

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.

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Case No. **U-21291**  
(e-file paperless)

**MICHIGAN PUBLIC SERVICE COMMISSION STAFF'S  
REPLY BRIEF**

**MICHIGAN PUBLIC SERVICE  
COMMISSION STAFF**

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## I. Introduction

[Citations in section: Appendix A; Appendix F.]

In accordance with the schedule established for this case, Staff files this reply brief. Staff maintains its overarching position that its proposed rate base, return on equity, and operating expenses strike the right balance between investors and ratepayers' interests. Staff has, however, made changes reflecting revisions that the DTE Gas Company made in its initial brief, adopting Staff's and other parties' positions, and revisions that Staff has made to update working capital for the shared asset deferral mechanism.<sup>1</sup> Those changes are described in this reply brief and the attached appendices. After accounting for these changes, Staff projects that the Company will have a \$174.387 million revenue deficiency. (Appendix A; Appendix F.) While Staff reasserts the correctness of each of its positions taken in its initial brief and this reply brief, supported by its testimony and exhibits, Staff now selectively responds to arguments made by the parties that require additional emphasis and explanation. Neither the ALJ, nor the Commission should consider Staff's silence on any argument raised by another party as an agreement with that party's position.

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<sup>1</sup> DTE Gas' initial brief, Attachment A, page 1 calculates a revenue deficiency of \$262.512 million. There appears to be a mathematical error in column d, line 4, which Staff has corrected from \$419.693 million to \$419.337 million as found on Appendix A, line 5, column c. Additionally NOI has been updated from \$225.913 million to \$225.6365 million. With those corrections, Staff calculates that the DTE Gas requested revenue deficiency should be \$262.407 million revenue deficiency, which is \$105,000 less than the \$262.512 million in its initial brief.

## II. Staff's Reply to Test Year Arguments

- A. Staff replies to the Company, which misconstrues the nature of retroactive ratemaking, the basis of its test year, misinterprets the related statute, and mistakenly claims its projected costs can be “verified”.**

[Citations in this section: *DTE Electric General Rate Case*, MPSC Case No. 21297, 12/1/2023 Order; York, 4 TR 1266.]

In its discussion of the concept and legal history of “retroactive ratemaking,” the Company makes a false statement: that “it would be unconstitutional for the Commission to use hindsight or otherwise base DTE Gas’s rates on past events.” (DTE Gas’ Initial Brief, p. 13.) This claim attempts to stretch the prohibition against retroactive ratemaking beyond its bounds; there are a number of ways in which past events can be considered to establish rates on a going forward basis without committing retroactive ratemaking.

The doctrine of retroactive ratemaking is limited to changing previously approved rates after the fact. The Michigan Supreme Court has held, “[W]e cannot find that the commission has either express or implied statutory power to retroactively reduce appellee's rates or its accrued earnings. Instead the commission's rate-fixing orders are effective only prospectively.” *Michigan Bell Telephone Co*, 315 Mich 533, 547 (1946). The Michigan Court of Appeals afforded the example that if based on the rate structure “the utility gains \$1,000,000 more profit than is reasonable and just, the Commission cannot order a refund.” *Detroit Edison Co v Michigan Public Service Commission*, 82 Mich App 59, 68; aff'd 416 Mich 510 (1982). Under such as circumstance, the Court held that the Commission

can only lower the rate going forward so there will be no excess profit in the succeeding years. *Id.* For this reason, the Company’s claim should be rejected as what has already occurred may inform even a projected test year and the Commission may use historical test years.

The Company claims that it “used actual financial results from the historical test year ended December 31, 2022, as a starting point...” It further states that it “normalized and adjusted those results for inflation and other known and measurable changes, to arrive at a fully projected test year revenue deficiency of approximately \$266 million.” (DTE Gas’ Initial Brief, p. 14.) This is incorrect. While the Company may have based some of its projections on historical amounts in various ways, the Company’s proposed test year is not accurately described as merely “normalizing and adjusting” the historical test year nor is it equivalent to a fully projected test year. It *is* a fully projected test year that substitutes projections for historical amounts and should be recognized and treated as such. In addition, most of the Company’s projections do not meet the standard for “known and measurable,” which requires a certainty about both the timing and amount of changes the Company has not provided (and, in fact, fights against). (DTE Gas’ Initial Brief, pp 15-16.)

The Company also implies that the plain language of the governing statute is somehow counter to ABATE witness York’s claim that the Commission does not have to set rates using a projected test year. (DTE Gas’ Initial Brief, pp 14-16.) As the Company notes, MCL 460.6a(1) states: “**A utility may use** projected costs and

revenues for a future consecutive 12-month period in developing its requested rates and charges. (emphasis added.)” As is clear from a reading of the plain language of the statute, the utility is *allowed* to file using a future test year based on projections but creates no obligation on the part of the Commission to accept same. Hence the use of the words “utility” and “may” rather than “Commission” and “must”, and a reference to the utility developing its *proposals* rather than what the Commission *approves*. Therefore, ABATE witness York is indeed correct that the Commission is in no way required by the statute to set rates using a projected test year, even though it may use projections. (York, 4 TR 1266.)

Often the Commission accepts a hybrid approach based on known costs both historical and projected, only if they are sufficiently proved by the Company to be reasonable. The Commission has rejected contingency costs, however, and the burden of proof is on the utility to show it is likely to spend the costs it projects. *DTE Electric General Rate Case*, MPSC Case No. 21297, 12/1/2023, pp 9, 32.

In the instant case, the Company then further implies the statutory language at MCL 460.a(1) discussed above is somehow dispositive of ABATE witness York’s claim that projected test years may allow recovery of costs before they are verified as “real” and found reasonably and prudently incurred, stating “[t]his policy argument lacks merit and is inconsistent with MCL 460.6a(1)’s plain statutory language and the requirement that the courts and the Commission must apply that plain language, regardless of ABATE’s disagreement with how our Legislature wrote it.” (DTE Gas’ Initial Brief, p 15, internal citation omitted.)

ABATE witness York is in no way suggesting that the Commission not apply the plain language of the statute, the appropriate interpretation of which is discussed above. Nor is the witness taking issue with what the Legislature wrote (unlike the Company, it appears). In addition, ABATE witness York's statement is factual. Relying exclusively on projections, while permissible for the Company to file, does, in fact, allow for recovery before costs are verified as "real" and determined to be reasonably and prudently incurred as the costs have, *by the very nature of them as projected*, not been incurred, and are therefore impossible to verify as being spent (or "real"), let alone whether they were spent reasonably and prudently.

Therefore, in spite of the Company's claims, to the contrary, the Commission should explicitly find that it is empowered by the plain language of the statute to grant the relief requested by ABATE witness York and to use a historical test-year, whether or not it finds ABATE's arguments as to the amount that should be granted persuasive.

### **III. Staff's Reply to Parties' O&M Arguments**

#### **A. Staff's Reply to DTE Related to O&M**

##### **1. Staff replies to the Company's adoption of the Attorney General's Shared Asset Charge adjustments.**

[Citations in section: Exhibit AG-48, AGDG-2.36d; MPSC Case No. 21297, 12/1/2023 Order.]

Staff replies to DTE Gas regarding the O&M adjustments that the Company adopted from the Attorney General. The Company provided AGDG-2.36d in response to a discovery request from the AG, in which they stated the actual amount approved as a revenue credit in Case No. U-21297 was \$48.9 million. (Exhibit AG-48 includes AGDG-2.36d.) This is the outcome of the Commission's approval of the disallowance of 14 IT projects shared between DTE Electric Company and DTE Gas Company in its December 1, 2023 Order in Case No. U-21297. If the shared asset revenue for DTE Electric is reduced, the shared asset charge for DTE Gas should also be reduced. As a direct result of this adjustment, the Attorney General and Company calculated a reduction in the Shared Asset Amortization of \$0.617 million and a reduction in the Shared Asset Charge of \$1.9 million, for a total of \$2.517 million in O&M reductions. Staff agrees with and adopts this adjustment.

**2. Staff replies to the Company's argument for Gas IT projects with Level 2 cost estimates**

[Citations in section: Rogers, 4 TR 1601–03; Busby, 4 TR 2135.]

Staff replies to DTE Gas regarding its arguments against a 20% disallowance for IT projects with Level 2 cost estimates. The Company disagrees with Staff's assertion that IT projects are given a Level 2 cost estimate before all its reviews are complete. (DTE Gas' Initial Brief, p 30.) Staff repeats its position addressed in testimony and its initial brief that according to DTE's IT APC Cadence, a Level 2 cost estimate is given in the Detailed Estimate phase and more reviews take place in subsequent phases. (Staff's Initial Brief, p 16; Rogers, 4 TR 1601–02.) Additionally, the Company states that Level 2 cost estimates are developed by SMEs (Busby, 4 TR 2135) and cross functional IT teams, reviewed and validated against the Company's capitalization policy, and approved by the DTE Technology Investment Committee. (DTE Gas' Initial Brief, pp 30–31.) Staff asserts that these are steps in DTE's project planning process and do not prove certainty, accuracy, reasonableness, or prudence.

The Company also disagrees with Staff's recommendation of a 20% disallowance consistent with the lower range of the AACE Class III estimate, arguing that a Class III estimate also has an upper range of 30%. Further DTE Gas states that Level 2 cost estimates more accurately compare to the AACE Class II estimate. (DTE Gas' Initial Brief, p 31.) Staff maintains its position, recommending a 20% disallowance of costs related to IT projects with Level 2 cost estimates, consistent with the lower bound of an AACE Class III estimate, because

the lower bound represents the amount an actual cost can end up being, compared to the projection. The semi detailed cost details and the budgetary purpose of the Level 2 estimate are consistent with a AACE Class III estimate. Staff chose a 20% disallowance because that is the amount the Company has the opportunity to over recover; however, the Commission is unable to perform retroactive ratemaking if the Company does not end up spending the entire projected cost. If DTE Gas spends more than 80% of the requested expense, it can include evidence of that spend in the next gas rate case to be reviewed for reasonableness and prudence. (Rogers, 4 TR 1603.)

#### **IV. Staff's Clarification Regarding Working Capital**

##### **1. Staff has a new figure for Working Capital impact of Shared Asset Charge adjustments.**

Staff calculated a working capital reduction of \$1,304,000. (Staff's Initial Brief, p 9.) However, when considering the impact of the Shared Asset Charge adjustments outlined above, Staff now recommends reducing working capital by \$2,778,000 for an adjustment to regulatory asset – shared asset deferral mechanism.

## V. Staff's Reply to Return on Equity Arguments

### 1. Staff responds that DTE is not at substantial risk of a credit downgrade.

[Citations in section: Ufolla, 4 TR 1615–1617; Coppola 4 TR 1490–1491]

In its initial brief on page 67, DTE states that its requested equity ratio of 51.50% “—will enable the Company to maintain its credit rating—” implying that if the Commission authorizes any lower equity ratio, its credit rating may be negatively impacted. However, this is not the case. Staff lays out in testimony that DTE is not at risk of a credit downgrade if Staff's recommended ROE and Equity ratio are approved; in fact, Staff's recommendation would result in DTE's CFO/Debt ratio being approximately 18.5%, closer to Moody's upgrade threshold of 19% than its downgrade threshold of 16%. (Ufolla, 4 TR 1615–1617.) The Attorney General has also demonstrated that a reduction in equity ratio would not result in negative credit action which was laid out both in Attorney General witness Coppola's testimony and the Attorney General's initial brief. (Coppola, 4 TR 1490-1491; Attorney General's Initial Brief, p 55.) The Company's argument should not sway the Commission to abandon its previous directive of moving DTE towards a more balanced capital structure, and thus the Commission should approve an equity ratio no higher than 51%, as recommended by Staff.

**2. Staff replies to Michigan Environmental Council's (MEC) Risk Premium argument, as it does not apply to Staff's model.**

[Citations in section: MPSC Case No. U-21297, PFD, October 5, 2023; MPSC Case No. U-21297, PFD, October 5, 2023, p 484.]

On pages 42–43 of its initial brief, MEC outlines its argument against the use of the Risk Premium analysis. MEC cites multiple arguments against the use of the Risk Premium model used by DTE which is based on a regression analysis and uses utility ROEs approved by utility commissions (herein referred to as “approved ROEs”). A primary source in MEC’s argument is the PFD from a previous DTE Electric rate case which states, as follows:

This PFD also finds that the approach of performing a risk premium analysis based on a regression of *the returns awarded by regulatory commissions* relative to the treasury interest rate is not a compelling analysis, and should be rejected for the reasons explained by Mr. Coppola at 6 Tr 3750. [Emphasis added; MPSC Case No. U-21297, PFD, October 5, 2023, p 484.]

Because Staff, the Attorney General, and ABATE, base their Risk Premium analysis on earned ROE (the actual, historic, realized ROEs of utilities), and not approved ROE, the critiques laid out by MEC do not apply to these models.

Approved ROEs rarely consider purely financial and economic concepts when the ROE is ordered; conversely earned ROE is ultimately determined by market forces. Staff does not dispute the arguments made by MEC against a Risk Premium model which uses approved ROEs. However, since Staff’s Risk Premium model does not utilize approved ROEs, it can be relied on in an analysis to the determination of a reasonable ROE. Staff’s Risk Premium model was considered in its

recommendation of a 9.90% ROE, which the Commission should approve in this rate case.

## **VI. Staff replies to Cost of Service and Rate Design Arguments**

### **1. Staff replies to DTE regarding the Low-Income Assistance Credit (LIA).**

[Citation in section: Braunschweig, 4 TR 1764.]

In DTE's initial brief, the Company characterizes Staff's positions on the Low-Income Assistance Credit (LIA) as follows: "the LIA credit should remain at \$30 while the Commission's Energy Affordability and Accessibility Collaborative (EAAC) is ongoing." (DTE Gas' Initial Brief, p, 154, citing 4 TR 1764.) Staff clarifies this mischaracterization of Staff witness Braunschweig's statement. As stated in testimony, "Staff recommends the Commission not approve any changes to the structure of the credits and instead leave this issue to the EAAC until it completes its relevant Commission directives." (4 TR 1764.) By relevant Commission directives, Staff means completing an analysis of the LIA credit and PIPP pilots—not completing all its directives until its conclusion.

Additionally, in its initial brief, the Company claims that increases to the Residential Income Assistance (RIA) credit and Low-Income Assistance (LIA) credit amounts in their proposed tariff were unopposed. (DTE Gas' Initial Brief, p 161.) Staff notes that it is standard practice to have the tariff reflect the Commission's decision in the rate case once it is made. This means the RIA credit amount should reflect the Commission's ordered residential customer charge and the LIA credit

amount in the tariff should reflect whatever the Commission approves, as Staff proposed in direct testimony and Initial Brief. (Staff's Initial Brief, p 33; Braunschweig, 4 TR 1764.) For these reasons, the Commission should not consider these issues uncontested as the Company claims, but rather have the tariff reflect the Commission's decisions, as is standard practice.

**2. Contrary to DTE Gas' initial brief, the Commission should accept Staff's recommendation for customer charges.**

The Company discussed proposed customer charges in its initial brief. (DTE Gas' Initial Brief, pp 163–165.) The AG also commented on customer charges in their initial brief, stating that they should stay the same or change by no more than one dollar. (Attorney General's Initial Brief, pp 129–130.) Staff, for the reasons detailed in its initial brief continues to recommend that Staff's customer charges be accepted by the ALJ and the Commission. (See, Staff's Initial Brief, pp 75–76.)

**3. Lost and Unaccounted for Gas (LAUF), Company Use (CU), and Gas in Kind (GIK) should all be recalculated based on final Commission decisions**

Staff recommended reductions to LAUF and CU gas based on Staff's projection for the cost of gas. (Staff's Initial Brief, pp 46–47.) The AG also recommended changes to LAUF and CU based on volume and cost of gas adjustments. (Attorney General's Initial Brief, pp 91–93.) The Company, in its initial brief, discussed LAUF and CU adjustments and the impact they have on

GIK, because reductions in LAUF and CU will also result in less GIK revenue. (DTE Gas' Initial Brief, pp 127–129.) Staff did not mention GIK in its testimony or rebuttal testimony. Staff mentioned in initial brief that changes in volumes or cost of gas should be reflected in the calculations for LAUF and CU. (Staff's Initial Brief, p 47.) Staff supports this same position for updating GIK for the final rates. Therefore, Staff recommends that LAUF, CU, and GIK all be recalculated for the final order based on Commission decisions for volumes and cost of gas consistent with the Company's brief.

**4. Staff's alternative cost of service study (COSS) should be used to guide rate design consistent with the Commission's decision in previous rate cases.**

[Citations in section: Revere, 4 TR 1663-1664.]

In its initial brief, the Company states that it was directed by Commission order in its last general electric rate case, Case No. U-20940, to provide an alternative COSS that was consistent with Staff's adjustment to the to the Company's second alternate COSS. (DTE Gas' Initial Brief, p 136.) The Company states that it prepared an alternate COSS using the same methodology in the instant proceeding.

In this case, the Company's alternate COSS excludes transmission volumes from certain allocations rather than the main COS's exclusion of XXL T volumes, as well as calculating allocators excluding high-pressure (HP) volumes and splits costs between pressure levels and applies the appropriate allocator. (*Id.*) While rate schedule XXL T originally only had customers served at transmission volumes, and

so therefore was excluded from allocations of certain distribution costs, a goodly portion of XXL T volumes are now served at lower pressures; and, therefore, it is no longer reasonable for XXL T to avoid costs associated with these pressure levels. (Revere, 4 TR 1662-1663).

As stated in the Company's initial brief, Staff proposes that the Company continue filing the Alternate COSS, updated for the Company's filing information in future cases. (DTE Gas' Initial Brief, p 127.) Staff does not, however, recommend utilizing the alternate COS directly in the instant case, as doing so should be accompanied by a reexamination of the entire rate structure of the Company, which cannot be completed appropriately in the time allowed for the instant case. (4 TR 1663.) Witness Krynski argues that performing this study requires considerable time and resources and "there has been no determination that this allocation method would better align cost causation with allocation for all rate classes." (DTE Gas' Initial Brief, p 137.) However, using the alternate COS as a guide to the appropriate movement of cost responsibility between the transportation classes when attempting to align the breakeven points allows for the appropriate recognition of the cost differentials of the proportion of customers at each pressure level on each rate schedule. (Revere, 4 TR 1663.) This brings the Company's rates more in line with the cost to serve each schedule, as well as closer to the state of Consumers Gas' transportation rates. (4 TR 1663-1664.) To continue allowing this transition towards more cost-based rates, the Company should be required to continue providing this study in future cases. (4 TR 1664.)

**5. Staff's Reply to ABATE's Initial Brief and MPLP's Initial Brief Regarding Cost-of-Service**

**a. The Average and Peak method should continue to be used for cost-of-service allocation**

[Citations in section: Rogers, 4 TR 1672; Krause, 4 TR 1726.]

In its initial brief ABATE references Staff's "proposed" cost allocation using the A&P method. (ABATE's Initial Brief, p 46.) Staff cannot recall a time when the A&P method has not been used in this jurisdiction for the purposes of distribution mains allocation. The Company even refers to it as having "long-standing approval" and later says that it has been the approved allocation since 1988 in Case No. U-8812. (DTE Gas' Initial Brief, p 133.) That means it is not a proposal, it is a long-standing practice, and the party challenging should clearly illustrate the need for it be changed, which Staff has shown in its initial brief and this reply brief has not been met.

Michigan Power Limited Partnership (MPLP) also argues for two alternative cost allocations to the A&P method, even calling Staff's alternate COSS a "dramatic departure from prior studies". (MPLP's Initial Brief, pp 7–11.)

As noted previously, it is ABATE and MPLP that propose a dramatic departure from prior decisions by the Commission, including the alternate COS which was approved for the same use in the Company's prior rate case as Staff utilized in the instant case. MPLP in its initial brief states that "the NARUC manual does not classify distribution costs as throughput related." (MPLP's Initial Brief, p 10.) The NARUC manual also does not say the demand considered in the

allocation should only be measured on the peak day of the year, nor that consideration of the average demand is unreasonable. Both MPLP (Initial Brief, p 7) and ABATE (Initial Brief, pp 39–40) suggest that the A&P method does not reflect cost causation, however Staff continues to argue that it does, as stated in Staff’s initial brief (p. 73). ABATE further claims allocating more costs to classes that use more on the peak day is appropriate because “the excess capacity that exists on the system on a non-peak day is held in reserve to meet the peak day demand of weather sensitive customers.” (ABATE’s Initial Brief, p 50.) This claim ignores the fact that the costs to serve on the peak day are those to serve every customer and class on that day. (Rogers, 4 TR 1672.) ABATE asserts this cost difference means nothing (ABATE’s Initial Brief, p 51); Staff disagrees. It has also not been shown, merely asserted, that capacity is somehow “held in reserve,” nor have ABATE’s claims that costs are directly related to demand (ABATE’s Initial Brief, pp 43, 47) been shown to be accurate. Regardless of the system design required to serve on the peak day, the system is used to deliver gas every day of the year. (Staff’s Initial Brief, pages 77–78.) Also, no showing has been made as to the cost differences associated with the pipes and equipment required to serve peak day demand as opposed to any other day. (Krause, 4 TR 1726.) System design for higher volumes does not necessarily result in proportional changes in costs, so not enough evidence exists on this record to show how related to demand those costs are. (*Id.*) This also shows the error in ABATE’s claim that there is no causal link between throughput and costs, (ABATE’s Initial Brief, p 42) which implies one has

been shown between demand and cost, which is not the case. ABATE even goes so far as to claim that “the costs to deliver an “average” amount of gas on a peak day as compared to the costs on an average day (whatever differences there may be are not discussed by Staff) are irrelevant,” another statement with which Staff disagrees; the cost to supply average usage on a peak day DOES differ regardless of the allocation method, as those are the days any cost above average are assumed to be incurred for; not just one class, but all classes. (Staff’s Initial Brief, pp 71–72.) ABATE also claims that Staff admits ABATE’s proposed design peak allocates costs in the manner incurred. (ABATE’s Initial Brief, p 43.) A review of the transcript reference provided, as well as the remainder of Staff’s testimony and briefing, clearly show that this is not the case. Staff continues to support the A&P method as it has argued in initial brief (pp 71–75) and in direct and rebuttal testimony. All arguments by ABATE and MPLP for replacing the A&P method with alternative allocation methods should be rejected for the reasons discussed in the referenced brief and testimony, as well as those listed here.

- b. Staff’s proposed use of the alternate COS is more reflective of the cost to serve the various classes and schedules than any other party’s COS and should therefore be approved by the Commission.**

ABATE and MPLP take issue with Staff’s use of the alternate COS to determine cost responsibility between the transportation rate schedules on several bases. First, on the basis that it uses the A&P allocation method, which is addressed elsewhere in this brief. Second, on the basis that such use of the

alternate COS results in customers paying costs they are not responsible for. (ABATE's Initial Brief, p 52.) Staff disagrees, and while Staff addressed a number of ABATE's and MPLP's issues in initial brief, further responses will be given below.

MPLP continues to insist that the alternative COS is "unsupported and unexamined." (MPLP's Initial Brief, p 13.) As discussed above, Staff recommends using the alternate COS as a guide to the appropriate movement of cost responsibility between the transportation classes when attempting to align the breakeven points, which allows for the appropriate recognition of the cost differentials of the proportion of customers at each pressure level on each rate schedule. (*Id.*) This brings the Company's rates more in line with the cost to serve each schedule, as well as closer to the state of Consumers Energy's gas rates. (4 TR 1663–1664.)

Put simply, Staff's use of the alternate COS is not flawed, it actually *corrects* a flaw in the current COS which fails to allocate costs caused by certain classes or schedules (particularly the XXLТ schedule) to the classes or schedules responsible for their causation. Therefore, ABATE's claim that "[r]eliance on this method to allocate costs produces significant, unjust, and unreasonable rate impacts for certain classes like Rate XXLТ" is incorrect, as it is the previous method that produced "significant, unjust, and unreasonable results" for other schedules within transportation as they were paying for costs properly allocated to XXLТ. (ABATE's Initial Brief, p 53.) ABATE further claims that the alternate COS is a significant

change from prior cases. (*Id.*) Again, this is incorrect. As discussed above, this treatment is the same as approved by the Commission in the prior case and brings treatment of the various classes and schedules closer to Consumers Energy's allocation of various pressure level costs to the classes.<sup>2</sup> ABATE also effectively argues that ignoring a fundamental aspect of cost allocation (allocating costs to those who cause them) is appropriate as that causation may somehow be "unclear" in this case, as it is uncertain how much of what parts of the system XXLТ actually uses. (*Id.*) Staff does not agree that ignoring cost allocation principles is appropriate, as how much of what parts of the system any class or schedule uses is equally unclear; that (along with other principles of rate design such as the principle of like service, like rates) is why we allocate rather than assign directly such costs. Similarly, MPLP basically argues that the intra-schedule mismatch resulting from use of the alternate COS is somehow worse than the previous subsidy provided by all other schedules to XXLТ. (MPLP's Initial Brief, p 13.) Unsurprisingly, Staff disagrees.

ABATE also discusses "concerns" raised in the prior case as if it were a reason to dismiss a more accurate spread of costs to the transportation schedules. (ABATE Initial Brief, p 54.) It is worth noting again that, in spite of those concerns,

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<sup>2</sup> This statement is also responsive to the Company's claim that no determination has been made that the alternate COS better matches costs to their causation (DTE Gas' Initial Brief, p. 137). The Commission should make such a determination in this case based on Staff's arguments to avoid any continued confusion on this point.

the Commission approved this more accurate way of using the COS results in the prior case, as discussed above.

ABATE claims Staff acknowledges that the alternate COS, or at least Staff's use of it in rate design, does not reflect cost-of-service. (ABATE's Initial Brief, p 55.) It is generous to characterize this claim as misleading, as nowhere in the provided transcript references is this claim supported. In fact, again as discussed above (and elsewhere in this brief), this method *better* reflects cost of service than the current method (or any of ABATE's proposed alternatives.) While it is true that maintaining break-evens is a consideration in Staff's rate design for transportation and GS classes that does not undermine the point that Staff is moving the schedules closer to cost-to-serve than current. Similarly, MPLP's claim that Staff itself "openly admits that the [sic] it is dubious to rely upon this alternative study without an accompanying reexamination of the transportation rate design" mischaracterizes Staff's position. (MPLP's Initial Brief, p 13.) While it is true that Staff has not proposed using the COS directly in the instant case, as a reexamination of how classes are defined may be appropriate in that context, the alternate COS still represents a better match of costs to their causation than the current method. In fact, many of the arguments in this case have led Staff to begin more strongly considering direct use of the alternate COS in future cases, as is done for Consumers Energy.

For these reasons, the alternate COS should be used as proposed by Staff and previously approved by the Commission and claims to the contrary should be rejected.

- c. MPLP’s proposed allocation of distribution-other costs should be rejected, as should the proposed charge associated with non-transmission costs for XXLТ.**

MPLP proposes allocating distribution other costs only to low-pressure and/or not to XXLТ. (MPLP’s Initial Brief, pp 14–15.) While Staff addressed this issue in its initial brief (Staff’s Initial Brief, p 69), the flaws in MPLP’s proposal are severe enough that the salient point bears repeating: MPLP is attempting to completely brush aside (despite recognizing) that an unknown portion of these costs is associated with the high-pressure system, a system to which customers on the XXLТ schedule are connected to and utilize. Similar to the argument above regarding use of the alternate COS, costs should be allocated to the schedules or classes that cause them, and MPLP gives no good reason to ignore this fundamental precept. MPLP goes so far as to attempt to shift the burden of proof (though they are the ones making a proposal to change the current method) by stating other parties have “not shown that the underlying costs are not exclusively associated with low-pressure service.” (MPLP’s Initial Brief, p 16.) As the burden of proof rests with the party making the proposal, the Commission should reject this attempt to misplace it.

MPLP further confuses the issue by continuing to use low-pressure in the arguments regarding an additional charge for certain XXLT customers, claiming the Company uses total volumes rather than “low-pressure” volumes to allocate the costs. (MPLP Initial Brief, p. 17, the main argument of which was responded to at Staff’s Initial Brief, pp. 69-70.) Another reason to reject this proposal is that it is unclear from the briefing or the record whether the costs or volumes identified as “low-pressure” by MPLP are accurate or even associated with the correct pressure level(s). It is also worth noting that this is one of the issues use of the alternate COS is intended to correct; ensuring that costs associated with each pressure level are allocated to the classes and schedules in proportion to the use (both volumes and demand) of the system at each level.

MPLP claims Staff’s opposition to the proposed lower pressure XXLT charge as being due to the difficulty in conducting rate design. (MPLP Initial Brief, p. 18.) Staff relies on this portion of its reply brief as well as the referenced parts of its initial brief to show how this claim is a mischaracterization.

One further issue comes from the footnote MPLP places at the bottom of page 16 of its initial brief: “In Order Dated June 3, 2010, MPSC Case No. U-15985, pp. 94-95, the MPSC removed distribution plant and operating costs when establishing Rate XXLT. At the time, three customers would take service under Rate XXLT, Dearborn Industrial Generation and two transmission-only customers.” This reference is not supportive of the requested relief, as a review of the record in the referenced case or the number of cases afterwards addressing this issue would

show, nor was this reference or its interpretation provided anywhere in the evidentiary record to allow Staff to respond as it had in previous cases. As such, this reference should not be considered as support for any of MPLP's arguments.

For these reasons, as well as those in Staff's initial brief, MPLP's proposed change to the allocation of distribution-other costs should be rejected, and the current method utilized in the instant case.

**6. Staff's Reply to Soulardarity, Urban Core Collective, and We Want Green, Too, collectively Frontline Organizations' (FLO's) Initial Brief on energy assistance proposal.**

[Citations in section: Braunschweig, 4 TR 1764; MPSC Case No. U-20757.]

On page 66 of its initial brief, FLO utilizes a table of income-qualified customer enrollment data in the RIA and LIA credits to suggest that 4% of income-qualified customers received both the RIA and LIA in the same year. (FLO's Initial Brief, p 66.) Staff clarifies, however, that a customer receiving both credits in the same year does not necessarily indicate nor prove that they received the two credits concurrently. Since State Emergency Relief is an eligibility criterion for the RIA, LIA, and affordable payment plans (LSP), it is very likely a customer could be transferred from receiving the RIA to receiving the LIA in the same year (or vice-versa.) The Commission should disregard FLO's argument to this extent.

In terms of Staff's timeline to analyze the Percentage of Income Payment Plan Pilots (PIPP pilots), FLO described Staff's timeline as vague and

indeterminable and proposed “[a]lternatively, if the Commission finds this untenable, it should at least require DTE Gas to submit a full-scale PIPP proposal no later than December 31, 2024, to be fully enacted as soon as possible thereafter.” (FLO’s Initial Brief, pp 68-69.) Staff notes that it is currently in contact with DTE to file a PIPP pilot outcomes and *recommendations* by December 31, 2024, with a response from Staff and other interested parties likely occurring in the first quarter of 2025. (Staff’s Initial Brief, p 44.) Staff, however, defers to the Commission on a reasonable timeline to be determined through the Energy Affordability and Accessibility Collaborative and the MPSC Case No. U-20757 docket. The Commission should disregard the argument that Staff’s timeline is vague and indeterminable for these reasons.

On page 73 of its initial brief, FLO stated: “First, the Commission should order DTE Gas to cap settlement month charges at a certain level to ensure some degree of predictability for customers” and cited 4 TR 1187 as support. Omitted from that reference on page 1187 of the transcript was that the threshold should be tied to a household’s ability to pay. (4 TR 1187.) Staff takes issue with the vagueness of “a certain level” as it is impossible to enact a procedure based on that wording, should the Commission approve the proposal. Secondly, Staff maintains its arguments made in its rebuttal testimony as well as its initial brief that even ability to pay is an ambiguous concept and the BudgetWise program is not considered a low-income energy assistance program, which makes the proposal

inappropriate under statutes MCL 460.11(2) and MCL 460.10(t). (Staff's Initial Brief, p. 40.)

On page 78 of its initial brief, FLO states that "Staff appears to suggest that reduced program visibility is important because the LSP and LIA programs have upper limits on customer enrollment." The Commission should disregard this extrapolation or interpretation, as there is no evidence on the record to suggest this. In its initial brief, Staff provided information about the currently approved enrollment parameters to bring to the Commission's attention that the LIA program enrollees are capped at a specified level, of which customers would need to be aware. (Staff's Initial Brief, p. 41; 4 TR 1775.) Staff additionally references the MPSC Case No. U-20757 Staff report, dated March 16, 2023, to cite a recent position on this specific issue, which was to recommend increased consistency and transparency of low-income programs on utility websites. (Recommendation 1.3 on page 18 of the report.)

**7. Staff's Reply to the Ecology Center, The Environmental Law & Policy Center, Union of Concerned Scientists, and Vote Solar (collectively, the Clean Energy Organizations' (CEO's)) Initial Brief regarding affordability.**

[Citations in section: Braunschweig, 4 TR 1764; MPSC Case No. U-20757; Cebulko, 4 TR 763; MCL 460.11(2) and MCL 460.10(t).]

On page 28 of its initial brief, CEO proposes the Commission approve automatically enrolling census tracts in bill credits to reduce the energy burden to 4% for residential customers, as Xcel Energy is currently requesting from the

Minnesota Public Utilities Commission (MPUC). This proposal was not made in its direct nor rebuttal testimonies, rather CEO simply referenced the proposal before the MPUC without a recommendation, providing a link to an article in a footnote within the testimony of witness Bradley Cebulko. (Cebulko, 4 TR 763, footnote 116.) Since this is a new proposal made in the brief stage, it should be rejected by the Commission. Additionally, Staff rebutted and recommended disapproval of a similar proposal made by FLO because “eligibility for all customers in accordance with MCL 460.11(2) and MCL 460.10(t) could not be ensured.” (Staff’s Initial Brief, p 44.)

## **VII. Conclusion**

Staff urges the ALJ and Commission to adopt Staff's recommendations detailed in this reply brief, as well as its initial brief, testimony, and exhibits. Accounting for these recommendations and changes results in a projected \$174.387 million revenue deficiency.

Respectfully submitted,

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**DATED: July 31, 2024**

# APPENDIX A

Michigan Public Service Commission  
DTE Gas Company  
Projected Revenue Deficiency (Sufficiency)  
Projected 12 Month Period Ending September 30, 2025  
(\$000)

Appendix A  
MPSC Staff Reply Brief  
Case. No. U-21291

	(a)	(b)	(c)	(d)	(e)
Line No.	Description	Source	Applicant Projection	Staff Adjustment	Staff Projection
1	Rate Base	Exh. A-12, Sch. B1	\$ 6,939,800	\$ (16,771)	\$ 6,923,029
2	Projected Net Operating Income	Exh.A-13, Sch. C1	225,635	45,499	271,135
3	Overall Rate of Return	Line 2 ÷ Line 1	3.25%	0.67%	3.92%
4	Required Rate of Return	Exh. A-14, Sch. D1	6.04%	-0.27%	5.78%
5	Income Required	Line 1 x Line 4	\$ 419,337	\$ (19,473)	\$ 399,863
6	Income Deficiency / (Sufficiency)	Line 5 - Line 2	\$ 193,701	\$ (64,973)	\$ 128,728
7	Revenue Conversion Factor	Exh. A-13, Sch. C2	1.3547	0.0000	1.3547
8	Revenue Deficiency / (Sufficiency)	Line 6 x Line 7	\$ 262,407	\$ (88,020)	\$ 174,387

# APPENDIX B

**Michigan Public Service Commission**  
**DTE Gas Company**  
**Projected Rate Base**  
**For the 13-Month Average Period Ending 9/30/2025**  
**(\$000)**

**Appendix B**  
MPSC Staff Reply Brief  
Case. No. U-21291

	(a)	(b)	(c)	(d)	(e)
<b>Line No.</b>	<b>Description</b>	<b>Source</b>	<b>Applicant Projection</b>	<b>Staff Adjustment</b>	<b>Staff Projection</b>
1	Plant in Service	Exh A-12, Sch B2, L6	8,493,975	(10,304)	8,483,670
2	Plant Held for Future Use	Exh A-12, Sch B2, L7	-	-	-
3	Construction Work in Progress	Exh A-12, Sch B2, L8	<u>298,542</u>	-	<u>298,542</u>
4	Total Utility Plant		8,792,516	(10,304)	8,782,212
5	Less: Depreciation Reserve	Exh A-12, Sch B3, L7	<u>2,756,737</u>	<u>(5,968)</u>	<u>2,750,769</u>
6	Net Utility Plant		6,035,780	(4,336)	6,031,443
7	Net Capital Lease Property	Exh A-12, Sch B4.1, L8	-	-	-
8	Gas Stored Underground - non current	Exh A-12, Sch B4.1, L10	<u>35,303</u>	-	<u>35,303</u>
9	Total Utility Property and Plant	Line 6 + Line 7 + Line 8	6,071,082	(4,336)	6,066,746
10	Less: Capital Lease Obligations	Exh A-12, Sch B4.1, L69	<u>-</u>	<u>-</u>	<u>-</u>
11	Net Plant	Line 9 + Line 10	6,071,082	(4,336)	6,066,746
12	Allowance for Working Capital	Exh A-12, Sch B4 , L71	<u>868,717</u>	<u>(12,434)</u>	<u>856,283</u>
13	Total Projected Rate Base	Line 11 + Line 12	<u><u>6,939,800</u></u>	<u><u>(16,771)</u></u>	<u><u>6,923,029</u></u>

# APPENDIX C

Michigan Public Service Commission  
DTE Gas Company  
Development of Projected Net Operating Income  
Projected 12 Month Period Ending September 30, 2025  
(\$000)

Appendix C  
MPSC Staff Reply Brief  
Case. No. U-21291

Line No.	(a) Description (Witness)	Revenue				Expenses											NOI			
		(b) Distribution Revenue	(c) Transport Revenue	(d) Other Operating Revenue	(e) Total	(f) Cost of Gas Sold	(g) Company Use & Lost Gas	(h) O&M	(i) Gas Uncollectibles	(j) Depreciation & Amort.	(k) Property Taxes	(l) Other General Taxes	(m) State & Local Income Tax	(n) FIT	(o) Other - Cust. Dep Interest	(p) Total	(q) NOI	(r) AFUDC	(s) Op. Income Adj.	(t) Adjusted NOI
<b>Company Filed</b>																				
	<b>Operating Income (Direct)</b>	973,937	111,644	143,784	1,229,365	-	43,209	538,251	35,149	243,219	114,068	16,870	8,889	8,948	406	1,009,009	220,356	4,680	(1,350)	223,685
	Distribution Rev. End User Trans.	75			75								5	15		20	55			55
	Incentive Comp Amortization							(113)					7	22		(83)	83			83
	Shared Asset Deferra/ Amort (Rent)							(2,517)					165	494		(1,858)	1,858			1,858
	Interest Sync												12	35		47	(47)			(47)
1	<b>Operating Income (Initial Brief)</b>	974,012	111,644	143,784	1,229,440	-	43,209	535,621	35,149	243,219	114,068	16,870	9,078	9,513	406	1,007,134	222,306	4,680	(1,350)	225,635
<b>Adjustments</b>																				
2																				
3																				
4	Removal of Responsibly Sourced Gas (RSG) Prem. (Royal)							(180)					12	35		(133)	133			133
5																				
6	LAUF & Co. Use (Krause)							(2,748)					180	539		(2,029)	2,029			2,029
7																				
8	Revenue & COGS - Offsetting Adj. (Todd)	(39,478)			(39,478)	(39,478)										(39,478)				
9																				
10																				
11	Incentive Compensation (McMillan-Sepkoski)							(12,147)					797	2,384		(8,967)	8,967			8,967
12	Restricted Stock (McMillan-Sepkoski)							(2,017)					132	396		(1,489)	1,489			1,489
13																				
14	Employee Savings Plan (Rueckert)							(1,683)					110	330		(1,242)	1,242			1,242
15	Active Healthcare (Rueckert)							(5,320)					349	1,044		(3,927)	3,927			3,927
16	Uncollectibles Accounts Expense (Rueckert)								(14,470)				949	2,839		(10,681)	10,681			10,681
17																				
18	IT O&M - 20% disallowance related to 6 capital projects (Rogers)							(121)					8	24		(89)	89			89
19																				
20	Leak Detection and Repair (NPRM) (Creisher)							(10,276)					674	2,016		(7,585)	7,585			7,585
21																				
22																				
23																				
24																				
25	Impact of Cap Ex Adj on Prop. Tax & Depr. (Hecht)									(442)	(53)		32	97		(365)	365			365
26	Revert to prev. appr. Depr. Rates (Hecht)									(13,385)			878	2,626		(9,880)	9,880			9,880
27	Proforma Interest (Nichols)												223	666		889	(889)			(889)
28	Interest Synchronization (Nichols)																			
29	<b>Total Adjustments</b>	(39,478)	-	-	(39,478)	(39,478)	(2,748)	(31,744)	(14,470)	(13,827)	(53)	-	4,345	12,997	-	(84,977)	45,499	-	-	45,499
30	<b>Staff NOI - Test Year</b>	<u>934,534</u>	<u>111,644</u>	<u>143,784</u>	<u>1,189,962</u>	<u>(39,478)</u>	<u>40,461</u>	<u>503,878</u>	<u>20,679</u>	<u>229,392</u>	<u>114,015</u>	<u>16,870</u>	<u>13,424</u>	<u>22,511</u>	<u>406</u>	<u>922,157</u>	<u>267,805</u>	<u>4,680</u>	<u>(1,350)</u>	<u>271,135</u>

# APPENDIX D

Michigan Public Service Commission  
DTE Gas Company  
Projected Rate of Return Summary  
Projected 12 Month Period Ending September 30, 2025  
(\$000)

Appendix D  
MPSC Staff Reply Brief  
Case. No. U-21291

Line No.	(a) Description	(b) Cost Rate Source from Exhibit A-14 Schedule	(c) Capital Structure		(e) % Amount of Total Capital	(f) Cost Rate %	(g) Weighted Cost of Permanent Capital (%)	(h) Weighted Cost of Total Capital (%)	(i) Pre-tax Multiplier	(j) Pre-tax Cost of Capital
			(d) 13 Mo. Avg. Amount (1)	(d) % Amount of Permanent Capital						
1	Long-Term Debt - net (2)	D2	\$ 2,694,099	49.00%	38.80%	4.38%	2.15%	1.70%	1.000	1.70%
2	Common Equity	D5	<u>2,804,062</u>	<u>51.00%</u>	40.38%	9.80%	<u>5.00%</u>	3.96%	1.355	5.36%
3	Sub-Total		<u>\$ 5,498,161</u>	<u>100.00%</u>			<u>7.15%</u>			
4	Short-Term Debt (3)	D3	\$ 184,380		2.66%	4.46%		0.12%	1.000	0.12%
5	Other Interest Bearing Credits	D3	-		- %	5.95%		- %	1.000	- %
6	Net Deferred Income Tax (4)		1,261,422		18.17%	- %		- %		- %
7	Deferred Investment Tax Cr.		-		- %	- %		- %		- %
JDITC										
8	JDITC - Long-Term Debt		-		- %	4.38%		- %	1.000	- %
9	JDITC - Common Equity		-		- %	9.80%		- %	1.355	- %
10	Total JDITC		<u>\$ -</u>							
11	Total		<u>\$ 6,943,963</u>		<u>100.00%</u>			<u>5.78%</u>		<u>7.18%</u>

# APPENDIX E

Michigan Public Service Commission  
DTE Gas Company  
Capital Expenditure and Rate Base Adjustments  
Projected 12 Month Period Ending December 31, 2022  
(\$000)

Appendix E  
MPSC Staff Reply Brief  
Case No. U-21291

Line	(a) Adjustment Description	(b)	(c)	(d)	(e)	(f)	(g)
		Total Cap Ex Adj.	Test Year Impacts From Staff Adjustment to Capital Spend Projects				
			Plant	Accum Dep.	Rate Base	Depreciation	Property Tax
1	Service Renewals	(529)	(378)	(8)	(370)	(11)	(2)
2	Leak Detection and Repairs	(8,970)	(4,485)	(64)	(4,421)	(127)	(18)
3	Pipeline Integrity	(4,800)	(4,250)	(54)	(4,196)	(66)	(31)
4	IT projects with Level 2 Cost Estimates	(1,756)	(1,191)	(166)	(1,025)	(238)	(7)
5	Adjusted Deprecation rates back to original rates from U-20118.			6,260		(13,385)	
6	<b>TOTAL CAPITAL EXPENDITURE ADJUSTMENTS</b>	<b><u>(16,055)</u></b>	<b><u>(10,304)</u></b>	<b><u>5,968</u></b>	<b><u>(4,336)</u></b>	<b><u>(13,827)</u></b>	<b><u>(58)</u></b>
7	<b><u>WORKING CAPITAL ADJUSTMENTS</u></b>						
8							
9	Other Accounts Receivable				(300)		
10	Gas In Underground Storage				(9,133)		
11	Regulatory Assets - Shared Asset Deferral Mechanism				(2,778)		
12	I/C Accounts Payable				<u>(223)</u>		
13							
14	<b>TOTAL WORKING CAPITAL ADJUSTMENTS</b>				<b><u>(12,434)</u></b>		
15	<b>TOTAL RATE BASE ADJUSTMENTS</b>				<b><u>(16,771)</u></b>		

# APPENDIX F

Michigan Public Service Commission  
DTE Gas Company  
Summary of Staff Position  
Projected 12 Month Period Ending December 31, 2022  
(\$000)

Appendix F  
MPSC Staff Reply Brief  
Case No. U-21291

(a) (b) (c) (d) (e)

Walk from DTE Revenue Deficiency (Direct Filing) to Staff Reply Brief

Line	Description	Source	Rate Base	Pre-Tax	Revenue Requirement Impact (million \$)
1	<b>Company Revenue Deficiency (Direct)</b>				<b>\$ 265.532</b>
2	Change in Rate Base x Pre-Tax ROR		(4.2)	7.53%	(0.313)
3	Change in Rate of Return		6,940	-0.0015%	(0.101)
4	Distribution Revenue - End User Trans.				(0.075)
5	Incentive Comp				(0.113)
6	Shared Asset Deferral Amortization (Rent)				(2.517)
7	Rounding				(0.005)
8	<b>Company Revenue Deficiency (Initial Brief)</b>				<b>\$ 262.407</b>
9	<b>Staff Adjustments</b>				
10	Rate base	Appendix E * Company Sch D-1 Initial Brief	(16.8)	7.52%	(1.262)
11	Rate of return	Appendix B * (Appendix D less Compan D1)	6,923	-0.35%	(23.912)
12	Company Use & LAUF	Appendix C, line 29			(2.748)
13	O&M Expense	Appendix C, line 29			(31.744)
14	Gas Uncollectibles	Appendix C, line 29			(14.470)
15	Depreciation	Appendix C, line 29			(13.827)
16	Property Tax	Appendix C, line 29			(0.053)
17	Rounding				(0.004)
18	<b>Total Staff adjustments (rev. req. impact)</b>	Appendix A, line 8			<b>(88.020)</b>
19	Rounding				(0.001)
20	<b>Staff Revenue Deficiency (Reply Brief)</b>	Appendix A, line 8			<b>\$ 174.387</b>

Walk from Staff Direct Filing to Staff Reply Brief Revenue Deficiency

(million \$)

21	<b>Staff Initial Filing - Revenue Deficiency</b>	Exh S-1, Schedule A-1			<b>\$ 175.723</b>
22	Uncollectibles				(0.461)
23	Property Tax				0.006
24	<b>Staff Initial Brief - Revenue Deficiency</b>	Initial Brief, Appendix A			<b>\$ 175.267</b>
25	Rate base (impact at Staff ROR)	See below	(6)	7.18%	(0.395)
26	Distribution Revenue - End User Trans.	Adopt Company Concession			(0.075)
27	Incentive Comp	Adopt Company Concession			(0.113)
28	Shared Asset Deferral Amortization (Rent)	Adopt Company Concession			(0.296)
29					<b>(0.001)</b>
30	<b>Staff Reply Brief - Revenue Deficiency</b>	Appendix A			<b>\$ 174.387</b>

Walk from Staff Initial Filing Rate Base to Staff Initial Brief Rate Base

(\$000)

31	<b>Staff Initial Filing</b>	Initial Filing, Schedule B1			<b>\$ 6,928,530</b>
32	<b>Staff Initial Brief</b>	Initial Brief, Appendix B			<b>\$ 6,928,530</b>
33	<b>Working Capital</b>				
34	Reg Asset - Deferred Incentive Compensator	Adopt Company Concession			(4,027)
35	Reg Asset - Shared Asset Deferral Mechanisr	Staff update			(1,474)
36	<b>Staff Reply Brief</b>	Appendix B			<b>\$ 6,923,029</b>



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De Ann Payne

Subscribed and sworn to before me  
this **31<sup>st</sup>** day of **July, 2024**.

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Cherie A. R. Shea, Notary Public  
State of Michigan, County of Jackson  
Acting in the County of Eaton  
My Commission Expires: 04-13-31