



THE UNIVERSITY OF CHICAGO
THE LAW SCHOOL
Abrams Environmental
Law Clinic

August 16, 2024

Via E-Filing

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

RE: MPSC Case No. U-21534

Dear Ms. Felice:

Please find enclosed the Rebuttal Testimony of Jackson Koeppl on Behalf of Soulardarity and We Want Green, Too and Accompanying Exhibit DAO-29, along with proof of service for electronic filing in the above-referenced matter. Please do not hesitate to contact me with any questions or comments.

Sincerely,
/s/Jacob R. Schuhardt
Jacob R. Schuhardt, *pro hac vice*
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xc: Parties to Case No. U-21534

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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

REBUTTAL TESTIMONY OF JACKSON KOEPPEL

ON BEHALF OF

DETROIT AREA ADVOCACY ORGANIZATIONS

(SOULARDARITY AND WE WANT GREEN, TOO)

August 16, 2024

1 **Q: Please state your name, occupation, and business address.**

2 **A:** My name is Jackson Koepfel. I am an independent consultant, primarily focused on
3 working on energy regulatory issues for Soulardarity and We Want Green, Too. My
4 business address is 189 Monterey St, Highland Park, MI 48203.

5
6 **Q: On whose behalf are you testifying?**

7 **A:** I am testifying on behalf of Soulardarity and We Want Green, Too—collectively, the
8 Detroit Area Advocacy Organizations (DAAO).

9
10 **Q: Are you the same Jackson Koepfel who provided direct testimony in this case?**

11 **A:** Yes.

12
13 **Q: Have your background or qualifications changed since then?**

14 **A:** No.

15
16 **Q: What is the purpose of your rebuttal testimony?**

17 **A:** I rebut the following witnesses in part with respect to the following topics:

- 18 • Attorney General Witness Coppola and ABATE Witness Walters regarding their
19 proposed Return on Equity (ROE);
- 20 • CEO Witnesses Volkman and Kenworthy with regard to DTE Electric’s incorporation of
21 environmental justice considerations into their Global Prioritization Model (GPM);
- 22 • Attorney General Witnesses Alvarez and Stephens regarding their recommendations for a
23 cost-benefit analysis of DTE’s capital spending.

1 **Q: Are you sponsoring any exhibits?**

2 **A:** Yes, I am sponsoring the following exhibit:

3 DAO-29. U.S. EPA, *EJ Screen: Environmental Justice Screening and Mapping Tool,*
4 *How to Interpret EJ Screen Data*

5
6 **Return On Equity**

7 **Q: What positions did other intervenors take on DTE Electric’s proposed return on**
8 **equity?**

9 **A:** Attorney General Witness Coppola recommends the Commission adopt an ROE of
10 9.85%¹ and found that “the 9.9% ROE granted to DTEE in 2023 and similarly granted to
11 other utilities in Michigan are outlier ROE rates considerably higher than the equity
12 returns granted by state regulatory agencies for most other electric utilities.”² Witness
13 Coppola found that DTE Electric’s cost of capital is 9.18%,³ but arrived at the
14 recommended 9.85% ROE in the DCF approach by weighting the three models he ran
15 and then adding 5 basis points of “cushion” to arrive at 9.85%.⁴ Witness Coppola argues
16 this would save customers \$6.4 million annually relative to the 9.9% ROE.⁵

17 City of Ann Arbor Witness Stults recommends reducing ROE to send a message
18 to DTE Electric that failure to improve reliability performance will impact their rate of
19 profit.⁶ Witness Stults highlights that DTE has above-average prices and poor reliability,

¹ Direct Testimony of Sebastian Coppola, MPSC Case No. U-21534 at 74, lines 5-6.

² *Id.* at 94, lines 9-11.

³ *Id.* at 99, lines 9-11.

⁴ *Id.* at 99, lines 13-16.

⁵ *Id.* at 100, lines 7-8.

⁶ Direct Testimony of Melissa Stults, MPSC Case No. U-21534 at 13, lines 16-19.

1 which should impact the Commission’s consideration of their ROE.⁷ Witness Stults
2 further points out that the arguments of Witness Villadsen in previous cases claimed that
3 a failure to increase ROE would impact DTE Electric’s ability to attract equity investors,
4 but that the Commission’s decision to reject those requests has not prevented DTE from
5 delivering “premium” returns to shareholders.⁸

6 ABATE Witness Walters found a reasonable ROE range of 9.2% to 10% and
7 recommends an ROE of 9.6% at the midpoint of the range.⁹

8 Walmart Witness Perry noted that the average of the authorized ROES to IOUs in
9 2021, 2022, 2023, and so far in 2024 is 9.51%, and the median is 9.5%.¹⁰ Witness Perry
10 also notes that an ROE of 9.62% would reduce the revenue requirement by \$103.2
11 million.¹¹

12
13 **Q: Do you agree with the testimony of these witnesses that DTE’s requested ROE is too**
14 **high?**

15 **A:** Yes. I find that these witnesses have accurately and robustly defended the position that
16 DTE Electric’s current ROE is higher than industry standards, and that the requested
17 increase would be even more so, that DTE Electric overstates their business risks, and
18 that DTE Electric’s higher-than-average ROE contributes to their failure to improve
19 performance.

20

⁷ *Id.* at 8-9.

⁸ *See id.* at 13, lines 7-12.

⁹ Direct Testimony of Christopher C. Walters, MPSC Case No. U-21534 at 3, lines 2-7.

¹⁰ Direct Testimony of Lisa V. Perry, MPSC Case No. U-21534 at 12-13.

¹¹ *Id.* at 15, lines 12-14.

1 **Q: Do you agree with the proposals of Attorney General Witness Coppola and ABATE**
2 **Witness Walters?**

3 **A:** No. While I find that Witnesses Coppola and Walters’ proposals are thoughtful, they
4 ultimately fail to fully address the overcharging of ratepayers for shareholder benefit.
5 Both Walters and Coppola run numerous models to estimate ROE and take the average.
6 Coppola takes the further step of providing 5 basis points of “cushion.”¹² While either a
7 9.85% or 9.6% ROE would be a substantial improvement, they both fall short of setting
8 an ROE that appropriately reflects DTE Electric’s true cost of capital, appropriately
9 incentivizes DTE to improve service, and protects ratepayers from unjust and
10 unnecessary cost increases.

11
12 **Q: What do you recommend regarding the Company’s proposed ROE increase?**

13 **A:** I recommend that the Commission adopt an ROE of 9.18%, the actual cost of capital
14 identified by Witness Coppola’s DCF analysis.¹³ Adopting a reduction of this scale
15 would be a tremendous step towards correcting the historic imbalance of shareholder and
16 ratepayer interests and would signal to DTE that they will no longer be allowed to profit
17 without regard for their performance. Further, it will make an immediate and long-term
18 impact on the affordability crisis. As the Commission navigates the need for expanding
19 capital investment to reconstruct the electric distribution system, a lower ROE associated
20 with the cost of capital is essential to ease the tension between affordability and
21 infrastructure investment. To take a very high-level example, DTE Electric has indicated
22 that they need to invest over \$20 billion in the modernization of the 4.8kV distribution

¹² Coppola Direct Testimony at 99, lines 15-16.

¹³ *Id.* at 99, lines 9-11.

1 grid.¹⁴ Every basis point of reduced ROE earned on those capital investments saves
2 ratepayers millions of dollars.¹⁵ The Commission simply has no other tool nearly as
3 effective to durably reduce the cost impact of investment and the scale of the affordability
4 crisis.

6 **Equity in the Global Prioritization Model**

7 **Q: What do CEO Witnesses Volkman and Kenworthy state about DTE Electric’s**
8 **integration of EJ and Equity into their Global Prioritization Model?**

9 **A:** Witness Volkman notes that DTE Electric added the “Investment in EJ communities”
10 impact dimension in the GPM.¹⁶ Witness Volkman generally agrees with this approach,
11 while asking for more information and technical conferences on the GPM.¹⁷

12 Witness Kenworthy notes that DTE utilized the MiEJScreen tool to identify
13 vulnerable communities, which it defined as any census tract above the 80th percentile
14 threshold of MiEJ composite score, “consistent with the U.S. EPA’s approach.”¹⁸

15 Witness Kenworthy makes numerous recommendations to improve the utilization of EJ
16 analysis including detailed plans for vulnerable communities, more transparency, more
17 engagement, tracking the impact of EJ metrics on GPM scores, measuring reliability

¹⁴ See *2023 Distribution Grid Plan*, DTE Electric Company, MPSC Case No. U-20147 (September 29, 2023) at 119 (“The investment needed to completely convert the 4.8kV system to a higher voltage is estimated at \$20-25 billion in 2023 dollars[.]”)

¹⁵ Even 0.01% of \$20 billion is \$2 million.

¹⁶ Direct Testimony of Curt Volkman, MPSC Case No. U-21534 at 7, lines 17-19.

¹⁷ *Id.* at 8-9.

¹⁸ Direct Testimony of William D. Kenworthy, MPSC Case No. U-21534 at 18, lines 9-12.

1 progress and grid access in EJ communities, and advanced mapping tools as well as
2 adopting the use of regression analysis.¹⁹

3
4 **Q: Do you agree with CEO Witness Volkman’s recommendation regarding the**
5 **Company’s application of its GPM as it relates to its consideration of**
6 **Environmental Justice?**

7 **A:** No. While Witness Volkman does not applaud DTE’s approach exactly, the implication
8 of his limited recommendations is that DTE has made progress and needs to keep
9 engaging to improve. I think this gives DTE far too much credit. As I discussed in initial
10 testimony and as I discuss further below, DTE Electric’s reliance on a binary definition
11 of “vulnerable communities” as any that are above the 80th percentile of MiEJ score is
12 inadequate. While I am not opposed to more transparency and engagement, I do not
13 believe they will be effective without acknowledging that DTE Electric continues to do
14 the bare minimum in this regard and needs to be compelled to go further faster.

15
16 **Q: Do you agree with Witness Kenworthy’s statement that DTE Electric’s adoption of**
17 **an 80th percentile threshold definition for vulnerable communities based on**
18 **MiEJScreen composite score is consistent with U.S. EPA’s approach?**

19 **A:** No. U.S. EPA specifically states that “the 80th percentile filter in EJScreen is not
20 intended to designate an area as an ‘EJ community.’”²⁰ Instead, “EPA identified the 80th
21 percentile filter as that initial starting point[.]”²¹ and recommends that additional analysis

¹⁹ *Id.* at 18-21.

²⁰ Ex. DAO-29. U.S. EPA, *EJ Screen: Environmental Justice Screening and Mapping Tool, How to Interpret EJ Screen Data*, at 4.

²¹ *Id.*

1 be performed before “making any decisions about potential environmental justice
2 issues.”²² In other words, “EJScreen provides screening level indicators, not a
3 determination of the existence or absence of EJ concerns.”²³

4 As I discussed in my direct testimony, the 80th percentile is both overinclusive
5 and underinclusive. I also discuss in direct testimony how DTE’s core rationale in
6 defense of the CODI program, which invests in targeted communities in Detroit that are
7 experiencing economic development and load growth, as well as demographic shifts
8 towards being higher income and more proportionally white, is unrelated to EJ measures
9 but that these investments nonetheless are counted as investments in EJ communities in
10 DTE’s simplistic analysis.²⁴

11
12 **Q: What are your recommendations on better integrating equity into the GPM?**

13 **A:** First, the Commission should find that DTE’s current approach fails to meaningfully
14 improve equity outcomes or planning processes. Second, the Commission should require
15 that DTE Electric move beyond the simplistic 80th percentile threshold as its proof of
16 equity performance and should specifically be required to consider demographic changes
17 over time in determining the equity of their investments, particularly in cases like the
18 CODI program where the justification for investment is population increase and
19 developments which contribute to gentrification. Finally, the Commission should adopt

²² *Id.*

²³ *Id.*

²⁴ Direct Testimony of Jackson Koepfel, MPSC Case No. U-21534 at 41-43.

1 the recommendations made by Witness Kenworthy as baselines (rather than aspirations)
2 for achieving equity in grid planning.

4 **Equitable Grid Modernization and Cost-Benefit Analysis**

5 **Q: Please summarize the positions of Attorney General Witnesses Alvarez and**
6 **Stephens on capital spending and cost-benefit analysis.**

7 **A:** Witness Alvarez demonstrates that DTE Electric has a capital bias, which he argues can
8 only be restrained by regulators.²⁵ Witness Stephens argues that capital spending is not
9 causing reliability improvements.²⁶ This reinforces the position of Witness Alvarez that
10 the Commission should not rely on the GPM, which he argues is based on “subjective
11 GPM user assessments.”²⁷ Both Witness Alvarez and Witness Stephens argue that the
12 Company should provide more cost-benefit analysis of spending.²⁸ Witness Alvarez and
13 Witness Stephens also make several specific recommendations to the Commission on
14 capital spending, including the rejection of the extension and expansion of IRM,²⁹ the
15 rejection of capitalization of vegetation management,³⁰ and the rejection \$405.566
16 million in 2024 and test year spending on a range of capital investment proposals.³¹

²⁵ Direct Testimony of Paul J. Alvarez, MPSC Case No. U-21534 at 25, lines 2-6.

²⁶ Direct Testimony of Dennis Stephens, MPSC Case No. U-21534 at 45, lines 15-17.

²⁷ Alvarez Direct Testimony at 46, lines 1-3.

²⁸ *See id.* at 64 lines 3-4 (recommending that recovery of certain costs be disallowed because the Company failed to develop a “benefit-cost” analysis, among other reasons); Stephens Direct Testimony at 45, lines 1-3 (“The Company has not provided cost-benefit analyses to support these investments.”)

²⁹ Alvarez Direct testimony at 8, line 12.

³⁰ *Id.* at 8, lines 13-15.

³¹ Stephens Direct Testimony at 46-47.

1 **Q: Do you agree with Witnesses Alvarez and Stephens that the Commission should**
2 **increase governance over DTE’s capital spending?**

3 **A:** Yes. I find Witness Alvarez’s argument that DTE Electric’s proposals “accrue to
4 shareholders’ benefit and increase risks for customers”³² convincing. I agree with
5 Witness Alvarez’s assessment of DTE’s capital bias, the responsibility of the
6 Commission to address it, and the argument that DTE’s distribution investments have
7 historically failed to deliver reliability as DTE projects.³³ While it is not in the purview of
8 my testimony to review the proposed revenue requirement reductions in detail, I am
9 inclined to the view that DTE’s proposals are excessive and unjustified.

10
11 **Q: Do you believe that Witnesses Alvarez and Stephens’ recommendations for**
12 **additional cost-benefit analysis would resolve the Company’s issues with capital**
13 **spending?**

14 **A:** No. Despite my broad alignment with their arguments, I am concerned that the approach
15 of focusing heavily on cost-benefit justifications will ultimately fail to address equity.
16 Energy affordability is already at crisis levels, as discussed in my direct testimony and
17 the direct testimony of DAAO Witness Justin Schott.³⁴ The most durable and cost-
18 effective solutions to affordability are investments into the homes of those suffering from
19 it, as discussed by Witness Kinkhabwala.³⁵ Implementation at-scale of the affordability
20 solutions outlined by Witness Kinkhabwala, however, rely upon modernized grids in
21 LMI communities with the hosting capacity for distributed generation and

³² Alvarez Direct Testimony at 10, lines 7-8.

³³ Alvarez Direct Testimony at 17, lines 1-5.

³⁴ Direct Testimony of Justin Schott, MPSC Case No. U-21534 at 7-8.

³⁵ See Direct Testimony of Yunus Kinkhabwala, MPSC Case No. U-21534 at 19-28.

1 electrification.³⁶ This is especially true as electrification and reduced reliance on the gas
2 distribution system advances. As discussed in the Just and Equitable Energy Transition
3 framework I introduce in my direct testimony,³⁷ adopting a zero-sum relationship
4 between grid transformation and affordability will continue to inscribe inequities in the
5 current system. I believe that the rigorous cost-benefit analyses requested by Witness
6 Alvarez and Witness Stephens have tremendous value, but are not adequate to the task of
7 a just and equitable energy transition without a broader strategic assessment of how
8 frontline communities will be ensured equal access to the benefits of energy transition.
9

10 **Q: What recommendations do you make of the Commission?**

11 **A:** I make the following recommendations to the Commission:

- 12 • Adopt a Return on Equity of 9.18%;
- 13 • Adopt DAAO's recommendation for a universal affordability program to ensure rate
14 affordability through the energy transition;
- 15 • Adopt the recommendation for greater cost-benefit analysis requirements as an
16 interim measure to protect against capital spending; and
- 17 • Acknowledge that the complete modernization of the electric system is an essential
18 goal and order DTE Electric, in an integrated analysis with DTE Gas, to conduct an
19 analysis of how that will be possible while addressing the affordability crisis.
20

³⁶ *Id.* at 31-32.

³⁷ *See* Koeppel Direct Testimony at 17-18.

1 **Q:** Does this conclude your rebuttal testimony?

2 **A.** Yes.



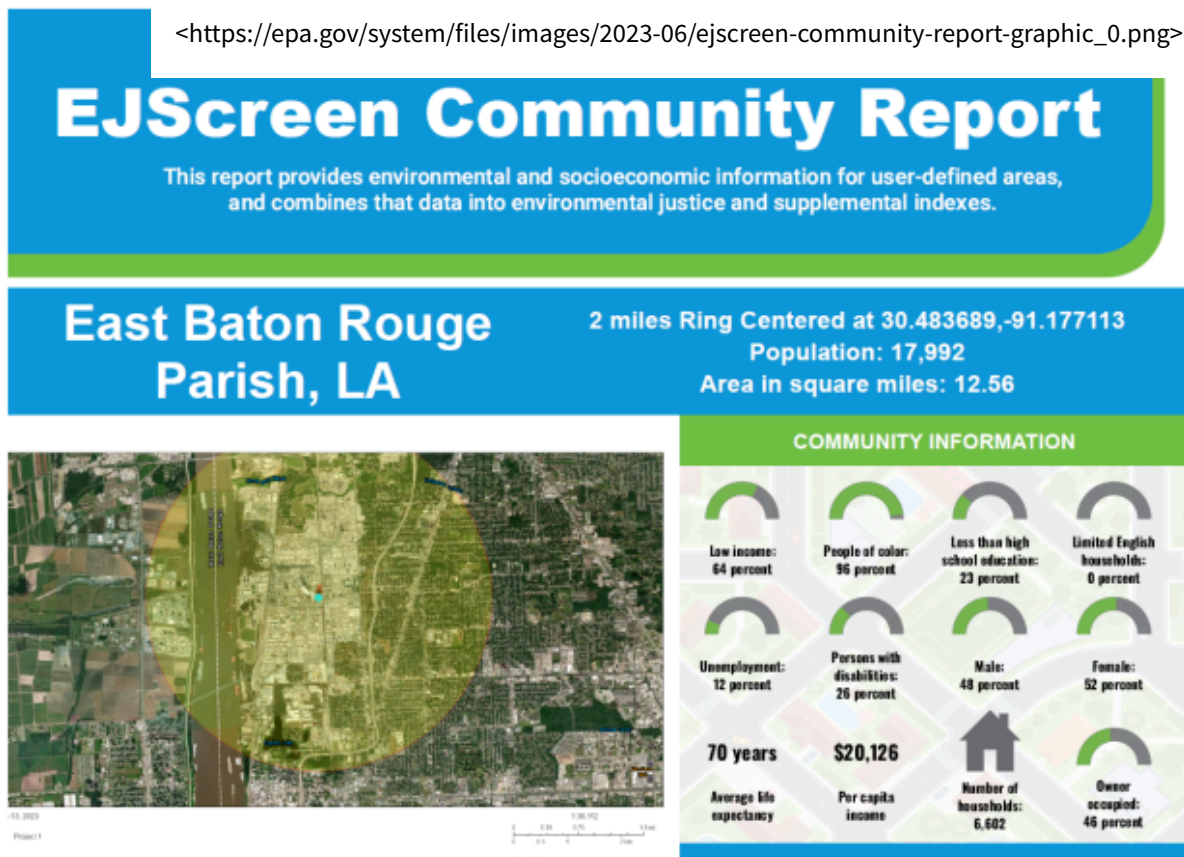
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EJScreen: Environmental Justice Screening and Mapping Tool

CONTACT US <<https://epa.gov/ejscreen/forms/contact-us-about-ejscreen>>

How to Interpret EJScreen Data

<https://epa.gov/system/files/images/2023-06/ejscreen-community-report-graphic_0.png>



Block Groups

The standard unit of analysis in EJScreen is the Census "block group." A block group is an area defined by the Census Bureau that usually has in the range of 600-3,000 people living in it. The US is divided into more than 230,000 block groups. Block group resolution is the finest level of detail that Census data can be publicly shared.

Buffers

EJScreen utilizes "buffers" to identify an area on the map that includes everyone who lives within a certain distance of a point, line, or polygon. A point might be a factory seeking an emissions permit, for example, and the report could focus on the demographics and environmental conditions within approximately 1 mile of that factory.

In EJScreen, buffers can be drawn up to 10 miles around a point, line, or polygon. If you have selected a geographic point, the tool will apply a buffer around that point. The buffer ring will aggregate appropriate portions of the intersecting block groups, weighted by population, to create a representative set of data for the entire ring area, honoring variation and dispersion of the population in the block groups within it. For each indicator, the result is a population-weighted average, which equals the block group indicator values averaged over all residents who are estimated to be inside the buffer.

"Percentiles" are an important part of EJScreen. Every indicator in EJScreen is put into perspective by showing its associated percentiles.

Percentiles

Percentiles are a way to see how local residents compare to everyone else in the United States. Instead of just showing numbers out of context, EJScreen lets you compare a community to the rest of the state, EPA region and nation, by using percentiles. The national percentile tells you what

percent of the US population *has an equal or lower value*, meaning less potential for exposure/ risk/ proximity to certain facilities, or a lower percent minority.

EJScreen includes state and national percentiles for each of the environmental and socioeconomic indicators and for the indexes.

U.S. versus State Comparison Levels

The U.S. percentile uses the U.S. population as the basis of comparison. The state percentile is calculated based on the population in a given state (or District of Columbia or Puerto Rico).

The state and U.S. percentiles will be similar if the state and U.S. average indicator values are similar. However, if the state average is lower than the U.S. average, the state percentile shown will be higher than U.S. percentile shown. Alternatively, if the state average is higher than the U.S. average, the state percentile shown will be lower than U.S. percentile shown. The state percentile being lower than the U.S. percentile does not mean the indicator value is lower in the given place, it just means the state average is higher than the U.S. average.

The difference between state and U.S. percentiles becomes apparent mainly in two situations: when comparing places across states, or when comparing results to some pre-determined, specific reference percentile (e.g., 80th percentile).

Percentages or Percentiles?

A percentage is an absolute term. If you received 80% on a test of one hundred questions you had 80 correct answers.

A percentile is a relative term, and tells you how you have done on the test in comparison to the others who took the test. A percentile of 80 means that you scored equal to or better than 80% of people who took the test.

In EJScreen, if your results indicate that an area is 48% minority and is at the 69th national percentile, this means that 48% of the area's population is minority, and that is an equal or higher %

Initial Filter Approach for Screening

minority than where
69% of the US
population lives.

In past screening experience, EPA has found it helpful to establish a suggested Agency starting point for the purpose of identifying geographic areas that may warrant further consideration, analysis, or outreach. The use of an initial filter promotes consistency and provides a pragmatic first step for EPA programs and regions when interpreting screening results. For early applications of EJScreen, EPA identified the 80th percentile filter as that initial starting point. In other words, an area with any of the 13 EJ Indexes at or above the 80th percentile nationally should be considered as a potential candidate for further review.

Further review may include considering other factors and other sources of information such as health-based information, local knowledge, proximity and exposure to environmental hazards, susceptible populations, unique exposure pathways, and other federal, regional, state, and local data. This filter is simply a starting point, and program offices and regions should perform additional analysis before making any decisions about potential environmental justice issues. As EPA gains further experience and insight into the performance of the tool and its applicability for different uses, program offices and regions may opt to designate starting points that are more inclusive or specifically tailored to meet programmatic needs more effectively.

The 80th percentile filter in EJScreen is not intended to designate an area as an “EJ community.” EJScreen provides screening level indicators, not a determination of the existence or absence of EJ concerns. The Agency may revise this approach in the future based on experience.

[EJScreen Home <https://epa.gov/ejscreen>](https://epa.gov/ejscreen)

[Launch the EJScreen Tool <https://ejscreen.epa.gov/mapper>](https://ejscreen.epa.gov/mapper)

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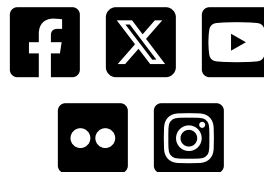
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STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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

Case No. U-21534

ALJ Sally Wallace

PROOF OF SERVICE

I, Jacob R. Schuhardt, certify that an electronic copy of the Rebuttal Testimony of Jackson Koepfel on Behalf of Souldarity and We Want Green, Too and Accompanying Exhibit DAO-29 was served on the following on August 16, 2024.

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

UNIVERSITY OF CHICAGO LAW SCHOOL
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Date: August 16, 2024

Sincerely,
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