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July 31, 2024

Lisa Felice
Executive Secretary
Michigan Public Service Commission
7109 West Saginaw Highway
Lansing, MI 48917

RE: 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

Dear Ms. Felice:

Attached for electronic filing in the above captioned matter is DTE Gas Company's Reply Brief. Also attached is the Proof of Service.

Very truly yours,

Carlton D. Watson

Digitally signed by Carlton D. Watson
Date: 2024.07.31 15:51:07 -04'00'

Carlton D. Watson

CDW/erb
Attachments

cc: Service List

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.	)	Case No. U-21291

DTE GAS COMPANY'S REPLY BRIEF

Dated: July 31, 2024

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I. INTRODUCTION

DTE Gas Company (DTE Gas or the Company) filed its Initial Brief on July 16, 2024. Initial Briefs were also filed by Michigan Public Service Commission (MPSC or Commission) Staff (Staff); the Michigan Attorney General (AG); the Association of Businesses Advocating Tariff Equity (ABATE); the City of Ann Arbor (Ann Arbor); the Ecology Center, Environmental Law & Policy Center, Union of Concerned Scientists, and Vote Solar (collectively, the Clean Energy Organizations, or CEO); Soulardarity, Urban Core Collective, and We Want Green, Too (collectively, Frontline Organizations, or FLO); Michigan Environmental Council, Natural Resources Defense Council, Sierra Club, and Citizens Utility Board of Michigan (collectively, MNSC); and Michigan Power Limited Partnership (MPLP, together, with the AG, ABATE, Ann Arbor, CEO, and FLO, the Intervenors).[1]

DTE Gas's Reply Brief focuses on several key issues without attempting to address every issue raised in Staff's or Intervenors' initial briefs. The fact that DTE Gas may not respond to a particular position of a party should not be construed as acceptance of such position. Rather, in the interest of expediency and efficiency in this proceeding, and due to the page limit for reply briefs, DTE Gas focuses its discussion in this Reply Brief on select issues in dispute in this proceeding, rather than attempting to address all issues raised in initial briefs. To the extent a position is not addressed in this Reply Brief, DTE Gas relies on the content of its Initial Brief and Attachments, along with its testimony and exhibits, and incorporates the same as if restated herein.

DTE Gas's Initial Brief explained that the Company initially requested a rate increase of approximately $266 million, but that the Company agreed to proposals or identified errors that

[1] Billerud Americas Corporation filed a letter stating that it would not file an Initial Brief in this case.

reduced its revenue deficiency by approximately $3 million to $262.4 million.[2] DTE Gas has made no additional adjustments in this Reply Brief.

II. JURISDICTION, STANDARD OF REVIEW, AND RATE SETTING LAW

DTE Gas laid out the relevant jurisdiction, standard of review, and rate setting law on pages 7–13 of its Initial Brief and incorporates those provisions herein by reference in their entirety.

III. ARGUMENT

A. CAPITAL EXPENDITURES

DTE Gas first addresses the arguments that certain Intervenors raise regarding DTE Gas's capital expenditures generally. These concerns ignore the realities of utility service and should be discounted, if not entirely dismissed. DTE Gas next addresses Intervenor concerns with individual capital expenditure projects.

1. Intervenors' concerns regarding increased capital expenditures is unfounded.

Intervenors make general claims alleging that DTE Gas's increased capital expenditures are "alarming," "dramatic," and "significant" (AG Initial Brief, at 7–8). While rate base has certainly risen compared to five, ten, and even fifteen years ago, this increase is not and should not be alarming. This increase is necessary if DTE Gas, the Commission, and other relevant stakeholders want to prevent system outages, eliminate safety issues, replace an aging system, and comply with state and federal laws. More specifically, as demonstrated below, Intervenors' concerns ignore the fact that these expenditures are necessary for safe and reliable service,

[2] Attachments A and B to the Initial Brief calculated a revenue deficiency of $262.5 million. However, a formula error identified by Staff reduced that amount further by $100,000 to $262.4 million.

disregard well-settled ratemaking law that entitles DTE Gas to recovery of costs incurred during the test year, and otherwise call for the Commission to intervene in activities outside its purview.

(a) DTE Gas's capital expenditures are necessary to ensure safe and reliable service.

The AG discusses her general concerns with DTE Gas's capital expenditures on pages 6–11 of her Initial Brief. The AG argues that DTE Gas has intensified the pace of pipeline and facility replacements despite experiencing only moderate customer growth and "without sufficient engineering analysis to support the increase" (AG Initial Brief at 9). The AG alleges that DTE Gas's capital expenditures are solely designed to drive growth of earnings, dividends, and stock prices (*See* AG Initial Brief at 9). DTE Gas's Application, testimony, and Initial Brief definitively show the opposite, and establish that its capital expenditures are necessary for safe and reliable service.

In fact, the AG readily acknowledges this need, stating that "[s]ome of this work is necessary and must be done" (AG Initial Brief at 9). More importantly, the Commission has acknowledged that capital costs are necessary to promote safety and reliability (S*ee* December 9, 2021, Case No. U-20940 Order, p. 33 (declining to disallow capital costs because "[s]afety is a core mission of the Commission's regulation of natural gas operations within the state, and safety has been emphasized by the Commission on numerous occasions"); *see id.* at pp. 39 and 45 (finding the replacement of information technology software made obsolete to be a reasonable capital expense)).

Ultimately, DTE Gas is responsible for providing safe and reliable utility service to its customers. The Company reasonably presented the expenses to meet its obligation to the Commission for approval and the Commission must decide which projects and expenses are

worthy of recovery. Every dollar presented by DTE Gas to the Commission is in furtherance of ensuring customers' safe and reliable service.

(b) MNSC's claims of declining usage incorporates irrelevant data.

MNSC alleges that the Company fails to account for declining gas usage per customer (MNSC Initial Brief at 14–22). MNSC argues that it is unrealistic to assume that gas usage per customer will remain the same for twenty years, and points to what it alleges is an "obvious and substantial" decline in sales per customer (MNSC Initial Brief at 14–15). Thus, MNSC argues, because customer use has been declining over that twenty-year period, DTE Gas must assume that gas will continue to decrease.

Witness Chapel provided important clarifying context for this information on cross-examination. On cross-examination, witness Chapel acknowledged that MNSC's twenty-year timeframe did reveal a decrease in customer usage; however, witness Chapel explained that most of that decrease occurred from 2000–2010 (2T 292). Importantly, witness Chapel emphasized that "very little [declines in customer usage], if any, ha[ve] occurred in the past 10 years" (2T 292). This is important context to consider: the declines highlighted by MNSC might play an important role if this were a rate case in the early 2010s. However, customer usage has effectively leveled out in the last ten years, making DTE Gas's current position in 2024—that gas usage will remain the same for the foreseeable future—much more sensible. MNSC ignores this and instead distorts its presentation of data to promote a biased argument in favor of declining customer usage.

In any case, the Company must also be prepared for potential increases. In other words, DTE Gas must be prepared in the event that the downward trend changes to an upward trend during the rate cycle. Witness Chapel acknowledged this uncertainty, stating that higher prices in 2022 could possibly lead to asymmetric reductions in demand of unknown degree, though never stating

definitively that such reductions would in fact occur (2T 295). Regardless, DTE Gas must serve its customers safely and reliably. MNSC argues that DTE Gas cannot assume that gas usage per customer will stay the same for twenty years, but then stakes its argument on stale data of customer decline in the early 2000s. DTE Gas's approach allows the Company to be prepared for the coming rate cycle to ensure that safe and reliable gas is available to customers. And when the Company returns for its next rate case, it can reevaluate customer usage based on then-recent data to reflect changes as they occur. Rather than assuming trends in any direction, the level approach the Company is taking helps ensure that the Company is prepared for all possible changes in customer usage and demand.

(c) Disallowance of capital expenditures based on the possibility that a project may not be completed in the test year applies the wrong standard.

ABATE argues that DTE Gas should not be permitted to recover costs for several of its planned capital projects that are not expected to be in service until after the end of the projected test year (ABATE Initial Brief at 11; *see also* 4T 1319–22). ABATE argues that any unforeseen delays for these projects would make it unlikely that the requested capital investment will be realized before the end of the projected test year (ABATE Initial Brief at 11). ABATE claims that the likelihood of this occurring is "demonstrated by DTE Gas's history with large capital project delays" (ABATE Initial Brief at 11).

However, DTE Gas's recovery of specific capital expenditures in rates is not premised on whether DTE Gas has previously incurred capital project delays. In fact, the end result of a utility's expenditures have no bearing on whether an investment is deemed recoverable—rather, DTE Gas must be compensated for prudent investments at their actual costs, when made, regardless of whether the investments are deemed necessary or beneficial in hindsight. *ABATE v. Public Serv. Comm'n*, 208 Mich. App. 248, 260, 527 N.W.2d 533 (1994) (*ABATE*). ABATE's argument

amounts to a functional equivalent of improper character evidence.[3] In other words, ABATE seeks to use DTE Gas's "prior act" of incurring delays on previous projects to prove that DTE Gas will in fact incur delays on upcoming proposed projects. If the Commission were to rely on ABATE's argument—which is based on hindsight and past events—to disallow recovery of such costs, the Commission would be impermissibly relying on unrelated past practice to inform future rates. *See ABATE*, 208 Mich. App. at 262 ("This is contrary to the rationale of the prudent investment test that provides for compensation for prudent investments irrespective of whether they are deemed necessary or beneficial in hindsight.").

Ultimately, ABATE's recommendation to disallow costs based on the possibility that capital projects will not be completed on time is speculation, pure and simple. Agency decisions cannot be based on speculation. Mich. Const. of 1963, Art. 6, § 28; *see also In re Complaint of Rovas Against SBC Mich.*, 482 Mich. 90, 101, 754 N.W.2d 259 (2008) ("The [Michigan] constitution requires that [agency findings in contested cases] be supported by competent, material, and substantial evidence on the whole record." (Punctuation omitted)). DTE Gas has demonstrated that its capital expenditures are prudent. Therefore, the Commission should disregard any recommendation based merely on the speculative possibility that a project may not be completed in the test year.

(d) The Commission does not need to incentivize DTE Gas to work with customers to accomplish mutual goals.

Ann Arbor argues that DTE Gas's capital project costs are higher than necessary but could be reduced if DTE Gas coordinated with local governments and its sister utility, DTE Electric Company (DTE Electric) (Ann Arbor Initial Brief at 13–17). Specifically, Ann Arbor argues that

[3] *See, e.g.*, Michigan Rules of Evidence Rule 404(b)(a)(1) ("Evidence of a person's character or character trait is not admissible to prove that on a particular occasion the person acted in accordance with the character or trait.").

it is "normal utility practice to attempt to align capital improvement plans with those of other utilities" (Ann Arbor Initial Brief at 13). Ann Arbor claims, however, that DTE Gas failed to consult Ann Arbor's publicly available Capital Improvement Plan (CIP), a practice that Ann Arbor argues "would have been much easier to align" years before (Ann Arbor Initial Brief at 14). Ann Arbor further alleges that lack of coordination between DTE Gas and DTE Electric resulted in similar missed opportunities (Ann Arbor Initial Brief at 15).

The Commission does not need to incentivize DTE Gas to work with customers like Ann Arbor to accomplish goals that are mutual to the two entities. DTE Gas already does this, as described below. Further, the Commission's power to fix and regulate rates does not carry with it the power to make management decisions. *Union Carbide Corp. v. Pub. Serv. Comm'n*, 431 Mich. 135, 148, 428 N.W.2d 322 (1988) ("It must never be forgotten that while the State may regulate with a view to enforcing reasonable rates and charges, it is not the owner of the property of public utility companies and is not clothed with the general power of management incident to ownership." (Citation and punctuation omitted)). DTE Gas has the burden to prove the reasonableness and prudence of its costs, but that burden does not require that it take every single cost saving measure, particularly when other factors such as safety and reliability must be considered. And while additional coordination with Ann Arbor might save some dollars, there are just as many scenarios where the same costs or more would be incurred, despite coordination. Accordingly, the Commission should focus its evaluation as to whether the decisions DTE Gas *did* make were reasonable and prudent.

Notwithstanding the foregoing, DTE Gas does cooperate with Ann Arbor, rendering DTE Gas's planning measures reasonable. In its Initial Brief, Ann Arbor acknowledges that DTE Gas has previously and is currently working with Ann Arbor in connection with related capital projects

that DTE Gas seeks to recover in this case. For example, Ann Arbor notes that it notifies utilities of planned right of way work as a project approaches (though Ann Arbor takes issue with the fact that DTE Gas does not seek out this information on its own further in advance) (Ann Arbor Initial Brief at 14). Ann Arbor also explicitly acknowledges that it and DTE Gas are currently working to secure the benefits of various cost savings (Ann Arbor Initial Brief at 14). But, as explained above, Ann Arbor's disapproval of the level of cooperation and joint mutual efforts is not a dispute or matter for this Commission to resolve in the ratemaking context. Rather, this is an issue that Ann Arbor can and should field directly with DTE Gas as the entities work together on current and future projects. The Commission does not have authority to instruct DTE Gas how it should coordinate with municipalities, but even if it did, DTE Gas's coordination with Ann Arbor and other municipalities is reasonable. Accordingly, the Commission should disregard Ann Arbor's claims.

2. Intervenors' attacks on specific capital expenditures should not be adopted.

(a) Infrastructure Recovery Mechanism projects are required to ensure safe service and align with Commission goals.

The AG, CEO, and MNSC each propose a variety of reductions and disallowances for various Infrastructure Recovery Mechanism (IRM) programs (*See* AG Initial Brief at 30–35; CEO Initial Brief at 15–16; and MNSC Initial Brief at 46–69). The AG proposes a $240 million cap for the Company's Main Renewal Program (MRP), reallocates $7.4 million of cathodic protection costs from the IRM to the projected test year, and recommends approval of the Company's Meter Move Out program (AG Initial Brief at 32, 34). CEO argues that the Commission should not reauthorize the IRM (CEO Initial Brief at 15–16). Finally, MNSC generally argues for the disallowance of $74 million in IRM costs for 2024 and $70.5 million for 2025–2027 (MNSC Initial Brief at 58).

The Company cannot emphasize enough that the IRM program is necessary to ensure the safety and reliability of DTE Gas's distribution system. In addition, the IRM investments are necessary to meet the Commission's own safety and reliability goals. The Commission has stated that ensuring safe and reliable utility service is an obligation it takes seriously, and that "the safety and reliability of DTE Gas's gas distribution system is not a goal but rather a necessity" (September 13, 2011, Case No. U-16407 Order, p. 7; *see also* April 15, 2013, Case No. U-16999 Order, p. 25). The Commission should not waver from this position. The Commission should reject calls for removal, modification, or disallowance of IRM projects, which should be approved as DTE Gas proposed.

(b) Recovery of DTE Gas's proposed transmission projects are not premised on whether they have been approved or whether they have attained a specific level of development; approval is premised on their reasonableness and prudence.

The AG argues that cost recovery for several of DTE Gas's proposed transmission capital projects should be denied because they are in early development stages or have not yet been approved (AG Initial Brief at 36, 38–40). Specifically, the AG classifies three routine transmission plant projects, three pipeline integrity In Line Inspection (ILI) projects, three large transmission projects, and the Oakland Resilience Interconnect project as "premature" and calls for their disallowance from the test year (AG Initial Brief at 35–40). Contrary to the AG's allegations, the projects that the AG proposes for disallowance are not in a conceptual design stage but instead are all in engineering stages (*See* DTE Gas Initial Brief at 25). Accordingly, the AG's misclassification of these projects provides does not support their disallowance.

Notwithstanding the AG's error, the AG's proposed disallowance sets an arbitrary and subjective standard for rate recovery of capital projects. By insisting that projects be at a certain stage of development (such as the pipeline integrity ILI projects, *see* AG Initial Brief at 37–38) or

receive specific approvals (such as the three large transmission projects discussed on pages 38–39 of the AG's Initial Brief), the AG ignores the relevant and applicable standard for inclusion in rate recovery: reasonableness and prudence. Consistent with this standard, the Company has detailed ample evidence to show that these projects are critical to the continued safety and reliability of DTE Gas's system, rendering these investments reasonable, prudent, and worthy of recovery (*see* DTE Gas's Initial Brief at 31–47).

(c) Leak Detection and Repair capital expenses are required to ensure compliance.

The AG argues that DTE Gas's leak detection and repair (LDAR) costs are premature, arguing that "[i]t is still unknown when the new federal rule will be issued or how soon thereafter the Company will be required to fully comply with the requirements within the new rule" (AG Initial Brief at 101). Similarly, Staff proposes a disallowance of LDAR costs "because the final rule has not been published and the actual effective date of the rule is unknown" (Staff Initial Brief at 12).[4]

The AG argues that these LDAR costs should not be recoverable until DTE Gas can present a comprehensive plan of how and when its program will be compliant with the Pipeline and Hazardous Materials Safety Administration's Notice of Proposed Rulemaking (NOPR) titled "Pipeline Safety: Gas Pipeline Leak Detection and Repair" (AG Initial Brief 101–102). As a practical matter, the AG's recommendation is vague and would be difficult to execute. It is unclear what type of plan would meet the AG's "comprehensive plan" standard, and the AG offers no indication to that end. Similar to other AG recommendations, this "comprehensive" standard is not the measure by which DTE Gas's compliance-related LDAR costs are deemed recoverable;

[4] The discussion around Staff's disallowance in this section does not relate to the $6 million that Staff recommends approval of related to the purchase of Picarro units; as discussed in DTE Gas's Initial Brief, the Company supports the recovery of these costs.

reasonableness and prudence is the standard. Under that standard, the Company is held to the reasonableness and prudence of its decisions using the best information known to it at the time of those decisions. *See In Re Consumers Power Co.*, Case No. U-4717, 1976 WL 419195 (March 8, 1976).

Here, the Company expects that the NOPR is likely to be published in September of 2024 and effective in March of 2025, all within the test year (DTE Gas Initial Brief at 23; *see also* 3T 364). Moreover, the Company has appropriately detailed the expenditures related to these compliance costs (*See* 3T 364–65 and Table 9; Exhibit A-12, Schedule B5.1, page 2, line 16, columns (f) and (g)). The AG and Staff express concern that the final rule has not yet been published and its publication date is unknown; however, the Company has demonstrated that the NOPR will likely be in effect during the test year. Hence, the Commission should approve DTE Gas's LDAR costs incurred to comply with the NOPR.

In the alternative, Staff supports the Company's use of a regulatory deferral mechanism if LDAR operations and maintenance (O&M) expenses are not allowed for recovery in rate base in this case (*See* Staff Initial Brief at 62). If the Commission denies recovery of these costs in rates, DTE Gas respectfully requests the use of Staff's proposed deferral treatment for LDAR O&M costs related to compliance with the NOPR.

(d) The robust review process for information technology capital projects does not guarantee a reduction in such costs.

Staff recommends a $1.756 million reduction to capital expenditures related to information technology (IT) because six IT projects are based on Level 2 cost estimates (Staff Initial Brief at 14–18). Staff alleges that these projects have not completed the review process and can therefore face delays or not be executed at all (Staff Initial Brief at 15). Notably, in response to Company witness Busby's rebuttal, Staff argues that "projects with Level 2 cost estimates have not yet been

fully reviewed and the estimates are therefore not complete" (Staff Initial Brief at 16). Staff analogizes the Level 2 cost estimates to the cost to remodel a home, arguing that cost estimates are uncertain until the project is completed (Staff Initial Brief at 16–17).

Staff's recommendation is overbroad, as multiple projects within Staff's proposed disallowance are already in process under the existing Level 2 cost estimates. The Company has worked to significantly improve the Level 2 cost estimate process to include considerations for scope, technology, historical data, and vendor quotes (*See* 4T 2135–37). Thus, the Company's Level 2 cost estimates for projects are reasonable, whereas Staff's rejection of Level 2 project costs would disallow costs that have been thoroughly evaluated. Accordingly, the Commission should disregard Staff's proposal to disallow any Level 2 costs.

(e) Main replacement thresholds are minimums and targets.

ABATE proposes a $62 million reduction in the Company's Main Replacement Program based on a reduction in main replacement targets to 190 miles annually (ABATE Initial Brief at 10). The Company clarifies and emphasizes that the 190-mile "minimum" threshold is the number of miles that DTE Gas must replace to remain on track with Commission goals. ABATE acknowledges that the Company must retire this amount to meet the Commission-approved main replacement goal (ABATE Initial Brief at 10). ABATE deems this a mere "satisfactory result" but fails to account for the fact that a single mile lost below the minimum threshold all but guarantees that DTE Gas will be behind in its Main Replacement Program goals. Notably absent from ABATE's discussion is any acknowledgement or consideration of the complexity of many main replacements, which DTE Gas explained in its Initial Brief (DTE Gas Initial Brief at 60–61). DTE Gas encounters these complexities as a regular part of the Main Replacement Program and has developed experience in managing these grids. DTE Gas's Main Replacement Program proposal

is based on this knowledge, experience, and expertise. Based on this, DTE Gas's proposed replacement of 190 miles per year is a reasonable floor. The Company's proposal to replace 206 miles of mains will provide the Company with a reasonable amount of flexibility to address complex, time-consuming main renewals in High Consequence Areas, while ensuring that the 190-mile minimum acknowledged by ABATE is met.

(f) The Mesick-Buckley and Peach Ridge disallowances proposed by MNSC would result in a confiscatory rate, violating DTE Gas's due process rights.

MNSC argues that the Commission should disallow $838,000 in new market attachments capital for the Mesick-Buckley Area Expansion Project (AEP) and $912,000 for the Peach Ridge AEP (MNSC Initial Brief at 32–33). In addition to arguments already laid out in the Company's testimony, DTE Gas notes that service to Mesick-Buckley and Peach Ridge customers is unique. DTE Gas received state funding to ensure that these new AEPs were connected. Further, to ensure connection, the lines for both AEPs have been built, and customers have signed up for connections based on surcharges provided by the Company. These surcharges were based on the forecasted costs outlined in the Company's testimony. MNSC's proposed disallowances could result in rates that are less than the costs to serve these particular customers, or rates that would not provide DTE Gas with an adequate return. In short, these disallowances could result in rates so low as to be confiscatory. *See GTE North, Inc. v. Mich. Pub. Serv. Comm'n*, 1997 WL 33330608 at *4; *see also Mich. Bell Tel. Co. v. Pub. Serv. Comm'n*, 332 Mich. 7, 26, 50 N.W.2d 826 (1952). The Commission should therefore deny these proposed disallowances.

B. RETURN ON EQUITY AND CAPITAL STRUCTURE

1. DTE Gas's requested return on equity is supported by the evidence and is within a reasonable range.

First and foremost, no party has presented sufficient evidence to justify a decrease in DTE Gas's currently approved 9.90% return on equity (ROE). Second, each witness providing an ROE recommendation acknowledges that their recommendation is based on the reasonable range produced from more than one model using a defensible proxy group of similarly situated gas utilities (*See*, *e.g.,* 4T 1356–91, 1494–1513, 1619–20). Third, the results of each party's ROE analyses are presented and communicated to this Commission in intentional ways. Ranges are reasonable in communicating the breadth of results, whereas averages (mean or median) can be helpful with appropriate context. While reasonable experts can disagree on the value or weight of any one approach, and vary on the appropriateness of any given assumption, a comprehensive review of several models is undeniably helpful to the Commission's evaluation of a reasonable return for the Company. The chart below provides a summary of each party's ROE results by model.

Summary of ROE Recommendations

	CAPM	DCF	Risk Premium	Recommended ROE Range	Recommended ROE
DTE (Villadsen)	Full Range: 9.5–11.2% Recommended Range: 9.75–11.0%	Full Range: 9.0–11.1% Recommended Range: 10.0–11.0%	10.2%	10.0–10.7%	10.25%
Staff (Ufolla)	9.25–11.29% Avg. 9.88% Median 9.59%	8.68–13.37% Avg adj. 10.51% Median adj. 10.01%	8.97–9.34%	9.30–10.3%	9.8%
AG (Coppola)	9.84–11.27% (avg. 10.42%)	8.05–12.03% (avg. 9.51%)	9.82%	9.85%	9.85%
ABATE (Walters)	8.54-10.80%	8.27–11.33% Gas avg 9.54% Gas median 9.41%	9.64–10.21%	9.10–9.80%	9.45%
MNSC (Bandyk)	9.14%	8.90%			9.46%

As shown above, the Company's recommended ROE of 10.25% falls squarely within the range of Staff and the AG's Capital Asset Pricing Model (CAPM) and Discounted Cash Flow (DCF) model results. Notwithstanding the litany of criticisms of Dr. Villadsen's assumptions, adjustments, methods, and approach, the reasonableness of DTE Gas's ultimate ROE recommendation is not only supported by its own analyses, but also falls within the calculated ranges other parties' analyses. For example, Staff, AG, and ABATE all disagree with Dr. Villadsen's use of the after-tax weighted average cost of capital adjustment. However, the Company's proposed ROE falls within Dr. Villadsen's unadjusted results. While Dr. Villadsen supports the appropriateness of such an adjustment, the adjustment itself does not detract from the reasonableness of her recommendation.

Dr. Villadsen's methods are not inventive. Rather, her approach uses tried and true methods to approximate the required ROE for investors in the market as compared against more modern approaches as a check on the reasonableness of her actual recommendations. For example, while Dr. Villadsen conducted an empirical CAPM analysis, she did not use this as a basis for her recommendation. By providing additional analyses and data points for the Commission's review, the Commission can have added confidence that the ROE ultimately adopted is reasonable, notwithstanding party differences in selected assumptions and preferred approaches. Further, Dr. Villadsen's proxy group of water utilities was used as a reasonableness check on her proxy group of gas utilities, which informed her recommendation. In contrast, witness Walter's inclusion of water utilities in his proxy group unnecessarily biases his ROE results for each model used.

Notwithstanding differences in assumptions and model choice and the predisposition towards lowering DTE Gas's ROE, the Company's 10.25% ROE recommendation is reasonable and falls within the range of ROE estimations for all but one party's recommendation who conducted such analysis. Staff and Intervenor recommendations are too low in today's economic and financial environments, which support an increase in the cost of equity. A reduction to DTE Gas's currently allowed ROE, as proposed by Staff and Intervenors, would be inconsistent with developments in economic, financial, and business risk conditions.

2. DTE Gas's ROE recommendation did not include business risk associated with decarbonization policies.

Ann Arbor argues, for the first time, that Dr. Villadsen "erroneously considers the risk of decarbonization in making her ROE recommendation," stating that "climate change business risks are not the kind of risks that can or should be considered when setting an ROE" (Ann Arbor Initial Brief at 4, 7). Ann Arbor asserts that decarbonization risk—the risk that decarbonization policies will render necessary property inadequate or obsolete before its physical life is exhausted—should

be recognized through depreciation under Commission rules (Ann Arbor Initial Brief at 7–8). Ann Arbor argues at length about the legal and policy reasons that support this avenue, and suggests several alleged reasons why Dr. Villadsen's approach incorrectly incorporates this risk into her analysis (S*ee, e.g.*, Ann Arbor Initial Brief at 6 ("As Dr. Villadsen is already anticipating this potential risk of obsolescence, accelerated depreciation is the proper recovery method under these longstanding rules."), 8 ("Dr. Villadsen's recommendations, which assume the business risk of obsolescence is properly considered in setting an ROE, should be discounted.")).

Ann Arbor's entire argument ignores Dr. Villadsen's testimony stating the opposite point. Dr. Villadsen explicitly states that the risk of obsolescence due to decarbonization is *not* included in her current recommendation (*See* 4T 2495 ("To the extent that decarbonization risks continue, the business risk of the gas [local distribution company] industry would increase substantially. *This risk is not included in my current recommendation* and I currently see no reason to distinguish DTE Gas from the average of the Gas Sample." (Emphasis supplied))). To the extent Dr. Villadsen acknowledged decarbonization risk in her ROE analysis, that analysis put DTE Gas in a similar situation as other natural gas utilities (*See* 4T 2495 ("Similar to most natural gas utilities, DTE Gas is facing increasing risk from state decarbonization policies.")). In other words, any effect of decarbonization policies puts DTE Gas in the same boat as other utilities, because other utilities face the exact same risk. Ann Arbor's concern about obsolescence due to decarbonization should therefore be ignored.

3. DTE Gas's capital structure is balanced and mitigates high interest rates in the market.

Consistent with the recommendations of others, DTE Gas supports the Commission's desire for a more balanced capital structure. However, a "more balanced" capital structure does not require a 50/50 equity to debt ratio (4T 2191). Staff's recommendation of a 51% equity ratio

supports this position. Lowering the Company's capital structure to less than 51% equity, as recommended by the AG and ABATE, is unwise at this time given high interest rates in the market. The Intervenors' failure to consider financial leverage in their evaluations of the cost of equity creates significant downward bias on proposed ROE recommendations (4T 2560). Once appropriately adjusted for financial risk, the capital structure recommendations of Staff, AG, and ABATE would be consistent with and supportive of DTE Gas's 10.25% ROE at 51.5% equity (4T 2562). Nevertheless, any decrease in the requested 51.5% equity capital structure will require a corresponding increase in ROE to maintain the Company's financial health.

C. OPERATIONS REDUCTIONS

In this section, DTE Gas addresses individual reductions in O&M and net operating income expenses, with particular focus on expense categories that were addressed by multiple parties. Where DTE Gas is silent on any particular expense category, the Company relies on its positions and arguments in testimony and its Initial Brief.

1. The AG's characterization of the Company's response to a data request concerning Company Use and Lost and Unaccounted for Gas is misplaced and should be corrected.

The AG proposes a reduction of approximately $4.9 million for Lost and Unaccounted for Gas (LAUF Gas) to account for, among other things, a reduction to the Company's forecasted LAUF Gas volumes in light of the Company's net zero goals (AG Initial Brief at 91–92). Pointing to the Company's response to data request AGDG 8.217b, the AG argues that "[i]t is not clear what DTE [Gas] means when it says that its net-zero goal is 'not absolute,' but what it does make clear is that the Company does not want to be held accountable for its pronouncements" (AG Initial Brief at 93).

The AG's characterization of DTE Gas's response to this data request is inaccurate. Indeed, DTE Gas made abundantly clear in the remainder of its response to AGDG 8.217b that the Company's net zero carbon emissions goal is a *net goal*; that is, a goal to reduce emissions both by reducing DTE Gas's own emissions and also balancing out remaining emissions through other means. In contrast, an absolute goal ensures that there are no emissions created at all; emissions are simply reduced to zero. As made clear when considering the Company's entire response to AGDG 8.217b in context, DTE Gas was differentiating between these two avenues. To call this differentiation a desire to evade accountability for DTE Gas's legitimate goals reflects a misunderstanding of applicable emissions concepts. The AG's recommendation should accordingly be rejected.

2. Intervenors' proposals for incentive compensation fail to account for how operational metrics actually work.

Staff recommends rejecting the Company's proposal that the incentive compensation deferral mechanism should include payout amounts above 100% of target (Staff Initial Brief at 55). Additionally, the AG recommends that the Commission approve only 55% of $3.5 million of the Company's incentive compensation associated with operational metrics, based on the overall percentage of achievement of the non-financial measures by the Company (AG Initial Brief 113–114).

The Company has already laid out why these recommendations regarding operational metrics ignore or fail to account for how operational metrics actually work: actual payouts are based on gradients of performance, and a simplistic binary approach, focusing exclusively on whether actual performance was above or below Target, is inappropriate (*See* DTE Gas Initial Brief at 121). Moreover, in its testimony, the Company addressed some of the ways that customers benefit from achieving Target performance for operational metrics (*See* 4T 2660–63). Accordingly,

the Company's proposals related to the incentive compensation's operational metrics should be approved.

3. Intervenors' claims about the Company's Active Healthcare costs are speculative and factually inaccurate.

Staff proposes an approximately $5.3 million reduction in DTE Gas's Active Healthcare O&M expense (Staff Initial Brief at 59–60). In support of this claim, Staff asserts that "the use of high growth trends by the Company continuously escalates the expense substantially above historic amounts when it may decrease in any future year as it has in the past" (Staff Initial Brief at 59). As discussed previously, speculation cannot be the basis for Commission action. Mich. Const. of 1963, Art. 6, § 28; *see also Rovas*, 482 Mich. at 101. As explained in the Company's Initial Brief, the Company's Active Healthcare costs are subject to substantial volatility, making purely historical experience a poor predictor of future Active Healthcare cost. Staff's proposed annual escalation of 0.92% presumes that the Company's future Active Healthcare costs will mirror its recent history, which is contradicted by both the projected medical trend rates prepared by Willis Tower Watson as well as the Company's actual increase of 16% for the first three months of 2024 compared to first three months of 2023 (Exhibit A-13, Schedule C5.9.1). The fact that the Company's Active Healthcare costs have declined in some years, including the period encompassing the COVID-19 pandemic, is an insufficient basis to adopt Staff's projections that the Company's Active Healthcare costs "may" decline in the future.

The AG also claims that the Company's use of the constant dollar normalization is "novel" and "unorthodox" (AG Initial Brief at 102). There is nothing new, novel, or unorthodox about the constant dollar normalization process. DTE Gas already demonstrated that the Commission has applied the same logic in DTE Electric rate cases (*See* DTE Gas Initial Brief at 112), meaning that normalization of expenditures in this way occurs in the Michigan utility space. In fact, the AG's

consistent opposition to the normalization of historical emergent replacement expenditures, noted on page 112 of DTE Gas's Initial Brief, demonstrates that the AG is well aware of this process and has refuted it before. Thus, any claim that this methodology is new, novel, or unorthodox should be rejected.

Finally, the AG argues that the Company "never presented a capitalization rate for healthcare costs for the projected test year that reflected the 2023 O&M expense cost savings or the increase in capital expenditures for the projected test year" (AG Initial Brief at 106). This is incorrect. DTE Gas Rebuttal Exhibit A-29, Schedule S4, page 2, lines 18–20 reflects capitalization percentages for 2022 and 2023. Accordingly, contrary to the AG's assertions, this information is included in the record in this case.

Finally, the AG's additional statement that the use of a 2022 capitalization rate is "outdated and not reflective of the O&M and capital expenditures changes from 2023 to the end of the projected test year" (AG Initial Brief at 106) ignores DTE Gas witness Uzenski's rebuttal testimony, where she explains why the Company's return to a more standard level of O&M in 2024 and beyond warrants the use of capitalization percentages from 2022 (4T 2340). As such, the AG's arguments on this issue should be rejected.

4. The Voluntary Separation Incentive Program savings amounts are not known and measurable.

The AG proposes to include half of the net cost savings associated with the Voluntary Separation Incentive Program (VSIP) in the projected test year claiming that these savings are "real, known, and measurable" (AG Initial Brief at 97). However, the Company's discovery responses demonstrate that this is not true. The Company's response to AGDG-8.229b explains that the estimated savings are dependent on the level of positions that are backfilled, and the Company's response to AGDG-8.229c states that estimated savings are preliminary as the

Company completes its review of key roles to be filled (*See* Ex. AG-61). The AG ignores the caveats that the Company provided in these discovery responses and wrongly concludes that the calculations provided therein demonstrate that DTE Gas has in fact calculated these amounts with certainty (AG Initial Brief at 97–98).

Further, the AG claims that it would create a "windfall" if the Company were to retain 100% of the cost savings associated with the VSIP (AG Initial Brief at 98). However, this is simply not the case. The AG's all-or-nothing argument ignores the fact that costs are incurred by the Company in order to achieve any savings. Accordingly, it is incorrect to assume that the Company will retain 100% of any savings when costs must be incurred to achieve savings in the first place.

5. Recovery of Responsibly Sourced Gas premiums does not require a pilot program or comprehensive plan, but DTE Gas is open to deferral accounting for these costs until the regulatory landscape is more definite.

Staff argues that, based on its interpretation of MCL § 460.6h, premiums associated with Responsibly Sourced Gas (RSG) can only be recovered if there is a state or federal mandate to reduce carbon emissions (Staff Initial Brief at 52–53). Staff claims that because DTE Gas has not presented a pilot or proposal that both includes RSG premiums and comports with MCL § 460.6h, it may not recover RSG premiums as an O&M expense (Staff Initial Brief at 51–53). The Company believes that the reasonableness and prudence of RSG expenditures can be evaluated in the absence of a pilot and in the context of the evidence provided in this case. Similarly, it is unclear what type of pilot or proposal would be sufficient to meet Staff's suggested requirement.

The AG argues that the Company lacks a "comprehensive plan" for RSG and asserts that RSG costs "will grow significantly if the Company is allowed to recover premium costs above the normal cost of gas" (AG Initial Brief at 121–22). But a requirement for a "comprehensive plan" is

vague and is not the standard for RSG premiums to be recovered in rates. Moreover, the claim that RSG costs will grow significantly amounts to speculation and should be rejected.

Despite these claims from Staff and the AG, the Company acknowledges the undefined nature of RSG recovery mechanisms (*See* DTE Gas Initial Brief at 153). Therefore, DTE Gas reiterates that it is open to applying regulatory accounting authority for deferral of these costs until further legislation is developed or an applicable recovery mechanism is defined (*See* DTE Gas Initial Brief at 153).

6. The Company's Low Income Assistance and Residential Income Assistance proposals can occur in tandem with important reform work.

Staff recommends rejection of the Company's proposed increase to the Low Income Assistance (LIA) credit amount, noting in part that the Company's analysis on the LIA and Residential Income Assistance (RIA) programs did not contain the diverse, collaborative work being conducted in the Commission's Energy Affordability and Accessibility Collaborative (EAAC) workgroups (Staff Initial Brief at 30–33). Staff notes that the "energy assistance reform work is ongoing elsewhere outside of rate cases and should remain as such" (Staff Initial Brief at 33). The Company acknowledges and supports such reform work occurring outside the context of a rate case. In fact, as noted by Staff, Company representatives do participate in EAAC subcommittees (Staff Initial Brief at 33).

However, the Company disagrees that this work must only occur outside the rate case space; reform work can and should occur in tandem with the immediate rate relief proposed by the Company. The Company's proposal does not prevent the EAAC from conducting its important collaborative work. In fact, if better or more refined recommendations emerge from those discussions, the Company is open to adjusting its LIA and RIA programs at a later time based on those recommendations. Staff acknowledges that vulnerable Michigan ratepayers can benefit from

the additional assistance proposed by DTE Gas (*See* Staff Initial Brief at 32). Acceptance of the Company's proposal, while simultaneously allowing the EAAC work to develop potential future refinements, allows for immediate relief for ratepayers and keeps open the potential for future refinement of the issue.

7. The AG's proposed property tax adjustments should be rejected.

The AG recommends that the Company's property tax expense for the projected test year be reduced by approximately $5 million (AG Initial Brief at 126). The AG claims that its proposed property tax adjustments "are similar to the property tax expense that the Company performs when forecasting the revenue requirement for IRM capital expenditures" (AG Initial Brief at 127). This is incorrect. The IRM considers that the property tax liability for any given year is based on the taxable value of property on December 31 of the previous year; the AG's approach does not take this into consideration (DTE Gas Initial Brief at 131). Notwithstanding this, the approach used in the IRM should not be used to calculate the property tax adjustment on disallowed capital. The property tax adjustment on disallowed capital should be calculated the same way test period property tax expense was calculated, as discussed in the Company's Initial Brief (DTE Gas Initial Brief at 131) and as incorporated into Staff's calculations. Accordingly, the AG's proposed adjustments should be rejected.

D. TEST YEAR

Multiple Intervenors took issue with the use of a projected test year in this case. ABATE argues that the Commission should consider DTE Gas's request in the context of historic costs and revenue sufficiency, alleges that "the use of projected test years has resulted in excessive recovery," and proposes that "the Commission should instead approve a revenue requirement based on the Company's historic test year" (ABATE Initial Brief at 4). MNSC adopts much of ABATE's

arguments and testimony but additionally notes that the use of a test year is "driving ever-higher rate increases," warranting careful scrutiny over DTE Gas's request (MNSC Initial Brief at 5).

Both ABATE and MNSC acknowledge that a projected test year is statutorily authorized under Michigan law (ABATE Initial Brief at 4 (citing MCL § 460.6a(1)); *see also* MNSC Initial Brief at 5). Yet ABATE argues that the use of a projected test year has historically resulted in what ABATE deems "significant revenue increases beyond those necessary to meet the Company's authorized rate of return" (ABATE Initial Brief at 6). None of this changes the valid statutory authority for projected test years.

Perhaps more crucially, Intervenors underestimate the Commission's capabilities. MNSC argues that the Commission "must carefully scrutinize" DTE Gas's expenditures (MNSC Brief at 5). ABATE argues the "Commission should consider DTE [Gas's] requested rate increase in the context of its historic costs and revenue sufficiency," and even accuses the Commission of providing "too great a benefit of the doubt to DTE [Gas] with respect to the projections questioned by intervenors and/or Staff" (ABATE Initial Brief at 4, 8). DTE Gas firmly believes that the Commission is perfectly capable of reviewing all the evidence in this case, scrutinizing that evidence within the relevant historical and cost contexts, and giving the perspectives of all parties—DTE Gas, Staff, and Intervenors alike—the appropriate weight, all in support of a reasoned and reasonable outcome. The Commission need not look any further than MNSC's initial brief, which shows that the Commission has reduced every request of the Company to a lower amount the Commission deems reasonable. The Commission, through the contested case process, is entirely capable of understanding the complexities of DTE Gas's request, including one involving a projected test year, and coming to a conclusion (*See, e.g.*, December 9, 2021, Case No. U-20940 Order, p.10 ("The contested case process provides for the review of all capital

expenditures, and the rate case filing requirements . . . provide the base evidentiary requirements.")).

ABATE argues that DTE Gas must "fully document the basis for [its] test year projections" and the record "should lend itself to a comparative review of the reasonableness and prudence of the projections (ABATE Initial Brief at 5 (quoting May 8, 2020, Case No. U-20561 Order, p. 13)). DTE Gas has done so here, and the Commission is entirely capable of reviewing this information in order to come to a reasoned and supported determination in this case. Accordingly, the use of a projected test year in this case is entirely appropriate and reasonable.

IV. REQUEST FOR RELIEF

DTE Gas respectfully requests that the Commission issue its final order:

A. Granting DTE Gas's request for final rate relief, as further supported and explained in its Application, testimony, exhibits, Initial Brief (including Attachments A and B), and this Reply Brief approving rates that will recover the Company's revenue deficiency of approximately $262.4 million, based on an October 1, 2024, through September 30, 2025, test year, effective as soon as possible on or after November 5, 2024;

B. Approving recovery of DTE Gas's new rates effective no later than November 5, 2024, in the manner described in the Company's Application, testimony, exhibits, Initial Brief (including Attachments A and B), and this Reply Brief;

C. Acknowledging that DTE Gas has satisfied all of the directives of the Commission's Order in Case No. U-20940, which were required components of the Company's next general rate case;

D. Approving the Company's recovery of the requested infrastructure-related capital and the associated IRM;

E. Approving the Company's capital structure and return on investment;

F. Approving the Company's recovery of projected Manufactured Gas Plant expenses;

G. Approving continuation of and changes to the Company's LIA credit pilot and RIA credit, including regulatory asset and liability treatment for LIA customer credits applied greater or less than those approved in rates;

H. Approving the Company's proposal to amend certain customer rate schedules and proposed tariff changes;

I. Authorizing implementation of DTE Gas's proposed accounting changes as described in the Company's Application, testimony, exhibits, Initial Brief (including Attachments A and B), and this Reply Brief;

J. Approving the remainder of DTE Gas's miscellaneous proposals, and rejecting other parties' additional or inconsistent proposals, as set forth in the Company's Application, testimony, exhibits, Initial Brief (including Attachments A and B), and this Reply Brief; and

K. Granting such other lawful relief that the Commission deems reasonable and appropriate.

Respectfully submitted,

DTE GAS COMPANY

By: Carlton D. Watson Digitally signed by Carlton D. Watson Date: 2024.07.31 15:53:13 -04'00'

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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	)))))))	Case No. U-21291

PROOF OF SERVICE

STATE OF MICHIGAN)
) ss.
COUNTY OF WAYNE)

ESTELLA R. BRANSON states that on July 31, 2024, she served a copy of DTE Gas Company's Reply Brief in the above captioned matter, via electronic mail, upon the persons listed on the attached service list.

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