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October 3, 2024

Ms. Lisa Felice
Executive Secretary
Michigan Public Service Commission
7109 W. Saginaw Highway
P.O. Box 30221
Lansing, MI 48909

Re: **MPSC Case No. U-21534**

Dear Ms. Felice:

Attached for electronic filing in the above-referenced matter, please find the Initial Brief of the Michigan Energy Innovation Business Council, The Institute for Energy Innovation, and Advanced Energy United, together with the Proof of Service. Thank you for your assistance in this matter.

Very truly yours,

Justin K. Ooms Digitally signed by Justin K. Ooms
Date: 2024.10.03 14:28:23 -04'00'

Justin K. Ooms

JKO/srd
Enclosure
c. All parties of record.

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**

INITIAL BRIEF
OF
THE MICHIGAN ENERGY INNOVATION BUSINESS COUNCIL, INSTITUTE FOR ENERGY INNOVATION AND ADVANCED ENERGY UNITED

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INITIAL BRIEF OF THE MICHIGAN ENERGY INNOVATION BUSINESS COUNCIL, INSTITUTE FOR ENERGY INNOVATION AND ADVANCED ENERGY UNITED

I. INTRODUCTION

This Initial Brief is filed on behalf of the Michigan Energy Innovation Business Council, the Institute for Energy Innovation and Advanced Energy United ("MEIU")[1] by their attorneys, Potomac Law Group, PLLC. Failure to address any issues or positions raised by other parties should not be taken as agreement with those issues or positions.

II. ARGUMENT

In their witnesses' arguments on the record in this case, MEIU have focused on three primary topic areas in this case: (1) DTE Electric Company's ("DTE" or the "Company") electric vehicle ("EV") programs and their purpose, (2) the Company's commercial and industrial ("C&I") battery energy storage system pilot ("C&I BESS"), and (3) the C&I time-of-use ("TOU") rates

[1] The positions expressed in this Initial Brief represent those of the Michigan EIBC/IEI and Advanced Energy United as organizations and not necessarily the views of individual members of these organizations with respect to any particular issue.

proposed by the Company in response to the Commission's order requiring such rates from Case No. U-21297. Although superficially distinct, all three topic areas and, more specifically, MEIU's positions on the issues raised within each topic area share one common aim: preparing the ground for the nurture, growth and maturation of innovative and clean technologies in DTE's service territory.

A. Continued Investment in EV Charging Infrastructure Is Necessary to Achieve the Full Benefits of Transportation Electrification (Disputed Issues 22 and 23).

DTE makes a compelling case that EV charging revenues, even at the overly conservative and artificially constrained levels estimated by the Company, will provide meaningful benefits to the Company's ratepayers.[2] Company witness Pina Bennett explains:

> [T]he annual revenue requirement initially applied rate pressure, but the TEP [Transportation Electrification Plan] begins providing rate relief in 2033, increasing to a maximum of $32 million in rate relief in 2064. So, while there is rate pressure in the near term, it is offset by future rate relief, making rebates beneficial for customers in the long run.[3]

These projected benefits (which, again, are likely understated) will not fully materialize without the investment that will make them possible.[4]

It is therefore vital that the Commission continue to support the investments in EV infrastructure necessary to enable the demonstrable benefits, both to ratepayers and society more broadly, that broad transportation electrification will provide.

[2] See 6 Tr 1973–74 (Bennett Direct).
[3] 6 Tr 1974–75.
[4] See 6 Tr 4065–4066.

1. The Company's Benefit-Cost Analysis ("BCA") Likely Underestimates the Benefits from EVs and Thereby Underestimates the Level of Beneficial Investment that Can Be Provided Via Rebates and Other Supportive Programs.

MEIU witness Dr. Laura S. Sherman explored and evaluated the Company's Transportation Electrification Plan ("TEP") BCA in her direct testimony in this case, explaining, based on her review of other utilities' TEPs and other extensive evidence, the problems and shortcomings she observed. She raised four primary issues, all of which point to a pervasive under-recognition and undercounting of expected benefits from transportation electrification: (1) the forecast of EV adoption is likely too low, (2) projected revenue from EV charging is under-recognized and therefore artificially low, (3) charger utilization rates are held constant throughout the term of the TEP despite an increase in EV adoption, and (4) the BCA does not conduct any cost tests that evaluate any of the broader societal benefits expected to result from transportation electrification.

In general, therefore, the Commission should use the Company's BCA cautiously in its evaluation of the reasonableness and prudence of the Company's proposed investments, recognizing that the top-line numbers on the benefits side of the BCA are essentially only extreme *low-end* estimates. As a result of this, the Company's budget proposals represent at best the extreme *minimum* amount of investment needed to support (much less maximize) ratepayer benefits from transportation electrification. The proposals from the Staff and the Attorney General ("AG") to disallow requested amounts from the Company's TEP proposal are thus neither reasonable nor prudent, as they would serve to reduce long-term ratepayer (and societal) benefits. Instead, as Dr. Sherman recommends in her testimony, the Commission should encourage DTE to

include additional funding in its TEP to support increased investments, specifically for Level 2 ("L2") public and workplace chargers.[5]

a. DTE's Forecast of EV Adoption is Likely Too Low (Disputed Issue 99).

[References in the Record: MEIU witness Sherman, 6 Tr 4061–4066, 6 Tr 4118–4120, 6 Tr 4126–4128; DTE witness Bennett, 6 Tr 1940–1942, 6 Tr 1996–2001; AG witness Coppola, 6 Tr 3607–3609, 6 Tr 3637–3638; EVgo witness Steagall, 6 Tr 3317–3320]

DTE witness Pina Bennett presents the Company's forecast of EV adoption in her Direct Testimony.[6] She indicates that "almost 46,000 EVs [are] registered in Southeast Michigan, and . . . the Company forecasts this number increasing to an estimated 326,000 . . . by 2028, which is the timeframe of the Company's TEP."[7] This forecast, according to witness Bennett, was

> derived from a combination of a short-term forecast developed using recent registration data from S&P Global and a long-term forecast derived from forecasts published by industry experts. For the short-term forecast in 2024 and 2025, EV registrations were determined using an exponential regression based on EV registrations in DTE Electric service territory from 2018 through 2023. For 2027 and 2028, DTE Electric EV registrations were derived from forecasts published in 2022 and 2023.[8]

Dr. Sherman criticized the EV forecast as too low, in that it would not correspond to the number of EVs that would need to comprise annual light-duty vehicle sales by 2032 if the U.S. Environmental Protection Agency's ("US EPA") vehicle emission standards are to be met by that date.[9]

Witness Bennett's response on rebuttal boils down to an assertion that US EPA is only one forecaster among many, including the Energy Information Administration, and that it should not necessarily have pride of place.[10] The US EPA forecasts are not, however, merely market

[5] See Section II.A.3.e. below.
[6] 6 Tr 1940–42.
[7] 6 Tr 1940; see also 6 Tr 4061.
[8] 6 Tr 1941.
[9] 6 Tr 4062.
[10] 6 Tr 1997.

projections but rather represent realistic ways that vehicle manufacturers might be expected to meet emissions standards. The emissions standards themselves are set, and although it is possible that alternative technologies might emerge to change the proportions of EVs vs. alternatives, the US EPA projections are the product of simple math and accountings of emissions attributable to various vehicle technologies.[11] Witness Bennett provides no explanation as to whether the forecasts the Company relies upon that assume a lower EV adoption than that assumed by US EPA nonetheless account for the requirements under the emissions standards.

Witness Bennett also discounts Dr. Sherman's assertions regarding the EV forecast because the 2032 timeframe looks farther out than the Company's 2028 TEP end date. To the extent, however, that forecasts that DTE relied on through 2028 under-estimate the number of EVs expected by 2032, it is not unreasonable to conclude that they may under-estimate the number of EVs expected by 2028 as well. Failing to account for the number likely required to comply with US EPA standards by 2032 may reasonably have effects on projections in the years immediately prior. This argument therefore also fails to directly undermine Dr. Sherman's assertions.

On the flip side, Attorney General ("AG") witness Sebastian Coppola claims that the Company's EV forecast may in fact be too aggressive, offering what amounts to largely anecdotal evidence and indirect sales data from fewer than two fiscal quarters, all derived from journalistic sources.[12] Compared to the hard data and robust forecasts from reliable and sophisticated sources introduced into the record in this case by both the Company and MEIU, witness Coppola's few news sources are scant evidence that the Company's forecasts are overstated. Company witness Bennett actually claimed that they were likely understated, stating that "the Company believes the

[11] See 6 Tr 4062 n. 48.
[12] See 6 Tr 4126–4127; Exhibit MEIU-32.

projections presented in this instant case are conservative."[13] She also rejected the overall tenor of witness Coppola's testimony, explaining that

> Witness Coppola characterizes the EV market in a way that makes it seem like the EV market is in decline, but this is not true. EV adoption is still growing, even if at a slower pace than prior projections, with external analysts projecting that as affordability in the mass market segment of EVs improves, adoption will follow.[14]

At a minimum, therefore, the Commission ought to recognize along with DTE that the Company's EV forecast is "conservative" and therefore far more likely to be too low than too high.

b. DTE's TEP BCA Under-Recognizes Revenue from EV Charging (Disputed Issue 119).

[References in the Record: MEIU witness Sherman, 6 Tr 4066–4069; DTE witness Bennett, 6 Tr 1971–1976, 6 Tr 2013–2014; Staff witness Revere, 6 Tr 4973–4975; CUB witness Jester, 6 Tr 3814–3815]

DTE witness Bennett pointed out in her Direct Testimony that the Company's BCA, in its net present value revenue requirement analysis, "only considers incremental load from rebated chargers (i.e., 'qualified' additional EV load)."[15] She continues, "The 'qualified' additional EV load occurring on TEP-supported chargers—and accounted for in the BCA—is only about 10% of the total expected EV load through 2030."[16] Conversely, the BCA "does not take credits for any 'network effects' of EV sales influenced by the TEP through reduced range anxiety."[17]

By accounting for only 10% of the anticipated revenue from EV adoption, the Company is, by necessary implication, ignoring the other 90% of revenue that is indirectly *enabled* by EV charging infrastructure investment, even if it is not directly derivable from a rebated charger.[18] In doing so, the Company is essentially undermining the whole theory underlying utility investment

[13] 6 Tr 1999.
[14] 6 Tr 1998–99 (citing J.D. Power-Global Data Automotive Forecast July 2024 | J.D. Power (jdpower.com) available at https://www.jdpower.com/business/press-releases/jd-power-globaldata-automotive-forecast-july-2024).
[15] 6 Tr 1971.
[16] *Id.*
[17] 6 Tr 1975.
[18] 6 Tr 4067.

in charging infrastructure, which is to help overcome hurdles to EV adoption by ensuring the availability of charging infrastructure. As witness Bennett explained,

> Stakeholders ranked all the public charging subsegments, including on-route and destination charging, as the most important for utility action because the availability of public charging is critical to reducing range anxiety, which is a key barrier to EV adoption. Reliable, on-route fast charging, defined as fast charging within one mile of a major throughway exit, can increase customer's confidence in the refueling infrastructure . . . .[19]

It is thus not so clear cut as to claim, as Staff witness Revere has, that "[a]scribing benefits to usage that would have occurred absent the program is inappropriate" and that "the Company's adjustment to remove a reasonable estimate of the revenue from EV charging that would have occurred absent the program is appropriate."[20]

Witness Revere employs, without attempting to define, the concept of "EV charging that would have occurred absent the program." In MEIU's view, this concept, while used, is not useful. Dr. Sherman cites extensive evidence showing that "the existence of public EV charging stations directly enables customers to purchase EVs, leading to significant at-home charging and revenue from electricity sales."[21] Witness Revere's concept—and more specifically his blessing of the Company's approach—assumes that the charging revenues that can be attributed to the Company's programs are coextensive with the charging revenues that are directly derived from rebated chargers. As Dr. Sherman demonstrates, however, this is unlikely to be the case,[22] particularly given the relative proportions of charging revenue that the Company anticipates receiving from at-home charging vs. public charging.[23]

[19] 6 Tr 1963.
[20] 6 Tr 4976.
[21] 6 Tr 4068.
[22] See 6 Tr 4066–4069.
[23] See 6 Tr 4065–4066 (confidential version).

DTE itself recognizes the existence of the "'network effects' of EV sales influenced by the TEP through reduced range anxiety"[24] but, indefensibly, makes no effort to incorporate them. Even if one were to attempt to employ witness Revere's concept of "EV charging that would have occurred absent the program" (which creates by implication the related concept of "EV charging that occurs only on account of the program"), it is not reasonable to assume that only charging occurring at rebated chargers can be attributable to the program.

DTE claims that its under-nuanced and unreasonable approach is justified because it "is approaching risk mitigation conservatively ensuring that even if the actual benefits are lower than expected, the investment will still be justified."[25] It further defends this strategy on the grounds that "network effects and indirect impacts . . . can be difficult to measure and attribute directly to the DTE Electric program."[26]

As Dr. Sherman explains, however, this overly conservative approach impairs the policy discussion that the Company's BCA is supposed to support:

> The relative percentage of total revenue used to decrease rates for all ratepayers versus revenue used for investments in TEP programs is a policy decision that should be determined by the Company, the Commission, and stakeholders. However, to make this important policy decision, it is necessary to start with an accurate accounting of the total amount of incremental revenue expected to be generated by EV charging. As such, the Company must first account (as accurately as possible) for 100 percent (not 10 percent) of the additional revenue generated by EV charging in its service territory. The current policy debate, in part because it is based on an assumed total revenue that represents only 10 percent of the total additional expected revenue, serves to unreasonably limit the size and scope of TEP programs.[27]

At a minimum, therefore, the Commission should explicitly recognize that DTE's BCA *intentionally* under-accounts for net charging revenues expected to be earned from EV charging,

[24] 6 Tr 1975.
[25] 6 Tr 2013.
[26] *Id.*
[27] 6 Tr 4068–4069.

and it should not base the reasonableness or prudence of utility EV charging infrastructure investments on their comportment with the top-line numbers in the Company's BCA. Furthermore, the Commission should direct the Company to recognize all of the "network effects" of its EV programs as benefits in future BCAs.

c. DTE Fails to Recognize the Progressive Maturation of the EV Charging Market by Holding Charger Utilization Rates Constant Throughout the TEP Period (Disputed Issue 119).

[References in the Record: MEIU witness Sherman, 6 Tr 4069–4070; DTE witness Bennett 6 Tr 1971–72, 6 Tr 2014]

DTE witness Bennett explains that the Company's BCA makes an additional conservative assumption regarding EV charging revenue, which is to hold EV charger utilization rates constant throughout the TEP period: "For additional conservatism, the BCA assumes a constant utilization rate, despite the utilization rate likely increasing over time, especially in segments where chargers serve multiple vehicles, such as on-route DCFCs."[28]

Dr. Sherman criticized this approach, explaining that this assumption is only reasonable for certain types of chargers (e.g., home chargers). But for public chargers, she showed that "[i]n 2016, there were seven EVs to each public charging port in the United States," and that "[b]y 2023, given growth in EV adoption, there were more than 20 EVs per public charging port."[29] These increased utilization rates almost certainly took place against the backdrop of greater availability of public charging ports as well, further underlining the unreasonableness of the Company's assumption. The effects of this "additional conservatism" further "diminishes the estimated benefits of public charging infrastructure by ignoring significant actual additional revenue at each charging port."[30]

[28] 6 Tr 1971.
[29] 6 Tr 4069–4070.
[30] 6 Tr 4070.

In rebuttal, witness Bennett responds to Dr. Sherman's criticism of this assumption by describing it as "a balanced and sustainable approach to expanding public infrastructure."[31] Beyond this mischaracterization of the Company's approach as "balanced" (which is inconsistent with the Company's explicit emphasis in its direct case that its approach was taken "for additional conservatism"), witness Bennett's rebuttal does not appear to address Dr. Sherman's concerns. Rather, witness Bennett states that a so-called "balanced" approach "involves taking into consideration technological advancements such as faster charging times that reduce the need for a high number of public charging stations, and user behavior such as EV owners' preference to charge their vehicles at home overnight."[32] Presumably, faster charging times have the potential to increase per-charger kWh sales in the aggregate (producing the "significant additional revenue" referenced by Dr. Sherman[33]), even if they may decrease charging session duration. It is also by no means proven that faster charging times might not be paired with other technological improvements that would balance out faster charging, like increased battery energy density, which could result in steady or even increased charging times, even in the presence of faster charging.

Ultimately, DTE has failed to make its case for holding utilization rates constant despite evidence that they have generally increased since 2016 and are likely to continue to increase as EV adoption continues apace. This further reduces the faith that the Commission can reasonably have that the Company's BCA fully captures the anticipated benefits of transportation electrification. On this basis also, therefore, the Commission should find that the investments DTE has proposed likely fall short of the ideal level of investment that would maximize ratepayer and overall benefits.

[31] 6 Tr 2014.
[32] *Id.*
[33] 6 Tr 4070.

d. The Company's BCA Should Make Use of Multiple Cost Tests so that Benefits of Transportation Electrification in its Service Territory Beyond Projected Direct Ratepayer Benefits May Be Considered (Disputed Issue 119).

[References in the Record: MEIU witness Sherman, 6 Tr 4070–4082; DTE witness Bennett, 6 Tr 1969–1976; 6 Tr 2014–2016; Staff witness Revere 6 Tr 4975–4978; Staff witness Krause 6 Tr 5207; CUB witness Jester, 6 Tr (direct p. 40–43)]

As the Commission explained in its final order in Case No. U-20836, "[T]he requirement of a BCA should not be interpreted as a requirement that all pilots be financially solvent at the time they are proposed (although that is preferable) but that when weighing costs versus benefits for a full-scale program, benefits outweigh costs over the duration of the program."[34] Its purpose is thus to consider a program's benefits against its costs, making it crucially important to carefully consider and define the scope of the costs and benefits considered.

MEIU witness Sherman discusses a number of common BCA practices "used by utilities and public utility commissions to evaluate programs' benefits and costs"[35] based on her review of a number of utility TEPs, including those DTE used to benchmark its own TEP.[36] Each of these tests has a distinct scope and considers costs and benefits from a distinct perspective. Dr. Sherman lists and describes the various common cost tests as follows:

- *Participant cost test ("**PCT**"):* This test evaluates the benefits and costs that a program has on its participants;
- *Ratepayer impact measure ("**RIM**"):* This test evaluates the benefits and costs that a program has on the rates paid by all customers. It includes lost utility revenues as a cost;
- *Utility cost test ("**UCT**"):* This test evaluates the benefits and costs a program has on the utility system;

[34] November 18, 2022 Order of the Public Service Commission in Case No. U-20836, Filing No. U-20836-0862, p. 351.
[35] 6 Tr 4078.
[36] 6 Tr 4058, 4078.

- *Total resource cost test ("**TRC**"):* This test evaluates the benefits and costs that a program has on both the utility system and the program participants;

- *Societal cost test ("**SCT**"):* This test evaluates the impact that a program has on society as a whole; and

- *Jurisdiction-specific test ("**JST**"):* This test evaluates the impact that a program has on the utility system as well as its impact toward achieving relevant policy goals.[37]

MEIU witness Sherman broadly describes the Company's BCA as "approximately a RIM [Ratepayer Impact Measure] test, in that it calculates the net of a portion of the Company's revenues from EV charging electricity sales that the Company attributes to the TEP programs and costs of the TEP."[38] This test is limited in its scope and fails to take account of many of the benefits that the electrification of transportation in DTE's service territory would produce. As Dr. Sherman explained,

> To fully capture the value of a utility TEP, it is important that utilities and public utility commissions evaluate not only programs' financial impact on ratepayers and the utility system but also the broader benefits that accrue to society as a whole. These societal benefits can be incorporated into utility TEPs by including the avoided costs in the overall financial analysis using a TRC, as was done by ComEd and Ameren, or by using an SCT. Utilities can also utilize more than one of these cost tests to evaluate the associated costs and benefits of their proposed programs, with one typically identified as the primary test for decision-making. In general, when multiple tests are performed, each is utilized in the overall BCA, but they are discussed individually to allow for separate evaluations of the benefits and costs to society, ratepayers, and participants.[39]

Among the benefits not considered as part of the Company's BCA RIM test are certain societal benefits, including "reduced greenhouse gas emissions, reduced criteria pollutant emissions, reduced noise pollution, reduced transportation fuel costs, improved physical and

[37] 6 Tr 4079 (emphasis added).
[38] 6 Tr 4080–4081.
[39] 6 Tr 4079–4080. To that end, MEIU do not necessarily object to (but also do not necessarily agree with) ABATE witness Dauphinais' suggestion that a BCA cost test that incorporates social benefits be considered as a "sensitivity case," in conjunction with other cost tests. See 6 Tr 3416–3417. But see *infra* n. 49. At this juncture, MEIU would recommend that the Commission leave the issue as to how to use a societal cost test to be decided in the future.

mental health, job creation, and economic impacts."[40] DTE witness Bennett raises numerous objections to the consideration of these benefits,[41] claiming, for example, that "[w]hile some additional benefits may be quantified, such as using the Federal Social Cost of Carbon (SCC) to calculate the benefits of carbon reductions, attributing these benefits to the actions of a single company can be challenging."[42] As Dr. Sherman points out, however, numerous utilities have taken reasonable and workable approaches to quantifying these benefits, including ComEd, Xcel Minnesota, Xcel Colorado and Ameren Illinois, using the federally developed "Social Cost of Carbon" ("SCC") metric.[43] This metric is far from academic; it has been actively used by federal agencies since the 1990s to estimate the costs and benefits of proposed regulations.[44]

In the context of a utility TEP, Dr. Sherman explains,

> Greenhouse gas emissions reductions can be quantified by comparing the difference between emissions from EV charging (i.e., based on emissions related to electricity generation) and emissions from internal-combustion engine vehicles. This difference can then be converted into a cost of avoided emissions using an SCC. The federal SCC has been regularly updated to reflect new findings and has been recognized by federal agencies, state legislatures and public utility commissions alike as the best mechanism to quantify the social costs of CO_2 emissions and, therefore, the social benefits of reduced emissions.[45]

Dr. Sherman then presented a detailed discussion explaining the disciplined and methodologically robust ways in which various states and utilities have incorporated these broader environmental costs and benefits into TEPs.[46] Doing so is therefore far from unprecedented, and DTE is hardly without guidance as to how best to do so, including from the TEPs against which DTE benchmarked its own.

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[40] 6 Tr 4070.
[41] 6 Tr 2014–2016.
[42] 6 Tr 2014.
[43] 6 Tr 4071.
[44] 6 Tr 4072.
[45] 6 Tr 4073–4074.
[46] 6 Tr 4074–4078.

For his part, although Staff witness Revere is willing to recognize the value that a societal cost test can provide to the Commission, he does not see it as appropriate to use as a basis on which to justify utility investment:

> While Staff agrees that an SCT or other cost test incorporating societal costs and benefits can provide important information to the Commission, and appreciates the more nuanced discussion MEIU witness Sherman provides regarding appropriate use of the various cost tests previously discussed, . . . such a cost test is not appropriate to use to determine the amount to which such programs should be funded by utility customers regardless of the societal benefits they may produce.[47]

Unlike the Company's, witness Revere's objection to using a societal cost test "to determine the amount to which such programs should be funded by utility customers" appears to be more closely tied to his overall skepticism on the use of utility funds to support transportation electrification than to any technical objections as to the practicality or usefulness of conducting such a test.[48] MEIU, however, do not propose to use the recognition of societal benefits via the use of an SCT or TRC to justify making any customer—much less a low-income customer—worse off financially as a result of transportation electrification.[49] The argument is not that EV charging is simply some kind of necessary drain on utility and ratepayer resources, made necessary and desirable only for broad societal benefits it provides.[50]

Rather, as DTE itself has demonstrated, even under *unreasonably conservative* assumptions, the integration and growth of EV charging will provide net *financial* benefits, in that EV charging customers will contribute more in revenue than the marginal costs required to serve

[47] 6 Tr 4978.
[48] See 6 Tr 4978–4979.
[49] ABATE witness Dauphinais' objections regarding "mandating electric ratepayers to subsidize the cost of providing . . . claimed societal benefits," 6 Tr 3416–3417, thus miss the mark on this point, in that MEIU only propose to use net revenue *from* transportation electrification *for* transportation electrification (and its consequent benefits). See also *infra* pp. 15–18 re marginal costs.
[50] Witness Revere appears to suggest the opposite in rebuttal, characterizing CUB witness Jester's argument as suggesting that "non-EV owning ratepayers should subsidize EV owners in pursuit of Michigan's climate goals." 6 Tr 4974.

them.[51] Witness Revere attempts to undermine this concept of net benefit from new load in his Rebuttal Testimony by arguing that "the 'marginal' cost of service to a customer has little direct use in the setting of utility rates," as "no customer actually pays the 'marginal' rate, as rates are determined by spreading the totality of the Company's costs across all usage."[52] A simple analogy will demonstrate that, although facially true, witness Revere's claims are ultimately misleading.

Consider a group of three graduate students seeking housing. They find an off-campus house to rent for $2,400 per month, but they are disappointed to find that it has four bedrooms—one more than they need. They would also share utility and internet bills monthly that collectively average $300. At this stage, each would pay $800 in rent per month and around $100 in utilities, for a total of $900. Having no better options, they sign the lease and move in. Shortly before their second year of study begins, one of them is contacted by a friend who is beginning his studies at the same university and looking for housing. The students immediately jump at the possibility of sharing their fixed $2,400 monthly rent and $300 in utilities across four rather than three students, reducing their rent to $600 per month and utilities to $75, for a total of $675 (producing a savings of $225/month each). Even if the additional student were incredibly wasteful and caused water and energy utility bills to increase by $100 (raising the collective utility/internet bills to $400 per month, or to a total of $100 per student per month) the students would remain $200 per month *better off* than they were before their new housemate moved in due to their smaller rent payments.

In this analogy, the only additional (i.e., marginal) costs that an additional housemate drove by moving in are the (generous) $100 increase in utilities. All other costs remain fixed. Furthermore, by default, all of the fixed costs were spread evenly over all four students, including the new arrival.

[51] See 6 Tr 1974–75.
[52] 6 Tr 4974.

Imagine, however, that the new arrival were more thrifty than the existing three and would prefer to live somewhere less expensive, all things being equal. He does not believe it prudent to spend any more than $300 per month in rent, but he accepts that he should cover any additional costs his living in the house would impose on the existing three. Although the existing three students would of course prefer to split all fixed costs equally, they still value the new arrival's $300 monthly contribution to rent, as it reduces their rent obligations to $700 per month,[53] even while their share of utility/internet bills remains constant at $100 (given the new arrival's $100 of marginal costs). This makes them $100 per month better off than they were without the new arrival.[54] Thus, although the existing three would of course prefer to be $200 better off (under an even split scenario), they much prefer paying $800 total per month rather than the $900 per month they would continue to pay without the new arrival.

In fact, presumably, and ignoring for the sake of simplicity any inconveniences that come from living with one additional person in the house, each of the existing three would be willing to discount the new arrival's rent to near zero to incentivize him to move in—provided he paid the $100 in marginal utility costs his living with them would cause. In other words, even if he were to pay no rent, his presence would at most leave the existing three students *no worse or better off* than they would have been without him, making them at worst *agnostic* to his presence in the house.

Witness Revere's argument asserts that marginal costs (the $100 utility increase in the above example) aren't relevant because, in the practice of ratemaking, all costs are generally spread across all customer usage in each rate case.[55] This argument, while true as far as it goes, does not

[53] $2400/month - $300/month = $2100/month. Divided by 3, this is now $700.
[54] $700/month in rent plus $100/month in utilities equals $800, which is still $100 less per month than the $900/month each student was paying before the new arrival moved in.
[55] 6 Tr 4974.

extinguish the concept of marginal costs. Even if some kind of college board enforced even splits of housing costs borne by students in off-campus housing, it would remain the case that the new arrival would not drive any *new* costs in the analogy aside from the $100 of water and energy costs, making that $100 the *marginal* cost to "serve" that student with housing. The rest of that student's contribution simply benefits the existing three students by spreading fixed costs across more students. These benefits are not necessarily properly characterized as a "subsidy" to the existing three, but they certainly would not exist absent the new arrival.

In much the same way, EV charging load can be evaluated in terms of the additional costs it drives (marginal costs) and the revenue contributions it makes to fixed (or "embedded") costs.[56] Just as the existing students will continue to be better off than they would be living without the new arrival *up to the point* when they require him to pay *no* rent (*i.e.*, to contribute nothing to fixed costs), and just as they will not be any *worse* off unless they collect no rent *and* pay some or all of the additional costs his living with them drives, ratepayers as a whole will continue to be better off than they would have been without EV charging load as long as such load pays *some* portion of preexisting fixed costs alongside the marginal costs that it drives on the system.

The policy question for the Commission is simply this: assuming EV charging load will always be required to pay for its marginal costs, how much towards fixed costs should it be required to pay vs. receive back in the form of rebates and other programs that support its further development (and further net benefits to ratepayers as a whole)? Under-supporting EV charging infrastructure buildout, in the same way as rejecting the new arrival's offer to contribute to fixed

[56] See 6 Tr 4095–4096; see also 6 Tr 4038–4039 (Jester Rebuttal).

costs unless he were to agree to a full and equal share, would represent a net loss to ratepayers—and society—in the long run, which is an irrational outcome.[57]

As already mentioned above, MEIU do not suggest that DTE and its ratepayers should be responsible for making all transportation electrification investments that could be viewed as beneficial from a societal perspective. And societal benefits are not necessarily appropriately used to justify making ratepayers worse off financially on account of transportation electrification. CUB witness Jester makes this clear when he states, "[T]here should not be functional quantitative limits on EV charging programs, *but* rather a clear linkage to EV adoption *that assures that all costs of EV programs are ultimately paid for by EV charging revenues.*"[58] Societal benefits can nonetheless be quite useful in helping the Commission make the policy decision identified above—regarding what proportion of fixed costs EV charging infrastructure should be assigned. Refusing to review a utility's TEP in the context of *all* costs it poses and *all* benefits that it promises risks leaving the Commission without all the information it should possess to evaluate the ideal level of utility investment in transportation electrification.

Dr. Sherman explains the ultimate point thus:

> The net effect of failure to consider substantial benefit categories in the BCA is to undervalue and therefore discourage investments that would be beneficial. As long as the incremental total benefits of investments in transportation electrification exceed the incremental costs of transportation electrification, society is better off by increasing spending on transportation electrification in order to gain those incremental benefits.[59]

[57] See 6 Tr 4037 ("DTE Electric's benefit-cost analysis . . . clearly shows that DTE Electric and therefore its non-participating customers obtain revenue from EV adoption that exceeds the cost of providing charging services. Thus any barrier to EV adoption harms non-EV customers by increasing future rates.") (Jester Rebuttal).
[58] 6 Tr 4039 (emphasis added).
[59] 6 Tr 4081.

MEIU therefore urge the Commission to require DTE's future TEPs to include consideration of additional benefits, including societal benefits such as greenhouse gas and criteria pollutant emission reductions, through the utilization of multiple cost tests.

2. The Company's eFleet Charging Program Should Not Be Subject to Individualized BCAs (Disputed Issue 119).

[References in the Record: MEIU witness Sherman, 6 Tr 4125; Staff witness Revere, 6 Tr 4959–4961; DTE witness Bennett, 6 Tr 2015; CUB witness Jester, 6 Tr 4039–4041]

In his Direct Testimony, Staff witness Revere advocates for customer-specific BCAs to be conducted for each potential eFleets project, arguing that this is necessary to ensure that the projected NPV revenue requirement benefits materialize.[60] Specifically, he claims that, because fleet charging infrastructure, not being available to the charging public, will be far more sensitive to customer-specific usage patterns and intensity, the risk is comparatively higher that costs may exceed benefits.[61]

DTE witness Bennett, alongside MEIU witness Sherman and CUB witness Jester, disagrees. As witness Bennett explains, the administrative expense required to conduct such individual BCAs has the potential to be a net drag on savings produced by the program.[62] Witness Sherman, furthermore, argued that blinkered, individualized BCAs would likely be unable to be appropriately and accurately conducted, given the likely externalities of any individual project: "[T]here are societal benefits of transportation electrification that cannot be considered on a project-by-project basis. In addition, there may be benefits such as distribution upgrade costs incurred by one fleet electrification project that will then lower costs for future projects."[63] CUB witness Jester further described these societal benefits that may not be included within a customer-

[60] 6 Tr 4959–4961.
[61] 6 Tr 4961.
[62] 6 Tr 2015.
[63] 6 Tr 4125.

specific BCA envisioned by witness Revere, specifically related to fleets that operate in environmental justice communities.[64]

For these reasons, MEIU do not believe that attempting to conduct individualized BCAs for fleet electrification would represent a net improvement in the existing process and urge the Commission to reject this suggestion.

3. DTE Should Modify its EV Rebate Programs to Ensure Ideal Uptake and Impact of Rebates.

If only one thing has been established thus far, it is that transportation electrification can be expected to result in considerable net benefits to ratepayers and to society. As CUB witness Jester explained, "[A]ny barrier to EV adoption harms non-EV customers by increasing future rates."[65] As a result, making rebates that encourage EV adoption reasonably easy to claim, particularly where EV adoption may face higher hurdles, should be a key concern of the Commission. Furthermore, the Commission should also aim to increase rather than constrain the types of potential chargers and related costs that can be eligible for those rebates, where those chargers can be expected to play a positive role in producing net benefits. Making rebates available in theory but difficult to claim or to deploy in practice risks leaving money appropriated for rebates on the table and/or reducing the number of beneficial charging ports that would otherwise be deployed in DTE's service territory. DTE appears to agree in principle with this approach, stating that its "rebate program is designed to be inclusive and broad in its impact."[66] MEIU therefore submits that DTE should (1) modify its low-income ("LI") single-family home ("SFH") rebates to allow customer eligibility based on geography as well as income, (2) modify the proofs required to prove eligibility for multi-unit dwelling ("MUD") rebates, (3) allow MUD rebates to cover

[64] 6 Tr 4041.
[65] 6 Tr 4036–4037.
[66] See Exhibit MEIU-20.

customer make-ready costs, (4) expand eligibility for DCFC rebates beyond the space that is one mile from a throughway, (5) expand funding or program eligibility for public and workplace L2 chargers, and (6) allow school bus chargers that are not bi-directional to nonetheless qualify for rebates on a sliding scale.

a. The Eligibility Requirements DTE's LI SFH Rebates Should Be Modified to Allow Customers to Qualify Based on Geographical Location in Addition to Income (Disputed Issue 101).

[References in the Record: MEIU witness Sherman, 6 Tr 4083–4087; DTE witness Bennett, 6 Tr 1957–1959, 6 Tr 2007–2008; Staff witness Revere, 6 Tr 4984; Ann Arbor witness Stults, 6 Tr 4271–4272]

In her Direct Testimony, MEIU witness Sherman expressed concern that "the requirements set by the Company may be too restrictive and not sufficiently support deployment of chargers," noting specifically DTE's claim that it would have to take a hands-on approach to make sure that precisely and relatively narrowly drawn conditions are adjusted in real time "to meaningfully support this segment and encourage EV adoption in Southeast Michigan."[67] In Dr. Sherman's view, this approach does not appropriately "balance targeting incentives to those who need it most with ease of access and supporting customer participation, . . . reduc[ing] effectiveness of the programs by limiting participation."[68] In support of this view, Dr. Sherman cited the experience of Southwestern Public Service Company ("SPS"), which, using the same income threshold at DTE proposes here (i.e., 200% of the federal poverty level), "did not administer a single LI rebate, though its service territory is 34 percent LI customers."[69] This is the outcome one would expect if, as Ann Arbor witness Stults, explains, "households at or below that income level are not purchasing EVs."[70] And it was what moved SPS earlier this year to "expand eligibility for these

[67] 6 Tr 4084 (citing 6 Tr 1959).
[68] 6 Tr 4084.
[69] *Id.*
[70] 6 Tr 4272.

rebates to all customers living in underserved communities," modifying its criteria from a strict income-based requirement to a geographic requirement.[71]

Dr. Sherman offered two alternative proposals for heading off this same issue in DTE's service territory, suggesting that income eligibility could be raised to 400% of the federal poverty level or that DTE could "modify its eligibility criteria to allow both an income qualification and a location-based qualification."[72] She noted that DTE witness Bennett identified these approaches as common within benchmarked TEPs.[73] She expressed approval for DTE's proposed method for identifying disadvantaged communities ("DAC") and explained that using DAC-based criteria rather than individualized income-based criteria "would still ensure that rebates are targeted to energy-burdened households but would make implementation of the program more efficient because determinations of annual income can be complicated and time consuming."[74]

For her part, DTE witness Bennett, while pushing back on increasing the income threshold to 400% (claiming that stakeholder feedback was behind the reduction to 200%[75]), did not directly answer—whether to support or oppose—Dr. Sherman's recommendation to expand eligibility based on geographical criteria. Instead, she merely stated that the Company will "provide meaningful support for LI households through this rebate segment" and "monitor and adjust the income eligibility threshold based on EV adoption and considering participation data."[76] Thus she adopts essentially a "wait-and-see" approach. Given that there is little evidence that DTE will have an experience substantially different from SPS's, this "wait-and-see" approach is inadequate.

[71] 6 Tr 4084.
[72] 6 Tr 4085
[73] *Id.*
[74] 6 Tr 4087.
[75] 6 Tr 2007–2008. In discovery response MEIUDE-4.5a admitted as Exhibit MEIU-33 (p. 7), witness Bennett could identify no more than one specific stakeholder who had given this feedback, seemingly arguing that silence from others indicated support.
[76] 6 Tr 2007–2008.

Staff witness Revere opposed Dr. Sherman's proposal to increase the income threshold to 400% of the federal poverty level, arguing essentially that, in an absolute sense, 400% is too high. He supported this argument by explaining that, for a family of four, 400% of the federal poverty level is $124,800.[77]

To the extent that the Commission agrees with the Company and Staff and is reluctant to raise the income eligibility threshold above 200%, even to the 300% level recommended by Ann Arbor witness Stults, there is certainly sufficient reason to broaden the eligibility criteria along geographical lines, as urged by Dr. Sherman, in order to ensure that these programs succeed out of the gate and that the money budgeted for transportation electrification is put to work to produce its demonstrated benefits.

b. The Company Should Expand the Evidence It Will Accept to Support Eligibility for MUD Rebates (Disputed Issue 101).

[References in the Record: MEIU Witness Sherman, 6 Tr 4087–4089; DTE witness Bennett, 6 Tr 1959–1962]

On a similar theme as eligibility criteria for the LI SFH rebates discussed immediately above, Dr. Sherman expressed concerns regarding the evidence threshold a MUD owner seeking to install charging for tenants would need to meet in order to qualify. Specifically, DTE has proposed that an MUD "demonstrate[] tenant interest" before qualifying, explaining in discovery that this would require one or more of the following: "tenant surveys, signed letters of interest from tenants, pre-commitments from tenants, documents from past requests for EV charging, or data on the number of tenants with EVs."[78] Given the level of costs that a non-LI MUD owner is likely to incur to install chargers, Dr. Sherman reasoned, it is highly likely for that owner to be invested in making them pay off by attracting EV-owning tenants and seeking to encourage EV

[77] 6 Tr 4984.
[78] Exhibit MEIU-21.

charging.[79] As such, she expected that self-attestation regarding tenant interest should be sufficient, but expressed openness to resident surveys or surveys of potential future residents that expressed interest in EV chargers.[80]

DTE witness Bennett in turn appeared willing to consider self-attestation provided it was paired with some "other reasonable indications of legitimate charging demand," including those items listed in Exhibit MEIU-21.

MEIU continue to assert that self-attestation should be sufficient, given that the bulk of the costs of EV charging installation will continue to be borne by the non-LI MUD owner. This should serve as sufficient disincentive from attempting to game the system, given that such a decision would not be economically rational. If the Commission believes more is required to ensure that non-LI MUD rebates are not misspent, however, it should ensure that the bar is not set unreasonably high so as to increase the transaction costs for MUDs seeking to take advantage of rebates to improve MUD-resident access to on-site EV charging infrastructure.

c. Non-LI MUD Rebates Should Be Permitted to be Applied Toward Customer Make-Ready Costs (Disputed Issue 101).

[References in the Record: MEIU witness Sherman, 6 Tr 4089; DTE witness Bennett, 6 Tr 2009–2010]

Dr. Sherman recommended in her Direct Testimony that, for non-LI MUDs (where rebates are limited to $5,000 per L2 charger), those rebates be permitted to offset customer make-ready costs, to the extent that charger costs do not exceed $5,000.[81] In response, DTE witness Bennett confirmed that this is in fact DTE's intention for the program.[82]

[79] 6 Tr 4088.
[80] *Id.*
[81] 6 Tr 4089.
[82] 6 Tr 2009–2010.

As such, MEIU support approval of this aspect of the MUD rebate program as proposed, with the clarifications from DTE witness Bennett's rebuttal testimony.

d. DCFC Rebates Should Not be Restricted to Chargers Located Within 1 Mile of Throughways (Disputed Issue 100).

[References in the Record: MEIU witness Sherman, 6 Tr 4089–4091, DTE witness Bennett, 6 Tr 1962–1964, 6 Tr 2006–2007; Staff witness Revere, 6 Tr 4981–4984; EVgo Witness Stegall, 6 Tr 3296–3303; Electrify America witness Davis, 6 Tr 4766–4770]

Dr. Sherman describes the Company's public charging rebate proposal as providing $70,000 in rebates for on-route DCFC in DAC and rural areas and $50,000 per on-route DCFC in other areas.[83] "On-route" is defined as "within one mile of a major throughway exit."[84] "Major throughway," in turn, is defined as "a high-traffic road that is likely to be a limited access Interstate or State highway."[85] This overall proposal represents an expansion of rebate availability for non-DAC/rural DCFC, but it still imposes restrictions that may likely block valuable public chargers (located, for example, at "a grocery store on a main road" that is nonetheless not a "major throughway") from receiving rebates and being deployed.[86] Dr. Sherman therefore recommended removing the on-route restrictions and opening rebate eligibility to all public DCFC locations and ensuring that customer make-ready costs are eligible for the rebates, a recommendation which is in keeping with stakeholder feedback received by the Company.[87] Dr. Sherman was joined in her recommendation to remove on-route restrictions for DCFC rebates by EVgo witness Stegall[88] and Electrify America witness Davis.[89]

DTE witness opposes Dr. Sherman's position, claiming that

[83] 6 Tr 4089.
[84] *Id*. (citing 6 Tr 1963).
[85] Exhibit EVG-1.
[86] See 6 Tr 4090.
[87] 6 Tr 4089 (citing 6 Tr 1963 (Bennett Direct)).
[88] 6 Tr 3295–3303.
[89] 6 Tr 4767, 4769–4770.

> DTE Electric is committed to supporting 35% of the forecasted on-route public charger deployment. The funding is in alignment with stakeholders' priorities. Their ranking of all public charging subsegments, including on-route and destination charging, as the most important for utility action, indicates their value on public charging in reducing range anxiety. The provision of fast, reliable, on-route charging within one mile of a major throughway exit is crucial in increasing customer confidence in EV refueling infrastructure.[90]

This objection does not justify the Company's bright-line restriction or explain why the grocery store charger identified by witness Sherman should not qualify.

While generally supporting the Company's on-route DCFC proposal and criticizing its detractors, Staff witness Revere did not reject Dr. Sherman's positions out of hand, characterizing her grocery store example as identifying "certain places where a 'destination' charger acts more as an on-route charger."[91] He thus recognizes Dr. Sherman's concern as "potentially valid," before ultimately rejecting it and stating his belief that, if it bears out, the program can always be adjusted.[92]

The problem with this recommendation is that it will likely be impossible to know for certain whether the program needs to be adjusted as witness Revere suggests. Site hosts outside of the one-mile range—like Dr. Sherman's grocery store example—simply will find that they "need not apply" and will be far less likely to seriously explore hosting a DCFC. DTE will thus have no way of knowing whether a DCFC at that location would ever be beneficial and thus an appropriate recipient of a rebate, and there will be no data to directly support an adjustment to the program. By contrast, given that site hosts take on investment risk themselves and are therefore incentivized to site DCFC where they are likely to be used (and where there is revenue to be made),[93] if the program is expanded to all sites (irrespective of location relative to a throughway)

[90] 6 Tr 2006–2007.
[91] 6 Tr 4983.
[92] 6 Tr 4983–4984.
[93] See 6 Tr 4088.

and site hosts outside of the one-mile throughway corridor do *not* apply, DTE will know that its original program limitation was appropriate, in that DCFC charging could not be supported by the market outside of that corridor. The program criteria could then be narrowed. Adjusting the program in this direction (from the more liberal to the more conservative) thus makes more sense than doing the opposite, as witness Revere suggests.

Thus, the Commission should accept MEIU's, EVgo's and Electrify America's proposals to remove the on-route restriction altogether.

e. DTE Should Be Directed to Expand its TEP Budget or Program Eligibility to Include Public and Workplace L2 Chargers (Disputed Issue 102).

[References in the Record: MEIU witness Sherman, 6 Tr 4091–4093; DTE witness Bennett, 6 Tr 2010]

Missing from DTE's TEP are any rebate programs for public L2 chargers outside of the Company's MUD proposals already discussed. Dr. Sherman pointed out this hole, arguing that the Company should budget an additional $5 million or draw from the MUD rebate budget to support L2 chargers at long-dwell-time locations such as shopping centers and workplaces.[94] Given the aim of DTE's TEP to enable greater EV adoption (with its accompanying benefits) in its service territory,[95] the evidence Dr. Sherman presented that workplace charging increases the likelihood of an employee choosing to drive an EV sixfold[96] makes a compelling case for the value of supporting workplace L2 chargers. This, combined with its potential for managed charging, makes it a clear candidate for utility support:

> Providing workplace charging also presents an ideal use case for managed charging. These vehicles are parked most of the day, and the charging infrastructure is used in a repeated pattern reflecting employees' arrival and departure from the office. This predictable usage pattern can allow workplaces to participate in load

[94] 6 Tr 4091–4093.
[95] See Section II.A.1, *supra*.
[96] 6 Tr 4092.

> management with more ease than a general public charging site, with the added advantage is that workplace load will appear in the early mornings and afternoons, balancing the residential charging load which is more likely to increase in the evenings. Given the growth in solar energy generation, this additional daytime load can decrease strain on the grid and allow for greater integration of renewable energy generation.[97]

DTE witness Bennett objects to Dr. Sherman's recommendation regarding public L2 charger rebates, arguing that public L2 charging is fast becoming obsolete, eclipsed by DCFC, that the lower costs of L2 chargers render rebates for them unnecessary, and that business owners already have sufficient incentives to install them.[98] Aside from the fact that Dr. Sherman anticipated most of these objections in her Direct Testimony,[99] showing in particular that the same arguments regarding customer "foot traffic" could be leveled against DCFC rebates, witness Bennett does nothing to rebut Dr. Sherman's arguments regarding the key benefits offered by workplace chargers in particular.

Given these benefits, and given the general under-counting of benefits in DTE's BCA discussed above in Section II.A.1., the Commission should direct DTE to expand its TEP budget to include rebates for public L2 chargers. Alternatively, in the short term, the Commission could require DTE to open up its MUD budget by making public L2 chargers eligible for rebates, reevaluating the benefits in future rate cases.

[97] 6 Tr 4093; see also 6 Tr 3806–3808 ("As DTE Electric and other Michigan utilities increase their renewable energy portfolios to meet recently adopted renewable and clean energy standards, the best time of day to charge is likely to evolve and perhaps be seasonal. Flexibility to avoid charging during extended periods of low renewable generation and to fully charge during periods of high renewable generation, and especially if renewable curtailment will otherwise occur, will also be valuable.") (Jester Direct).
[98] 6 Tr 2010.
[99] 6 Tr 4091–4092.

f. The Commission Should Allow the Company's School Bus Chargers to Offer Tiered Rebates for Schools Not Installing Bi-Directional Chargers (Disputed Issue 119).

[References in the Record: MEIU witness Sherman, 6 Tr 4093–4094; DTE witness Bennett, 6 Tr 2010–2011]

MEIU witness Sherman generally supports the Company's proposals for school bus charger rebates, raising only the issue of the requirement for bi-directional chargers.[100] Concerned that bi-directional chargers remain a newer and relatively expensive technology, Dr. Sherman recommended that DTE allow the participation of schools not willing or able to install bi-directional chargers, with a corresponding reduction in rebates.[101] DTE witness Bennett did not oppose Dr. Sherman's proposal, indicating that it is "open to considering Witness Sherman's recommendation to offer partial rebates to schools that do not utilize bi-directional chargers, and implement a charger output capacity tier-based rebate approach similar to the existing Charging Forward eFleets Charger Rebates."[102]

MEIU therefore recommends that the Commission direct DTE to develop such a tiered rebate approach for school bus charging.

4. The Commission Should Reject Staff and AG Proposals to Cut the Company's TEP Budget (Disputed Issues 22 and 23).

[References in the Record: MEIU witness Sherman, 6 Tr 4118–4124, 6 Tr 4126–4128; DTE witness Bennett, 6 Tr 2000–2001, 6 Tr 2003–2004; Staff witness Freeman, 6 Tr 5086–5089; AG witness Coppola, 6 Tr 3607–3609, 6 Tr 3637–3638; EVgo witness Stegall, 6 Tr 3313–3320; Electrify America witness Riannon Davis, 6 Tr 4775–4780]

Both Staff witness Freeman and AG witness Coppola argue that the Commission should disallow portions of the Company's TEP and associated budget. Witness Freeman ultimately recommends a disallowance of $9 million of the Company's proposed $24.98 million request in

[100] 6 Tr 4094.
[101] *Id.*
[102] 6 Tr 2011.

this case, $8 million from the Business Charger and eFleets programs and $1 million from the Residential Customer Rebate program.[103] AG witness Coppola, in turn, recommends a 45% haircut from the Company's proposed utility make-ready capital expenditures.

Although each witness proposes cuts to different aspects of the Company's case, both witnesses' recommendations are light on supporting evidence to rebut DTE's *prima facie* case that its proposed TEP budget is reasonable and prudent. In witness Freeman's case, he simply cites DTE witness Bennett's testimony to the effect that "EVs are still relatively new and evolving"[104] before simply asserting that "[w]hile EV adoption continues to increase, the pace has slowed."[105] As for witness Coppola, and as already discussed above with respect to DTE's EV forecast,[106] the relatively small number of news articles he cites to support negative assertions about EV adoption, all deriving from a relatively short period in time, are more than outweighed by the contrary evidence supplied by DTE, MEIU, and other intervenors in this case that EV adoption continues apace.[107] All told, whatever momentary slowdown may have occurred, it is not likely to represent much more than a blip in a longer-term trend.

Beyond this evidentiary issue, and from a policy perspective, MEIU submit that both Staff's and the AG's proposed disallowances are essentially penny-wise but pound-foolish. As discussed extensively above,[108] the Company's TEP BCA bends over backwards to be conservative, in MEIU's view unreasonably and unjustifiably so, and still shows substantial net benefits to ratepayers from transportation electrification. As Dr. Sherman explained, "[I]nvestments in EV charging should be expected to *lead* EV adoption. Cutting back on

[103] 6 Tr 5087–5088.
[104] 6 Tr 5087 (citing 6 Tr 1967).
[105] *Id.*
[106] See Section II.A.1.a.
[107] See, *e.g.*, 6 Tr 4062; 6 Tr 4118–4120; 6 Tr 1940–1942.
[108] See Section II.A.1.

investments in EV charging because of an allegedly falling pace of adoption may simply be a self-fulfilling prophecy, itself contributing to a slower pace of EV adoption."[109] In other words, failing to make the necessary investments now may likely lead to lesser—or delayed—benefits in the future. The benefits shown in the Company's BCA are not guaranteed, but rather are predicated on the investments assumed therein.

MEIU submit that DTE has more than demonstrated—again, under unrealistically conservative assumptions—that substantial benefits, including ratepayer benefits, will result from transportation electrification, assuming appropriate investments are made. The Commission should not allow Staff discomfort[110] with the Company's proposal or the AG's largely anecdotal evidence to override the compelling case DTE has made in this proceeding for beneficial transportation electrification. Staff's and the AG's recommendations for TEP disallowances should be rejected.

5. The Company Should Continue to Waive its Contribution in Aid of Construction ("CIAC") Policy for L2 EV Charging Infrastructure and Public DCFC Infrastructure (Disputed Issue 90).

[References in the Record: MEIU witness Sherman, 6 Tr 4055–4058, 6 Tr 4094–4097; DTE witness Bennett, 6 Tr 1967–1968, 6 Tr 2011–2013; Staff witness Krause, 6 Tr 5206–5207; Staff witness Revere, 6 Tr 4980–4981; CUB witness Jester, 6 Tr 3804–3806; Electrify America witness Shah, 6 Tr 4787–4789]

DTE witness Bennett states that in its TEP, the Company decided to eliminate the waiver of its CIAC policy presently applicable to EV charging infrastructure.[111] According to witness Bennett,

> Consistent with providing positive rate impacts and affordability benefits accruing to all customers, DTE Electric decided, as part of its TEP, to no longer waive CIAC

[109] 6 Tr 4123.
[110] 6 Tr 5087.
[111] 6 Tr 1968.

> beyond revenue credits from the existing line extension policy. This is also in alignment with feedback received from key stakeholders.[112]

In attempting to justify the elimination of the CIAC waiver on these grounds, witness Bennett appears to have ignored both the TEPs against which DTE benchmarked its TEP and the outcome of the Company's own BCA, which indicated significant latitude for continued support of the deployment of EV infrastructure without eliminating substantial net benefits or imposing net costs on its ratepayers. Further, as Dr. Sherman explains, "As a matter of policy, many utilities waive CIAC obligations for public EV charging infrastructure because . . . the benefits to ratepayers from that public EV charging infrastructure far exceed the revenue generated at an individual charging station site."[113]

Against the background of the net revenues that EV charging has and will provide, Dr. Sherman urges the Commission to reject DTE's proposal to eliminate the CIAC waiver for all L2 and public DCFC. The argument is slightly different for each type, however. In the case of L2 chargers, Dr. Sherman explains,

> Current policy and technology trends establish a strong expectation that EV charging at home will be ubiquitous. There is great risk that if residential customers are expected to pay CIAC when distribution grid upgrades are needed to accommodate EV charging, there will be significant inequities and that CIAC will become a barrier to EV adoption.
>
> It is very likely, for example, that the first few customers served by a given line transformer can be accommodated without replacing the line transformer but that, at some point, one unfortunate customer's acquisition of an EV will trigger a need to replace the transformer. Under normal CIAC policy, that customer would bear the full cost of the replacement transformer. Customers that subsequently acquire an EV would likely not be required to pay CIAC for a transformer upgrade because it has already been upgraded. This would be manifestly unfair, as the need to replace the transformer to accommodate EV charging would in fact have been "caused" by *all* of the customers that acquired an EV before the transformer upgrade and the transformer upgrade will benefit the customers that subsequently acquire an EV. Similarly, an increase in EV charging at both residential and

[112] *Id.*
[113] 6 Tr 4057.

> commercial locations may trigger voltage regulation or capacity upgrade needs in a circuit. Again, it would be manifestly unfair to require the random customer that just so happens to be unlucky enough to trigger the circuit upgrade to pay that cost.[114]

In other words, L2 EV charging should be treated as routine customer use of the electric system whose costs are treated as system-wide costs rather than as a unique, cost-causing activity that should be disincentivized by imposing a game of CIAC Russian roulette.

Staff witness Krause appears to agree with this to a certain extent, espousing a position whereby *residential* customers choosing chargers 48A and smaller are exempt from any CIAC liabilities and suggesting without endorsing the idea that similar thresholds "could be set for different sizes of commercial customers based on voltage level of service, maximum annual demand, or other characteristics that may be deemed important."[115] Although witness Krause does not definitively support such waivers for all commercial L2 chargers, his thinking does appear to line up with witness Sherman's, whereby costs imposed by what is becoming everyday customer load are recognized as ordinary costs of service rather than unique costs driven by unique customer loads. To summarize, as stated by Dr. Sherman:

> I therefore recommend that the Company's proposal to eliminate the CIAC policy waiver should simply be rejected for Level 2 charging because such charging is expected to be ubiquitous, with most costs associated with upgrading shared facilities driven by aggregate demand and EV revenue from all charging being appropriately available to cover those costs.[116]

In the case of DCFC, Dr. Sherman recognized certain ways in which it can be distinct from L2, specifically that it can represent a large enough load so as to "trigger material upgrades of facilities that are local to the DCFC site."[117] Nonetheless, in the long run, Dr. Sherman explains

[114] 6 Tr 4094–4095 (emphasis in original).
[115] 6 Tr 5206–5207.
[116] 6 Tr 4096.
[117] *Id.*

that DCFC can likewise be expected to be ubiquitous, to the tune of approximately seven DCFC ports per distribution circuit in Michigan.[118] Furthermore, given that the availability of DCFC plays an outsize role in enabling EV adoption and the associated at-home charging that leads to net ratepayer benefits (as discussed above), continuing to waive the CIAC policy also for public DCFC falls well within the realm of reasonable policy decisions the Commission can make with respect to how to allocate the net revenue from EV charging.[119]

For the foregoing reasons, the Commission should direct DTE to continue to waive CIAC for Level 2 chargers and public DCFC.

B. The Commission Should Ensure that Utility TEPs Can be Appropriately Scrutinized (Disputed Issue 119).

[References in the Record: MEIU witness Sherman, 6 Tr 4115–4118; Staff witness Freeman, 6 Tr 5085–5086; CUB witness Jester, 6 Tr 4035–4036]

At the outset of his EV-related testimony, Staff witness Freeman engages in discussion of certain procedural questions regarding the consideration of the Company's TEP. This discussion suggests that utility TEPs should not be evaluated as part of contested rate cases but instead be considered in open comment dockets, as has become the Commission's practice for distribution plans:

> The Company's current rate case is not the appropriate venue for discussion and criticism of its TEP. Rates cases are increasingly becoming more complex and have a strict time frame. Instead, Staff proposes to adopt a similar strategy as the Commission is employing in Case No. U-20147 for its examination of distribution plans. Staff will work with the Company to set up a process for all interested parties to review and comment on their TEP. Additionally, there would be a period for any reply comments. This proposed schedule would be filed in Case No. U-21538. Such

[118] *Id.*

[119] See *supra* pp. 17–18. Staff witness Revere's arguments against continuing the CIAC waiver rely on similar premises as his arguments against funding EV infrastructure through utility rates, addressed in Section II.A.1.d. above. For the same reasons given there, these premises and the conclusions witness Revere uses them to reach should be rejected.

> a process would allow for a more robust and holistic TEP conversation outside of the restrictions found in a rate case.[120]

Both MEIU witness Sherman and CUB witness Jester expressed reservations about this proposal. Dr. Sherman explained that there can be a disconnect between what is proposed in a plan (whether distribution grid plan or TEP) and what cost recovery is sought for in a rate case and that the contested case process better protects stakeholder interests and serves to reduce the likelihood that stakeholder time and resources are wasted.[121] Witness Jester, in turn, has found that "consideration of distribution plans in a non-contested case that are then used as the basis for utility proposals in rate cases has not simplified rate cases nor substantially improved utility accountability for results."[122] Dr. Sherman agrees: "[F]undamentally, there is no way to separate the TEPs from the general rate case process given that the spending must be approved in a rate case."[123] In short, attempting to bifurcate distribution grid plan review or TEP review from cost recovery in rate cases is neither more efficient nor more effective.

CUB witness Jester recommended that the Commission consider DTE's TEP in this rate case,[124] and MEIU support this proposal. To the extent that the Commission is determined to separate TEP review from recovery of costs in rate cases going forward, however, Dr. Sherman presented the contested voluntary green pricing cases pursuant to Section 61 of Public Act 342 of 2016 as potential templates for consideration. Although such an approach does not guarantee the simplification of rate cases, requiring TEP review as part of a contested case process does better protect interested parties' procedural rights and their investment of resources in TEP review and scrutiny.

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[120] 6 Tr 5086.
[121] 6 Tr 4117.
[122] 6 Tr 4036.
[123] 6 Tr 4117.
[124] 6 Tr 4036.

At a minimum, therefore, if the Commission does not generally incorporate TEP review into the rate case process, MEIU recommend that the Commission reject witness Freeman's recommendation that TEP review take place in the context of an open comment docket and instead require DTE's TEPs to be scrutinized as part of contested proceedings.

C. The Commission Should Not Make Use of the DCFC-Specific Cost-of-Service Study to Develop a DCFC-Specific Rate in this Case or the Next and Instead Extend the Demand Waiver on Rate D3 for EV Charging (Disputed Issue 81).

[References in the Record: MEIU witness Sherman, 6 Tr 4097–4099; DTE witness Maroun, 6 Tr 2776–2777; DTE witness Willis, 6 Tr 2603–2605; Staff witness Krause, 6 Tr 5203–5206; CUB witness Jester, 6 Tr 3800–3801; EVgo witness Stegall, 6 Tr 3303–3306, 6 Tr 3322–3324; Electrify America witness Shah, 6 Tr 4784–4787; Walmart witness Perry, 6 Tr 4740–4742]

Pursuant to the Commission's order in Case No. U-21297, the Company performed and included in its testimony in this case a cost-of-service study that attempted to isolate DCFC as a distinct customer class.[125] Company witness Willis presents the results of this study and the Company's conclusions in his Direct Testimony. He identifies several problems with the underlying data available to develop the rate:

> [T]here are approximately 68 known EV fast charger customers served by the Company, of which 21 were usable for this analysis. While this data supports a reasonable first step of analysis for discussion purposes, it is apparent that the ability to identify all EV fast charger load and to isolate it from other co-located load has limitations. Thus, this data has two notable constraints: 1) The sample size is small because the overall density of EV fast chargers is still small relative to customer counts in other cost of service classes. Very small cost of service classes such as this one can lead to volatile determinants, COS, and rate design from case to case and individual customers may have an outsized impact on the overall class. 2) The sample size, while reasonably defined, does not include all EV fast chargers served by the Company given the co-location of charging load with other general service loads.[126]

Dr. Sherman identified similar and additional issues with the DCFC-specific COSS:

> There are two limitations to consider. First, the number of customers was small and may likely not be representative. Second, given the immaturity of the market, usage

[125] See 6 Tr 2776 (Maroun Direct).
[126] 6 Tr 2605.

> of these sites likely does not represent the expected utilization rate in coming years as EV deployment increases until it reaches an eventual point of consistent uptake (e.g., a certain market equilibrium). These DCFC sites likely have individual customer and class peak demands that may approximate what those demands will be with increased EV deployment, but the total energy usage at these sites is currently significantly less than what it will be in the future. As such, present revenue requirements per kWh of DCFC are likely well above those that will be required in the future.[127]

In light of these concerns, neither witness Sherman nor DTE witness Willis recommended that the COSS be used to actually implement a DCFC-specific rate at this time. According to witness Willis: "The Company acknowledges the merit in continuing this discussion. The data constraints and generally small customer set indicate that this proposal should be used as a starting point for discussion only and not as a rate to be implemented at the conclusion of this case."[128]

The sample size and data quality concerns underlying the Company's reluctance to implement a rate in this case, and the additional market maturity concerns are unlikely to be ameliorated sufficiently before the Company's next rate case. As such, Walmart witness Perry's conditional recommendation that the Company move forward to develop a DCFC-specific rate in its next rate case[129] is premature.

It is nonetheless important that appropriate short- and intermediate-term rates for DCFC be preserved until the EV charging market is able to mature sufficiently to enable the Company and the Commission to resolve the outstanding rate design questions that simply cannot be resolved at relatively low levels of DCFC and EV penetration (compared to anticipated future levels). To this point, as Dr. Sherman observes, service under Rate D3 has been available, and the otherwise-applicable 1,000 kW demand limit has not been enforced against DCFC load.[130]

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[127] 6 Tr 4098.
[128] 6 Tr 2605. EVgo witness Stegall provided additional examples of state commissions and utilities who have reached essentially the same conclusion. See 6 Tr 3305–3306.
[129] 6 Tr 4742.
[130] See 6 Tr 4098.

In Case No. U-21297, the Commission approved an extension of what has been called the "demand charge holiday" for EV fast charging (which is in fact a waiver of the demand limit on rate D3, a volumetric rate designed without a demand charge).[131] As a result, this waiver is due to sunset in June 2026, and new chargers energized after June 2024 will be permitted to remain on Rate D3 for two years.[132]

Dr. Sherman expressed concern that using June 2026 as a cutoff date for the general availability of Rate D3 for fast charging would not be sufficient time for the EV charging market to "approach a market equilibrium" necessary for the development of appropriate EV-specific rates.[133] Dr. Sherman therefore recommended that the demand waiver remain in place for four additional years, until January 1, 2030, with continued room to reassess at that point whether market equilibrium has been reached by then.[134] Her animating concern, she explained, is to "ensure that demand-based rates do not inhibit the expansion of DCFC for sites with high demand but low utilization rates in the interim."[135]

DTE witness Willis opposes Dr. Sherman's proposal to extend the demand waiver on Rate D3, arguing that "there is no evidence that the tariff [presumably Rate D4] is inhibiting the deployment of fast chargers."[136] But Rate D4 couldn't be expected to have inhibited the deployment of fast chargers to this point *because it has not been the rate under which they have been required to take service.* Furthermore, the fact that Rate D3's demand limit has been waived to this point itself demonstrates a concern and recognition that demand charges for fast chargers *will* inhibit charger deployment so long as volumetric usage lags behind demand—while we wait

[131] December 1, 2023 Order of the Michigan Public Service Commission in Case No. U-21297, Filing No. U-21297-0649, at 341–342.
[132] *Id.*
[133] 6 Tr 4098–4099.
[134] *Id.*
[135] 6 Tr 4099.
[136] 6 Tr 2645.

for, as Dr. Sherman stated, "market equilibrium." DTE has presented no evidence that the concerns animating the initial waiver have subsided or that the EV charging market has reached the necessary maturity to be able to sustain a loss of the Rate D3 demand waiver. That waiver should therefore stay in place, extended to 2030, and can be re-evaluated at that time against evidence of market maturity.[137]

Staff witness Krause also opposes an extension of the demand waiver in Rate D3, urging the Commission to maintain the existing sunset date of June 2026 and rolling two-year waiver.[138] Responding specifically to Dr. Sherman's statement that her "recommendation will ensure that demand-based rates do not inhibit the expansion of DCFC for sites with high demand but low utilization rates in the interim," witness Krause disagreed, arguing, "If you do not charge enough for something, then economically you will get too much demand for it. Therefore inhibiting the expansion of DCFC is preferable to encouraging the growth of something that is paying less than its cost to serve."[139]

This argument undermines the entire premise of the Company's efforts to incentivize the development and deployment of EV charging, and it is belied by the findings in the Company's BCA, discussed above. It is reasonable to assume that providing rebates, incentives and other support (including the D3 demand waiver) to EV charging, as Charging Forward has done for multiple years now, does in fact create more supply of EV fast charging than would otherwise be demanded by an unsupported free market. *But that is the entire point*. As Dr. Sherman explained, "It is well-established . . . that the existence of public EV charging stations encourages customers

[137] DTE witness Willis also points to the Company's proposed Rate D14, a "primary voltage time of use rate . . . which does not include power supply demand charges, which if approved provides yet another option for charging customers." 6 Tr 2645. What witness Willis does not mention, however, is that this rate does include a distribution demand charge, making it materially different from Rate D3.
[138] 6 Tr 5205.
[139] 6 Tr 5206.

to purchase EVs, leading to at-home EV charging and revenue to utilities from increased electricity sales. As such investments in EV charging should be expected to *lead* EV adoption."[140] Specifically with respect to the D3 demand waiver, Dr. Sherman's point is that demand-based rates, if imposed on DCFC with low utilization rates "in the interim" (i.e., in the short term while we wait for EV adoption enabled by investments in public charging infrastructure to catch up and drive up DCFC utilization rates), would work *against* and dilute the other efforts being made to increase their deployment. This, in turn, will slow EV adoption,[141] lowering the ceiling for future ratepayer benefits from EV adoption. CUB witness Jester summarizes this succinctly when saying, "DTE Electric's [BCA] . . . clearly shows that DTE Electric and therefore its non-participating customers obtain revenue from EV adoption that exceed the cost of providing charging services. Thus any barrier to EV adoption harms non-EV customers by increasing future rates."

In short, at least until there is evidence that utilization rates have increased and stabilized at a "market equilibrium," the D3 demand waiver should stay in place so as not to undermine efforts to reach targeted levels of EV adoption and obtain the corresponding ratepayer benefits. No such evidence has been provided in this case. Therefore, the Commission should adopt MEIU's recommendation to extend the D3 demand waiver provisionally through 2030, with the intention of reexamining it at that time against the on-the-ground realities of the fast-charging market at that time.

[140] 6 Tr 4122–4123.
[141] 6 Tr 4123.

D. The Commission Should Discontinue Ratepayer Support for DTE's Commercial and Industrial Battery Energy Storage System ("C&I BESS") Pilot and Replace It With a Sustainable, Beneficial Alternative (Disputed Issue 109).

[References in the Record: MEIU witness Sherman, 6 Tr 4099–4109; DTE witness Farrell, 6 Tr 2686–2689; 6 Tr 2711–2715; Staff witness Matthews, 6 Tr 5165–5170]

DTE initially proposed a two-customer C&I BESS pilot in its 2022 rate case, Case No. U-20836, which the Commission declined to approve at the time due to a lack of detail and clarity in the proposal.[142] The Company returned in its next rate case, Case No. U-212971, requesting a total of approximately $2.8M in cost recovery for the pilot.[143] The Commission approved half of this, on the basis that only one of the proposed two customers had been identified.[144] In the instant case, DTE is now seeking a total of $2M in additional funding, $1.4M during the bridge period and $0.6M in the forecasted test year.[145]

Because circumstances have not changed since the Commission last disallowed funding for the second battery, because DTE's C&I BESS pilot has not shown itself to be marketable or scalable, and because alternative pilots have more potential to lead to beneficial deployment of customer-sited BESS, the Commission should reject DTE's requests for recovery of any further expenditures (including any that have already been made at DTE's own risk) and instead direct that the Company work with stakeholders to develop new rate designs or pilot programs that would better enable customers to provide (and be compensated for) benefits to the system through customer-sited and -owned BESS.

[142] November 18, 2022 Order of the Public Service Commission in Case No. U-20836, Filing No. U-20836-0862, at 314–316; see also 6 Tr 5166 (Matthews Direct).
[143] 6 Tr 4100.
[144] *Id.* (citing December 1, 2023 Order of the Public Service Commission in Case No. U-21297, Filing No. U-21297-0649 ("U-21297 Order"), at 247).
[145] See 6 Tr 5170 (Matthews Direct).

1. The Commission Should Not Allow DTE to Recover Any More Money From Ratepayers for its C&I BESS Pilot Proposal.

Staff witness Matthews summarizes the status of the C&I BESS pilot thus:

> The Company provided an update that it has the storage equipment but is waiting on switch gear equipment due to the extended lead time. While the Company has continued to look for customers to participate it has not been successful at this time. Additionally, the Company has not completed the installation of the first participants battery and therefore has not begun any testing of the battery for the purposes of the pilot.[146]

As a result of this state of affairs, both witness Matthews and MEIU witness Sherman recommend that the Commission continue to disallow DTE's request for recovery of additional costs beyond those approved in Case No. U-21297.[147] Both witnesses also in effect recommend that the Commission restrict the current pilot to the one customer identified thus far.[148] They differ, however, in their recommendations as to the way forward. Witness Matthews recommends that the second battery that DTE has apparently already acquired be used for a follow-up pilot that would include a fee structure for participation, arguing that this would "be more representative of how a final program of this type may work" and drawing an analogy to the Company's residential storage pilot proposed in Case No. U-20836.[149] MEIU witness Sherman, by contrast, recommends that the Commission refuse to grant any further cost recovery for DTE's pilot and instead change gears to explore alternatives.

In response to witness Matthews' proposal to charge a participation fee to any second customer, DTE witness Farrell asserts:

> Witness Matthews states in his direct testimony that the Company is having difficulty finding a second participant yet recommends the Company charge the second participant a fee to participate. This would only further hinder the Company from finding a second participant. Participants have to pay an estimated $100,000

[146] 6 Tr 5166.
[147] See 6 Tr 4100; 6 Tr 5170.
[148] 6 Tr 5167; 6 Tr 4104–4105.
[149] 6 Tr 5168.

> to $150,000 in up-front costs that are associated with the concrete pad and the necessary electrical work. A few of the customers the Company spoke to opted to turn down the Company's offer to participate, citing up-front costs as a reason they choose not to participate. In addition, Witness Matthews provides no evidence that participating customers who pay a fee to participate would leverage the battery more efficiently to recoup the costs. If this argument were to be true, the same could be said for the up-front costs that are incurred by the participating customers.[150]

This argument, ironically, supports Dr. Sherman's assertions that the Company's pilot is neither sustainable nor scalable. Simply put, as presently structured (even without a customer fee), it neither pays for itself nor provides a customer with sufficient benefits to justify the make-ready costs the customer would incur to host the BESS. Most benefits instead accrue to DTE.[151]

Dr. Sherman also reiterated her concerns regarding utility ownership of behind-the-meter BESS, citing the Commission's order in Case No. U-20836 rejecting the Company's residential battery storage pilot proposal. All of these concerns remain germane to the C&I BESS pilot and threaten to undermine the development of any nascent behind-the-meter C&I storage market.[152] Staff's analogy to the Company's residential battery storage pilot to support a potential "second phase" pilot is therefore no way to salvage the Company's imprudent investment in a second battery before receiving Commission approval for that expenditure.

Because the Company's C&I BESS pilot has eloquently illustrated that it leads to a dead end, the Commission should refuse to support it through the expenditure of any additional ratepayer dollars and simply let this ill-conceived and -begotten pilot collapse under its own weight.

[150] 6 Tr 2713–2714.
[151] See 6 Tr 4106 ("Although some of these [pilot] objectives benefit the C&I customer, most of these objectives focus on the Company's learnings, market access, and future financial benefit.").
[152] See 6 Tr 4101–4104.

2. In Place of the C&I BESS Pilot, the Commission Should Direct DTE to Engage with Stakeholders to Explore and Develop Rate Designs that Provide Opportunities for Customers to Provide and Capture Value from Savings Their Investment in BESS Provide the Grid.

The record demonstrates that DTE's C&I BESS pilot has no future. To the extent that the Commission believes that increased deployment of distributed, customer-sited BESS would be beneficial for the grid, as MEIU believes it should, the Commission would be much better served by exploring rate design options that enable customers to capture value their BESS provide to the grid. These would create a market signal that customers and third parties could spontaneously respond to, given that their investment in BESS would produce a return in accordance with the value provided.[153] Dr. Sherman provided several examples of how this has been implemented:

> In Ontario, all electric customers pay a Global Adjustment charge ("GA"), but C&I customers with more than 5 MW of load can reduce their GA charge through a load management program called the Industrial Conversation Initiative ("ICI"). The ICI was designed to help the province defer the need for investments in new electricity infrastructure that would otherwise be needed by incentivizing eligible C&I customers to reduce demand during peak periods. C&I customers who participate in the ICI pay a GA charge based on their contribution to the top five peak hours of energy use ("Coincident Peaks" or "CPs") in Ontario over a 12-month base period (May 1 to April 30), and are referred to as "Class A" customers. The Independent Electricity System Operator of Ontario ("IESO") calculates and publishes peak demand information to help customers identify when one of those five peak hours may occur to ensure that Class A customers have the ability to appropriately reduce their demand or switch load to a behind-the-meter battery. Given historically high GA charges, as detailed by a recent study conducted by researchers from Ryerson University and Amp Solar Group, if a C&I customer can use a behind-the-meter battery to decrease load during those five peak hours, it can easily justify the cost of the battery. The ICI not only provides opportunities for customers to save money with batteries, but it has also grown so large that the IESO stated in the 2024 Annual Planning Outlook that ICI is one of two load modifiers factored into its load forecast, and that the initiative has "material impacts on the forecasted peak demand of each year."
>
> Other similar rate designs where C&I charges are set by consumption during a specified number of CPs have led to increases in C&I behind-the-meter battery energy storage deployment. For example, in Massachusetts transmission rates are allocated to each class based on the class's contribution to each month's coincident

[153] 6 Tr 4106–4109.

> peak (called the "12 CP" method). Certain utilities, like Eversource Energy ("Eversource"), offer tariffs that price these transmission costs based on the customer's actual electricity use at the time of the system peak. In a recent Eversource general rate case, the Massachusetts Department of Public Utilities required Eversource to expand the option for C&I customers to opt-in to these tariffs (like Eversource's Rate T-5) to all C&I customers. C&I customers who install behind-the-meter battery storage systems and enroll in a rate like Eversource's T-5 can reduce their costs by precisely decreasing their load during system monthly CPs and, thereby, lowering their transmission charges. These cost savings can then help justify the upfront costs of the battery storage systems.[154]

In short, these jurisdictions have developed rate options that more precisely track the cost causation of individual customers and that thereby create opportunities for savings for customers who are willing to invest in technologies that reduce their contributions to system costs.

When these cost-saving opportunities become a structural part of rates, they function as a market signal that can stimulate the private market to provide the desired BESS resources to the grid through spontaneous cooperation between customers and third-party storage developers.[155]

Because these rate design options have a greater potential to stimulate the deployment of distributed customer-sited BESS than the utility-centric, top-down approach that the Company has taken to this point, MEIU urge the Commission to direct DTE to explore, together with relevant stakeholders, the opportunities that may exist to stimulate BESS development by harnessing the private market through more nuanced and sophisticated rate design.

[154] 6 Tr 4107–4109.
[155] 6 Tr 4106.

E. The Commission Should Approve DTE's Proposed C&I Time-of-Use ("TOU") Rates with the Modifications and in Accordance with the Schedule Recommended by MEIU (Disputed Issues 82 and 83).

[References in the Record: MEIU witness Barnes, 6 Tr 4135–4160; DTE witness Willis, 6 Tr 2600–2603, 6 Tr 2609–2613, 6 Tr 2631–2639, 6 Tr 2640–2643; GLREA witness Richter, 6 Tr 4805–4811]

DTE witness Willis presents the Company's proposed C&I TOU rates, which the Commission directed the Company to develop in its final order in Case No. U-21297.[156] DTE responded in this case by proposing two new TOU rates, Rates D3.11 (commercial/secondary) and D14 (industrial/primary).[157] MEIU witness Barnes summarizes the proposals thus:

> The Company proposes to establish two (2) new rate schedules, one for customers that take service at secondary voltage (proposed Rate Schedule D3.11) and one for customers that take service at primary voltage (proposed Rate Schedule D14). Rate Schedule D3.11 is mapped to achieve revenue neutrality with Schedule D3, the secondary voltage "General Service" rate. Rate Schedule D14 is mapped revenue neutrally to Schedule D11, the standard primary voltage rate. The Company did not provide a proposal for a revenue neutral TOU rate mapped to Rate Schedule D4, which is designated as its "Large General Service" rate.
>
> With respect to overall TOU structure, both proposed C/I TOU rate schedules utilize a seasonal two-period (on- and off-peak) pricing period design, with a single off-peak rate and a moderate on-peak to off-peak price differential. The price differential is based on the relative difference in the locational marginal price ("LMP") of energy according to the price windows from 2020 to 2022. The distribution rates use the same rate and rate design as the base C/I rate schedule. Table 1 shows several further key details of the Company's proposed C/I TOU rates.[158]

As for the implementation of these rates, DTE proposes to take until December 31, 2025, 11 months after the expected late-January order in this case, to make them available.[159]

MEIU witness Barnes identified a number of shortcomings of the Company's proposals, which this brief will address serially. These are: (1) DTE fails to propose a TOU rate mapped to

[156] 6 Tr 2600–2603; 6 Tr 2609–2613; see 6 Tr 4136 (Barnes Direct) (citing U-21297 Order at 372).
[157] 6 Tr 4137.
[158] 6 Tr 4137.
[159] 6 Tr 4138.

Rate D4, (2) the on-peak period for rate D14 is too long to facilitate meaningful opportunities for load shifting, (3) DTE's proposed enrollment caps will unnecessarily stymie meaningful adoption of these rates, and (4) DTE inexcusably drags its feet on making these new rates available to its customers.

1. The Commission Should Direct DTE to Develop a Secondary TOU Rate Mapped to Rate D4 (Disputed Issue 83).

MEIU witness Barnes explains that DTE's commercial secondary customers are broadly served under two rates: Rate D3 and Rate D4. Rate D3 is the "small commercial" rate and uses a "purely volumetric rate design," and Rate D4 serves as the "large commercial" rate and uses a blend of demand and volumetric charges "for both the power supply and distribution portions of the rate."[160] Witness Barnes explains the types of customers typically drawn to each rate:

> Demand rates are financially preferrable to customers that have relatively higher load factors (i.e., more constant loads), which by and large tend to be more prevalent among customers with higher overall demands (i.e., larger customers). For that reason, Schedule D4 tends to be a more attractive rate schedule for secondary voltage customers with larger loads, whereas Schedule D3 tends to be more attractive to secondary voltage customers with smaller loads.[161]

DTE's proposal to leave D4 customers without a TOU rate schedule revenue neutrally mapped to their standard rate effectively leaves those customers without a TOU schedule that would benefit them. This is because, as witness Barnes explains, each TOU schedule is designed to produce the same "average volumetric rate ($/kWh) as the underlying base rate schedule."[162] Since the average volumetric rate under Rate D3 (8.48 cents/kWh) is higher than that under Rate D4 (7.87 cents/kWh), this means that by switching to a TOU rate schedule, a D4 customer would automatically sign up for a rate with a higher average volumetric rate/kWh *from day one* and would

[160] 6 Tr 4139–4140.
[161] 6 Tr 4140.
[162] *Id.*

be left to dig out of that hole each month before seeing any cost savings from adopting a TOU rate.[163] It is hard to see why any D4 customer would see this as an improvement or opt to take service under such a rate. As such, that customer would likely be left without an economical TOU rate.[164]

The solution to this problem, MEIU witness Barnes argues, is simple: develop a third TOU rate that is mapped to be revenue neutral with Rate D4 and "that uses the accompanying Distribution and Distribution Surcharge rate designs that would otherwise apply to a D4 customer. In this way, all C/I customers would be presented with a choice of rates for the Power Supply rate component that are unaffected by other rate components and are not subject to time-differentiation or other structural differences."[165] Witness Barnes did develop such a rate, which he called "MEIU Schedule D4.1."[166]

DTE witness Willis questions whether a TOU rate mapped to Rate D4 is in fact necessary, claiming,

> All else equal, a cost-of-service class with a higher load factor will have a lower average rate than one with a lower load factor. D3 and D4 are in different cost of service classes, and D4 has a higher average load factor and thus lower average rates. D4 rate design, which utilizes demand charges, reinforces this self-selection for higher load factor customers. If the Company offered a TOU rate using a D4 revenue neutral design, the "lower rate" would be a fleeting reality.[167]

He argues that the customers who are most likely to switch to a D4-neutral TOU rate in the near term, i.e. D4 customers with load factors below the D4 class average and D3 customers with load factors above the D3 class average, would by their adoption of the rate (*i.e.*, MEIU Schedule D4.1)

[163] 6 Tr 4141.
[164] *Id.*
[165] *Id.*
[166] 6 Tr 4142.
[167] 6 Tr 2633.

drive the average volumetric cost of that rate up.[168] He nonetheless concedes that it would be driven "to something between the current D3 and D4 average power supply rates."[169]

This concession is easy to miss, but it is essentially an acknowledgement that existing D4 customers who might be inclined to take service under a TOU rate would benefit from MEIU Schedule 4.1 when compared to Rate D3.11. Even if, as witness Willis argues, the customer class that would coalesce around a new Rate D4.1 would end up with an average volumetric power supply rate between rates D3 and D4, this would still represent an improvement on the average volumetric rate of a TOU rate schedule mapped to be revenue-neural to Rate D3.

Witness Willis' argument therefore fails to refute witness Barnes' main purpose for proposing MEIU Schedule D4.1, i.e., that it offers a more economically compelling TOU option to D4 customers, thereby increasing the number of customers who would be able to take advantage of that rate.

Witness Willis' alternative proposal for D4 customers, the new rate D14, requires customers to take service at least at primary voltage.[170] Although witness Willis in discovery indicated that approximately 250 D4 customers are served at a primary voltage on rate D4,[171] this is a small proportion (~2.5%[172]) of the approximately 10,000 customers identified as taking service on rate D4.[173] And although witness Willis did not provide a definitive estimate of costs to upgrade a customer from secondary to primary service, his answer indicated that it would require not insubstantial work, including the replacement of lines running from the customer to the primary.[174]

[168] 6 Tr 2633–2634.
[169] 6 Tr 2634.
[170] Exhibit A-16, Schedule F8, Page D-48.11 ("Availability of Service"); see also Exhibit MEIU-33, pp. 4–5.
[171] Exhibit MEIU-33, p. 4.
[172] (250/10,000)*100=2.5%
[173] 6 Tr 2634.
[174] Exhibit MEIU-33, p. 5.

This alternative is thus unlikely to be a real option for any but the most uniquely situated D4 customers.

The Commission should thus direct DTE to implement the proposed MEIU Schedule D4.1 as presented by witness Barnes in his testimony or a substantially similar tariff mapped to Rate D4.[175]

2. All Three TOU Rates Should Use a 1-5PM (M-F) On-Peak Window (Disputed Issue 82).

The two TOU rates DTE proposed, rates D3.11 and D14, make use of different on-peak windows, with D3.11 using 1-5pm (M-F) and D14 using 11am-7pm (M-F, non-holidays). DTE witness Willis indicates that 18 of the 20 monthly summer coincident peak ("CP") hours from 2018 to 2022 and all 20 of the summary secondary voltage class peaks during that same period took place during the 1-5pm weekday on-peak window for Schedule D3.11.[176] The 11-7 on-peak window for D14 matches the on-peak window of D11, the existing primary rate.[177]

At a high level, MEIU witness Barnes explains that "[o]n-peak pricing windows under TOU rates should be: (a) of limited duration in order to provide an actionable price signal for load shifting, and (b) aligned with the time variation in the cost components (*i.e.*, system peaks) that are intended to be incorporated within the TOU price signal."[178] Because of its alignment with these principles, he supports using the 1-5pm window proposed for D3.11. The eight-hour on-peak window proposed for rate D14, however, he criticizes as being both "too long . . . to effectively promote load shifting" (thus failing criterion (a)) and "encompass[ing] a significant number of hours that are outside of the typical timing of system peak demands" (thus failing

[175] See 6 Tr 4142.
[176] 6 Tr 2601–2602.
[177] 6 Tr 2610.
[178] 6 Tr 4143.

criterion (b)).[179] More specifically, for criterion (b), the peaks relevant to power supply cost causation are not class peaks but rather system-wide CPs.[180]

This last point has particular relevance to DTE witness Willis' rebuttal of witness Barnes' proposal, in that he indicates that the 11-7 on-peak window for D14 "is proposed to broadly align with" not only "summer system coincident peaks," but also "summer class peaks."[181] Defending the inclusion of the latter, which, as MEIU witness Barnes explained, have little if any impact on power supply cost causation, witness Willis expresses a concern that "the on-peak period could drive snapback and inadvertently set a new class peak hour on the edge of the on-peak period."[182] This, in turn, witness Willis asserts, "presents the possibility of customer's [sic] shifting load to before the period and in doing so inadvertently create a new system peak hour in the noon – 1:00 pm hour."[183]

When asked in discovery "why a shift in DTE's system peak during one or more months to the hour from noon – 1 PM would have detrimental impacts on DTE's system and customers," witness Willis claimed for the first time that the "new system peak" referenced in his Rebuttal Testimony could represent more than a time shift in the peak and could in fact "reset the system peak to something higher than it would otherwise be," creating an "incremental [capacity] cost."[184] However, it is unclear from all of the above how likely it actually is that a shift in the load of a single class would be sufficient to cause a shift in the system peak. It is even less clear how likely it is that that shift in the *timing* of the system peak (particularly to an *earlier* time) would

[179] 6 Tr 4144.
[180] *Id.*
[181] 6 Tr 2635.
[182] 6 Tr 2635.
[183] 6 Tr 2635.
[184] Exhibit MEIU-33, p. 2.

simultaneously cause the extreme result of an *absolute* increase in system peak load. Merely pointing out a possibility is not the same as demonstrating its likelihood.

MEIU therefore assert that DTE has failed to demonstrate why its 11 – 7 on-peak window for rate D14 is appropriate, given that it neither offers meaningful opportunities to shift usage (thereby making itself practically irrelevant as a TOU rate compared to the default D11) nor is mapped particularly closely to anticipated and historical system peaks. Mere assertions regarding system peak time shifts and higher system peaks, without more evidence, cannot overcome these shortcomings.

MEIU therefore urge the Commission to require DTE to revise its proposed D14 rate schedule to use 1 – 5pm on-peak windows (in keeping with the on-peak windows for Rates D3.11 and MEIU's proposed D4.1), with any adjustments to the rate necessary to account for load shifting not previously assumed under an 11 – 7 on-peak window.

3. The Commission Should Reject the Company's Proposed Caps on TOU Rate Enrollment (Disputed Issue 82).

DTE proposes enrollment caps of 1,000 customers for rate D3.11 and 50 MW of contract capacity for rate D14, with no set time limit for these caps to expire.[185] In support of these caps, DTE witness Willis explains that the D3.11 cap is intended to "account for potential unanticipated usage patterns on the rate" and that the D14 cap is intended to avoid "an under-recovery of cost, which would ultimately be allocated to other customers in a subsequent case."[186] DTE thus proposes to maintain the D14 cap minimally until "D14 is supported by its own cost of service class."[187]

[185] 6 Tr 2600–2601, 2612; see 6 Tr 4145–4146; Exhibit MEIU-23; Exhibit MEIU-24.
[186] 6 Tr 2612.
[187] 6 Tr 2612.

MEIU witness Barnes pushes back hard on witness Willis's proposal to impose caps, arguing that this would limit the benefits available both to individual customers and to the system as whole that are the whole purpose of implementing TOU rates.[188] He continues, "As long as a given rate schedule has a solid foundation in cost causation, there is no reason to limit participation."[189] Since "[t]he proposed rates are designed to be revenue neutral relative to the broader groups of customers who would qualify for participation[,] . . . any supposed risk of under-recovery rests on speculation rather than evidence, and such risk is not necessarily greater or lower than the risk of under-recovery present within the broader groups of customers and core rate schedules."[190] The Company's decision to account for some level of load shifting in its D3.11 rate further reduces this risk.[191] And finally, MEIU witness Barnes points out that "the prospect of lower revenue is not by itself indicative of under-recovery of costs or unreasonable cost-shifting to other ratepayers. . . . Rather, it is the justified result of a rate structure that is more closely aligned with cost causation."[192]

Pointing to precedent set by Consumers Energy Company ("Consumers") when it first established its C&I TOU rates in 2013 (industrial) and 2017 (commercial), MEIU witness Barnes explains that Consumers imposed no enrollment cap on its commercial TOU rate (despite not adjusting the billing determinants to account for load-shifting as DTE proposes to do with rate D3.11 here).[193] In the case of its industrial TOU rate, Consumers was initially permitted to impose an enrollment cap of 50 MW, which created a waiting list and inspired a request from Consumers to double the cap to 100 MW a year later, before the rate was in place long enough to be evaluated

[188] 6 Tr 4147.
[189] *Id.*
[190] *Id.*
[191] 6 Tr 4147–4148.
[192] 6 Tr 4148.
[193] *Id.*

as a separate rate schedule in the cost of service study.[194] The cap was eliminated entirely in January 2017.[195] MEIU witness Barnes explained the result when the dust cleared: "At the end of the day, starting in January 2017 Consumers Energy offered an uncapped primary voltage TOU tariff based on a revenue neutral mapping to the broader primary voltage rate schedule (*i.e.*, rather than supported by its own cost of service analysis)."[196] In other words, Consumers and its primary customers ended up in the exact same position in 2017 as they would have been in had no cap existed in the first place, except that they were required to waste time, money and energy fighting over the ultimately unnecessary enrollment caps.

In response, DTE witness Willis doesn't directly refute witness Barnes' claims. His assertion that the D3.11 enrollment cap will not prevent enrollment[197] undermines his own argument that they are necessary. If it is unlikely that the enrollment cap will actually be hit, one is led to ask why it is in place at all. Furthermore, his attempt to use witness Barnes' comparison to Consumers' primary TOU rate cap as a *supporting* precedent for DTE's own request here is undermined by the actual history of how that cap played out. Consumers was forced to create a waiting list and hold a lottery for customers seeking service under that rate[198] (thus undermining witness Willis's claim that "the evidence does not support that caps will prevent enrollment"[199]), and although witness Willis is correct that Rate GPTU is presently supported by its separate COS class,[200] witness Barnes was clear that the Rate GPTU cap was eliminated before it could be supported by its own COS class: "[A]t the end of the day, starting in January 2017 Consumers Energy offered an uncapped primary voltage TOU tariff based on a revenue neutral mapping to

[194] 6 Tr 4149.
[195] *Id.*
[196] 6 Tr 4149–4150.
[197] 6 Tr 2637.
[198] 6 Tr 4149.
[199] 6 Tr 2637.
[200] 6 Tr 2637.

the broader primary voltage rate schedule (i.e., rather than supported by its own cost of service analysis)."[201] The separate COS class came later.

Regarding the risk of under-recovery, witness Willis emphasizes that "it is inappropriate to introduce potential structural drivers of under-recovery,"[202] claiming that

> new rates with fundamentally different pricing structures do not . . . have strong historical, empirical data to support forecasts . . . . One outcome of this, particularly for larger and more sophisticated primary customers, could be drastically different load profiles than what was anticipated based on historical information (and ultimately incorrect cost allocation assumptions).

Unless witness Willis expects its primary customers to be either materially different or materially more sophisticated and more flexible than Consumers' primary customers, however, these risks must necessarily be overblown, as Consumers did not experience any such massive under-recovery created by "structural drivers" inherent in its primary TOU rate.[203] Although it is not out of the realm of possibility that minor adjustments may need to be made with experience, it is much less likely that the massive "structural drivers of under-recovery" witness Willis appears to fear will materialize.

The Commission should therefore reject DTE's proposals to impose enrollment caps on either proposed rate D3.11 or proposed rate D14. To the extent that the Commission accepts MEIU's proposal to create an additional rate D4.1, the Commission should refuse to allow DTE to impose any enrollment caps on that rate as well.

[201] 6 Tr 4149–4150.
[202] 6 Tr 2638.
[203] See 6 Tr 4149–4150.

4. DTE Should Not be Permitted to Drag Its Feet in Making the C&I TOU Rates Available (Disputed Issue 82).

[References in the Record: MEIU witness Barnes, 6 Tr 4151–4156; DTE witness Barnes, 6 Tr 2603, 2612; DTE witness Sharma, 6 Tr 2026–2029, 6 Tr 2180–2181; DTE witness Hatsios, 6 Tr 2326–2327]

DTE stated its intention to make the C&I TOU rates proposed in this case available by December 31, 2025, the end of the forecasted test year.[204] As MEIU witness Barnes points out, this represents "an 11-month delay after the expected January 2025 Commission order in this case, and a delay of 25 months since the Commission's December 1, 2023 Order in Case No. U-21297 which required the Company to develop C/I TOU rates."[205] Witness Barnes then explains the basis DTE gives for this delay, which boils down to a decision by DTE not to prioritize their implementation[206]:

> Based on DTE's description of the APC [Annual Planning Cycle], the takeaway theme is that it essentially revolves around executing DTE's priorities. As a consequence, the C/I TOU rates that DTE has historically opposed offering will fall towards the bottom of the prioritization spectrum unless the Commission requires otherwise. The December 31, 2025 deployment timeline, a 25-month delay since the Commission directed DTE to develop C/I TOU rates, is a reflection of DTE's priorities, not any identified technical challenges.[207]

Responding to DTE's analogy to rate D1.13, a residential TOU rate schedule, which DTE points out was implemented on a similar timeline (at the end of the projected test year), MEIU witness Barnes explains that the circumstances are materially different, in that multiple residential TOU options existed at the time, unlike the circumstances here, where C&I customers presently have no TOU option.[208]

[204] 6 Tr 2603, 2612.
[205] 6 Tr 4151.
[206] 6 Tr 4151–4156
[207] T Tr 4152–4153.
[208] 6 Tr 4153.

Witness Barnes also points out that the Company has demonstrated itself able to implement more (and more complicated) TOU rates than the two (or three, counting MEIU's proposed Rate D4.1) proposed in this case, referencing the Advanced Customer Pricing Pilot proposed in 2019, which proposed a six-moth deployment timeline for "six (6) distinct rates differentiated into three (3) significantly different rate structures (two rates for each structure)."[209] DTE's counterpart, Consumers Energy Company, also demonstrated itself capable of implementing C&I TOU rates on the normal timeline associated with the implementation of new rates following a rate case, i.e., within 1 month of its approval.[210]

Witness Barnes therefore could reach only one conclusion:

> DTE's proposed implementation timeline amounts to an unjustified delay in the availability of these rates which can only reasonably be explained by the fact that the Company opposed the development of these rates and now chooses to de-prioritize their implementation to greatest degree that it can (thinly) attempt to justify.[211]

He reached this conclusion on account of the following, which merit repeating in full here:

- The Company has been on notice since December 2023 that the Commission wished it to develop C/I TOU rates. At the time of a Commission order in this case (January 11 2025), DTE will have had approximately 14 months to prepare for their implementation.

- DTE already has considerable experience in implementing residential TOU rates with similar designs to the proposed C/I TOU rates, as well as considerably more complex demand response oriented TOU rates (i.e., critical peak pricing rates), and it has failed to offer any explanation as to why the proposed C/I TOU rates involve additional billing system complexities or other complicating factors.

- In 2019, at a time when it had less experience with TOU rate implementation, the Company sought and received approval for the

[209] 6 Tr 4153–4154 (citing Application of DTE Electric Company, Case No. U-20602, Filing No. U-20602, p. 2; September 26, 2019 Order of the Public Service Commission ("U-20602 Order"), Case No. U-20602, Filing No. U-20602-0015, pp. 2, 4).
[210] 6 Tr 4154.
[211] 6 Tr 4155.

significantly more complex ACPP under a six-month implementation timeline.

- Consumers Energy was able to accomplish deployment of its C/I TOU rates within a month of a Commission order approving those rates, and a maximum of five (5) months from the date they were initially proposed.[212]

The responses of DTE witnesses Sharma and Hatsios to these assertions on rebuttal were similarly weak, with witness Hatsios essentially just claiming without any evidence that more than three months would be necessary:

> Absent a final order in this case, it is premature to commit to completing this work within three months of the final order. The actual implementation timing will be wholly dependent on the specific details of the approved rate, which will likely require significant modifications to our Customer Relationship and Billing (CR&B) back-end and front-end systems, customer-facing channels such as the web, system integrations, and reporting. As such, at this time the Company would maintain that more than three months will be required to responsibly complete all the necessary design, development and testing activities, to ensure that customers are able to seamlessly transition to the new rate.[213]

Witness Sharma similarly does not say much, falling back on singing the praises of DTE's internal IT prioritization processes in terms that sound more like a sales pitch than rebuttal testimony:

> DTE's vision for IT (across both its electric and gas utilities) is to enable customer affordability and deliver value faster to customers and communities by removing process, human, and technology friction. Therefore, improving efficiency and reducing barriers using IT.[214]

Witness Sharma's testimony continues by essentially conceding that it will ultimately do whatever it is ordered to do: "Regulatory/Compliance investments are categorized as non-Discretionary due to the importance and risk tied to a regulation or order from the Commission/other regulatory bodies. Therefore, an order is a major component in determining the investment type and the PPS score within IT's APC."[215]

[212] 6 Tr 4155.
[213] 6 Tr 2327.
[214] 6 Tr 2180.
[215] 6 Tr 2181.

In light of all of the above, the Commission should not hesitate to require DTE to implement the proposed TOU rates on the schedule recommended by MEIU witness Barnes, *i.e.*, within a *maximum* of three months from the date of a Commission order in this case.[216] Since this timeline lines up with the minimum time suggested to be necessary by DTE witness Hatsios, it should be no great burden on DTE to comply with the Commission's order. DTE's C&I customers have been bereft of TOU rate options for too long. DTE should not be permitted to extend that time any longer than is absolutely and reasonably necessary.

F. The Commission Should Require DTE to Make Rate Comparison Reports Available to Its Customers.

[References in the Record: MEIU Witness Barnes, 6 Tr 4156–4159; DTE witness Hatsios, 6 Tr 2326–2327]

Following on from his recommendations regarding TOU rates, MEIU witness emphasized the importance of the provision of detailed rate comparison reports for customers evaluating whether or not a rate switch would be beneficial to them. He explained the importance of these reports as a "critical element" in such a decision:

> First, it makes the details of the results of the comparison transparent, which supports customer confidence in and acceptance of those results. Second, it is necessary in order to allow customers to be able to understand precisely how the characteristics of their usage influence their bills under different rate designs, which is a fundamental necessity for considering the opportunities for load shifting that produces cost savings.[217]

DTE does not presently provide any such reports to its customers, and "it is not clear how a customer service representative would be able to effectively advise a C/I customer on which rate option would give them the 'lowest cost of service.'"[218] Furthermore, the results from the Company's "Bill Simulator" tool are limited to bottom-line results, which are insufficient to allow

[216] 6 Tr 4156.
[217] *Id.*
[218] 6 Tr 4157.

a customer to drill down into the reasons why costs are different between rates.[219] This, witness Barnes explains, makes it so that "they cannot readily identify the how (i.e., what are their opportunities for reducing costs under one rate as compared to the opportunities for doing so on another rate?)."[220]

MEIU witness Barnes therefore recommends that the following details be made available in any rate comparison report:

> (a) the customer's billing determinants, the applicable rates for each charge (including distribution and riders), and the total monthly charges under each rate schedule within the comparison for a 12-month period; and (b) a summation of the monthly charges over a 12-month period. The rate schedules included in each report should reflect all of main rate schedules for which a customer is eligible.[221]

Witness Barnes provides a template example of such a report in Exhibit MEIU-31.

As for the timeline on which DTE should begin offering this tool to its customers, witness Barnes recommends that it be made available "as soon as possible upon the availability of the C/I TOU rate options."[222] Since "[a] person with adequate competency in Excel could build a spreadsheet-based model with all the necessary calculation logic in a single afternoon,"[223] MEIU submit that this should be no great challenge.

DTE did not raise much resistance to this proposal on rebuttal.[224]

Thus, alongside the approval of the TOU rates proposed in this case, MEIU recommend that the Commission order DTE to develop the rate comparison tools, including the rate comparison report introduced by MEIU witness Barnes as Exhibit MEIU-31, to better enable its customers to evaluate whether one of these rates might be beneficial to them.

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[219] 6 Tr 4157–4158.
[220] 6 Tr 4158 (emphasis in original).
[221] 6 Tr 4159.
[222] 6 Tr 4159.
[223] 6 Tr 4159.
[224] 6 Tr 2326–2327.

III. CONCLUSIONS AND PRAYER FOR RELIEF

WHEREFORE, the Michigan Energy Innovation Business Council, the Institute for Energy Innovation and Advanced Energy United respectfully request that the Commission:

(a) Continue to support the investments in EV infrastructure necessary to enable the demonstrable benefits, both to ratepayers and society more broadly, that broad transportation electrification will provide;

(b) Use the Company's BCA cautiously in its evaluation of the reasonableness and prudence of the Company's proposed investments, recognizing that the top-line numbers on the benefits side of the BCA are essentially only extreme *low-end* estimates and that the Company's budget proposals represent at best the extreme *minimum* amount of investment needed to support (much less maximize) ratepayer benefits from transportation electrification;

(c) Reject Staff's suggestion to conduct individualized BCAs for fleet electrification;

(d) Require DTE to (1) modify its low-income ("LI") single-family home ("SFH") rebates to allow customer eligibility based on geography as well as income, (2) modify the proofs required to prove eligibility for multi-unit dwelling ("MUD") rebates, (3) allow MUD rebates to cover customer make-ready costs, (4) expand eligibility for DCFC rebates beyond the space that is one mile from a throughway, (5) expand funding or program eligibility for public and workplace L2 chargers, and (6) allow school bus chargers that are not bi-directional to nonetheless qualify for rebates on a sliding scale;

(e) Reject Staff and AG proposals to cut the Company's TEP budget;

(f) Direct DTE to continue to waive CIAC for Level 2 chargers and public DCFC;

(g) Reject witness Freeman's recommendation that TEP review take place in the context of an open comment docket and instead require DTE's TEPs to be scrutinized as part of contested proceedings;

(h) Reject proposals to make use of the DCFC-specific cost-of-service study to develop a DCFC-specific rate in this case or the next;

(i) Direct DTE to extend the D3 demand waiver provisionally through 2030, with the intention of reexamining it at that time against the on-the-ground realities of the fast-charging market at that time;

(j) Reject DTE's requests for recovery of any further expenditures in support of its behind-the-meter C&I BESS pilot (including any that have already been made at DTE's own risk) and instead direct that the Company work with stakeholders to develop new rate designs or pilot programs that would better enable customers to provide (and be compensated for) benefits to the system through customer-sited and -owned BESS;

(k) Approve DTE's proposed C&I TOU rates with the modifications and in accordance with the schedule recommended by MEIU, including (1) the inclusion of a new TOU rate mapped to Rate D4, (2) the adjustment of the on-peak window for Rate D14 to be limited to 1-5pm M-F, consistent with Rates D3.11 and proposed MEIU Schedule D4.1; (3) the removal of any enrollment caps for the new rates, and (4) the implementation of the new rates within a maximum of three months of a final order in this case;

(l) Order DTE to develop the rate comparison tools, including the rate comparison report introduced by MEIU witness Barnes as Exhibit MEIU-31, to better enable its customers to evaluate whether one of these rates might be beneficial to them; and

(m) Grant such other and further relief as is deemed lawful and appropriate.

Respectfully submitted,

Potomac Law Group, PLLC
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October 3, 2024

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4856-4049-7632, v. 8

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

*****

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

PROOF OF SERVICE

STATE OF SOUTH CAROLINA)
) ss.
COUNTY OF BERKELEY)

Summer R. Dukes, the undersigned, being first duly sworn, deposes and says that she is a Paralegal at Potomac Law Group PLLC and that on the 3rd day of October, 2024 she served a copy of the Initial Brief of the Michigan Energy Innovation Business Council, The Institute for Energy Innovation, and Advanced Energy United, via email, upon those individuals listed on the attached Service List via email.

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