



Stephen A. Campbell
T (313) 309-4274
F (313) 309-6882
Email:SCampbell@ClarkHill.com

Clark Hill
500 Woodward Avenue, Suite 3500
Detroit, MI 48226
T 313.965.8300
F 313.965.8252

September 25, 2024

VIA ELECTRONIC CASE FILING

Executive Secretary
Michigan Public Service Commission
7109 W. Saginaw Highway
Lansing, Michigan 48917

Re: Case No. U-21291 – In the matter of the application of DTE GAS COMPANY for authority to increase its rates, amend its rate schedules and rules governing the distribution and supply of natural gas, and for miscellaneous accounting authority

Dear Executive Secretary:

Enclosed for filing please find the **Association of Businesses Advocating Tariff Equity's Exceptions** and **Proof of Service** in the above referenced proceeding.

Sincerely,

CLARK HILL PLC
Stephen A.
Campbell
Stephen A. Campbell

Digitally signed by: Stephen A. Campbell
DN: CN = Stephen A. Campbell email =
SCampbell@clarkhill.com C = US O =
Clark Hill PLC
Date: 2024.09.25 14:31:27 -0400

SAC/lkd
cc: Parties of Record

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the application of)	
DTE GAS COMPANY for authority)	Case No. U-21291
to increase its rates, amend its rate)	
schedules and rules governing the)	ALJ Jonathan F. Thoits
distribution and supply of natural gas,)	
and for miscellaneous accounting authority)	
_____)	

EXCEPTIONS OF THE ASSOCIATION OF BUSINESSES ADVOCATING TARIFF EQUITY

The Association of Businesses Advocating Tariff Equity (“ABATE”), by its attorneys, CLARK HILL PLC, files its Exceptions in this proceeding initiated by DTE Gas Company (“DTE” or the “Company”) before the Michigan Public Service Commission (“Commission”) in accordance with the schedule established by the presiding Administrative Law Judge (“ALJ”).

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I. INTRODUCTION

The Proposal for Decision (“PFD”) issued in this proceeding, while properly recommending the Commission reject certain cost recovery and other proposals which were not based on competent, material, and substantial evidence, made certain other recommendations which were flawed and discounted record evidence. The Commission should not adopt these recommendations as they would lead to rates that are neither reasonable nor prudent. These recommendations include the PFD’s discussion of the Company’s burden to supports its use of a projected test year, appropriate inflation rates for projected operations and maintenance (“O&M”) costs, and the appropriate class cost-of-service study (“CCOSS”) and rate design for this case. The PFD’s recommendations on these issues did not adequately consider the record here. Accordingly, to ensure just and reasonable rates the Commission should instead adopt the recommendations set out below. These proposals will ensure DTE’s rates are reasonable and prudent and that the Company’s costs are allocated to customers consistent with the manner in which they are caused.

II. ARGUMENT

A. The Company’s projected test year was not adequately supported.

The PFD recommended that the Commission adopt the 12-month period ending September 30, 2025 as the projected test year. (PFD at 12.) In doing so, however, the PFD asserted an inaccurate standard and burden for parties to support a projected revenue requirement.

As the PFD recognized, “the utility bears the burden to substantiate its projections” and “[i]f the utility cannot or will not provide sufficient support for a particular revenue or expense item (particularly for an item that substantially deviates from the historical data) the Staff, intervenors, or the Commission may choose an alternative method for determining the projection.” (PFD at 8-9.) Despite recounting this accurate standard, however, the PFD also inaccurately asserted that “as MCL 460.6a permits other parties to propose appropriate costs and revenues on

a basis other than DTE's projections, it is incumbent on the party proposing a different test period to provide the revenue and expense amounts corresponding to that period, as well as evidence to show that the alternative test period is more just and reasonable than the utility's proposal or any proposal by any other party." (PFD at 12.) As this description of what is "incumbent" upon other parties to provide would shift the burden of establishing revenue and cost projections onto other parties the Commission should reject this framing.

The straightforward and oft-reasserted standard applicable to rate case proceedings in which a utility bases a requested revenue increase on future cost projections is that "the burden is on the company to prove the accuracy of each and every test year projection." *See In the Matter of the Application of DTE Electric Co*, order of the Public Service Commission, entered December 1, 2023 (Case No. U-21297), p 9. Thus, while "approval of projected test years is permissible under MCL 460.6a," the Company must prove the accuracy of each and every test year projection or those projections cannot be approved. *Id.* In other words, if a utility does not file sufficient evidence to "substantiate its projections" and "prove the accuracy of each and every test year projection" such that the Commission has competent, material, and substantial evidence upon which to base its approval of a revenue increase, as required by MCL 462.26(8), it is technically not "incumbent" upon another party to file anything at all. The suggestion that another party recommending the Commission reject the utility's projections is required to provide alternative revenue and expense amounts, as well as evidence to show that the alternative is more just and reasonable than the utility's proposal, is inaccurate.

Simply stated, if the utility doesn't meet the burden described above then its projections must be rejected and the existing revenue requirement should be maintained with no increase. That is ABATE's argument in this case. As the record demonstrates, in this proceeding the Company

reported a large revenue *sufficiency* of approximately \$35.7 million in its historic test year, while in four of its last five rate cases the Company also reported a historic test year revenue sufficiency. (See ABATE Initial Br at 7-8.) Thus, in these historic test years DTE's rates were ultimately more generous than necessary to provide the Company a reasonable opportunity to earn its authorized return. Furthermore, these values reflect DTE's reported historic test year values which, if more closely examined, might very well reveal costs that are not properly recoverable in rates. (*Id.*) In other words, DTE's actual revenues in excess of its authorized rate of return in its historic test years may very well have been well in excess of the amount DTE has reported. The Company has also not provided any evidence that it experienced a revenue deficiency in 2023, although the time that has passed since its last rate case filing suggests it realized an additional revenue *sufficiency* in that year. (*Id.*) Given the detrimental results and inherent flaws in using projected test years, and considering the Company's historic test year sufficiency, the Commission should reject the Company's proposal to set its revenue requirement based on projected test year expenses in this case.

Stated differently, the Company has not carried its burden here and thus its proposed projected test year revenue requirement should be rejected, meaning its historic test year revenue requirement should be maintained with no increase. As the standard above sets forth, no party recommending the Commission reject the projected test year revenue requirement is required to provide revenue and expense amounts corresponding to an alternative period, or evidence to show that an alternative test period is more just and reasonable than the utility's proposal, if the utility has not met its burden to "substantiate its projections" and "prove the accuracy of each and every test year projection." The Commission should simply reject the projected test year and maintain the historic revenue requirement with no increase. To the extent "revenue and expense amounts

corresponding to an alternative period” are needed, they would be the amounts corresponding to the utility’s baseline historic test year which should be maintained.

As the record demonstrates the Company continues to report revenue sufficiencies while simultaneously requesting exorbitant revenue increases. The Company’s request is unreasonable and imprudent and the Commission should reject the same. Further, the suggestion that another party is required to provide alternative revenue and expense amounts when recommending the Commission reject an inadequately supported project test year is inconsistent with the standard reiterated across the Commission’s rate case orders. As such the Commission should similarly reject this perspective for evaluating proposed utility rate increases.

B. The record supports using the Blue Chip GDP Chained Price Index for the Company’s O&M inflation factors.

The PFD asserted that ABATE did “not provide support for its assertion that the CPI-U non-labor inflation rate is well above the consensus industry experts’ opinion of the GDP Chained Price Index” and thus recommended “that the Commission adopt the Attorney General’s proposed disallowance of \$4,001,000,” rather than the \$6.9 million disallowance recommended by ABATE. (PFD at 266.) As this claim is inconsistent with the record the Commission should reject the PFD’s recommendation and adopt the disallowance proposed by ABATE.

As the PFD noted, ABATE’s witness testified that while “DTE uses the CPI-U (Consumer Price Index for Urban Customers) to determine the appropriate non-labor inflation rate, with DTE’s proposed non-labor inflation rate being 4.1% for 2023, 2.9% for 2024, and 2.2% for 2025,” the “Blue Chip Economic Indicators industry expert consensus GDP Chained Price Index is better used, with the Blue GDP Chained Price Index being 2.6% for 2023, 2.2% for 2024, and 2.2% for 2025.” (PFD at 25-26 (internal citations omitted).) Thus, as the PFD acknowledged, ABATE’s testimony recommended “that DTE use the Blue Chip GDP Chained Price Index for the O&M

inflation factors, as the wage inflation rate used by DTE is not well supported, and the CPI-U non-labor inflation rate is well above the consensus industry experts' opinion of the GDP Chained Price Index." (PFD at 265.) In other words, contrary to the PFD's finding, the record clearly provides support for the assertion that the CPI-U non-labor inflation rate (4.1% for 2023, 2.9% for 2024, and 2.2% for 2025) is well above the consensus industry experts' opinion of the GDP Chained Price Index (2.6% for 2023, 2.2% for 2024, and 2.2% for 2025). (See PFD at 25-26, 265; 4 Tr 1324-25.)

Contrary to the PFD's assertion, the inflation rates recommended by ABATE are well supported on the record and demonstrate the unreasonably elevated nature of the Company's proposal. As such the Commission should adopt the inflation rates proposed by ABATE along with the \$6.9 million cost recovery reduction associated therewith.

C. The Company and Staff's proposed cost allocation methods do not reflect cost of service.

The PFD recommended the Commission adopt the Company and Staff's approach to cost allocation, which utilized the Peak & Average ("P&A" or "A&P") method to allocate the Company's costs across customer classes. (See PFD at 360-61.) Because this method does not reflect cost causation the Commission should reject this recommendation and order DTE to allocate its costs in accordance with a Design Day Demand method.

The PFD stated that "neither ABATE nor MPLP have offered compelling reasons why the Commission should adopt a changed approach to its allocation methods" and "the evidence and arguments put forth by ABATE and MPLP in this case have been effectively rebutted by DTE and Staff here." (*Id.*) These findings are inaccurate for a number of reasons. First, DTE did not rebut ABATE's arguments regarding the use of a Design Day Demand allocation at all, it simply provided a perfunctory statement that the "Commission has consistently approved the use of the

A&P method since December 1988 in DTE Gas’s general rate case U-8812.” (Krysinski 4 Tr 2177.) Regarding ABATE’s alternative recommendations, the Company asserted that these proposals did “not align with the class cost of service,” although as the record demonstrates, neither does the method recommended by DTE and Staff. (See ABATE Initial Br at 39-56.) Instead, the Company itself acknowledged that its system is designed (and it incurs costs) in accordance with its Peak Day demand. Specifically, transmission and distribution main capacity is designed to meet Peak Day demand, while the demands of all rate classes every other day of the year are simply met by varying the pressure and amount of gas in the mains which are built to satisfy that Peak Day demand requirement. (*Id.*; Exhibit AB-1.) The fixed cost of transmission and distribution main capacity designed to meet the system peak demand therefore remains the same every day of the year, irrespective of operating pressure and distribution main capacity utilization. As such there is no causal link between transmission and distribution main capacity cost and annual throughput; these costs are instead entirely related to the system’s Peak Day design. (*Id.*) As such, any cost allocation method that does not allocate costs consistent with this reality, such as the A&P method recommended by the PFD, does not align with class cost of service principles. ABATE’s alternative proposal is simply a more equitable approach to allocating DTE’s costs, should the Commission not adopt the Design Day Demand method.

Second, Staff recommended a cost allocation based on the A&P method because it provides a compromise between customer classes, not because it reflects how customers actually cause the Company to incur costs. As the PFD noted, Staff referenced the NARUC Manual which describes the A&P method as “a compromise between the coincident and noncoincident demand methods” which “tempers the apportionment of the costs between high and low load factor customers.” (See PFD at 343.) In other words, “Staff proposed using the A&P allocation method because of its

nature as a compromise between the interests of high and low load factor customers,” and argued that “because customer classes use the distribution system differently, it is reasonable to use an allocation method that combines how those disparate classes cause costs,” meaning the extent to which it “follows cost causative principles” is compromised and tempered by its approach to “balancing the interests of all of DTE’s customers.” (*Id.*) This is not an endorsement of the A&P method’s reflection of cost of service, it is an acknowledgement that Staff’s approach deviates from that principle to instead shift costs to high load factor customers in order to “balance” the interests (i.e., actual cost of service based rates) of lower load factor customers.

The Commission should not approve a cost allocation method which reflects a compromise between customers rather than the Company’s actual cost of service. The Peak Day Design method accomplishes this and is a nationally recognized approach to allocating gas system costs. Indeed, while Staff described the A&P method as “one of the three ‘most commonly used demand allocations for natural gas distribution utilities’ listed in the 1989 NARUC Gas Distribution Rate Design Manual (NARUC Manual),” another of the three most commonly used demand allocations is that proposed by ABATE, which DTE has acknowledged more accurately reflects the way it actually incurs costs. (PFD at 345; Krause 4 Tr 1727; ABATE Initial Br at 41-44.) Staff’s assertion that the use of this methodology is aimed at “inappropriately allocat[ing] fewer costs to the customer classes ABATE represents at the expense of recognizing how costs are caused” demonstrates the lack of Staff’s credibility on this issue. (Revere 4 Tr 1671.) ABATE’s recommendation is one of the three most commonly used demand allocations as described by the NARUC Manual and more accurately reflects with the way DTE itself has explained it incurs costs. (See Krause 4 Tr 1727; ABATE Initial Br at 41-44.) It is Staff’s proposal which instead

reflects “compromise” and “tempering” across rate classes which disconnects customer rates from the manner in which those customers cause costs.

Further, Staff’s claim that “the A&P allocator (as calculated by DTE) allocates 64.236% of any cost it is applied to on peak day demand, and thus primarily allocates on peak day demand” is inaccurate. (See PFD at 347; Revere 4 Tr 1672; ABATE Initial Br at 42 n 30.) This claim ignores the actual cost allocation for the transportation classes under DTE and Staff’s proposal. (*Id.*) Specifically, this claim ignores the fact that average demand comprises 86% of the peak day allocator for Rate XXL, and 76% of the peak day allocator for Rate XL. (*Id.*) Indeed, mathematically the average demand represents about 91% of the composite P&A allocator for XXL, and 84% for XL. (*Id.*) This is directly contrary to Staff’s claim that the A&P allocator “primarily allocates on peak day demand” and neither the Company nor Staff addressed these figures or the calculation used to determine them. Thus, Staff’s claim that the A&P allocator primarily allocates costs based on peak day demand is demonstrably incorrect with regard to transportation customers.

Staff’s claims regarding the alternative A&E allocation method are also erroneous. Specifically, Staff’s claims that it “fails to recognize that delivering the ‘average’ amount of gas on a peak day (or during a class’ NCP month) does not result in the same costs as on an average day” and “breaks the link between system load factor, peak, and usage that the A&P method relies on” are also inaccurate. (See PFD at 347.) These assertions appear based on a claim that the average considered in the A&E methodology is somehow different from that in the A&P methodology. These components are mathematically identical; that is, they are both based on average annual throughput and weighted using the system load factor. (ABATE Initial Br at 50-51; ABATE Reply Br at 15-17.) Thus, even assuming the costs to deliver an “average” amount of

gas on a peak day are different than the costs on an average day (although Staff provided no support for this contention), any differences are irrelevant. Furthermore, the average usage incorporated in the A&E method by definition incorporates annual throughput and the Company's costs are incurred to and based on its ability to serve its Peak Day demand, meaning ultimately measures of utilization (e.g., Average Demand, or annual throughput) predominant in the A&P method (and the A&E method) have no impact on how DTE actually incurs delivery capacity cost. (*Id.*; ABATE Reply Br at 13-14; see also Collins 4 Tr 791 (noting that if the system was designed to meet average throughput, it would be impossible for DTE to deliver enough gas to meet customer demands on the coldest days in winter and thus recommending a Design Day peak demand allocation).) Staff's arguments in opposition to the A&E method are therefore inaccurate and irrelevant to DTE's actual cost of service.

The PFD also stated that Staff argued against the A&E method as it "does not agree that the potential double counting" of average throughput in the A&P allocation method is a problem, and removing "the alleged double counting problem by removing the peak day from the average calculation would change the average by approximately one percent and passing this calculation through the allocator would have an extremely small impact on the allocator itself." (See PFD at 342-43.) As explained in ABATE's Initial Brief, this assertion mischaracterizes the double counting issue. (ABATE Initial Br at 48-49; ABATE Reply Br at 17-18.) The A&E method does not remove the peak day from the average calculation (Step 1), instead it removes the peak day from the excess element of allocation (Step 2). (See ABATE Initial Br at 48-49; York 4 Tr 1270-92.) In other words, Staff's argument is essentially to remove only a tiny sliver from the methods' first incorporation of average demand. The A&E method, however, is based upon removing the entirety of the average demand figure when determining excess demand (Step 2), as average

demand has already been incorporated into the total amount to be allocated (in Step 1). In other words, the A&E method incorporates average demand once, while the A&P method redundantly incorporates it twice. This flaw skews cost allocation away from how costs are actually caused.

As such, the Company and Staff's proposed cost allocation does not reflect DTE's cost of service, is inconsistent with cost causation, and would produce exorbitant rate increase for transportation customers. (See PFD at 346; ABATE Reply Br at 20 n 6.) Thus, if the Commission does not approve a Peak Day Design or A&E cost allocation method the Commission should approve equal percent increases across classes to avoid unduly burdensome rates which do not reflect DTE's cost of service for high load factor customers. This approach is more reasonable and prudent than instead adopting a cost allocation method which does not reflect cost causation.

Regardless of whether the Commission has previously approved the method recommended by the PFD, the record in this case demonstrates that it does not reflect DTE's cost of service and allocates costs to customers which they do not cause. The Commission should therefore adopt a changed approach to its allocation methods to accurately align the Company's cost recovery with its cost of service. Staff and DTE's arguments to the contrary do not demonstrate their proposed cost allocation methods meet this standard. As such the Commission should approve a Design Day Demand cost allocation methodology which is consistent with DTE's cost of service as set out in ABATE's testimony and briefing in this proceeding.

III. RELIEF REQUESTED

WHEREFORE, ABATE requests the Commission issue an Order adopting ABATE's positions as outlined in its Direct and Rebuttal Testimony, as well as its Initial and Reply Briefs and these Exceptions.

Respectfully submitted,

CLARK HILL PLC

Stephen A.

By: **Campbell**

Digitally signed by: Stephen A. Campbell
DN: CN = Stephen A. Campbell email =
SCampbell@clarkhill.com C = US O =
Clark Hill PLC
Date: 2024.09.25 14:31:50 -04'00'

Michael J. Pattwell (P72419)
Stephen A. Campbell (P76684)
Attorneys for the Association of
Businesses Advocating Tariff Equity
Clark Hill PLC

500 Woodward, Suite 3500
Detroit, Michigan 48226
313-309-4274

mpattwell@clarkhill.com

scampbell@clarkhill.com

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STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of)
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and for miscellaneous accounting authority)
_____)

Case No. U-21291

ALJ Jonathan F. Thoits

PROOF OF SERVICE

STATE OF MICHIGAN)
) ss
COUNTY OF WAYNE)

Stephen A. Campbell, being first duly sworn, deposes and says that on September 25, 2024 he did cause to be served the *Association of Businesses Advocating Tariff Equity's Exceptions*, as well as this *Proof of Service* in the above docket, via electronic mail, to the persons identified on the attached service list.

Stephen A.
Campbell

Digitally signed by: Stephen A. Campbell
DN: CN = Stephen A. Campbell email =
SCampbell@clarkhill.com C = US O = Clark
Hill PLC
Date: 2024.09.25 14:32:36 -04'00'

Stephen A. Campbell

SERVICE LIST
MPSC Case No. U-21291

<p>Administrative Law Judge Hon. Jonathan Thoits Administrative Law Judge Michigan Public Service Commission 7109 W. Saginaw Hwy., 3rd Floor Lansing, Michigan 48917 Email: thoitsj@michigan.gov</p>	<p>Counsel for Dept. of Attorney General Joel B. King Aaron Walden Email: kingj38@michigan.gov WaldenA1@michigan.gov ag-enra-spec-lit@michigan.gov</p>
<p>Counsel for DTE Gas Company Paula Johnson-Bacon Carlton D. Watson Andrea Hayden Email: paula.bacon@dteenergy.com carlton.watson@dteenergy.com andrea.hayden@dteenergy.com mpscfilings@dteenergy.com</p>	<p>Counsel for MPSC Staff Monica M. Stephens Michael Orris Anna B. Stirling Heather Durian Email: stephensm11@michigan.gov orrism@michigan.gov stirlinga1@michigan.gov durianh@michigan.gov mayabbl@michigan.gov</p>
<p>Counsel for Citizens Utility Board of Michigan (CUB); Michigan Environmental Council; Natural Resources Defense Council (NRDC); Sierra Club Christopher M. Bzdok Holly L. Hillyer Breanna Thomas Nihal Shrinath Email: chris@tropospherelegal.com holly@tropospherelegal.com breanna@tropospherelegal.com nihal.shrinath@sierraclub.org</p>	<p>Counsel for Environmental Law & Policy Center, The Ecology Center, Vote Solar, And Union of Concerned Scientists, Inc. Nicholas N. Wallace Daniel H.B. Abrams Carolyn Boyce Alondra Estrada Email: nwallace@elpc.org dabrams@elpc.org cboyce@elpc.org astrada@elpc.org MPSCdocket@elpc.org</p>
<p>Counsel for City of Ann Arbor Valerie J.M. Brader Valerie R. Jackson Email: valerie@rivenoaklaw.com vjackson@a2gov.org</p>	<p>Retail Energy Supply Association Jennifer Utter Heston Email: jheston@fraserlawfirm.com</p>

<p>Counsel for Billerud Americas Corporation Timothy Lundgren Email: tlundgren@potomaclaw.com</p>	<p>Counsel for Dearborn Industrial Generation, LLC Sean P, Gallagher Email: sgallagher@fraserlawfirm.com</p>
<p>Counsel for ABATE Michael J. Pattwell Stephen A. Campbell Email: mpattwell@clarkhill.com scampbell@clarkhill.com</p>	<p>Consultants for ABATE Jim Dauphinais Email: jdauphinais@consultbai.com</p>