

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of
DTE Electric Company 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

Volume No. 2

CROSS-EXAMINATION

Proceedings held via Microsoft Teams in the
above-entitled matter before Sally L. Wallace, J.D.,
Administrative Law Judge with MOAHR, for the Michigan
Public Service Commission, Lansing, Michigan, on
Wednesday, September 4, 2024, at 9:08 a.m.

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1 Wednesday, September 4, 2024

2 At 9:08 a.m.

3 - - -

4 (Hearing resumes following adjournment of Friday,
5 April 26, 2024.)

6 JUDGE WALLACE: All right. Then we are
7 back on the record in Case No. U-21534, In the matter of
8 the application of DTE Electric for authority to increase
9 its rates, amend its rate schedules and rules governing
10 the distribution and supply of electric energy, and for
11 miscellaneous accounting authority. I'm Sally Wallace,
12 I'm the Administrative Law Judge who's been assigned to
13 preside over the hearings in this matter. As I noted
14 before we went on the record, the Commission has agreed
15 to read the record in this case, so there will not -- I
16 will not be writing a PFD.

17 O.K. I'm going to move on to
18 appearances, then, beginning with you, Ms. Johnson-Bacon.

19 MS. JOHNSON-BACON: Good morning, your
20 Honor. Paula Johnson-Bacon appearing on behalf of DTE
21 Electric Company. I am also entering the appearance of
22 John Janiszewski, who will be covering cross for Neal
23 Foley later this morning.

24 JUDGE WALLACE: Good morning.
25 Ms. Durian. You're muted.

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1 MS. DURIAN: I'm sorry. I'm sorry it
2 took me so long to unmute there. Good morning, your
3 Honor. Heather Durian on behalf of Michigan Public
4 Service Commission Staff. I'm also entering the
5 appearances of Amit Singh, Michael Orris, and Monica
6 Stephens.

7 JUDGE WALLACE: Good morning, Ms. Durian.
8 Mr. King, Attorney General King, just Attorney General.

9 MR. KING: Good morning. Sorry. Good
10 morning, your Honor. Joel King on behalf of Attorney
11 General Dana Nessel. Also placing the appearance of
12 Michael Moody on the record this morning.

13 JUDGE WALLACE: Good morning, Mr. King.
14 Ms. Andrews.

15 MS. ANDREWS: Good morning, your Honor.
16 T.J. Andrews here on behalf of the Michigan Environmental
17 Council, the Natural Resources Defense Council, Sierra
18 Club, and the Citizens Utility Board of Michigan. And I
19 am also entering an appearance this morning on behalf of
20 Chris Bzdok.

21 JUDGE WALLACE: Good morning,
22 Ms. Andrews. Mr. Abrams.

23 MR. ABRAMS: Good morning, your Honor.
24 Daniel Abrams appearing on behalf of the Ecology Center,
25 the Environmental Law & Policy Center, the Union of
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1 Concerned Scientists, and Vote Solar, collectively
2 referred to as the Clean Energy Organizations.

3 JUDGE WALLACE: Good morning, Mr. Abrams.
4 Mr. Ooms.

5 MR. OOMS: Good morning, your Honor.
6 Justin Ooms appearing on behalf of the Michigan Energy
7 Innovation Business Council, the Institute for Energy
8 Innovation, and Advanced Energy United. And then also on
9 behalf of Energy Michigan and on behalf of the Foundry
10 Association of Michigan, I would also like to enter the
11 appearance of Timothy J. Lundgren and Laura A. Chappelle
12 on behalf of those organizations. Thank you.

13 JUDGE WALLACE: Thank you, Mr. Ooms.
14 Mr. Boehm.

15 MR. BOEHM: Good morning, your Honor.
16 Kurt Boehm appearing on behalf of The Kroger Company.

17 JUDGE WALLACE: Good morning, Mr. Boehm.
18 Ms. Brader.

19 MS. BRADER: Good morning, your Honor.
20 Valerie Brader appearing for the Michigan Municipal
21 Association for Utility Issues, MI-MAUI, and for the City
22 of Ann Arbor. And I would like to also enter an
23 appearance for Valerie Jackson on behalf of the City of
24 Ann Arbor. Thank you.

25 JUDGE WALLACE: Good morning.

1 Mr. Templeton.

2 MR. TEMPLETON: Good morning, your Honor.
3 Mark Templeton of the Abrams Environmental Law Clinic
4 entering an appearance on behalf of myself and colleague
5 Jacob Schuhardt for Soulardarity and We Want Green, Too,
6 collectively known as Detroit Area Advocacy Organization
7 in this proceeding. Thank you, your Honor.

8 JUDGE WALLACE: Thank you, Mr. Templeton.
9 Ms. Horne.

10 MS. HORNE: Good morning, your Honor.
11 Melissa Horne on behalf of Walmart, Inc.

12 JUDGE WALLACE: Good morning, Ms. Horne.
13 Mr. Campbell.

14 MR. CAMPBELL: Good morning, your Honor.
15 Steve Campbell, Clark Hill, PLC, on behalf of the
16 Association of Businesses Advocating Tariff Equity.

17 JUDGE WALLACE: Good morning,
18 Mr. Campbell. Mr. Vijaykar.

19 MR. VIJAYKAR: Good morning, your Honor.
20 Nikhil Vijaykar of the law firm of Keyes & Fox
21 representing EVgo Services, LLC. Thank you.

22 JUDGE WALLACE: Good morning,
23 Mr. Vijaykar. Ms. Flower.

24 COURT REPORTER: You're muted.

25 MS. FLOWER: Oh, I'm muted. Sorry, Lori.
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1 Thank you for letting me know. Good morning, your Honor.
2 Olivia Flower representing International Transmission
3 Company, ITC, entering appearances on behalf of myself as
4 well as my colleagues Rick Aaron and Hannah Buzolits.

5 JUDGE WALLACE: Good morning.

6 Mr. Bright.

7 MR. BRIGHT: Good morning, your Honor.

8 Stephen Bright on behalf of Electrify America, LLC.

9 Thank you.

10 JUDGE WALLACE: Good morning, Mr. Bright.

11 And then Mr. Keskey.

12 MR. KESKEY: Good morning, your Honor.

13 Don Keskey and also Brian Coyer appearing on behalf of
14 the Great Lakes Renewable Energy Association.

15 JUDGE WALLACE: Good morning, Mr. Keskey.

16 O.K. I did miss anybody? Everybody who wanted to place
17 an appearance has done so.

18 All right. Let's go off the record for a
19 second.

20 (Off-record discussion, 9:14 a.m. to 9:16 a.m.)

21 JUDGE WALLACE: Then we're back on the
22 record, Case No. U-21534, and we have a motion to strike
23 by the Attorney General, joined by Michigan Environmental
24 Council and the Natural Resources Defense Council. We've
25 also got a response to that motion from the Company, and
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1 it is my understanding that the Company has agreed to
2 remove testimony on page 5 of Mr. Kryscynski's rebuttal
3 beginning at line 18 and then going on to page 6 and
4 ending on line 4, is that correct, DTE will be revising
5 Mr. Kryscynski's testimony to remove that?

6 MS. JOHNSON-BACON: That's correct, your
7 Honor. Thank you.

8 JUDGE WALLACE: O.K. So we don't need to
9 deal with that. All right. I have read the motion and
10 I've read the response, so I guess the next thing I need
11 to hear would be from you, Ms. Andrews, your response to
12 DTE's response. And what I would like to do is, rather
13 than addressing all of the testimony at one time, let's
14 start with the motion as it pertains to Mr. Deol, that
15 would be testimony beginning on page, rebuttal testimony,
16 page 36 of Mr. Deol's rebuttal starting at line 18 and
17 then going to page 42, ending at the end of the sentence
18 on line 7; is that correct?

19 MS. ANDREWS: You know, your Honor, it is
20 actually not correct. Unfortunately our Exhibit 1 does
21 not match our motion, we didn't complete the strike-outs.
22 Our motion requested to strike Q&A 44 through Q&A 47, but
23 my error in creating the exhibit was I didn't include 47
24 in the strike-out, but the motion is exceedingly clear as
25 to which sections it's proposing to delete. And I

1 apologize for that, I just realized that last night when
2 I was preparing.

3 JUDGE WALLACE: O.K.

4 MS. JOHNSON-BACON: It did not create
5 confusion for the Company.

6 JUDGE WALLACE: O.K. So then that goes
7 all the way to the end of page 42?

8 MS. ANDREWS: That's right.

9 JUDGE WALLACE: All right. Then,
10 Ms. Andrews, please continue, please go ahead with your
11 response to the Company's response to your motion as it
12 pertains to Mr. Deol's testimony beginning on page 36,
13 question and answer 44, and continuing through question
14 47, which ends at the bottom of page 42 of his rebuttal.
15 Please go ahead.

16 MS. ANDREWS: Thank you, your Honor. As
17 you're familiar, having reviewed the motion and the
18 response and the exhibit, this section of testimony that
19 the AG and MEC and NRDC seek to strike relates to
20 information about two particular capital projects, TIE
21 4105 and Trunk 3509. The testimony is -- in their
22 response, the Company makes the point that they could
23 under no reasonable circumstance in advance of filing his
24 direct testimony have anticipated a disallowance related
25 to previously approved projects. They say that the

1 testimony is directly responsive to rebut the erroneous
2 implication that they were not previously approved. So
3 that part of the Company's response is inaccurate. It's
4 Q&A 48, it's the next Q&A -- I'm sorry. It's Q&A 49 on
5 page 43 of Mr. Deol's testimony, the next page, where Mr.
6 Deol rebuts the argument that this information was not --
7 these two projects were previously approved. Nothing in
8 the sections we're seeking to strike addresses whether or
9 not these were previously approved and whether that's
10 accurate. That is preserved in Mr. Deol's rebuttal, and
11 we don't move to strike it on that Q&A 49, and that's
12 just not -- that's a misleading assertion that this
13 section we are seeking to strike is responsive to that
14 accusation.

15 The other argument the Company makes in
16 their reply is that the Company needed to address the
17 criticism about the necessity of TIE 14 -- these two
18 projects, TIE 1405 and Trunk 3519. That's inaccurate as
19 well. Mr. Stephens, to whom this rebuttal is addressed,
20 never addressed the necessity of these projects. Nothing
21 in his testimony addressed whether they're necessary or
22 not. His testimony addressed the lack of a benefit-cost
23 analysis for the whole program, the lack of a
24 benefit-cost analysis for alternatives for the whole
25 program, and then the only thing he said about these two

1 is that they should be disallowed because they were not
2 previously approved and they go in service in the test
3 year. He didn't say they're not necessary projects. Mr.
4 Deol himself admits, question and A 48, that what he is
5 doing in this testimony is to provide further detail
6 about these projects, why it's necessary to complete
7 them. That's their burden in their case-in-chief, to
8 anticipate and to prepare.

9 So this is just, it is, on its face in
10 the testimony itself, an effort to bolster and
11 rehabilitate a gap, a weakness in the case. The argument
12 that it was unanticipatable is simply inaccurate. The
13 Company has an obligation and the burden to support all
14 their projects in their case-in-chief.

15 JUDGE WALLACE: Thank you, Ms. Andrews.
16 Ms. Johnson-Bacon.

17 MS. JOHNSON-BACON: Thank you, your
18 Honor. Movants are seeking to strike rebuttal testimony
19 pertaining to completion of projects that are already in
20 progress. Witness Stephens states that he recommends
21 disallowance for projects that were not previously
22 approved and recommends that they be disallowed. As
23 Ms. Andrews just pointed out and does not seek to strike,
24 in fact these projects were previously approved in 21297,
25 yet Mr. Stephens recommends a disallowance of \$28.1

1 million for completion of these projects based on the
2 lack of a benefit-cost analysis. There is no way the
3 Company or Witness Deol could have anticipated a
4 recommendation for disallowance due to lack of a
5 benefit-cost analysis under circumstances in which
6 projects were ongoing. This is an erroneous implication
7 by Witness Stephens that the projects had not been
8 previously evaluated and approved by the Commission, and
9 the testimony is offered to clarify the status of those
10 projects and the necessity of completion of those
11 projects. The purpose is to explain, the purpose is to
12 explain the evidence that's offered by Witness Stephens,
13 and it tends to weaken his recommendation for
14 disallowance in this case. It's appropriate rebuttal.

15 MS. ANDREWS: May I respond, your Honor?

16 JUDGE WALLACE: Yes, you may.

17 MS. ANDREWS: Your Honor, to the degree
18 my initial argument gave the implication that I agree
19 that these projects were previously approved, I
20 vehemently disagree, and what I'm saying is that to the
21 extent he is responding to that accusation, that rebuttal
22 remains intact, and we will unpack it, I will do it now,
23 we can do it in cross-examination of Mr. Deol. That
24 section of his testimony where he asserts that the
25 Commission approved these is inaccurate. The Commission

1 approved 13 projects, only this was, these two were not
2 included. And we can go line by line through, you know,
3 Exhibit A-12 Schedule B5.4 from 21297 and the Commission
4 order and the PFD that it cites as to exactly what was
5 approved. These two projects were not included. So the
6 idea that this is responding to a project that was
7 already approved, it just lacks foundation. And even --
8 the point of this testimony that we're seeking to strike
9 is to expound and fill a gap in the Company's
10 case-in-chief about what these projects do. It doesn't
11 talk about benefit-cost analysis, it doesn't talk about
12 benefit-cost analysis of alternatives, and it's simply a
13 bolstering.

14 JUDGE WALLACE: All right. Does anybody
15 else have anything to say about this part of the motion
16 to strike? (No response.)

17 O.K. Ms. Andrews, I agree that this kind
18 of hits both of those pieces. This was information that
19 could have been supplied in the Company's direct case,
20 whether that would be in testimony or as part of an
21 exhibit. I also took a look at U-21297, but didn't have
22 enough time to really sort of dig in and figure out with
23 the PFD and the order what exactly was or wasn't
24 approved. The Commission, however, in that order did
25 discuss, if you're bringing these projects in, you need a

1 benefit-cost analysis, and there was not a lot of support
2 in the previous case, and the Commission agreed with the
3 ALJ's analysis of this specific program, the
4 subtransmission redesign program. So I am striking Mr.
5 Deol's testimony starting on page 36 of his rebuttal,
6 question 44 and answer 44, all the way through to the end
7 of page 42, which would be striking question and answer
8 47.

9 So let's move on. We've got Mr.
10 Kryscynski's rebuttal that DTE has agreed to strike on
11 page 5 of his rebuttal starting at line 18 and going on
12 to page 6, ending at the end of the sentence on line 4 of
13 that page.

14 Finally, we move on to Mr. Kryscynski's
15 rebuttal starting on page 16, question and answer 27.
16 O.K. So let's move on to that. Question and answer 27,
17 page 6 of Mr. Kryscynski's rebuttal. Ms. Andrews, please
18 go ahead.

19 MS. ANDREWS: Thank you, your Honor. Now
20 here we are talking about a section where Mr., both
21 Mr. Stephens and Mr. Alvarez raised some concerns
22 programmatically to the Company's approach to addressing
23 equipment replacement, and both Mr. Stephens and Mr.
24 Alvarez cited the Company's Distribution Grid Plan, which
25 it's -- which says, which produces charts, they cited one
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1 of three, saying equipment is not the major cause,
2 identifying other outage causes besides equipment as the
3 primary or the biggest driver. They did not, neither Mr.
4 Alvarez nor Mr. Stephens, you know, interpreted one graph
5 over another, they said here's the Company's own
6 statement that says this. And then in rebuttal,
7 Mr. Kryscynski presents a whole new analysis. They call
8 it a different look at the evidence, a different
9 perspective or a separate metric, but that's not
10 accurate, it's a whole new analysis; it takes a different
11 period of time, it takes a different analysis, it takes,
12 excluding MEDs instead of including MEDs, or maybe I have
13 that -- it could be including MEDs versus excluding, but
14 it takes the opposite perspective. Sorry, I lost my
15 notes on that particular point.

16 It's a whole new analysis, it's an
17 analysis that tends to disprove the Company's DGP, the
18 Company's analysis. Mr., neither Mr. Stephens nor Mr.
19 Alvarez said that this is accurate or this is -- they
20 didn't characterize it at all, they just said, you said
21 it. And in response, the Company is saying, well, here's
22 a different thing, we're saying a different thing now,
23 and that's rebuttal to the DGP. It's not just a
24 different perspective, it's a new analysis, and they
25 should have presented it in their case-in-chief.

1 JUDGE WALLACE: O.K. Ms. Johnson-Bacon.

2 MS. JOHNSON-BACON: This portion of
3 Witness Kryscynski's testimony is directed at Witness
4 Stephens' direct testimony where he asserts that the
5 Company's own data supports a conclusion that equipment
6 failures are not the primary driver of decreased
7 reliability. Witness Alvarez in his direct testimony
8 states that 50 percent of customer minutes interrupted
9 are caused by vegetation contact, while 12 percent are
10 associated with equipment failures. Both referenced a
11 cost chart from the Company's DGP that is not controlled
12 for weather. Judge, not all metrics cover reliability in
13 the same way. Mr. Kryscynski is rebutting the
14 characterization of the data, not the analysis itself.
15 He's refuting that DTE's data shows equipment is not a
16 primary driver for reliability in all instances; in fact,
17 when it's controlled for weather, equipment is actually a
18 much larger driver, the primary driver. It's providing a
19 different perspective, more information for the
20 Commission to consider, and it tends to weaken the
21 conclusions of Stephens and Alvarez that equipment alone
22 is not a driver for reliability.

23 MS. ANDREWS: Your Honor, it's not -- may
24 I respond?

25 JUDGE WALLACE: Yes.

1 MS. ANDREWS: There is no conclusion that
2 Mr. Stephens or Mr. Alvarez are citing, they're saying
3 your data shows this. That is not a conclusion. And if
4 the data -- and they point to the data, and the data does
5 show that. Now, if there's other data that shows
6 something else, the Company should have put that in their
7 case, but they failed to do that; they chose which
8 metric, they chose all three metrics, SAIFI, SAIDI, and
9 outage causes in their DGP for a set period, all of them
10 excluding MEDs, and they said this shows what the major
11 causes of outage are. They said that. And all
12 Mr. Stephens and Mr. Alvarez said is, you said that.

13 MS. JOHNSON-BACON: Your Honor --

14 MS. ANDREWS: Now they're saying
15 something else.

16 MS. JOHNSON-BACON: That's not all they
17 say. They say equipment failures are not a primary
18 driver of decreased reliability. Direct testimony,
19 Stephens, page 7 and 8. They reach a conclusion.

20 MS. ANDREWS: Your Honor, I think we're
21 going to go in circles now.

22 JUDGE WALLACE: Yeah, I think so, too.
23 And I agree with the Company, I think that this is
24 actually responsive to the criticisms of -- well, not the
25 criticisms, but the findings of Mr. Alvarez and

1 Mr. Stephens, particularly their testimony that here's
2 the Company's own data, and apparently my notes say that
3 what, the testimony at issue here does not include MEDs,
4 which I can understand would make a difference in terms
5 of whether or not it's vegetation versus equipment. So
6 as to the testimony of Mr. Kryscynski, let's see,
7 question and answer 27 on page 16 of his rebuttal, I'm
8 going to deny that motion, that part of the motion to
9 strike.

10 So I believe the last bit is, that's
11 Ms. Elliott Andahazy; is that correct, Ms. Johnson-Bacon?

12 MS. JOHNSON-BACON: That's correct.

13 JUDGE WALLACE: O.K. So beginning at the
14 bottom of page 12 of Ms. Elliott Andahazy's rebuttal
15 testimony, starting at line 23, and carrying over to page
16 14 of her rebuttal, line 10, yeah, on page 14, so bottom
17 of 12 through line 10 of page 14. O.K. So please go
18 ahead, Ms. Andrews.

19 MS. ANDREWS: Thank you, your Honor. We
20 move to strike a portion of Ms. Elliott Andahazy's
21 rebuttal testimony that is purportedly responsive to
22 testimony by Witness Stephens who raised concerns about
23 alternatives that can be, that existing programs that can
24 achieve the benefits of hardening both through the pole
25 top and the tree trimming. In the rebuttal testimony,

1 the Company takes the opportunity to bolster the
2 effectiveness of hardening. That is a fundamental issue
3 that the Company raised in its direct and is reasserting
4 in its rebuttal with a whole new analysis. They produce
5 one effectiveness analysis in the direct testimony, and
6 they present a new effectiveness analysis of hardening in
7 the rebuttal. The argument that this is responsive to
8 compare hardening to tree trimming alone is inaccurate.
9 The analysis does not compare hardening to tree trimming.
10 It just doesn't do that. It compares hardening to a
11 control group. And assuming that DTE did the same
12 analysis in rebuttal that it did in its direct testimony,
13 it excluded trimmed circuits from the control group.
14 Now, because this is produced for the first time, this
15 analysis in rebuttal, I haven't asked that question, but
16 I assume that the Company continued to exclude from its
17 control group the trimmed circuits. So this is simply
18 not a direct comparing hardening to tree trimming.

19 There is an analysis, Witness Steudle
20 presents it, and it's reported over a year in the tree
21 trim report as to what is the effectiveness of tree
22 trimming, and DTE might have said, here's tree trimming
23 and here's hardening and we can compare them, but they
24 didn't do that, they just presented a new updated
25 analysis of the effectiveness of hardening, and that is

1 simply not responsive to anything Mr. Stephens said, it
2 is not a comparison of hardening versus trimming, and
3 their response that suggests that that's the case is
4 simply not accurate.

5 The argument that it's talking about the
6 persistence of customer benefits over a longer period of
7 time is also inaccurate. Again, had they presented
8 trimming effectiveness over a period of time relative to
9 hardening effectiveness over a period of time, that might
10 have shown something to that effect. They didn't do
11 that. There are such analyses out there on trimming
12 effectiveness over time, the persistence of benefits,
13 that's not what this analysis is, it's simply another
14 hardening effectiveness analysis.

15 JUDGE WALLACE: Ms. Johnson-Bacon.

16 MS. JOHNSON-BACON: Judge, Witness
17 Stephens argues that almost 100 percent of the benefit is
18 attributable to tree trim, and as such, it shouldn't be
19 attributed to hardening. The proposed exhibit is
20 information that was provided to MNSC in the precise
21 format they requested back in May. It's a comparison of
22 customer interruptions, minutes interrupted, and wire
23 downs between hardened circuits and a control group. In
24 terms of what is in that control group, MNSC is well
25 informed, they issued discovery on this that we've

1 responded to. This demonstrates that the benefits of
2 hardening don't degrade over time in the same way that
3 they do with tree trimming alone, and actually contribute
4 to the persistence of customer benefits. They tend to
5 disprove that, Witness Stephens' conclusion that because
6 tree trimming is occurring anyway, there's no additional
7 benefit to hardening.

8 MNSC has issued 2,000 plus discovery
9 requests in this case, and has issued extensive rebuttal
10 testimony, and it's designated Ms. Elliott Andahazy for
11 some significant time on cross. If they have any
12 questions or concerns about what's covered in the control
13 group or the accuracy of this comparison, they can
14 certainly ask her about that.

15 MS. ANDREWS: Your Honor, I would note
16 the fact that the Company produced information in
17 discovery doesn't alleviate its burden; it has the burden
18 of supporting its programs and its spending requests.
19 The fact that an intervenor asks questions and
20 demonstrates a weakness in their case-in-chief does not
21 give them an opening to bolster their case-in-chief,
22 otherwise, we'd be in an endless cycle of how can we
23 identify gaps in their case if they are able to then fill
24 them every time in rebuttal. That is not the point of
25 rebuttal.

1 The point, and the point of the testimony
2 that this is responding to is, the question is: Is there
3 anything else you would like to add for context
4 concerning the 4.8 hardening program compared to tree
5 trimming; and she provides one section of response that
6 we didn't move to strike, but then they just simply
7 reanalyze and produce a whole new analysis that is not a
8 comparison of hardening to tree trimming. It's just not.

9 JUDGE WALLACE: All right. I think that
10 this is proper rebuttal, and I also think that it can be
11 if as you say, Ms. Andrews, it is the case that this is
12 not actually a reasonable comparison to what Mr. Stephens
13 had to say about tree trimming versus hardening, I think
14 that you can elicit that in cross-examination and also in
15 briefing. So as for the testimony of
16 Ms. Elliott Andahazy beginning on page 12, ending on page
17 14, I'm going to deny the motion as to that testimony.
18 Again, I think you have an opportunity in cross as well
19 as in briefing to address that further; and, of course,
20 if you object to anything I just did here, you can renew
21 that objection in briefing for the Commission to address.

22 So is that everything on the motion?

23 MS. ANDREWS: That's everything from us,
24 your Honor. Thank you.

25 JUDGE WALLACE: All right.

1 MS. JOHNSON-BACON: Thank you.

2 JUDGE WALLACE: All right. Let's take, I
3 don't know, 15 minutes. And yeah, what time is it?
4 9:45. Let's reconvene at 10:00 o'clock. Please make
5 sure to shut off your cameras and your microphones. I'll
6 see you back at 10:00.

7 (Recess from 9:44 a.m. until 10:03 a.m.)

8 JUDGE WALLACE: All right.

9 Mr. Janiszewski, please go ahead.

10 MR. JANISZEWSKI: Thank you, your Honor.

11 - - -

12 N E A L T. F O L E Y

13 was called as a witness on behalf of DTE Electric Company
14 and, having later been duly sworn or affirmed that all
15 answers were the truth, was examined and testified as
16 follows:

17 DIRECT EXAMINATION

18 BY MR. JANISZEWSKI:

19 Q Good morning, Mr. Foley. Please state your name and
20 business address for the record.

21 A Neal Thomas Foley, One Energy Drive, Detroit, Michigan.

22 Q Did you file with the Commission a document entitled the
23 Qualifications and Revised Direct Testimony of Neal T.
24 Foley, consisting of a cover sheet and 71 pages of
25 questions and answers?

Penn Reporting, LLC - lori.penn@yahoo.com

1 A Yes.

2 Q Do you have any changes you wish to make to your revised
3 direct testimony?

4 A No.

5 Q Is that the revised direct testimony that you are
6 adopting today?

7 A Yes.

8 Q Are you sponsoring any exhibits associated with your
9 revised direct testimony in this case?

10 A Yes.

11 Q For purposes of identification, are these two direct
12 exhibits designated as Exhibit A-27 Schedule 1, Schedule
13 Q1, consisting of seven pages, and Exhibit A-33 Schedule
14 X1?

15 A Yes.

16 Q Did you adopt and sponsor Exhibit A-27 Schedule Q1?

17 A Yes.

18 Q And was Exhibit A-33 Schedule X1 prepared by you or at
19 your direction?

20 A Yes.

21 Q Do you have any changes to make to these two direct
22 exhibits?

23 A No.

24 Q And did you file with the Commission a document entitled
25 the Rebuttal Testimony of Neal T. Foley, consisting of a
Penn Reporting, LLC - lori.penn@yahoo.com

1 cover sheet and 49 pages of questions and answers?

2 A Yes.

3 Q Do you have any changes you wish to make to your rebuttal
4 testimony?

5 A No.

6 Q Is that, then, the rebuttal testimony that you are
7 adopting today?

8 A Yes.

9 Q Are you sponsoring any exhibits with your rebuttal
10 testimony in this case?

11 A No.

12 MR. JANISZEWSKI: O.K. At this time,
13 your Honor, DTE Electric moves to bind into the record
14 the Qualifications, Revised Direct Testimony, and
15 Rebuttal Testimony of Neal T. Foley, and for the
16 admission at the end of cross-examination of direct
17 Exhibit A-27 Schedule Q1, and direct Exhibit A-33
18 Schedule X1, and tenders Mr. Foley for cross-examination.

19 JUDGE WALLACE: Thank you,
20 Mr. Janiszewski. Is there any objection to binding in
21 the revised direct testimony of Mr. Foley?

22 Hearing none, the revised direct
23 testimony is bound in.

24 Is there any objection to the admission
25 of the rebuttal testimony of Mr. Foley?

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Hearing none, that testimony is bound in.
(Testimony bound in.)

- - -

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

QUALIFICATIONS
AND
REVISED DIRECT TESTIMONY
OF
NEAL T. FOLEY

DTE ELECTRIC COMPANY
QUALIFICATIONS AND REVISED DIRECT TESTIMONY OF NEAL T. FOLEY

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1 **Q1. What is your name, business address and by whom are you employed?**

2 A1. My name is Neal T. Foley (he/him/his). My business address is One Energy Plaza,
3 Detroit, Michigan 48226. I am employed by DTE Energy Corporate Services, LLC,
4 a subsidiary of DTE Energy Company as Director, Regulatory Affairs.

5

6 **Q2. On whose behalf are you testifying?**

7 A2. I am testifying on behalf of DTE Electric Company (DTE Electric or Company).

8

9 **Q3. What is your educational background?**

10 A3. I received a Bachelor of Science in Aerospace Engineering and a Bachelor of
11 Science in Mechanical Engineering from the University of Michigan. I also
12 received a Master of Science in Systems Engineering from Johns Hopkins
13 University and a Master of Business Administration from Georgetown University.

14

15 **Q4. What is your work experience?**

16 A4. In 2007 I was employed by Lockheed Martin Corporation as a Satellite Operations
17 Engineer. In 2008, I was hired by Booz Allen Hamilton as an Associate Consultant
18 in its Federal consulting practice. In 2012, I was hired by Deloitte as a Manager of
19 Financial Analysis in its Federal consulting practice. In 2014, I was hired by
20 McKinsey & Company as an Associate Consultant, ultimately being promoted to
21 Engagement Manager before my departure in 2017. In 2017 I was hired by DTE
22 Energy Company as Manager of Corporate Strategy. In this role I was broadly
23 responsible for tracking and assessing utility industry trends, executing analyses to
24 better understand the economic impacts of emerging technologies and business

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1 models, and leading strategic initiatives for the Company. I was promoted to my
2 current role as Director of Regulatory Affairs in 2020.

3

4 **Q5. What are your current duties and responsibilities?**

5 A5. My responsibilities broadly include the management of regulatory activities
6 relative to DTE Electric’s Load Research, Tariffs, Pricing, and Rate Design.

7

8 **Q6. Have you previously sponsored testimony before the Michigan Public Service
9 Commission (MPSC or Commission)?**

10 A6. Yes. I have sponsored testimony in the following cases:

11 U-20836 DTE 2022 Electric Rate Case

12 U-21376 DTE 2023 Distributed Generation Tariff Options

13 U-21297 DTE 2023 Electric Rate Case

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1 **Purpose of Testimony**

2 **Q7. What is the purpose of your testimony in this proceeding?**

3 A7. The purpose of my testimony is to:

- 4 • Provide an overview of the Company's entire general electric rate case
5 including a summary of the drivers for filing this case at this time, and the
6 amount of the Company's projected revenue deficiency starting January 1,
7 2025;
- 8 • Review the overall methodology used to develop the Company's projected
9 test year amounts in this case;
- 10 • Address the following ratemaking and policy; propose unique or different
11 ratemaking treatments; respond to prior Commission orders; highlight
12 noteworthy regulatory issues; or address topics of interest expressed by
13 stakeholders:
- 14 ○ The Company's future securitization of costs associated with the
15 Company's tree trimming surge;
- 16 ○ Recovery of certain outage credits paid to customers;
- 17 ○ Corporate memberships and costs included for ratemaking as ordered in
18 the Company's last general rate case, U-21297;
- 19 • Introduce the Company's other witnesses.
- 20 • Describe and support the key components of a proposal that the Company
21 is putting forth in this case related to the scope and duration of its
22 Distribution Infrastructure Recovery Mechanism (Distribution IRM or
23 IRM)

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- 1 • Describe and support the key components of a proposal that the Company
2 is putting forth in this case to establish a Storm Restoration Cost Sharing
3 Mechanism (SRCSM).
4

5 As reflected above, I am adopting the previously filed direct testimony and exhibit
6 of Company Witness Adella F. Crozier.
7

8 **Q8. Are you sponsoring any exhibits in this proceeding?**

9 A8. Yes. I am sponsoring the following exhibits:

<u>Exhibit</u>	<u>Schedule</u>	<u>Description</u>
A-27	Q1	Corporate Memberships
A-33	X1	Distribution IRM Proposed Investment and In-Service Levels

15 **Q9. Were these exhibits prepared by you or under your direction?**

16 A9. Exhibit A-33, Schedule X1 was prepared under my direction. Exhibit A-27,
17 Schedule Q1, which I am adopting, was prepared under the direction of Company
18 Witness Crozier.
19

20 **Case Overview**

21 **Q10. Can you summarize the circumstances that have led to the Company's request
22 for rate relief?**

23 A10. Yes. DTE Electric is pursuing two strategic imperatives. First, we are working to
24 rebuild, modernize, and automate our 46,000 miles of electric circuits (the "grid")
25 to achieve reliability that is better than industry average by 2029. Second, we are

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1 replacing aging coal plants with modern power generation assets, such as wind
2 turbines, large scale solar arrays, and large battery installations. Both pursuits
3 represent multi-year initiatives that can only be accomplished with the support of
4 our customers, the Michigan Public Service Commission (MPSC), and the
5 investors that provide the capital needed to fund the necessary investments.

6

7 **Q11. What benefits should the Company's customers expect to realize from these**
8 **initiatives?**

9 A11. The benefits to DTE Electric's customers of these strategic initiatives are:

- 10 • Fundamental improvements in the reliability of the grid and in its ability to
11 accommodate electric vehicles and other distributed energy resources.
12 • Reduced carbon emissions from more efficient and cleaner sources of
13 power generation.

14

15 **Q12. What is the expected level of capital investment for grid modernization and**
16 **generation transformation initiatives?**

17 A12. Fully realizing these benefits will require significant investment - approximately \$9
18 billion of investment in the grid and \$7 billion of investment in cleaner generation
19 between 2024 and 2028. We appreciate that we are asking our customers to support
20 these investments in the form of bill increases. However, as described below, we
21 believe that these investments will generate significant benefits and value to our
22 customers.

23

24 **Q13. Specifically, what improvements is DTE Electric expecting to achieve relative**
25 **to grid reliability?**

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1 A13. These system investments, for which this rate case represents the next step in the
2 multi-year journey described above, can provide tremendous benefits to our
3 customers and to the state. More specifically, DTE Electric is focused on improving
4 reliability for our customers – reducing power outages by 30% and cutting outage
5 time in half in the next five years. As explained in more detail by the Company’s
6 Distribution Operations (DO) witnesses in this case (i.e., Company Witnesses
7 Kryscynski, Deol, Elliott Andahazy, Hartwick, and Steudle) the Company is
8 strengthening, rebuilding, and/or using technology to create a smarter, stronger,
9 more resilient grid that will reliably deliver the energy our customers demand and
10 deserve. Our commitment can be summarized as: “*30% fewer... 50% faster... by*
11 *2029.*”

12

13 As can be seen in Figure 1 and Figure 2, this commitment translates to better than
14 industry median performance by 2029 for Average System Availability Index and

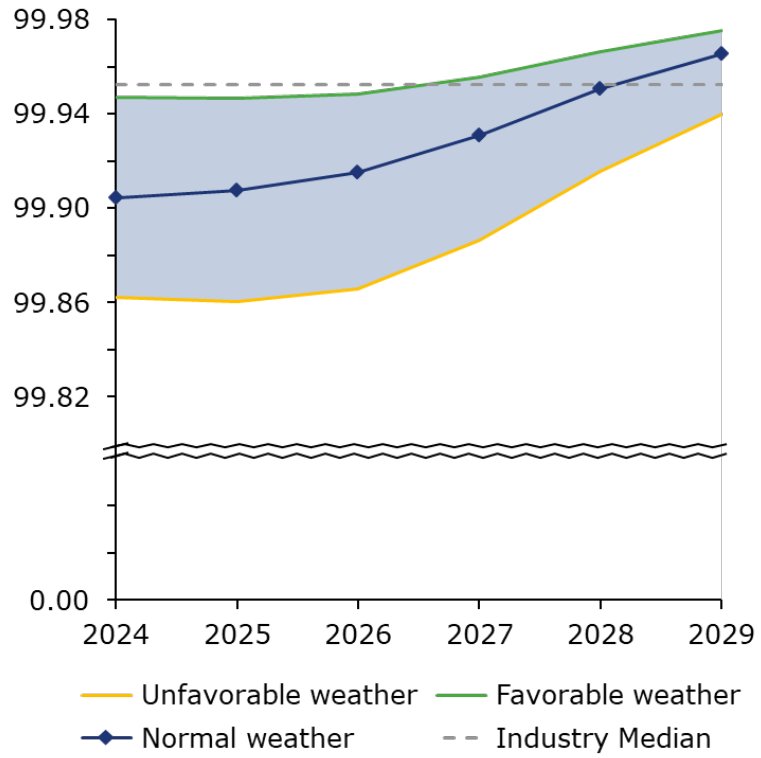
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1 All-Weather SAIDI¹. These projections are based on the Reliability Model
2 described by Company Witness Kryscynski.

3

4

Figure 1 Projected Average System Availability Index (%)



5

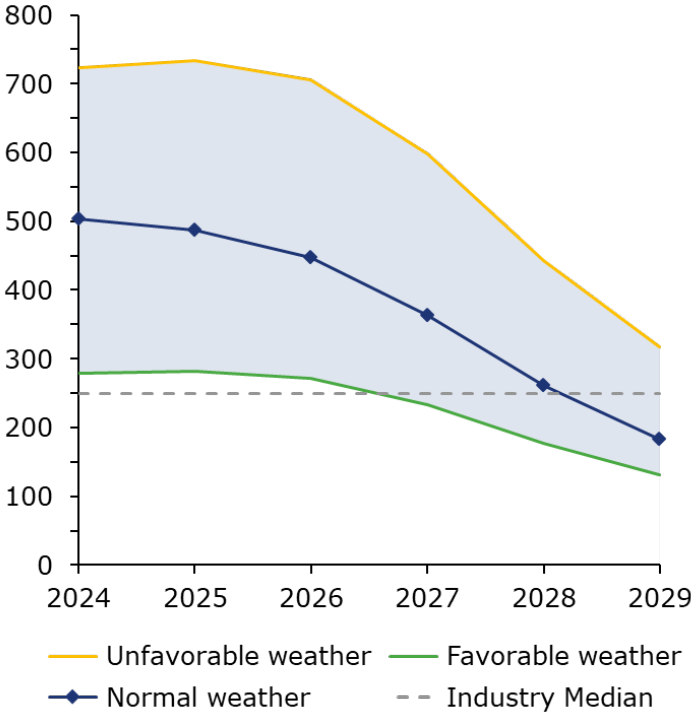
¹ System Average Interruption Duration Index

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Figure 2 Projected All-Weather SAIDI (or Average Outage Minutes Per Customer) (minutes)

2



3

4

5 **Q14. Besides the benefit of improved reliability, are there other potential benefits**
6 **that customers could realize from DTE Electric’s grid modernization**
7 **initiative?**

8 A14. Yes. These forecasted improvements will not only substantially improve DTE
9 Electric customers’ qualitative experience but have the potential to unlock
10 significant economic value. The publicly available Interruption Cost Estimator
11 (ICE) Calculator, which was developed by the Lawrence Berkeley National
12 Laboratory, provides one approach to examine and estimate the potential value that
13 might be realized through improved electric system reliability. While not definitive,
14 based on the ICE Calculator the Company’s forecasted reliability improvements
15 could generate more than \$15 billion of positive economic impact. Realizing such

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1 estimated benefits is dependent upon achieving improved reliability through
2 continued investment in the Company's grid, enabled by timely recovery of capital
3 expenditures.

4

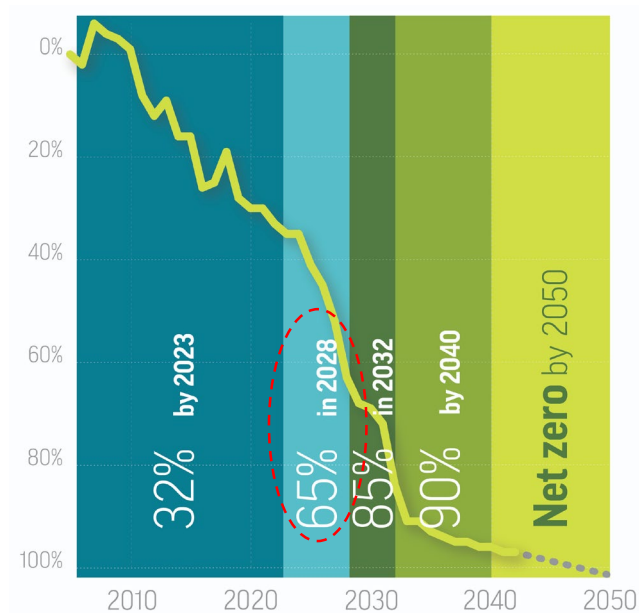
5 **Q15. What benefits will customers realize due to DTE Electric's generation
6 modernization initiative?**

7 A15. DTE's planned investments in new generation assets will enable the transition to
8 cleaner generation and allow a reduction of CO₂ emissions of 65% by 2028 when
9 compared to the 2005 baseline, as shown in Figure 3.

10

11

Figure 3 DTE Green Generation Journey



12

13 **Q16. Can you summarize the Company's plans to execute on the proposed
14 investments?**

15 A16. The Company is fully prepared to execute our plans and have built an organization
16 that is capable of making these historic investments. We have proven our ability to

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1 significantly ramp up project and program execution as evidenced by the increase
2 in electric distribution strategic capital deployment over the last few years.

3

4 Our specific capital investments and associated plans are discussed in detail by the
5 Company's DO witnesses identified earlier, and can be summarized as follows:

6 • Maintain high performing circuits so that they remain high performing
7 circuits

8 • Fundamentally improve low performing circuits

9 • Build capacity for the future

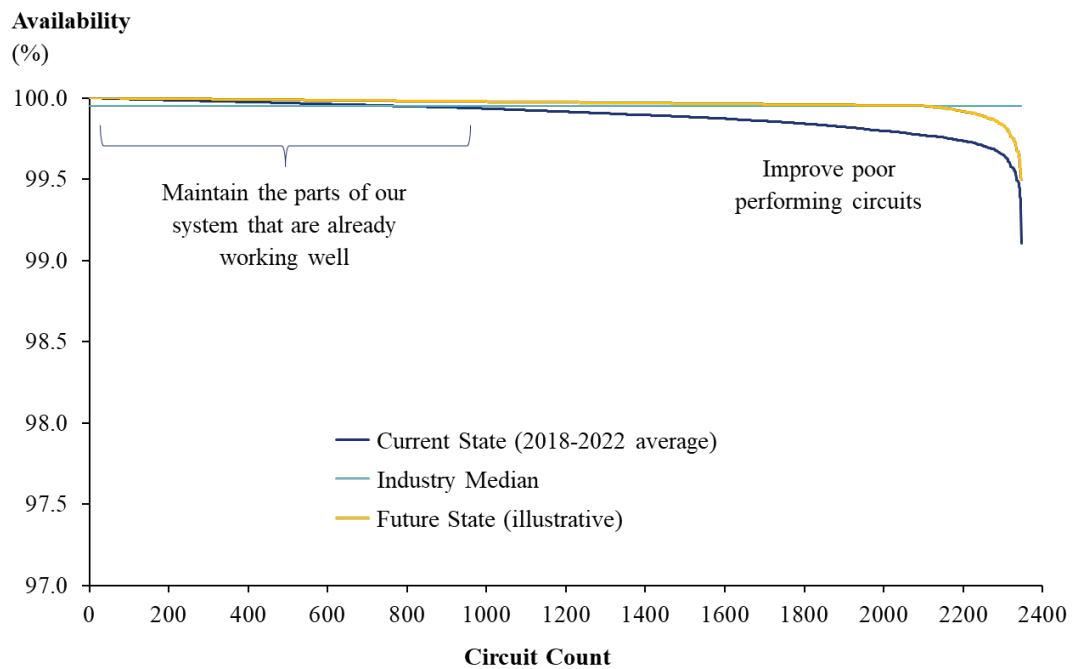
10

11 Figure 4 illustrates this strategy as we look at the performance of our circuits and
12 the 46,000 miles of electric lines that make up the DTE Electric grid covering 7,600
13 square miles of DTE Electric service territory.

14

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Figure 4 Circuit Availability (2018-2022 average)²

2

3 **Q17. How will investors support these initiatives?**

4 A17. Investors will provide the necessary capital to execute DTE Electric's planned
 5 investments assuming reasonable recovery of costs through the Company's rates.
 6 As shown in Figure 5, to execute its investments DTE Electric requires cash in
 7 excess of what it generates internally from its operations (cash that includes DTE
 8 Electric profits). As such, external investors are needed to provide the incremental
 9 capital that enables us to execute our plans.

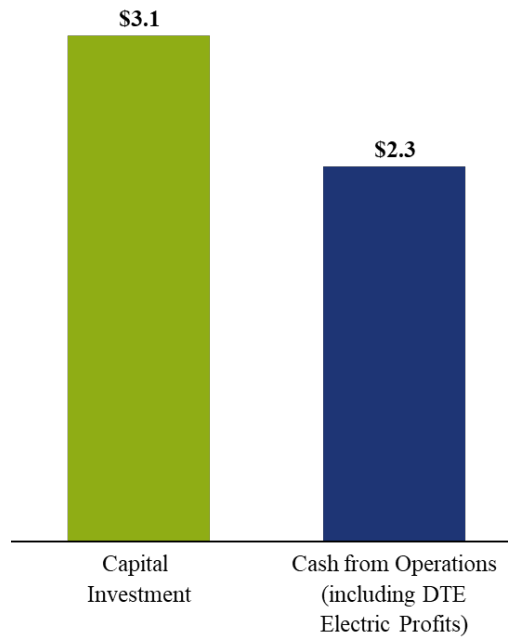
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11

² Only circuits with at least 50 customers are shown on chart

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Figure 5 DTE Electric 2023 Cashflow³

2

3 **Q18. Have there been any reliability impacts from ongoing grid modernization**
4 **efforts?**

5 A18. Yes, where investments have been made, we are seeing benefits. For example, as
6 supported by Company Witness Elliott Andahazy and shown in Figure 6, the
7 Company's 4.8 kV Hardening program has led to a 61% reduction in frequency of
8 outages (SAIFI⁴) on hardened circuits compared to non-hardened circuits.

9

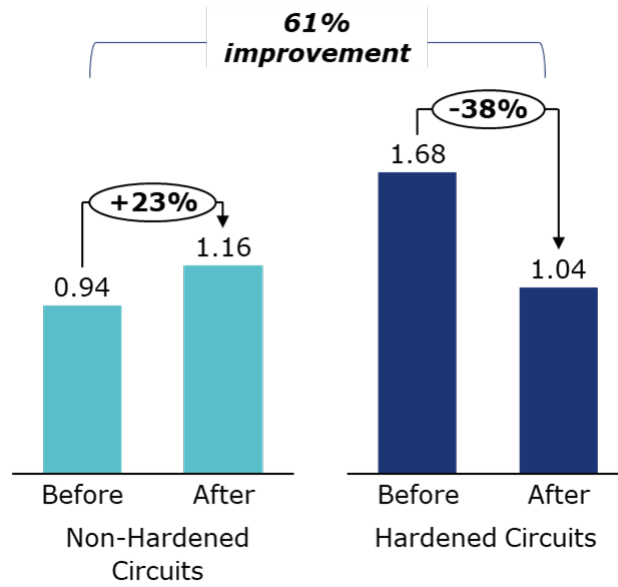
³ Source: DTE Electric Form 10k

⁴ System Average Interruption Frequency Index

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Figure 6 Outage frequency of circuits 1-year post 4.8 kV hardening
(# of outages; All-Weather SAIFI)

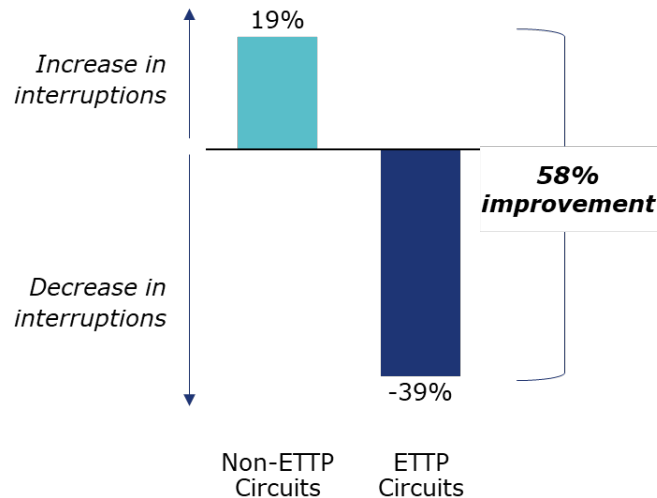


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Similarly, as supported by Company Witness Steudle and shown in Figure 7, the Company's Enhanced Tree Trim Program (ETTP) has resulted in a 58% reduction in tree related outages for circuits for which the program has been deployed.

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2

**Figure 7 Change in tree-related customer interruptions 1-year post trim
(% change)**



3

4 **Q19. How does this case support the strategic initiatives described previously in**
5 **your testimony?**

6 A19. This case supports approximately \$2.6 billion of total new capital investment in
7 2025, the projected test year in this case, as well as additional capital in the bridge
8 and historical test year. The Company is also seeking approval to extend its
9 Distribution Infrastructure Recovery Mechanism (IRM), with associated revenues,
10 through 2027. As discussed previously, DTE Electric will need additional support
11 from customers to execute on its capital plans and achieve the forecasted reliability
12 improvements. That support takes the form of the requested rate relief, which is
13 driven primarily by capital investments. When combined with other factors
14 described in the case, the total requested test year base rate relief is approximately
15 \$456 million, of which \$321 million (70% of the total) is related to capital recovery
16 and financing (\$285 million for direct capital costs and \$36 million for the increased
17 cost of debt and changes in capital structure).

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1 **Q20. What is the present status of the Company initiatives you described?**

2 A20. In prior years, the Company has made investments in line with its strategic plans to
3 improve reliability and provide cleaner generation, even if those investments were
4 not fully authorized for recovery in a prior rate case. Specifically, as of 2024 the
5 Company anticipates that actual net plant in-service will be approximately \$775
6 million higher than what is currently authorized for recovery in rates. Given the
7 carrying costs associated with this plant in-service balance, timely recovery of
8 prudent capital investment is necessary to support the Company continuing to make
9 the investments that are needed to improve reliability and transition to cleaner
10 generation.

11

12 With that said, and as described later in my testimony, the Company acknowledges
13 the Commission's desire that, within a reasonable range of flexibility, the Company
14 make capital investments consistent with Commission approvals in rate cases. To
15 that end, in this case the Company is proposing to extend its Distribution IRM
16 through 2027 and indicating its support for an expansion of the IRM in the test year
17 (2025). Such an approach would have the dual benefits of both ensuring that
18 investments are made consistent with Commission orders and supporting timely
19 recovery of those investments.

20

21 **Q21. How will the Company's grid modernization and generation transformation**
22 **initiatives impact the cost to its customers?**

23 A21. The Company understands that with the requested rate relief it is asking its
24 customers to pay more to support improvements in reliability and the transition to
25 cleaner generation. According to the Energy Information Administration (EIA)

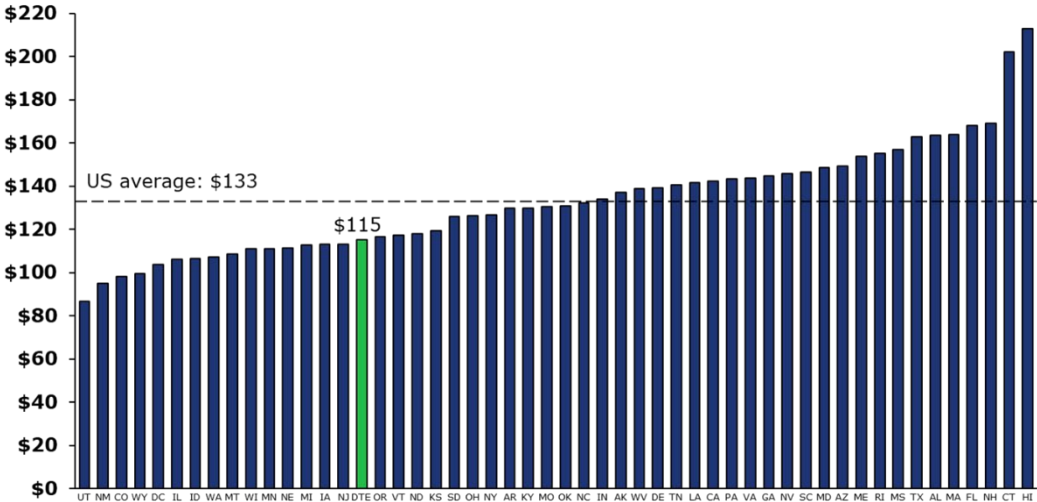
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1 average bills for DTE Electric customers remained below the national average in
2 2023, as seen in Figure 8. Specifically, in 2023 DTE Electric’s Residential Electric
3 Bills were 13% below the national average, and in 2022 were 11% below the
4 national average⁵.

5

6

Figure 8 2023 Average Residential Electric Bills⁶



7

8 In addition to having below average bills, since 2021 DTE Electric’s residential bill
9 growth has remained below the rate of inflation and below the rate of increase for
10 peers in both the Great Lakes and nationally. Rate relief as proposed by the
11 Company in this case would continue this trend. The requested test year rate relief
12 of approximately \$456M would result in an increase of 37 cents/day for the average
13 residential customer and would translate to average annual bill growth of 3.1%
14 since 2021., This is below the projected level of average inflation of 4.2% over the

⁵ DTE Electric 2022 Average Residential Bill: \$118.45; 2022 National Average Residential Bill: \$132.90.
Source: EIA 861M
⁶ Source: EIA 861M

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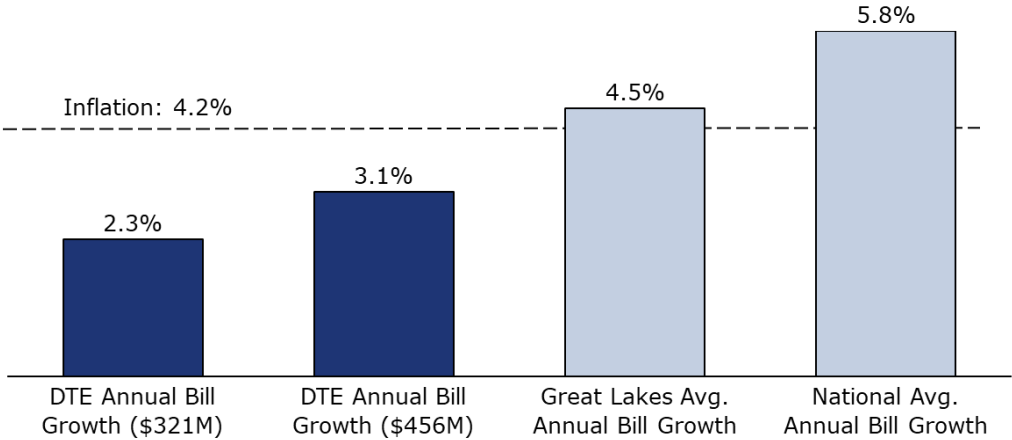
1 same time. Between 2021 and 2023, Great Lakes region residential electric bill
2 growth has been 4.5% per year, and national electric bill growth has been 5.8% per
3 year.

4
5 Rate relief of \$321M, which would cover the recovery and financing costs for the
6 capital as described above, would result in a bill CAGR over that same period of
7 2.3%. This is illustrated below in Figure 9.

8

9 **Figure 9 Average Residential Bill Growth Since 2021⁷**

10



11

12 In summary, the rate relief sought in this case will allow DTE Electric to take
13 another important step on its multi-year journey toward improved reliability and
14 cleaner generation. As discussed previously, we are already realizing the reliability
15 benefits of our grid investments where they have been made, but there is much work

⁷ 12-month trailing average through May 2021; DTE forecasted through Jan 2025, peers actual through November 2023; inflation is actual CPI through Jan 2024 and core inflation projection from the Federal Open Markets Committee for 2024

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1 to be done. Approval of the requested rate relief supports the Company's plan to
2 deliver reliability that is better than industry average by 2029 and unlock potential
3 economic value, while also continuing the transition to cleaner generation.

4

5 **Q22. Can you elaborate on how the requests in this general rate case filing support**
6 **the Company's strategic imperatives described above?**

7 A22. This rate case represents the Company's continued commitment to improved
8 reliability and innovation. The Company is seeking approval of significant
9 infrastructure investments to improve the reliability and resilience of its electric
10 distribution system as detailed in its 2023 Distribution Grid Plan filed in Case No.
11 U-20147. This involves redesigning, hardening, and rebuilding antiquated
12 infrastructure, modernizing how the electric grid is monitored and operated, and
13 performing preventive and proactive maintenance and tree trimming at standards
14 that reflect today's operating conditions, including security risks and more extreme
15 weather. These investments will not only reduce how often and how long
16 customers experience power outages but will also enable the Company to support
17 greater optionality for customers in adopting technologies such as batteries, solar,
18 and electric vehicles (EVs).

19

20 To support innovation during this period of transformational change in the energy
21 industry, the Company is also proposing new technology deployments, including
22 enhanced information technology capabilities to reduce costs and improve the
23 customer experience; energy storage in the form of batteries; non-wires

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1 alternatives; and expanded programs to support deployment of EVs. The
2 Company's generation fleet continues to evolve towards cleaner resources with
3 new renewable energy facilities and the recently approved conversion of the Belle
4 River Power Plant to a natural gas peaking resource. The Belle River Unit 1
5 conversion is scheduled for completion in 2025 while Belle River Unit 2's
6 conversion is scheduled for completion in 2026. DTE Electric has retired six of its
7 coal-fired facilities, which accounts for all of its Tier 2 coal units (Marysville,
8 Harbor Beach, Conners Creek, River Rouge, St. Clair, and Trenton Channel). In
9 addition, the Company's Integrated Resource Plan (Case No. U-21193) resolved in
10 2023 will require the development of additional renewable energy and battery
11 storage resources, while accelerating the retirement of its remaining two coal-fired
12 facilities, Belle River and Monroe. The Company committed to all these actions
13 prior to the State's recently passed legislation establishing a 100% clean energy
14 standard by 2040 and as such, is well positioned for compliance.

15

16 **Q23. Why has DTE Electric filed this general rate case at this time?**

17 A23. DTE Electric strives to provide safe, reliable, and affordable electric service to its
18 customers. In pursuit of these objectives, DTE Electric seeks to deliver reasonable
19 and appropriate compensatory returns to DTE Energy shareholders while
20 maintaining the Company's financial health. As discussed above, DTE Electric has
21 undertaken a major capital investment program to improve reliability and
22 resilience, most notably for the distribution system and is also moving toward
23 cleaner sources of generation. However, the Company's existing rates and
24 projected electricity sales cannot sustain this level of infrastructure investment
25 without a rate increase. The level of investments undertaken by the Company since

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1 2022 and projected to be spent through the projected test year in this case requires
2 the Company to make this filing. The only way that DTE Electric can adequately
3 provide the required service levels that our customers desire and deserve is by being
4 financially healthy. The Company's current authorized rates are not expected to
5 provide DTE Electric with adequate revenues to make necessary infrastructure
6 investments while providing a reasonable opportunity to earn a fair return on equity
7 beginning in January 2025.

8

9 **Q24. What are the measures used to determine the Company's financial health?**

10 A24. Maintaining DTE Electric's financial health requires that the Company has a
11 reasonable opportunity to earn its cost of capital, that the Company has a well-
12 balanced capitalization (no less than 50% equity to total permanent capitalization),
13 and that the Company is able to maintain its A/Aa3/A+ credit ratings for senior
14 secured debt from the three major rating agencies. These preconditions are
15 necessary to ensure DTE Electric has full access to capital markets at reasonable
16 rates, terms, and conditions regardless of business cycle timing or industry
17 conditions. As discussed by Company Witness Lepczyk, without full access to
18 capital markets at reasonable terms and conditions, the cost of providing utility
19 services can increase significantly.

20

21 **Q25. Why is the Company's financial health important for customers?**

22 A25. To attract the capital necessary for the prudent operation and maintenance of its
23 facilities, the Company must be able to demonstrate its ongoing financial health.
24 Inadequate rates will ultimately result in higher financing costs and have a
25 significant negative impact on the ability to adequately serve our customers and

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1 maintain the integrity of the Company's electric distribution and generation assets.
2 This negative impact will occur because greater expenditures would be required to
3 support financing costs, and therefore, would not be available for system
4 maintenance or customer service. Similarly, inadequate funding for capital and
5 maintenance programs, over time, would result in the deterioration of DTE
6 Electric's generation and distribution infrastructure, ultimately resulting in reduced
7 system reliability and service quality.

8

9 Thus, it is essential to DTE Electric's financial health that the ultimate cost that
10 customers are asked to pay for the Company's services generate sufficient cash
11 flow from operations to fund the necessary capital expenditures to maintain and
12 improve service as well as pay a reasonable dividend.

13

14 **Q26. Does DTE Electric's continued implementation of infrastructure maintenance**
15 **and investment programs provide additional benefits to customers and the**
16 **region?**

17 A26. Yes. DTE Electric has an important positive economic impact on the communities
18 it serves. DTE Electric is one of the largest employers in Southeast Michigan with
19 over 4,800 employees. Through the Pure Michigan Business Connect campaign,
20 the Company utilizes the services of numerous local contractors and vendors. DTE
21 Energy spent over \$2.5 billion with Michigan based companies in 2023. Through
22 property taxes, DTE Electric contributes to the financial health of local
23 communities. In the historical test year, DTE Electric paid approximately \$280
24 million in property taxes to Michigan communities. To maintain facilities, comply
25 with various regulations, implement its Distribution Grid Plan, and continue the

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1 transformation of its generation fleet, DTE Electric continues to make major capital
2 investments in the communities in which it operates. Thus, DTE Electric supports
3 additional job growth opportunities and provides continuing and incremental tax
4 revenue for our local communities.

5

6 **Q27. Does DTE Electric provide assistance to customers who have trouble paying**
7 **their utility bill or provide opportunities to customers needing assistance to**
8 **participate in some of the Company's offerings?**

9 A27. Yes. The Company has programs to help customers who are having trouble paying
10 their utility bill as well as offerings that help low-income customers participate in
11 some of the Company's other programs. For example, DTE Electric works to help
12 customers maintain service and reduce arrears and also offers residential income
13 assistance (RIA) and low-income assistance (LIA) credits to help vulnerable
14 customers manage utility bills. These are discussed by Witness Sparks along with
15 details regarding a percentage of income payment plan pilot the Company launched
16 in 2022. Additionally, Witness Bennett discusses our electric vehicle program
17 which will help income qualified customers. Lastly, any customer taking service
18 under the Company's MIGreenPower (Rider 17) tariff, as well as any other
19 interested parties, can support a low-income donation pilot on a monthly basis or
20 as a one-time contribution. These voluntary contributions provide fully subsidized
21 subscriptions to low-income customers who are eligible to participate.

22 **Requested Relief**

23 **Q28. What rate relief was approved in the Commission's Order in the Company's**
24 **last general rate case, Case No. U-21297?**

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1 A28. The Company's last general rate case, Case No. U-21297, was filed in February
2 2023 requesting \$618.5 million in rate relief. This deficiency assumed that the
3 Company's proposed IRM would be approved. In the Commission's December 1,
4 2023 Order, DTE Electric received approval for \$368 million in rate relief and
5 approval to establish an IRM.

6

7 **Q29. What rate relief is DTE Electric requesting in this case?**

8 A29. As calculated by Company Witness Vangilder, DTE Electric expects a revenue
9 shortfall of \$456.4 million for the January 1, 2025 through December 31, 2025
10 projected test year. As supported by various Company witnesses, factors
11 contributing to this shortfall are the revenue requirement associated with increased
12 investments made in plant and the associated depreciation and property tax
13 increases as well as the impact of inflation on DTE Electric's O&M and borrowing
14 costs.

15

16 **Q30. Can you highlight some of the major investments and expenses included in the**
17 **Company's request for rate relief?**

18 A30. This general rate case sets forth the rationale, spending, timing, and expected
19 customer benefits associated with significant investments in distribution,
20 generation, and customer service. Several programs to highlight are summarized
21 below.

22 • Strategic infrastructure investments in substations, poles, wires,
23 transformers and other electric distribution assets to modernize equipment,
24 support growth in customer demand in specific areas, improve worker and
25 public safety, and reduce the frequency and duration of power outages. This

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1 also includes plans to accelerate the conversion of the 4.8 kV system to a
2 higher voltage, ramping up the pole top maintenance program, and
3 increased investment in distribution automation and telecommunications
4 technologies.

5 • Continuation of the multi-year tree trimming “surge” program that reduces
6 outages on circuits trimmed to the new, more protective standard. The
7 continuation of the Commission-approved tree trimming program will
8 allow the Company to complete the surge, which is expected in 2025. This
9 program remains critical to improving reliability and resilience across the
10 system and is foundational to the Company’s overall efforts to improve
11 reliability.

12 • Conversion of Belle River Power Plant’s fuel source from coal to natural
13 gas, consistent with the IRP Order in Case No. U-21193, which included
14 preapproval of the Belle River Fuel Conversion project.

15 • Plant removal associated with the retirement and decommissioning of
16 power generation assets at Harbor Beach, Connors Creek, River Rouge, St.
17 Clair, and Trenton Channel Power Plants. With the Company’s final Tier
18 2 plants having been retired in 2022, DTE Electric is committed to the
19 removal of these retired steam generating units. The process involves three
20 primary activities, namely decommissioning, decontamination, and
21 demolition. Witness Guillaumin addresses this project in detail in her
22 testimony.

23

24 **Q31. What investments is the Company making to promote greater levels of**
25 **advanced technology and customer satisfaction?**

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1 A31. The Company is working to deploy advanced technologies in all areas of its
2 business as well as furthering its commitment to deploy proven technology to
3 improve our customers' experience with DTE Electric's services. Examples are
4 briefly described below:

- 5 • Energy storage projects proposed for the Energy Supply portfolio include
6 two grid-scale battery applications. One is the continuation of the 14 MW
7 Slocum battery pilot project slated to replace retiring peaking generation
8 located in Trenton, Michigan. The other project, also located in the City of
9 Trenton, is a 220 MW battery that is consistent with the build plan included
10 in the Company's 2022 IRP planned course of action. This project will be
11 located at the site of the recently retired Trenton Channel Power Plant.
12 Witness Guillaumin addresses this project in detail in her testimony.
- 13 • Distribution Operations also continues to evaluate different use cases for
14 energy storage. Examples include the use of batteries to help relieve certain
15 substation overloads and a battery trailer which can be sited in place of
16 traditional portable generators. Witness Hartwick addresses these projects
17 in detail in her testimony.
- 18 • As outlined in the Company's information technology (IT) plans, the
19 customer IT portfolio of investments prioritizes the enhancement of
20 customer experiences and increased operational efficiencies. Witness
21 Hatsios addresses these customer service IT plans in detail in his testimony.

22

23 **Rate Case Methodology**

24 **Q32. Can you describe the methodology the Company is using to support its**
25 **projected test year positions and its recommendations in this case?**

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1 A32. Yes. DTE Electric has used actual historical data as the point of departure for most
2 estimated cost levels for the projected test year. These historical costs were then
3 adjusted for the impact of inflation. As has been DTE Electric's practice in prior
4 rate cases, certain other costs reflect specific estimates or projections where general
5 impacts of inflation alone would be insufficient to capture known changes. For
6 example, some of these include, but are not limited to, capital expenditures for new
7 plant and uncollectible expense. All these cost components and the circumstances
8 involved are explained and supported by other Company witnesses.

9

10 **Q33. What historical and projected test year periods are being used by DTE Electric**
11 **for purposes of calculating its projected revenue deficiency?**

12 A33. The historical test year used by DTE Electric is the calendar year ended December
13 31, 2022. This 12-month period was then normalized and adjusted for known and
14 measurable changes, as supported by the Company's witnesses in this case, to
15 arrive at the Company's January 1, 2025 through December 31, 2025 projected test
16 year. As this case is being filed in early 2024, the Company has included 10 months
17 (January – October) of actual capital investments in the 2023 bridge period.

18

19 **Q34. Are there any new recovery mechanisms being requested in this rate case?**

20 A34. Yes. As described later in my testimony, the Company is requesting a new storm
21 restoration O&M cost sharing mechanism to better align storm restoration O&M
22 cost recovery with the actual costs incurred by the Company.

23

24 As described later in my testimony, the Company is also proposing an extension of
25 the IRM approved by the Commission in Case No. U-21297. In Case No. U-21297,

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1 the Company requested a roughly three-year IRM starting concurrent with the
2 forward test year in that case (December 1, 2023) and extending through calendar
3 year 2026. The Commission approved the first two years (December 1, 2023
4 through December 31, 2025) of the proposed IRM but not the last (calendar year
5 2026). The Company is requesting the IRM be extended to cover calendar years
6 2026 and 2027. In addition, the Company is indicating its support for an expansion
7 of the IRM in 2025 if the Commission finds it appropriate to do so as a way to grow
8 the stakeholder benefits realized through the IRM.

9

10 **Tree Trimming Surge**

11 **Q35. Has the Commission previously approved tree trim “surge” funding in the**
12 **Company’s recent rate cases?**

13 A35. Yes. In the Company’s last four general electric rate cases (Case No. U-20162,
14 Case No. U-20561, Case No. U-20836, and Case No. U-21297), the Commission
15 approved the deferral of “surge” amounts for the Company’s tree trimming
16 program. These “surge” amounts represent an increase in annual funding above the
17 baseline tree trimming O&M and have been supporting the Company’s goal of
18 achieving a five-year trim cycle for its distribution system.

19

20 The Commission approved \$43.7 million in surge funding for calendar year 2025
21 in the Company’s most recent general rate case, U-21297. As discussed in detail
22 by Company Witness Steudle, this “surge” in tree trimming spending was
23 established to occur over an approximately seven-year period (2019 – 2025). At
24 the program’s termination, the Company expects to maintain all circuits on-cycle
25 to the enhanced tree trimming specification, as discussed by Witness Steudle.

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1

2 **Q36. Is the Company requesting that the Commission approve incremental funding**
3 **for the 2025 surge?**

4 A36. Yes. The program remains on track to be completed in the seven years originally
5 contemplated but as detailed and supported by Witness Steudle, the Company has
6 identified a funding gap to complete the surge in 2025 and maintain on-cycle miles
7 at the intended 5-year cycle. As such, the Company is requesting an incremental
8 \$87 million be approved for the 2025 surge deferral. To complete the tree trim
9 surge program, the Company is requesting that the Commission approve a total
10 surge funding deferral of \$131 million for calendar year 2025. Witness Steudle
11 provides a detailed explanation of the funding gaps and the proposal to complete
12 the surge and maintain on-cycle miles.

13

14 **Q37. What other parameters did the Commission specify related to the deferral of**
15 **the tree trimming surge amounts in previous orders?**

16 A37. In the Case U-20162 May 2, 2019 Order, the Commission specified that the return
17 earned on the tree trim surge regulatory asset deferrals would accrue at the short-
18 term debt rate. Lastly, the Commission stated that the Company may seek recovery
19 of the regulatory asset in a future rate case or through securitization.

20

21 **Q38. Has the Company sought the securitization of any of the previously deferred**
22 **tree trimming assets yet?**

23 A38. Yes. In Case No. U-21015, the Company requested securitization of \$116.2 million
24 of its tree trim deferred asset balance through June 30, 2021. The requested amount
25 represented the total qualified assets of \$156.9 million (\$43.3 million in 2019, \$74.1

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1 million in 2020, and \$38.3 million through June 30, 2021, plus interest of \$1.2
2 million) net of deferred federal income tax charges (DFIT) of \$40.6 million. The
3 Commission approved the securitization of and recovery up to the total qualified
4 costs for the tree trim deferred asset of \$156.9 million inclusive of DFIT and the
5 Company has securitized that expense.

6

7 **Q39. How has the Company treated the tree trim surge regulatory asset in this**
8 **general rate case filing?**

9 A39. The Company has included a “return on” the tree trim surge regulatory asset at the
10 cost of permanent capital (i.e., long-term debt and equity) included in this case.
11 Witness Lepczyk discusses why the Company believes the return on should be
12 comprised of both permanent debt and equity. The Commission’s Order in the Case
13 No. U-21015 securitization filing required the proceeds from the securitization be
14 used to retire both permanent debt and equity for the tree trim surge regulatory
15 asset. Consistent with that determination, the Company should be allowed to
16 recover its actual financing cost in a commensurate manner. The revenue
17 requirement for the deferred amount is calculated by Company Witness Vangilder
18 on Exhibit A-11, Schedule A1.1 using debt and equity costs supported in this case
19 by Witness Lepczyk.

20 **Q40. When does the Company anticipate making its next securitization filing for**
21 **the tree trim surge regulatory asset?**

22 A40. Previously, the Company proposed securitizing balances once they reach
23 approximately \$150 million. Current projections show the Company will reach this
24 cumulative balance in 2025, the proposed last year of the surge program. However,
25 since the upfront costs associated with securitization bonds are sizable and largely

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1 fixed, the Company intends to wait until the projected 2025 surge completion
2 before making its next securitization filing. The larger deferred balance will more
3 efficiently spread the fixed costs and reduce overall securitization costs to
4 customers. Although a securitization filing capturing costs through early 2025 is
5 technically feasible in 2025, the Company also needs to consider the size of the
6 anticipated surge amounts through the remainder of the surge scheduled to end late
7 in 2025. Given the fixed costs of securitizing and the time between reaching a \$150
8 million balance and the conclusion of the program, DTE Electric is planning to file
9 a final tree trim related securitization after the surge program concludes in 2025,
10 capturing all expenditures not previously securitized.

11

12 **Outage Credit Recovery**

13 **Q41. Is the Company currently recovering the costs of any credits paid to customers**
14 **for outages?**

15 A41. No. In the last two general rate cases, the Company has not included any expenses
16 for the cost of credits it has paid to customers for outages.

17

18 **Q42. Did DTE Electric propose a framework for the future inclusion of these costs**
19 **in either of its last two general rate cases?**

20 A42. Yes. In Case U-20836, the Company proposed that those credits paid for outages
21 caused by events outside DTE Electric's control be deferred for subsequent
22 recovery starting with the final order in that case. On page 366 of the order in that
23 case, the Commission directed:

24 *...DTE Electric to work with the Staff toward the full development of the*
25 *Staff's proposed limited recovery of outage credits. The Commission*

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1 *upholds the company's responsibility to timely restore electric service to*
 2 *customers in all circumstances under the Commission's Service Quality and*
 3 *Reliability Standards for Electric Distribution Systems (Mich Admin Code,*
 4 *R 460.701-752) and customers' entitlement to an outage credit on their*
 5 *power bill in circumstances where the company fails to do so. However, it*
 6 *is reasonable that the company have the ability to recover outage credits*
 7 *when the outage was caused by customer negligence or the transmission*
 8 *system operator, among other limited circumstances as developed in*
 9 *collaboration with the Staff.*

10

11 **Q43. Did the Company and Staff meet to discuss outage credit cause codes and**
 12 **Company recoverability?**

13 A43. Yes. Prior to the filing of this case, the Company and Staff discussed outage cause
 14 codes as well as the reasonableness of recoverability for credits paid as a result of
 15 outages that exceed the outage duration limits and those outages exceeding the
 16 outage frequency limits outlined in the Commission's Service Quality and
 17 Reliability Standards (rules R460.744 and R460.745 respectively).

18

19 **Q44. What is the Company's position regarding the outage causes that should have**
 20 **their related credits recovered by the Company?**

21 A44. The Company's position is that recoverability of the credits paid for outages differs
 22 based on which of the two broad categories of outages triggers the payment: 1)
 23 duration limit or 2) frequency limit.

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1 DTE Electric believes that credits paid for outages that exceed the duration limit
2 should include the following outage causes:

- 3 • Transmission operator or other utility
- 4 • Public interference
- 5 • Animal interference

6

7 The Company also believes that for credits paid to customers for exceedance of the
8 outage frequency limits, that recoverability would include the following outage
9 causes in addition to the two above:

- 10 • Ice
- 11 • Lightening
- 12 • Wind
- 13 • Other weather

14

15 **Q45. What is the rationale for including weather related events for recoverability**
16 **when there is an exceedance of outage frequency limits but not recommending**
17 **the same for exceedances of the duration limit?**

18 A45. The rationale is that the Company controls the restoration time when there is a
19 weather event but not the frequency with which weather events occur.

20

21 **Q46. How is the Company proposing to recover the expense for credits related to**
22 **those outage causes approved by the Commission for recovery?**

23 A46. The Company's proposed recovery treatment of outage credit costs is consistent
24 with its original proposal in Case No. U-20836. With the Commission's approval
25 of the underlying outage causes that result in recoverable credits, the Company will

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1 defer the costs related to those credits starting after an order in the instant case. The
2 deferred amounts would be reviewed for reasonableness and prudence in the
3 subsequent general electric rate case. Only after the deferred amounts are approved
4 would the Company begin amortizing and recovering them. Witness Uzenski
5 describes the deferral mechanism including the amortization period in her
6 testimony.

7

8 **Q47. Does the Company have a proposal for how recoverable credits related to**
9 **frequent outages would be calculated?**

10 A47. The Company would like to spend more time with Staff to design a methodology
11 for the recovery of these credits but has an initial proposal. If a customer meets the
12 criteria for the outage credit based on outage frequency, there will likely be a mix
13 of underlying causes. Though mathematically simple to determine the percentage
14 of the outage credit that is recoverable, it will be expensive and complicated to
15 implement an algorithm into the billing system to calculate a unique percentage to
16 apply to each \$38 credit that is being deferred for recovery. The Company proposes
17 that a common percentage be applied to all outage credits paid for outage frequency
18 exceedances that reflects some analytics from the previous year. In this way, a
19 simple and consistent factor can be applied to each outage credit paid for frequency
20 exceedances, avoiding the need for complicated and costly system programming.

21

22 It would be less costly to analyze the prior year's data and apply a common
23 percentage than to analyze each payment real-time and apply a unique factor. The
24 Company would like to work with Staff to develop a methodology that is reasonable
25 and able to be implemented without billing system complexities.

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1 **Corporate Memberships**

2 **Q48. How does the Company determine which corporate memberships to acquire?**

3 A48. The Company acquires and maintains corporate memberships that help in its
4 mission to provide safe, affordable, clean and reliable energy. Decisions regarding
5 which memberships to obtain are typically made by individual business units. A
6 list of the corporate memberships included in DTE Electric's O&M expense are
7 shown on Exhibit A-27, Schedule Q1. As shown in this exhibit, each membership
8 generally falls under the auspices of one business unit.

9
10 **Q49. Has the Commission provided guidance on how the Company should support
11 its Corporate Memberships in this and future rate cases?**

12 A49. Yes. In its November 18, 2022 Order in Case No. U-20836 on page 306, the
13 Commission directs the Company as follows:

14 *"The Commission directs DTE Electric to file in its future rate cases an*
15 *exhibit containing an itemized list of projected costs associated with*
16 *membership fees and justification for why these costs are in customers'*
17 *interest."*

18 Further, in its December 1, 2023 Order in Case No. U-21297, on page 221, the
19 Commission directs the Company as follows:

20 *"Therefore, to ensure continued recovery of these corporate membership*
21 *fees, DTE Electric shall provide in its next general rate case a detailed*
22 *description of how these organizations specifically impact/benefit*
23 *customers as outlined by the DAAOs, which will convey DTE Electric's*
24 *roles and responsibilities in advancing ratepayer interests through its*
25 *participation in each organization."*

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2 **Q50. Has the Company itemized the projected costs associated with membership**
3 **fees and included justifications for why these costs are in customers' best**
4 **interest?**

5 A50. Yes. Exhibit A-27, Schedule Q1 includes the customer benefits and cost for each
6 membership included in the Company's projected test year. The exhibit is seven
7 pages with pages 1 - 2 displaying, in alphabetical order, the corporate memberships
8 which are nondiscretionary. Pages 3 – 7 display, in alphabetical order, those
9 memberships which are discretionary. The descriptions include the specific benefit
10 these memberships offer. Additionally, corporate memberships which are
11 discretionary and exceed \$100,000 are further supported by other witnesses in the
12 case representing the primary business unit that utilizes the membership. Exhibit
13 A-27, Schedule Q1 columns (d) and (e) provides the witness names along with their
14 associated business unit for those customer and membership benefits.

15

16 **Q51. Do any of the membership costs included in the Company's revenue**
17 **requirement in this case involve lobbying activities?**

18 A51. No. Any memberships, or portions of memberships, related to lobbying activities
19 are excluded from DTE Electric's revenue requirement. Witness Uzenski supports
20 how certain memberships and their related costs have been excluded. As mentioned
21 above the costs shown on Exhibit A-27 Schedule Q1 represent the costs that are
22 proposed for inclusion in rates, exclusive of lobbying fees. The amounts have not
23 been adjusted for inflation on Exhibit A-27 Schedule Q1 but are included in the
24 Company's revenue requirement with an inflation adjustment.

25

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1 **Q52. What benefits are realized from DTE Electric's memberships in the**
2 **organizations listed on Exhibit A-27, Schedule Q1?**

3 A52. In addition to the benefits included in each membership's description and
4 supporting witnesses' testimony (reference column e of Exhibit A-27, Schedule Q1
5 pages 2 -7), the benefits the Company and its customers receive from the
6 memberships listed in Exhibit A-27, Schedule Q1 pages 2 through 7 generally fit
7 into one or more of the following broad categories:

- 8 • Benchmarking - helps the Company understand how its performance and
9 practices compare to its peers,
- 10 • Best practices - provides insights into industry best practices and potential
11 opportunities for implementation based on those insights,
- 12 • Research – provides access to research that the Company would otherwise
13 have to perform on its own, and leads to access to information at a lower
14 cost than if each member organization performed the research on their own,
- 15 • Networking – helps build relationships with peers that improves the flow of
16 communication between people and companies leading to a greater
17 awareness of industry trends, emerging technologies, emerging issues, and
18 resources.

19

20 **Q53. Are you providing additional support for any of the corporate memberships**
21 **requested for recovery?**

22 A53. Yes. As noted above, Exhibit A-27, Schedule Q1 lists the supporting witness for
23 non-discretionary memberships over \$100,000. The one membership that I am
24 supporting is the Edison Electric Institute (EEI).

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1 In addition to our operating groups (e.g., Distribution, Generation), the Company
2 leverages EEI to the benefit of its customers through many of the Company's
3 workstreams (e.g., IT, Supply Chain) as outlined below. EEI members are afforded
4 the opportunity to establish connections with other companies through the EEI
5 network. Some examples of how the Company's EEI participation benefits
6 customers include:

- 7 • Mutual assistance coordination across the nation which enables DTE
8 Electric to quickly secure resources for storm restoration. The industry has
9 no other mutual assistance structure;
- 10 • Information on technology industry security initiatives and best practices;
- 11 • Assistance identifying and networking with diverse suppliers specific to the
12 utility industry as well as sharing best practices regarding supplier diversity;
- 13 • Benchmarking on utility-driven economic development;
- 14 • Knowledge building regarding FERC Order 2222 (addressing Distributed
15 Energy Resource participation in electricity markets) and its implications
16 for utility system preparation and operation;
- 17 • Best practice sharing from transportation electrification programs around
18 the nation; and
- 19 • Learning from industry experts and leaders on important topical subjects
20 such as battery operations and risk mitigation, decarbonization, and non-
21 wire alternatives.

22

23 **Introduction of Other Witnesses**

24 **Q54. How will the Company present evidence in support of its requested relief in**
25 **this case?**

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- 1 A54. The Company will present its case through 27 witnesses, including myself, as
2 described below (in alphabetical order).
- 3 1) Mr. Robert A. Bellini, Manager – Community Lighting, supports the energy
4 forecast for outdoor lighting; the development of the proposed rate design
5 for the outdoor lighting rate schedules (municipal lighting and other) as well
6 as supports the reasonableness of the historic and projected Community
7 Lighting O&M and the Community Lighting capital expenditures. He also
8 discusses the preventative maintenance programs and outage restoration
9 activities for community lighting.
- 10
- 11 2) Ms. Pina Bennett, Director – Electric Marketing supports the expenditure
12 status for existing Charging Forward programs and pilots and discusses the
13 Transportation Electrification Plan. She also supports Merchant Fees
14 expense and certain expenditures related to the 2023 full time-of-day roll
15 out; and the Electric Regulated Marketing O&M expense.
- 16
- 17 3) Mr. Shawn D. Burgdorf, Manager of the Power Supply Strategy &
18 Modeling – Generation Optimization, establishes the projected wholesale
19 market energy sales revenue net of fuel.
- 20
- 21 4) Mr. Jeffery C. Davis, Expert – Nuclear Strategic Business Operations,
22 supports the Company’s actual nuclear O&M and capital expenditures for
23 the 12-month historical test period ended December 31, 2022. He also
24 discusses and supports the reasonableness of the projected nuclear O&M
25 and capital expenditures for the interim forecast period and the 12-month

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1 projected test period ending December 31, 2025. In addition, he supports
2 the reasonableness of the projected Nuclear Surcharge for the projected test
3 period ending December 31, 2025.

4

5 5) Mr. Satvir Deol, Director – Substation Operations, supports, as reasonable
6 and prudent, the historical capital expenditures for 2022 and projected
7 capital expenditures for 2023 through December 31, 2025, in the
8 distribution strategic investment category of Infrastructure Redesign and
9 Modernization and discusses programs associated with the Company’s IRM
10 discussed later in my testimony.

11

12 6) Ms. Morgan Elliott Andahazy, Director – Project Management
13 Organization, supports, as reasonable and prudent, the historical capital
14 expenditures for 2022 and projected capital expenditures for 2023 to
15 December 31, 2025, in the distribution strategic category of Infrastructure
16 Resilience and Hardening. In addition, her testimony will include support
17 for specific programs included in the IRM discussed later in my testimony.

18

19 7) Mr. Keegan Farrell, Manager - Demand Response (DR), discusses the
20 development of DR efforts that DTE Electric is conducting and provides
21 support for the expenditures and activities associated with the continuation
22 of existing programs and pilots, as well as the Company’s proposals for new
23 pilots. He also discusses the DTE Insight Program and projected capital
24 expenditures.

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- 1 8) Mr. Matthew A. Fix, Director of Compensation and Retirement Income will
2 present an overview of employee compensation practices and benefit
3 expense related to retirement income for DTE Electric for the 2022
4 historical test period and the 12 months ended December 31, 2025,
5 projected test period. He provides support for the Company's projected
6 pension costs, Employee Savings Plan Expense and other retirement income
7 benefits; supports the Company's labor cost escalation assumptions used in
8 Company Witness Uzenski's development of the composite inflation
9 factors for the projected test period, provides an overview of the Company's
10 compensation philosophy for non-represented employees and the role that
11 the Company's incentive plans play in the overall reasonableness of its total
12 compensation policies, including an analysis of salaries for non-represented
13 positions as of December 31, 2022, relative to the market medians for
14 comparable positions; describe the components of the Company's short-
15 term and long-term incentive compensation plans and support the inclusion
16 of such cost in the Company's revenue requirement, exclusive of the costs
17 related to DTE Energy's Top Five Executive Officers. In addition, Witness
18 Fix demonstrates that the quantifiable customer benefits of the Company's
19 incentive compensation plans exceed the corresponding expense, as
20 required by the Commission's traditionally mandated cost/benefit analysis
21 of incentive compensation expense.
- 22
- 23 9) Ms. Margaret E. Guillaumin, Plant Director, Energy Supply Operations
24 Performance, supports the reasonableness and prudence of the O&M and
25 capital expenditures for Energy Supply steam power generation, hydraulic

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1 power generation (Ludington), and other power generation for the historical
2 test year ended December 31, 2022, the 24-month bridge period ending
3 December 31, 2024, and the 12-month projected test period ending
4 December 31, 2025. She provides a review of the Fossil Generation base
5 coal unit availability performance for five years prior and five years
6 following the projected test year in this instant case. She also discusses how
7 the Environmental Protection Agency’s Steam Electric Effluent Limitation
8 Guidelines Rule affects required coal-fired generation investment and
9 supports the historical 2022 level of capital expenditures on a plant level
10 basis and the forecast of capital expenditures planned for 2023 through
11 December 31, 2025.

12

13 10) Ms. Shannen M. Hartwick, Director of Automation supports, as reasonable
14 and prudent, the historical capital expenditures for 2022, the projected
15 capital expenditures for 2023 through December 31, 2025 in the distribution
16 strategic investment category of the Technology and Automation Pillar, and
17 the programs associated with the Company’s IRM.

18

19 11) Mr. Michael J. Hatsios, Director – Customer Service Operations supports
20 the reasonableness and prudence of a subset of the capital projects in the
21 Company’s Customer IT Portfolio. Specifically, he discusses the details
22 and benefits to customers of those projects that align with DTE Electric’s
23 priorities to save customers money, enhance the customer experience, and
24 promote and provide energy efficiency (EE) and renewable energy

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- 1 opportunities for customers. He also supports the Customer Service O&M
2 for the 2022 historical test year and the 2025 projected test period.
3
- 4 12) Mr. Brian L. Hill, Director –Southwest Regional Customer Operations and
5 Scheduling & Coordination, supports, as reasonable and prudent, the
6 historical capital expenditures and proposed capital expenditures related to
7 base capital programs (emergent replacements, customer connections,
8 relocations, and others). In addition, he provides an explanation of the
9 Company’s purchase and use of Portable Generators and an update on MISS
10 DIG (which is not a capital program or expenditure) reporting changes made
11 since Case No. U-21297.
12
- 13 13) Mr. Jerome K. Hooper, Manager, Health & Welfare Benefits and
14 Occupational Health presents an overview of benefit expense for DTE
15 Electric for the 2022 historical test period and the 12 months ended
16 December 31, 2025, projected test period. He supports the Company’s,
17 other post-employment benefits costs (OPEB), active employee health care
18 costs and the costs of other employee benefits.
19
- 20 14) Mr. Allen J. Kryscynski, Acting Director – Distribution Operations
21 Regulatory Strategy and Grid Modernization, supports the historical
22 Operations and Maintenance (O&M) expenses related to electric
23 distribution activities for 2022 historical period and for the projected test
24 period 12-months ending December 31, 2025, the Distribution Operations’
25 Global Prioritization Model, Infrastructure Investment and Jobs Act

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1 funding grants, updates the Distribution Operations approach to
2 Environmental Justice, as well as supports several other DO related issues.

3

4 15) Mr. Robert J. Lee, Manager - Environmental Strategy, describes the status
5 of two significant Environmental Protection Agency regulations: the Steam
6 Electric Effluent Limitation Guidelines Rule and the Coal Combustion
7 Residuals Rule which impact the Company's coal-fired power plants.

8

9 16) Mr. Timothy J. Lepczyk, Assistant Treasurer and Director – Corporate
10 Finance, Insurance and Development supports DTE Electric's projected
11 capital structure and the cost of its long and short-term debt to be used in
12 the determination of DTE Electric's overall rate of return in this proceeding.

13

14 17) Mr. Markus B. Leuker, Manager – Corporate Energy Forecasting, provides
15 the Company's current electric sales, maximum demand, and system output
16 forecast for the period 2023-2028, including the projected 12-month test
17 period January 1, 2025 through December 31, 2025. He discusses the
18 outlook for the national and local economy which is the basis of the forecast.
19 Witness Leuker also describes how the forecast of electric sales, maximum
20 demand and system output is developed and supports the reasonableness of
21 the electric sales forecast used by DTE Electric in this proceeding.

22

23 18) Mr. Habeeb J. Maroun, Regulatory Strategy Consultant – Revenue
24 Requirements Department, presents Unbundled Cost of Service (UCOS)
25 Studies for DTE Electric's projected test year ending December 31, 2025.

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1 He also provides an Alternate Cost of Service Study (Alternate COSS) with
2 DC Fast Charging (DCFC) as a separate class, as required by the
3 Commission in its December 1, 2023 Order in Case No. U-21297. He also
4 supports revenue requirement calculations for: (1) customer-related costs,
5 (2) capacity charge by customer class, and (3) IRM by voltage class.

6

7 19) Mr. David C. Milo, Fuel Resource Specialist – Fuel Supply, supports DTE
8 Electric Fuel Supply’s and Midwest Energy Resources Company’s (MERC)
9 operations and maintenance expense and capital expenditures for the twelve
10 months ended December 2022 historical actual, and as projected for 2023
11 through December 31, 2025. He also addresses how the Company’s
12 transition from coal generated electricity will affect MERC transshipment
13 operations and the railcar fleet for the Company as well as the planned
14 retirement of operations at MERC.

15

16 20) Mr. Pankaj Sharma, Director – Information Officer within the Information
17 Technology Services organization, discusses the IT Capital investment
18 framework and planning process that drives prioritization of both single and
19 multi-year projects and programs; supports the Company’s IT capital
20 expenditures beginning with the historic test year and extending through the
21 projected test year; and describes the variances in the actual 2022 capital
22 spend compared to the spend approved in the Company’s previous general
23 rate case.

24

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- 1 21) Mr. Jason E. Sparks, Director – Revenue Management and Protection
2 supports the details of the Company’s Low-Income programs and provides
3 explanation and support for the uncollectible expense. He proposes changes
4 to the Rate Schedule D1.6 tariff provision. He also discusses details of our
5 Low-Income Assistance credits and their impact with the Low-Income Self
6 Sufficiency Program as well as the Payment Stability Plan pilot.
7
- 8 22) Ms. Rachel Steudle, Director of Tree Trim, discusses the importance of and
9 progress made in DTE Electric’s vegetation management (“Tree
10 Trimming”) program; provides details related to the Company’s Tree
11 Trimming Surge Program that will deliver on the reliability goals
12 established in the Company’s Distribution Grid Plan (DGP); and describes
13 the customer benefits of the Company’s Tree Trimming Surge Program to
14 date. In addition, she supports the O&M expenses related to tree trimming
15 efforts for the historical test period ending December 31, 2022, the projected
16 base O&M expenses and the Tree Trim Regulatory Asset Surge funding
17 amount for January 1, 2025, to December 31, 2025.
18
- 19 23) Ms. Theresa Uzenski, Manager – Regulatory Accounting, supports DTE
20 Electric’s financial statements for the historical test year ended December
21 31, 2022, the interim forecast period and a twelve-month projected test
22 period ending December 31, 2025, with certain adjustments necessary for
23 presenting the financial information in the appropriate format for
24 ratemaking purposes. She supports the development of the projected test
25 year adjusted electric operating income based on forecasted changes from

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1 the normalized historical electric operating income. She supports that costs
2 recovered from other mechanisms are excluded from the financial
3 statements in this case (including the Renewable Energy Program, and
4 Energy Waste Reduction). She also supports the Corporate Staff Group
5 capital and O&M expenses for the historical and forecasted periods and
6 explains the function of this group including the method for allocating costs
7 to DTE Electric and other DTE Energy subsidiaries through the Shared
8 Asset charge. She also, explains the accounting treatment of the Monroe
9 regulatory asset and amortization over 15 years and requests approval of
10 regulatory asset and liability accounts for the Company's storm cost tracker
11 proposal discussed later in my testimony.

12

13 24) Mr. Kirk M. Vangilder, Principal Financial Analyst - Revenue
14 Requirements, supports DTE Electric's twelve months ended December 31,
15 2022 historical revenue sufficiency. In addition, he is sponsoring Net
16 Operating Income (NOI) adjustments for interest synchronization and
17 income tax savings, as well as the revenue conversion factor. Mr. Vangilder
18 is sponsoring DTE Electric's twelve months ending December 31, 2025
19 projected revenue deficiency. He also calculates the incremental revenue
20 requirement for DTE Electric's Tree Trim Surge Regulatory Asset and the
21 return on the Monroe Regulatory Asset. Lastly, he supports the incremental
22 revenue requirements for DTE Electric's IRM as well as the Company's
23 proposed reconciliation process should a different amount of IRM capital be
24 placed in service than what has been approved.

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1 the end of 2026. More specifically, the Company proposed the following IRM Plan

2 Years:

- 3 • IRM Plan Year 1: December 1, 2023 to December 31, 2024
- 4 • IRM Plan Year 2: January 1, 2025 to December 31, 2025
- 5 • IRM Plan Year 3: January 1, 2026 to December 31, 2026

6

7 The Company proposed that IRM treatment be authorized for the following five
8 capital programs focused on safety and reliability:

- 9 • Conversions
- 10 • Subtransmission Redesign & Rebuild
- 11 • Breaker Replacement
- 12 • Underground Residential Distribution (URD) Replacement
- 13 • 4.8 kV Circuit Automation

14

15 For each capital program and IRM Plan Year, the Company proposed investment
16 levels with associated maximum in-service amounts that would be authorized for
17 IRM treatment. Based on these investment and in-service amounts, the Company
18 proposed an IRM revenue requirement and associated IRM surcharges for each
19 IRM Plan Year. Importantly, the Company proposed that if it were to invest and
20 place into service less capital than authorized, it would trigger a credit to customers.
21 If the Company were to invest and place into service more capital than authorized,
22 it could seek recovery of the additional investment in a future general rate case.

23

24 Finally, the Company proposed two new stakeholder processes:

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1 • IRM Planning Process occurring before the start of each IRM Plan Year
2 whereby the Company would make its investment plans for the upcoming
3 IRM Plan Year available to Staff, such that Staff could raise any questions
4 or concerns before execution of the investment plan. The investment plans
5 would be submitted to Staff no later than two months prior to the start of
6 each IRM Plan Year.

7

8 • IRM Reconciliation Process occurring after the conclusion of each IRM
9 Plan Year whereby the Company would describe its actual investments,
10 report its performance against a series of program execution metrics, and
11 calculate any over-recovery to be returned to customers based on actual
12 investment and plant in-service.

13

14 In its proposal the Company highlighted four benefits that would be immediately
15 realized with the establishment of the IRM; specifically:

- 16 • Certainty of investment in key distribution capital programs;
17 • Greater transparency into both the Company's investment plans and its
18 execution of those plans;
19 • Additional opportunities for Staff to review and provide input on the
20 Company's investment plans; and
21 • Increased accountability for the Company through the reporting of new
22 program execution metrics.

23

24 Further, the Company highlighted that a potential future benefit of the IRM is to
25 extend the time between contested rate cases.

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1 In its December 1, 2023 order in that case (December 2023 Order), the Commission
2 stated that it “finds that there is value in the company’s proposal, with some
3 limitations.” (page 289). As such, it elected to approve the Company’s proposed
4 IRM with modifications. Specifically, the Commission ordered the following
5 modifications to the Company’s proposal:

- 6 • The Company shall submit its annual IRM Investment Plan no later than
7 four months prior to the start of each IRM Plan Year and it shall be
8 submitted to all intervening parties in the Company’s most recently filed
9 general rate case.
- 10 • The Company shall schedule and provide a forum, no later than two months
11 before the start of the IRM plan year, for Staff and intervening parties to
12 raise any questions or concerns that they have before execution of the plan
13 begins.
- 14 • The annual IRM reconciliation shall be filed as a contested case proceeding,
15 noting that:
16 *“...a contested reconciliation process will provide additional opportunities*
17 *for input from interested parties. Further, developing a record in a*
18 *contested proceeding will provide even greater transparency and*
19 *opportunity for review of the reasonableness and prudence of the*
20 *company’s expenditures, as well as accept input to address equity concerns*
21 *such as those raised by the DAAOs to avoid racialized disparities in*
22 *service.” (page 290)*
- 23 • The Company shall remove any allocation of IRM costs from transmission
24 level customers.

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1 Finally, the Commission elected to approve only IRM Plan years 1 and 2. In
2 declining to approve the Company's proposed IRM Plan Year 3, the Commission
3 provided the following guidance:

4

5 *"...there is ongoing discussion regarding [Performance Based Ratemaking] in*
6 *Case No. U-21400 and an ongoing audit in Case No. U-21305. Therefore, the*
7 *Commission finds that limiting the approval to the first two years will allow the*
8 *company to move forward with the IRM without precluding the incorporation*
9 *of any potential insights gained from those proceedings to better inform the*
10 *potential continuation of the IRM."* (page 289)

11

12 **Q56. What is the current status of the Company's Distribution IRM?**

13 A56. As discussed above, the Commission's December 2023 Order established the IRM
14 effective starting on December 1, 2023 (with surcharges being implemented on
15 December 15, 2023). In that Order, the Commission acknowledged the challenged
16 timing of IRM Plan Year 1, stating:

17

18 *"Regarding the time constraints for the first investment recovery mechanism*
19 *plan year recognized in this order, the company shall use best efforts to provide*
20 *its investment recovery mechanism plan as soon as practicable that will in turn,*
21 *allow the company to schedule the forum as soon as practicable."* (page 375)

22

23 As such, the Company submitted its IRM Year 1 Investment Plan to stakeholders
24 on February 7, 2024, and subsequently presented the plan during a stakeholder
25 forum on February 23, 2024.

Line
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1 **Q57. What is the Company proposing in this case related to its Distribution IRM?**

2 A57. The Company is proposing to extend the IRM through calendar years 2026 and
3 2027. The Company's proposal does not include any modifications to what was
4 previously approved for 2024 and 2025, although it does offer an alternative
5 scenario for 2025 that would increase the amount of capital authorized for IRM
6 treatment during that year, as described later in my testimony.

7

8 As part of the extension, the Company is proposing two adjustments to the capital
9 programs previously authorized for IRM treatment. Specifically, the Company is
10 proposing:

- 11 • Starting in 2026, Pole and Pole Top Maintenance and Modernization
12 (PTMM) be authorized for IRM treatment. Company Witness Elliott
13 Andahazy provides additional support for this proposed modification in her
14 testimony; and
- 15 • Starting in 2026, the scope of the automation program be modified from
16 "4.8 kV Circuit Automation" to "Distribution Automation." Company
17 Witness Hartwick provides additional support for this proposed
18 modification in her testimony.

19

20 For 2026 and 2027, the Company is proposing a level of capital investment and
21 maximum in-servicing amount for each program and year. The full detail of the
22 Company's proposed investment and in-service levels for 2026 and 2027 is
23 captured in Exhibit A 33, Schedule X1, and is summarized in Table 1 below.

24

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Table 1 – Proposed IRM Investment Levels (\$M)

Capital Program	Previously Approved Investment		Proposed Investment	
	2024	2025	2026	2027
Conversions	1.6	185.8	190.0	240.0
Subtransmission Redesign & Rebuild	5.5	53.8	55.0	65.0
Breaker Replacement	13.7	12.6	15.0	15.0
URD Replacement	14.6	13.5	15.0	20.0
Distribution Automation ⁸	26.4	24.4	105.0	180.0
Pole & Pole Top Maintenance & Modernization	n/a	n/a	150.0	200.0
Total	61.9	290.1	530.0	720.0

2

3 The Company is not proposing any modifications to the annual planning process,
4 annual reconciliation process, or underlying mechanics of the Distribution IRM
5 approved by the Commission through its December 2023 Order.

6

7 In their testimony, Company Witness Vangilder supports the revenue requirement
8 associated with the Company's proposed IRM investments, Company Witness
9 Maroun supports the cost-of-service treatment, and Company Witness Willis
10 supports the rate design of the surcharges to collect the allocated revenue
11 requirement.

⁸ Previously 4.8 kV Circuit Automation

Line
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1 **Q58. How is the Company's proposed extension in this case different than the 2026**
2 **IRM investment proposed in Case No. U-21297?**

3 A58. In Case No. U-21297, the Company proposed 2026 IRM investment of \$532.7
4 million, including the following program-specific investments:

- 5 • Conversions: \$371.6 million
- 6 • Subtransmission Redesign & Rebuild: \$107.6 million
- 7 • Breaker Replacement: \$14.0 million
- 8 • URD Replacement: \$15.0 million
- 9 • 4.8 kV Circuit Automation: \$24.4 million

10

11 In the current case, the Company's proposed total investment for 2026 is similar at
12 \$530.0 million, although the investment mix is different. More specifically, the
13 Company's proposal in this case reflects increasing emphasis on Distribution
14 Automation and PTMM for the IRM. Company Witnesses Hartwick and Elliott
15 Andahazy further support the increasing emphasis on these programs in their
16 testimonies.

17

18 **Q59. Are there other issues before the Commission that impacted the Company's**
19 **decision to propose an extension of its Distribution IRM?**

20 A59. Yes. The Company is proposing an extension of its Distribution IRM to ensure its
21 continued and efficient operation while pending Case No. U-21400 related to
22 Performance Based Ratemaking (PBR) and pending Case No. U-21305 related to
23 the Company's Distribution System Audit can progress and ultimately conclude.
24 Absent an extension granted in this case, the existing IRM will cease at the end of
25 2025 and could only be re-established through a Commission order in a future case.

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1 Such stopping and restarting of the IRM and its associated processes could lead to
2 inefficiencies and reduce the ability to improve upon the process through
3 stakeholder feedback. Importantly, the proposed extension will ensure that the
4 customer and stakeholder benefits realized through the IRM do not lapse.

5
6 With that said, the Company also acknowledges the Commission's desire for future
7 iterations of the IRM to potentially incorporate the findings of pending Case No.
8 U-21400 related to PBR and pending Case No. U-21305 related to the Company's
9 Distribution System Audit. The Company supports the Commission's desire to
10 incorporate findings from these cases into future iterations of the IRM as discussed
11 later in my testimony.

12
13 At the same time, to make the IRM successful there must be robust, transparent,
14 and repeatable processes in place that give all stakeholders confidence that the IRM
15 is working as planned and the intended benefits are being realized. Given that many
16 of these processes are new, including the IRM planning and reconciliation
17 processes, having the IRM and its associated processes lapse at the end of 2025
18 would challenge the ability of stakeholders to gain experience with the IRM and
19 identify opportunities for improvement.

20
21 For example, absent an extension approved in the current case, the Company will
22 not submit an IRM Investment Plan for 2026 (otherwise due no later than August
23 31, 2025) or hold a stakeholder forum on its 2026 plans since the IRM will not yet
24 have been authorized for 2026.

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1 As such, an extension is appropriate to avoid a lapse in the IRM and its associated
2 benefits, while allowing for the cases related to PBR and the Company's
3 Distribution System Audit to conclude.

4

5 **Q60. What is the status of Case No. U-21400 related to PBR?**

6 A60. In its April 24, 2023 Order in Case No. U-21400 (April 24 Order), the Commission
7 directed Staff to convene a Financial Incentives and Disincentives Workgroup to
8 study PBR and to file a report of the workgroup's investigations and findings by
9 December 31, 2023. Among other things, the Commission directed that:

10

11 *"...an initial focus of the Financial Incentives and Disincentives workgroup*
12 *shall include developing appropriate metrics relating to reliability including,*
13 *but not limited to, SAIDI (including and excluding MEDs), SAIFI, CEMI,*
14 *CAIDI, and resilience, including, but not limited to, downed wire response and*
15 *the frequency and duration of outages during extreme weather, and shall use*
16 *the recently updated Service Quality rules as a baseline." (page 12)*

17

18 and

19

20 *"After developing metrics around distribution performance, the workgroup*
21 *shall explore rate structures and the methods by which incentives and*
22 *disincentives may be applied." (page 12)*

23

24 In its August 23, 2023 Order in the same case, the Commission released its initial
25 PBR straw proposal and invited comments from interested stakeholders to be

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1 submitted by September 22, 2023 with reply comments to be submitted by October
2 20, 2023. The Commission also directed Staff to convene a stakeholder session
3 following the initial comment period to discuss the straw proposal and alternative
4 approaches.

5

6 In response, the Company submitted initial comments on September 22, 2023 and
7 reply comments on October 20, 2023. The Company also participated in the
8 stakeholder session that was held on October 10, 2023, including presenting its
9 perspectives related to the initial straw proposal.

10

11 On November 29, 2023, the Commission released a revised straw proposal and held
12 a stakeholder session on November 30, 2023 to discuss the revised proposal and
13 gather any initial feedback from attendees. The Company attended the November
14 30, 2023 stakeholder session.

15

16 On December 19, 2023 Staff filed in the same docket its status report required by
17 the Commission's April 24 Order. In its report Staff recommended that the
18 Commission formally invite comments on its revised straw proposal and indicated
19 it would hold an additional stakeholder session on February 12, 2024.

20

21 In its December 21, 2023 Order in the same case, the Commission adopted the
22 Staff's recommendation and invited comments from interested stakeholders on the
23 revised straw proposal to be submitted by February 2, 2024 with reply comments
24 to be submitted by March 1, 2024. The Commission further directed Staff to submit

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1 a status report on the workgroup's investigations and findings no later than May 3,
2 2024.

3

4 In response, the Company submitted comments on the revised straw proposal on
5 February 2, 2024, participated in the stakeholder session on February 12, 2024, and
6 submitted reply comments on March 1, 2024.

7

8 At the time of this filing, the Company is awaiting the release of Staff's second
9 status report and any additional guidance from a Commission order in the case.

10

11 **Q61. How is the Company planning to incorporate the findings from Case No. U-**
12 **21400 into potential future iterations of its Distribution IRM?**

13 A61. If an order in Case No. U-21400 is received in mid-2024, and barring any future
14 guidance from the Commission to the contrary, the Company plans to propose a
15 PBR mechanism in its first general rate case after the current case. Given that IRM
16 proposals are made during general rate cases, the Company believes that a general
17 rate case is the most appropriate venue to establish PBR such that it can be
18 considered together with a potential future IRM proposal. In that rate case filing,
19 the Company could address how a potential future IRM proposal is informed and/or
20 complimented by an application of PBR.

21

22 This approach is consistent with Staff's December 19, 2023 status report in which
23 it stated:

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1 *“This revised proposal anticipates that a contested case proceeding would*
2 *follow this workgroup process. The final decision in the contested case would*
3 *implement performance metrics for each utility.” (page 6)*
4

5 **Q62. What is the status of Case No. U-21305 related to the Company’s Distribution**
6 **System Audit?**

7 A62. The Distribution System Audit was formally launched in August 2023 with the
8 awarding of a contract to Liberty Consulting Group for the comprehensive
9 independent audit of Consumers Energy and DTE Electric.

10

11 On December 20, 2023, The Liberty Consulting Group submitted its “Utility
12 Distribution Audit Status Report” in compliance with the terms of its contract. The
13 report summarized its progress to date on the audits of Consumers Energy and DTE
14 Electric but did not include any preliminary findings or recommendations.

15

16 At the time of the filing of this case, the audit is ongoing. A final report is expected
17 in late summer or early fall of 2024.

18

19 **Q63. How is the Company planning to incorporate the findings from Case No. U-**
20 **21305 into potential future iterations of its Distribution IRM?**

21 A63. The Company anticipates that at the conclusion of the Distribution System Audit
22 there will be a series of recommendations from Liberty Consulting Group. The
23 Company plans to carefully consider these recommendations and, as determined
24 appropriate by the Company, incorporate them into future Distribution Grid Plans
25 (DGPs) and capital investment plans.

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1 Likewise, future IRM proposals would incorporate the recommendations from the
2 Distribution System Audit where appropriate. For example, while the Company
3 cannot predict what those recommendations will be, it is possible that the Company
4 may propose changes to either the programs or the investment levels authorized for
5 IRM treatment based on Liberty Consulting Group's findings.

6
7 If a final report is submitted by Liberty Consulting Group in late summer or early
8 fall of 2024, the Company anticipates that there would be sufficient time to
9 incorporate the recommendations from the audit where appropriate into an IRM
10 proposal in the first rate case filed after the current rate case.

11

12 **Q64. Given the timing of these other proceedings, why is the Company proposing a**
13 **two-year extension of the IRM?**

14 A64. The Company believes a two-year extension is most appropriate to (1) avoid a lapse
15 in the IRM and its associated benefits, (2) provide greater certainty related to use
16 of the IRM as a regulatory mechanism, and (3) maintain the ability to incorporate
17 findings from the pending cases related to PBR and the Distribution System Audit
18 into future iterations of the IRM.

19

20 While a one-year extension would likely allow the pending cases related to PBR
21 and the Distribution System Audit to conclude, it would also create additional
22 uncertainty as to the long-term disposition of the IRM. As discussed previously, to
23 make the IRM successful there must be robust, transparent, and repeatable
24 processes in place that give all stakeholders confidence that the IRM is working as
25 planned and the intended benefits are being realized. Uncertainty related to the

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1 ongoing use of the IRM challenges the establishment and evolution of the IRM and
2 its associated processes as stakeholders cannot effectively plan for its long-term
3 use.

4

5 **Q65. In addition to the proposal described above, would the Company support an**
6 **increase in the amount of capital authorized for IRM treatment in 2025?**

7 A65. Yes. As described previously, the Company's proposed IRM extension does not
8 impact the authorization for IRM treatment previously granted by the Commission
9 for 2024 and 2025.

10

11 However, increasing the amount of capital authorized for IRM treatment in 2025
12 would also increase the benefits associated with the IRM. For example, increasing
13 the amount of capital authorized for IRM treatment will also increase the certainty
14 of investment of this incremental IRM capital for its intended purpose, with any
15 under-investment triggering a refund to customers.

16

17 As such, the Company would support increasing the amount of capital authorized
18 for IRM treatment in 2025 beyond what was previously authorized as a way to also
19 increase the benefits associated with the IRM. If the Commission were to find such
20 an approach appropriate, the Company's request for recovery of 2025 capital
21 expenditures through base rates could be reduced by an amount equal to the
22 additional IRM authorization.

23

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1 **Q66. Has the Company identified investments it believes would be appropriate for**
2 **IRM treatment if the Commission were to expand IRM authorization beyond**
3 **what was previously approved for 2025?**

4 A66. Yes. The Company has identified four areas of capital investment it believes are
5 appropriate for IRM authorization in 2025 (beyond what was previously
6 authorized):

- 7 • Distribution Automation - \$125.6 million of proposed 2025 investment⁹
- 8 • PTMM - \$121.0 million of proposed 2025 investment¹⁰
- 9 • 4.8 kV Hardening - \$125.0 million of proposed 2025 investment¹¹
- 10 • Frequent Outage Program (CEMI) - \$62.5 million of proposed 2025
11 investment¹²

12

13 As mentioned above, if the Commission were to authorize, either in full or in part,
14 the above capital programs and investment amounts for IRM treatment in 2025,
15 that capital could be removed from the Company's base rate recovery request.

16

17 **Storm Restoration Cost Sharing Mechanism (SRCSM)**

18 **Q67. How are storm restoration O&M costs currently projected and recovered?**

19 A67. Company Witness Kryscynski supports the calculation of projected storm
20 restoration O&M expenses in his testimony and Exhibit A-13, Schedule C5.6, Page
21 2 of 2, Lines 1-8.

⁹ Company Witness Hartwick (Exhibit A-12, Schedule B5.4, Page 17 of 26, Line 2); this represents automation investment beyond what was previously approved for IRM treatment for 2025

¹⁰ Company Witness Elliott Andahazy (Exhibit A-12, Schedule B5.4, Page 13 of 26, Line 13)

¹¹ Company Witness Elliott Andahazy (Exhibit A-12, Schedule B5.4, Page 13 of 26, Line 12)

¹² Company Witness Elliott Andahazy (Exhibit A-12, Schedule B5.4, Page 13 of 26, Line 15)

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1 As described by Company Witness Kryscynski, projected storm restoration O&M
2 expenses are based on a five-year trailing average (i.e., historical test period and
3 preceding four years), adjusted for inflation. Based on the five-year trailing average
4 methodology, for the forward test period in this case, the Company is projecting
5 \$64.5M of storm restoration O&M expenses. These projected expenses are
6 proposed to be recovered through base rates as they have been historically.

7

8 **Q68. Does the Company have any concerns with the current method for storm**
9 **restoration O&M expense recovery?**

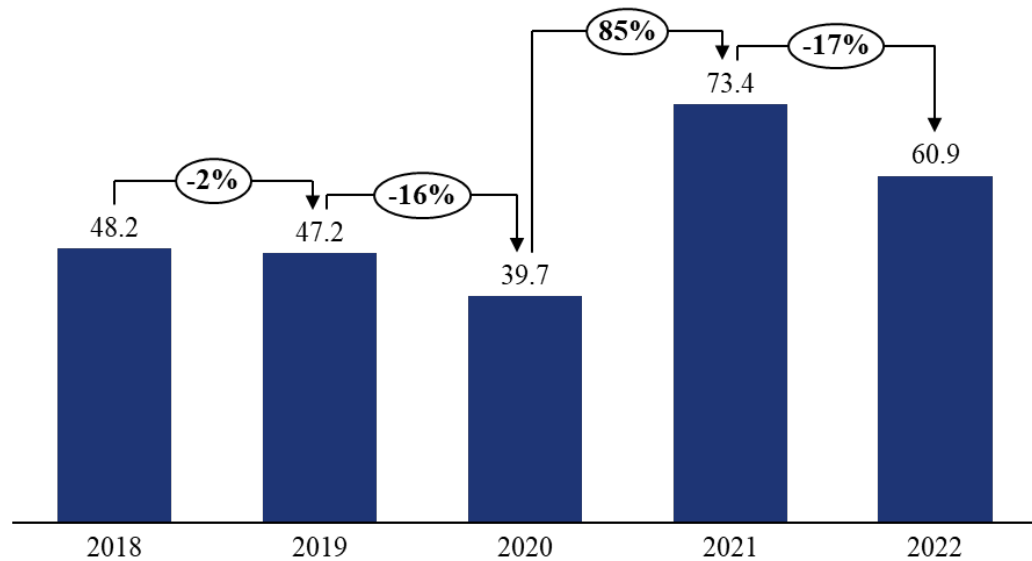
10 A68. Yes. The current approach to storm restoration O&M expense recovery does not
11 address the uncertainty and variability of these expenses in any given year and
12 therefore puts both customers and the Company at risk of either over-recovering or
13 under-recovering storm restoration O&M costs.

14

15 Figure 10 below captures actual storm restoration O&M expenses incurred by the
16 Company between 2018-2022 as supported by Company Witness Kryscynski.

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1

Figure 10 Actual Storm Restoration O&M Expense (\$ million)¹³

2

3

As can be seen in the chart, year-over-year changes to actual costs are volatile, ranging from a 17% decrease in costs between 2021 and 2022 to an 85% increase in costs between 2020 and 2021.

4

5

6

7

In years when actual costs are less than what was authorized for recovery, customers would pay more in rates than the actual storm restoration costs incurred in that year. In years when actual costs are greater than what was authorized for recovery, the Company must absorb any difference. Either way, the current approach to storm restoration O&M cost recovery risks misalignment between what is recovered from customers and the actual expenses incurred by the Company.

10

11

12

13

14

Q69. Does the Company expect storm restoration O&M expenses to remain uncertain and volatile?

15

¹³ Exhibit A-13, Schedule C5.6, Page 2 of 2, Line 2

Line
No.

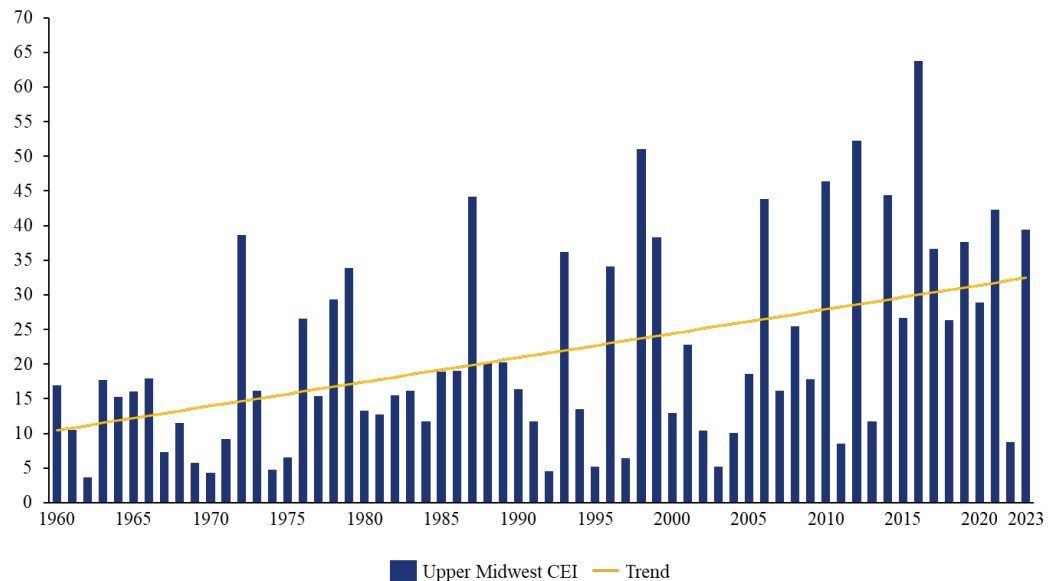
1 A69. Yes. Storm restoration expenses are impacted by the frequency and duration of
 2 extreme weather events. Figure 11 below captures data from the National Oceanic
 3 and Atmospheric Administration (NOAA) on the Upper Midwest¹⁴ Climate
 4 Extremes Index (CEI)¹⁵. The Upper Midwest CEI measures the portion of time that
 5 the Upper Midwest was subject to extreme weather during a given year. A CEI
 6 value of 0% indicates that no portion of the Upper Midwest was subject to any of
 7 the extreme conditions considered in the index during the year. In contrast, a value
 8 of 100% would mean that the entire Upper Midwest had extreme conditions
 9 throughout the year. The CEI analysis considers:

- 10 • Maximum and minimum temperature
- 11 • Daily precipitation
- 12 • Monthly Palmer Drought Severity Index (PDSI)

13

14

Figure 11 Upper Midwest Climate Extremes Index (CEI)



¹⁴ Upper Midwest includes Michigan, Wisconsin, Minnesota, and Iowa

¹⁵ <https://www.ncei.noaa.gov/access/monitoring/cei/>

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1 As can be seen in the chart, not only is there is a clear trend toward more extreme
2 weather in the Upper Midwest, but there can be significant variation from year to
3 year in the amount of extreme weather experienced in the region. For example, just
4 considering the last five years (i.e., 2019-2023) the Upper Midwest CEI has
5 fluctuated from a high of 42.3% in 2021 to a low just one year later of 8.8% in
6 2022.

7

8 Simply put, the amount of extreme weather experienced by the Company cannot be
9 accurately predicted in advance and therefore there will continue to be uncertainty
10 related to the level of storm restoration O&M expense for any given year.

11

12 **Q70. What is the Company proposing related to storm restoration O&M expense**
13 **recovery in this case?**

14 A70. The Company is proposing that the Commission authorize the Storm Restoration
15 Cost Sharing Mechanism (SRCSM), becoming effective at the start of the projected
16 test year in this case (i.e., January 1, 2025).

17

18 The Company proposes that the SRCSM operate as follows:

- 19
- 20 • The calculation of projected storm restoration O&M expenses continues to
21 follow the five-year trailing average methodology as supported by
22 Company Witness Kryscynski in this case; likewise, these projected
23 amounts continue to be authorized for recovery from customers through
24 base rates.
 - 25 • At the conclusion of each calendar year, actual storm restoration O&M
expenses are compared to the amount authorized to be recovered from

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1 customers in base rates; for years in which the amount authorized for
2 recovery through base rates changes (e.g., a general rate case order is
3 received and becomes effective mid-year), the authorized recovery amount
4 would be calculated on a prorated basis to reflect the timing and amount of
5 the updated authorization.

6 • Any difference between actual storm restoration O&M expenses and those
7 authorized for recovery is equally shared between the Company and its
8 customers; specifically:

9 ○ If actual storm restoration O&M expenses are less than projected,
10 the Company returns 50% of the difference to customers by
11 recording that amount as a Regulatory Liability.

12 ○ If actual storm restoration O&M expenses are more than projected,
13 the Company recovers 50% of the difference from customers by
14 recording that amount as a Regulatory Asset.

15 • Regulatory Assets and/or Liabilities accumulate between general rate cases
16 until a subsequent general rate case when any net Regulatory Liability or
17 Regulatory Asset is addressed.

18

19 For example, if the Company's projected costs for 2025 of \$64.5M were to be fully
20 approved, but actual 2025 storm restoration O&M expenses were only \$40.0
21 million, then the Company would record a Regulatory Liability of \$12.3 million to
22 be returned to customers in a subsequent rate case. The \$12.3 million is 50% of the
23 difference between approved costs included in base rates (i.e., \$64.5 million) and
24 actual costs (i.e., \$40.0 million).

25

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1 **Q71. Has the Commission provided any recent guidance on the use of alternative**
2 **storm restoration expense recovery mechanisms?**

3 A71. Yes. In its most recent electric rate case (Case No. U-21389), Consumers Energy
4 proposed the Symmetric Performance Incentive Mechanism (SPIM). As described
5 by Consumers Energy Witness Houtz in her direct testimony, the SPIM "...would
6 return service restoration costs below what is set in rates back to customers and
7 cover costs for the Company in excess of base rates." (page 24) Importantly,
8 Witness Houtz describes the use of a "deadband" in the proposed SPIM. According
9 to Witness Houtz, if expenses are below what is set in rates a portion would be
10 returned to customers "with the Company retaining the first 10%." (page 24) If
11 expenses are above what is set in rates, a portion would be recovered from
12 customers "with the first 10% being offset by the Company." (page 24)

13

14 In its March 1, 2024 Order in that case (March 2024 Order), the Commission
15 declined to adopt Consumers Energy's proposed SPIM. In doing so, the
16 Commission provided in part the following guidance:

17

18 *"...the Commission finds that [Consumers Energy] has not demonstrated*
19 *that the SPIM will sufficiently control service restoration expenses as*
20 *claimed by [Consumers Energy]."* (page 174)

21

22 and

23

24 *"...the SPIM does not incentivize [Consumers Energy] to reduce service*
25 *restoration expenses more than 10% below that approved in rates.*

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1 *Furthermore, there is no evidence demonstrating that the 10% offset would*
2 *adequately deter [Consumers Energy] from passing through large cost*
3 *increases to customers. Finally, the Commission finds that approval of the*
4 *mechanism is premature given the ongoing audit in Case No. U-21305.”*
5 (page 175)

6

7 **Q72. Is the Company’s proposed SRCSM responsive to the Commission’s guidance**
8 **in Case No. U-21389?**

9 A72. Yes. As the Commission pointed out in its March 2024 Order, the use of a deadband
10 could result in the utility only having an incentive to control costs when inside the
11 deadband. If actual costs are outside the deadband then the utility’s financial
12 incentive to control costs could be diminished because costs will either be returned
13 to customers (in the event that actual costs are less than authorized in base rates) or
14 recovered from customers (in the event that actual costs are greater than authorized
15 in base rates).

16

17 Given the Commission’s guidance, the Company is not proposing the use of a
18 deadband. Instead, the Company is proposing the equal sharing of costs that differ
19 from those authorized for recovery in base rates. The sharing of costs ensures that
20 the Company has a strong incentive to control costs regardless of what actual costs
21 are for a given year. Specifically, if actual costs are greater than projected, the
22 Company is incentivized to control costs because it must absorb 50 cents of every
23 incremental dollar that is spent. If actual costs are less than projected, the Company
24 is still incentivized to control costs because it is allowed to retain 50 cents of every
25 incremental dollar that is saved.

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1 **Q73. Would the establishment of the SRCSM impact the Company's ability or**
2 **incentive to act on any future recommendations resulting from the**
3 **Distribution Audit?**

4 A73. No. The approval of the SRCSM would not prevent the Company from acting on
5 any future recommendations resulting from the Distribution Audit. As discussed
6 previously, the proposed SRCSM incentivizes the Company to control storm
7 restoration O&M costs regardless of what total costs are for a given year. As such,
8 the proposed SRCSM encourages the Company to implement any appropriate
9 actions faster such that it can better control costs.

10

11 **Q74. Does this complete your direct testimony?**

12 A74. Yes, it does.

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

REBUTTAL TESTIMONY

OF

NEAL T. FOLEY

DTE ELECTRIC COMPANY
REBUTTAL TESTIMONY OF NEAL T. FOLEY

Line
No.

1 **Q1. Please state your full name, title, business address and by whom you are**
 2 **employed?**

3 A1. My name is Neal T. Foley (he/him/his). My business address is One Energy Plaza,
 4 Detroit, Michigan 48226. I am employed by DTE Energy Corporate Services, LLC,
 5 a subsidiary of DTE Energy Company as Director, Regulatory Affairs.

6

7 **Q2. Did you file direct testimony in this proceeding on behalf of DTE Electric**
 8 **Company (DTE Electric or Company)?**

9 A2. Yes.

10

11 **Purpose of Testimony**

12 **Q3. What is the purpose of your rebuttal testimony?**

13 A3. The purpose of my rebuttal testimony is to respond to certain positions taken by
 14 Witnesses Evans and Duell on behalf of Michigan Public Service Commission
 15 (MPSC or Commission) Staff (Staff); Witness Stults on behalf of Ann Arbor;
 16 Witness Jester on behalf of the Michigan Environmental Council (MEC), Natural
 17 Resource Defense Council (NRDC), Sierra Club (SC), and Citizens Utility Board
 18 of Michigan (CUB) (collectively MNSC); Witness Denzler on behalf of CUB,
 19 MEC, and NRDC (CUB-MN); Witness Richter on behalf of the Great Lakes
 20 Renewable Energy Association (GLREA); Witnesses Koepfel and Watts on behalf
 21 of Soulardarity and We Want Green, Too (collectively DAAO); Witnesses
 22 Dauphinais and York on behalf of the Association of Businesses Advocating Tariff
 23 Equity (ABATE); Witnesses Alvarez and Stephens on behalf of the Attorney
 24 General (AG), MEC, and NRDC (collectively AG-MN); Witness Perry on behalf

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1 of Walmart; Witness Coppola on behalf of the AG; and Witness Bandyk on behalf
2 of CUB and MEC (CUB-M)

3

4 I will first provide a discussion on the impacts of capital and operating expense
5 disallowances, and then address intervenor positions related to the following topics:

6 • The linkage between reliability performance and capital investment,
7 including the Company's presentment of Interruption Cost Estimator (ICE)
8 Calculator output

9 • The Company's proposal to recover a portion of outage credits paid to
10 customers

11 • The Company's proposal to extend its Distribution Investment Recovery
12 Mechanism (Distribution IRM or IRM) through 2027

13 • The Company's proposed Storm Recovery Cost Sharing Mechanism
14 (SRCSM)

15 • The Company's proposed inflation rate

16 • The Company's proposed recovery of corporate membership dues

17 • The Company's use of a forward test year

18 • The linkage between incentive cost recovery and historical revenues

19

20 **Q4. Are you sponsoring any exhibits as part of your rebuttal testimony?**

21 A4. No.

22

23 **General impacts of capital and operating expense disallowances**

24 **Q5. What is the Company's overall reaction to Staff and intervenor testimony?**

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1 A5. As I discussed in my direct testimony, the Company is pursuing a strategic
2 imperative to rebuild, modernize, and automate its 46,000 miles of electric circuits
3 (the “grid”) such that by 2029 it can reduce the number of outages by 30% and
4 reduce the duration of outages when they do occur by 50%. This level of
5 improvement would result in better than industry average reliability. In addition,
6 the Company is continuing to modernize its power generation in pursuit of net zero
7 carbon emissions by 2050.

8

9 However, achieving these improvements requires significant capital investment –
10 roughly \$9 billion of investment in the grid and \$7 billion in investment in cleaner
11 generation between 2024 and 2028. Without timely recovery of these capital
12 investments and other operating costs, the Company’s ability to invest at planned
13 levels and meet its goals related to reliability and clean generation will be
14 challenged.

15

16 Across the testimonies filed by intervenors there were various recommended
17 disallowances of capital investment and operating expenses that would do just that
18 – challenge the ability of the Company to invest at planned levels and meet its
19 reliability and clean generation goals. The Company’s rebuttal witnesses clarify the
20 Company’s positions and discuss these proposed disallowances.

21

22 **Q6. How does the Company define “timely recovery” of capital investment and**
23 **operating expenses?**

24 A6. Timely recovery of capital investment and operating expenses means matching the
25 recovery of costs to the incurrence of those costs. Since 2008, this has been

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1 accomplished through the use of a forward test year where the Company projects
2 its costs and associated customer rates for a future 12-month period and, once
3 approved by the Commission, those rates are not implemented any earlier than the
4 start of the 12-month period. This structure allows customer rates to reflect the
5 actual costs being incurred by the Company.¹

6

7 Two dynamics can challenge the timely recovery of costs:

- 8 • A delay in recovery for otherwise prudent capital investments, creating
9 “Regulatory Lag” which can be costly to the Company
- 10 • The disallowance of unavoidable operating expenses, necessitating the
11 Company to try and absorb these costs, potentially through offsets
12 elsewhere

13

14 **Q7. How might the Company need to respond if there is not timely recovery of**
15 **costs?**

16 A7. Without timely recovery of costs the Company must consider re-timing capital
17 investment to a future period. For example, if proposed capital is disallowed in this
18 rate case, the Company must consider re-timing that capital investment to a future
19 period. If the disallowed capital is unavoidable (i.e., will be incurred regardless of
20 the outcome of this case), the Company must consider re-timing capital investment
21 elsewhere in its portfolio. For example, Company Witnesses Davis and Guillaumin
22 describe in their rebuttal testimony how certain Nuclear and Energy Supply
23 investments recommended for disallowance will in fact be incurred and why those
24 investments are reasonable and prudent.

¹ ABATE Witness Dauphinais recommends that the Commission reject the use of a forward test year starting on page 4 of his direct testimony; this is further discussed later in my rebuttal testimony

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1 Similarly, if operating expenses are disallowed but are unavoidable by the
2 Company, it must likewise consider capital investment re-timing to offset the
3 disallowed operating expense. More specifically, roughly \$15 of capital investment
4 results in \$1 of revenue requirement considering depreciation, return on rate base,
5 financing, etc.² Said differently, for every \$1 of operating costs that are disallowed
6 but cannot be avoided, the Company must consider re-timing capital investment by
7 roughly \$15 to offset the disallowance. If there are \$20 million of unavoidable
8 operating costs that the Company cannot recover from customers, it must consider
9 re-timing upwards of \$300 million of capital investment. For example, Company
10 Witnesses Hooper and Sharma describe in their rebuttal testimony how certain
11 Benefits and IT operating expenses recommended for disallowance will in fact be
12 incurred and why those investments are reasonable and prudent.

13

14 **Reliability Performance and Capital Investment**

15 **Q8. What intervenor positions related to the linkage between reliability**
16 **performance and capital investment are you addressing?**

17 A8. There are two intervenor positions I will address related to the linkage between
18 reliability performance and capital investment, both of which were presented by
19 Ann Arbor Witness Stults:

- 20 • How the Commission should address the Company's reliability
21 performance in this case
- 22 • The assertion that the Company's proposed investments will result in a "net
23 loss" of \$1 billion

² The exact revenue requirement associated with capital investment depends on the specific type of investment (e.g., IT, Distribution, etc.) given different depreciation rates and the authorized cost of capital; \$15 estimate reflects the average impact of test year capital investment

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No.

1 **Q9. Can you summarize Ann Arbor Witness Stults' recommendation on how the**
2 **Commission should address the Company's reliability performance in this**
3 **case?**

4 A9. Yes. In her direct testimony, Witness Stults cites various measures of the
5 Company's historical reliability and argues that "[c]ustomers continue to pay more
6 and more for service that is not improving." (page 5). She goes on to recommend
7 that:

8
9 "…the Commission use its authority to consider the value of DTE's service
10 to better tie DTE's financial performance to its customers' experience in
11 this case – through denying a large portion of DTE's requested rate increase
12 and taking its performance into consideration when determining an
13 appropriate rate of return on equity ("ROE")." (pages 8-9)

14

15 **Q10. Does the Company agree with Ann Arbor Witness Stults' recommendation on**
16 **how the Commission should address the Company's reliability performance**
17 **in this case?**

18 A10. No. To start, Witness Stults has not presented a specific recommendation on how
19 the Commission should "consider the value of DTE's service" or take the
20 Company's "performance into consideration" beyond suggesting the Commission
21 should deny a large portion of the Company's request in this case.

22

23 The Company is committed to improving reliability such that by 2029 it will have
24 reduced the number of power outages by 30% and cut the duration of outages when

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1 they do occur by 50%. This commitment translates to better than industry average
2 All-Weather SAIDI³ performance.

3

4 However, this commitment can only be met with significant investment in the
5 Company's infrastructure supported by timely recovery of those investments.
6 Specifically, 70% of the Company's proposed revenue deficiency in this case is
7 related to capital investment, including the financing of those investments. As such,
8 denying a large portion of the Company's request because of its historic reliability
9 performance would have the exact opposite impact of what Witness Stults seeks to
10 achieve. Subjectively denying a large portion of the Company's request would
11 subsequently limit its ability to invest in its infrastructure and therefore diminish its
12 ability to realize reliability improvements.

13

14 Further, the Company notes that reliability performance is a key focus of pending
15 Case No. U-21400 regarding financial incentives and disincentives, otherwise
16 known as Performance Based Ratemaking (PBR). Through that case, in which the
17 City of Ann Arbor is a participant, the Commission is already exploring how to
18 strengthen the ties between the Company's reliability performance and its financial
19 outcomes.

20

21 As such, the Company believes the Commission should reject Witness Stults'
22 recommendation on how it should address the Company's reliability performance
23 in this case, and instead continue to address reliability performance through
24 pending Case No. U-21400.

³ System Average Interruption Duration Index

Line
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1 **Q11. Can you summarize Ann Arbor Witness Stults' assertion that the Company's**
2 **proposed investments will result in a "net loss" of \$1 billion?**

3 A11. Yes. In her direct testimony on page 6, Witness Stults compares the Company's
4 total projected 2024-2028 capital investment of \$16 billion to the Interruption Cost
5 Estimator (ICE) Calculator output of \$15 billion presented by the Company and
6 concluded the Company's investments would result in a net loss of \$1 billion.

7

8 **Q12. Does the Company agree with Ann Arbor Witness Stults' assertion that the**
9 **Company's proposed investments will result in a "net loss" of \$1 billion?**

10 A12. No. Witness Stults is comparing two unrelated numbers. The \$16 billion represents
11 total Company 2024-2028 capital investment across cleaner generation and
12 distribution infrastructure (e.g., Energy Supply, Strategic Distribution, etc.). The
13 more than \$15 billion dollars of positive economic impact estimated using the ICE
14 Calculator is driven by reliability improvements realized through only a portion of
15 this investment. As such, comparing total cleaner generation and distribution
16 infrastructure investment to the ICE Calculator output which considers only a
17 portion of this investment is not a relevant comparison.

18

19 **Outage Credit Recovery**

20 **Q13. What Staff and intervenor positions related to the Company's proposal to**
21 **recovery certain outage credits are you addressing?**

22 A13. There are three Staff and intervenor positions I will address related to the
23 Company's proposal to recover certain outage credits:

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- 1 • Staff Witness Evans', MNSC Witness Jester's, and GLREA Witness
- 2 Richter's recommendations that recoverability of outage credits be more
- 3 limited than originally proposed by the Company
- 4 • DAAO Witness Koepfel's, DAAO Witness Watt's, and Ann Arbor Witness
- 5 Stults' recommendations to reject the Company's proposal to expand the
- 6 recoverability of outage credits
- 7 • DAAO Witnesses Koepfel's and Watt's recommendation to establish an
- 8 hourly outage credit

9

10 **Q14. Can you summarize Staff Witness Evans', MNSC Witness Jester's, and**
 11 **GLREA Witness Richter's recommendations that recoverability of outage**
 12 **credits be more limited than originally proposed by the Company?**

13 A14. Yes. In his direct testimony starting on page 8, Staff Witness Evans recommends
 14 that the recoverability of outage credits be limited to the following:

- 15 • Duration-related outage credits:
 - 16 ○ Transmission operator
 - 17 ○ Another utility
- 18 • Frequency-related outage credits:
 - 19 ○ Transmission operator
 - 20 ○ Another utility
 - 21 ○ Public interference

22

23 Staff Witness Evans goes on to propose a methodology for calculating the specific
 24 amount of frequency-related outage credits that would be recoverable in a specific

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1 year, and highlights Staff’s openness to collaborating with the Company and other
2 intervenors on finalizing calculation methodology.

3

4 Similarly, MNSC Witness Jester argues:

5 “An outage attributable to a transmission operator or other utility must be fixed
6 by that party. It is therefore reasonable to provide a limited recoverability of bill
7 credits due to such outages, though the proper public policy would be that DTE
8 Electric must recover that cost from the responsible party.” (page 10)

9

10 Besides outages caused by a transmission operator or other utility, MNSC Witness
11 Jester recommends rejecting the Company’s proposal to recover outage credits paid
12 due to weather and animal interference.

13

14 Finally, GLREA Witness Richter takes a similar approach by recommending that
15 the Commission reject the Company’s proposed recovery of outage credits caused
16 by weather events, and instead “[stick] to the very limited list of outage causes that
17 warrant recovery, enumerated in its order in U-20386 [sic]...” (page 67). He cites
18 the order in Case No. U-20836 page 367, which specifically identifies “customer
19 negligence” and “the transmission system operator” as outage causes where it is
20 reasonable for the Company to recover outage credits. He does not specifically
21 address the Company’s proposed recoverability of outage credits paid as a result of
22 another utility or animal interference.

23

24 In summary, all three witnesses opposed the recoverability of outage credits related
25 to weather-driven events, but supported limited recoverability related to other

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1 events. The three witnesses differed somewhat in which outage codes they
2 specifically addressed in their testimonies and their final recommendations.

3

4 **Q15. Does the Company agree with Staff Witness Evans', MNSC Witness Jester's,**
5 **and GLREA Witness Richter's recommendations that recoverability of outage**
6 **credits be more limited than originally proposed by the Company?**

7 A15. Partially. The Company maintains its original proposal for outage credit recovery,
8 however it believes that the recommendation put forth by Staff Witness Evans is
9 reasonable.

10

11 In the Company's reading, Staff Witness Evans' recommendation does not seem to
12 be in conflict with either MNSC Witness Jester's or GLREA Witness Richter's
13 recommendations except potentially the inclusion of public interference as a
14 recoverable outage code for frequency-related outages recommended by Staff
15 Witness Evans. It is unclear if MNSC Witness Jester and/or GLERA Witness
16 Richter support this based on their direct testimony.

17

18 **Q16. Can you summarize DAAO Witness Koepfel's, DAAO Witness Watt's, and**
19 **Ann Arbor Witness Stults' recommendations to reject the Company's**
20 **proposal to expand the recoverability of outage credits?**

21 A16. Yes. DAAO Witness Koepfel recommends that the Commission fully reject the
22 Company's proposal and not allow for any recoverability of outage credits. He
23 argues "DTE Electric's proposed changes to its outage credit mechanism would
24 undermine the company's incentive to improve its reliability." (page 28)

25

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1 Similarly, DAAO Witness Watts recommends that the Commission fully reject the
2 Company's proposal and not allow for any recoverability of outage credits. She
3 argues that "[i]t is the Company's job to keep the lights on, and it should be
4 responsible for compensating us when it fails to do so." (page 9)

5

6 Finally, Ann Arbor Witness Stults recommends that the Commission fully reject
7 the Company's proposal and not allow for any recoverability of outage credits. She
8 argues that "[i]t is particularly unreasonable that DTE is asking to recover credits
9 for outages caused by weather or animal interference, which a better maintained
10 grid would withstand..." (page 14)

11

12 Ann Arbor Witness Stults allows for the possibility that some outage credit
13 recovery may be appropriate, but states "those circumstances would be extremely
14 limited and should be reviewed on a case-by-case basis." (page 15) She cites the
15 Commission's November 18, 2022, Order in Case No. U-20836 (November 2022
16 Order), page 367, which identifies "customer negligence" and "the transmission
17 system operator" as outage causes where recovery may be reasonable. However,
18 she concludes that "...attempting to recover a \$38 credit does not seem like the best
19 use of the Company's time...the outage credit amount is comically small in
20 comparison to the actual costs a customer incurs as a result of an outage, so perhaps
21 the Company should consider the rare cases where an outage may have been due to
22 a customer's negligence as a cost of doing business." (page 16)

23

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1 **Q17. Does the Company agree with DAAO Witness Koepfel's, DAAO Witness**
2 **Watt's, and Ann Arbor Witness Stults' recommendations to reject the**
3 **Company's proposal to expand the recoverability of outage credits?**

4 A17. No. The recommendations to reject all recoverability of outage credits conflicts
5 with the Commission's November 2022 Order which states:

6

7 "...it is reasonable that the company have the ability to recover outage credits
8 when the outage was caused by customer negligence or the transmission system
9 operator, among other limited circumstances as developed in collaboration with
10 the Staff." (page 367)

11

12 As such, the focus of outage credit recovery in this case should not be if
13 recoverability is appropriate since that has already been ordered upon by the
14 Commission. Instead, the focus should be on which outage credits are appropriate
15 for recovery. As such, the Commission should reject DAAO Witness Koepfel's,
16 DAAO Witness Watt's, and Ann Arbor Witness Stults' recommendations to deny
17 recoverability of all outage credits.

18

19 **Q18. Can you summarize DAAO Witnesses Koepfel's and Watt's recommendation**
20 **to establish an hourly outage credit?**

21 A18. Yes. In his direct testimony, Witness Koepfel recommends that the Commission
22 "...reconsider the establishment of hourly, progressive, automatic credits as DAAO
23 has previously argued for before the Commission." (page 28)

24

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1 Similarly, Witness Watts recommends that “[o]utage credits should be more
2 frequent and in higher dollar amounts.” (page 7) She specifically recommends that
3 “[i]nstead of the current flat rate, I support mandating an hourly credit, which would
4 make the credit more proportionate to the scale of the outage and subsequent costs.”
5 (page 8; footnote omitted)

6

7 **Q19. Does the Company agree with DAAO Witnesses Koeppl’s and Watt’s**
8 **recommendation to establish an hourly outage credit?**

9 A19. No. Service Quality and Reliability Standards (SQRS) for electric distribution
10 systems, and any credits to be paid to customers as a result of not meeting those
11 standards, are established through rulemaking and not through general rate cases.
12 Furthermore, hourly credits were specifically contemplated during rulemaking and
13 rejected by the Commission in its March 24, 2023, Order in Case. No. U-20629.
14 As such, not only is Witnesses Koeppl’s and Watt’s recommendation not
15 appropriate for this case, but it has also previously been considered and rejected by
16 the Commission. As such, it should be rejected in this case.

17

18 **Distribution Investment Recovery Mechanism (IRM)**

19 **Q20. What Staff and intervenor positions related to the Company’s Distribution**
20 **IRM proposals are you addressing?**

21 A20. There are four Staff and intervenor positions I will address related to the Company’s
22 IRM proposals:

- 23 • Staff Witness Evans’ recommendation to not extend the IRM as proposed
24 by the Company

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- 1 • ABATE Witness Dauphinais’ recommendation to only extend the IRM
- 2 through 2026 with total authorized capital investment of \$275.0 million in
- 3 2026
- 4 • AG-MN Witnesses Alvarez’s and Stephens’ recommendation to not extend
- 5 the IRM as proposed by the Company
- 6 • Walmart Witness Perry’s recommendation related to the timing of rate case
- 7 filings and IRM capital recovery
- 8

9 **Q21. Can you summarize Staff Witness Evans’ recommendation to not extend the**
10 **Company’s IRM?**

11 A21. Yes. In his direct testimony, Staff Witness Evans states that Staff does not support
12 extending the IRM through calendar year 2027. He explains:

13

14 “Staff does not want to have the Company locked into spending specific
15 amounts in those IRM programs for all of 2026 and 2027...when the U-21305
16 audit report, authored by the Liberty Consulting Group, will be finished
17 sometime in late summer or the fall, and the Commission may issue an order in
18 Case No. U-21400 regarding financial incentives and disincentives. The Liberty
19 audit report may have recommendations that could cause DTE Electric to
20 change spending amounts and programs included in the IRM.” (page 13)

21

22 As it pertains to a potential gap in the implementation of the IRM, Staff Witness
23 Evans describes an example in which the Company would file a rate case on June
24 2, 2025, and receive an order in that case on April 1, 2026. He indicates that:

25

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1 "...a gap can be accommodated. Using the scenario described above, the
2 Company would receive the results of the Liberty audit later in 2024,
3 incorporate findings as appropriate into the partial year 2026 and likely calendar
4 year 2027 IRM Plans, and then include those plans and the IRM authorization
5 requests in the rate case filed on June 2, 2025. Knowing that an order would be
6 issued around April 1, 2026, and assuming that the 2026 IRM Plan Year would
7 start that same day, the Company could send the Partial Year 2026 IRM
8 Investment Plan out to Staff and intervenors on December 1, 2025, and then
9 schedule the forum on or before February 1, 2026." (pages 14-15)

10

11 **Q22. Does the Company agree with Staff Witness Evans' recommendation to not**
12 **extend the IRM?**

13 A22. The Company appreciates the balance Staff Witness Evans seeks to strike a balance
14 between incorporating the findings from pending Case No. U-21305 (Distribution
15 Audit) and pending Case No. U-21400 (PBR) into potential future iterations of the
16 IRM while also ensuring the benefits of the IRM do not lapse. The Company
17 supports both Staff's and the Commission's desire to incorporate the findings from
18 these cases in future iterations of the IRM⁴ and will seek to do so at the earliest
19 opportunity. However, the Company respectfully disagrees with Staff's position
20 that the most appropriate path forward is to let the IRM lapse at the end of 2025
21 only to potentially be re-authorized several months later at the conclusion of the
22 Company's next general rate case.

23

⁴ In its Order in Case No. U-21297 which originally authorized the IRM, the Commission cited pending Case No. U-21305 and Case No. U-21400 as reasons to only authorize the first two years of the IRM.

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1 More specifically, the Company does not believe that extending the IRM would
2 result in it being “locked into specific spending amounts.” Instead, as indicated in
3 my direct testimony on page 60, adjustments to 2026 and/or 2027 IRM
4 authorization could be made in future general rate cases, even if IRM authorization
5 for those years is granted in the current case. For example, IRM authorization could
6 be granted in this case for 2026 and 2027 at the investment levels proposed by the
7 Company. Then, in a future general rate case (e.g., filed on June 2, 2025 in Staff
8 Witness Evans’ example) adjustments to that authorization could be made based on
9 the findings of Case No. U-21305 and Case No. U-21400. This updated
10 authorization would become effective at the conclusion of that rate case (e.g., April
11 1, 2026 in Staff Witness Evans’ example). The Company believes such an
12 approach, which would potentially update the amount authorized for IRM treatment
13 mid-year, is preferable to allowing the IRM to lapse at the end of 2025.

14

15 In addition, the Company has concerns about how a lapse in the IRM would be
16 accommodated. In his example, Staff Witness Evans suggests that the Company
17 could file a partial-year 2026 IRM Investment Plan in December 2025, and
18 schedule a subsequent stakeholder forum in February 2026, before the IRM is
19 authorized at the conclusion of the Company’s next rate case.

20

21 Such an approach, which has the Company submitting an IRM Investment Plan
22 before IRM authorization is granted by the Commission, would lead to
23 inefficiencies in the process. The Company would need to prepare the plan
24 assuming a certain level of future IRM authorization, and Staff and other
25 stakeholders would need to invest significant resources to review the plan. If a

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1 Commission Order differed from the assumed level of IRM authorization in the
2 plan, the Company would need to develop a revised plan and conduct new
3 stakeholder reviews, a process that would likely require several months.

4

5 **Q23. What does the Company recommend in response to Staff Witness Evans’**
6 **testimony?**

7 A23. The Company maintains its original proposal to extend the Company’s IRM
8 through 2027 at the proposed investment levels. As discussed above, such
9 authorization would not preclude the Commission from ordering adjustments to the
10 authorized amounts in a future rate case once pending Case Nos. U-21305 and. U-
11 21400 have concluded. Importantly, such an approach would ensure the ongoing
12 and efficient operation of the IRM and avoid the challenges and complexities that
13 a lapse in its operation would introduce. In addition, an extension will ensure the
14 customer benefits realized through the IRM do not lapse. These benefits include
15 certainty of investment for its originally intended purpose, customer protections in
16 the event of underinvestment, and additional opportunities for Staff and other
17 intervenors to review and provide feedback on the Company’s investment plans
18 and the execution of those plans.

19

20 However, if the Commission does not find it appropriate to approve a two-year
21 extension at the proposed investment levels, the Company recommends at a
22 minimum that the Commission approve a one-year extension at the investment
23 levels previously authorized for 2025 (i.e., IRM Year 2). It is valuable to the
24 Company to have clear visibility and certainty of the work it can execute in a
25 specific year well in advance of project execution. Such certainty allows the

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1 Company to procure the appropriate resources, materials, permits, etc. to ensure
2 efficient and timely execution.

3

4 While not preferred by the Company, a one-year extension would provide it with
5 that certainty and allow it to develop a robust IRM Investment Plan for 2026.

6

7 **Q24. Can you summarize ABATE Witness Dauphinais' recommendation to only**
8 **extend the IRM through 2026 including \$275 million of 2026 investment?**

9 A24. Yes. In his direct testimony, ABATE Witness Dauphinais argues that the
10 Commission should only authorize Year 3 (i.e., 2026) of the Company's IRM and
11 that IRM treatment for Year 3 should be capped at \$275 million. Witness
12 Dauphinais argues:

13

14 "DTE's distribution IRM should not at this time be dramatically expanded and
15 extended as proposed by DTE given DTE's distribution IRM is still in its
16 infancy. Year 1 just barely commenced seven months prior to the filing of this
17 testimony and the first DTE distribution IRM reconciliation will not commence
18 until sometime in 2025" (pages 15-16)

19

20 and

21

22 "The term of the authorized distribution IRM for DTE should at this time be
23 limited to no longer than truly necessary, as the Commission concluded in its
24 Final Order in Case No. U-21297, until potential insights from Case Nos. U-

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1 21400 and U-21305 are gained to better inform continuation of the distribution
2 IRM.” (page 16)

3

4 ABATE Witness Dauphinais goes on to acknowledge the Company’s concerns
5 related to “stopping and starting” of the IRM and states he does not oppose a one-
6 year extension of the IRM through 2026 with only the following four programs
7 authorized for IRM treatment in 2026 at the Company’s proposed investment
8 levels:

9

- Conversions (\$190 million of 2026 investment)

10

- Subtransmission Redesign and Rebuild (\$55 million of 2026 investment)

11

- Breaker Replacement (\$15 million of 2026 investment)

12

- URD Replacement (\$15 million of 2026 investment)

13

14 **Q25. Does the Company agree with ABATE Witness Dauphinais’ recommendation**
15 **to only extend the IRM through 2026 including \$275 million of 2026**
16 **investment?**

17 A25. Partially. While the Company agrees that the IRM is still in its early stages, the
18 Company does not believe this is a compelling reason to limit its growth if IRM
19 investments are otherwise warranted. Subjectively limiting the size of the IRM also
20 limits the benefits that can be realized through its use such as the additional
21 certainty of investment for its originally authorized purpose, customer protections
22 in the event of underinvestment, and additional opportunities for Staff and
23 intervenor input.

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1 In addition, like Staff Witness Evans discussed previously, ABATE Witness
2 Dauphinais cites pending Case Nos. U-21305 and U-21400 as reasons to limit the
3 term of the IRM. As described previously in my rebuttal testimony, authorizing an
4 extension of the IRM as proposed by the Company does not preclude the
5 Commission from ordering adjustments to that authorization in future rate cases
6 once pending Case Nos. U-21305 and U-21400 have concluded. As such, the
7 Company does not believe this is a compelling reason to limit the term or scope of
8 the IRM.

9

10 With that said, as described previously in my rebuttal testimony, if the Commission
11 does not find it appropriate to approve a two-year extension at the proposed
12 investment levels, the Company recommends at a minimum that the Commission
13 approve a one-year extension of the IRM at the investment levels previously
14 authorized for 2025 (i.e., IRM Year 2). This is similar to the recommendation put
15 forth by ABATE Witness Dauphinais and represents a better, more efficient path
16 forward than allowing the IRM to lapse at the end of the 2025.

17

18 **Q26. Can you summarize AG-MN Witnesses Alvarez’s and Stephens’**
19 **recommendation to not extend the IRM through 2027?**

20 A26. Yes. In his direct testimony, Witness Alvarez recommends that the Commission
21 reject the Company’s proposal to extend the IRM through 2027. He first asserts:

22

23 “Rider cost recovery shifts capital spending risk from shareholders to
24 customers, shifts prudence responsibilities from utilities to intervenors, and
25 introduces moral hazard into utility distribution grid investment plan

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1 development. I discussed these unintended consequences at length in my
2 testimony in U-21297...” (page 29; footnote omitted)

3

4 He goes onto argue, starting on page 29, that the IRM limits the Commission’s
5 “practical ability to order a cost disallowance” which results in a moral hazard since
6 “utilities have nothing to lose, and everything to gain, by proposing more capital
7 spending than they would otherwise spend under traditional ratemaking.”

8

9 As it relates to the IRM procedural mechanisms approved by the Commission in
10 Case No. U-21297, AG-MN Witness Alvarez argues they are not sufficient to
11 address his concerns. He states:

12

13 “These two procedural mechanism – the preview and reconciliation – offer little
14 more than lip service to capital spending governance. Since the Commission set
15 a cap on spending, providing intervenors with a list of planned projects up to
16 the authorized IRM spending level conceivably *might* allow participating
17 intervenors with technical expertise to advocate for shifted projects – *e.g.*, start
18 PTMM on a particular circuit sooner – but changes seem unlikely (DTE is
19 unlikely to shift course so close to start of the IRM year). Moreover, the preview
20 process still leaves the burden on the intervenors to counter DTE’s plan, not the
21 other way around. The reconciliation contested proceeding is similarly
22 unredeeming – the money will already have been spent.” (page 33)

23

24 In his testimony, AG-MN Witness Stephens discusses the appropriateness of IRM
25 treatment for the specific programs proposed by the Company. In summary, he

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1 argues that none of the programs proposed by the Company are suitable for IRM
2 treatment in 2026 and 2027.

3

4 **Q27. Does the Company agree with AG-MN Witnesses Alvarez's and Stephens'**
5 **recommendation to not extend the IRM through 2027?**

6 A27. No. To start, and as admitted by Witness Alvarez on page 29 of his direct testimony,
7 much of his argument against the use of the IRM is simply a restatement of the
8 arguments that were made in Case No. U-21297 when the Commission originally
9 authorized the IRM. Witness Alvarez presents no new arguments or evidence that
10 suggests the Commission erred when it was originally presented these same
11 arguments in Case No. U-21297 and ultimately concluded that authorizing the IRM
12 was the appropriate path forward.

13

14 The Company also disagrees that the IRM planning and reconciliation processes
15 approved by the Commission in Case No. U-21297 are simply "lip service" to
16 capital spending governance as asserted by AG-MN Witness Alvarez. To the
17 contrary, as stated by the Commission in its December 1, 2023, Order in Case No.
18 U-21297:

19

20 "The filing of the IRM Investment Plan at least four months prior to the start of
21 each plan year will allow for a more meaningful review by both the Staff and
22 other interested stakeholders. Further, the submission of the plan to all
23 intervening parties, along with providing a forum for interested parties to raise
24 concerns, will allow for additional collaboration and input into the proposed
25 investments." (page 289)

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“In addition to plan review, a contested reconciliation process will provide additional opportunities for input from interested parties. Further, developing a record in a contested proceeding will provide even greater transparency and opportunity for review of the reasonableness and prudence of the company’s expenditures, as well as accept input to address equity concerns such as those raised by the DAAOs to avoid racialized disparities in service.” (page 290)

10

11

Simply put, AG-MN Witness Alvarez’s assertion on page 33 of his direct testimony that “the preview process still leaves the burden on the intervenors to counter DTE’s plan” is unfounded. Not only is IRM authorization granted in a contested rate case, both in terms of the programs and investment levels, the Company must provide an annual forum before execution begins where intervenors can raise concerns with the Company’s plans and then defend those investments in a contested reconciliation proceeding.

12

13

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19

AG-MN Witness Stephens’ arguments related to the specific capital programs proposed for IRM treatment in 2026 and 2027 are addressed by the Company’s witnesses that sponsor those programs.

20

21

22

23

Q28. Can you summarize Walmart Witness Perry’s recommendations related to the timing of rate case filings and IRM capital recovery?

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1 A28. Yes. Walmart Witness Perry recommends that if the Commission authorizes the
2 extension of the IRM:

3

4 “...it should also require the Company to file a base rate case at the earliest
5 possible date when the assets can be included in the Company’s test year.
6 Additionally, the Commission should deny recovery of any costs exceeding
7 what was approved in the Company’s last rate case for IRM plan years 2024
8 and 2025, requiring the Company to recover these additional costs through base
9 rates instead.” (page 22)

10

11 **Q29. Does the Company agree with Walmart Witness Perry’s recommendations**
12 **related to the timing of rate case filings and IRM capital recovery?**

13 A29. No. The Company believes the recommendations put forth by Walmart Witness
14 Perry are unnecessary. As ordered by the Commission, the IRM includes an annual
15 contested reconciliation that addresses the prudence of IRM investments made in
16 the previous year. If the Commission were to find that a particular investment was
17 not prudent, then the Company would return collected funds to ratepayers and no
18 longer recover that investment through the IRM surcharge. As such, there is no
19 need to subjectively define the timing of future rate cases since IRM investment
20 prudence and recovery is already being addressed using the currently approved
21 processes.

22

23 Further, as proposed by the Company and ordered by the Commission, the
24 Company cannot unilaterally increase the size of the IRM surcharge for 2024 and
25 2025. The recovery of any investment made in those years above what was

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1 authorized for the IRM would need to be sought by the Company in a general rate
2 case.

3

4 Said differently, the concerns raised by Walmart Witness Perry are already being
5 addressed under the existing processes and therefore his specific recommendations
6 should be rejected.

7

8 **Storm Recovery Cost Sharing Mechanism (SRCSM)**

9 **Q30. What Staff and intervenor positions related to the Company's proposed**
10 **SRCSM are you addressing?**

11 A30. There are three Staff and intervenor positions I will address related to the
12 Company's proposed SRCSM:

- 13 • Staff Witness Duell's recommendation to reject the Company's proposed
14 SRCSM
- 15 • CUB-MN Witness Denzler's recommendation to reject the Company's
16 proposed SRCSM
- 17 • Ann Arbor Witness Stults' recommendation to reject the Company's
18 proposed SRCSM

19

20 **Q31. Can you summarize Staff Witness Duell's recommendation to reject the**
21 **Company's proposed SRCSM?**

22 A31. Yes. In her direct testimony, Staff Witness Duell recommends the SRCSM not be
23 approved, stating in part:

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1 “Staff believes this mechanism should not be approved because 1) Staff is
2 supporting the full-service restoration expense for the test year; 2) the
3 Commission rejected similar mechanisms in prior cases U-20963, U-20697,
4 and U-21389; and 3) Staff would like to see results from the third-party audit
5 to further determine cost savings in storm restoration expenses.” (page 10)

6

7 Staff Witness Duell goes on to argue that customers may never see a benefit from
8 the proposed SRCSM and that it would weaken the incentives for the Company to
9 control storm restoration costs.

10

11 **Q32. Does the Company agree with Staff Witness Duell’s recommendation to reject**
12 **the Company’s proposed SRCSM?**

13 A32. No. To start, while the Company appreciates Staff’s support of the projected test
14 year storm restoration expense, the Company does not believe that support is a
15 justification to reject the proposed SRCSM. As described in my direct testimony,
16 the current approach to storm restoration O&M expense recovery (which Staff is
17 supporting) does not address the uncertainty and variability of these expenses in
18 any given year and exposes both customers and the Company to financial risk. The
19 proposed SRCSM is designed to address this uncertainty and variability by
20 *enhancing* the existing approach to recovering storm restoration expenses, not by
21 replacing it.

22

23 Next, the Company disagrees that the Commission has rejected similar mechanisms
24 in cases U-20963, U-20697, and U-21389. In all three of those cases, Consumers
25 Energy proposed a *cost tracker*. In this case the Company has proposed a *cost*

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1 *sharing mechanism*, which is fundamentally different. This fundamental difference
2 provides sufficient justification for the Commission to assess the Company's
3 proposal on its own merits and not base its decision on previous orders.

4 Further, the Company disagrees that reviewing the findings of the pending Case
5 No. U-21305 related to the Company's Distribution Audit should be a prerequisite
6 to approving the SRCSM proposed by the Company. The SRCSM is designed to
7 address the uncertainty and volatility of storm restoration O&M costs and doesn't
8 preclude the Company from using the findings of the Distribution Audit to pursue
9 cost savings in the future. If the findings of the Distribution Audit suggest areas of
10 cost savings, the Company can pursue those savings which would ultimately be
11 incorporated into its forecasts of future storm restoration O&M costs. These
12 activities are unrelated to the SRCSM which would immediately improve upon the
13 current approach to storm restoration O&M cost recovery.

14

15 The Company also disagrees with the suggestion that customers may never see a
16 benefit from the proposed SRCSM. The only way for such an outcome to occur
17 would be if actual storm restoration costs were *always* above the projected level of
18 costs. Given the volatility of these costs as discussed in my direct testimony, this
19 outcome is unlikely to occur.

20

21 Finally, the Company believes that the 50% of sharing of costs that deviate from
22 projections maintains a significant incentive to control these costs.

23

24 In summary, the Company continues to believe that implementing the SRCSM
25 would improve upon the existing approach to storm restoration O&M recovery by

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1 maintaining a strong incentive to control costs while also better protecting
2 customers and the Company against financial risks.

3

4 **Q33. Can you summarize CUB-MN Witness Denzler’s recommendation to reject**
5 **the Company’s proposed SRCSM?**

6 A33. Yes. In his direct testimony, CUB-MN Witness Denzler recommends that the
7 Commission reject the Company’s proposed SRCSM. He first asserts that the
8 proposed SRCSM “skews the share of risk significantly in favor of the Company,
9 at the expense of ratepayers.” (page 3) He goes on to explain “[i]f the increased
10 storm severity projected by the Company are realized, it is much more likely for
11 costs to exceed projections than to be under projections.” (page 4)

12

13 CUB-MN Witness Denzler also asserts that the proposed SRCSM “creates a strong
14 misalignment of incentives, when the Company’s historical storm performance is
15 already very poor.” (page 3) He goes on to explain

16

17 “...the Company would be more incentivized to control costs if it had to absorb
18 100% of every incremental dollar that is spent...the Company’s proposal would
19 mean that every incremental restoration dollar spent now would cost the
20 Company only \$0.50, when that dollar falls into the Storm category. This would
21 create a financial incentive for the Company to extend the duration of Storms
22 and perform additional work under the Storm umbrella as it would be 50%
23 cheaper than if performed after Storm-close.” (page 6)

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1 CUB-MN Witness Denzler further argues that “[f]urther misalignment of
2 incentives would be driven by the fact that failure to keep storm restoration costs
3 down would increase the size of the five-year trailing average storm cost projection
4 that customers must pay.” (page 7)

5 In addition to rejecting the proposed SRCSM, CUB-MN Witness Denzler
6 recommends:

7

8 “...the Commission order DTE to develop Storm performance criteria that
9 include outage restoration, estimate accuracy, resource productivity, and
10 financial responsibility specific to Storm scenarios and tie-bar financial
11 recovery of excess Storm restoration costs to the Company’s performance in
12 these areas.” (page 8)

13

14 and

15

16 “In light of the fact that the Company effectively receives compensation for
17 weather volatility, should the Commission approve the Company’s storm
18 recovery cost sharing proposal despite my recommendation, I recommend the
19 Commission reduce the rate of return it authorizes on these costs.” (page 8)

20

21 **Q34. Does the Company agree with CUB-MN Witness Denzlers’s recommendation**
22 **to reject the Company’s proposed SRCSM?**

23 A34. No. To start, the Company disagrees with CUB-MN Witness Denzler’s assertion
24 that the proposed SRCSM skews the share of risk in favor of the Company. As
25 discussed in my direct testimony starting on page 63, storm restoration O&M costs

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1 are uncertain and volatile. The proposed SRCSM protects both customers and the
2 Company from financial risk through the equal sharing of costs that deviate from
3 projections.

4

5 Further, if the Company consistently spends more on storm restoration O&M than
6 is projected as discussed by CUB-MN Witness Denzler, this will have the impact
7 of raising those projections and the amount recovered from customers in future
8 years under the current approach. If this were to occur, the SRCSM would offer
9 even greater protections than it does today since the amount being recovered
10 through rates would be greater than it is today. Based on both historical costs and
11 the mechanics of the current approach, the suggestion that the SRCSM would skew
12 the share of risk in favor of the Company is unfounded.

13

14 As it pertains to incentives, CUB-MN Witness Denzler's assertion that the
15 Company would be incentivized to extend the duration of a storm reflects a
16 fundamental misunderstanding of how storm cost accounting works in practice.
17 Storms are well-defined events that have an identifiable start, end, and impacted
18 population of customers. When a storm occurs, any costs incurred restoring
19 impacted customers are accounted for as a storm expense⁵, and storm expenses
20 continue to accumulate until all customers are restored. Expenses incurred for
21 reasons other than restoring impacted customers are not considered storm expenses.
22 Therefore, the Company cannot elect to extend the duration of storm to ensure
23 increased cost recovery.

24

⁵ This includes both initial temporary repairs to ensure customers are restored, and follow-up permanent repairs

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1 In response to CUB-MN Witness Denzler’s recommendation that the Company
2 create storm performance criteria and link storm expense recovery to performance
3 against those criteria, the Company notes that storm performance is already being
4 addressed in the following two areas:

- 5 • The SQRS, which sets standards of service related to the frequency and
6 duration of storm-related outages
- 7 • Pending Case No. U-21400 related to financial incentives and disincentives,
8 otherwise referred to as PBR; an order in this case is still pending

9

10 Further, CUB-MN Witness Denzler’s recommendation that the “Commission
11 reduce the rate of return it authorizes on these costs” if it were to approve the
12 SRCSM is irrelevant. The SRCSM only addresses storm restoration O&M
13 expenses, for which the Company earns no return. As such, the Commission cannot
14 reduce the rate of return on these costs.

15

16 In summary, the Company disagrees with CUB-MN Witness Denzler’s
17 recommendations and instead recommends that the Commission approve the
18 SRCSM and continue to address storm restoration performance through the SQRS
19 and pending Case No. U-21400.

20

21 **Q35. Can you summarize Ann Arbor Witness Stults’ recommendation to reject the**
22 **Company’s proposed SRCSM?**

23 A35. Yes. In her direct testimony, Ann Arbor Witness Stults recommends that the
24 Commission reject the Company’s proposed SRCSM. First, Ann Arbor Witness
25 Stults argues that the Company’s proposal “...creates problematic incentives for

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1 the Company, including motivating the Company to play a shell game with capital
2 recovery for repairs, because repairs done before a storm or after a storm would be
3 recovered differently from those that took place immediately after a storm.” (page
4 17)

5 Ann Arbor Witness Stults goes on to argue that the proposed SRCSM would
6 “...reward the Company for projecting very high estimates of storm restoration
7 costs, so it appears to “underspend” its target. Overestimations would allow the
8 Company to recover some monies that were never spent and thus would normally
9 not be properly included in rate recovery.” (pages 17-18)

10

11 Finally, Ann Arbor Witness Stults argues the proposed SRCSM “...creates a
12 situation in which ratepayers will be paying for investments to improve the
13 resiliency of the grid...which should result in lower storm restoration costs, and
14 then when those investments are successful in reducing such costs, half of the
15 benefit of reduced storm restoration costs (i.e., reduced rates) will not flow to the
16 ratepayers.” (page 18) In addition, Witness Stults asserts the proposed SRCSM:

17

18 “...would allow the Company to keep half of the savings that result from
19 coming up to normal maintenance standards. It would be unreasonable for the
20 Company not to pass these savings on to the ratepayers who funded the more
21 resilient grid and suffered due to DTE’s decisions to underspend on O&M for
22 more than a decade.” (page 18)

23

24 **Q36. Does the Company agree with Ann Arbor Witness Stults’ recommendation to**
25 **reject the Company’s proposed SRCSM?**

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1 A36. No. Ann Arbor Witness Stults' testimony reflects a fundamental misunderstanding
2 of both how storm restoration O&M costs are recovered today and how the
3 Company is proposing to improve that process through the SRCSM. First, Ann
4 Arbor Witness Stults suggests the Company could play a "shell game with capital
5 recovery" if the SRCSM were to be approved. However, the SRCSM does not
6 impact capital recovery. It is a mechanism to address the uncertainty and variability
7 of O&M expenses only. Capital investment and the recovery of that investment are
8 unaffected by the Company's proposed SRCSM.

9
10 Second, Ann Arbor Witness Stults suggests the SRCSM would "reward the
11 Company for projecting very high estimates of storm restoration costs." However,
12 the current approach to projecting storm restoration O&M expenses is formulaic
13 based on historical average spending adjusted for inflation. Based on this, the
14 Company cannot simply project a very high estimate as suggested by Witness
15 Stults.

16
17 Finally, Ann Arbor Witness Stults argues that the proposed SRCSM "...would
18 allow the Company to keep half of the savings that result from coming up to normal
19 maintenance standards. It would be unreasonable for the Company not to pass these
20 savings on to the ratepayers." However, this argument fails to acknowledge that
21 under the current approach the Company is allowed to keep *all* savings if actual
22 storm restoration O&M expenses are less than projected. Under the proposed
23 SRCSM, more savings would be returned to customers than the current approach.

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1 In addition, over time if the Company reduces storm restoration O&M costs, as
2 suggested by Ann Arbor Witness Stults, customers would *fully* capture these
3 savings through lower projected costs that are recovered through rates.

4

5 **Inflation Rate**

6 **Q37. What intervenor positions related to the Company's proposed inflation rates**
7 **are you addressing?**

8 A37. There are two intervenor positions I will address related to the Company's proposed
9 inflation rates:

- 10 • AG Witness Coppola's and ABATE Witness York's recommendation to
11 reject the Company's proposed "blended" inflation rate and instead use an
12 alternative rate
- 13 • CUB-M Witness Bandyk's recommendation to reduce the Company's
14 proposed inflation rates to account for productivity improvements

15

16 **Q38. Can you summarize AG Witness Coppola's and ABATE Witness York's**
17 **recommendation to reject the Company's proposed "blended" inflation rate**
18 **and instead use an alternative rate?**

19 A38. Yes. In his direct testimony, AG Witness Coppola argues:

20

21 "The use of a "blended rate" inclusive of wage increases has been rejected in
22 recent general rate cases and the Commission should do so again in this rate
23 case. Instead, the Commission has previously adopted the use of the CPI-Urban
24 area inflation rates to forecast future cost increases when warranted." (page
25 102)

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Instead, he recommends the use of CPI-Urban inflation rates of 2.4% for 2024 and 2.2% for 2025 based on the “February 2024 Blue Chip Report.”

4

5

Similarly, ABATE Witness York recommends that the Commission reject the Company’s 3% labor inflation rate, arguing that “[t]here are many moving pieces with respect to the Company’s labor expense.” (page 12) She specifically cites the number of employees and employees leaving and being replaced by lower wage employees as variables that could impact labor wage escalation. Instead, she recommends the use of the Real GDP Chained Price Index for both labor and non-labor costs, arguing it is superior to the CPI as proposed by the Company for non-labor costs because:

10

11

12

13

14

“...the basket of goods and services is updated to reflect what people are actually buying. This is unlike the CPI, which uses a fixed basket for a set period. This makes the Real GDP index more responsive to consumer substitution – if prices of certain goods rise, people might switch to less expensive alternatives, and the index will reflect that change. In addition, the CPI can be heavily weighted by the cost of medical expenses, which is not reflective of the cost of utility expenses.” (page 13)

15

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ABATE Witness York concludes by highlighting that her recommended approach “...does not cure the deficiency for changes in the tenure of employees, but at least relies on independent factors to project escalations in labor costs.” (page 13)

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1 **Q39. Has ABATE Witness York proposed her recommended methodology in past**
2 **cases?**

3 A39. No. In the Company's last general rate case (i.e., Case No. U-21297), ABATE
4 Witness York proposed using the Company's average growth rate of normalized
5 annual O&M expenses to project future escalations.

6

7 In the Company's general rate case before Case No. U-21297 (i.e., Case No. U-
8 20836), ABATE Witness York advocated for the use of the projected CPI increases
9 as published by Blue Chip Economic Indicators for escalating both non-labor and
10 labor O&M.

11

12 **Q40. Does the Company agree with AG Witness Coppola's and ABATE Witness**
13 **York's recommendations to reject the Company's proposed "blended"**
14 **inflation rate and instead use an alternative rate?**

15 A40. No. To start, the Company disagrees with AG Witness Coppola's assertion that
16 "[t]he use of a "blended rate" inclusive of wage increases has been rejected in recent
17 general rate cases." The Commission approved the use of a composite inflation rate
18 in its November 18, 2022 Order in Case No. U-20836 and subsequently maintained
19 its approval of this approach in its December 1, 2023 Order in Case No. U-21297.

20

21 Furthermore, the use of a composite rate continues to best reflect the inflationary
22 pressures faced by the Company. It rightfully separates labor inflation, which is
23 subject to Company-specific dynamics like collective bargaining agreements, from
24 non-labor inflation. Neither AG Witness Coppola nor ABATE Witness York

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1 provide evidence that suggests the Commission erred when it approved the use of
2 a composite rate in the Company’s most recent general rate cases.

3

4 As it relates to the specific inflation rates proposed by the witnesses, the Company
5 notes that AG Witness Coppola’s recommended use of the CPI-Urban rate is
6 similar to the CPI-Urban rate proposed by the Company for escalating non-labor
7 costs. The only difference is the source of the rate – the Company proposed the
8 CPI-U rate as published by S&P/IHS Markit and approved in previous cases, while
9 AG Witness Coppola proposed the CPI-U rate as published in the “Blue Chip
10 Report.” AG Witness Coppola has not provided any evidence as to why the rate
11 published in the “Blue Chip Report” is superior to the rate published in by S&P/IHS
12 Markit previously approved by the Commission for escalating non-labor costs.
13 Further, the CPI-U rate proposed by AG Witness Coppola, captured in Exhibit AG-
14 2, appears to only reflect the first half of 2025. This is inappropriate since the
15 Company’s forward test year in this case extends for full year 2025.

16

17 Similarly, while ABATE Witness York provides a description of the Real GDP
18 Chained Price Index, she has not provided compelling evidence that it is superior
19 to the CPI-Urban rate in projecting *utility-specific* non-labor costs. She discusses,
20 for example, how the Real GDP Chained Price Index accounts for consumer
21 substitution, but it is not clear that this is appropriate for utility-specific costs,
22 especially considering the potentially limited ability a utility has for substitution.

23

24 Further, the CPI is a well-established and widely used measure of inflation. The
25 basket of goods incorporated in the CPI is updated periodically. According to the

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1 U.S. Bureau of Labor Statistics (BLS), these updates are made to “reflect more
2 recent consumer spending patterns; this provides a logical opportunity to rework
3 the item classification scheme so that it will recognize the emergence of new items,
4 the changes to existing items and their relative importance, and the ways that people
5 view consumer goods and services.”⁶

6

7 Given the lack of evidence that the proposed rate is superior to the previously
8 approved CPI-Urban rate used for escalating non-labor costs, ABATE Witness
9 York’s recommendation should be rejected.

10

11 **Q41. Can you summarize CUB-M Witness Bandyk’s recommendation to reduce to**
12 **the Company’s proposed inflation rates to account for productivity**
13 **improvements?**

14 A41. Yes. In his direct testimony, CUB-M Witness Bandyk argues that the Company’s
15 proposed inflation rates should be reduced to account for potential productivity
16 gains. He explains:

17

18 “While it is prudent to expect that costs will be affected by inflation, it is also
19 prudent to factor in how productivity gains may mitigate inflation. Ms. Uzenski
20 does not make any adjustment for productivity. It is reasonable to expect that a
21 business will, on average, make some productivity gains year to year.” (page 3)

22

23 CUB-M Witness Bandyk goes on to cite Bureau of Labor Statistics (BLS) on
24 multifactor productivity for the private nonfarm sector and labor productivity for

⁶ <https://www.bls.gov/cpi/additional-resources/revision-1998-item-structure.htm> (accessed August 13, 2024)

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1 Michigan. He argues that DTE “does not face the competitive pressures to improve
2 productivity that can be found in non-regulated industries” (page 4) and reducing
3 inflation to account for productivity gains “would simulate the effect of
4 productivity improvements on DTE’s costs” (page 4).

5

6 He ultimately recommends that the Company’s inflation rates be reduced based on
7 the historical BLS productivity improvement data cited previously in his testimony.

8

9 **Q42. Does the Company agree with CUB-M Witness Bandyk’s recommendation to**
10 **reduce the Company’s proposed inflation rates to account for productivity**
11 **improvements?**

12 A42. No. Through its Continuous Improvement (CI) program, the Company strives to
13 identify and execute sustainable productivity improvements and leverage new
14 technology to help control the Company’s cost structure over the long term. Any
15 known and measurable cost reductions related to productivity gains would be
16 embedded in each business unit’s financial exhibits.

17

18 As such, adjusting the Company’s inflation rates downward to account for potential
19 productivity gains when productivity gains are already embedded in each business
20 unit’s financial exhibits would represent a “double counting” of productivity
21 improvements. In addition, applying a blanket productivity adjustment as suggested
22 by CUB-M Witness Bandyk is akin to setting a long-term productivity target that
23 conflicts with the “known and measurable” nature of forward test year projections.
24 Instead, the current approach to embedding productivity gains into each business

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1 unit's financial exhibits based on what is achievable by the forward test year is
2 more appropriate.

3

4 **Corporate Memberships**

5 **Q43. What intervenor positions related to the Company's proposed recovery of**
6 **corporate membership expenses are you addressing?**

7 A43. There is one intervenor position I will address related to the Company's proposed
8 recovery of corporate membership expenses:

- 9
 - DAAO Witness Koeppel's recommendation to disallow a portion or all of
- 10 the Company's proposed corporate membership expenses

11

12 **Q44. Can you summarize DAAO Witness Koeppel's recommendation to disallow a**
13 **portion or all of the Company's proposed corporate membership expenses?**

14 A44. Yes. In his direct testimony, DAAO Witness Koeppel recommends that the
15 Commission "disallow recovery of a significant portion, if not all, of the company's
16 requested corporate membership expenses in this case." (page 51) DAAO Witness
17 Koeppel argues that the Company did not follow the Commission's guidance from
18 its December 1, 2023, Order in Case No. U-21297 that stated:

19

20 "DTE Electric shall provide in its next general rate case a detailed description
21 of how these organizations specifically impact/benefit customers as outlined by
22 the DAAOs, which will convey DTE Electric's roles and responsibilities in
23 advancing ratepayer interests through its participation in each organization."
24 (page 221)

25

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1 DAAO Witness Koeppel specifically addresses the Company's membership of the
2 Edison Electric Institute (EEI) and argues that "distinction between lobbying and
3 non-lobbying activities is often blurry and subjective and may not fully capture the
4 scope and influence of EEI's advocacy and outreach efforts" (page 58) and that
5 "[t]he Commission should also be concerned about its own conflicts of interest."
6 (page 59). He captures several areas where he believes the positions taken by EEI
7 are not in customers' best interests.

8

9 DAAO Witness Koeppel concludes by recommending the disallowance of EEI
10 membership dues in addition to process-oriented recommendations around the
11 examination of proposed membership dues and the Company's presentment of
12 customer benefits.

13

14 **Q45. Does the Company agree with DAAO Witness Koeppel's recommendation to**
15 **disallow a portion or all of the Company's proposed corporate membership**
16 **expenses?**

17 A45. No. To start, the Company disagrees that it did not follow the Commission's
18 guidance in its December 1 Order. In the current case, the Company updated
19 Exhibit A-27, Schedule Q1, to capture *specific* customer benefits related to each of
20 its corporate memberships.

21

22 As it relates to DAAO Witness Koeppel's assessment of EEI, the Company notes
23 that positions taken by industry organizations like EEI do not necessarily reflect the
24 positions of its member companies simply because those companies pay
25 membership dues. In addition, the fact that DAAO Witness Koeppel believes that

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1 EEI has taken positions that are not in the best interest of customers does not negate
2 the benefits of EEI membership⁷ or provide sufficient justification to disallow the
3 Company's proposed membership dues.

4

5 Finally, DTE Electric urges the Commission to consider the *reasonableness* of
6 DAAO Witness Koeppel's recommendations. DAAO Witness Koeppel suggests
7 the Commission should consider the "...lack of detail about what specific activities
8 are funded at what levels with DTE's contributions and lack any specific examples
9 or quantitative evidence of how these benefits have actually translated into
10 improved service quality, reliability, affordability, or other tangible outcomes for
11 customers." (page 62)

12

13 The Company does not have ready access to a detailed list of all activities
14 undertaken by the industry associations of which it is a member. Similarly, the
15 industry associations of which the Company is a member do not designate the
16 Company's membership dues for a particular purpose or purposes. As such, the
17 Company simply does not have the level of detail suggested by DAAO Witness
18 Koeppel. Attempting to compile such information (assuming industry associations
19 have it available) would be costly in terms of the Company's time and resources
20 required, and DAAO Witness Koeppel has not provided compelling evidence that
21 such an undertaking would result in conclusive evidence supporting his position.
22 These costs would ultimately be passed onto customers.

23

⁷ The Company highlights access to benchmarking, best practices, networking, and research as benefits of EEI membership (Exhibit A-27, Schedule Q1, Page 3)

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1 As such, the Company maintains its proposed recovery of corporate membership
2 dues, including the use of the Exhibit A-21, Schedule Q1 as presented in this case.

3 **Projected Test Year**

4 **Q46. What intervenor positions related to the Company's use of a forward test year**
5 **are you addressing?**

6 A46. There is one intervenor position I will address related to the Company's proposed
7 use of a forward test year:

- 8 • ABATE Witness Dauphinais' recommendation that the Commission reject
9 the use of a forward test year

10

11 **Q47. Can you summarize ABATE Witness Dauphinais' recommendation that the**
12 **Commission reject the use of a forward test year?**

13 A47. Yes. In his testimony ABATE Witness Dauphinais recommends that the
14 Commission reject the Company's use of a forward test year, asserting that the use
15 of a forward test year:

- 16 • "...has caused and continues to cause customers to experience rate increases
17 sooner because rates are being based on future projections". (page 6)
- 18 • "...has resulted in higher rates for customers than if rates were based on the
19 historical test year." (page 6)
- 20 • "...has allowed and continues to allow DTE to fill its projections with
21 proposed capital expenditures and expenses that either DTE has not
22 irrevocably committed to making or otherwise can avoid if it finds it
23 advantageous to do so to improve its realized rate of return for its
24 shareholders." (page 6)

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- 1 • “...greatly handicaps the Commission Staff and intervenors in reviewing
2 DTE’s rate filings to ensure the projected capital expenditures and expenses
3 are reasonable because they are not actual capital expenditures and expenses
4 reflected on DTE’s books, but rather projections developed over many
5 separate cost subaccounts and revenue categories.” (page 6)

6

7 Further, on page 7 of his direct testimony Witness Dauphinais offers a definition of
8 “known and measurable changes” by suggesting such changes to costs are
9 “inescapable and precisely identifiable in amount and timing.” He goes onto argue
10 that “[f]uture capital expenditures and projected expenses are often not inescapable,
11 not precisely identifiable in amount and timing, or both.”

12

13 If the Commission decides to allow DTE the use of a forward test year in this
14 proceeding, ABATE Witness Dauphinais recommends the following:

15

16 “First, I recommend the Commission, be much more vigilant and aggressive
17 with respect to ensuring the expenses and investments being projected by DTE
18 for its projected test year are truly expenses and investments that are necessary
19 to provide reliable electric service at lowest reasonable cost. The Commission
20 should also ensure that DTE is irrevocably committed to incur its projected
21 expenses and investments or otherwise cannot avoid them. Finally, the
22 Commission should ensure that DTE’s projected investments and expenses are
23 precisely quantified by DTE with respect to both amount and the specific
24 quarter in which DTE will incur these investments and expenses.” (page 11)

25

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1 **Q48. Does the Company agree with ABATE Witness Dauphinais' recommendation**
2 **that the Commission reject the use of a forward test year?**

3 A48. No. To start, the Company has utilized, and the Commission has approved, the
4 current projected test year methodology for all the Company's rate cases filed
5 dating as far back as 2008.

6
7 In addition, the Company disagrees with ABATE Witness Dauphinais' definition
8 of "known and measurable changes". The forward test year is a projection of the
9 expenditures that are likely to be made given the information known at the time of
10 the rate case filing. Some of these costs will not occur for more than 20 months
11 after the Company filed this case and are subject to factors outside of the
12 Company's control. The Company's witnesses in this case provide testimony and
13 other support for the known (i.e., likely to occur) and measurable (i.e., can be
14 estimated with reasonable accuracy) nature of its proposed costs.

15
16 Further, the Company believes ABATE Witness Dauphinais' assertions that the use
17 of a forward test year results in customers experiencing "rate increases sooner
18 because rates are being based on future projections" and "has resulted in higher
19 rates for customers than if rates were based on the historical test year" are
20 misleading. Under a forward test year, base rates are proposed for a future twelve-
21 month period and, once approved by the Commission, go into effect no earlier than
22 the start of that future period. As such, the implementation of new rates matches
23 the projected costs approved by the Commission. This matching of costs and rates
24 supports the timely recovery of costs and helps ensure the Company can continue

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1 investing in projects and programs that deliver benefits to customers, such as
2 improvements in reliability.

3

4 Withholding rate increases until after costs have incurred would create an
5 unreasonable and unjust mismatch between when costs are incurred and when they
6 are recovered from customers. This is otherwise known as “Regulatory Lag” and
7 would challenge the Company’s ability to execute capital investments and realize
8 reliability improvements and other benefits, such as supporting the transition to
9 cleaner generation.

10

11 As it pertains to ABATE Witness Dauphinais’ concerns related to the Commission
12 approving capital investment that the Company has not “irrevocably committed to
13 making”, the Company disagrees that an “irrevocable commitment” is needed for
14 the Commission to approve capital investments for recovery. As discussed above,
15 the forward test year is a projection of the expenditures that are likely to be made
16 given the information known at the time of the rate case filing. The Company’s
17 witnesses in this case support the reasonableness and prudence of these
18 investments, including the timing and estimated cost of investments.

19

20 The Company further highlights that in this case it has proposed an extension and
21 expansion of its Distribution IRM. The IRM ensures that the Company invests
22 authorized amounts for their intended purposes or returns recovered investment to
23 customers – an irrevocable commitment. This directly addresses ABATE Witness
24 Dauphinais’ concerns, and yet he opposes the expansion of the IRM elsewhere in
25 his direct testimony.

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2

Finally, the Company disagrees with ABATE Witness Dauphinais' assertion that the use of a forward test year "greatly handicaps the Commission Staff and intervenors in reviewing DTE's rate filings to ensure the projected capital expenditures and expenses are reasonable." The burden of proof within a rate case falls on the Company to prove the reasonableness and prudence of its proposed investments and operating expenses, and the Company notes the Commission's May 18, 2023, Order in Case No. U-18238 which adopted new rate case filing requirements. Commission Staff and intervenors can challenge the recovery of any of the Company's proposed investments, as many intervenors have done in this case. The suggestion that they are somehow handicapped is unfounded.

12

13 **Incentive Compensation and Historic Revenues**

14 **Q49. What intervenor positions related to the Company's incentive compensation**
15 **and historic revenues are you addressing?**

16 A49. There is one intervenor position I will address related to the linkage between
17 incentive cost recovery and historical revenues:

- 18 • ABATE Witness York's recommendation that a portion of the Company's
19 proposed incentive compensation be disallowed given purported historic
20 revenue sufficiencies

21

22 **Q50. Can you summarize ABATE Witness York's recommendation to tie incentive**
23 **compensation recovery to historic revenues?**

24 A50. Yes. In her direct testimony, ABATE Witness York recommends:

25

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1 “In light of the Company’s recent failure to meet its reliability goals, as well as
2 its track record of historic revenue sufficiency amounts, the incentive
3 compensation associated with achieving these distribution reliability metrics
4 should not be recovered from ratepayers.” (page 17)

5

6 **Q51. Does the Company agree with ABATE Witness York’s recommendation to tie**
7 **incentive compensation recovery to historic revenues?**

8 A51. No. The Company’s historical revenue is irrelevant to the Company’s proposed
9 recovery of incentive compensation. Like it has dating back to 2008, the Company
10 in this case uses a forward test year in which it projects costs, such as incentive
11 compensation, and proposes recovery of those costs. The Company’s projection of
12 incentive compensation costs that it is proposing for recovery is developed
13 independently from the Company’s overall revenue in historic years. Linking them
14 together as recommended by ABATE Witness York would be inappropriate as it
15 would suggest that the Company’s projected costs for a specific cost item is
16 somehow informed by the Company’s overall revenue position in previous years.
17 As such, ABATE Witness York’s recommendation should be rejected.

18

19 Company Witness Fix further addresses ABATE Witness York’s recommendation
20 that incentive compensation recovery should be contingent upon the Company
21 meeting reliability targets.

22

23 **Q52. Does this conclude your rebuttal testimony?**

24 A52. Yes.

1 JUDGE WALLACE: Is there any objection to
2 the admission of Exhibit A-27 Schedule Q1 or A-33
3 Schedule X1 at the close of cross?

4 Hearing none, we will admit those
5 exhibits once the Company's concluded its case.

6 All right. Mr. Bzdok, you have cross for
7 Mr. Foley, correct?

8 MR. BZDOK: Yes, your Honor. Thank you.

9 JUDGE WALLACE: O.K. Please proceed.

10 MR. BZDOK: Thank you.

11 CROSS-EXAMINATION

12 BY MR. BZDOK:

13 Q Good morning, Mr. Foley.

14 A Good morning.

15 Q Can you tell me without revealing any privileged
16 information how it came to pass that you adopted all of
17 Adella Crozier's testimony?

18 A Yes. Ms. Crozier elected to leave the Company, and at
19 that point, I adopted her testimony.

20 Q O.K. Did you change positions between the time you filed
21 your original direct and your revised?

22 A Do you mean positions within the Company?

23 Q Correct.

24 A No, I did not.

25 Q Thanks for that clarification, it was a sloppy question.

1 O.K. Got it.

2 So the vast majority of my questions for
3 you today concern the Infrastructure Recovery Mechanism
4 or IRM, and we'll begin with your direct testimony and
5 some of your discovery, and then we will also hit on your
6 rebuttal testimony regarding that topic, and then I'll
7 just have a few other miscellaneous things about a couple
8 other points in your rebuttal essentially.

9 So you were the witness in Case No.
10 U-21297 with respect to the IRM as well; is that correct?

11 A Yes. There were multiple witnesses sponsoring the IRM; I
12 was the main witness, that's correct.

13 Q You are essentially the regulatory witness as it relates
14 to the IRM, correct?

15 A Correct.

16 Q Somebody else does the surcharge calculation and other
17 witnesses sponsor sort of the evidence related to the
18 actual programs included within the IRM; is that fair?

19 A Yes.

20 Q O.K. When you originally sponsored the IRM in 21297, and
21 I think you mention this in your revised direct testimony
22 at page 49, you originally sponsored it for three IRM
23 years; is that correct?

24 A It was roughly three years, it actually extended 37
25 months, but yes, there was IRM Plan Year 1, 2, and 3.

1 Q There was an extra month in 2024, correct?

2 A Yes, December. Yes, the first IRM Plan Year ran 13
3 months such that we could align IRM Plan Years to
4 calendar years on a going-forward basis.

5 Q In your, in some of your tables and such, you refer to a
6 year 2024, a year 2025, and a year 2026, and a year 2027;
7 is that right?

8 A Correct.

9 Q So we can just talk about 2024?

10 A Yes.

11 Q Great. And if I -- my, all of my questions about your
12 direct testimony will be about your revised direct
13 testimony, so if I forget to say revised, you'll
14 understand we're talking about the revised?

15 A Yes.

16 Q Great. So when you sponsored the original IRM proposal
17 for three years in 21297, the Commission -- and you
18 mention this, pages 51 and 52 of your direct -- the
19 Commission approved it for two of those three years; is
20 that right?

21 A Yes.

22 Q '24 and '25, correct?

23 A Yes.

24 Q O.K. And you have a quote from -- you have several
25 quotes from the Commission order in 21297 in your revised

1 direct, and in the section on page 52, starting at line 6
2 where you talk about the approval of two years rather
3 than three, you quote some text from the Commission order
4 starting at line 10. Do you see that?

5 A I'll have to open up my -- or open up my direct
6 testimony.

7 Q Thank you.

8 A Can you repeat the page numbers we're looking at?

9 Q 52, page 52, lines 6 through 15.

10 A You said this is my revised direct testimony, page 52?

11 Q Correct.

12 A O.K. Question and answer No. 57?

13 Q That is not what I have. So I'm looking at page 52 of
14 your revised direct, lines 6 through 10, which are deep
15 down within question and answer 55 which starts on page
16 49.

17 JUDGE WALLACE: O.K. Somebody's page
18 numbers are off here. I'm looking at Mr. Foley's revised
19 direct testimony that was uploaded to the SharePoint.

20 A So I have question and answer 55 open, and I do see a
21 quote from the Commission, although I have it on page 51.
22 If helpful, we can open up the version on the SharePoint
23 if that would help get us aligned on the page numbers.

24 Q (By Mr. Bzdok): Thank you. I'm working off of a copy
25 that I printed out, and I can also see that it's on page

1 51 in the SharePoint, and on page 52 of the copy that I
2 printed out. Were there, to your knowledge, any -- was
3 there more than one revision to your direct testimony?

4 A No.

5 Q O.K. Well, let's just do the best I can, I will try to
6 work off of the SharePoint version, but you might have to
7 indulge me a little bit because my printed copy has
8 different pages, and my notes are all corresponding to
9 those pages, but we'll do the best we can.

10 So on page 51, lines 1 through 10, you
11 have this discussion of where the Commission approved
12 only Plan Years 1 and 2 and declined to approve Plan Year
13 3, correct?

14 A Correct.

15 Q So that would correspond, just for the record, to 2024
16 and 2025, but not 2026, correct?

17 A Correct.

18 Q And then you quote from the Commission's order at page
19 289, "...there is ongoing discussion regarding
20 [Performance Based Ratemaking] in Case No. U-21400 and an
21 ongoing audit in Case No. U-21305," correct?

22 A Correct.

23 Q And then you quote some other language from the
24 Commission essentially that the ongoing activities in
25 those dockets, based upon those, the Commission finds it

1 would be appropriate to limit approval to the first two
2 years, correct?

3 A Correct.

4 Q O.K. So the Commission approved -- and a good reference
5 that I'm working off of is Table 1 in your revised direct
6 testimony if you need to refresh your memory, so I'm
7 looking on page 53 of your revised direct at Table 1.

8 A I believe our questions and answers are lined up, if you
9 wouldn't mind telling me what question and answer you're
10 looking at.

11 Q Sure. So Table 1 is within question and answer 57.

12 A Yep, I found it.

13 Q So my question for you just, and this is reference if you
14 need to refresh your memory, but the Commission in 21297
15 approved \$61.9 million of IRM spending in 2024 and \$290.1
16 million of IRM spending in 2025, right?

17 A Correct.

18 Q So about \$352 million total, right?

19 A Correct.

20 Q And in other portions of your direct testimony, and I'm
21 not going to get into details, but the Commission
22 required that the reconciliation process for the IRM,
23 rather than the sort of report DTE had proposed to file,
24 the Commission required a reconciliation be done through
25 a contested case; is that right?

1 A Correct.

2 Q O.K. Page -- so again in question and answer 57, and
3 really then also question and answer 58, you talk about
4 the Company's IRM proposal for this case, correct?

5 A Yes.

6 Q And that proposal is to extend the IRM for an additional
7 two years beyond what the Commission approved in the last
8 case to include Plan Years 2026 and 2027; is that right?

9 A Correct.

10 Q And the proposed spending for 2026 is \$530 million and
11 for 2027 is \$720 million; is that right?

12 A Correct.

13 Q So give or take, basically a billion, \$1.25 billion of
14 additional IRM spending beyond what the Commission
15 approved in 21297, correct?

16 A Correct.

17 Q None of the projects for 2026 and 2027 have been
18 identified yet; is that right?

19 A No. In the Case U-21297, when the Commission authorized
20 the IRM, they also authorized the planning process
21 whereby the Company would submit its IRM Investment Plan
22 for the upcoming year no later than four months prior to
23 the start of that year, and as such, the investments for
24 2026 and 2027, if approved by the Commission in this
25 case, would have an IRM plan that's submitted four months

1 prior to those years.

2 Q So just so that the transcript is clear, right, we're
3 having a conversation but it's all going to be on the
4 page, when you started your answer with the word no, you
5 were not disagreeing with me that the projects have not
6 been identified yet, you were agreeing that they have not
7 been identified yet and providing basically the process
8 for which they will be identified; is that fair?

9 A That is fair, the projects have not yet been identified
10 for 2026 and 2027.

11 Q O.K. They're -- in addition to the \$1.25 billion of
12 additional IRM spends proposed for 2026 and 2027, the
13 Company -- I should say you in your testimony are also
14 making a proposal for the Commission's consideration for
15 additional spending in IRM year 2025; is that right?

16 A I would not characterize that as a formal proposal in
17 that it was not captured in the Company's capital
18 exhibits, for example. We were communicating our comfort
19 with such an arrangement if the Commission thought it
20 appropriate to do so.

21 Q O.K. Take a look at Q&A 66.

22 A O.K.

23 Q Here you characterize it as identifying four areas of
24 capital investment the Company believes are appropriate
25 for IRM authorization in 2025 beyond what was previously

1 authorized, correct?

2 A Correct.

3 Q And the categories and the spends are listed there as
4 bullet points in Q&A 66, right?

5 A Correct.

6 Q And those categories include, if those categories of
7 spends, if those spend figures were approved by the
8 Commission, that would represent an additional IRM
9 spending of approximately \$409.7 million; is that right?

10 A Yes, that seems to be about right.

11 Q So give or take, roughly the total potential additional
12 increased IRM spending that is discussed in your
13 testimony in this case totals to, more or less, \$1.66
14 billion, fair?

15 A Yes.

16 Q O.K. And that is more or less a five-fold increase from
17 what the Commission approved in 21297?

18 A More or less.

19 Q O.K. Where did these numbers come from?

20 A Well, these numbers were essentially developed in
21 collaboration with multiple groups here at the Company,
22 specifically the distribution operations capital planning
23 team and project management office teams, so they were
24 sort of collaboratively developed largely with those
25 teams, in addition to others such as regulatory affairs.

1 Q You said distribution ops and one other one I didn't
2 catch.

3 A So distribution operation, both the capital planning team
4 and the project management office teams.

5 Q Who are the heads of those two teams, DO capital planning
6 and DO project management?

7 A The capital planning team reports up to Bill Chiu, and
8 the project management office team reports up to Renee
9 Tomina.

10 Q Sometimes I'm pausing and just typing notes on what you
11 say over on this screen, I'm not sending emails or
12 anything like that, just I will appreciate your
13 indulgence of me doing that occasionally.

14 O.K. Do you have access to the
15 SharePoint site for this case?

16 A Yes.

17 Q Great.

18 MR. JANISZEWSKI: Your Honor, it may, I
19 think it would be beneficial if we could take a 10- to
20 15-minute break to reboot our conference room ability
21 here, there were some technical issues we're dealing
22 with, but in order to access the SharePoint, it would be
23 beneficial to get the camera up and running again.

24 JUDGE WALLACE: O.K. Off the -- is that
25 O.K. with you, Mr. Bzdok?

1 MR. BZDOK: Certainly.

2 JUDGE WALLACE: O.K.

3 MR. JANISZEWSKI: Thank you, Mr. Bzdok,
4 appreciate it.

5 JUDGE WALLACE: Let's go off the record
6 for ten minutes and come back.

7 MR. JANISZEWSKI: Thank you.

8 MR. BZDOK: Before we go, before we go?

9 JUDGE WALLACE: Yes.

10 MR. BZDOK: Since we're dealing with sort
11 of this logistics stuff, I'm going to just note that --
12 how are we going to do that? I'm going to send -- so we
13 have some proposed exhibits we're going to look at, and
14 two of these exhibits are essentially productions of
15 documents, and those productions of documents, when we
16 made the exhibit, the production in Adobe and the app
17 is -- oh, I know how we can do this. In the Adobe app,
18 it's bookmarked, when you put it in Sharepoint and look
19 at it in the browser, it's not bookmarked, and so I would
20 just suggest that anyone who wants to follow along,
21 download those two exhibits, which are going to be 25 and
22 26, and navigate them in the Adobe app, because that way
23 you can have advantage of the bookmarking, otherwise it's
24 sort of just scrolling through long PDFs, if that makes
25 sense. It's just a suggestion that will make things, you

1 know, smooth and easy, or smoother and easier than they
2 might be.

3 JUDGE WALLACE: O.K. All right.

4 MR. BZDOK: Thank you.

5 MR. JANISZEWSKI: Yeah, thank you.

6 JUDGE WALLACE: All right. Off the
7 record for ten minutes.

8 (Recess from 10:24 a.m. until 10:34 a.m.)

9 JUDGE WALLACE: All right. Back on the
10 record. Please continue, Mr. Bzdok.

11 MR. BZDOK: Thank you.

12 Q (By Mr. Bzdok): So Mr. Foley, have you been able to
13 locate in the SharePoint and hopefully download proposed
14 Exhibit MEC-25, which is Discovery Response MNSCDE-18.2a?

15 A Yes.

16 Q Great. And this is a production of documents by you
17 related to presentations you were involved in concerning
18 the IRM proposals that were ultimately put forward in
19 this case, correct?

20 A Correct.

21 Q And these documents are listed in reverse chronological
22 order; is that right?

23 A Yes.

24 Q O.K. So let's start with Document 8.

25 A O.K.

1 Q Document 8 is listed as a presentation with a date of
2 December 4, 2023; is that right?

3 A Yes.

4 Q Did you create this presentation or did you present it?

5 A I created this presentation; I don't remember if I
6 formally presented it during a meeting.

7 Q O.K. This would have been three days after the order in
8 21297; is that right?

9 A Yes.

10 Q And you discuss two near-term actions that DTE must
11 urgently complete; is that correct?

12 A Yes.

13 Q And the second of those two actions is to determine what
14 will be proposed in the upcoming 2024 Electric Rate Case;
15 is that right?

16 A Yes.

17 Q And by what will be proposed, you meant with respect to
18 the IRM, right?

19 A Yes.

20 Q O.K. On the second page of Document 8, which actually
21 has a No. 6 in the lower right-hand corner, there's a,
22 it's a slide with a heading Options for IRM in the
23 upcoming rate case, correct?

24 A Correct.

25 Q Here you present three possible options, right?

1 A Yes.

2 Q No proposal is Option 1, Option 2 is a Simple extension,
3 Option 3 is Extension -- Extension, Scope Growth, & PBR,
4 correct?

5 A Correct.

6 Q PBR is performance-based ratemaking referenced in the
7 Commission order in your testimony we talked about
8 earlier?

9 A Correct.

10 Q O.K. So Option 1 was no change, which means essentially
11 proceeding with an IRM for the years 2024, 2025 at the
12 spend levels of \$61.9 million and \$290.1 million, right?

13 A Correct.

14 Q O.K. One of the cons you identify for that proposal is
15 that stopping/starting could challenge establishing IRM
16 as "new normal". Do you see that?

17 A I do.

18 Q What did you mean by that?

19 A So I discussed in my direct testimony that -- I'm
20 sorry -- in my rebuttal testimony that the Company thinks
21 it's appropriate to establish -- sorry -- that the
22 ongoing and efficient operation of the IRM is beneficial
23 in that it lets stakeholders gain experiences with the
24 new processes, suggest updates to the processes for
25 improvement, things like that, and I was suggesting that

1 a lapse in the IRM at the end of 2025 could challenge
2 stakeholders gaining experience with the new IRM
3 processes that were authorized in U-21297.

4 Q So your concern here was the stakeholder familiarity with
5 the IRM processes?

6 A Yes, that's my recollection.

7 Q You did not mean that the goal was to establish the IRM
8 as the new normal from a regulatory perspective vis a vis
9 the Commission?

10 A Well, the IRM had just been established for two years, so
11 it was -- it had already been established at that point,
12 so I'm not sure I understand your question.

13 Q O.K. I'm trying to understand what the new normal means.

14 A When I said new normal on this page, I was referring to
15 the new processes that had just been authorized by the
16 Commission.

17 Q O.K. Option 2 was a simple extension, which was
18 summarized in this presentation as either no change to
19 2025 or an update of the 2025 investment levels, and
20 extending the IRM through 2026 at the DGP investment
21 levels, correct?

22 A Correct.

23 Q And keeping the same programs in the IRM, right?

24 A Correct.

25 Q O.K. You indicate that one of the cons -- well, let me

1 back up. So one of the pros is that, for Option 2, the
2 simple extension, is that PBR and Distribution Audit
3 activities given time to complete; do you see that?

4 A I do.

5 Q What did you mean by that?

6 A I think at the time of creating this page, I had an
7 expectation that the PBR and Distribution Audit
8 activities would be concluded at some point in 2024, and
9 therefore a simple extension would allow the IRM to
10 continue while those two proceedings concluded and were
11 ultimately able to be reflected in a future iteration of
12 the IRM.

13 Q Is the Distribution Audit report expected this month,
14 September?

15 A I don't know.

16 Q You list as one of the cons that the simple extension
17 "does not meaningfully grow IRM scope, investment levels,
18 or 3-year duration", correct?

19 A Correct.

20 Q Why is it a con to not meaningfully grow the IRM scope?

21 A The IRM provides a lot of benefits to our customers, to
22 the Commission Staff, to intervenors in our rate cases;
23 for example, those benefits grow as IRM authorization
24 grows, so it's a con because not growing the IRM also
25 means not growing those benefits.

1 Q So the benefits of expanding the IRM scope would be
2 benefits to DTE's customers, the Staff, and the
3 intervenors; is that your position?

4 A Those were examples of people that benefit, yes.

5 Q This con in the presentation for the simple extension --
6 O.K., let me move on. Does not meaningfully grow the
7 invest levels is a con; why is that a con?

8 A Like I just said, the benefits of the IRM grow as the
9 investment flowing through the IRM grows.

10 Q And that's a benefit to DTE?

11 A That's a benefit to our customers, to Commission Staff,
12 to intervenors in our rate cases, and to the Company.

13 Q How is that a benefit to the Company?

14 A The IRM provides certainty of timely recovery of costs,
15 and in my rebuttal testimony, I discuss why timely
16 recovery of costs is important.

17 Q O.K. How is growing the investment levels in the IRM a
18 benefit to intervenors?

19 A The new processes that were authorized as part of the IRM
20 include the submission of an IRM Investment Plan to
21 intervenors in our rate cases more than -- no later than
22 four months prior to the start of an IRM year, it also
23 includes the Company needing to hold a forum to discuss
24 its IRM plans, and after an IRM year, there has to be a
25 contested reconciliation proceeding that addresses the

1 investments made through the previous year; when taken
2 together, these new processes provide new levels of
3 transparency both in the Company's investment plans and
4 the execution of those plans, as well as providing
5 additional opportunity for intervenors to provide
6 feedback on the Company's plans.

7 Q So those processes, those processes would exist whether
8 the IRM spending was 352 million as approved or was \$1.25
9 billion as proposed for '26 and '27, or 1.66 billion as
10 proposed under '26-27 and the expanded spending in '25;
11 isn't that true?

12 A Yes. Those processes were approved by the Commission in
13 U-21297, and the Company has not proposed any changes to
14 those processes in this case.

15 Q So the existence of those processes are not a benefit to
16 intervenors of increasing spending in the IRM, are they?

17 A The processes address the IRM spend, therefore, as the
18 IRM spend increases, those processes will address a
19 higher amount of spend, and, for example, the IRM
20 Investment Plan that the Company would submit would
21 address a higher amount of investment than they otherwise
22 would.

23 Q Why is it a con to not meaningfully grow the 3-year
24 duration of the IRM?

25 A I discuss in my testimony that it is beneficial to the
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1 Company to have certainty of its investment plans. A
2 longer duration IRM provides us with greater certainty of
3 our ability to invest and having timely recovery of those
4 investments and, therefore, it's a benefit because it
5 provides, a longer IRM provides greater certainty.

6 Q DTE's goal is to extend the IRM as long as it possibly
7 can long term, right?

8 A Not necessarily.

9 Q DTE's goal is to extend the IRM at least to 2030 and
10 beyond; would you agree?

11 A I haven't been a part of any discussions that have talked
12 about the long-term goal of the IRM beyond this case and
13 beyond extending it to a point where we may be able to
14 stay out of rate cases, as I discussed in my testimony.

15 Q The other con listed under Option 2 is does not address
16 PBR of DO Audit. Do you see that?

17 A I do.

18 Q Did you mean PBR or DO Audit?

19 A I did. That was a typo.

20 Q O.K. Why is it a con that the simple extension would not
21 address PBR?

22 A In the Commission's order in U-21297, as we've talked
23 about, the Commission specifically cited those cases
24 related to PBR and the Distribution Audit as reasons they
25 did not approve the proposed IRM Plan Year 3 in 2026. As

1 such, when I put together this presentation, our thinking
2 at the time was that a simple extension wouldn't address
3 those cases.

4 Q So the Commission wanted to see those items resolve
5 before proceeding beyond two years of IRM, and the simple
6 extension would, basically would what, would tell the
7 Commission no, that's not important and let's proceed
8 anyway?

9 MR. JANISZEWSKI: Your Honor, I would
10 object. We don't want to speculate what the Commission
11 wanted to see. I mean I think the order speaks for
12 itself. If Mr. Bzdok could rephrase the question.

13 JUDGE WALLACE: Mr. Bzdok.

14 MR. BZDOK: Happy to do so.

15 Q (By Mr. Bzdok): So in saying that not addressing PBR or
16 the DO Audit was a con, was your rationale that the
17 Commission in the quote you offered from the order page
18 289 had wanted certain things to -- indicated an interest
19 in seeing certain things happen before further extensions
20 and the Company would essentially be pushing back on that
21 and saying, no, we need another extension despite that?

22 A It was my interpretation at the time in the Commission's
23 order they discussed the incorporation of any potential
24 insights gained from those proceedings where they were
25 referencing the PBR and the DO Audit cases, and given the

1 timing of proposing an extension, we would not, the
2 Company would not be able to incorporate any findings
3 from those cases since those cases would not have
4 concluded at the time, which I listed as a con on this
5 page.

6 Q O.K. Option 3 was Extension, Scope Growth, & PBR,
7 correct?

8 A Correct.

9 Q And that included updating 2025 investment levels to
10 align with DGP/internal plans; is that right?

11 A Correct.

12 Q Bear with me a second. By updating 2025 investment
13 levels to align with DGP/internal plans, is that more or
14 less what you're talking about in Q&A 66 of your direct?

15 A Not necessarily.

16 Q O.K. Were you thinking about updating 2025 investment
17 levels under Option 3 to include more spending for 2025
18 than listed in Q-A 66 or less spending or something else?

19 A My recollection, that at the time I put together this
20 page, we had not defined the specific spending levels
21 that we would propose under Option 3, so I don't know if
22 it would have been more or less than what we had in
23 question and answer 66 of my testimony.

24 Q O.K. Then the second part of Option 3 was to extend the
25 IRM through 2026 or 2027 at the DGP investment levels,

1 correct?

2 A Correct.

3 Q And add additional programs to the IRM, correct?

4 A Correct.

5 Q In these examples you identified automation and pole top
6 maintenance, and I never remember that acronym, PTMM,
7 pole top maintenance and what?

8 A I believe it's modernization, but I'd have to check it.

9 Q O.K. And then you have in bold, propose PBR mechanism
10 based on Commission's updated straw proposal, correct?

11 A Correct.

12 Q Why was that bolded?

13 A I believe I bolded that just to highlight it's different
14 from the Option 1 or Option 2.

15 Q O.K. And why was proposing a PBR mechanism a component
16 of extending the IRM and increasing its scope?

17 A At the time when I put this page together, it seemed like
18 one option we had to address the Commission's, or respond
19 to the Commission's order where they identified PBR as a
20 reason for not authorizing IRM Year 3 in that case.

21 Q And the second pro you identified for Option 3 was that
22 it would mitigate Commission and intervenor concerns
23 about not having PBR, correct?

24 A Correct.

25 Q The Company in the proposal that ultimately was filed in
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1 this case has not proposed a PBR mechanism based on the
2 Commission's updated straw proposal; is that right?

3 A Correct.

4 Q So the Commission -- so DTE has chosen not to mitigate
5 Commission and intervenor concerns about not having PBR
6 as part of the IRM; is that right?

7 A The Company ultimately decided that it was better to let
8 Case U-21400 conclude before it proposed any type of PBR
9 mechanism in a rate case.

10 Q And you indicated that one of the cons of Option 3 is
11 that it does not address the Commission's concerns about
12 ongoing Distribution Audit activities, correct?

13 A Correct.

14 Q And that's just something the Company does not feel --
15 did not feel was important?

16 A No, the --

17 Q Go ahead.

18 A No. The timing of the Distribution Audit didn't allow us
19 to incorporate any findings from the audit into a
20 proposal in this case.

21 Q The two slide pages that are part of Document 8 are, they
22 have slide pagination numbers 5 and 6 on them; do you see
23 that?

24 A I do.

25 Q Where is the rest of the presentation?

1 A The rest of the presentation wasn't related to the IRM,
2 so when the IRM was part of a broader presentation, we
3 extracted the relevant pages and provided them in
4 discovery.

5 Q O.K. Same exhibit, MEC-25, let's look at proposal
6 document 7. This is a, in your -- so I'm toggling here.
7 The attachment documents with your, you know, your
8 original response has the dates of the presentations,
9 correct?

10 A Correct.

11 Q So based upon that, the relationship of the two, document
12 7 is a presentation dated December 15, 2023, correct?

13 A Correct.

14 Q Was this a presentation made to anybody?

15 A I don't remember.

16 Q It says, "We have identified two additional non-capital
17 proposals that could be made in the upcoming case,"
18 correct?

19 A Correct.

20 Q Is we regulatory?

21 A I don't recall at the time that this page was put
22 together who had yet been involved in developing the IRM
23 proposal for this case.

24 Q O.K. And you indicate that the first of those proposals
25 is a simple one-year extension of the Distribution IRM

1 (through 2026); is that right?

2 A Correct.

3 Q And you talk about in the first bullet the Commission
4 approving a two-year IRM, citing the ongoing DO Audit and
5 PBR as reasons not to approve the third year, correct?

6 A Correct.

7 Q You indicate that, in the second bullet, that under that
8 framework, the IRM could lapse, correct?

9 A Correct.

10 Q And then you indicate that allowing the IRM to lapse
11 could -- it's challenge the newly established planning
12 and reconciliation processes and make it more difficult
13 to make the IRM "business as usual", correct?

14 A Correct.

15 Q What did you mean by making the IRM business as usual?

16 A I meant the same thing that I meant when I used the term
17 new normal in the previous presentation we discussed.

18 Q So in this presentation, you say it could challenge the
19 newly established planning and reconciliation processes,
20 right?

21 A Correct.

22 Q And make it more difficult to make the IRM business as
23 usual, correct?

24 A Yes, that is what's on the page.

25 Q So am I wrong to interpret that as two different things;

1 (1) you want to maintain those newly established
2 processes, and (2) you also want to make the IRM business
3 as usual?

4 A When I put together this page, I didn't separate them as
5 you're suggesting in my mind.

6 Q O.K. So given those dynamics, we're planning to propose
7 a simple one-year extension with the same programs and
8 funding levels as 2025 to allow the DO Audit and PBR
9 workgroup to complete, correct?

10 A Correct.

11 Q And by same funding levels as '25, were you referring to
12 the funding levels approved for '25?

13 A Yes.

14 Q O.K. \$290.1 million?

15 A Yes.

16 Q O.K. We're going to toggle a little bit now between
17 MEC-25 and MEC-26.

18 A O.K.

19 Q So MEC-26 is a request for emails that you sent or
20 received concerning the proposal to extend the IRM and/or
21 the proposal to increase IRM spending amounts, correct?

22 A Correct.

23 Q And you provide over two pages a list of 20 documents; is
24 that right?

25 A Correct.

1 Q O.K. So if you go to the, to document No. 20.

2 A O.K.

3 Q Document No. 20 is comprised, is comprised of a few
4 emails sent back and forth on January 25, 2024, correct?

5 A It appears that way, yes.

6 Q So this would have been 40 days after the presentation
7 saying that you were going to propose a simple extension
8 of the IRM through 2025, correct?

9 A Correct.

10 Q O.K. And then you indicate here, so scrolling down to
11 the page that's marked on the bottom page 2 and 3, that
12 would be the first email in this string; would you agree?

13 A Sorry, can you re-ask that?

14 Q Yes. So these email strings are presented in such a way
15 that the bottom of each document represents the first
16 email sent, and then as you work your way up, subsequent
17 emails are printed, correct?

18 A Correct.

19 Q O.K. So in the first email sent, which is at the bottom
20 of the page, you're sending this to someone name Edward
21 Karpel with a copy to Jamie Kryscynski, correct?

22 A Correct.

23 Q Who is Ed or Edward Karpel?

24 A He is a member of the DO capital planning team that we
25 referenced earlier that ultimately report up to Bill

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1 Chiu.

2 Q O.K. So you indicated: In late-breaking news, we're now
3 considering proposing an expansion the IRM in the
4 upcoming rate case (instead of a simple extension),
5 correct?

6 A Correct.

7 Q And you are requesting from Mr. Karpiel the latest 2026
8 capital forecast for certain programs, correct?

9 A Correct.

10 Q And these include six programs, some of which were in the
11 approved IRM and some of which would be new for inclusion
12 in the IRM; is that right?

13 A Correct.

14 Q When did this decision get made to go from a simple
15 extension to an expansion of scope and spending?

16 A I don't know the exact date, if there was one. When we
17 received the order in Case U-21297, I largely prepared
18 the first documents we looked at which gave an early
19 hypothesis or early options of what we could propose in
20 this current case. That thinking then evolved over the
21 following few months, including a change from an early
22 hypothesis of proposing a simple extension to what we see
23 here that we're discussing in this email chain. A lot of
24 these discussions didn't happen through email, they
25 happened in consultation during meetings, during phone

1 calls; and so between the earlier documents that we
2 looked at and here, a decision was made to propose
3 something different than a simple extension.

4 Q Take a look at document 18 in MEC-26.

5 A O.K.

6 Q On page 3 of document 18, towards the bottom there's an
7 email from you to a number of people dated Wednesday,
8 January 24 -- January 24, 2024, at 4:05 p.m.; do you see
9 that?

10 A I do.

11 Q And it says: Hello all - As some of you may have heard,
12 yesterday it was decided that we will propose an
13 expansion of the IRM for 2025 and 2026 in the upcoming
14 rate case. Do you see that?

15 A I do.

16 Q And then you say: This is obviously a bit of a deviation
17 from the path that we were on which only had us proposing
18 a simple extension through 2026, correct?

19 A Correct.

20 Q So yesterday, as of January 2024, 2024 would have been
21 January 23, 2024; is that right?

22 A Correct.

23 Q So does that refresh your memory as to when it was
24 decided to shift from a simple extension of the IRM to an
25 expansion of spending and scope?

1 A Yeah. Based on this email on January 23, 2024, there was
2 a decision made. I don't recall the specific decision
3 that was made or who made it at that time.

4 Q You don't know who made this decision?

5 A Like I said, at this point in the development of our
6 proposal, we were still gathering different viewpoints
7 and inputs, our proposal was evolving, as sort of
8 evidenced by this email which changed our direction from
9 a simple extension to something different. So no, the
10 specific decision maker at this time, I don't recall.

11 Q Do you recall how the decision was communicated to you?

12 A I don't.

13 Q Do you recall anyone providing you with any rationale for
14 the decision at that time?

15 A Not directly as it relates to this communication, no.

16 Q Do you recall whether PBR was included in the decision to
17 expand the scope and spending consistent with what you
18 originally laid out as Option 3?

19 A I don't recall at what point we decided to not propose
20 PBR in this case.

21 Q Page 2 of this email string, so I'm looking at, you know,
22 document 18 again on page 2 of the document, which is
23 page 45 of the overall exhibit -- oh, you know what, I'm
24 wrong about that. So I'm back to document 20 now. So
25 I'm on document 20, after you have the email to

1 Mr. Karpziel about late-breaking news and then he responds
2 with a table: Neal - Here's what we had in our DGP
3 budget. Do you see that?

4 A I do.

5 Q And DGP budget refers to the spending line items that are
6 included in the Distribution Grid Plan; is that right?

7 A Yeah, that's my interpretation, although I don't manage
8 the DGP, but I am assuming that's what Ed sent me, yes.

9 Q O.K. And then you responded back to Mr. Karpziel
10 Thursday, January 25, 2024, at 1:21 p.m.: Thanks Ed -
11 One quick question for you on automation. In your table
12 below it looks like there is 130 million for circuit
13 automation in the "2025 Rate Case Budget". However, when
14 I pop open the DO capital exhibits, I see \$125.6 million
15 (see screenshot below in addition to the \$24.4 million
16 already approved through the IRM); do you see that?

17 A I do.

18 Q And then you indicate that's approximately 150 million
19 total; is that right?

20 A Correct.

21 Q And then you ask Mr. Karpziel: How should I think about
22 the 130 million you have on your table below versus the
23 150 million in the case/IRM; do you see that?

24 A I do.

25 Q And then Mr. Karpziel indicates in the email response to
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1 you just above it, "Someone texted me to add \$20 million
2 to the automation budget in 2025 and it didn't make its
3 way into that file yet, so yes, \$150 million for 2025."

4 Do you see that?

5 A I do.

6 Q Is this a typical practice at DTE, someone texts someone
7 to add \$20 million to a capital budget?

8 A I don't manage our capital planning or capital budgeting
9 processes, so I'm not the most appropriate person to
10 answer that question.

11 Q Who would be?

12 A The capital planning folks within each business unit.

13 Q So in this instance, who would be?

14 A Ed reports to Jamie Kryscynski, who would probably be the
15 most appropriate person to start with.

16 Q O.K. Document 19 in MEC-26 is a set of emails dated
17 January 25 of 2024; is that correct?

18 A Correct.

19 Q And these are emails between yourself and Marco Bruzzano;
20 is that right?

21 A Correct.

22 Q He is your supervisor?

23 A He is.

24 Q O.K. And in the email from you on January 20 -- sorry --
25 January 25 at 9:06 a.m., you indicate: Hey Marco - For
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1 IRM expansion, I put down what I think could be a
2 reasonable proposal to be included in the rate case (see
3 screenshot below), correct?

4 A Correct.

5 Q And then you describe basically the components of your
6 proposal in four bullet points; is that right?

7 A Yes.

8 Q And then you have a screenshot below that, a proposed
9 expansion of the IRM: flow all Distribution Automation
10 and PTMM through the IRM starting in 2025; hold
11 investment constant in 2026, correct?

12 A Correct.

13 Q And so the second bar there is, am I interpreting
14 correctly that that is the proposed spend levels for each
15 of those programs and in total for 2025 and also for
16 2026?

17 A Yes, it -- this potential proposal had 2026 spending
18 staying consistent with 2025, so your interpretation is
19 correct.

20 Q O.K. And that included an additional 126 million for
21 distribution automation; is that right?

22 A Correct.

23 Q And flowing -- do you mind if I call PTMM pole top, is
24 that a common reference?

25 A Pole top maintenance is sometimes used here, but I,

1 either one is fine with me.

2 Q O.K. And flowing pole top maintenance through the IRM
3 for an increase in that category of 121 million?

4 A Correct.

5 Q Is that right?

6 A Yes.

7 Q O.K. Back to document 18, which are the emails from
8 January 29, four days later. Well, I guess January 24
9 through January 29. Page 3 of this email string, which
10 would be page 46 of the exhibit, there's an email from
11 you, January 24 at 4:05 p.m. that we looked at once
12 already?

13 A Yep.

14 Q In the third paragraph of this email, the last sentence
15 of the third paragraph, you indicate, "We'll also likely
16 include an 'alternative proposal' which is the simple
17 extension we've been working toward." Do you see that?

18 A I do.

19 Q Did the Company propose as an alternative proposal a
20 simple extension consistent with your Option 2?

21 A No. We ultimately decided to not propose -- or provide
22 alternative exhibits that reflected a simple extension,
23 although in my rebuttal testimony I do discuss a simple
24 extension.

25 Q Do you know who made the decision to scrap the idea of an
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1 alternative proposal as a simple extension in the
2 Company's direct case?

3 A I don't know who made that specific -- I don't recall who
4 made that specific decision.

5 Q Do you know why it was made?

6 A I think we ultimately decided that the proposal we put
7 forth was most appropriate and that it wasn't, you know,
8 it wasn't appropriate to propose the alternative simple
9 extension.

10 Q O.K. There's an email from Mr. Kryscynski above in
11 document 18, so later on, so it's on page 1 of document
12 18, which is page 44 of the exhibit, and it's from him
13 Monday, January 29, 2024, at 8:36 a.m.; do you see that?

14 A I do.

15 Q He asks: Is there a dollar value that is being targeted
16 for the expansion (an increase of \$50 million for
17 example)? Do you see that?

18 A I do.

19 Q And then Mr. Bruzzano says: Neal has a proposal?

20 A Yes.

21 Q And the proposal is a lot more than \$50 million, right?

22 A I guess that depends on how you define a lot.

23 Q O.K. Well, let's look at 16, document 16.

24 A O.K.

25 Q So these are emails between you and Mr. Bruzzano again;

1 is that right?

2 A Yes.

3 Q And the first email, which is at the bottom, page 2, from
4 you, January 29 at 5:03 p.m., you're offering him a first
5 look at a proposal for IRM expansion of scope and
6 spending; is that right?

7 A Correct.

8 Q And that expansion comprises an increase of 247 million
9 for 2025 and another 74 million for 2026; is that right?

10 A Correct.

11 Q So that is, give or take, 350 million; is that right?

12 Sorry. Give or take, 325 million?

13 A Yep, pretty close.

14 Q Would you define that as a lot?

15 A I'm not sure. It is roughly 6 1/2 times 50.

16 Q When you sent this proposal to Mr. Bruzzano for the
17 additional 326 million in IRM spending, you have a
18 paragraph just above the screenshot where you say, "If we
19 don't think the 2026 growth is large enough, we also
20 talked about increasing conversions and subtrans by a
21 modest amount like 20% to show growth, but not as severe
22 as what's currently in the 2026 capital plan." Do you
23 see that?

24 A I do.

25 Q Subtrans is subtransmission redesign and rebuild; is that

1 right?

2 A It is.

3 Q O.K. What did you mean by severe, is the growth and
4 conversions and subtrans in the 2026 capital plan severe?

5 A I was using severe just to say it's not as great as
6 what's in our capital plan.

7 Q Severe for who?

8 A Severe relative -- I'm sorry. Can you -- can you maybe
9 clarify what you mean by that?

10 Q Sure. Is severe a synonym for great?

11 A No.

12 Q Something bad or undesirable, when I Google it, strict or
13 harsh? Did you not mean severe in the literal meaning?

14 A No, I did not.

15 Q What did you mean?

16 A I meant --

17 MR. JANISZEWSKI: Objection, your Honor.

18 Mr. Foley indicated already that he meant great when
19 using the word severe.

20 MR. BZDOK: And then I followed up with
21 him, and he acknowledged that's not really what severe
22 means, so then I was just asking him if he meant
23 something other than what it means.

24 COURT REPORTER: You're muted, Judge.

25 JUDGE WALLACE: Sorry about that.

1 Mr. Foley, you can answer the question, and then let's
2 move on.

3 A Yeah. When I said severe here, I meant increasing the
4 IRM authorization by 20% would be less than the increase
5 if the IRM were to reflect our capital plan.

6 Q (By Mr. Bzdok): O.K. So one minute later, after you
7 sent this proposal and flagged the idea of increasing
8 conversions and subtransmission redesign and rebuild by
9 20% as an alternative, Mr. Bruzzano indicates: Thanks -
10 I would increase them by the 20% -- thanks, correct?

11 A Correct.

12 Q And then four minutes after that, you sent him a new
13 proposal with increases of 247 million for 2025 and
14 another 122 million for 2026, correct?

15 A Correct.

16 Q So that's a total of 369 million of additional IRM
17 spending, correct?

18 A Correct.

19 Q And you indicate in the email you sent him, you say:
20 Could even increase it more if we wanted to, correct?

21 A Correct.

22 Q Who's we?

23 A Referring generally to the Company at that point.

24 Q And then two minutes later Mr. Bruzzano says: I like
25 it... Would be pretty awesome, correct?

1 A Correct.

2 Q So in a total of seven minutes, the two of you added
3 another 48 million to the proposed IRM spends for this
4 proposal; is that right?

5 A Our proposal for the IRM changed many times between the
6 time we received the order in Case U-21297 and we
7 ultimately proposed something in this current case, so
8 yes, at this time, this was one of the changes that
9 happened within a seven-minute span, yes.

10 Q Is that emblematic of the level of thought and
11 deliberation that went into designing the proposed IRM
12 scope and spending expansions in this case?

13 A I think as we were making these evolutions, this reflects
14 my full knowledge up to that point and Marco's full
15 knowledge up that point of what would be appropriate, and
16 so at this point, yes, we were just evolving our
17 potential proposal which we would then take to other
18 groups for feedback, input, socialization. So simply
19 because we made this adjustment through this email chain
20 doesn't mean that was the final proposal, in fact it
21 changed from here. So yes, we made changes using our
22 knowledge at that time, but those changes were then, you
23 know, socialized with other groups and other experts
24 within the Company.

25 Q Why did you think you could even increase it more if you

1 wanted to?

2 A I believe at that time the amount of funding reflected in
3 that email was still less than our capital plan for some
4 of those programs, so there was an opportunity to
5 potentially increase the amount of capital flowing
6 through the IRM more such that it matched our internal
7 capital plans.

8 Q Let's jump over to, back over to 25, MEC-25.

9 A O.K.

10 Q Document 6.

11 A O.K.

12 Q Based on your narrative response to MEC-25, document 6 is
13 a presentation dated January 29, 2024; is that right?

14 A The dates are cut off. Yes, that's correct.

15 Q So this is a, this is the proposal that you and
16 Mr. Bruzzano had settled on after your seven-minute email
17 exchange that day, right?

18 A This reflected the latest proposal at that time. I
19 wouldn't agree that me and Mr. Bruzzano settled on this
20 proposal in seven minutes, it was the accumulated
21 thinking up to that point, including the seven-minute
22 email exchange we discussed earlier.

23 Q The seven minutes was increasing it by \$50 million?

24 A That was the proposed tweak we made at that time to the
25 proposal, yes.

1 Q O.K. You have access to the -- do you have access to
2 your discovery responses?

3 A I do.

4 Q Can you open this document in your discovery responses,
5 or is it printed out?

6 A Can you clarify what you mean by this document?

7 Q Sure. So this document is the January 29, 2024,
8 presentation that was provided as 18.2a-06?

9 A I'm sorry, I'm not quite following what you're asking me
10 to open.

11 Q So when you provided these to us, you provided them as
12 discovery response attachments, correct?

13 A Correct.

14 Q And you provided them in PDF form; is that right?

15 A I believe so, yes.

16 Q And I'm asking if you have access to that, to the
17 service, to the PDFs that were served on us?

18 A Yes, I have it open.

19 MR. BZDOK: O.K. Your Honor, may I share
20 for just a moment?

21 JUDGE WALLACE: Yes, you may.

22 Q (By Mr. Bzdok): Is the PDF that you're looking at the
23 same one that I'm sharing on my screen right now?

24 A It appears to be so, yes.

25 Q At the top here, the Adobe is labels it PBR; do you see
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1 that?

2 A I do.

3 Q Do you know why the document was originally named PBR?

4 A I do not.

5 Q Was it made from some other presentation of an IRM
6 expansion that included PBR?

7 MR. JANISZEWSKI: Objection, your Honor.
8 Mr. Foley already says he doesn't know why PBR is labeled
9 at the top of the document.

10 MR. BZDOK: It was really just an
11 iterative followup question to see if it triggered any
12 further thoughts by him.

13 JUDGE WALLACE: Mr. Foley, yeah, you can
14 answer the question, Mr. Foley.

15 A Can you repeat it, Mr. Bzdok?

16 Q (By Mr. Bzdok): Sure. I was asking if that, if the
17 reason Adobe, the Adobe title for that presentation as
18 PBR could be that you adapted it from some earlier
19 version of an expansion present --

20 A I don't --

21 Q -- proposal? Go ahead.

22 A I don't know. This is the first time I've seen PBR being
23 labeled at the top of the document.

24 Q Do you dispute that was the label that, when it was sent
25 to us?

1 A I'll check quickly.

2 Q O.K.

3 A When I open up the document that was sent to you, it was
4 also labeled as PBR in the upper tab area.

5 Q O.K. Let's go back over to the email, so that's MEC-26,
6 and I'm interested in document 15, which are emails from
7 January 30 and 31, 2024.

8 A Yes.

9 Q Give me a second. So this was an email we were -- this
10 was a set of emails we were looking at before where you
11 provided the proposal you and Mr. Bruzzano had been
12 talking about to additional members of the team, correct?

13 A Correct.

14 Q I think you mentioned earlier that Renee To, is it
15 Tomina?

16 A Tomina.

17 Q And she is head of distribution operations --

18 A Project management office.

19 Q Thank you. And also included is Mr. Chiu, who was head
20 of distribution operations capital planning; is that
21 right?

22 A Correct.

23 Q Is Sharon, is it Pfeuffer?

24 A It is.

25 Q She's head of distribution operations total, right?

- 1 A No. She has since left the Company.
- 2 Q O.K.
- 3 A Bill Chiu was her replacement.
- 4 Q O.K. Was she head of distribution ops at this time?
- 5 A I don't know.
- 6 Q O.K. Who's Ryan Stowe?
- 7 A Ryan Stowe works for Renee Tomina.
- 8 Q O.K. And also Matthew Paul, he was the, he's the to
9 recipient?
- 10 A Yes.
- 11 Q Who is he, what is his position?
- 12 A The president of the Electric Company.
- 13 Q He, Mr. Paul, responds by thanking you and asking if
14 others have reviewed this, and then also says he has a
15 few questions, it would be good to discuss briefly as a
16 team, correct?
- 17 A Correct.
- 18 Q And then a little later that day, Mr. Bruzzano emails
19 back to everybody and says: I had the chance to discuss
20 with Matt. He is O.K. with the program as designed, but
21 has a couple other follow-ups I will work on with him,
22 correct?
- 23 A Correct.
- 24 Q Take a look at MEC-25 now, the presentations, document 5.
- 25 A O.K.

1 Q Document 5, based on your narrative response, is a
2 presentation dated February 5 of 2024; is that right?

3 A Yes.

4 Q This presentation includes now an extension through 2027;
5 is that right?

6 A Correct.

7 Q When did the decision to extend the IRM not only through
8 2026 but also through 2027 get made?

9 A I'm not sure exactly when it got made. It was made
10 obviously around the time that these discussions were
11 going on.

12 Q It was made sometime between January 31 when Mr. Bruzzano
13 said Mr. Paul had a few followup items that he would work
14 with him on and February 5 when you sent this
15 presentation out, right?

16 A Yes, that's fair.

17 Q Is that -- is it fair to interpret that the decision to
18 add 2027 and the additional spending was a result of the
19 discussion between Mr. Bruzzano and Mr. Paul?

20 A I wasn't a part of that discussion, so I can't say for
21 certain.

22 Q Do you have any knowledge of whether anyone else was
23 involved in that discussion or decision?

24 A I can't recall who was involved at that time. This was
25 something we were debating and discussing almost on a

1 daily basis, if not multiple times per day, so it's
2 difficult to remember exactly who was in each
3 conversation.

4 Q Do you have any recollection of whether in those few days
5 between January 31 and February 5 there was a
6 collaboration with distribution capital planning and/or
7 distribution project management relative to this
8 decision?

9 A I don't recall.

10 Q Is the simplest explanation likely that Mr. Bruzzano and
11 Mr. Paul had a meeting and they decided to add another
12 year of IRM?

13 A That's one potential explanation. Like I said, I wasn't
14 in the meeting, so I can't say for sure what was
15 discussed or decided upon.

16 Q Well, then take a look at 26, MEC-26, document 13, which
17 are some emails dated February 5, 2024.

18 A O.K.

19 Q Starts out: Hey Matt - We've built a couple of IRM
20 expansion scenarios aligned to your and Marco's
21 conversations last week, and then you summarize those,
22 correct?

23 A Correct.

24 Q So is that consistent with the idea that Mr. Bruzzano and
25 Mr. Paul had a meeting and decided to extend the IRM

1 further and expand it further?

2 A Yeah, but there was a week in between those, so I'm not
3 sure who else was -- I don't recall who else was
4 consulted or who else provided input on these particular
5 options presented in this email chain.

6 Q You in this email talk about Mr. Bruzzano and Mr. Paul
7 having conversations and not about anybody else, correct?

8 A Correct.

9 Q O.K. And this contains an Option 1 scenario and an
10 Option 2 scenario; is that right?

11 A Correct.

12 Q And basically you characterize these as a moderate
13 expansion and a more significant expansion, right?

14 A Correct.

15 Q Document 11 in MEC-26 are emails between February 7 and
16 February 11 of 2024; would you agree?

17 A I believe the last email was February 10.

18 Q O.K. So between February 7 and February 10, 2024;
19 correct?

20 A Correct.

21 Q And in the first of those emails you send, you say: Hey
22 Matt -- Hi Matt - I've adjusted the IRM expansion
23 proposal to align with your and Marco's thinking over the
24 past couple of days, with a screenshot below, correct?

25 A Correct.

1 Q And here we again have that growth in the conversions and
2 the subtransmission and redesign and rebuild of 20% per
3 year, correct?

4 A Correct.

5 Q And then you say: Flow all other covered program spend
6 through the IRM in line with our current capital plan
7 (including all "Distribution Automation"), correct?

8 A Correct.

9 Q And that results in a total spend in 2026 of \$508
10 million, and a total IRM spend in 2027 of \$684 million,
11 correct?

12 A Correct.

13 Q And again, in introducing this proposal, you're
14 referencing some conversations that Mr. Bruzzano and
15 Mr. Paul were having about what to do with the IRM
16 expansion, correct?

17 A Correct.

18 Q And not anybody else, correct? You're not referencing
19 anybody else's involvement; is that right?

20 A Correct. In these emails, I'm specifically mentioning
21 Marco and Matt's discussions.

22 Q All right. And then Mr. Paul responds to you that he had
23 just talked with Mr. Bruzzano and they align on the
24 following, and he's got four points, correct?

25 A Correct.

1 Q And the first of this is: Ramp at something like 290,
2 530, 700-720, correct?

3 A Correct.

4 Q And the 290, 530, and 720 correspond to the numbers in
5 your Table 1 in your direct testimony, is that right, the
6 total spend numbers?

7 A Yes.

8 Q No. 2 from Mr. Paul is: Introduce pole top maintenance
9 in 2026 as a bucket (maybe at \$70-75 million level),
10 correct?

11 A Correct.

12 Q Ultimately, pole top came in at about double that in the
13 proposal; is that right?

14 A Yeah, we proposed 150 million in spend in 2026 and 200
15 million in spend in 2027.

16 Q O.K.

17 A But yes, in 2026, it was roughly twice.

18 Q O.K. No. 3 says: Attempt to treat the buckets, and he
19 lists them, consistently, i.e., growing at 20% or
20 whatever. Do you see that?

21 A I do.

22 Q What was the reason to keep the buckets growing at 20% or
23 whatever?

24 A I believe at the time, we were trying to balance growing
25 the IRM and therefore growing the benefits while also

1 proposing something that's not, that was reasonable and
2 had showed reasonable growth. We didn't want -- we were
3 trying to avoid too significant of a step change in
4 investment at that time.

5 Q So this was all Mr. Paul's laser focus on benefiting
6 customers, Staff, and intervenors to keep those buckets
7 growing at a rapid clip?

8 A You would have to ask Mr. Paul what his intention was.

9 Q O.K. Well, I guess we can't, right? He's not a witness
10 in this case; is that right?

11 A That's right.

12 Q So we can't ask him, right?

13 A Correct.

14 Q No. 4, Mr. Paul indicates: Final connection with key
15 team members make sure it passes smell test for them. Do
16 you see that?

17 A I do.

18 Q What was your understanding of what Mr. Paul meant by the
19 smell test?

20 A It's my interpretation that Mr. Paul using the term smell
21 test meant confirming with the other key stakeholders in
22 the proposal that the proposal itself was reasonable and
23 that we could execute against it.

24 Q Is the smell test some kind of a component of
25 distribution capital planning at DTE?

1 A I don't manage capital planning here at DTE, so I'm not
2 the most appropriate person to answer that.

3 Q Is the smell test an impact dimension or a major driver
4 in the global prioritization model?

5 A I don't manage or own the global prioritization model, so
6 I'm not the most appropriate person to answer that.

7 Q How in your understanding would something fail the smell
8 test as Mr. Paul was instructing the team?

9 A If, for example, the team didn't feel they could execute
10 against the investments that we were proposing, I believe
11 that may have resulted in failing the smell test.

12 Q Any other examples you can think of?

13 A No, not at this time.

14 Q And by executing against the investments, you mean
15 couldn't spend the full amounts proposed within the
16 timeframes proposed?

17 A I'm sorry, could you rephrase that?

18 Q So you said the concern about the smell test was an
19 inability to execute against the investments we had
20 proposed, or something like that; is that right?

21 A Right.

22 Q And so I was just following up, when you say execute
23 against the investments we had proposed, did you mean
24 spend those dollars, being able to spend those dollars
25 within the timeframes proposed?

1 A Yes. Being able to fully invest at the authorized
2 levels.

3 Q In the next email in document 11, Mr. Kryscynski responds
4 to the team, "My only comment is we should try to put
5 pole top maintenance in all the way -- all the way in if
6 we can," correct?

7 A Correct.

8 Q And he offers some rationale for that?

9 A Correct.

10 Q Is that right?

11 A Yes.

12 Q And then Mr. Bruzzano responds back to Mr. Kryscynski by
13 thanking him and saying, "We are trying to balance
14 overall size of IRM and its acceptability, given MPSC
15 questions on PTMM...". Did you have an understanding
16 what he meant by that, acceptability, given MPSC
17 questions on PTMM?

18 A I'm not familiar with the details of what questions the
19 MPSC may have had related to PTMM. At a very high level,
20 I knew there were some concerns which were being
21 reflected in this email at this time.

22 Q And then in response to that, the concerns potentially of
23 the MPSC about the pole top maintenance program,
24 Mr. Kryscynski in his next email announces that he had
25 spoken to the auditors and he got a very strong

1 impression that the auditors were going to come out in
2 firm support of an expanded pole top maintenance program,
3 correct?

4 A Yes.

5 Q And he says, "I think we might have some wind in the PTMM
6 sails post audit report," correct?

7 A He did.

8 Q Do you have any knowledge about why DTE was getting
9 previews of the auditor's findings back in February?

10 A I don't think Mr. Kryscynski suggested that he had
11 received a preview of the findings, he had an interview;
12 I wasn't in that interview, so I can't speak to what was
13 shared or not at that meeting.

14 Q Did you ever talk to him about the source of his very
15 strong impression that the auditors were going to support
16 pole top maintenance?

17 A Not to my recollection beyond this email.

18 Q O.K. Take a look at document 8.

19 A O.K.

20 Q These are emails -- sorry. These are emails from
21 February 13 and 14 of 2024 between you and Mr. Bruzzano;
22 is that right?

23 A Correct.

24 Q These indicate that, well, the spring starts with you
25 sending to Mr. Bruzzano some numbers for conversions and

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1 how they split between the IRM and the rate case,
2 correct?

3 A Correct.

4 Q And just for the record, by conversions, I know we've
5 been talking about it a few times, conversions means the
6 program for converting 4.8 kV and 8.2 kV circuits to 13
7 kV; is that right?

8 A That's my understanding, it shows up as circuit
9 conversions in this case.

10 Q O.K. And you asked Mr. -- or Mr. Bruzzano flags to you
11 the overall ramp in total dollars from '25, 2025 to 2026
12 for these conversions is pretty flat and is asking
13 whether that synchs up with your understanding, correct?

14 A Correct.

15 Q And then you respond back to him after a couple of more
16 emails in reference to what was proposed relative to
17 conversions in the last rate case, correct?

18 A Correct.

19 Q You make a statement: I think Dave's push is still worth
20 exploring. Do you see that?

21 A I do.

22 Q Who is Dave?

23 A I think that's Dave Ruud, our CFO.

24 Q When you say our CFO, DTE Energy or DTE Electric?

25 A DTE Energy.

1 Q O.K. What can you tell me about Dave Ruud's push, what
2 was your understanding of his push?

3 A It's my recollection at the time that we were, we either
4 had or were contemplating changes to our capital plan,
5 and Dave was thinking through how that would impact the
6 IRM proposal in this case. So I think his push may have
7 been to explore the conversions numbers and make sure
8 what we were proposing is reasonable and aligns with our
9 capital planning thinking at that time.

10 Q So the push was to push IRM -- sorry -- to push
11 conversions spending in the IRM higher than what was
12 currently being bandied about?

13 A No. My recollection is the push was simply to explore
14 further the amount of conversions investment we were
15 proposing for the IRM.

16 Q Was he advocating reducing the spend?

17 A My recollection, he wasn't advocating for anything
18 specific at the time.

19 Q He was pushing to not make any specific changes?

20 MR. JANISZEWSKI: Your Honor, I'm going
21 to object. Mr. Foley has answered this question multiple
22 times to the best of his recollection.

23 JUDGE WALLACE: Mr. Bzdok.

24 MR. BZDOK: I'll move on.

25 JUDGE WALLACE: O.K. Thank you. We're

1 getting close to noon so, you know, just think about a
2 good breaking point.

3 MR. BZDOK: Sure. How about we finish
4 this document and then we can break?

5 JUDGE WALLACE: Perfect.

6 MR. BZDOK: O.K.

7 Q (By Mr. Bzdok): You then state in -- so this is the
8 email from you, February 14, 7:46 a.m., that we were
9 looking at about Dave Ruud's push, you state at the
10 bottom: I think the answer is we're concerned about
11 execution, but should probably make sure we're
12 comfortable with the answer if asked. Do you see that?

13 A I do.

14 Q By execution, do you mean the same thing that you
15 explained to me a few minutes ago about being able to
16 spend the full amounts authorized in the time periods?

17 A Yes.

18 Q So the issue is would the Company be able to spend the
19 full proposed, the full proposed conversion amounts if
20 those amounts were authorized?

21 A That's my recollection, yes.

22 Q And why did you have a concern about that?

23 A I don't have a concern personally about execution as I
24 don't manage our capital planning, capital budgeting, or
25 the execution of those investments; it's my recollection

1 I was simply messaging what I had heard from those teams.

2 Q O.K.

3 MR. BZDOK: Your Honor, that's my last
4 question on that document, if that's a logical break
5 point.

6 JUDGE WALLACE: All right. Off the
7 record.

8 (At 11:56 a.m., the hearing recessed for lunch.)

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1 Wednesday, September 4, 2024

2 At 1:02 p.m.

3 - - -

4 (Hearing resumes follow the lunch recess.)

5 JUDGE WALLACE: All right. Back on the
6 record in Case No. U-21534. Mr. Bzdok, please continue.

7 MR. BZDOK: Thank you, your Honor.

8 - - -

9 N E A L T. F O L E Y

10 resumed the stand, and having been previously sworn,
11 testified further as follows:

12 CROSS-EXAMINATION (Continuing)

13 BY MR. BZDOK:

14 Q Good afternoon, Mr. Foley.

15 A Good afternoon.

16 Q So in -- we were looking before lunch this morning at
17 some presentations in Exhibit, proposed Exhibit MEC-25
18 and some emails in proposed Exhibit MEC-26, and I want to
19 continue with that for a little bit longer, but not
20 forever.

21 The next one that I want to look at is in
22 MEC-25, the third document, document 3, which your
23 narrative response indicates is a presentation dated
24 February 26, 2024. Do you have that available?

25 A I do.

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1 Q O.K. This slide, as of February 26, essentially
2 represents the IRM spends proposal in your direct
3 testimony; is that right?

4 A Yes, that's correct.

5 Q O.K. For '26 and '27, correct?

6 A Correct.

7 Q And the approved spends for '25?

8 A Correct.

9 Q O.K. Jump over to the, if you would, to MEC-26 and the
10 document within that No. 7.

11 A O.K., I'm there.

12 Q And those are emails dated February 23, 2024; is that
13 right?

14 A Yes.

15 Q O.K. If you scroll down to the last page of that
16 document, so it's page 4 of the document, of the exhibit,
17 it's page 19, it's the first email in this string, which
18 is from Mr. Bruzzano, February 23, 2024, at 8:00 o'clock
19 a.m. You're there?

20 A Yes.

21 Q He states to the team, "I know we (I) have been bouncing
22 around on this issue, but given the positive signals on
23 pole top maintenance that are coming from the Audit and
24 our conviction of the importance for the program, I
25 wanted to go back to Jamie's recommendation that that we

1 increase the level of PTMM in the IRM in 2026 and 2027."

2 Do you see that?

3 A Yes.

4 Q And then he says: Recognizing that I was a voice of
5 opposition on this given prior Commission signals, things
6 seem to be shifting significantly, especially post
7 February 15 meeting. PTMM could now be an easier program
8 to get into the IRM than the rapid expansion of
9 Automation. Do you see that?

10 A I do.

11 Q So I guess my first question is, what, what is the
12 post -- what was the February 15 meeting?

13 A I don't recall.

14 Q O.K. Bear with me a second. So document 4 in MEC-25,
15 the proposal dated -- sorry -- the presentation dated
16 February 8, had 75 million for pole top maintenance in
17 2026 proposed and 90 million for pole top maintenance in
18 2027 proposed, correct?

19 A Correct.

20 Q And then there was a meeting on February 15 of some kind,
21 and the presentation of February 26, which is document 3
22 in MEC-25, doubled pole top for 2026 from 75 million to
23 150 million, and more than doubled pole top in 2027 from
24 90 million to 200 million, correct?

25 A Correct.

1 Q But we don't know on this record what meeting that was or
2 what happened in that meeting that led DTE to double its
3 proposed spends in the IRM for pole top?

4 A I disagree with the characterization that that meeting
5 was the sole reason why we decided to increase the PTMM
6 investment proposed for the IRM. Mr. Bruzzano mentions
7 prior Commission signals, feedback from Mr. Kryscynski,
8 et cetera. So I agree during that time the decision was
9 made to increase the amount of PTMM proposal investment
10 we were proposing for the IRM, but you are correct, I
11 don't recall it was part of that meeting or how much
12 influence that specific meeting had on that decision.

13 Q Well, Mr. Bruzzano indicates that the shift in matters
14 related to pole top -- let me withdraw that question.

15 Mr. Bruzzano in this communication placed
16 special importance on whatever happened in the
17 February 15 meeting as a (inaudible) --

18 COURT REPORTER: I'm sorry, Chris, you
19 are breaking up. Chris, your question totally broke up.

20 MR. BZDOK: I hear you, Lori. O.K. Let
21 me --

22 JUDGE WALLACE: Can you go back and
23 repeat your question?

24 MR. BZDOK: Can you hear me O.K. now?
25 Lori, is that better?

1 COURT REPORTER: Yes. You're frozen, but
2 I can hear you.

3 MR. BZDOK: O.K.

4 COURT REPORTER: Your great connection
5 this morning is not so great this afternoon.

6 MR. BZDOK: Let me just --

7 JUDGE WALLACE: You're frozen on the
8 screen. Maybe try logging out and logging back in.

9 MR. BZDOK: (Inaudible).

10 JUDGE WALLACE: Let's go ahead on go off
11 the record for a few minutes while Mr. Bzdok sorts this
12 out.

13 (Off-record from 1:13 p.m. until 1:15 p.m.)

14 JUDGE WALLACE: All right. Back on the
15 record. Please continue, Mr. Bzdok.

16 MR. BZDOK: Thank you. Let me just
17 relocate my spot.

18 Q (By Mr. Bzdok): Let's move to MEC-25, document 2.

19 A O.K.

20 Q So document 2, according to your narrative response, is a
21 presentation dated March 11, 2024; is that right?

22 A Yes.

23 Q O.K. Do you know who this presentation was made to?

24 A I don't recall definitively, no.

25 Q Do you know if it was internal or external?

1 A This page was shared externally.

2 Q And by this page, do you mean the page that says: The
3 rate case also contains two proposals that are aimed at
4 ensuring that the necessary reliability investments are
5 executed and that the Company is held accountable?

6 A Yes.

7 Q O.K. How do you know it was shared externally?

8 A We typically preview parts or all of our case with both
9 the Commission and Commission Staff, and this page was
10 prepared in support of those discussions, or those
11 previews.

12 Q O.K. So the Commission or its Staff or both -- let me
13 withdraw that question.

14 The slide overall presents two proposals,
15 one is the IRM extension and the other is the storm cost
16 recovery mechanism, which is also a matter that you
17 discuss in your direct testimony and your rebuttal
18 testimony; is that right?

19 A Correct.

20 Q O.K. And the overall goals for those two proposals are
21 indicated in the presentation as hold the utility
22 accountable for making the investments that will drive
23 reliability improvements or return funds to customers if
24 unable to do so, correct?

25 A Correct.

1 Q And then there's also one about extreme weather not
2 impacting the Company's financial ability to execute
3 these investments, correct?

4 A Correct.

5 Q The IRM extension refers to extending the distribution
6 IRM and adding pole top maintenance to the scope for 2026
7 and 2027; is that right?

8 A Yes.

9 Q There were a few other programs also added to the IRM as
10 proposed in this case; is that right?

11 A I don't believe so, no.

12 Q Give me a second. The other proposal is a change -- the
13 proposal I was thinking of was a change in the scope of
14 the automation program included in the IRM; is that
15 right?

16 A That's correct.

17 Q And then the -- well, we'll get into the 2025 in a
18 minute. Take a look at MEC-26, and specifically document
19 4 --

20 A O.K.

21 Q -- which are some emails dated March 15, 2023 [sic]; do
22 you see those?

23 A I do.

24 Q O.K. The first of those emails, which would be on page 2
25 of that document, are from someone named Adrienne Long
Penn Reporting, LLC - lori.penn@yahoo.com

1 Baldwin. Do you know who that is?

2 A She works with within the business planning and
3 development team of the electric utility.

4 Q What does that mean? What are they responsible for?

5 A I'm not sure definitively.

6 Q O.K. She indicates in her email to you: Hi Neal, We are
7 polishing up the DTEE SIS for Matt's March 20 discussion
8 with Jerry and Joi. Do you know what the SIS is?

9 A I believe it stands for strategic insights session.

10 Q Jerry is Jerry Norcia?

11 A Correct.

12 Q CEO of DTE Electric -- or DTE Energy?

13 A Correct.

14 Q Joi is who?

15 A Joi Harris.

16 Q And what is her position?

17 A COO of DTE Energy.

18 Q O.K. Then you send her a screenshot that appears to me
19 to perhaps be the proposals for the approved amounts for
20 2024 and 2025 with the proposed spends for 2026 and 2027,
21 but perhaps with some of that cut off just by the
22 creation of the PDF; is that consistent with your memory?

23 A Yes, it is, and with the text of the email that I sent
24 it.

25 Q Great. You indicate in your response back to

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1 Ms. Baldwin, March 15 at 10:06 a.m., that, "We really
2 haven't set a 2030 target for the IRM beyond continuing
3 to grow it to the point where we can stay out of rate
4 cases." Do you see that?

5 A I do.

6 Q So is there an objective to continue expanding the IRM
7 spends to a point where DTE Electric can stay out of rate
8 cases?

9 A Our ability to stay out of rate cases would consider many
10 factors, of which the IRM is one, so I think there's an
11 objective to have the IRM support our ability to stay out
12 of rate cases if at all possible. It is not the lone
13 factor determining if we are able to delay the time
14 between rate cases.

15 Q Understood. Is there a set of total IRM spends that
16 would enable the Company to stay out of rate cases?

17 A Not that I know of.

18 Q From this email, am I interpreting that there is a goal
19 to continue growing the IRM beyond the 1.25 billion
20 proposed spends in '26 and '27?

21 A We haven't discussed with any specificity our goals
22 beyond 2027 beyond what's reflected in this email.

23 Q So when you say we haven't set a target beyond continuing
24 to grow it, are you just speaking for yourself, or is
25 that an objective shared by others, continuing to grow

1 the IRM?

2 A In this case, we're proposing to grow the IRM. If it has
3 grown to a level (inaudible) --

4 COURT REPORTER: I'm sorry. I'm sorry.
5 If it -- I kind of lost it. To a level that? If it has
6 grown to a level?

7 A -- that allows us to delay rate cases or not is not
8 something we've specifically discussed, or if we need to
9 grow it additionally beyond our proposals in this case to
10 do so.

11 Q (By Mr. Bzdok): So I understand your position in this
12 case. What I was trying to explore a little bit was what
13 you were expressing to Ms. Baldwin in this communication
14 about having a 2030 target and not having any real --
15 having not a target set beyond continuing to grow the IRM
16 up to a point, and that point being the point where you
17 could stay out of rate cases. And what I was trying to
18 understand, is this your position or is this regulatory
19 affairs' position, or is this somebody else's position?

20 A I'm sorry, the specific position you're asking about is
21 the goal to --

22 Q Your expression. Yeah, sure, I can clarify it. Your
23 expression that we haven't set a target for 2030 yet
24 other than continuing to grow it up to a point we can
25 stay out of rate cases, is that a goal you have or is

1 that a goal of regulatory affairs, or is that a goal of
2 the Company as a whole?

3 A It is a goal of the Company as a whole to grow the IRM to
4 a point where it will support us staying out of rate
5 cases. How much it needs to grow or if it needs to grow
6 beyond our proposal in this case is not something we've
7 specifically discussed.

8 Q You confirm in the next sentence of this email that it's
9 your aspiration to grow the IRM beyond 720 million,
10 correct?

11 A Yeah, it was my thinking at the time, yes.

12 Q Is that no longer the thinking?

13 A That was my personal thinking at the time, which
14 maintains my -- is currently my thinking, yes.

15 Q Let's talk a little bit about some of these documents
16 that relate to the proposal or the testimony you include
17 in the Q&A 66.

18 A O.K.

19 Q My hesitation there was I referred to this as a proposal
20 this morning and you told me, no, no, that's not a
21 proposal, it's something else, and I was trying to
22 remember what you told me it was. Do you recall?

23 A So yes, I hesitate to call this a proposal because it was
24 not something we formally proposed through our proposed
25 revenue deficiency or the supporting exhibits. As I

1 state on page 61, line 17, of my revised direct
2 testimony, the Company would support increasing the
3 amount of capital authorized for IRM treatment in 2025.
4 So said differently, we did not strictly propose an
5 increase in IRM funding in 2025, but indicated our
6 support if the Commission wanted to do so.

7 Q Fair to say the Commission doesn't just increase spending
8 in a surcharge program unless it's asked to do so by
9 somebody, right?

10 MR. JANISZEWSKI: Objection, your Honor.
11 We can't speculate what the Commission does or does not
12 do.

13 MR. BZDOK: I'll rephrase.

14 JUDGE WALLACE: Thank you, Mr. Bzdok.

15 Q (By Mr. Bzdok): In your time at regulatory affairs, have
16 you witnessed the Commission on its own accord directing
17 a utility to spend more money in a surcharge program, or
18 does the Commission only do that if the utility asks it
19 to do that?

20 A I cannot recall a time when the Commission did that
21 during my time in regulatory affairs.

22 Q So what is the point of this testimony?

23 A The point of this testimony was to indicate our support
24 for an expanded IRM in 2025 if the Commission chose to do
25 so.

1 Q O.K. Take a look at MEC-26, document 3.

2 A O.K.

3 Q This is an email from Mr. Bruzzano dated March 17, 2024,
4 to a number of folks, including yourself; is that right?

5 A Yes.

6 Q We've already identified Jerry Norcia as the CEO of DTE
7 Energy, correct?

8 A Correct.

9 Q What is Trevor Lauer's position?

10 A I don't remember definitively. He's a vice chairman, and
11 I can't remember the rest of his title off the top of my
12 head.

13 MR. BZDOK: Lori, can you hear me?

14 COURT REPORTER: Yes, I can.

15 MR. BZDOK: Lori, I had a connectivity
16 issue when Mr. Foley gave his answer. Would read just
17 his answer back for me?

18 COURT REPORTER: Yes.

19 (The record was read aloud as follows:

20 "A I don't remember definitively. He's a vice
21 chairman, and I can't remember the rest of his
22 title off the top of my head.")

23 MR. BZDOK: O.K. Thank you.

24 Q (By Mr. Bzdok): And the other folks on here, we've
25 already identified in various answers and questions

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1 today, correct?

2 A Yes.

3 Q Mr. Bruzzano indicates, "Jerry - Just confirming that we
4 are identifying potential 2025 programs to add to the IRM
5 as an alternative in case the Commission is not
6 comfortable approving all the test year investments given
7 the uncertainty around us spending the dollars in the
8 areas that are approved," correct?

9 A Correct.

10 Q And then he indicates that, "We will include this as an
11 alternative in Neal's testimony," correct?

12 A Correct.

13 Q What is the -- what was your understanding of the
14 uncertainty around us spending the dollars in the areas
15 that are approved?

16 A I believe that's referring to the Commission's and/or
17 Commission Staff's perceived or actual uncertainty around
18 our ability to execute test year investments that has
19 occurred in previous cases, not necessarily in this case
20 obviously, because this email predated our filing of the
21 case.

22 Q You said in your answer, the MPSC or Staff's perceived or
23 actual uncertainty around your ability to execute planned
24 investments, correct?

25 A Yes.

1 Q What do you mean perceived or actual uncertainty; are you
2 saying DTE perceives it, that the Commission and Staff
3 have this uncertainty, or are you saying that the
4 Commission and Staff -- what do you -- what do you mean,
5 who has perceived or actual uncertainty?

6 MR. JANISZEWSKI: Objection, your Honor.
7 The way Mr. Bzdok phrased the question, he was framing it
8 as though Mr. Foley wrote this email when he in fact is a
9 recipient of it.

10 MR. BZDOK: May I respond?

11 JUDGE WALLACE: Yes, please go ahead.

12 MR. BZDOK: So my question to him was not
13 about the email, my question was to clarify the answer he
14 just gave me where he used the terms perceived or actual
15 uncertainty about DTE's ability to execute planned
16 investments. I was not asking him at that point about
17 the email, I was asking him about his answer.

18 MR. JANISZEWSKI: Objection withdrawn.

19 JUDGE WALLACE: All right. Please go
20 ahead. Mr. Foley, you can answer.

21 A Yeah, I believe it's my recollection that in various
22 filings and potential Commission orders, the Commission
23 and/or Commission Staff has actually indicated a concern
24 with our ability to execute, that would be the actual
25 part of my response. The perceived is obviously as a

1 company, we have to read these orders and these filings
2 and interpret them and, therefore, in our interpretation,
3 we're perceiving some uncertainty.

4 Q (By Mr. Bzdok): O.K. So am I interpreting correctly, am
5 I perceiving correctly that what the issue regulatory
6 affairs was -- or the strategy regulatory affairs was
7 aligning around at this time was if we are unable to
8 convince the Commission or Staff of our ability to
9 execute on our distribution capital programs at the
10 levels we're proposing in base rates, we could offer
11 higher spend levels in the IRM for 2025 as an alternative
12 because those are essentially use it or lose it for DTE?

13 A I don't fully agree with that characterization. We not
14 only would be proposing increased IRM spending in 2025,
15 that would come with decreased investment through base
16 rates, so we would be -- at this time we're exploring the
17 possibility of moving investment, our investment proposal
18 from base rates to the IRM such that, as you described,
19 use it or lose it would sort of be in effect through the
20 IRM. So we weren't exploring increasing overall
21 investment or unilaterally increasing IRM investment, it
22 would be a one-for-one transfer from base rate recovery
23 to IRM recovery because of those additional benefits that
24 the IRM offers.

25 Q Take a look at document 2 in MEC-26.

1 A O.K.

2 Q So this is a longer email string. On page 6 of that
3 string, about halfway down, there's an email from you,
4 March 18, 2024, in which you have some information to
5 Mr. Paul and Mr. Bruzzano followed by a table on page 7,
6 correct?

7 A Correct.

8 Q And these, in the table you highlight amounts in the rate
9 case for distribution automation, pole top maintenance,
10 4.8 kV hardening, and frequent outage program, or CEMI,
11 correct?

12 A Correct.

13 Q And these are the amounts that in your testimony at Q-A
14 66 you're proposing as potential additions to the IRM
15 spends for 2025; is that right?

16 A Again, I wouldn't characterize it as a proposal, but yes,
17 those are the programs where we indicated some level of
18 support for increased 2025 IRM investment.

19 Q You use the language from these emails, this is your, the
20 alternative in your testimony; is that fair?

21 A I'm not sure where I used the term alternative. I would
22 need to find that in my testimony.

23 Q In Mr. Bruzzano's email to the big bosses on March 17,
24 he said, we'll include these as an alternative
25 (inaudible) --

1 COURT REPORTER: Chris, you're breaking
2 up again. Chris, you totally broke up there.

3 MR. BZDOK: How about now?

4 COURT REPORTER: Now you're better.

5 Q (By Mr. Bzdok): Mr. Foley, I was looking at the email
6 document 3, the email from Mr. Bruzzano to the big bosses
7 of the Company saying: We will include this as an
8 alternative in Neal's testimony.

9 A Yes. What Marco described as the alternative in that
10 email ultimately manifested itself in my testimony as
11 question 65 and 66.

12 Q O.K. A few emails up from that, Mr. Paul, Monday
13 March 18 at 11:25 a.m., indicates his agreement with, and
14 then he says: Marco - what do you think? Seems like it
15 would be a significant stretch to increase much higher.
16 Do you see that?

17 A I do.

18 Q Did you have an understanding of what he meant by it
19 being, or an interpretation of what he meant by it being
20 a significant stretch to increase those amounts much
21 higher?

22 A I don't.

23 Q And the email reply from Mr. Bruzzano immediately
24 following that was he agreed that going larger would be a
25 stretch. Did you have any understanding of what he meant

1 by that?

2 A When I read these emails, I assumed they were referring
3 to it would be a stretch for the Commission to approve
4 anything larger, but that's just my interpretation of
5 this email exchange.

6 MR. BZDOK: Your Honor, I'm going to move
7 at this time to admit proposed Exhibits MEC-25 and
8 MEC-26.

9 JUDGE WALLACE: Is there any objection to
10 the admission of Exhibits MEC-25 and MEC-26?

11 Hearing none, those exhibits are
12 admitted.

13 MR. BZDOK: Thank you.

14 Q (By Mr Bzdok): Mr. Foley, would you take a look at
15 Exhibit MEC-24 proposed.

16 A Yes, I have it.

17 Q Is this familiar to you as the IRM Plan for 2025 that DTE
18 filed a few days ago?

19 A It is.

20 Q O.K. The increased spends included as an alternative in
21 your testimony are not included in the IRM Plan either as
22 a proposal or as an alternative; would you agree?

23 A I agree.

24 Q And the increased, the inclusion of additional programs
25 such as hardening or CEMI is also not included in the

1 2025 IRM Plan; would you agree?

2 A I would.

3 Q So has DTE abandoned the idea or alternative of increased
4 IRM scope and spending for 2025?

5 A No.

6 Q How would -- what would you do, would you amend the
7 plan --

8 A Yes.

9 Q -- four or five months from now?

10 A Yes. If the Commission were to authorize higher 2025 IRM
11 investment than was previously authorized which is
12 reflected in this plan we're looking at, yes, we would
13 likely file an amended 2025 IRM Investment Plan as
14 quickly as we could after receiving an order in this
15 case.

16 MR. BZDOK: I'll move to admit MEC-24.

17 JUDGE WALLACE: Is there any objection to
18 the admission of Exhibit MEC-24?

19 Hearing none, that exhibit is admitted.

20 Q (By Mr. Bzdok): Let's take a look at your rebuttal
21 testimony now.

22 A O.K.

23 Q Starting at page 17.

24 A O.K.

25 Q And actually, let's back up because it starts on page 16,

1 question and answer 22.

2 A O.K.

3 Q Here you are responding to testimony by Staff witness
4 Nicholas Evans related to the proposal to extend or not
5 the IRM; is that right?

6 A Yes.

7 Q And specifically his testimony regarding the Commission's
8 order in 21297 stating that they wanted to incorporate
9 findings from the Distribution Audit and the PBR docket
10 into potential future iterations of the IRM, correct?

11 A Correct.

12 Q You indicate on page 17 in your response that the Company
13 does not believe that extending the IRM would result in
14 it beings "locked into specific spending amounts",
15 correct?

16 A Correct.

17 Q And then you say, you give -- you sort of walk through
18 some examples where the Commission could -- sorry --
19 where the Company could essentially amend future IRM
20 plans or spends or programs to account for determinations
21 in those dockets later; is that correct?

22 A Yes.

23 Q Would you agree that if the Company's proposed extension
24 and spend increases in '26 and '27 that you've outlined,
25 if those are approved, there would be nothing that would

1 require the Company to go back and amend or change upon
2 the conclusion of the PBR and Distribution Audit
3 processes?

4 A Yes, we would not be required to file a rate case where
5 we would propose amendments to the IRM.

6 Q Let's look at page 23 of your rebuttal. It might start
7 on page 22. It starts on -- well, hold on. Yeah, let's
8 look at page 23, question and answer 27.

9 A O.K.

10 Q Here are you disagreeing with some testimony by Witness
11 Paul Alvarez for the Attorney General and MEC and NRDC
12 concerning Mr. Alvarez and Mr. Stephens and their
13 recommendation not to extend the IRM through 2027,
14 correct?

15 A Correct.

16 Q You make a statement starting at line 14, "The Company
17 also disagrees that the IRM planning and reconciliation
18 processes approved by the Commission in Case No. U-21297
19 are simply 'lip service' to capital spending governance
20 as asserted by Witness Alvarez," correct?

21 A Correct.

22 Q In, back in Exhibit MEC-26, I'm going to toggle back
23 there for a second, document 12 are some, there are
24 emails dated February 7, 2024. Are you with me on those,
25 are you there?

1 A I am, yep.

2 Q These are emails between you and someone named Kelsey
3 Peterson; is that correct?

4 A Yes.

5 Q Now, I remember her I think from the ill-fated heating
6 electrification pilot, but does she -- what is her
7 position now?

8 A I don't know her formal title off the top of my head, but
9 she's involved in the operation of the IRM, including the
10 preparation of IRM investment plans.

11 Q O.K. On February 7, she asks you about attending an IRM
12 review with Renee, presumably Tomina; is that right?

13 A Yes.

14 Q And she provides you with a PowerPoint presentation dated
15 February 8; is that right?

16 A Yes.

17 Q And that would correspond -- well, let me go here first.
18 And then you provide some feedback in response on the
19 presentation that she sent you, correct?

20 A Correct.

21 Q And under page 4, your second bullet point, which is page
22 31 of the exhibit, you state: For cost evaluation, I'm
23 not sure we want to proactively talk too much about the
24 reconciliation process is a time for intervenors to
25 challenge our costs, correct?

1 A Correct.

2 Q So why don't you want to proactively talk about the
3 reconciliation being a time for intervenors to challenge
4 costs?

5 A It's my recollection that this specific presentation was
6 to be used internally with the project management office,
7 and I recall not wanting to alarm anyone as to the new
8 reconciliation process. If you continue reading the
9 quote that you started for that second bullet, I close by
10 saying: These costs are formally reviewed during the
11 reconciliation process. So the choice of what to include
12 on the page was more about internal messaging than our
13 viewpoint on the reconciliation process, if memory
14 serves.

15 Q So in your rebuttal testimony you say the reconciliation
16 is not lip service to capital spending governance, it's a
17 real robust process, but internally you say, well, we
18 don't want to emphasize, you know, that intervenors are
19 going to challenge our costs in the reconciliation, those
20 don't seem inconsistent to you?

21 A No. This presentation again was being made to, if I
22 remember correctly, folks that wouldn't be involved in
23 the reconciliation process and that weren't fully
24 involved in the IRM itself and, therefore, we were just
25 trying to not raise alarms unnecessarily about new case

1 filings or contested proceedings. It doesn't reflect our
2 view as a company towards the IRM or the reconciliation
3 process.

4 Q Is the presentation from Ms. Peterson that you reviewed
5 the same presentation from which document 4 in MEC-25 was
6 extracted?

7 A I don't remember. I'd have to go back in and investigate
8 that specific presentation.

9 Q You'll agree they were both about the IRM?

10 A Yes, they were both broadly about the IRM.

11 Q You'll agree they both have the same date of February 8,
12 2024?

13 A Yes.

14 Q So if it's the same presentation, why didn't you give us
15 the pages about the IRM reconciliation process and the
16 potential to challenge costs that you were pushing back
17 on?

18 A I believe the audit and discovery request asked for
19 things related to our proposal in this case. The
20 presentation that was being prepared by Kelsey wasn't
21 about, my recollection serves, wasn't about the proposal
22 in this case, it was about the 2024 IRM Investment Plan
23 and general operations of the newly established IRM.

24 Q O.K. Bear with me a second.

25 A O.K.

1 Q Take a look at proposed exhibit -- so this is a new topic
2 entirely, this is inflation rate. Take a look at
3 proposed Exhibit MEC-27, if you would.

4 A O.K.

5 Q Question and answer 42 of your rebuttal.

6 A Yes.

7 Q You got there faster than me. It's a response by you to
8 CUB and MEC witness Matt Bandyk's recommendation to
9 reduce the Company's proposed inflation rates to account
10 for productivity improvements; is that right?

11 A Yes.

12 Q And these questions, 18.5a through 18.5b, and 18.5c ask
13 you some questions about whether the Company has certain
14 information related to productivity gains, correct?

15 A Correct.

16 MR. BZDOK: I want to move to admit
17 proposed Exhibit MEC-27.

18 JUDGE WALLACE: Is there any objection to
19 the admission of proposed Exhibit MEC-27?

20 Hearing none, the exhibit is admitted.

21 MR. BZDOK: Thank you.

22 Q (By Mr. Bzdok): Lastly, I want to talk to you about your
23 rebuttal at pages 4 to 5.

24 A O.K.

25 Q Question and answer 7.

1 A O.K.

2 Q How might the Company need to respond if there is not
3 timely recovery of costs? And you have a discussion
4 there on pages, on page 4 and carrying over to page 5
5 about your opinion as to what could happen if the
6 Commission does not provide the Company with what you
7 consider to be timely recovery of costs, correct?

8 A Correct.

9 Q Does this discussion apply to -- what is the scope of
10 this discussion; is this every capital and O&M expense
11 spend or increase in this case, or is this some limited
12 subset of those?

13 A This generally refers to capital and operating expense
14 disallowances like those that were proposed by various
15 intervenors in this case.

16 Q Right. So I'm getting at, is this -- O.K. So let's talk
17 about what you say here. You're indicating that certain
18 capital spends -- you're indicating here in part, certain
19 capital expenditures are going to be made whether the
20 Commission approves them or not, correct?

21 A Yes, correct.

22 Q And certain operating expense and maintenance expense --
23 certain operation and maintenance expenses or expense
24 increases are going to be incurred whether the Commission
25 approves them or not, correct?

1 A Correct.

2 Q And then you're indicating that in order to fund those in
3 instances where they might be disallowed, the Commission
4 may underspend in certain other programs or projects or
5 categories where spending was approved, correct?

6 A I'm saying the Company may need to consider the re-timing
7 of capital investment elsewhere in response to those
8 disallowed -- in response to the disallowance of
9 otherwise unavoidable costs.

10 Q So other than saying the Company may consider it rather
11 than the Company may do it, I mean are you disagreeing
12 with me when I ask you -- is what you're saying here the
13 Company could consider underspending in certain approved
14 programs, categories, projects in order to provide the
15 funds for programs, projects, and categories where
16 spending was disallowed?

17 A I wouldn't necessarily characterize it as underspending.
18 As I've said in my rebuttal testimony, we've
19 characterized it as re-timing. For investments that we
20 think are otherwise prudent and meeting our goals, we may
21 have to delay those investments beyond what was
22 originally proposed in response to disallowance of
23 otherwise unavoidable costs.

24 Q Would you agree that re-timing an expenditure projected
25 for the test year to a later period would be

1 underspending on that project in the test year?

2 A Yes, it would be investing less than proposed in the test
3 year.

4 Q Same answer as to operating and maintenance expenses?

5 A Can you ask the question for operating and maintenance
6 expenses?

7 Q Would you agree that -- so I'm trying to get at -- so I'm
8 trying to get to this concept of re-timing expenditures
9 or expenses, and we have sort of closed the loop on how
10 that works when it comes to expenditures, capital
11 expenditures, and I'm trying to understand how that would
12 work, how would one re-time O&M expenses in the same
13 vein?

14 A We wouldn't. Operating expenses that are disallowed but
15 are otherwise unavoidable, in response, we may have to
16 re-time capital expenditures.

17 Q O.K. Got it. So the answer to either a capital
18 expenditures disallowance or an O&M disallowance in the
19 context that you're talking about here, in the context of
20 considering, the Company considering its options, the
21 potential path for either of those types of disallowances
22 is delaying capital expenditures beyond the projected
23 period?

24 A Yes, that is something the Company would need to
25 consider.

1 Q Is that something the Company has historically done?

2 A I'm not involved with capital planning or capital
3 execution, so I'm not the right person to answer that.

4 Q So if your -- if you can't answer that, how can you opine
5 that the Company would consider doing these things?

6 A I'm not sure how those two are linked I guess.

7 Q So you're saying, well, as the person from regulatory
8 affairs, I can tell you that if the Commission is to
9 issue disallowances, then we would need to consider
10 delaying approved capital expenditures beyond the
11 projected period, and you're offering that opinion, so
12 I'm asking you, is this something the Company does now,
13 and you're telling me you don't know?

14 A Yes, I'm saying for the purposes of this case, we
15 developed this -- I developed this piece of testimony in
16 consultation with, for example, the DO capital planning
17 team, so I'm comfortable saying that in response to the
18 disallowances in this case, of which my direct testimony
19 was filed -- I'm sorry -- my rebuttal testimony was
20 filed, this is how the Company may need to respond. I
21 believe you asked me is this something we've done
22 historically, of which I don't have a view because I'm
23 not involved with the historic capital planning or
24 execution of our investments.

25 Q So you don't have any idea whether what you're proposing

1 might happen here is precedented or unprecedented?

2 A That's correct.

3 Q Has, to your knowledge, has regulatory affairs made this
4 argument before in an electric rate case?

5 A Not to my knowledge, no.

6 MR. BZDOK: Your Honor, may we go off the
7 record for a moment?

8 JUDGE WALLACE: Off the record.

9 (Recess from 2:08 p.m. until 2:25 p.m.)

10 JUDGE WALLACE: All right. Back on the
11 record. Mr. Bzdok, do you have any further questions for
12 Mr. Foley?

13 MR. BZDOK: I do not. Thank you for your
14 time and your answers, Mr. Foley.

15 THE WITNESS: You're welcome.

16 JUDGE WALLACE: Is there anyone else that
17 has any questions for Mr. Foley? (No response.)

18 All right. Well, thank you very much.
19 Mr. Foley, you're excused. Oh, I'm sorry. Does the
20 Company have any redirect for Mr. Foley?

21 MR. JANISZEWSKI: Thank you, your Honor.
22 The Company does not have redirect for Mr. Foley.

23 JUDGE WALLACE: All right. All right.
24 Well, thank you very much. And again, thank you,
25 Mr. Foley, and you are excused.

1 THE WITNESS: Thank you.

2 (The witness was excused.)

3 - - -

4 JUDGE WALLACE: We can stay on the
5 record. O.K. That's it for today, correct, we're
6 through what we're going to do today. Now, what I've got
7 for tomorrow is Mr. Kryscynski for four hours and
8 Ms. Steudle for one hour, is that correct, or has that
9 changed?

10 MS. ANDREWS: Good afternoon, your Honor.
11 I do not believe there is any change in those estimates
12 at this time.

13 MR. CHRISTINIDIS: That's the Company's
14 understanding as well, your Honor. We're still working
15 to try to resolve some waivers and some stipulations for
16 discovery, but I think that's the right assumption at
17 this point.

18 JUDGE WALLACE: O.K. All right. We'll
19 stick with that. For tomorrow, Kryscynski and Steudle,
20 and then we'll figure out Friday tomorrow. Does that
21 sound good to everybody? (All nodding.) All right.

22 MS. ANDREWS: Yep.

23 JUDGE WALLACE: Off the record for just a
24 second.

25 (Off-record discussion at 2:27 p.m.)

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1 JUDGE WALLACE: All right. Back on the
2 record. There was a discussion there. As we discussed,
3 I believe that we are done for today, and we'll be --
4 I'll see you all back here tomorrow morning at 9:00. And
5 we have two exhibits -- or two witnesses set for
6 cross-examination tomorrow. So thank you, all, very
7 much. And I will see you tomorrow morning.

8 (At 2:30 p.m., the hearing was adjourned to
9 Thursday, September 5, 2024.)

10 - - -

1 Wednesday, September 4, 2024

2 At 4:07 p.m.

3 - - -

4 (Hearing resumes for the purpose of having Mr. Foley
5 swear/affirm that all testimony provided today was
6 the truth. Present are Judge Wallace, Mr. Foley,
7 Mr. Christinidis, and the Court Reporter.)

8 JUDGE WALLACE: So we're back on the
9 record briefly to swear in Mr. Foley. Please go ahead,
10 Ms. Penn.

11 - - -

12 N E A L T. F O L E Y

13 COURT REPORTER: Do you solemnly swear or
14 affirm that all testimony provided earlier today was the
15 truth?

16 MR. FOLEY: I do.

17 COURT REPORTER: Thank you.

18 JUDGE WALLACE: All right. That's all we
19 needed to do I think. Thank you very much. Really sorry
20 about that. I'll try to stay on top of it.

21 (At 4:08 p.m.)

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C E R T I F I C A T E

I, Lori Anne Penn (CSR-1315), do hereby certify that I reported in stenotype via Microsoft Teams the proceedings had in the above-entitled matter, that being Case No. U-21534, before Sally L. Wallace, J.D., Administrative Law Judge with Michigan Office of Administrative Hearings and Rules, for the Michigan Public Service Commission, Lansing, Michigan, on Wednesday, September 4, 2024; and do further certify that the foregoing transcript, consisting of Volume 2, pages 37-278, constitutes a true and correct transcript of my stenotype notes.

Lori Anne Penn

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Dated: September 5, 2024