lump these costs into the IRM and they should be reclassified as routine capital.

DTE then discusses its “IRM Capital Expenditure Request,” including disagreement with Mr. Coppola’s proposed cap.⁴⁸ First, the AG points out that Mr. Coppola’s cap is virtually 90% of what DTE requested. DTE then couches its disagreement with Mr. Coppola’s concerns about the IRM expanding too quickly, in its fallback terms of “safe[ty] and reliability.” However, the AG argues that it is of paramount and critical importance that the Commission recognize that most of the high-risk mains and services that originally precipitated the IRM have been replaced. Therefore, the IRM should be slowing down, not speeding up. DTE will continue to put more and more projects into its IRM, under the guise of safety and reliability, if no checks are placed on it.

Also, the expanded spending sought in this case all ails from a lack of rigorous, clear, cost-benefit analyses. The Commission should not be swayed by the clear fear tactics DTE attempts to utilize in its briefing, such as “[s]horting the funding to these programs to arbitrarily pause forward progress would de-stabilize the system and make it riskier to provide service.”⁴⁹ DTE has made zero showing that its gas system is unstable and discussion to the contrary is unsupported rhetoric.

⁴⁷ DTE Gas Initial Brief, p. 54.

⁴⁸ DTE Gas Initial Brief, p. 55.

⁴⁹ DTE Gas Initial Brief, p. 56.

Finally, DTE's statement that "[a]s with any capital investment, reasonable and prudent expenditures greater than the IRM amounts are subject to regulatory lag and future recovery," underscores the one-sided nature of this arrangement. Customers bear all the risk when an IRM is employed, and the flip side of the regulatory lag construct, where DTE would normally have an incentive to control and moderate costs, is completely removed.

Importantly, the AG is not advocating for a wholesale "rejection" of the Company's IRM proposal or arguing against the process in general. Instead, the AG is putting forward a commonsense approach, that allows the Company to address almost all of these issues that it has flagged, but on a timeline and spending level that allows for objective safety and reliability targets to be met while keeping spending somewhat in check. This began as a \$17.4 million program to replace cast iron mains and has morphed into a \$350 million request. The Commission should reject DTE's briefing discussion and adopt the AG's proposal in full.

Working Capital (DTE Initial Brief IV. B. 3.)

In its initial brief, DTE disagrees with the AG's proposed \$10.1 million disallowance to Working Capital.⁵⁰ The AG covered this in her initial brief and continues to rely upon that analysis.⁵¹ The issue deals with DTE's incentive compensation regulatory asset and the proper way to calculate the amount recoverable. Both Mr.

⁵⁰ DTE Gas Initial Brief, pp. 63-64.

⁵¹ Attorney General Initial Brief, pp. 47-49.

Coppola's calculation⁵² and Ms. Uzenski's⁵³ are available in the record and the Commission's U-20940 language is instructive.⁵⁴

DTE's brief is wrong on two fundamental issues. First, the language in the U-20940 order is clear that the actual performance achieved by the company would be applied to the "20% base." The base on which the 20% was applied in the rate case to set the recoverable amount was the forecasted amount of \$5,286,000. This is the amount that would have been included in rates if the Commission had approved 100% recovery. The \$6,378,000 proposed by the Company is an amount *calculated by DTE*, which has not been supported in the Company's testimony or exhibits in detail. The fact that this amount exceeds the \$5,286,000 forecasted at 100% of target performance in U-20940 by more than \$1.1 million indicates that the Company has included performance achievements in certain metrics at a level above 100% of target. DTE cannot recover compensation results above 100% of target.⁵⁵

Second, the Company incorrectly argues that the results of the performance plan exceeded 100% on a weighted average basis and is limiting its claimed recovery to 100%. However, DTE's calculation is different than the AG calculation accepted by the Commission in Case No. U-20940. As Exhibit AG-49 shows, based on information provided by the Company, in 2022 the AIP achieved only 88.9% performance of target

⁵² 4 Tr 1475-78.

⁵³ 4 Tr 2335-37.

⁵⁴ U-20940 Order, pp. 163-64.

⁵⁵ U-20940 Order, p. 223.

and the REP achieved 87.5% of target. These percentages were calculated based on the methodology proposed by the AG and approved by the Commission.⁵⁶ Accordingly, the Commission should remove \$10,083,000 from the Company's forecasted working balance amount for the projected test year.

II. CAPITAL STRUCTURE AND RATE OF RETURN

A. Capital Structure

In its initial brief, DTE requests the Commission adopt a permanent capital structure that consists of 51.5% equity to only 48.5% long-term debt, stating that such a structure is “reflective of a balanced capital structure on an adjusted basis.”⁵⁷ Such self-serving utility-speak only underscores DTE's unwillingness to move to a balanced capital structure. The AG dealt with this extensively in her initial brief.⁵⁸

Despite the Commission consistently directing DTE, including in its last rate case order in U-20940,⁵⁹ to move to a 50%-50% balanced capital structure, and despite DTE agreeing in the U-20642 settlement to file a plan that moves toward a more balanced capital structure,⁶⁰ DTE continues to resist. Moving to a balanced, 50%-50% capital structure will help make costs more manageable for Michigan ratepayers and the Commission has given DTE sufficient time to move there on its own. Since the Company

⁵⁶ See Ex. AG-71, response to AGDG-9.262a for confirmation.

⁵⁷ DTE Gas Initial Brief p. 66.

⁵⁸ Attorney General Initial Brief, pp. 49-56.

⁵⁹ U-20940 Order, pp. 76-78.

⁶⁰ U-20642 Settlement Agreement, ¶12 states: “DTE Gas will file a plan in its next rate case that moves toward a more balanced capital structure.”

has been unwilling to put forward a proposal that does so, the AG urges the Commission to set DTE's capital structure at 50% equity-50% debt.

B. Return on Common Equity (ROE)

In its initial brief, DTE Gas argues that a just and reasonable ROE would be 10.25%.⁶¹ The AG spent considerable time analyzing this issue in her initial brief and continues to contend that an ROE of no more than 9.85% is appropriate in this case.⁶² Despite recent downward pressure, ROEs in Michigan continue to be some of the highest in the nation and continue to cost ratepayers millions of dollars annually.

DTE's brief argues that Staff and Intervenors "elected to use limited model inputs, outdated or stagnant data, relied on simple averages, and fell victim to model risk, such that their recommendations are conclusively biased towards ROE reductions by non-trivial amounts."⁶³ This discussion is undercut on its face by two things. First, it is DTE that continues to use consistently-rejected methods as a not-so-subtle tactic to come up with an inflated ROE. Second, its argument that the AG's recommendation is "conclusively biased towards" an ROE reduction by a non-trivial amount is disingenuous, given that the AG recommends reducing DTE's ROE by .05%. Compared to that "non-trivial amount," DTE's request to increase its ROE by .35% is downright astronomical. Accordingly, the Attorney General recommends that the Commission approve a ROE of no more than 9.85%.

⁶¹ DTE Gas Initial Brief, pp. 69-80.

⁶² Attorney General Initial Brief, pp. 57-72.

⁶³ DTE Gas Initial Brief, p. 80.

C. Overall Rate of Return

On page 80 of its initial brief, DTE lays out its “overall rate of return.” As calculated in Ex. AG-22, the Commission should adopt an after-tax rate of return of no more than 5.82%.

III. ADJUSTED NET OPERATING INCOME AND OTHER REVENUE-RELATED ISSUES

A. Throughput

1. Sales Forecast

In its initial brief, DTE disagrees with the AG’s proposed sales increase.⁶⁴ The AG addressed this in her initial brief⁶⁵ and continues to rely on that testimony here, which thoroughly addressed DTE’s argument that the AG’s recommendation improperly includes Covid years and does not support its recommended duration.

In reply, the AG points out that DTE’s argument that an analysis that includes Covid years is skewed, because Covid years are outliers, is directly contrary to its argument discussed above regarding public improvements within routine capital spending. Additionally, in the case of these numbers, it is not as clear that the Covid years were true “outliers” as DTE claims, and regardless, the AG’s brief is clear that

Although the pandemic had a temporary effect on customer usage from 2020 to 2022, by using the change in usage from 2018 to 2023, Mr. Coppola bypassed those years in between and his result is not skewed by the customer usage changes during the pandemic years of 2020 to 2022.⁶⁶

⁶⁴ DTE Gas Initial Brief pp. 81-82.

⁶⁵ Attorney General Initial Brief, pp. 73-81.

⁶⁶ Attorney General Initial Brief, p. 79.

DTE's decision to only include the most recent 24 months of consumption data is also too narrow of a sample size. DTE fails to explain why customer data in this realm would become "stale" or "obsolete." The 24-month timeframe is too short and fails to capture much weather variation. Because weather varies winter to winter, Mr. Coppola's chosen timeframe includes more of that and is therefore more reliable.

The AG recommends that the Commission increase the revenue forecasted by the Company for the future test year by \$8,290,000.

2. Customer Usage

In its initial brief, DTE disagrees with the AG's proposal regarding customer usage.⁶⁷ The AG addressed this in her initial brief in the same section as gas sales revenue.⁶⁸ The AG continues to rely on that testimony here and thoroughly addressed DTE's argument that the Company's projected EWR decline rate is appropriate.⁶⁹

The AG is not critiquing the Commission's U-21322 order, as averred by DTE in its brief, but instead critiquing DTE's ability to align with that order. Historical trends have clearly shown DTE's forecasts to be overly optimistic. The Commission should reject DTE's self-serving, admittedly "not an apples-to-apples" and "back of the napkin" comparison and instead adopt the more objective projection of the AG.

⁶⁷ DTE Gas Initial Brief pp. 84-86.

⁶⁸ Attorney General Initial Brief, pp. 73-81.

⁶⁹ Id. pp. 103-04.

3. End-Use Transportation (EUT)

In its initial brief, DTE disagrees with the AG's proposed period for EUT power generating volumes.⁷⁰ The AG addressed this in her initial brief.⁷¹ The AG's proposed period is not arbitrary but is simply the most recent data available and, after full analysis, the most objectively reasonable.

DTE's argument that "using the same five-year average approach whereby DTE Gas utilizes the latest volumes available upon the filing of the rate case provides the most consistent approach to forecasting this subset of EUT customers," should be rejected as it presents issues with filing lag and its use of a projected test year. DTE could have waited a bit longer to file its case and incorporated 2023 numbers, rather than rush a filing in early January. In this instance, there is no reason to not use the most recent data available. Accordingly, the Commission should increase the Company's forecasted end-user transportation revenue by \$503,000.

4. Midstream Revenue

In its initial brief, DTE disagrees with the AG's proposed increase to Midstream revenue.⁷² The AG addressed this in her initial brief.⁷³ DTE's unsupported assertions that the AG has selectively picked years to calculate the highest result for certain items, based on recommendations that the AG did *not* make (with regard to Midstream Storage

⁷⁰ DTE Gas Initial Brief pp. 87-88.

⁷¹ Attorney General Initial Brief, pp. 81-84.

⁷² DTE Gas Initial Brief, pp. 90-91.

⁷³ Attorney General Initial Brief, pp. 84-87.

and Park and Loan services) should be rejected. The Attorney General made no recommendation as to these other costs, and her pointing out a more reasonable period for one set of costs does not mean that data for another section was “cherry-picked.” Accordingly, the Commission should increase the Company’s projected test year revenues by the total amount of \$6,230,000.

5. Other Operating Revenue – Appliance Service Program

In its initial brief, DTE disagrees with the AG’s proposed increase to operating revenue from the Company’s appliance service program.⁷⁴ The AG addressed this in her initial brief.⁷⁵ The AG continues to argue that the Commission should adopt her forecast as the most recent data of what numbers are likely to be. Like the above, DTE arbitrarily chose 2022 here to best suit its purposes, which appears to be the very same cherry-picking it accuses the AG of in the prior section. Accordingly, the Commission should adopt the 2023 revenue and operating expenses shown in Exhibit AG-38 and increase the Company’s projected operating income by \$4,617,000.

6. Operating and Maintenance (O&M) Expenses

1. Inflation

In its initial brief, DTE presents its blended annual inflation rates and objects to the AG’s proposed rates.⁷⁶ The AG addressed this in her initial brief⁷⁷ and has repeatedly

⁷⁴ DTE Gas Initial Brief, pp. 90-91.

⁷⁵ Attorney General Initial Brief, pp. 88-90.

⁷⁶ Id. pp. 92-94.

⁷⁷ Attorney General Initial Brief, pp. 95-98.

presented clear evidence that the Company is not facing the inflationary pressures it claims. Tellingly, when DTE argues in its briefing about continued inflationary pressures, it merely points to the pay rate increases that *the Company agreed to*, which do not support the inflationary pressures DTE espouses.⁷⁸

In recent cases, DTE has made these same arguments and its requests to use a “blended rate,” inclusive of wage increases, have been consistently rejected by the Commission. DTE’s argument on page 94 that the Commission has previously rejected similar arguments from the AG is misleading, as it cites to old cases, the most recent of which is an electric rate case.⁷⁹ In more recent cases the Commission has repeatedly rejected these very same assertions from DTE.⁸⁰

Accordingly, the AG continues to recommend that the Commission remove \$4,001,000 from the Company’s forecasted O&M expense for the projected test year. She also recommends that the Commission remove the additional amount of \$22,431,000 related to 2023 cost reductions from the Company’s projected test year O&M expense, as well as \$3.2 million related to 2024 cost reductions.

2. Storage, Transmission, and Distribution O&M Expenses

⁷⁸ DTE Gas Initial Brief, p. 72, citing to 5 Tr 1325-26.

⁷⁹ Also, it is unclear what in that U-20162 order DTE thinks the Commission rejected. The language that DTE cites to is as follows: “The Commission agrees with the ALJ that DTE Electric has not presented sufficient evidence in this case to induce the Commission to depart from its decisions in the 2018 orders and previous rate cases rejecting a blended inflation rate. The Commission agrees with the Staff that while DTE Electric will see some inflation, the company will also offset some of the inflation with productivity gains. Therefore, the Commission finds the Staff’s proposed inflation rates to be the most reasonable and adopts the findings and recommendations of the ALJ.” Accordingly, if anything that citation directly *undercuts* DTE’s argument.

⁸⁰ See, e.g., U-20940, pp. 120-21.

In its initial brief, DTE groups storage, transmission, and distribution O&M expenses into one section.⁸¹ This section covers transmission, Transmission Integrity Management Program (TIMP), Maximum Allowable Operating Pressure (MAOP) Records Remediation, and Leak Detection and Repair (LDAR). In her initial brief, the AG discussed each of these, recommending certain disallowances.⁸²

With regard to the transmission issue, DTE argues that the AG’s methodology is flawed, because “using historical 2023 actuals violates the regulatory construct of using a historical test year as adjusted for known and measurable changes.”⁸³ This is nonsensical. The AG’s expert appropriately updated DTE’s forecasted O&M expense to include certain expense savings that should have been included in the projected test year. DTE cannot both use a projected test year and then argue that another party’s calculations to arrive at a more accurate projection violate “[use of] a historical test year.” With regard to the TIMP, MAOP, and LDAR issues, the AG continues to rely upon her initial brief to recommend that the Commission disallow \$6.7 million, \$875,000, and \$10.3 million, respectively, from DTE’s O&M expenses.

3. Customer Service O&M Expenses

In its initial brief, DTE discusses certain customer service O&M expenses.⁸⁴ The Company disagrees with the AG’s proposal to disallow certain costs, based on the use of

⁸¹ DTE Gas Initial Brief, pp. 94-100.

⁸² Attorney General Initial Brief, pp. 95-102.

⁸³ DTE Gas Initial Brief, p. 95.

⁸⁴ Id. pp. 100-01.

2023 actuals. It argues that “defaulting to 2023 O&M actuals fails to account for known and measurable changes, and in this case double counts reductions that were already included in the Company’s forecast.” Again, this is nonsensical. Updating the forecast does not “double count” anything because it replaces DTE’s forecast, and the 2023 actuals then have the “known and measurable changes” baked in. Pages 123-124 of the AG’s brief cover this in more detail.

DTE has not made a convincing case that there is any duplication in the forecasted O&M expense calculated by Mr. Coppola for the projected test year or the related expense disallowance and Mr. Coppola’s recommendations should be adopted.

4. Employee Benefit Expenses

In its initial brief, DTE discusses numerous employee benefit expenses and its request to recover those expenses.⁸⁵ These include pension costs, other post-employment benefit (OPEB) expenses, and active healthcare costs. These issues were addressed in the AG’s initial brief⁸⁶ and as nothing new was provided in DTE’s initial brief, the AG continues to rely upon her initial brief.

Regarding the “Active Healthcare Costs,” the AG continues to argue that DTE’s “constant dollar approach” is an inappropriate attempt to compound inflation on top of inflation, to drive up the Company’s forecasted O&M expenses. If approved, these costs would pad DTE’s bottom line at customers’ expense. DTE’s argument in brief that “use

⁸⁵ DTE Gas Initial Brief, pp. 104-117.

⁸⁶ Attorney General Initial Brief, pp. 148-154.

of any one historical period's cost" is "potentially unreliable [as a] starting point for calculating projected expenses," is unconvincing and should be rejected.⁸⁷ First, DTE qualifies the notion that using historical numbers is "unreliable" with the word "potentially." So, using such historical period expense is also "potentially" reliable, which is what the AG argues in this case. Using DTE's historical average is a rational, reasonable starting point and already includes any inflationary increase.

DTE has failed to support its requests for heightened spending in these specific areas and the Commission should adopt the AG's positions.

5. Employee Compensation (Incentive Compensation Programs)

In its initial brief, DTE discusses its request for recovery of certain incentive compensation costs.⁸⁸ DTE's brief merely runs back through its testimony, which the AG fully addressed in her initial brief.⁸⁹ The Company has still not provided any solid cost-benefit analysis that shows that the incentive compensation, especially that tied to financial measures, benefits anyone other than Company shareholders. Accordingly, the Commission should deny recovery of \$15.0 million in incentive compensation expense proposed by the Company.

⁸⁷ DTE Gas Initial Brief, p. 110.

⁸⁸ DTE Gas Initial Brief, pp. 118-21.

⁸⁹ Attorney General Initial Brief, pp. 109-14.

6. VSIP

In its initial brief, DTE discusses its request for recovery of certain voluntary separation incentive plan costs.⁹⁰ The AG fully addressed this in her initial brief.⁹¹ There is a certain irony in seeing the Company take the stance that “it is more prudent to wait until any savings are actually incurred, which can then be reflected in the Company’s future revenue requirements,” when so much of DTE’s case is premised on attempting to jam all possible costs it can think of into its projected test year, regardless of what phase its projects are at. Mr. Coppola’s analysis and recommendation are sound and the Commission should accept the adjustment of \$3.2 million to the forecasted O&M expense for the projected test year.⁹²

7. Uncollectible Expense

In its initial brief, DTE discusses its forecast of uncollectible expense and the methods used to calculate that forecast.⁹³ The AG addressed this issue in her initial brief.⁹⁴ DTE provided no rebuttal to the AG’s position and its brief merely referenced the AG’s testimony, without espousing any disagreement. Therefore, the Commission should reduce the Company’s O&M expense by \$9,131,000.

⁹⁰ DTE Gas Initial Brief, pp. 121-22.

⁹¹ Attorney General Initial Brief, pp. 96-98.

⁹² The flaws with the math in the last paragraph on page 122 of DTE’s initial brief are explained on pages 96-98 of the AG’s brief.

⁹³ DTE Gas Initial Brief, pp. 124-27.

⁹⁴ Attorney General Initial Brief, pp. 94-95.

8. Lost and Unaccounted for and Company Use Gas, Gas-in-Kind

In its initial brief, DTE discusses its forecast of Lost and Unaccounted for (LAUF) and Company Use Gas (CU), Gas-in-Kind.⁹⁵ The AG addressed this in her initial brief⁹⁶ and continues to disagree with DTE's projected test year costs for LAUF and CU gas. DTE's brief reiterated its rebuttal, with nothing additional regarding LAUF and CU. At the end of this section DTE argues that if "the Commission adopts the AG's arguments in all or in part, it must also adjust GIK revenue correspondingly."⁹⁷ This testimony is not in the record and no party has had a chance to review, validate, or challenge it. DTE is improperly conflating the adjustment to the LAUF volumes proposed by the AG with the reduction in the cost of gas rate. It uses a Staff Exhibit, S-15, Schedule 1, to attempt to quantify a variance in cost that is not supported in the record. Staff did not propose an adjustment to LAUF for volume reductions pertaining to the Company's net zero goal. The Company's attempt to interject testimony that is not in the record cannot be validated or supported and should be dismissed. Therefore, the AG's position stands un rebutted and the Commission should reduce DTE's forecasted expense for CU and LAUF gas by \$4,932,000 for the projected test year.

⁹⁵ DTE Gas Initial Brief, pp. 124-27.

⁹⁶ Attorney General Initial Brief, pp. 91-93.

⁹⁷ DTE Gas Initial Brief, p. 129.

9. Depreciation and Amortization

In its initial brief, DTE discusses its projected increase in depreciation and amortization expense, without mentioning the AG's testimony.⁹⁸ The AG continues to recommend⁹⁹ that the Commission reduce the depreciation expense proposed by the Company for the projected test year by \$3,409,000.

10. Property and Other Taxes

In its initial brief, DTE discusses the property taxes it seeks to recover for the projected test period.¹⁰⁰ The AG addressed this in her initial brief.¹⁰¹ DTE's brief mirrored its rebuttal in arguing that the AG's method fails to capture multiple aspects of property tax expense calculations. The AG responded directly to this discussion in brief, pointing out examples of how Mr. Coppola took each of those aspects into consideration in his calculation, and therefore, the Commission should fully adopt the AG's proposal.

IV. OTHER ISSUES

A. Responsibly Sourced Gas (RSG)

In its initial brief, DTE discusses its requests regarding RSG.¹⁰² The AG addressed this in her initial brief.¹⁰³ The Company's brief repeats its testimony and rebuttal and fails to add anything new. The AG and numerous other parties to this case

⁹⁸ DTE Gas Initial Brief, p. 130.

⁹⁹ Attorney General Initial Brief, pp. 94-95.

¹⁰⁰ DTE Gas Initial Brief, pp. 130-32.

¹⁰¹ Attorney General Initial Brief, pp. 126-27.

¹⁰² DTE Gas Initial Brief, pp. 149-53.

¹⁰³ Attorney General Initial Brief, pp. 120-23.

have presented clear and convincing evidence that DTE's requests are unsupported, premature, and should be rejected.

V. REVENUE DEFICIENCY AND REQUESTED RATE RELIEF

In its initial brief, DTE states that it has a revenue deficiency of \$262.5 million.¹⁰⁴ For the reasons set forth in the AG's filings, she recommends that the Commission find that DTE has a revenue deficiency of no more than \$112.2 million.

VI. RATE DESIGN AND TARIFFS

A. Proposed Monthly Customer Charges

In its initial brief, DTE discusses its proposed increases to its monthly customer charges.¹⁰⁵ The AG addressed this in her initial brief.¹⁰⁶ DTE's brief repeats its testimony and rebuttal and fails to add anything new. The Commission should reject these requests to increase fixed charges, which are exorbitant and do not send the right energy conservation signals to customers.

¹⁰⁴ DTE Gas Initial Brief, p. 158.

¹⁰⁵ DTE Gas Initial Brief, pp. 163-64.

¹⁰⁶ Attorney General Initial Brief, pp. 129-30.

Conclusion and Relief Sought

The Attorney General respectfully requests that the Administrative Law Judge issue a proposal for decision that is consistent with the positions set forth in the Attorney General's initial brief and this reply brief.

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Dated: July 31, 2024

PROOF OF SERVICE - U-21291

The undersigned certifies that a copy of the *Attorney General's Reply Brief* was served upon the parties listed below by e-mailing the same to them at their respective e-mail addresses on the 30th day of July 2024.

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