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*Via E-Filing*

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

RE: MPSC Case No. U-21534

Dear Ms. Felice:

Please find enclosed the Initial Brief on Behalf of Soulardarity and We Want Green, Too, along with proof of service for electronic filing in the above-referenced matter. Please do not hesitate to contact me with any questions or comments.

Sincerely,  
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xc: Parties to Case No. U-21534

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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

Case No. U-21534

ALJ Sally L. Wallace

**INITIAL BRIEF OF**

**SOULARDARITY AND WE WANT GREEN, TOO**

**(COLLECTIVELY THE “DETROIT AREA ADVOCACY ORGANIZATIONS”)**

October 3, 2024

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## I. INTRODUCTION

DTE Electric Company (DTE Electric, or the Company) requests that the Michigan Public Service Commission (MPSC, or the Commission) authorize a rate increase of \$456.4 million effective January 2025<sup>1</sup> pursuant to MCL § 460.6 *et seq.* and various Commission orders. As a result, residential customers would see an average rate increase of approximately \$11.03 a month.<sup>2</sup>

Though residents will receive a significant rate hike, the increased revenue will fund projects that will not all residents equitably—especially disadvantaging DTE Electric’s low- and moderate-income (LMI) and BIPOC (Black, Indigenous, and People of Color) households. Furthermore, such a significant rate increase will exacerbate the decrease in energy affordability at a time when too many ratepayers are already struggling to afford their electric bills.

The Detroit Area Advocacy Organizations (DAAO)—composed of Soulardarity<sup>3</sup> and We Want Green, Too<sup>4</sup>—intervened in this proceeding as the only advocates focused exclusively on the interests of DTE Electric’s LMI and BIPOC customers.

Several aspects of DTE Electric’s proposal exacerbate or ignore problems for LMI and BIPOC communities. In this initial brief, DAAO details the following issues:

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<sup>1</sup> DTE Electric Application at 2.

<sup>2</sup> *Id.* at Attachment 4.

<sup>3</sup> Soulardarity is a grassroots nonprofit in Highland Park, Michigan, that promotes energy democracy and environmental justice in low-income communities and people of color throughout Michigan. In coalition with other Michigan-based and national organizations, Soulardarity advocates for transitioning expeditiously to 100% clean energy in Michigan while also strengthening local economies, particularly in low-income and people-of-color communities.

<sup>4</sup> We Want Green, Too is a grassroots nonprofit in Detroit’s East Side that serves military veteran and black communities in the area. Its mission is to restore health, safety, resilience, and dignity to military veterans with post-traumatic stress disorder and those most impacted by environmental and social injustice. We Want Green, Too aims to help these community members become self-sufficient community leaders by helping them create and sustain a healthy and suitable lifestyle.

A. **Affordability:** DTE Electric's proposal in this case fails to account for the affordability of its requested rate increase. Michiganders generally, and DTE's customers specifically, are suffering from an affordability crisis. As explained below, DAAO experts have calculated that DTE Electric charges approximately 515,000 households, or roughly 25 percent of DTE's residential customers, about \$380 million more per year than they can afford.<sup>5</sup> The Company's high rates for energy have resulted in significant harm to ratepayers in its service territory, including harm to customers' financial, mental, and physical health. These harms disproportionately impact low-income and BIPOC customers. The urgency of this crisis requires that the Commission order the Company to begin addressing the crisis in this rate case.

First, the Commission, intervenors, and the public must have access to the relevant data. The Commission should require the Company to track and provide data in future rate cases on the affordability gap, which is the gap between what the Company charges ratepayers and what they can afford to pay, commonly understood as 6% of a household budget toward energy costs. Analysis by DAAO experts of the affordability gap and assistance programs, along with information from DTE customers about the inaccessibility of the Company's programs, show that the Company's current bill assistance programs are insufficient to meet the needs of DTE's customers.

Second, to address the affordability crisis in the short term, DAAO requests that the Commission require DTE Electric to provide a proposal for a Percentage of Income Payment Plan (PIPP) program as soon as possible.

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<sup>5</sup> Kinkhabwala Direct Testimony at 6 TR 4534-35.

Third, to address long-term affordability issues for low-income communities, the Commission should require the Company to propose investments in low-income communities designed to reduce the cost of service, including investments in energy efficiency upgrades, electrification, demand response, and renewable energy projects such as community solar.

**B. Non-Energy Benefits:** The Commission should explicitly account for non-energy benefits in its analysis in this and future rate cases. Non-energy benefits can be quantified by identifying the costs associated with unaffordable and unreliable energy and estimating how affordability and reliability measures can reduce these costs. Non-energy benefits include improved health outcomes (such as through reduced pollution and improved ability to pay for food, medicines, and medical care), reduced social costs (such as those created by evictions induced by unaffordable utility and other bills), and enhanced productivity (by reducing illness or displacement). DAAO experts calculate that even just a portion of these benefits are worth hundreds of millions of dollars annually in Michigan. Ignoring these non-energy benefits leads to a suboptimal appropriation of resources. As such, DAAO requests that the Commission account for these costs when considering addressing the issues of unaffordability and poor reliability.

**C. Improve the Company's Equity Analysis:** DTE Electric's environmental justice analysis relies solely on MI EJScreen's 80<sup>th</sup> percentile threshold, which is inconsistent with U.S. EPA recommendations. This limited understanding of vulnerable communities allows the Company to claim that its investments are in vulnerable communities without providing investments that effectively address the issues of inequitable service. For example, many of the Company's investments, particularly those in its CODI, invest

heavily in gentrifying areas and are targeted at supporting new load in areas that already have reliable service, rather than improving service to customers currently in low-income and BIPOC communities suffering from poor reliability. The Commission should require DTE to conduct a more comprehensive environmental justice analysis that accounts for changing demographics and that includes regression analysis to support its investments. Until the Company performs an improved analysis, the Commission should reduce the Company's expenditures on its CODI program as much as possible.

**D. Capital IT Expenditures:** While the Company requests to recover more than \$180 million in capital expenses related to its IT programs, these investments generally—and specifically the Company's capital expenditures on its Collections digital solutions—appear to be designed to provide DTE Electric with additional profit without delivering significant new benefits to DTE's customers. Furthermore, many of these investments lack sufficient support in the record and rely on questionable forecasts. The Commission should review these expenses skeptically and reject recovery of unsupported costs, like capital expenditures in the Company's oft counterproductive Collections digital solutions. In addition, DAAO requests that the Commission begin an inquiry into the Company's Capital IT expenditures to determine what investments are reasonable to recover from ratepayers.

**E. Time of Use Rates:** The Company has not complied with the Commission's prior order in Case No. U-21297 to provide a sufficient study of the impacts of shifting low-income customers from the D1.6 rate schedule to the D1.11 rate schedule. The analysis the Company did provide does not address DAAO's concerns about potential disproportionate harms. The Commission should reject the Company's request to retire

the D1.6 rate until it provides the study as ordered by the Commission in Case No. U-21297.

- F. Return on Equity:** DAAO largely agrees with other intervenors in this case that DTE Electric's requested return on equity (ROE) is higher than industry standards, that the Company overstates its business risk, and that these higher rates of return contribute to DTE's failure to improve performance. As such, DAAO requests that the Commission reduce the Company's ROE to 9.18% to reflect better its actual cost of capital and to balance shareholder and ratepayer interests more appropriately.
- G. Corporate Membership Fees:** Although the Company requests recovery of \$4.44 million in discretionary corporate membership dues in this case, the Company has violated the Commission's order in Case No. U-21297 by not providing sufficient information on specific benefits to customers of these membership dues. Furthermore, some of the corporate membership dues listed by the Company go to organizations that actively harm customer interests, like the Edison Electric Institute. Requiring the Company to provide more detailed information on the specific benefits to customers of these memberships is reasonable and necessary for the Commission to assess accurately the reasonability of these expenses. The Commission should reject the Company's requests to recover all of its unsupported discretionary corporate memberships, or, in the alternative, at least reject recovery of the memberships that are harmful to customer interests and explicitly hold that a DTE's failure to describe specific customer benefits that justify the expenditure in the future will result in a denial of recovery.
- H. Microgrids and Reliability:** The Commission should take concrete action to prepare for the development of microgrids. Microgrids provide more reliable power distribution

during outage events and allow essential community functions to continue operating. When paired with renewable energy technologies, the benefits of microgrids further increase and provide substantial climate and non-energy benefits. Given the significant benefits of microgrids, the Commission should act to prepare for them, including by (1) requiring DTE to provide a study of the benefits of microgrids to specific communities in its service territory, with an emphasis on low-income communities that suffer from outages disproportionately, (2) initiating an analysis of how microgrids could be effectively implemented in Michigan, (3) setting conditions to incentivize microgrids in areas with poor reliability and particularly in underserved communities, (4) establishing and implementing guidelines for geographic targeting, cost recovery, and ownership models for microgrids that advance customer and public interests, (5) ordering DTE and other utilities to revise their existing tariffs or propose a new tariff specifically for microgrids and (6) ordering the Company to make concrete progress on implementing microgrids through engineering studies on existing proposals in communities like Highland Park.

- I. **Outage Credits:** The current outage credits provided by the Company are insufficient to compensate customers for their expenses caused by outages. The Commission should reconsider requiring the Company to provide an increased hourly, progressive, automatic outage credit that would compensate customers appropriately. In addition, DTE Electric is requesting in this case to recover from ratepayers the costs of certain outage credits. Given that the Company is always better situated to prevent outages or limit the impact of outages than ratepayers, it is more appropriate to require the Company—rather than ratepayers—to internalize the costs of an outage. However, it would be particularly

problematic for the Company to be able to recover outage credits for outages caused by animal interference and weather, two areas generally considered the Company's responsibility to manage. The Commission should reject the Company's request to recover any outage credits. If the Commission still believes it is reasonable for the Company to recover some outage credits for outages caused by forces outside the Company's control, it should at least reject the Company's request to recover outage credits for outages caused by animal interference and weather.

## II. LEGAL STANDARD

MCL 460.557 provides the statutory basis for the Company's application for a rate change. The statute states that an electric utility's rates shall, first, be "just and reasonable," and second, be similar for groups of customers in similar circumstances.<sup>6</sup> MCL 460.557(2) also prescribes a set of factors the Commission must consider when setting just and reasonable rates, including the cost, the value of service to the consumer, and the reasonable return on the fair value of all property used, among others. As the party seeking Commission action, DTE bears the burden of proof that its requests are just and reasonable by a preponderance of the evidence.<sup>7</sup>

Within its constitutional and statutory authority, the Commission has "broad discretion"<sup>8</sup> in setting just and reasonable rates. What is reasonable "depends upon a comprehensive examination of all factors involved, having in mind the objective sought to be attained in its use."<sup>9</sup> For example, the Michigan Supreme Court held that the Commission has a duty to "balanc[e] the interest of public utility investors and the consuming public" in setting a just and

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<sup>6</sup> MCL § 460.557(4).

<sup>7</sup> See *In re Consumers Energy Co.*, MPSC Case No. U-18322, Order (Mar. 29, 2018) at 6–7.

<sup>8</sup> *Ass'n of Businesses Advocating Tariff Equity v. Pub. Serv. Comm'n*, 208 Mich. App. 248, 259 (1994).

<sup>9</sup> *In re Consumers Energy Co.*, 322 Mich. App. 480, 487 (2017).

reasonable rate.<sup>10</sup> Specifically, the Court held that the Commission possesses the “authority to exclude [excess profits] from public utility operating expenses which place unnecessary burdens upon the consumer,” as well as “any and all unnecessary elements of expense in determining a just and reasonable rate.”<sup>11</sup> As such, the Commission has a duty to “balance investor and public interests” to determine the just and reasonableness of a proposed rate.<sup>12</sup>

The U.S. Supreme Court has articulated constitutional bounds for any state in setting a public utility’s rates. In *Bluefield Water Works and Improvement Company v. Public Service Commission of West Virginia*,<sup>13</sup> the U.S. Supreme Court noted:

A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time . . . on investments in other business undertakings which are attended by corresponding risks and uncertainties; but it has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures. The return should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties.

In *Duquesne Light Company v. Barasch*, the Supreme Court reaffirmed broad discretion of state public utility commissions by stating that it is “not theory but the impact of the rate order that counts” and that “[i]f the total effect of the rate order cannot be said to be unreasonable, judicial inquiry . . . is at an end.”<sup>14</sup> Moreover, the Court clarified that unless a proposed rate by a utility commission “jeopardize[s] the financial integrity of the [utility], either by leaving [it]

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<sup>10</sup> *City of Detroit v. Michigan Pub. Serv. Comm’n*, 308 Mich. 706, 716 (1944); see also *ABATE v. Public Service Comm.*, 208 Mich. App. 248, 267 (1994).

<sup>11</sup> 308 Mich. 706 at 716–17.

<sup>12</sup> *Id.* at 716.

<sup>13</sup> *Bluefield Waterworks & Imp. Co. v. Pub. Serv. Comm’n of W. Va.*, 262 U.S. 679, 692–93 (1923).

<sup>14</sup> *Duquesne Light Co. v. Barasch*, 488 U.S. 299, 310 (1989).

insufficient operating capital or by impeding [its] ability to raise future capital,” then such a proposed rate is constitutional.<sup>15</sup>

Outside these constitutional and statutory restrictions, the Commission has significant authority to make rate-setting determinations. The Commission’s rate-setting function is quasi-legislative and not bound by any single formula or method. In *Michigan Bell Telephone v. Michigan Public Service Commission*, the Michigan Supreme Court stated that “[a]gencies [to] whom this legislative power has been delegated are free, within the ambit of their statutory authority, to make the pragmatic adjustments which may be called for by particular circumstances.”<sup>16</sup>

The Commission has used its discretion to require that utilities provide various information in their proposals. MCL 460.6a requires a utility to place in evidence facts that the utility relies on to support the justness and reasonableness of its proposals.<sup>17</sup> The Commission has interpreted this statutory provision to require the Company “thorough, detailed, and meaningful” evidence for the Commission to approve the application.<sup>18</sup> Without this evidence, “the Commission’s hands are tied,” and the Commission cannot find that the costs are just and reasonable.<sup>19</sup>

To approve distribution system investment plans, the Commission has required “comprehensive, forward looking” plans, rejecting other “high-level” plans that were not “holistic” or “detailed.”<sup>20</sup> The Commission has further indicated that such plans should provide a “clear strategic path to address resilience, reliability, and grid modernization.”<sup>21</sup>

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<sup>15</sup> *Id.* at 312.

<sup>16</sup> *Michigan Bell Tel. Co. v. Michigan Pub. Serv. Comm'n*, 332 Mich. 7, 36 (1952).

<sup>17</sup> MCL §460.6a.

<sup>18</sup> *See In re Consumers Energy Co.*, MPSC Case No. U-16794, Order (June 7, 2012) at 13.

<sup>19</sup> *Id.*

<sup>20</sup> *See In re DTE Electric Co.*, MPSC Case No. U-18014, Order (Jan. 31, 2017) at 40.

<sup>21</sup> *See* U-18014, Notice of Opportunity to Comment (Aug. 3, 2017) at 2.

### III. ARGUMENT

#### A. DTE Has Not Addressed Affordability Concerns While Requesting an Increase in Rates That Will Exacerbate the Affordability Crisis. (*Issue 105. Affordability*)<sup>22</sup>

The State of Michigan is suffering from an affordability crisis. As shown in the analysis provided by DAAO Witness Kinkhabwala, roughly 25% of DTE's residential customers were charged more than they could afford for energy in 2021.<sup>23</sup> That year, DTE charged customers about \$480 million more than they could afford.<sup>24</sup> Since 2021, the affordability crisis has only increased in severity. DTE Electric's rates have continued to increase,<sup>25</sup> and survey data verifies an increase in customers reporting that they were unable to afford energy since 2021.<sup>26</sup> As this crisis continues to expand, the Company and the Commission must treat finding a solution to this crisis with increasing urgency.

The affordability crisis does not impact all customers equally. Energy burdens, or the percentage of household income spent on energy,<sup>27</sup> are disproportionately and disastrously high

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<sup>22</sup> DAAO believes the following are relevant to this issue:

Relevant Testimony: Schott Direct Testimony at 6 TR 4465–4524; Kinkhabwala Direct Testimony at 6 TR 4534–55; Makhijani Direct Testimony at 6 TR 4599–623; Koeppel Direct Testimony at 6 TR 4389–96; Orr Direct Testimony at 6 TR 4707–10; Sparks Direct Testimony at 6 TR 2358–2394; Watts Direct Testimony at 6 TR 4667–90; Sparks Rebuttal Testimony 6 TR 2394–95; Jacob Direct Testimony at 6 TR 4639–54; Kenworthy Direct Testimony at 6 TR 3228–30; Kenworthy Rebuttal Testimony at 6 TR 3224–26; Krause Rebuttal Testimony at 6 TR 5196–97; Braunschweig Direct Testimony at 6 TR 3524–38; Braunschweig Rebuttal Testimony at 6 TR 3540–49.

Other Relevant Authorities: *City of Detroit v. Michigan Pub. Serv. Comm'n*, 308 Mich. 706, 716 (1944); *ABATE v. Public Service Comm.*, 208 Mich. App. 248, 267 (1994); Ex. DAO-102, SHALANDA BAKER, SUBIN DEVAR & SHIVA PRAKASH, INITIATIVE FOR ENERGY JUST., THE ENERGY JUSTICE WORKBOOK (2019) at 10, 13; Ex. DAO-117, Sonal Jessel, Samantha Sawyer & Diana Hernández, *Energy, Poverty, and Health in Climate Change: A Comprehensive Review of an Emerging Literature*, 7 FRONTIERS IN PUB. HEALTH, (Dec. 2019), at 6; Ex. DAO-130, JS Workpaper 3; Ex. DAO-203, Michigan Public Service Commission, Energy Affordability and Accessibility Collaborative, Assistance Programs and Credits Diagram FY20.

<sup>23</sup> See Kinkhabwala Direct Testimony at 6 TR 4534–35.

<sup>24</sup> *Id.* at 6 TR 4536.

<sup>25</sup> See *In Re DTE*, MPSC Case No. U-21297, Order (Dec. 1, 2023) [hereinafter U-21297 MPSC Order], at 370–71 (approving a rate increase of \$368,115,000).

<sup>26</sup> Schott Direct Testimony at 6 TR 4477–79.

<sup>27</sup> Ex. DAO-102, SHALANDA BAKER, SUBIN DEVAR & SHIVA PRAKASH, INITIATIVE FOR ENERGY JUST., THE ENERGY JUSTICE WORKBOOK (2019) at 10, 13.

in low-income communities. A wide array of energy advocates have established that an energy burden of 6% or less is considered affordable.<sup>28</sup> However, approximately 44% of Michiganders living below 100% of the Federal Poverty Line (FPL) have energy burdens above 20%, indicating that they are spending at least one out of every five dollars of their gross income on energy.<sup>29</sup> In contrast, more than 99% of Michigan customers with incomes above the state median have an energy burden of 3% or less.<sup>30</sup> While it may be intuitive that lower-income customers tend to have higher energy burdens, this data shows that the crisis among low-income households is both unequal and severe.

The affordability crisis also disproportionately impacts BIPOC communities. Nationwide, Black and Hispanic households are significantly more likely to experience energy insecurity than White households.<sup>31</sup> In Michigan specifically, BIPOC households disproportionately suffer from unaffordable energy burdens.<sup>32</sup> Indeed, BIPOC households represent only 26% of the general Michigan population but represent 49% of households with energy burdens above 20%.<sup>33</sup> Over one-fifth of households living in majority BIPOC census tracts in Michigan have an energy burden of 12% or greater.<sup>34</sup> Such drastic inequities in energy burdens require significant and immediate attention from the Company and the Commission.

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<sup>28</sup> See Schott Direct Testimony at 6 TR 4479 (citing Ex. DAO-124, MARILYN A. BROWN, ANMOL SONI, MELISSA V. LAPSA & KATIE SOUTHWORTH, OAK RIDGE NAT'L LAB'Y, LOW-INCOME ENERGY AFFORDABILITY: CONCLUSIONS FROM A LITERATURE REVIEW (2020) at 20).

<sup>29</sup> Schott Direct Testimony at 6 TR 4469.

<sup>30</sup> *Id.*

<sup>31</sup> See Trevor Memmott, Sanya Carley, Michelle Graff & David M. Konisky, *Sociodemographic Disparities in Energy Insecurity Among Low-Income Households Before and During the COVID-19 Pandemic*, 6 NATURE ENERGY, no. 2 at 3–4 (showing that disconnections were 2.2 times more prevalent among Black households and 1.9 times more prevalent among Hispanic households when compared to White households).

<sup>32</sup> Schott Direct Testimony at 6 TR 4480–81.

<sup>33</sup> *Id.* at 6 TR 4480–81 fig. 4.

<sup>34</sup> Ex. DAO-130, JS Workpaper 3.

Failing to address the affordability crisis would cause continuing and substantial harm to vulnerable communities. First, an inability to pay for energy can lead the Company to shut off electricity. Shutoffs have myriad negative health impacts, including heat stress during warmer temperatures, and exacerbation of chronic illnesses, particularly those with cardiovascular, respiratory, and/or renal diseases.<sup>35</sup> However, unaffordable energy need not lead to a shutoff to cause these adverse health effects. For example, many customers who cannot afford electricity will reduce their air conditioning usage in hotter temperatures to keep their energy bills lower, even at the expense of their physical health.<sup>36</sup> The inability to afford energy can also aggravate a customer's financial stress, significantly increasing the chances that households will slide into a cycle of poverty.<sup>37</sup> The additional stress on finances and physical health can also take a toll on customers' mental health. Households that have faced the threat of shutoffs have reported more long-term mental health issues, stemming from, among other causes, financial and physical stress, as well as anxiety of potential further energy interruptions.<sup>38</sup>

Without any plan to address the affordability crisis, approving any rate increase cannot be just and reasonable. The Commission has defined energy affordability as “the extent to which a household has the resources to meet their home energy needs for heating, cooling, and other uses in a healthy, sustainable, and energy-efficient manner without compromising a household's

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<sup>35</sup> Ex. DAO-117, Sonal Jessel, Samantha Sawyer & Diana Hernández, *Energy, Poverty, and Health in Climate Change: A Comprehensive Review of an Emerging Literature*, 7 FRONTIERS IN PUB. HEALTH, Dec. 2019, at 6.

<sup>36</sup> See Watts Direct Testimony at 6 TR 4679 (explaining that she tries to avoid turning on her AC as much as possible, despite the fact that the heat exacerbates her medical conditions).

<sup>37</sup> Schott Direct Testimony at 6 TR 4474 (citing Ex. DAO-119, Brian Stone, Jr. et al., *How Blackouts during Heat Waves Amplify Mortality and Morbidity Risk*, 57 ENVIRON. SCI. TECHNOL. 8245 (2023) at 6–7) (“[a]n energy burden above 10% increases a household’s likelihood of falling into and persist in poverty by 50-100%.”).

<sup>38</sup> Ex. DAO-117 at 6.

ability to meet other basic needs.”<sup>39</sup> This definition recognizes that affordability is not limited to the absolute cost of energy but includes the ability of households to pay for essential energy while still retaining the ability to afford other necessities, including food and shelter.<sup>40</sup> It also emphasizes that affordability includes the ability to pay for these necessities in a “healthy” and “sustainable” way, recognizing the importance of maintaining affordable energy in the long term.<sup>41</sup> However, DTE has not incorporated that definition into its analysis, requests, investments, or plans. Instead, DTE claims that it has no standard definition of affordability and only uses the term to “reflect keeping customer bills as low as possible while still recovering the costs that are needed to deliver safe, reliable energy and to continue the journey toward a more reliable grid and cleaner sources of generation.”<sup>42</sup> Without accepting a definition of affordability that includes households’ ability to afford energy, or indeed a consistent definition of affordability at all, the Company cannot begin to address the affordability crisis.

DTE has provided no plan to address the affordability crisis caused by its high rates. In discovery, DTE has admitted that the Company conducts no analysis of affordability and no analysis of the impact of its requested rate increase on the gap between what it charges its customers and what they can afford to pay.<sup>43</sup> As the Company has failed to conduct any analysis of how the Company’s proposed rate increases will impact customers who may not be able to afford the increase, the Commission cannot find that a rate increase is just and reasonable. In fact, all the evidence in the record points to the conclusion that DTE’s ratepayers, particularly those in low-income and BIPOC communities, cannot afford another rate increase.

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<sup>39</sup> *In re Response to COVID-19*, MPSC Case No. U-20757, Order (Dec. 21, 2023) [hereinafter U-20757 Order], at 36.

<sup>40</sup> See Koeppel Direct Testimony at 6 TR 4389.

<sup>41</sup> *Id.*

<sup>42</sup> Ex. DAO-5, DTE Electric Company’s First Partial Response to DAADO-3.1 at 1.

<sup>43</sup> See Ex. DAO-6, DTE Electric Company’s Response to DAADO-1.35, 1.36, 1.37 at 1, 3.

Given the severity of the affordability crisis, the inequitable impacts of the Company's rates, and the Company's failure to provide even an analysis of how its proposed rate increase would impact its customers' ability to pay their bills, the Commission should reject DTE's requested rate increase. In addition, the Commission should (1) require DTE to track the affordability gap and provide an affordability analysis in future rate cases, (2) require DTE to put forward a proposal for a universal Percentage of Income Payment Plan with total energy burdens set at a maximum of 6% of income, and (3) require DTE to provide a proposal to invest in low-income communities as a cost-effective way to address the affordability crisis.

### **1. The Commission Should Require DTE to Track the Affordability Gap.**

DTE must track the affordability gap to begin to understand the scope and scale of the affordability crisis. Energy costs below 6% of income, or 3% of income for gas and 3% of income for electricity, are considered affordable.<sup>44</sup> The sum of the amount of money customers are charged for energy over 6% of their income is known as the affordability gap.<sup>45</sup> DTE Electric has not conducted any affordability analysis that would track this gap or review the impact of its rates on the affordability gap.<sup>46</sup> However, the evidence in this case indicates that the gap is significant and that the Company is failing to provide adequate assistance to customers with an unaffordable energy burden. Without analyzing the affordability of the Company's proposed rate increase, the Company cannot begin to address the affordability crisis caused by its high rates. DAAO requests that the Commission require DTE Electric to track the affordability gap in future rate cases—including but not limited to how the Company's proposed rate increases and

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<sup>44</sup> See Schott Direct Testimony at 6 TR 4479; Kinkhabwala Direct Testimony at 6 TR 4536.

<sup>45</sup> Kinkhabwala Direct Testimony at 6 TR 4534–35.

<sup>46</sup> Ex. DAO-145, DTE's Response to DAAO's First Discovery Request, DAAODE-1.36 at 1.

programmatic changes would increase or decrease the gap— so that the Company and the Commission will have an indication of whether ratepayers can afford the proposed rate increase.

The affordability gap is a massive problem impacting DTE customers. Witness Kinkhabwala estimates that about 25% of DTE’s residential customers, or 515,000 households, are billed more than is considered affordable for energy.<sup>47</sup> In total, Witness Kinkhabwala estimates that the affordability gap for DTE customers in 2021 totaled \$480 million a year.<sup>48</sup> Most of this gap, about \$450 million, was attributed to LMI customers making less than 200% of the federal poverty level (FPL).<sup>49</sup> While DTE does currently provide some bill assistance, those programs are woefully insufficient to address the magnitude of the affordability gap.<sup>50</sup> With over half a million households facing unaffordable energy bills and a gap that reaches nearly half a billion dollars, it is clear that the crisis is both widespread in its reach and significant in its impact.

Tracking the affordability gap is necessary to determine whether a rate increase is just and reasonable. Evidence in this case shows that “DTE’s higher rates result in a high electricity affordability gap.”<sup>51</sup> As discussed in more detail below, an unaffordable rate is an unjust rate.<sup>52</sup> If ratepayers cannot currently afford energy, then any rate increase cannot be just. Tracking the amount of money customers are being charged over the amount they can afford to pay, therefore, is necessary to determine whether the Company’s request to increase rates would be compliant with the law.

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<sup>47</sup> Kinkhabwala Direct Testimony at 6 TR 4535.

<sup>48</sup> *Id.* About \$380 million of this is attributable to unaffordable electricity bills specifically. *Id.*

<sup>49</sup> *Id.* at 6 TR 4534.

<sup>50</sup> Witness Kinkhabwala estimates that the Company’s current bill assistance programs could only cover about 20% of the affordability gap. Kinkhabwala Direct Testimony at 6 TR 4537.

<sup>51</sup> *Id.* at 6 TR 4545.

<sup>52</sup> *See infra* Section A(2).

Furthermore, the Commission could require the Company to track the affordability gap even if the Commission believes that the EAAC is the appropriate forum for developing affordability reform proposals. The Commission has previously indicated a preference to address issues of affordability in its working group called the Energy Affordability and Accessibility Collaborative, or EAAC, and not in rate cases.<sup>53</sup> The issues caused by refusing to address the affordability crisis through rate cases are discussed more in depth below. However, requiring the Company to track the affordability gap is a step that the Commission could take without significant expenditures or overhauls of the Company’s affordability programs. In fact, requiring the Company to track and report on this information could help the EAAC perform its work. Should the Commission determine that broader affordability discussions belong in its working groups, the Commission can and should still require the Company to present data on the affordability gap in future rate cases.

**2. DTE’s Existing Affordability Programs Are Insufficient and Unable to Address the Affordability Crisis. A Percentage of Income Payment Plan (PIPP) Program is Necessary to Meet the Needs of Low-Income Customers.**

While DTE Electric offers a limited number of affordability programs, these programs are insufficient to meet the needs of customers and address the energy affordability crisis in Michigan. The Company currently offers the following payment assistance programs for customers: (1) State Emergency Relief Program; (2) Home Heating Credit; (3) Michigan Energy Assistance Program/Low-Income Self-Sufficiency Program; (4) the Residential Assistance Credit; (5) the Low-Income Assistance Credit; (6) the Shut-Off Protection Program; and (7) the

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<sup>53</sup> See, e.g., *In re Consumers Energy Co.*, MPSC Case No. U-21389, Order (Mar. 1, 2024) [hereinafter U-21389 MPSC Order], at 289 (“To date, the topic of affordability has been addressed through the EAAC workgroup and its subcommittees, which the Commission finds should continue at this time.”).

BudgetWise Program.<sup>54</sup> Taken together, these payment assistance and affordability programs currently offered to DTE customers are ineffective, difficult to navigate, and inaccessible to many low-income and vulnerable customers. A universal Percentage of Income Payment Plan (“PIPP”) is critically and urgently needed to remedy these deficiencies and respond to the affordability crisis impacting hundreds of thousands of low-income DTE Electric customers.

The State Emergency Relief (“SER”) Program is funded by the Federal Low-Income Home Energy Assistance Program (“LIHEAP”) and provides approximately \$60 million in crisis assistance for eligible low-income Michigan residents to pay for electric and gas service.<sup>55</sup> The SER Program is administered by the Michigan Department of Health and Human Services (“MDHHS”).<sup>56</sup> To be eligible for the SER program, a customer must be at or below 150% of the Federal Poverty Level (“FPL”) and currently have an emergency need for utility assistance, such as having their gas or electric service shut-off or being at risk of energy utility service disconnection.<sup>57</sup> In 2024, the SER Program exhausted all available funds on June 15, 2024, over three and a half months earlier than its programmatic end date of September 30<sup>th</sup>, 2024.<sup>58</sup>

The Home Heating Credit (“HHC”) is administered by the Michigan Department of the Treasury.<sup>59</sup> As with the SER Program, the HHC is funded through the federal LIHEAP, and it provides approximately \$60 million in heating credits to eligible low-income customers in

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<sup>54</sup> While BudgetWise may not be strictly considered an affordability program, an analysis of the program is considered here regardless, as at least some customers struggling to afford their bills have been directed to the program. *See* Watts Direct Testimony at 6 TR 4678.

<sup>55</sup> Kinkhabwala Direct Testimony at 6 TR 4537.

<sup>56</sup> Jacob Direct Testimony at 6 TR 4654.

<sup>57</sup> Ex. DAO-203 at 1; Watts Direct Testimony at 6 TR 4684–85.

<sup>58</sup> Jacob Direct Testimony at 6 TR 4654.

<sup>59</sup> Kinkhabwala Direct Testimony at 6 TR 4547.

Michigan.<sup>60</sup> To be eligible for the HHC, you must be at or below 110% of the FPL.<sup>61</sup> The HHC provides funding for heating assistance to low-income households.<sup>62</sup>

The Michigan Energy Assistance Program (“MEAP”) was established by Public Act 615 of the Michigan Public Assistance Act.<sup>63</sup> The Community Action Agencies administer the MEAP program throughout Michigan, and the program received approximately \$56 million in funding from the Low-Income Energy Assistance Fund (“LIEAF”) and LIHEAP.<sup>64</sup> To be eligible for the MEAP program, a customer must first apply for and receive an award from the SER Program.<sup>65</sup> The MEAP program is administered by Community Action Agencies throughout Michigan and provides supplemental utility assistance to low-income DTE customers who are at or below 150% of the FPL.<sup>66</sup> There are two options for eligible low-income customers to access the MEAP program. An eligible low-income customer can receive a one-time payment towards their arrears, or they can choose to enroll in the Low-Income Self-Sufficiency Plan (“LSP”).<sup>67</sup> The LSP is DTE’s Affordable Payment Plan (“APP”).<sup>68</sup> The LSP is a 24-month payment program that freezes a customer’s past due balance, eliminates future late charges as long as they make timely payments over the program, and provides them with a monthly arrears credit.<sup>69</sup> The Company considers a customer successful when they complete the twenty-four months of the LSP without being removed for non-payment and having their service disconnected.<sup>70</sup>

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<sup>60</sup> *Id.*

<sup>61</sup> Ex. DAO-203 at 1.

<sup>62</sup> *Id.*

<sup>63</sup> Sparks Direct Testimony at 6 TR 2362–63.

<sup>64</sup> Jacob Direct Testimony at 6 TR 4641; Kinkhabwala Direct Testimony at 6 TR 4538.

<sup>65</sup> Sparks Direct Testimony at 6 TR 2364, noting that 2019 was the first year that the State Emergency Relief Program was required as part of the LSP enrollment eligibility. *See also* Ex. DAO-203 at 1.

<sup>66</sup> Jacob Direct Testimony at 6 TR 4641; Ex. DAO-206 at 1–5.

<sup>67</sup> Braunschweig Direct Testimony at 6 TR 3529.

<sup>68</sup> Sparks Direct Testimony at 4; Obo Direct Testimony at 6 TR 3888.

<sup>69</sup> Schott Direct Testimony at 6 TR 4500.

<sup>70</sup> Sparks Direct Testimony at 6 TR 2363.

The Residential Income Assistance Credit (“RIA”) is an \$8.50 per month credit for eligible low-income households. For a household to be eligible, the total household income must be at or below 150% of the FPL, which must be verified by an authorized State or Federal agency and the credit may be renewed annually.<sup>71</sup> The Company states that customers who receive energy assistance from the HHC, SER, or one-time MEAP assistance are automatically enrolled to receive the RIA.<sup>72</sup> The RIA effectively waives the monthly customer charge of \$8.50.<sup>73</sup>

The Low-Income Assistance Credit (“LIA”) is a \$40 per month credit available for some low-income customers. While the LIA is technically available to any customer who has a total household income at or below 150% of the FPL, the Company appears to prioritize LIA for customers who are enrolled in the LSP program or already receiving the RIA credit.<sup>74</sup> Importantly, a customer cannot receive both an electric RIA and an electric LIA at the same time.<sup>75</sup> Over 38,000 unique households receive an annual LIA credit.<sup>76</sup>

The Shut-Off Protection Program (“SPP”) is a payment agreement that DTE provides for Company-verified low-income customers at or below 200% of the FPL.<sup>77</sup> Importantly, since the SPP is available to customers at 200% of the FPL, instead of the 150% of the FPL restriction of the SER and MEAP, more low-income customers are eligible for the SPP.<sup>78</sup> The SPP allows customers to enter into a standard monthly payment plan for 12 months, and then, their monthly bill includes both their average monthly usage and their past due balance.<sup>79</sup> However, the actual

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<sup>71</sup> Sparks Direct Testimony at 6 TR 2369.

<sup>72</sup> *Id.*

<sup>73</sup> Schott Direct Testimony at 6 TR 4540.

<sup>74</sup> Sparks Direct Testimony at 6 TR 2371.

<sup>75</sup> *Id.* at 6 TR 2369.

<sup>76</sup> *Id.* at 6 TR 2371.

<sup>77</sup> Jacob Direct Testimony at 6 TR 4539.

<sup>78</sup> Kinkhabwala Direct Testimony at 6 TR 4540.

<sup>79</sup> Jacob Direct Testimony at 6 TR 4539–40.

monthly payment may not be standard as every three months DTE will assess whether the customer's actual monthly usage is above or below their average monthly usage.<sup>80</sup> A customer who ends up using more electricity in a given month than the projected average monthly usage will result in the customer being charged for the additional electricity used.<sup>81</sup> To enroll in the SPP, DTE will require a customer to pay at least 10% of their outstanding balance (which includes their total arrears) as a downpayment.<sup>82</sup>

The BudgetWise Billing Program is a payment program that allows a DTE customer to divide their total annual energy use into a standard monthly bill. However, the program has settlement charges, at which time the Company reviews the difference between the energy a customer used and the amount they were charged for based on the Company's estimate.<sup>83</sup> If the actual energy use is higher than the estimated energy use, the customer will be charged for the additional usage.<sup>84</sup>

**a. The Company's Existing Affordability Programs are Insufficient to Meet the Electricity Affordability Crisis.**

The crisis levels of energy unaffordability experienced by low-income DTE customers illustrate how insufficient the Company's current affordability and billing assistance programs are to meet customer needs. While these programs provide some support to low-income customers, they fall far short of solving the root affordability challenges that customers experience. Approximately 430,000 low-income households in DTE Electric's service territory are spending more than 6% of their incomes just paying for their energy bills.<sup>85</sup> That means that

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<sup>80</sup> *Id.*

<sup>81</sup> *Id.*

<sup>82</sup> Sparks Rebuttal Testimony at 6 TR 2394.

<sup>83</sup> Watts Direct Testimony at 6 TR 4690.

<sup>84</sup> *Id.*

<sup>85</sup> Kinkhabwala Direct Testimony at 6 TR 4534–35.

hundreds of thousands of families are regularly making difficult choices between paying their monthly DTE bills and purchasing other essentials like food, healthcare, and childcare. DAAO Witness Kinkhabwala estimates these 430,000 low-to-moderate income (“LMI”) DTE customers with incomes at or below 200% of the FPL were billed \$450 million more than they could afford for their energy based on a 6% of income threshold.<sup>86</sup> In addition, customers with incomes above 200% of the FPL were charged an additional \$30 million more than they could afford, raising the total affordability gap to \$480 million, impacting approximately 515,000 customers.<sup>87</sup> The fact that so many of DTE’s customers are unable to afford their bills on such a scale indicates that the Company’s current rates are too high, and its programs are insufficiently funded and are far too restricted to effectively address the crisis.

For low-income customers in need of financial assistance to pay their monthly DTE Electric bills, there are only a few options available. As discussed above, an eligible low-income household could apply for the State Emergency Relief Program, and if successfully admitted to the program, they may be able to apply for additional assistance via the MEAP. However, these programs are not sufficiently funded to help the customers in need. While programs such as the SER and MEAP programs are supposed to be funded for a full calendar year from September 2023 to October 2024, in this year alone, the programs started to exhaust their funds as early as June 2024.<sup>88</sup> That means that for many low-income customers, there are several months of the year—even though they are eligible for the assistance and undertake all necessary application steps—during which time assistance through these programs is not available.<sup>89</sup> The high level of

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<sup>86</sup> *Id.*

<sup>87</sup> *Id.*

<sup>88</sup> Jacob Direct Testimony at 6 TR 4651.

<sup>89</sup> *Id.* at 6 TR 4654.

participation in these programs to the point of exhausting funding several months early illustrates how insufficient they are to meet the scale of the crisis.

Even including the Company's RIA and LIA credits, the total amount of assistance is insufficient. Across all of DTE's bill assistance programs, DAAO Kinkhabwala estimated that the total amount of low-income bill assistance available for DTE customers is only \$90 million.<sup>90</sup> In total, these utility assistance programs are only able to provide 20% of the \$450 million of financial assistance critically needed to support LMI families.<sup>91</sup> Put differently, many of the Company's LMI customers cannot afford their DTE bills *and* there is not nearly enough utility assistance funding available via the existing electricity affordability programs to fill their energy affordability gap.

DTE also underestimates the scale of the affordability crisis. DTE currently classifies only 8% of its residential customers as low-income and earning less than 200% of the FPL.<sup>92</sup> However, using 2022 Census data, Witness Schott estimates that 29% of Michigan residents earn less than 200% of the FPL.<sup>93</sup> This means that even as utility assistance programs are regularly running out of money and resources, 75% of income-eligible households may not even be participating in the affordability programs for which they are eligible.<sup>94</sup> As such, the affordability crisis is two-fold—the Company does not engage the majority of low-income households in its service territory in affordability programs they are eligible for, and the utility assistance programs do not have sufficient funding to meet existing customer needs.

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<sup>90</sup> Kinkhabwala Direct Testimony at 6 TR 4538.

<sup>91</sup> *Id.*

<sup>92</sup> Schott Direct Testimony at 6 TR 4504.

<sup>93</sup> *Id.*

<sup>94</sup> *Id.*

**b. The Company’s Existing Affordability Programs Are Difficult to Navigate and Are Inaccessible to Many Low-Income and Vulnerable Customers.**

The Company’s affordability programs are not appropriately advertised, are hard to navigate, and are inaccessible to many low-income customers. Many customers who are eligible for programs may be unable to access them because of DTE’s failure to provide easily accessible information about its programs. For example, Witness Watts, a DTE customer for 24 years, states that she could not “remember a recent time” when she received a “pamphlet or brochure from DTE about its assistance programs” and noted that, in her experience, “DTE does a very poor job of communicating with customers directly about its various assistance programs[.]”<sup>95</sup> Similarly, Witness Orr noted that the Company “does not really advertise” affordability programs, “rarely tells you anything is happening,” and stated that “it seems like there are very few programs that DTE brings to the community.”<sup>96</sup>

Even when low-income customers like Witness Watts and Witness Orr proactively reach out to the Company and search independently for affordability programs, they struggle to receive helpful and accessible information from the Company that allows them to access utility assistance.<sup>97</sup> The Company does not actively invite or enroll low-income customers in programs such as LSP, LIA, or SPP.<sup>98</sup> Accordingly, the Company puts the onus on already burdened low-income customers to navigate a confusing maze of affordability programs to try to piece together enough resources and programs to meet their needs. As aforementioned, the fact that only 8% of DTE residential customers are currently accessing the Company’s affordability programs

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<sup>95</sup> Watts Direct Testimony at 6 TR 4667.

<sup>96</sup> Orr Direct Testimony at 6 TR 4707.

<sup>97</sup> Watts Direct Testimony at 6 TR 4677; Orr Direct Testimony at 6 TR 4707–08.

<sup>98</sup> Schott Direct Testimony at 6 TR 4465.

underscores the fact that many customers are likely unaware of—and therefore unable to access—the limited affordability programs that are offered by the Company.<sup>99</sup>

**i. The Company’s Affordability Assistance programs, Including the SER, LSP, MEAP, RIA, and LIA, Are Difficult to Access and Do Not Meet the Needs of Customers.**

Navigating utility assistance programs such as the SER, LSP, and MEAP is a particularly onerous and challenging process for many low-income customers. First, as an emergency utility assistance program, the SER is only available to customers who have already fallen behind on their electric bills or are at risk of service disconnection.<sup>100</sup> The lack of preventative assistance programs means that low-income customers cannot access financial assistance before they are at risk of service disconnection. Furthermore, to be eligible for additional funding from the MEAP program and access the LSP program, a low-income customer must first apply for the SER program, receive an award from MDHHS, and then apply for MEAP with a community action agency while their SER award is valid.<sup>101</sup> In other words, each customer must complete two applications –the SER and MEAP applications – and navigate between MDHHS and Community Action Agencies in order to finally be able to access the LSP program.<sup>102</sup> For low-income customers working multiple jobs, taking care of children, juggling doctors’ appointments, or taking care of family members, the administrative burden of these applications during a time when they are under extraordinary stress to avoid electric service disconnection can make these programs practically inaccessible.

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<sup>99</sup> *Id.* at 6 TR 5403–04.

<sup>100</sup> Watts Direct Testimony at 6 TR 4684–85.

<sup>101</sup> Sparks Direct Testimony at 6 TR 2364 tbl. 2 (noting that 2019 was the first year that the State Emergency Relief Program was required as part of the LSP enrollment eligibility). *See also* Ex. DAO-203 at 1.

<sup>102</sup> Jacob Direct Testimony at 6 TR 4641.

Furthermore, access to these programs is overly restricted on their own terms. Both SER and MEAP are limited only to families within 150% of the FPL.<sup>103</sup> As noted by the Company, there is a larger segment of their customer base that earns above 150% of the FPL but still falls short of meeting essential household needs and being able to afford their electricity bills.<sup>104</sup> Therefore, these programs are not only difficult to navigate for eligible low-income customers, but they are also inaccessible for many customers who are slightly above the income threshold to be eligible for these programs but are still in urgent need of financial assistance to afford their bills.

Further, when a low-income customer is finally able to access the LSP, there is still no guarantee of affordable and consistent energy service. While the Company claims that there is a “dedicated team of customer advocates within the Company ready to assist customers while enrolled” in the LPS program, Witness Watts underscored how little communication she received from the Company while in the program.<sup>105</sup> Rather, much of the support she received while in the LSP was from community partners such as 2-1-1 or United Way, not from Company representatives.<sup>106</sup> Furthermore, the Company considers success in the LSP program as completing a fiscal year without being removed for non-payment; yet even by their own low bar for success, 18% and 19% of LSP participants in 2021 and 2022, respectively, experienced a shut-off while enrolled in the program.<sup>107</sup> As such, even by its own metric of success, the Company is failing nearly a fifth of the low-income customers enrolled in their LSP by allowing them to be shut-off even as they are enrolled in one of the Company’s few affordability program options.

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<sup>103</sup> Sparks Direct Testimony at 6 TR 2362; Ex. DAO-203 at 1.

<sup>104</sup> *Id.* at 6 TR 2367.

<sup>105</sup> *Id.* at 6 TR 2362; Watts Direct Testimony at 6 TR 4677.

<sup>106</sup> Watts Direct Testimony at 6 TR 4677.

<sup>107</sup> Sparks Direct Testimony at 6 TR 2363; Watts Direct Testimony at 6 TR 4682–83; Sparks Direct Testimony at 6 TR 2364 tbl. 2.

In addition, even after a customer has gone through the confusing process of working through multiple organizations to finally access the LSP, there is no guarantee that their bills going forward will be affordable. Once a customer completes their 24 months within the LSP, the Company will “graduate” them from the program and remove their bill assistance without determining whether or not the customer can actually afford their bill or connecting the customer to any additional programs to support them.<sup>108</sup> The only option for low-income customers who “graduate” from LSP but are still not able to afford their bills—because, for instance, they live on a fixed income, live in an older home that uses large amounts of energy, or otherwise continue to live below 150% of the FPL—is to go back through the onerous and difficult process of applying again for SER and MEAP.<sup>109</sup> The Company itself acknowledges these flaws and notes that there are many households that earn slightly above 150% of the FPL but still are unable to afford their bills, which underscores “the importance of exploring payment options that extend beyond the conventional 24 months and surpass the 150% FPL” and that “such solutions are critical for customers facing long-term financial constraints.”<sup>110</sup> The LSP’s deficiencies are obvious even to the Company.

Additionally, the process for customers to access the Residential Low-Income Assistance Credit and the Low-Income Assistance Credit is opaque. For instance, despite likely receiving the LIA credit while enrolled in the LSP plan, Witness Watts had “never heard of the LIA credit prior to developing testimony for the current set of DTE Gas and DTE Electric rate case,” which told her that “both companies are not educating residents on what these programs are and how they work.”<sup>111</sup> For both the RIA and the LIA, it is unclear how an eligible low-income customer

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<sup>108</sup> Orr Direct Testimony at 6 TR 4707–08.

<sup>109</sup> Watts Direct Testimony at 6 TR 4681.

<sup>110</sup> Sparks Direct Testimony at 6 TR 2366–67.

<sup>111</sup> Watts Direct Testimony at 6 TR 4684–85.

could proactively apply for these credits and how the Company would review their eligibility and provide them with these credits. Beyond the lack of transparency and communication to eligible customers regarding these credits, it is very unclear how some customers receive LIA and RIA credits while others do not. For instance, while many LSP participants are automatically enrolled in LIA, other eligible customers are not aware of or enrolled in the program.<sup>112</sup> The Company notes that there are several ways a customer could receive an LIA, for instance, individuals enrolled in the LSP program or graduates of the LSP program who maintain low-income status.<sup>113</sup> However, it is not clear how a customer maintains that status with the Company, or if, at the Company’s discretion, a customer could be shifted from the RIA to the LIA.<sup>114</sup> Moreover, the Company has stated that it “historically prioritizes Seniors receiving the RIA” and also that it “sometimes prioritizes call-ins”, which again shows a lack of transparency and clarity as to what customers are actually receiving RIA credits.<sup>115</sup> Since there is no public application, transparent process, or easily accessible way for customers to apply for these credits, many customers who may not access LSP due to the administrative burden of the application process are also not able to access LIA or RIA. While the Company claims that they do not advertise the LIA and RIA because they “cannot give the credit to everyone[,]”<sup>116</sup> the same is true for all the utility assistance programs available (i.e., the SER and MEAP). The Company’s lack of transparency and clear process to access these credits is unreasonable.

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<sup>112</sup> *Id.*

<sup>113</sup> Sparks Direct Testimony at 6 TR 2372.

<sup>114</sup> *Id.*

<sup>115</sup> Watts Direct Testimony at 6 TR 4687–88.

<sup>116</sup> *Id.*

**ii. The Company’s Shut-Off Protection Plan Program and BudgetWise Program Similarly Do Not Provide Sufficient Assistance to Customers.**

Beyond the limited financial assistance offered to DTE Electric customers, the Company offers a few other non-financial affordability programs that are similarly poorly designed to meet customer needs. For instance, the Company offers its Shut-Off Protection Plan, which, in certain circumstances, allows a low-income customer a 12-month period to pay off a past-due balance.<sup>117</sup> Furthermore, the SPP requires that customers pay a downpayment of at least 10% (or even 30% if they have defaulted on a previous SPP) of their past-due balance to enroll.<sup>118</sup> Many low-income customers simply do not have the financial resources to pay their bills, and the SPP, with its hefty downpayment requirement, is therefore often inaccessible. Furthermore, when a customer lives on a fixed income or works a job with a set hourly wage, having more time to pay off a bill does not address or solve the root cause of their billing challenge: their inability to afford their energy bill.<sup>119</sup> As the SPP is difficult to access due to significant downpayment requirements and does not address the unaffordability of energy, it does not resolve the issues with the Company’s bill assistance programs.

Similarly, the BudgetWise Program provides a “disappointing” program for customers.<sup>120</sup> BudgetWise customer Witness Orr noted that while they were promised “lower, more stable bills during certain months[,]” the benefits of the programs were eroded during settlement months when they can be charged “significant balloon bill[s.]”<sup>121</sup> The Company can charge these recalculation settlement costs if the customer’s actual energy use exceeds their average monthly

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<sup>117</sup> Jacob Direct Testimony at 6 TR 4639.

<sup>118</sup> *Id.*; Sparks Rebuttal Testimony at 6 TR 2394.

<sup>119</sup> Jacob Direct Testimony at 6 TR 4639.

<sup>120</sup> Orr Direct Testimony at 6 TR 4710.

<sup>121</sup> *Id.*

usage as estimated in their BudgetWise plan.<sup>122</sup> Witness Orr noted that the BudgetWise Program was so insufficient to meet her needs that she “would never enroll in the program again.”<sup>123</sup>

Thus, the Company’s existing affordability programs fall far short of meeting the need of low-income households to be able to afford their energy. There are not enough programs to meet DTE’s low-income customers’ needs and the very limited programs that currently exist are not transparently or accessibly shared with customers, are difficult to navigate, and provide far less assistance than DTE’s customers require. A more holistic and customer-centered approach is urgently needed to truly address the affordability crisis that is devastating DTE Electric’s low-income customers.

**c. A Percentage of Income Program is Urgently Needed to Meet the Needs of Low-Income and Vulnerable Customers.**

Instead of putting the burden on low-income customers to navigate a maze of affordability programs and payment plans, the Company should create a more holistic and centralized approach to address the energy affordability crisis plaguing so many of its customers. DAAO requests that the Commission compel DTE Electric to implement a Percent of Income Payment Plan Program (“PIPP”). A PIPP is a prudent and reasonable approach to address the affordability gap and meet the needs of low-income customers.<sup>124</sup>

In order to appropriately address the affordability crisis, the Commission should require DTE to put forward a proposal for a PIPP program. Currently, the energy affordability gap in DTE Electric’s service territory is estimated at over \$450 million.<sup>125</sup> For electricity specifically, the

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<sup>122</sup> See Watts Direct Testimony at 6 TR 4690. DTE similarly recalculates payments for customers enrolled in an SPP if their average energy usage over a three-month period varies by 5% or more. Sparks Rebuttal Testimony at 6 TR 2395. While these recalculations can be surprising to customers, see Jacob Direct Testimony at 6 TR 4642, DAAO concedes that the Company does not charge a separate fee for engaging in the recalculation, as stated by Witness Sparks. Sparks Rebuttal Testimony at 6 TR 2395.

<sup>123</sup> Orr Direct Testimony at 6 TR 4710.

<sup>124</sup> Kinkhabwala Direct Testimony at 6 TR 4546–47.

<sup>125</sup> *Id.*

affordability gap for low-moderate income customers is approximately \$380 million.<sup>126</sup> A PIPP would cap a residential low-income customer’s energy costs (both gas and electric) at 6% of their total income, which would result in a 3% bill cap for electric-only customers and a 6% bill cap for customers who use electricity for heating as well.<sup>127</sup> For any electricity costs that exceed the aforementioned bill cap, DTE Electric would provide a credit in the amount accrued in excess of the customer’s cap.<sup>128</sup> Given that so many customers are struggling to afford their monthly energy bills, DAAO recommends that the Commission implement a threshold of no lower than 200% of the FPL for customers to participate in the PIPP.

A PIPP program is a financially feasible investment for DTE Electric. Additional investments into low-income serving programs such as PIPP could be offset by disallowing the Company’s spending that is not compatible with the goals of affordability and public health. For instance, disallowing the Company’s “aggressive and unnecessary” capital expenses that increase shareholder profits at the expense of ratepayer affordability could be one way to offset the costs of creating and implementing a PIPP for DTE Electric customers.<sup>129</sup> These requests could be disallowed to effectively and efficiently finance a PIPP. Further, given the urgent and pressing need for a holistic low-income bill assistance program, the cost of the PIPP could also be spread across the entire rate base as an operating expense.<sup>130</sup> Evidence presented in this case suggests that there is sufficient surplus in the rate base to fund a universal PIPP program.<sup>131</sup> By disallowing imprudent and unreasonable expenses and sharing costs for a PIPP across the

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<sup>126</sup> *Id.* at 6 TR 4548.

<sup>127</sup> *Id.* at 6 TR 4546.

<sup>128</sup> Koeppel Direct Testimony at 6 TR 4396.

<sup>129</sup> Schott Direct Testimony at 6 TR 4526; *see generally* Koeppel Direct Testimony at 6 TR 4398–402 (discussing the Company’s unnecessary capital IT investments).

<sup>130</sup> Koeppel Direct Testimony at 6 TR 4396; *see also* Schott Direct Testimony at 6 TR 4486–87.

<sup>131</sup> *See* Schott Direct Testimony at 4486-87.

customer base, the Commission could effectively address the Company’s widespread affordability challenges without overburdening ratepayers.

A PIPP is a sensible short-term solution to closing the \$450 million LMI affordability gap.<sup>132</sup> First, as previously mentioned, the Company itself asserts that offering assistance above 150% of the FPL would prevent low-income families from falling into “financial distress, reducing the risk of falling into crisis resulting in service interruption.”<sup>133</sup> A PIPP program for all customers under 200% of the FPL would address these concerns, and prevent the harmful effects of energy unaffordability, including due to shutoffs for nonpayment.

Second, PIPPs have proven to be successful. States throughout the country have already implemented PIPP-style affordability programs and made large strides to reduce the affordability challenges that their customers face. To effectively implement a PIPP, the Company and the Commission need only look at the example of states like Illinois.<sup>134</sup> In Illinois, in 2023, the Illinois Commerce Commission (ICC) considered a series of proposals for a low-income discount credit (LIDC) in five gas rate cases in 2023.<sup>135</sup> After consideration of these proposals, the ICC adopted and requested the creation of a five-tiered LIDC that applies to the entire customer bill.<sup>136</sup> As noted by CEO Witness Kenworthy in rebuttal testimony, the costs of the LIDC program are recoverable by all customers, including customers enrolled within the program, which allowed “ComEd to provide meaningful assistance to low-income customers while minimizing the bill impacts on non-enrolled residential and commercial customers[.]”<sup>137</sup>

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<sup>132</sup> Kinkhabwala Direct Testimony at 6 TR 4546–47.

<sup>133</sup> Sparks Direct Testimony at 6 TR 2368.

<sup>134</sup> Kenworthy Rebuttal Testimony at 6 TR 3224–26; Kinkhabwala Testimony at 6 TR 4547; Schott Direct Testimony at 6 TR 4524–25.

<sup>135</sup> Schott Direct Testimony at 6 TR 4524–25.

<sup>136</sup> *Id.*

<sup>137</sup> Kenworthy Rebuttal Testimony at 6 TR 3224–25.

This program, as approved by the ICC, allows for automatic enrollment of customers already identified as low-income and flexibility for customers to apply for the program via existing channels.<sup>138</sup> This example highlights successful methods to effectively implement a PIPP program.

Data from the Company’s own pilot suggests that a universal PIPP program would be successful in significantly reducing the burden on low-income customers. In both 2022 and 2023, the Company operated a Payment Stability Program (“PSP”) Pilot, a PIPP similar to the model proposed here by DAAO.<sup>139</sup> The PSP Pilot is an income-based affordability program that is directed at low-income customers at or below 200% of the FPL.<sup>140</sup> Customers who have either gas or electric service have their bills capped at 6% of gross household income, and customers who have both DTE Gas and Electric service have their combined bill capped at 10% of gross household income.<sup>141</sup> While the Company has not released full data on these pilots, the results shared to date are positive and encouraging. The Company reports that participants in the PSP Pilot “exhibited a 21% enhancement in on-time and in-full payments, resulting in an average reduction of arrears by 43%” and “a noteworthy improvement in service interruption was observed when compared to eligible households not enrolled in PSP.”<sup>142</sup> Despite this success, the Company has not shared plans or a timeline to expand this PSP Pilot and to make such a

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<sup>138</sup> *Id.*

<sup>139</sup> *See* Sparks Direct Testimony at 6 TR 2367.

<sup>140</sup> *Id.*

<sup>141</sup> *Id.* at 6 TR 2367–68. It is important to note that the PSP pilot caps are higher than DAAO’s recommended caps, which are 3% for each gas and electric and 6% for combined gas and electric. The current of 10% across both gas and electricity outlined within DTE’s PSP Pilot is unaffordable for low-income households and an inequitable energy burden. A PIPP setting a cap of 6% of both gas and electric service, or 3% of each gas or electric service, is a more equitable approach and in line with the Commission’s approval of a PIPP pilot for Consumers Energy with a 6% cap for both gas and electricity. Schott Direct Testimony at 6 TR 4524.

<sup>142</sup> Sparks Direct Testimony at 6 TR 2368.

critically needed program available across the customer base. The Company has already had two years to pilot, review, and assess the feasibility of a PIPP program. Given the urgency of the affordability crisis, the Commission must use its authority to compel the Company to avoid additional delays and implement a full PIPP program quickly and efficiently.

DAAO requests that the Commission exercise its legal authority to require the Company to expand the existing PSP pilot and create a PIPP program that serves all low-income residential DTE Electric customers who are at or below 200% of the FPL. As noted by Witness Watts, “At the end of the day, I just need an affordable monthly bill[.]”<sup>143</sup> DAAO implores the Commission to consider the needs of the hundreds of thousands of DTE Electric customers who are struggling to afford their monthly energy bills and order the implementation of a low-income PIPP. While a PIPP is not a silver bullet to solve all affordability problems, it is a comprehensive bill solution that would remedy the issues with the Company’s confusing and difficult-to-navigate bill assistance programs and mitigate the worst effects of the affordability crisis. DAAO requests that the Commission order the Company to provide a proposal for a universal PIPP as soon as possible.

### **3. The Commission Should Require DTE to Provide a Proposal to Invest in Low-Income Communities as a Cost-Effective Way to Address the Affordability Crisis.**

While a PIPP program is an important step in ameliorating short-term energy affordability, investing in energy efficiency upgrades, electrification, renewable energy, and demand response are effective long-term strategies to address the unaffordability of energy.<sup>144</sup> Unlike short-term solutions that provide bill assistance to low-income individuals, these investments in energy efficiency—such as home weatherization, appliance upgrades, and building retrofits—reduce

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<sup>143</sup> Watts Direct Testimony at 6 TR 4689.

<sup>144</sup> Kinkhabwala Direct Testimony at 6 TR 4549–53.

overall energy consumption and lower monthly utility bills over time, providing sustained financial relief to low- and moderate-income households.<sup>145</sup> Additionally, the long-term benefits of electrification, particularly but not only through the use of efficient heat pumps, include reduced energy use, lower emissions, and improved indoor air quality.<sup>146</sup> Demand response programs can shift energy use away from peak periods, lowering bills and enhancing grid resilience.<sup>147</sup> Expanding investments in renewable energy, particularly through distributed generation and community solar programs, can offer direct savings on utility bills and provide a pathway to more equitable access to clean energy.<sup>148</sup> “When implemented sequentially, these four interventions can lead to drastic and long-term reductions in energy cost burdens. [Witness Kinkhabwala] estimate[s] that, by implementing all of these investments for all LMI households, the number of cost-burdened LMI customers of DTE Electric would decrease from 430,000 to 240,000 and simultaneously decrease the energy affordability gap from \$450 million to \$140 million.”<sup>149</sup> The reductions in the affordability gap would pay off financially for the Company, other customers, and taxpayers by reducing arrearages and shutoffs and the need for short-term bill assistance and other support programs.<sup>150</sup> Therefore, the Commission should support policies and programs that incentivize or mandate such investments, leading to a significantly reduced energy burden on low-income customers and communities while also generating public health benefits and carbon emission reductions.

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<sup>145</sup> *Id.* at 6 TR 4548–49, 4553–54.

<sup>146</sup> *Id.* at 6 TR 4550–52, 4554.

<sup>147</sup> *Id.* at 6 TR 4552, 4554–55.

<sup>148</sup> *Id.* at 6 TR 4552–53, 4555.

<sup>149</sup> *Id.* at 6 TR 4555.

<sup>150</sup> *Id.* at 6 TR 4563.

Energy efficiency upgrades, such as weatherizing homes and upgrading inefficient heating and cooling systems,<sup>151</sup> are essential for addressing energy affordability.<sup>152</sup> Weatherization programs can reduce total energy use across all fuels by 15% to 20%, leading to substantial cost savings for participants,<sup>153</sup> with the average cost of weatherization being approximately \$5,250 per household based on studies of weatherization assistance programs.<sup>154</sup> Financial barriers such as a lack of capital<sup>155</sup> and split incentives between renters and landlords<sup>156</sup> often hinder low-income households from pursuing weatherization on their own.<sup>157</sup> Robust funding and other support from state programs are necessary to overcome these barriers and expand access to energy efficiency upgrades for the most vulnerable households.

Electrification, particularly through the use of efficient heat pumps, can improve energy affordability in some cases and reduce emissions. For example, cold-weather heat pumps with a seasonal performance factor (HSPF2) of 8.5 can offer a reduction in the absolute energy needed to heat a home by 64% when replacing fuel oil or propane systems and 60% when replacing resistive electric heating systems.<sup>158</sup> Modern heat pumps are also more efficient than existing cooling systems, reducing summer peak energy consumption and offering additional cost savings for consumers.<sup>159</sup> Moreover, electrification of household appliances, such as gas stoves and

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<sup>151</sup> *Id.* at 6 TR 4549 (“Strategies include measures such as installing insulation in walls, floors, ceilings, ducts, and pipes; installing smart control systems and thermostats for heating and cooling; replacing inefficient appliances and lights; sealing windows and doors or installing double-pane windows; and improving ventilation, among others. Efficiency includes replacing appliances such as outdated refrigerators and updating incandescent lighting.”).

<sup>152</sup> *Id.* at 6 TR 4549–50, 4553–54, 4557 fig. 7.

<sup>153</sup> *Id.* at 6 TR 4553.

<sup>154</sup> *Id.* at 6 TR 4554.

<sup>155</sup> *Id.* at 6 TR 4549.

<sup>156</sup> *Id.* at 6 TR 4550.

<sup>157</sup> *Id.* (“[A]most half of all LMI households in DTE’s territory are renters, and the vast majority of renters are responsible for paying their own utility bills, creating a classic split incentive problem where renters pay for energy used while landlords are responsible for energy-saving upgrades.”).

<sup>158</sup> *Id.* at 6 TR 4554, 4551 fig. 6.

<sup>159</sup> *Id.* at 6 TR 4554.

ovens, further eliminates combustion-related emissions that degrade indoor air quality and pose health risks, including elevated levels of nitrogen dioxide and benzene that contribute to asthma.<sup>160</sup> “While switching from natural gas to heat pumps may not be currently economical for many households in DTE territory because of the relatively high electricity rates and low gas prices,”<sup>161</sup> this solution should be pursued now for those homes that are heated through other means and continue to be considered as an option as fuel prices shift relatively and the state pursues its carbon reduction goals.

Properly implemented demand response programs can also help to manage energy use, control costs, and reduce the energy affordability gap.<sup>162</sup> DTE offers various demand response programs, including cycling air conditioning, turning off electric water heaters, adjusting thermostats, and shifting electric vehicle charging hours, which collectively reduce peak demand and lower energy bills.<sup>163</sup> Increasing winter demand response will become necessary as electrification efforts, such as heat pump conversions, shift more energy demand to the winter months.<sup>164</sup> But despite the potential benefits of demand response, unfortunately, “[n]ot all homes are eligible for all programs depending on the technology available at home.”<sup>165</sup> Moreover, while many low-income households appear to benefit from demand response, some do not.<sup>166</sup> “Education about such programs is needed to ensure that LMI households can participate and receive the financial incentives that accompany participation,”<sup>167</sup> while helping to ensure that

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<sup>160</sup> *Id.* at 6 TR 4551–52.

<sup>161</sup> *Id.* at 6 TR 4550.

<sup>162</sup> *Id.* at 6 TR 4557 fig. 7.

<sup>163</sup> *Id.* at 6 TR 4554.

<sup>164</sup> *Id.* at 6 TR 4555.

<sup>165</sup> *Id.* at 6 TR 4554.

<sup>166</sup> Kenworthy Direct Testimony at 6 TR 3228–30.

<sup>167</sup> Kinkhabwala Direct Testimony at 6 TR 4552; *see also* Kenworthy Rebuttal Testimony 6 TR 3230.

they do not engage in energy-limiting behavior that harms them.<sup>168</sup> Low-income households may need additional support to invest in smart equipment that allows them to participate effectively and fully in these programs.

Increased investments in renewable energy can be a fourth way to reduce the energy affordability gap.<sup>169</sup> Community solar programs, in particular, can provide direct benefits to low-income households by offering bill credits or reduced rates to participants. “The U.S. Department of Energy aims to increase the percentage bill savings from 10 percent to 20 percent [in community solar programs], and a low-income community solar pilot in Illinois guarantees bill savings of 50 percent for low-income customers.”<sup>170</sup> Investing in community solar enables a more inclusive transition to renewable energy, allowing renters and those unable to install rooftop solar to participate and benefit from clean energy and addressing the disproportionate participation in distributed generation by higher-income households.<sup>171</sup> Additionally, community solar paired with storage in low-income communities can enhance grid resilience by distributing energy generation closer to demand, thereby reducing outages and costs for populations disproportionately impacted by the loss of power.<sup>172</sup>

Initial estimates for such a multi-pronged, energy-burden reduction program show that the costs are not prohibitive. After reviewing some of the existing funding programs and tax incentives, DAAO Witness Kinkhabwala calculates that there is an approximately \$75 million annual gap, which would correspond to \$37.50 per DTE residential customer per year, or \$3.13 per month.<sup>173</sup> This corresponds to roughly 0.18 cent/kWh surcharge, or one percent of DTE rates

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<sup>168</sup> See Kenworthy Rebuttal Testimony at 6 TR 3230–32.

<sup>169</sup> *Id.* at 6 TR 4552–53, 4555, 4557 fig. 7.

<sup>170</sup> *Id.* at 6 TR 4555.

<sup>171</sup> *Id.* at 6 TR 4552.

<sup>172</sup> *Id.* at 6 TR 4553; see also Makhijani Direct Testimony at 6 TR 4599–623.

<sup>173</sup> Kinkhabwala Direct Testimony 6 TR 4559.

in 2022.<sup>174</sup> Other funding sources might be available to reduce these costs, and the investments could help pay for themselves through a reduction in bill assistance.<sup>175</sup> It is true that these figures are based on estimates and not guarantees of bill savings,<sup>176</sup> but they show what could be possible with the right kinds of investments under the right policy and legal constructs. Over time, these kinds of investments would significantly reduce the affordability gap.<sup>177</sup>

In sum, long-term investments in energy efficiency, electrification, renewable energy, and demand response programs would help to address Michigan’s energy affordability crisis. These strategies offer sustained financial relief for low- and moderate-income households, reduce overall energy consumption, and align with the state’s goals of decarbonization and building a resilient energy grid. Although there would be program design issues, legal considerations, and details to resolve before such a program could be implemented,<sup>178</sup> the broader benefits of these investments—especially for vulnerable communities—warrant the Commission’s support. Thus, DAAO asks the Commission to seek to increase investments in LMI weatherization, electrification, demand response, and renewable energy to make energy more affordable and equitable for low-income customers on a long-term basis.

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<sup>174</sup> *Id.*

<sup>175</sup> *Id.*

<sup>176</sup> See Krause Rebuttal Testimony at 6 TR 5196–97 (“Q. Is the analysis supported by any solar cost or accepted compensation structures in Michigan? A. No. Q. What is Staff’s recommendation? A. Without knowing the costs of proposed Community Solar arrays, nor the compensation structure that is going to be used for these programs, it is premature to promise any bill savings whatsoever. In fact, it is possible that to achieve those bill savings that a community solar program may need compensation that far exceeds anything that exists in Michigan’s legal and regulatory framework today or what could be considered reasonable. Absent sufficient understanding as to how these savings will be achieved it is not appropriate to guarantee them.”).

<sup>177</sup> Kinkhabwala Direct Testimony at 6 TR 4558 fig. 8.

<sup>178</sup> See, e.g., Krause Rebuttal Testimony at 6 TR 5196–97 (raising questions and concerns about community solar compensation structures).

#### **4. The EAAC and AAA Have Failed to Address Affordability Issues, and the Commission Should Act to Address the Affordability Crisis in this Case.**

The Commission’s response to affordability challenges thus far has been inadequate. In response to DAAO’s proposal for a universal PIPP program, MPSC Staff argues that the EAAC’s AAA subcommittee and Staff are already working on a recommendation, and, therefore, the Commission should continue to delay action on affordability until the EAAC issues its recommendation.<sup>179</sup> However, the Commission should not leave this task to the EAAC and its AAA subcommittee. While some of the work of the EAAC and AAA has been constructive, the groups have failed to make measurable progress on the issue of energy affordability and do not act with the urgency required by the affordability crisis.<sup>180</sup> While Staff continues to argue for a delay, DTE’s customers are suffering from unaffordable energy bills.<sup>181</sup> More delay will result in extended and increased suffering for those unable to afford their bills while the subcommittee debates how much help they think the Commission should order and utilities provide.

Affordability is an important component of a reasonable rate that the Commission must consider. When setting rates, the Commission “may look at all relevant factors in exercising its broad discretion to determine a just and reasonable rate.”<sup>182</sup> Michigan statute requires the Commission to consider, among other things, the “value of service to the consumer.”<sup>183</sup> The Michigan Supreme Court further required that, in setting a just and reasonable rate, the Commission must balance the interests of shareholders and customers.<sup>184</sup> Affordability is of

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<sup>179</sup> See Braunschweig Rebuttal Testimony at 6 TR 3542.

<sup>180</sup> See Schott Direct Testimony at 6 TR 4509–10; see also *In re DTE Gas Co.*, MPSC Case No. U-21291, Koeppel Rebuttal Testimony (May 29, 2024) at 3–4.

<sup>181</sup> See *supra*, Section A.

<sup>182</sup> *Ass’n of Bus. Advocating Tariff Equity v. Pub. Serv. Comm’n*, 208 Mich. App. 248, 259 (1994).

<sup>183</sup> MCL § 460.557(2).

<sup>184</sup> *City of Detroit v. Michigan Pub. Serv. Comm’n*, 308 Mich. 706, 716 (1944); see also *ABATE v. Public Service Comm.*, 208 Mich. App. 248, 267 (1994).

paramount customer interest. As discussed above, customers who cannot afford energy are at risk for numerous negative health impacts,<sup>185</sup> as well as a risk of falling into or remaining in the cycle of poverty.<sup>186</sup> Furthermore, if customers cannot afford energy, and thereby lose access to energy, then whatever benefits in infrastructure and services result from a rate increase, customers will not enjoy them. It cannot be in the customers' interest, then, for rates to be raised to above what they can afford. Put simply, an unaffordable rate is an unjust rate.

The Commission has not taken any meaningful action to address the affordability crisis for years. In its November 18, 2022, Order in Case No. U-20836, the Commission wrote that “the Commission understands the calls for urgency expressed by the DAAOs and recognizes that energy affordability is a critical issue for many DTE Electric ratepayers,” but it refused to implement any solutions to energy unaffordability, instead sending affordability issues to the EAAC for consideration.<sup>187</sup> Since then, the Commission has largely refused to address affordability issues at all in rate cases.<sup>188</sup> DAAO files this brief on October 3, 2024, almost two years after the Commission's Order acknowledging the urgency of affordability issues and more than three and a half years since the Commission directed Staff to begin work in the EAAC.<sup>189</sup> DTE's customers are no better off than they were three and a half years ago.<sup>190</sup> In fact, energy

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<sup>185</sup> Ex. DAO-117 at 6.

<sup>186</sup> See Schott Direct Testimony at 6 TR 4474.

<sup>187</sup> *In re DTE Electric Co.*, MPSC Case No. U-20836, MPSC Order (Nov. 18, 2022) [hereinafter U-20836 MPSC Order], at 407.

<sup>188</sup> See *In re Consumers Energy Co.*, MPSC Case No. U-21389, MPSC Order (Mar. 1, 2024) [hereinafter U-21389 MPSC Order], at 289 (“To date, the topic of affordability has been addressed through the EAAC workgroup and its subcommittees, which the Commission finds should continue at this time.”); *In re DTE Electric Co.*, U-21297 MPSC Order, at 362 (“The Commission appreciates the emphasis on the affordability of utility services for LMI customers raised in the testimony provided by the DAAOs” but refuses to take any action on the issue).

<sup>189</sup> See *In re Response to COVID-19 Pandemic*, MPSC Case No. U-20757, MPSC Order (Feb. 18, 2021) [hereinafter U-20757 MPSC Order], at 15.

<sup>190</sup> See Schott Direct Testimony at 6 TR 4510 (indicating that the EAAC has made no “measurable progress on unaffordability and shutoffs.”).

insecurity has continued to get worse<sup>191</sup> as rates have continued to rise.<sup>192</sup> The Commission's current path has not resulted in positive changes for the people of Michigan, and the people of Michigan need the Commission to change tack with appropriate urgency.

The EAAC has already taken years to work on its recommendations, but the evidence in this case suggests it will still take many more months—and more likely years—before the process in the EAAC and AAA leads to relief for DTE's customers. MPSC Staff argued that the Commission should wait until after the AAA releases its report to make changes to the Company's bill assistance programs.<sup>193</sup> That report is expected to be completed in either the first or second quarter of 2025.<sup>194</sup> However, even after the report is complete, further proceedings would be needed to implement any changes to assistance programs.<sup>195</sup> Additional proceedings that require the Company to provide proposals to be reviewed and then require the Company to implement those programs could easily span multiple years. In other words, Staff's request to delay Commission determinations on any changes to affordability programs until after the AAA releases its report could push block any changes to assistance programs that are reliant on that report for years after the report is released, as parties and the Commission debate such changes in further proceedings. Not taking ameliorative action now, much less over the next couple of years, would cause significant further material suffering for customers who cannot afford their bills.

Besides failing to provide timely solutions, the EAAC and the AAA subcommittee have also failed to engage effectively with the communities most impacted by affordability issues. As

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<sup>191</sup> Schott Direct Testimony at 6 TR 4477–79 figs. 1–3.

<sup>192</sup> *See, e.g.*, U-21297 MPSC Order at 370–71 (approving a \$368,115,000 rate increase).

<sup>193</sup> *See* Braunschweig Rebuttal Testimony at 6 TR 3542.

<sup>194</sup> Braunschweig Cross Examination at 6 TR 3568.

<sup>195</sup> *See id.* at 6 TR 3571 (agreeing that decisions regarding the implementation of any changes to assistance programs after the AAA issues its report would need to be made either in future rate cases or in future ex parte dockets).

noted by DAAO Witness Schott, the EAAC is “comprised primarily of MPSC staff and professional staff at utilities and other organizations instead of residents with lived experience.”<sup>196</sup> Indeed, the EAAC itself has previously reported its failure to engage with marginalized communities.<sup>197</sup> This may be because, at least in part, there is no compensation for people’s time and the expenses of participating in the working group,<sup>198</sup> which makes participation for groups without significant funding, much less working individuals struggling to pay their energy bills, difficult. As the Commission’s working groups have not consistently engaged with communities that need affordability reform, they are likely to misunderstand the full situation facing low-income individuals and the ramifications of their recommendations. As a result, their recommendations are unlikely to address fully and effectively the issues faced by those communities. The Commission should not rely so heavily on a process that has not effectively included frontline communities, particularly when the EAAC’s recommendations will have the most significant impact on those groups.<sup>199</sup>

The net result is that for the past several years, the Commission has essentially issued a de facto moratorium on any action to address the affordability crisis meaningfully in rate cases, while it waits for its working groups to complete their review. The Commission should end that moratorium immediately.

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<sup>196</sup> Schott Direct Testimony at 6 TR 4512.

<sup>197</sup> *See In re Response to COVID-19*, MPSC Case No. U-20757, Energy, Affordability, and Accessibility Collaborative, Interim Progress Report (Dec. 17, 2021), at 11 [hereafter December 2021 EEAC Interim Report] (“Staff acknowledges that while the EAAC provided enhanced collaboration across the government, advocacy, human services and utility sectors, representation from high burden, historically marginalized communities was missing. In addition, the group lacked racial and ethnic diversity.”).

<sup>198</sup> Schott Direct Testimony at 6 TR 4512.

<sup>199</sup> *See id.*

In this case, the Commission has sufficient evidence before it to determine that the affordability crisis is real, urgent, and worsening and warrants immediate action.<sup>200</sup> Even if the Commission does believe that a recommendation from the AAA subcommittee will help address the crisis, the Commission can at least begin taking initial steps toward a solution.

DAAO requests that the Commission act now by (1) requiring DTE to track and report on the affordability gap in future rate cases, (3) requiring DTE to put forward a proposal for a universal PIPP program as soon as possible, and (4) requiring DTE to provide a proposal to invest in energy improvements for low-income communities to address the affordability crisis.

**B. The Commission Should Incorporate Non-Energy Benefits into its Analysis.** (*Issue 105. Affordability*)<sup>201</sup>

In this and other cases, the Commission should consider non-energy benefits when assessing the impacts of unaffordable and unreliable energy and the benefits of proposals to address unaffordability and poor reliability. Failing to do so leads the Commission to overlook the social costs imposed by unaffordable and unreliable energy and to adopt policies and approve programs that incur greater costs and impose greater burdens than would be the case if non-energy benefits were considered.

In general, non-energy benefits include all the benefits experienced by ratepayers and society and all the costs that they and society incur.<sup>202</sup> Non-energy benefits extend beyond the Utility Cost Test and the Total Resource Cost Test, which focus more narrowly on the costs and benefits

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<sup>200</sup> See *supra*, Section A.

<sup>201</sup> DAAO believes the following are relevant to this issue:

Relevant Testimony: Makhijani Direct Testimony at 6 TR 4578–616, 4625–26; Kinkhabwala Direct Testimony at 6 TR 454; Armstrong Rebuttal Testimony at 6 TR 5215–19.

Other Relevant Authorities: Ex. DAO-252, MARYLAND PUB. SERV. COMM., *In the Matter of the Potomac Edison Company D/B/A Allegheny Power's Energy Efficiency, Conservation and Demand Response Programs Pursuant to the Empower Maryland Energy Efficiency Act of 2008*, Case No. 9153, Order No. 87082 (July 16, 2015) at 5–6.

<sup>202</sup> Makhijani Direct Testimony at 6 TR 4578.

to utilities, participant costs such as equipment, and reductions in participant utility bills.<sup>203</sup> In the context of affordability and reliability, non-energy benefits include improved health outcomes (such as through reduced pollution and improved ability to pay for food, medicines, and medical care), reduced social costs (such as those created by evictions induced by unaffordable utility and other bills), and enhanced productivity (by reducing illness or displacement).<sup>204</sup> These benefits accrue to low-income persons and society as a whole.<sup>205</sup> Other state commissions, such as Maryland, consider non-energy benefits.<sup>206</sup>

Quantifying non-energy benefits includes identifying the costs associated with unaffordable and unreliable energy and estimating the extent to which these costs could be reduced through affordability and reliability measures. While it is not possible to quantify all of these costs and benefits to a high degree of precision at present, it is relatively straightforward to develop estimates for some of these costs and benefits.<sup>207</sup> For example, the costs of shelter for unhoused individuals and increased healthcare expenses that arise from displacement are two categories that can be estimated to some extent. For instance, the cost of providing shelter for those rendered homeless due to the inability to pay utility bills is estimated at about \$10,900 per homeless event over a typical seven-month duration.<sup>208</sup> Additionally, healthcare expenditures for unhoused individuals increase, with an estimated cost increment of \$25,400 for two individuals over seven months compared to housed persons.<sup>209</sup> Combining shelter and healthcare costs

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<sup>203</sup> *Id.*

<sup>204</sup> *Id.* at 6 TR 4578–81.

<sup>205</sup> *Id.* at 6 TR 4581.

<sup>206</sup> *Id.* at 6 TR 4579–80 (citing Ex. DAO-252, MARYLAND PUB. SERV. COMM., *In the Matter of the Potomac Edison Company D/B/A Allegheny Power's Energy Efficiency, Conservation and Demand Response Programs Pursuant to the Empower Maryland Energy Efficiency Act of 2008*, Case No. 9153, Order No. 87082 (July 16, 2015) at 5–6.).

<sup>207</sup> Makhijani Direct Testimony at 6 TR 4582.

<sup>208</sup> *Id.* at 6 TR 4586–87. Makhijani based his housing cost figures on data from Kalamazoo. *Id.*

<sup>209</sup> *Id.* at 6 TR 4587–88.

yields a total cost increment of about \$36,000 per homelessness event.<sup>210</sup> In addition, “[a]mong the sheltered homeless who have jobs and the poor who are housed, the annual income difference in 2016 was found to be \$6,240 (in 2018 dollars), or about \$6,730 in 2021 dollars.”<sup>211</sup> While the unaffordability of energy may not be the sole cause of displacement, it is often a significant factor, according to experts.<sup>212</sup> Food loss during outages can be another significant cost, with a typical well-stocked refrigerator holding about \$325 worth of food (in April 2024 dollars).<sup>213</sup> These costs are representative of the broader social impact of unaffordable and unreliable energy.

The non-energy benefits that can be quantified can be in the hundreds of millions of dollars annually, are likely to be larger than that, and will likely increase over time due to climate change increasing the unreliability of power. Taking just the costs to society of providing shelter and increased medical costs in the prior paragraph and applying them to statewide displacement and outage data, Witness Makhijani estimates that these societal costs are estimated to total approximately \$190 million per year statewide in Michigan<sup>214</sup>, with about \$120 million attributable to the DTE service territory.<sup>215</sup> With respect to the differences in wages between sheltered homeless who have jobs and the poor who are housed, Witness Makhijani estimates a loss of wages of “about \$11 million a year and roughly \$35 million for all LIHEAP-eligible Michiganders (rounded)... Roughly half of that, or \$16 million per year, would be in DTE territory.”<sup>216</sup> These estimates are likely to be at the lower bounds, even just for these categories. Witnesses Makhijani notes that Michigan uses a definition for LIHEAP that is more restrictive

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<sup>210</sup> *Id.* at 6 TR 4588.

<sup>211</sup> *Id.* at 6 TR 4590.

<sup>212</sup> *Id.* at 6 TR 4591–93.

<sup>213</sup> *Id.* at 6 TR 4602.

<sup>214</sup> *Id.* at 6 TR 4688.

<sup>215</sup> *Id.* at 6 TR 4588–89.

<sup>216</sup> *Id.* at 6 TR 4590–91.

than the federal definition, suggesting that more persons have financial needs than would just be implied from the Michigan LIHEAP numbers.<sup>217</sup> Moreover, about 180,000 Michigan households with incomes above the federal poverty level threshold of 150% have unaffordable energy bills above 6% of gross income, according to Witness Kinhabwala.<sup>218</sup> “[Kinhabwala’s] analysis also shows that most of the one- to two-thousand DTE customers who are disconnected each week are not assistance recipients”<sup>219</sup> and are therefore excluded from Witness Makhijani’s estimates. Finally, costs related to unreliability will rise over time as the frequency of long-duration outages grows due to the increasing frequency of high-damage climate-related events caused by climate change.<sup>220</sup>

Incorporating non-energy benefits into utility regulatory proceedings helps capture the full impact of ratemaking and energy policies on individuals and society. Including non-energy benefits allows the Commission to assess the societal value of investments in energy efficiency, renewable energy, and affordability measures when considering their costs. For example, making energy more affordable can reduce utility shutoffs, which reduces displacement, homelessness, and medical costs.<sup>221</sup> Additionally, factoring in NEBs can lead to better decision-making by considering the broader economic and social benefits of energy investments, such as improved quality of life and reduced public expenses, rather than focusing solely on direct utility costs.<sup>222</sup>

Objections have been raised, including those by Staff Witness Armstrong in this case, about including non-energy benefits in ratemaking. First, Witness Armstrong points out that there is a lack of standardized methodology for measuring NEBs, making it difficult to quantify them

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<sup>217</sup> *Id.* at 6 TR 4595.

<sup>218</sup> Kinhabwala Direct Testimony at 6 TR 4541 fig. 1.

<sup>219</sup> Makhijani Direct Testimony at 6 TR 4595 (citing Kinhabwala Direct Testimony at 6 TR 4546 fig. 5).

<sup>220</sup> *See id.* at 6 TR 4604–05.

<sup>221</sup> *Id.* at 6 TR 4579–81, 4584 tbl. 1, 4588.

<sup>222</sup> *Id.* at 6 TR 4578–81.

reliably.<sup>223</sup> Armstrong argues that assigning monetary values to health improvements or housing stability is subjective and can lead to inconsistent results.<sup>224</sup> She also affirms that information is “scattered and incomplete ... underscor[ing] the difficulty of assessing non-energy benefits in the instant case.”<sup>225</sup> Second, Armstrong notes that Michigan’s regulatory framework currently only requires utilities to meet the Utility Resource Cost Test (URCT), which does not include NEBs, in utility EWR portfolios,<sup>226</sup> and she states that “there is no accepted methodology for quantifying or evaluating non-energy benefits ... that can be extrapolated to the affordability of rates in electric rate case proceedings in Michigan.”<sup>227</sup> Third, Armstrong questions whether quantifying and tracking non-energy benefits would impact ratemaking outside of bolstering the already-proven point that it is beneficial to customers when energy is affordable.<sup>228</sup> Finally, Armstrong questions whether NEBs should be considered within the purview of the Michigan Public Service Commission, as many of the social benefits of NEBs, such as reduced homelessness or improved healthcare outcomes, fall outside the Commission’s regulatory scope.<sup>229</sup>

While the Armstrong Rebuttal raises valid concerns about the challenges of incorporating non-energy benefits into ratemaking, the significant societal and economic impacts of non-energy benefits, even if imperfectly quantified, warrant their inclusion in the Commission’s decision-making process to ensure a more comprehensive and equitable evaluation of utility and intervenor proposals in this case and of energy policies more generally. First, while

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<sup>223</sup> Armstrong Rebuttal Testimony at 6 TR 5216.

<sup>224</sup> *Id.* at 6 TR 5215.

<sup>225</sup> *Id.* at 6 TR 5217.

<sup>226</sup> *Id.* at 6 TR 5215.

<sup>227</sup> *Id.* at 6 TR 5217.

<sup>228</sup> *Id.* at 6 TR 5218.

<sup>229</sup> *Id.* at 6 TR 5217.

methodologies for quantifying non-energy benefits may not be fully standardized, this should not prevent their consideration in ratemaking. Available data, even if incomplete, clearly demonstrates the significant scale of non-energy benefits and the societal costs of neglecting them. By excluding non-energy benefits, regulatory decisions fail to capture the full impact of energy policies, resulting in skewed decision-making.<sup>230</sup> Second, the same economic principles used to justify including non-energy benefits in energy efficiency programs should apply to affordability programs, and the Commission has the discretion to expand its analysis where appropriate. In fact, Witness Armstrong notes that “in Michigan ... utilities have provided societal costs tests in energy efficiency proceedings as references but utility EWR portfolios are only required to meet the Utility Resource Cost Test.”<sup>231</sup> Third, quantifying and tracking non-energy benefits goes beyond simply reinforcing the idea that affordable energy benefits customers. It provides a framework for assessing the specific costs and benefits of particular proposals. For example, Witness Makhijani shows its application in the context of the assessment of specific microgrid scenarios.<sup>232</sup> Finally, while it is certainly true that the Commission does not regulate homelessness, wages and income, or medical costs,<sup>233</sup> it is also certainly true that decisions that the Commission makes about affordability and reliability have significant impacts on individuals and society with regard to these topics. The Commission should take these impacts into account when assessing the impacts of its decisions. Excluding non-energy benefits would lead to a narrow and incomplete assessment of the true societal impact of specific energy proposals and policies.

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<sup>230</sup> Makhijani Direct Testimony at 6 TR 4578–79.

<sup>231</sup> Armstrong Rebuttal Testimony at 6 TR 5216.

<sup>232</sup> Makhijani Direct Testimony at 6 TR 4616 tbl. 5.

<sup>233</sup> See Armstrong Rebuttal Testimony at 6 TR 5217.

In conclusion, the Commission should consider non-energy benefits in this and other cases when assessing the impacts of unaffordable and unreliable energy and the benefits of proposals to address unaffordability and poor reliability. The low-end estimates for a handful of societal and individual costs run into the hundreds of millions of dollars. The Commission should order a comprehensive study to quantify non-energy benefits more effectively and to estimate the societal benefits of making energy affordable.<sup>234</sup> Resources should be used to track and analyze non-energy benefits over time, particularly focusing on high-burden households and the resulting social benefits, such as reduced healthcare and social service costs.<sup>235</sup> Doing so would be responsive to Witness Armstrong’s request that if the Commission chooses to accept this recommendation, there is a uniform approach across investor-owned utilities, and that is linked to understanding better non-energy benefits in affordability.<sup>236</sup> That said, the Commission should not delay implementing affordability measures while awaiting the study results, given the significant social costs of unaffordable energy.<sup>237</sup>

**C. The Commission Should Require DTE to Improve its Infrastructure Equity Analysis.**<sup>238</sup> (*Issue 20. CODI*)

DTE’s incorporation of environmental justice by relying solely on MI EJScreen’s 80<sup>th</sup> percentile threshold results in an improper recognition of certain communities as vulnerable

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<sup>234</sup> Makhijani Direct Testimony at 6 TR 4625–26.

<sup>235</sup> *Id.* at 6 TR 4626.

<sup>236</sup> Armstrong Rebuttal Testimony at 6 TR 5219.

<sup>237</sup> *See* Makhijani Direct Testimony at 6 TR 4625–27.

<sup>238</sup> DAAO believes the following are relevant to this issue:

Relevant Testimony: Deol Rebuttal Testimony at 5 TR 1236–37; Koeppl Direct Testimony at 6 TR 4411, 4414–16; Kryscynski Revised Direct Testimony at 3 TR 370–71, 384–86; Kryscynski Rebuttal Testimony at 3 TR 451–52; Tan Direct Testimony at 6 TR 3279, 3282–83.

Other Relevant Authorities: Ex. DAO-10, WE THE PEOPLE MICHIGAN, GENTRIFICATION, POPULATION CHANGE, AND ELECTRIC GRID INVESTMENT (July 2023) (available at <https://wethepeoplemi.org/wp-content/uploads/2023/08/DTE-Gentrification-Brief.pdf>) at 2–3; Ex. DAO-29, U.S. EPA, EJ Screen: *Environmental Justice Screening and Mapping Tool, How to Interpret EJ Screen Data* at 4; U-21297 MPSC Order at 352.

communities and excludes other truly vulnerable communities. In testimony, the Company states that it has begun to use the MI EJScreen tool, developed by the Michigan Department of Environment, Great Lakes, and Energy (EGLE), to analyze the socioeconomic and demographic characteristics of the communities served by its distribution system, and to identify areas with high concentrations of low-income, minority, and other vulnerable populations.<sup>239</sup>

While DAAO agrees that the MI EJScreen tool can be useful as a starting point to identify low-income and vulnerable populations, relying exclusively on the tool, and in particular on the 80<sup>th</sup> percentile threshold, does not provide an accurate or comprehensive picture of vulnerable communities, and can often result in incorrect or unrealistic understandings of vulnerable communities. For example, a census tract that scores above the 80<sup>th</sup> MI EJScreen composite score threshold could still have significant variance in terms of income levels, housing quality, and other factors that impact a customer’s vulnerability.<sup>240</sup> In addition, the Company’s reliance on MI EJScreen does not incorporate demographic trends that may impact the census tract’s designation. The Company’s investment through its City of Detroit Initiative (CODI), for example, has prioritized investment in areas where the white population is increasing rapidly.<sup>241</sup> Without accounting for variation within tracts and demographic changes, the MI EJScreen tool alone would allow the Company significant leeway to invest in communities that are not the most vulnerable while claiming to be directing sufficient investment to EJ communities.

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<sup>239</sup> Kryscynski Direct Testimony at 3 TR 370–71.

<sup>240</sup> See Koepfel Direct Testimony at 6 TR 4411.

<sup>241</sup> See Ex. DAO-10, WE THE PEOPLE MICHIGAN, GENTRIFICATION, POPULATION CHANGE, AND ELECTRIC GRID INVESTMENT (July 2023) (available at <https://wethepeoplemi.org/wp-content/uploads/2023/08/DTE-Gentrification-Brief.pdf>) at 2 (“The majority of Detroit experienced population loss rather than growth, yet DTEE has selectively decided to invest in grid improvement in majority white population growth areas when their own guidelines would point to instead investing in the population dense neighborhoods that are majority BIPOC.”).

Indeed, even the U.S. EPA recommends further analysis of vulnerable tracts beyond EJ Screen’s 80<sup>th</sup> percentile threshold to address environmental justice. While the Company claims that EPA’s approach involves identifying vulnerable communities at the 80% EJ Screen threshold, that is simply not true.<sup>242</sup> Rather, in providing recommendations for using its similar EJ Screen tool, EPA recommends using the EJ Screen’s 80<sup>th</sup> percentile threshold as a “starting point” to identify communities that warrant further study.<sup>243</sup> However, EPA also explicitly disclaims that this threshold measurement “is not intended to designate an area as an ‘EJ community[,]’” and that “program offices and regions should perform additional analysis before making any decisions about potential environmental justice issues.”<sup>244</sup> In line with EPA’s guidance relating to their own EJ Screen tool, to the extent DTE is claiming that its use of MI EJScreen is accounting for environmental justice concerns, DTE should conduct additional analysis before designating vulnerable census tracts and calculating investments in EJ communities.

DTE’s investments through its CODI initiative highlight the issues with the Company’s use of MI EJScreen. Figure 1 below shows the CODI program footprint outlined over an MI EJScreen composite score map. This map shows many of the areas within the CODI program footprint score very highly in the MI EJScreen composite score. DTE has argued that this map shows that the Company is sufficiently investing in EJ communities.<sup>245</sup> However, DTE’s

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<sup>242</sup> Kryscinski Direct Testimony at 3 TR 371 (“An 80% threshold definition was adopted for vulnerable communities using the draft MiEJScreen Tool score, consistent with the U.S. EPA approach.”)

<sup>243</sup> See Ex. DAO-29, U.S. EPA, EJ Screen: *Environmental Justice Screening and Mapping Tool, How to Interpret EJ Screen Data* at 4 (describing utilizing the 80<sup>th</sup> percentile threshold as an “Initial Filter Approach.”).

<sup>244</sup> *Id.*

<sup>245</sup> Kryscynski Rebuttal Testimony at 3 TR 452 (“In addition, Witness Koepfel undercuts his own claim that CODI is not sufficiently EJ focused with a map in his testimony (Figure 1 on page 44), that shows that the vast majority of the area in the CODI has a an MIEJScreen Tool score of over 80 with well over half the area with a score over 90.”).

argument misinterprets DAAO's position. It is because a high proportion of these census tracts are above the 80th percentile threshold that DAAO perceives a problem with DTE's methods for asserting the equity of its investments. DTE selected areas for investment through the CODI program that have the most rapidly growing white populations while ignoring more population-dense BIPOC communities in Detroit.<sup>246</sup> Given that these infrastructure investments have decades-long impacts, a simple snapshot of demographics at the moment of investment is insufficient to demonstrate the equity of their benefits, particularly when there is evidence of a pattern of demographic change. Moreover, when reviewing the reliability maps provided by the Company, a substantial number of the census tracts in the CODI program footprint have far better than average reliability as measured by SAIDI and SAIFI, with most tracts scoring in the first quartile of reliability.<sup>247</sup> The fact that DTE's investments happen to be made in communities above the 80<sup>th</sup> percentile threshold is thus insufficient to demonstrate that DTE's investments are either sufficiently informed by equity goals or actually achieving equitable outcomes, both because of the problems with the simplistic utilization of the 80<sup>th</sup> percentile threshold and the disparities in actual impact.

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<sup>246</sup> Ex. DAO-10 at 3.

<sup>247</sup> Koepfel Direct Testimony at 6 TR 4414–16.

Figure 1: MI EJScreen Grab, Economic Development and Load Growth Map<sup>248</sup>



In responding to DAAO Witness Koepfel’s testimony that DTE “counts” these investments as investments in vulnerable communities, Witness Kryscynski argues that Witness Koepfel misunderstands the way in which DTE’s Global Prioritization Model (GPM) incorporates EJ into its investment decisions. Witness Kryscynski points out that EJ is just one of multiple considerations that the GPM considers when determining where the Company should invest and that these investments include a wide variety of projects.<sup>249</sup> However, the consideration of EJ in the GPM also utilizes the inadequate 80<sup>th</sup> percentile threshold and, therefore, does not negate the claim DTE counts investments in areas that may be improperly considered vulnerable communities when conducting analysis of environmental justice issues. For example, in this very case, DTE claims that 64% of its investments in conversions from the old 4.8kv system have

<sup>248</sup> This figure was pulled from the MI EJScreen Website (available at <https://www.michigan.gov/egle/maps-data/miejscreen>).

<sup>249</sup> Kryscynski Rebuttal Testimony at 3 TR 451.

been in vulnerable census tracts.<sup>250</sup> This analysis underlies the Company’s claim that “the Company’s investments are supporting vulnerable customers and communities in southeast Michigan, including the City of Detroit.”<sup>251</sup> Counting investments in rapidly gentrifying areas that are primarily designed to serve new load and new residents as investments in vulnerable communities does not support the Company’s conclusion that it is supporting vulnerable communities.

DTE claims in rebuttal that its CODI investments provide additional public benefit because of the number of public-serving institutions within the target areas,<sup>252</sup> but this measure of public benefit appears to be entirely absent from the Company’s list of impact dimensions in its GPM.<sup>253</sup> There are doubtless many public-serving institutions, such as government buildings in Highland Park, which provide critical services to neighborhoods that experience poor reliability. However, DTE has not used these public-serving institutions as a justification to direct investment to Highland Park. The Company cannot justify its investments post hoc with considerations applied unequally across its service territory.

The Company’s other claims regarding vulnerable census tracts using the MI EJScreen’s 80% threshold are also misleading. In particular, DTE claims that vulnerable customers have better reliability than the system average.<sup>254</sup> However, this appears inconsistent with the conclusions of CEO Witness Boratha Tan. Witness Tan conducted a regression analysis that shows that, holding other factors constant, an increase in the BIPOC population causes a decrease in reliability.<sup>255</sup>

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<sup>250</sup> Kryscynski Direct Testimony at 3 TR 386 tbl. 15.

<sup>251</sup> *Id.* at 3 TR 385.

<sup>252</sup> *See* Deol Rebuttal Testimony at 5 TR 1237.

<sup>253</sup> Kryscynski Revised Direct Testimony at 3 TR 351 tbl. 7 (showing the impact dimensions accounted for by the GPM).

<sup>254</sup> Kryscynski Revised Direct Testimony at 3 TR 384.

<sup>255</sup> *See* Tan Direct Testimony at 6 TR 3279.

Both of these statements could be technically true as Witness Tan notes that “more densely populated areas experience better SAIDI (fewer minutes of interruption), while more BIPOC communities experience worse SAIDI.”<sup>256</sup> A densely populated, more BIPOC community, then, could have better reliability than the system average while still having significantly worse reliability than an equally densely populated, less BIPOC community. This inequity is hidden in the Company’s current analysis.

DTE’s defense of its CODI program demonstrates the inequity of the Company’s analysis. DTE claims that DAAO is wrong in comparing the reliability performance of downtown Detroit to the neighborhoods because most of the CODI footprint consists of underground infrastructure, which is generally more reliable than overhead wiring.<sup>257</sup> However, this admission supports DAAO’s argument that the areas of Detroit with the least reliable infrastructure are being passed over for improvement in favor of the CODI footprint area. DAAO does not deny that the drivers of the CODI program are to “address capacity for load growth, maintain[] sufficient redundancy to ensure reliability . . . and address aging infrastructure,” as Witness Deol claims.<sup>258</sup> However, if the outcome is that communities with worse reliability and a lack of economic development are being ignored in favor of these investments, that will perpetuate inequity regardless of the Company’s justification. In other words, even if the Company establishes legitimate support for its CODI investments based on the drivers it identified, without comparable investments in vulnerable communities with worse reliability, these investments will result in increasing inequity.

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<sup>256</sup> *Id.*

<sup>257</sup> *See* Deol Rebuttal Testimony at 5 TR 1236–37.

<sup>258</sup> *Id.*

To improve the Company’s approach to environmental justice, the Commission should order DTE to conduct a regression analysis with demographics and reliability as variables and provide this analysis in future rate cases. The Commission has already required DTE to “develop a detailed regression analysis of customer demographics and reliability for vulnerable customers to be used in the company’s distribution plan case.”<sup>259</sup> DAAO agrees with CEO Witness Boratha Tan that this analysis has value in identifying disparities in service—particularly disparities based on income and race—and supports Witness Tan’s recommendation to adopt regression analysis in future rate cases.<sup>260</sup> DAAO further requests that the Commission review DTE’s claims that the CODI program contributes to equity and reduce DTE’s capital spending on the program to the extent possible until the Company provides a proper equity analysis. Finally, DAAO requests that the Commission require DTE to consider changes over time in demographics that contribute to the MI EJ Score when assessing the equity impact of long-term infrastructure investments.

**D. The Commission Should Reject the Company’s Proposed IT Capital Investments—Especially Proposed Investments in Collections Digital Solutions—as They Are Unjust and Unreasonable. (*Issue 28. IT Customer Service Capital*)<sup>261</sup>**

While DTE claims that it is “committed to providing reliable, safe, and affordable utility service to its customers,” it offers very little evidence as to how its IT capital investments

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<sup>259</sup> U-21297 MPSC Order at 352.

<sup>260</sup> See Tan Direct Testimony at 6 TR 3282–83.

<sup>261</sup> DAAO believes the following are relevant to this issue:

Relevant Testimony:

Hatsios Revised Direct Testimony at 6 TR 2186–2229; Koepfel Direct Testimony at 6 TR 4398–4401; Jacob Direct Testimony at 6 TR 4640–4655; Coppola Direct Testimony at 6 TR 3632–33; Watts Direct Testimony at 6 TR 4691–95; Sharma Revised Direct Testimony at 6 TR 2071; Orr Direct Testimony at 6 TR 4714; Bunch Revised Direct Testimony at 6 TR 4287.

Relevant Other Authorities:

*In re DTE Electric Company*, MPSC Case No. U-21297, Order (December 1, 2023) at 163-165; *See In re Consumers Energy Co.*, Case No. U-18322, Order (Mar. 29, 2018) at 6–7. Mich. Admin. Code R. 460.146(1); Mich. Admin. Code R. 460.146(2)(a) & (d).

generally, and Collections digital solutions investments in particular, meet customer reliability, safety, and affordability needs.<sup>262</sup> In its application, DTE Electric is requesting approval for a \$181.1 million increase in capital expenditures for information technology (“IT”) systems and infrastructure (hereafter noted as “IT Capital Investments”).<sup>263</sup> Of note, DTE Electric is requesting recovery of \$10.7 million of IT Capital Investments specifically for its “Collections digital solutions” to enhance existing solutions and expand the number of available solutions.<sup>264</sup> DTE states that investing millions into digital self-service solutions, for example, will provide more options for customers outside of the Contact Center, meet customer demands, and “reduce the call volume of live calls.”<sup>265</sup> Reducing these calls, DTE claims, will reduce operating costs and O&M expenses that are passed on to consumers through the utility ratemaking process.<sup>266</sup>

While increasing options for Collections digital solutions is not an inherently detrimental change, the over \$10 million sought by DTE for Collections digital solutions appears to be an attempt by the Company to make it easier and cheaper for the Company to pursue collections and disconnections.<sup>267</sup> As noted by Witness Jacob regarding these increased investments in Collections digital solutions, “DTE Electric is proposing to make the already stressful collections process more automated, more inequitable, no more accessible to non-English speakers, and less responsive to the needs of energy-burdened customers, while increasing the amount of capital on which its shareholders may receive return.”<sup>268</sup> DAAO urges the Commission to recognize that

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<sup>262</sup> Hatsios Revised Direct Testimony at 6 TR 2192.

<sup>263</sup> *Id.* at 6 TR 2186-87. \$181.1 represents the sum of the expenditures in the historical test year ending in Dec. 31, 2022, the 24-month bridge period ending in Dec. 31, 2024, and the proposed expenditures in the projected test year ending Dec. 31, 2025. *Id.*

<sup>264</sup> *Id.* at 6 TR 2205–06.

<sup>265</sup> *Id.* at 6 TR 2195.

<sup>266</sup> *Id.* at 6 TR 2196.

<sup>267</sup> Koeppel Direct Testimony at 6 TR 4401.

<sup>268</sup> Jacob Direct Testimony at 6 TR 4653.

these investments do not adequately address the root causes of customer non-payment, affordability, and energy insecurity crises, to open an inquiry into DTE's capital IT expenditures generally, and to reject the Company's request to charge ratepayers for its collections related IT capital expenditures.<sup>269</sup>

In short, these proposed investments in Collections digital solutions are an attempt at generating additional profits for its shareholders through increased capital spending while effectively shifting the costs and risks of its own unaffordable rates onto its most vulnerable customers.<sup>270</sup> As required by MCL 460.6a, DTE must demonstrate through thorough evidence the reasonableness and prudence of the IT Capital Investments it seeks to recover via the ratemaking process. However, DTE Electric has failed to meet that burden, so the Commission should reject these IT Capital Investments as an unjust and unreasonable proposal.

**a. DTE's IT Capital Investments Generally Are Unsupported by the Record.**

DTE does not sufficiently support its proposed IT Capital Investments. In DTE Electric's Rate Case U-21297, the Commission agreed with the DAAO that the Company had not provided sufficient evidence and support for many of their requested IT Capital Investments.<sup>271</sup> In U-21297, DAAO argued that the Commission should reject the Company's IT Capital Investments as they were not cost-justified and the Company did not provide sufficient evidence to support their projections of call volume reduction and the associated cost reduction for ratepayers.<sup>272</sup> The Commission agreed with DAAO on this point and required the Company to provide sufficient evidence supporting such requests.<sup>273</sup> Yet, the Company has again failed to meet its evidentiary

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<sup>269</sup> See Koeppel Direct Testimony at 6 TR 4399.

<sup>270</sup> *Id.* at 6 TR 4401.

<sup>271</sup> See *In re DTE Electric Company*, MPSC Case No. U-21297, Order (December 1, 2023) at 163–65.

<sup>272</sup> *Id.*

<sup>273</sup> *Id.* at 163–66.

burden. DAAO argues again that the Company has not provided sufficient evidence to support its projections and the alleged cost savings of its IT Capital Investments. As with the previous case, the Company provided forecasted projections of reductions of call volumes and again, the Company merely assumed that its projections were accurate—despite providing little to no explanation as to why the projections were accurate or even reasonable.<sup>274</sup> The Company’s Net Present Value (“NPV”) analysis again provides projections without reasonable assurances supported by sufficient evidence that the Company will actually achieve these call reductions.<sup>275</sup> The Company states that their proposed investments in Collection digital self-service capital, MIMO digital self-service capital, Outage digital self-service capital, Billing digital self-service capital, and Payment digital self-service capital would allow the Company to achieve projections without sufficient evidence demonstrating how the requested level of spending is needed in each investment category in order to achieve the Company’s projected reductions in call volumes and associated O&M savings.<sup>276</sup> The Company’s statements and forecasts, largely unsupported by additional analysis, are insufficient to support recovery of \$181.1 million from ratepayers – investments this large require, as the Commission agreed in U-21297, far more supporting evidence.<sup>277</sup>

Indeed, the inaccuracy of DTE’s recent forecasting suggests that the Commission should not rely on the Company’s forecasts without further analysis. Witness Coppola, testifying on behalf of MNSC and the Attorney General, noted that DTE’s actual IT Capital expenditures for 2023

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<sup>274</sup> Hatsios Revised Direct Testimony at 6 TR 2202–04, 2228.

<sup>275</sup> *Id.* at 6 TR 2226–29.

<sup>276</sup> *Id.* at 6 TR 2207 (brief discussion of the forecasted benefits of Collection digital self-service capital); *id.* at 2212 (brief discussion of the forecasted benefits of MIMO digital self-service capital), 2215–16 (brief discussion of the forecasted benefits of Outage digital self-service capital); *id.* at 2218–19 (brief discussion of the forecasted benefits of Billing digital self-service capital); *id.* at 2221 (brief discussion of the forecasted benefits of Payment digital self-service capital).

<sup>277</sup> *See In re DTE Electric Company*, MPSC Case No. U-21297, Order (December 1, 2023) at 163–65.

were over \$34 million less than the Company forecasted for the year.<sup>278</sup> As DTE failed to spend as much as forecasted in their previous rate case, there is demonstrable evidence that the Commission was right to be wary of the Company’s previous forecasts and should apply similar caution to the present case. DAAO agrees with Witness Coppola’s assertion that the “Company should not be earning a return or receive revenue to recover depreciation expense for costs that it did not incur,” and these deficiencies in DTE’s forecasting further highlight how their overall IT Capital Investment requests are unsupported by robust evidence.<sup>279</sup> Taken together, the lack of meaningful evidentiary support for DTE’s desired \$181.1 million for IT Capital Investments highlights the unreasonable nature of this request.

Further, the increases in certain kinds of customer transactions and transactions completed through digital channels in recent years call into question whether such significant IT capital investments are needed in this present rate case.<sup>280</sup> For instance, for Billing transactions, the Digital Engagement Rate (“DER”) is already at 92%, only 3% away from the Company’s long-term target; yet, the Company is seeking to invest \$5 million in three projects to enhance and expand Billing digital self-service solutions.<sup>281</sup> In addition, for Outage transactions, the DER is at 95%, which the company notes that “customers are very engaged” in using digital Outage services as it is only 2% behind the Company’s long-term target.<sup>282</sup> The high Outage DER calls into question the reasonableness of recovering an additional \$7 million from ratepayers for additional updates.<sup>283</sup> Similarly, Payment DER is currently at 84%, which is only one percent

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<sup>278</sup> Coppola Direct Testimony at 6 TR 3632.

<sup>279</sup> *See id.* at 6 TR 3633.

<sup>280</sup> Koeppel Direct Testimony at 6 TR 4398.

<sup>281</sup> Hatsios Revised Direct Testimony at 6 TR 2202, 2217.

<sup>282</sup> *Id.* at 6 TR 2202, 2213.

<sup>283</sup> *Id.* at 6 TR 2213.

below the Company’s long-term target of 85%.<sup>284</sup> Yet again, the Company seeks to recover over \$4 million from ratepayers for Payment digital self-service capital projects.<sup>285</sup> These high usage rates—some already at or near DTE’s long-term targets—suggest that a saturation point is already being reached for customer use of digital channels, and DTE fails to provide compelling evidence contrary to that point.<sup>286</sup> If such a saturation point is indeed being reached, then it would be unreasonable for DTE Electric to continue to recover millions of dollars from ratepayers for IT capital investments that will likely have diminishing returns over time.

The Company claims that investing capital in digital solutions “meet[s] the demands of customers who prefer to engage with the company in a self-service channel”; however, they have not provided evidence of such demand nor specific examples of the kinds of Collections digital solutions that meet customers’ articulated needs.<sup>287</sup> The Company has not provided sufficient evidence in the record that customers desire these new and enhanced digital functions. In fact, the evidence available in the record suggests the opposite conclusion—that the capital investments already spent on these online resources are not adequately meeting customer needs. For instance, DAAO Witness Watts notes that she “does not use DTE’s self-service or online tools” as she is less familiar with how they work.<sup>288</sup> Witness Watts further notes that applying for utility assistance programs online is a “nerve-racking process” as many elderly people “do not know how to use laptops or smartphones.”<sup>289</sup> As highlighted by Witness Watts, at the very least DTE Electric customers are not homogeneous in their desire for self-service channels.

Assuming the Company is correct that there is customer demand for these channels, the

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<sup>284</sup> *Id.* at 6 TR 2202.

<sup>285</sup> *Id.* at 6 TR 2219.

<sup>286</sup> *Id.* at 6 TR 2202.

<sup>287</sup> *Id.* at 6 TR 2195.

<sup>288</sup> Watts Direct Testimony at 6 TR 4695.

<sup>289</sup> *Id.* at 6 TR 4691.

Company should be required to provide more data showing that a significant number of customers desire the specific tools that the Company is investing in. The Company has not provided sufficient evidence that there is customer demand for the online products for which DTE is proposing additional investment, especially in light of existing evidence on the record that illustrates how inaccessible these types of digital channels are for many of the customers who need service from the Company.

**b. DTE’s Proposed Collections Digital Solutions Are Not Supported by the Record and Could Perpetuate Inequity.**

DTE Electric’s ineffective and unsupported arguments for IT Capital Investments are demonstrated most clearly in their request for \$10.7 million for Collections digital solutions programs. Despite their own data to the contrary, the Company continues to view investments in Collections digital solutions as a way to reduce investments in their struggling call centers. DTE asserts that total customer call volume has been trending downward in the last five years; however, calls for Collections have remained relatively consistent over that period.<sup>290</sup> While the Company claims that they are “not planning to de-prioritize or no longer answer calls,” the Company’s forecasts project reduced expenditure on call centers.<sup>291</sup> In fact, the only way that the Company’s investments benefit ratepayers is if funding for call centers is reduced so as to save ratepayers money. Given the poor phone service that customers currently experience from an already overburdened Contact Center, reducing investments in the Contact Center while significantly increasing digital solution investments is unlikely to meet customer needs.<sup>292</sup> The Company has not provided evidence to the contrary.

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<sup>290</sup> Hatsios Revised Testimony at 6 TR 2199.

<sup>291</sup> *Id.* at 6 TR 2204; *see also id.* at 6 TR 2207 (projected a \$3.9 million reduction in O&M expenses for call centers).

<sup>292</sup> Sharma Revised Direct Testimony at 6 TR 2071.

Therefore, DTE presents a bifurcated approach that distinguishes between phone service—which are O&M expenses—and Digital self-service solutions—which they seek to profit from as capital expenses.<sup>293</sup> This is at odds with the more customer-centered approach DAAO recommends, which would require Collections digital solutions to be complementary to phone service and actually centered around the needs of customers to provide multiple effective and accessible Company channels for customers. DTE’s approach appears to serve the goal of maximizing the profitability of the Company at the expense of affordability to ratepayers.<sup>294</sup> DAAO requests that the Commission reject DTE’s \$10.7 million Collections digital solutions request as the Company has not adequately met its burden to demonstrate that this request is just and reasonable.

Furthermore, the evidence and forecasts provided by the Company do not support the need for additional investment in Collections digital solutions. When DTE’s digital engagement rate is broken down by transaction, Collections-related issues have the lowest digital engagement rate year after year and continue to be well under DTE’s long-term targets despite the Company’s sizeable Collections digital solutions investments to date.<sup>295</sup> This points to the reality that DTE customers navigating Collections issues continue to need phone-based service to resolve these issues and they are not adopting Collections digital solutions at as high rates. DTE Witness Hatsios underscores this point by asserting that “more complex inquiries from customers” like inquiries related to the “low-income self-sufficiency program and payment stability plan” “may not be as effectively handled in a Collections digital solution[.]”<sup>296</sup> Yet, these are exactly the

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<sup>293</sup> Hatsios Revised Direct Testimony at 6 TR 2207 (treating reduced expenses on call centers as reductions in O&M expenses).

<sup>294</sup> Koeppel Direct Testimony at 6 TR 4401.

<sup>295</sup> Hatsios Revised Direct Testimony at 6 TR 2202.

<sup>296</sup> *Id.* at 6 TR 2197.

kinds of collection-related issues that DTE is purporting to address in their request for \$10.7 million to invest in Collections digital solutions. For instance, the Company states that part of their proposed Collections digital solutions investments is to provide “customers with new online assistance tools that will guide customers who are having difficulty paying their bill to the most appropriate payment solutions, and sources of energy assistance[.]”<sup>297</sup> It is unreasonable for DTE to request millions of dollars of recovery to invest in Collections digital solutions when the Company itself recognizes that customers with this exact type of issue are choosing to resolve these issues via phone.

Moreover, the data presented by DTE in this case does not show that the Company’s investments in its digital Collections programs are having their intended effect. Witness Hatsios admits that “2023 Collection call volumes are not materially different than they were four or five years ago.”<sup>298</sup> Witness Hatsios blames this failure to decrease call volumes on the increasing numbers of active low-income customers, shut-off notices, and low-income customers reaching final arrears status, arguing that “the expected increase in Collection inquiry calls, was mitigated by a reduction in the number of calls from customers who chose to use a digital solution[.]”<sup>299</sup> However, the Company provides no analysis or evidence to support this claim. Without evidence that the investments made by the Company to date have had a significant impact on collections-related calls, the Commission should not rely on the Company’s unsupported statements to approve significant capital investments that enrich shareholders at the expense of ratepayers.

Indeed, the Company is pushing for this increased capital spending at the expense of its Call Center even as Call Center services continue to deteriorate. As noted by Witness Orr, when she

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<sup>297</sup> Hatsios Revised Direct Testimony at 6 TR 2206.

<sup>298</sup> *Id.*

<sup>299</sup> *Id.* at 6 TR 2207.

calls DTE, “it sounds like they are not interested in helping you—almost as if they were asleep on the other end.”<sup>300</sup> Instead of investing in improving phone service to address customer needs, DTE Electric seeks to invest—without sufficient evidence showing its efficacy—in more automated Collections digital solutions that result in less personal customer support during affordability, shut-off, and outage crises.

The \$10.7 million requested for Collections digital solutions does not provide sufficient value to the customer base generally, and these investments pose serious risks of additional harm to low-income and vulnerable customers specifically. Even accepting DTE’s forecasts—which are provided with insufficient supporting evidence—that historical and planned investments in Collections digital solutions will “provide customers with a cumulative \$3.9 million in O&M savings” from 2023-2027,<sup>301</sup> ratepayers are being asked to invest an additional \$10.7 million in Collections digital solutions.<sup>302</sup> Simply from the perspective of costs and savings, the Company’s request for \$10.7 million in Collections digital solutions is unreasonable and should be disallowed.

Further, DTE’s proposed Collections Digital-Self Service investments do not meet the unique needs of low-income and other vulnerable customers, and in fact, many of these proposed investments place disproportionate burdens on low-income and vulnerable customers. As many low-income customers have low levels of digital literacy and lack access to technology, online solutions are not accessible or practical for these customers to access.<sup>303</sup> The same is true for customers who are non-English speaking as “DTE Electric’s Collections digital solutions tools are available in only English, they can be very difficult for non-English speakers and readers to

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<sup>300</sup> Orr Direct Testimony at 6 TR 4714.

<sup>301</sup> Hatsios Revised Direct Testimony at 6 TR 2207.

<sup>302</sup> *See id.*

<sup>303</sup> Jacob Direct Testimony at 6 TR 4650.

use and access.”<sup>304</sup> DTE does not provide sufficient and supported evidence to demonstrate how these Collections digital solutions programs are being “improved, designed, or implemented” to ensure that they are actually meeting the needs of low-income and vulnerable customers.<sup>305</sup> Yet, DTE is attempting to invest millions in Collections digital solutions that place additional technological, language, and other access barriers on to the very low-income and vulnerable customers who are already struggling to pay their unaffordable DTE bills.<sup>306</sup> In sum, investing \$10.7 million of ratepayer money into Collections digital solutions tools that many who will need to use these resources cannot access is deeply unjust.

Moreover, it is unjust that DTE considers it an appropriate use of a digital self-service tool to require customers who miss as few as one payment or have a credit card or check payment returned for insufficient funds to make their subsequent payments at a physical DTE kiosk or at one of DTE’s authorized payment agents.<sup>307</sup> As noted by Witness Bunch, testifying on behalf of MI-MAUI, these required cash payments—that necessitate customers traveling to one of only thirteen kiosks that are limited to a few counties in DTE’s service territory or paying an additional service fee to pay at an authorized payment agent—are far from an accessible or easy self-service tool.<sup>308</sup> Instead, requiring customers who are already struggling to afford their monthly DTE Electric bills to undertake the additional burden of paying at a kiosk or authorized

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<sup>304</sup> *Id.* at 6 TR 4651.

<sup>305</sup> *Id.* at 6 TR 4655.

<sup>306</sup> *Id.* at 6 TR 4640.

<sup>307</sup> *Id.*; Hatsios Revised Direct Testimony at 6 TR 2287 notes that the Company’s Digital Experience Team includes Kiosks in their purview. Digital Experience is responsible for creating a customer-focused, consistent, multichannel experience that emphasizes the use of DTE’s self-service channels, including mobile applications, kiosks, the DTE website, and Interactive Voice Response (IVR) to provide excellent and efficient customer service. Separately, Witness Hatsios, in rebuttal testimony, notes that DTE does not charge a fee for using its kiosks. Hatsios Rebuttal at 6 TR 2323. DAAO concedes that DTE’s kiosks do not charge a fee for use.

<sup>308</sup> Bunch Revised Direct Testimony at 6 TR 4287.

payment agent evidences the Company's efforts to make the collections process more automated and less personalized to meet customer needs. Taken together, the Company's requested IT Capital Investments in Collections digital solutions tools "reveals a troubling misalignment of incentives that prioritizes the Company's own financial interests over the needs and well-being of its customers" and therefore must be rejected by the Commission.<sup>309</sup>

Furthermore, DTE's requests for Collections digital solutions are unjust as they do not adequately protect customer rights. Under Michigan Law, customers have the right to negotiate payment agreements to pay off past-due balances.<sup>310</sup> Such agreements must account for customer-specific needs, including the "customer's ability to pay[.]" and the "reasons that the customer has not paid the bill."<sup>311</sup> Indeed, many DTE customers exercise their rights to negotiate payment agreements to pay off past-due balances.<sup>312</sup> DTE must provide them with more personalized and customized customer service support to protect their customer rights and meet their Collections needs. Investing in Collections digital solutions tools with automated payment plans that do not take into account unique customer needs erodes customer rights, as customers cannot negotiate a personalized Payment Agreement with a DTE customer representative.<sup>313</sup> While in rebuttal testimony Witness Hatsios claims that "in no way has the Company's standard collection or disconnection policies and practices changed between a transaction that is handled digitally or through a call," he fails to explain how the digital collections process would result in appropriate payment agreements that meet a customer's specific needs as required by Mich. Admin. R. 460.146(2).<sup>314</sup> The mere option for a customer to "enroll in a payment agreement to

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<sup>309</sup> Koeppl Direct Testimony at 6 TR 4400.

<sup>310</sup> Mich. Admin. Code R. 460.146(1).

<sup>311</sup> Mich. Admin. Code R. 460.146(2)(a) & (d).

<sup>312</sup> Jacob Direct Testimony at 6 TR 4645-46.

<sup>313</sup> *Id.*

<sup>314</sup> Mich. Admin. Code R. 460.146(2).

pay their past-due balance over time”<sup>315</sup> does not sufficiently meet customer needs or the requirements of Michigan law.

As DTE has failed to meet the burden of proof required under law, the Commission must reject the \$10.7 million in IT Capital costs for Collections digital solutions. Further, the Commission should not approve DTE’s requested overall \$181.1 million increase in capital expenditures for IT Capital Investments without requiring DTE to provide a more comprehensive and detailed cost-benefit analysis of its IT investments. To meet the legal requirement to charge reasonable rates to its customers, the Company has the burden to put forward sufficient evidence in order to demonstrate to the Commission the benefits of its proposed investments to ratepayers.<sup>316</sup> DTE has not met that burden with respect to its proposed IT Capital Investments. As noted by Witness Alvarez, testifying on behalf of MNSC and the Attorney General, “DTE’s poor historical reliability record puts additional pressure on this Commission” to assert “more rigorous regulatory controls” over the Company’s capital spending.<sup>317</sup> DAAO agrees with this assertion, and DAAO consequently recommends that the Commission reject DTE’s unjust and unreasonable proposed IT Capital Investment in favor of opening an inquiry on the issue, including requiring a comprehensive and detailed cost-benefit analysis of all IT Capital requests.

**E. The Commission Should Reject DTE’s Request to Retire the D1.6 Rate Class and Require a More Comprehensive Study on the Impacts of Time of Use Rates for Vulnerable Customers.**<sup>318</sup> (*Issue 80. TOU rates*)

DTE failed to meet the terms of the Commission’s order to study the impact of TOU rates on LMI customers. DTE was ordered by the Commission to conduct a robust study of the impact of

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<sup>315</sup> Hatsios Rebuttal Testimony at 6 TR 2319.

<sup>316</sup> *See In re Consumers Energy Co.*, Case No. U-18322, Order (Mar. 29, 2018) at 6–7.

<sup>317</sup> Alvarez Direct Testimony at 6 TR 3920.

<sup>318</sup> DAAO believes the following are relevant to this issue:

Relevant Testimony: Koepfel Direct Testimony at 6 TR 4403–09; Willis Rebuttal Testimony at 6 TR 2627–31; Kenworthy Rebuttal Testimony at 6 TR 3214–21; Watts Direct Testimony at 6 TR 4692–93

the TOU switch for low-income customers on the D1.6 rate class in Case No. U-21297.<sup>319</sup> DTE was specifically directed to complete a study “comporting to the DAAOs’ recommended report outline,”<sup>320</sup> which included analysis of disconnection rates, analyzing household factors contributing to a lower ability to shift usage from peak to off-peak hours, and regression analyses of cost impacts on LMI ratepayers who were shifted to TOU and those who remained off TOU in the D1.6 rate class.<sup>321</sup> In the instant case, DTE provided an analysis that fell short of the Commission’s order by failing to provide an analysis of shutoff information, failing to analyze the factors impacting household ability to shift usage, and failing to conduct any regression analysis.<sup>322</sup>

DTE’s analysis in this case was insufficient to allow the Commission to properly determine that a switch to the D1.11 rate would not harm low-income customers. The analysis presented by DTE demonstrating a net benefit, in theory and on average,<sup>323</sup> does nothing to rebut DAAO’s concern that certain households on the D1.6 rate would be suffering a disproportionate additional burden. As certain low-income households may be especially vulnerable to the shift to TOU rates, an analysis of household factors contributing to an increase in rates under the D1.11 rate is of particular importance. DTE was ordered to provide this analysis, along with a regression analysis that might help show the impacts on customers based on certain characteristics in the last rate case.<sup>324</sup> Because the Company failed to provide this analysis, the Commission cannot properly determine whether the switch from the D1.6 rate to the D1.11 rate will cause the

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Relevant Other Authorities: MPSC Order U-21297 at 309–13.

<sup>319</sup> MPSC Order U-21297 at 312–13; Koeppel Direct Testimony at 6 TR 4404.

<sup>320</sup> Koeppel Direct Testimony at 6 TR 4404–05.

<sup>321</sup> *Id.*

<sup>322</sup> *Id.* at 6 TR 4407.

<sup>323</sup> *See* Willis Rebuttal Testimony at 6 TR 2629.

<sup>324</sup> MPSC Order U-21297 at 309–13.

impacts DAAO is concerned about, and the Commission should reject the Company's request until it provides a sufficient analysis.

Without a sufficient analysis, it would be premature to approve the shift to time of use rates. Time of use rates have the potential for an array of impacts. TOU rates could create meaningful benefits for low-income customers if paired with the other energy transition measures that DAAO advocates such as energy efficiency, demand response, and distributed energy resources.<sup>325</sup> They also could potentially cause energy-limiting behavior, the practice where households reduce their energy usage significantly below the level required to maintain a comfortable and safe indoor environment,<sup>326</sup> particularly concerning the lowest-use customers in DTE's sample size who saw losses in the shift to TOU under DTE's analysis. As such, some customers on the D1.6 rate class still have concerns about the potential impacts of the shift to time of use.<sup>327</sup> Unfortunately, as DTE has presented no appropriate analysis of how to mitigate harm or maximize benefits in the TOU transition, the Commission cannot now determine the impact of the potential switch to TOU rates on some of its most vulnerable customers.

DAAO requests that the Commission should (1) reject DTE Electric's request to retire the D1.6 rate for low-income customers and to transition all customers to the D1.11 TOU rate at this time, and (2) require DTE Electric to conduct a more comprehensive and collaborative study of the potential impacts and opportunities of TOU rates for low-income customers, in line with the Commission's order in Case No. U-21297. The Commission should further adopt the CEO's recommendation to require DTE to study the usage patterns of low-consumption, low-income

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<sup>325</sup> Koeppl Direct Testimony at 6 TR 4408.

<sup>326</sup> Kenworthy Rebuttal Testimony at 6 TR 3320–21.

<sup>327</sup> Watts Direct Testimony at 6 TR 4692–93.

customers and develop programs specifically targeted to those customers during the TOU transition.<sup>328</sup>

**F. The Commission Should Reduce DTE Electric’s Return on Equity (ROE) to 9.18% to Better Reflect Their Actual Cost of Capital and a More Appropriate Balance of Shareholder and Ratepayer Interests<sup>329</sup> (Issue 44. Return on Equity)**

The Commission should reject DTE’s request to increase its ROE from 9.90% to 10.50%.<sup>330</sup>

Numerous witnesses proposed reductions to DTE Electric’s requested return on equity, with a variety of methodologies that cumulatively demonstrate that DTE Electric’s current rate of return is higher than industry standards, that the Company’s business risk is overstated, and that these higher rates of return contribute to DTE’s failure to improve performance.<sup>331</sup> Given this consensus among intervenors that DTE’s current ROE is too high, the Commission should not increase the Company’s ROE further in this case.

DAAO also recommends that the Commission adopt an ROE of 9.18%, the true cost of equity in the Attorney General’s DCF analysis.<sup>332</sup> As discussed above, DTE’s customers are currently suffering from an affordability crisis.<sup>333</sup> Any money going to the Company’s shareholders is money that is taken from ratepayers suffering under unaffordable energy prices.

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<sup>328</sup> Kenworth Rebuttal Testimony at 6 TR 3232.

<sup>329</sup> DAAO believes the following are relevant to this issue:

Relevant Testimony: Coppola Direct Testimony at 6 TR 3657, 3682–83; Koeppel Rebuttal Testimony at 6 TR 4437–38; Perry Direct Testimony at 6 TR 4730–32; Stults Direct Testimony at 6 TR 4256; Villadsen Direct Testimony at 6 TR 2442; Walters Direct Testimony at 6 TR 3423.

Other Relevant Authorities: DTE Electric Company 2023 Distribution Grid Plan, MPSC Case No. U-20147 (Sept. 29, 2023) at 119.

<sup>330</sup> Villadsen Direct Testimony at 6 TR 2442.

<sup>331</sup> See Koeppel Rebuttal Testimony at 6 TR 4437–38 (summarizing other parties ROE analyses); Coppola Direct Testimony at 6 TR 3657, 3682–83; Stults Direct Testimony at 6 TR 4256; Walters Direct Testimony at 6 TR 3423; Perry Direct Testimony at 6 TR 4730–32.

<sup>332</sup> The Attorney General contends that DTE Electric’s true cost of equity is 9.18% but ultimately recommends an ROE of 9.85%. See Coppola Direct Testimony at 6 TR 3682–83.

<sup>333</sup> See *supra* Section A.

As such, while any reduction would be a step in the right direction, any ROE above the utility's cost of capital is an unjust and unreasonable burden on ratepayers.

Adopting an ROE tied to the cost of capital will also substantially ease the tension between affordability and grid improvement, a tension which will only heighten as grid modernization continues. DTE projects a \$20-25 billion cost to modernize the 4.8kV distribution system.<sup>334</sup> DAAO believes that modernizing the 4.8kV distribution system is necessary for a truly equitable energy transition. However, as discussed above, ratepayers are already struggling with unaffordable energy bills.<sup>335</sup> Given the robust evidence in the record supporting the position that DTE shareholders are presently overcompensated, reducing the ROE is both immediately just and reasonable and has the ongoing effect of lowering the cost impact of necessary improvements to the grid for customers moving forward.

**G. The Commission Should Deny DTE's Request to Recover its Corporate Membership Fees Because the Company Failed to Provide Sufficient Evidence of Benefits to Ratepayers, A Number of the Memberships are Demonstrably Harmful to Ratepayers, and Providing Additional Information is Reasonable<sup>336</sup> (*Issue 68. Corporate Memberships*)**

DTE Electric's corporate membership dues are not "just and reasonable."<sup>337</sup> DTE requests recovery of \$16.88 million in total corporate membership dues, including \$4.44 million in discretionary corporate membership dues, for various industry trade groups and associations, including the Edison Electric Institute.<sup>338</sup> These requests are not "just and reasonable" for three

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<sup>334</sup> DTE Electric Company 2023 Distribution Grid Plan, MPSC Case No. U-20147 (Sept. 29, 2023) at 119.

<sup>335</sup> *See supra* Section A.

<sup>336</sup> DAAO believes the following are relevant to this issue:

Relevant Testimony: Foley Direct Testimony at 2 TR 103; Foley Rebuttal Testimony at 2 TR 179–80; Koeppel Direct Testimony at 4417–31.

Relevant Other Authorities: MCL § 460.557(2); MCL § 460.557(4); Ex. A-27, Q1; U-20836 MPSC Order; U-21297 MPSC Order.

<sup>337</sup> MCL § 460.557(4).

<sup>338</sup> Ex. A-27, Q1.

main reasons. First, DTE has not provided sufficient information on its corporate memberships. In particular, DTE has failed to provide a detailed description of how its corporate memberships *specifically* benefit customers. Second, a number of DTE’s corporate memberships actively harm customers. Third, despite the Company’s claims to the contrary, DAAOs’ requests for more information on DTE’s corporate memberships, and specifically their benefits to customers, are reasonable and in the best interest of customers. Therefore, where state law does not mandate DTE’s membership in an organization, the Commission should disallow DTE’s recovery of its corporate membership dues, or, in the alternative, the Commission should at the very least reject DTE’s recovery of the \$1.4 million in corporate membership dues for the Edison Electric Institute, a membership that actively harms customers.

**a. DTE Has Failed to Provide Sufficient Information on How its Corporate Memberships Specifically Benefit Customers**

DTE has been refusing to provide sufficient information on its corporate memberships for years. In fact, in the Commission’s order in DTE’s 2022 general rate case, Case No. U-20836, the Commission ordered DTE to “file in its future rate cases an exhibit containing an itemized list of projected costs associated with [corporate] membership fees and justification for why these costs are in customers’ interest.”<sup>339</sup> However, in the next general rate case, Case No. U-21297, DTE again failed to provide sufficient information on its corporate memberships and their benefits to customers.<sup>340</sup> There, DAAO argued that DTE needed to provide “(1) the specific achievements that each organization accomplished that are in ratepayer interests, (2) specific information about each organization’s governance structure, including whether and how its leadership is directly accountable to ratepayers, and (3) information about how each

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<sup>339</sup> U-20836 MPSC Order at 308.

<sup>340</sup> U-21297 MPSC Order at 221.

organization’s interests and priorities have evolved over time.”<sup>341</sup> The Commission ordered that “DTE Electric shall provide in its next general rate case a detailed description of how these organizations *specifically* impact/benefit customers as outlined by the DAAOs, which will convey DTE Electric’s roles and responsibilities in advancing ratepayer interests through its participation in each organization.”<sup>342</sup> In this order, the Commission made clear that DTE needed to provide more information to justify the recovery of its corporate membership dues in the next general rate case, and specifically the information that DAAO requested.

However, in the current rate case, DTE again has failed to provide sufficient information on its corporate memberships and, therefore, has not complied with the Commission’s order in case U-21297. While DTE has provided a breakdown of its total corporate membership dues in Exhibit A-27, Schedule Q1, it has failed to provide a “detailed description of how the organizations *specifically* impact/benefit customers.”<sup>343</sup> In Exhibit A-27, Schedule Q1, DTE includes a section titled “customer benefits” for each discretionary corporate membership.<sup>344</sup> However, for some of the discretionary corporate memberships, DTE failed to provide any information about the benefits to customers. For example, for some of the corporate memberships, such as the Center for Energy Workforce, Conference Board Inc., and National Safety Council, DTE simply included a link to the organization’s website without providing any additional information on their benefits to customers.<sup>345</sup> These websites may provide information on the benefits of membership to DTE, but they do not provide information on the benefits *specifically* to DTE’s customers. Under the Commission’s prior order, DTE is responsible for

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<sup>341</sup> *Id.* at 219–20.

<sup>342</sup> *Id.* at 221 (emphasis in original).

<sup>343</sup> *Id.* (emphasis in original).

<sup>344</sup> Ex. A-27, Q1.

<sup>345</sup> *Id.*

explaining the benefits of its memberships to the Commission, Intervenors, and ratepayers generally. Because DTE has failed to provide sufficient evidence of specific customer benefits, the Commission must deny recovery of those expenses.

Furthermore, even for the corporate memberships in which DTE did provide some information on customer benefits, the information is still insufficient to satisfy the Commission's order in case U-21297. First, for some of the corporate memberships, such as the Neuroleadership Institute, Gartner, and Human Capital Institute, DTE provided only a short, one- or two-sentence, generalized description of the benefits to customers.<sup>346</sup> For example, under "customer benefits" for the Neuroleadership Institute, DTE wrote that "NLI provides research-based consultancy that uses science to make a company's culture more societal and transforms the way their organizations think, grow and perform."<sup>347</sup> Here, DTE provided a brief description of what the Neuroleadership Institute provides DTE but did not explain how this "research-based consultancy" *specifically* benefits DTE customers. Perhaps NLI does help transform the way DTE "think[s]" and "grow[s];" but in what way has ratepayers' investment in that membership year after year benefited ratepayers? The Commission cannot know because DTE has not provided the information.

Second, for some of the corporate memberships, such as the Edison Electric Institute and Electric Power Research Institute, DTE provided direction to see the testimony of certain of their witnesses.<sup>348</sup> However, in these witness testimonies, DTE again focuses mainly on the benefits of the corporate memberships to the Company rather than the benefits to the customers. For example, under "customer benefits" for the Edison Electric Institute, DTE wrote, "please refer to

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<sup>346</sup> *Id.*

<sup>347</sup> *Id.*

<sup>348</sup> *Id.*

the testimony of Witness Crozier.”<sup>349</sup> In Witness Crozier’s testimony, she listed the benefits of membership to the Company, such as benchmarking, knowledge building, best practice sharing, and learning from industry experts.<sup>350</sup> However, she failed to explain how these services *specifically* benefit customers. Indeed, as discussed more below, these broad descriptions of benefits are sufficiently nondescript that they could include any number of practices not in the interest of ratepayers.

Ultimately, DTE has failed to provide sufficient information on how its corporate memberships specifically benefit customers. In its rebuttal testimony, DTE claims that it complied with the Commission’s order and that Exhibit A-27, Schedule Q1, includes “*specific* customer benefits related to each of its corporate memberships.”<sup>351</sup> However, as discussed above, DTE did not respond to DAAO’s concerns in Case No. U-21297 regarding how the Company failed to provide sufficient information. Nor did DTE explain why it believes Exhibit A-27, Schedule Q1, provides sufficient information; the Company merely stated that the Exhibit is sufficient. Exhibit A-27, Schedule Q1, does not provide information about *specific* customer benefits; it primarily provides vague and generalized information that may or may not be related to customer benefits.

DTE has again failed to provide sufficient information on its corporate memberships, as it has done for years. In both the 2022 and 2023 rate cases, DTE failed to provide sufficient information, but the Commission still allowed the Company to recover its corporate membership dues, only asking them to provide more information in the next rate case.<sup>352</sup> DTE has demonstrated that it will not provide more information unless and until the Commission rejects

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<sup>349</sup> *Id.*

<sup>350</sup> Foley Direct Testimony at 2 TR 103.

<sup>351</sup> Foley Rebuttal Testimony at 2 TR 179.

<sup>352</sup> U-20836 MPSC Order at 308; U-21297 MPSC Order at 221.

its request to recover these corporate membership dues. As DTE has refused to provide sufficient information on specific ratepayer benefits as required by the Commission’s order in Case No. U-21297, DAAO requests that the Commission reject the Company’s request to recover its corporate membership expenses.

**b. DTE Should Not be Able to Recover Corporate Memberships Dues for Memberships that Actively Harm Customers, Provide Questionable Benefit to Customers, or Provide no Benefit at all.**

The Commission should not allow DTE to recover its corporate membership dues for memberships that actively harm customers, provide questionable benefit to customers, or provide no benefit at all. For example, DTE has requested to recover approximately \$1.4 million in membership dues for the Edison Electric Institute (EEI).<sup>353</sup> EEI has a history of advocating for policies and positions that prioritize the financial interests of its member companies over the needs and interests of customers.<sup>354</sup> EEI has advocated for policies and positions that are contrary to the goals of affordability, sustainability, and equity and that have actively harmed customers.<sup>355</sup> For example, EEI opposed distributed solar energy and net metering, advocated against clean air and climate regulations, took efforts to limit competition and customer choice, and supported bailouts for uneconomic coal and nuclear plants.<sup>356</sup> It cannot be just and reasonable for DTE to charge its customers for its membership in EEI when EEI continues to advocate for policies and positions that actively harm customers.

In its rebuttal testimony, DTE claims that “the fact that DAAO Witness Koeppel believes that EEI has taken positions that are not in the best interest of customers does not negate the benefits of EEI membership or provide sufficient justification to disallow the Company’s

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<sup>353</sup> Ex. A-27, Q1.

<sup>354</sup> Koeppel Direct Testimony at 6 TR 4421.

<sup>355</sup> *Id.*

<sup>356</sup> *Id.* at 4425–26.

proposed membership dues.”<sup>357</sup> In other words, DTE claims that its EEI membership benefits customers. However, as explained above, DTE has failed to provide sufficient information on how the EEI membership *specifically* benefits customers, especially given EEI’s advocacy for positions and policies that have actively harmed customers. In Witness Crozier’s testimony, she claims that EEI provides benefits to the Company, such as benchmarking, knowledge building, best practice sharing, and learning from industry experts.<sup>358</sup> These descriptions of benefits are so broad that they could encompass any number of harmful practices, including lobbying for policies against customer interests. Without more specific information from DTE, it is impossible to determine whether EEI provides any benefit to customers at all or only causes harm. Therefore, the Commission should not allow DTE to recover its corporate membership dues for EEI or any other corporate memberships that the Commission finds harm customers, provide questionable benefit to customers, or provide no benefit at all.

**c. DAAOs’ Requests for More Information are Reasonable and in the Best Interest of Customers**

DAAOs’ requests for more information on DTE’s corporate memberships are reasonable. In its rebuttal testimony, “DTE Electric urges the Commission to consider the reasonableness of DAAO’s Witness Koeppel’s recommendations.”<sup>359</sup> DTE claims that it “simply does not have the level of detail suggested by DAAO Witness Koeppel” and that “attempting to compile such information (assuming industry associations have it available) would be costly in terms of the Company’s time and resources required.”<sup>360</sup> However, the Commission has already considered DAAO’s requests for more information to be reasonable in Case No. U-21297.<sup>361</sup> In Case No. U-

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<sup>357</sup> Foley Rebuttal Testimony at 2 TR 179–80.

<sup>358</sup> Foley Direct Testimony at 2 TR 103.

<sup>359</sup> Foley Rebuttal Testimony at 2 TR 180.

<sup>360</sup> *Id.*

<sup>361</sup> U-21297 MPSC Order at 221.

21297, the Commission ordered DTE to provide more information on its corporate memberships in its next general rate case and explicitly said that the Company must provide the information “as outlined by the DAAOs,” which suggests that they believed the DAAOs’ requests to be reasonable.<sup>362</sup>

Furthermore, if DTE does not provide this requested information on its corporate memberships, then the Commission cannot determine whether its requested membership dues are reasonable. The Commission must review all requests under the “just and reasonable” standard of MCL 460.557.<sup>363</sup> The Commission has also previously found it important for DTE to provide information about specific benefits to ratepayers so that the Commission can make that determination.<sup>364</sup> The Commission cannot find charging ratepayers for these expenses to be “just and reasonable” without information on specific customer benefits.

In addition, the Commission should be skeptical of the Company’s claim that producing the relevant information would be overly burdensome. DTE has provided no data to support its claim that it would cost too much money to gather this requested information. Nor has DTE produced any estimates of the cost to gather such data. As such, the Commission is unable to evaluate the Company’s claim that the costs are exceptionally high. The Commission should not allow the Company to escape its obligations under the Commission’s prior orders by simply claiming that it would be too costly to comply without providing any evidence of the costs.

Finally, the DAAOs’ requests for more information on DTE’s corporate memberships will ultimately benefit customers. While some of these costs may be passed on to customers, as DTE claims in its rebuttal testimony, compiling this information will allow the Commission to

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<sup>362</sup> *Id.*

<sup>363</sup> MCL § 460.557(4).

<sup>364</sup> *See* U-21297 MPSC Order at 221.

determine whether DTE’s requested corporate membership dues are in the best interest of customers. Should a corporate membership be found to be unjust and unreasonable based on this information, then this information could potentially save customers millions of dollars in this case, and in every year going forward. Given the recurring nature of corporate membership dues, the benefits of determining whether any of these costs are justified appear to outweigh the initial expenses of uncovering whether these costs actually benefit ratepayers. DTE has provided no evidence to the contrary.

The Commission should not consider the Company’s request to recover its corporate membership costs “just and reasonable.”<sup>365</sup> DTE has not provided sufficient information about the specific benefits of these corporate memberships to customers. Furthermore, some of these corporate memberships actively harm customers. Therefore, the value of service to the customer with respect to these corporate memberships—a factor the Commission must consider in approving these expenses—is, at best, in question.<sup>366</sup> Where state law does not mandate DTE’s membership in the various organizations outlined above, DAAO requests that the Commission disallow recovery for these corporate membership dues, or at minimum reject recovery of the Company’s membership in the Edison Electric Institute, and make explicit in its order that failure to meet the requirements of Order U-21297 to demonstrate specific customer benefit will result in the rejection of recovery of those expenses in future cases.

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<sup>365</sup> MCL § 460.557(4).

<sup>366</sup> MCL § 460.557(2).

**H. The Commission Should Require DTE to Take Concrete Action to Prepare for the Development of Microgrids**<sup>367</sup> (*Issue 93. Adaptive Microgrids; Issue 109. Behind-the-meter battery storage; Issue 115. Nanogrids and Microgrids*)

Microgrids are localized electricity systems that can operate independently from the main power grid, include an energy generation source and a control system to manage power flow, and may incorporate energy storage.<sup>368</sup> They can be installed “behind the meter” on the customer's side, serving individual buildings or a campus,<sup>369</sup> or “front of the meter” on the utility side, serving multiple customers across an area.<sup>370</sup> Microgrids disconnect automatically from the main grid during outages to provide uninterrupted power to designated critical loads.<sup>371</sup> Microgrids can utilize various energy sources, including fossil fuels like diesel generators as well as renewable sources like solar panels paired with battery storage systems.<sup>372</sup> The generation sources in microgrids can also provide power to the main power grid under certain circumstances.<sup>373</sup> The choice of generation source and storage characteristics impacts the microgrid's emissions, costs, and resilience capabilities.<sup>374</sup>

Relevant to these issues and this case, DTE is in the process of undertaking microgrid projects and has touted the benefits of these projects. DTE is currently developing the Port Austin microgrid, a front-of-the-meter system designed to serve multiple customers in a remote

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<sup>367</sup> DAAO believes the following are relevant to this issue:

Relevant Testimony: Hartwick Revised Direct Testimony at 4 TR 681, 687–88, 699–703; Kinkhabwala Direct Testimony at 6 TR 4541; Krause Rebuttal Testimony at 6 TR 5197–202; Makhijani Direct Testimony at 6 TR 4602–30; Rafson Direct Testimony at 6 TR 4865–79; Volkmann Direct Testimony at 6 TR 3235, 3258.

<sup>368</sup> Makhijani Direct Testimony at 6 TR 4607–08; *see generally* Volkmann Direct Testimony at 6 TR 3235.

<sup>369</sup> Makhijani Direct Testimony at 6 TR 4607.

<sup>370</sup> *Id.* at 6 TR 4620–22.

<sup>371</sup> *Id.* at 6 TR 4607; *see also* Hartwick Revised Direct Testimony at 4 TR 688.

<sup>372</sup> Makhijani Direct Testimony at 6 TR 4607.

<sup>373</sup> *Id.* at 6 TR 4621.

<sup>374</sup> *Id.* at 6 TR 4607–08, 4612–19.

area prone to outages.<sup>375</sup> The Company is also installing and interconnecting a 1 MWh Battery Energy Storage System (BESS) at O’Shea Solar Park “to address power quality concerns”<sup>376</sup> and is including the installation in its Adaptive Networked Microgrids (ANM) program.<sup>377</sup> The Company intends to provide \$22 million in funding toward the overall approximately \$46 million cost for the pilots.<sup>378</sup> To support these deployments, Witness Hartwick notes, “Benefits to the Company’s customers [of the ANM program] include (a) greater resilience to extreme weather conditions, (b) improved reliability for everyday operations, (c) enhanced security from an evolving number of cyber-physical threats, (d) superior flexibility to respond to the variability and uncertainty of conditions, and (e) increased sustainability through energy efficient and renewable resources.”<sup>379</sup>

Microgrids provide significant benefits directly to residential customers by powering services that they need in their residences. Microgrids allow refrigerators and freezers to continue operating, avoiding food spoilage and the associated financial losses, which can be substantial for low-income households.<sup>380</sup> For those working remotely, microgrids enable continued productivity by powering cell phones, computers, and internet connections.<sup>381</sup> Additionally, microgrids can keep medical devices and communication tools functioning, which is critical for vulnerable populations, especially but not only during natural disasters and other emergencies.<sup>382</sup>

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<sup>375</sup> Hartwick Revised Direct Testimony at 4 TR 687–88.

<sup>376</sup> *Id.* at 4 TR 681.

<sup>377</sup> *Id.* at 4 TR 699–703.

<sup>378</sup> *Id.* at 4 TR 703; *see also* Volkmann Direct Testimony at 6 TR 3258 (summarizing these projects and their cost).

<sup>379</sup> Hartwick Revised Direct Testimony at 4 TR 701–02.

<sup>380</sup> Makhijani Direct Testimony at 6 TR 4602–04, 4608.

<sup>381</sup> *See id.* at 6 TR 4608.

<sup>382</sup> *See id.* at 6 TR 4604–08.

By providing these services, microgrids significantly enhance household resilience and safety during grid disruptions, particularly in areas already prone to frequent or prolonged outages.<sup>383</sup>

By powering essential service providers, microgrids also offer crucial community benefits.<sup>384</sup> Microgrids can power grocery stores and other food suppliers, ensuring that individuals have food to eat.<sup>385</sup> They can provide energy to hospitals and emergency response services, helping to meet essential medical and safety needs.<sup>386</sup> Microgrids can power community facilities that can provide shelter at appropriate temperatures, food storage, and power for communications and medical devices.<sup>387</sup> They can provide electricity to gas stations, allowing people to fuel their cars and be productive by getting to work and school during outages.<sup>388</sup>

In addition, microgrids powered by renewable energy sources, particularly solar paired with battery storage, offer significant climate benefits by reducing greenhouse gas emissions consistent with the State of Michigan's plan, and these benefits can be quantified too. Makhijani's testimony provides examples of these benefits for various microgrid scenarios that NREL developed as part of its Highland Park studies.<sup>389</sup> For instance, a typical residential building microgrid (2,200 sq. ft., 4.62 kW solar / 27.7 kWh battery) is estimated to provide \$2,947 in avoided social cost of carbon over 25 years.<sup>390</sup> A larger commercial building microgrid (33,000 sq. ft., 60.25 kW solar / 44.9 kWh battery) could avoid \$39,720 in social costs of carbon

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<sup>383</sup> See generally Rafson Direct Testimony at 6 TR 4865–79.

<sup>384</sup> See generally *id.* at 6 TR 4872 (discussing critical community needs).

<sup>385</sup> See Makhijani Direct Testimony at 6 TR 4606.

<sup>386</sup> See *id.* at 6 TR 4606–07.

<sup>387</sup> See *id.* at 6 TR 4604–05.

<sup>388</sup> See *id.* at 6 TR 4608.

<sup>389</sup> See *id.* at 6 TR 4609–20. The calculations are based on the EPA's most recent social cost of carbon estimates, which value carbon at \$190 per metric ton in 2020, rising by \$4 per year (in 2020 dollars). *Id.* at 6 TR 4614.

<sup>390</sup> *Id.* at 6 TR 4613, 4616.

over the same period.<sup>391</sup> Even more substantial climate benefits are seen in larger community-scale projects: the Ernest T. Ford Recreation Center microgrid (100 kW solar / 1,110.5 kWh battery) is projected to avoid \$65,193 in social costs of carbon, while the Parker Village microgrid (2,626.85 kW solar / 8,990.3 kWh battery) could potentially avoid over \$1.7 million in social costs of carbon over 25 years.<sup>392</sup> Importantly, these benefits align with Michigan's goal to achieve net-zero greenhouse gas emissions by 2050, which necessitates the complete elimination of fossil fuels for electricity generation.<sup>393</sup> Makhijani's analysis assumes that the electricity sector will reach zero emissions by 2040, showing that renewable microgrids are increasingly valuable in the near term as they accelerate this transition and provide immediate emissions reductions.<sup>394</sup>

In certain scenarios, microgrids are economically viable or close to being so without accounting for carbon emission benefits or benefits. For instance, NREL's analysis found that a typical commercial building microgrid (60.25 kW solar / 44.9 kWh battery) had a positive monthly net benefit of \$55.67, even before considering non-energy benefits.<sup>395</sup> On a per-home basis, the cost premium for a typical residential building would be \$28.65, for the Ernest T. Ford Recreation Center solar plus diesel \$1.69, for the Ernest T. Ford Recreation Center solar plus storage \$15.37, and for Parker Village solar plus diesel \$26.25.<sup>396</sup> While these increases would be significant for a low-income household, it appears many households could afford these increases without exceeding the 6% energy burden threshold.<sup>397</sup>

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<sup>391</sup> *Id.*

<sup>392</sup> *Id.*

<sup>393</sup> *Id.* at 6 TR 4615.

<sup>394</sup> *Id.*

<sup>395</sup> *Id.* at 6 TR 4613.

<sup>396</sup> *Id.*

<sup>397</sup> *See* Kinkhabwala Direct Testimony at 6 TR 4541 (showing number of households by federal poverty levels brackets from 0% to 299% and the number of those households within energy burden brackets).

In other scenarios, microgrids can be economically viable when including carbon emission benefits and non-energy benefits. For the Ernest T. Ford Recreation Center, the solar plus battery scenario had a positive NPV of \$5,400, and the solar plus diesel scenario had a positive NPV of \$374,800.<sup>398</sup> The Parker Village microgrid project, which includes both residential and commercial components, showed that with a solar plus diesel configuration, the project could achieve a positive net present value of \$846,934 when including avoided carbon and outage costs.<sup>399</sup> The figure would be approximately \$950,000 if one included shelter and food saved from spoilage per household.<sup>400</sup> These calculations demonstrate the importance of considering broader societal benefits in microgrid evaluations.

While Staff witness Krause acknowledges briefly the benefits of microgrids, he raises several arguments against microgrid adoption and about cost allocation. Krause notes, “If an outage occurs due to something outside of the microgrid then the microgrid should be able to successfully island and ride through an outage, depending upon how long the outage lasts.”<sup>401</sup> He states that microgrids are more complex and costly than traditional standard service, requiring additional hardware and software to balance the microgrid and manage interconnection with the main grid.<sup>402</sup> Krause argues that microgrid costs should be borne by the customers who directly benefit from them, rather than being socialized across all ratepayers, except in cases of critical public services such as first responders and hospitals.<sup>403</sup> Beyond critical public services, “the arguments get considerably weaker [for all customers to cover these costs. Establishments with a

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<sup>398</sup> Makhijani Direct Testimony at 6 TR 4616.

<sup>399</sup> *Id.* at 6 TR 4617–18.

<sup>400</sup> Makhijani Direct Testimony at 6 TR 4618.

<sup>401</sup> Krause Rebuttal Testimony at 6 TR 5197. Krause proceeds to state, “At the same time, it is also possible that individuals within the microgrid experience an outage due to distribution or generation problems within the microgrid.” *Id.* at 6 TR 5197–98.

<sup>402</sup> *Id.* at 6 TR 5197.

<sup>403</sup> *Id.* at 6 TR 5201.

profit motive like grocery stores and gas stations should consider their outage risk and decide for themselves whether they want to self-fund their own backup generation for all or critical loads.” To the extent to which the utility incurs the microgrid costs, Krause contends that microgrid customers should pay different rates from those on standard electrical service, as they receive a different type of service with higher reliability.<sup>404</sup> “They have significantly higher reliability and resilience enabled by expenditures specific to them. This essentially means they are receiving a different type of service that should have different rates.”

However, Witness Krause’s arguments are unavailing. First, the customers who would benefit from some of the specific microgrids discussed in this case experience worse system performance than most other customers. As noted in Witness Makhijani’s testimony, “NREL described the rationale for the Highland Park REopt study as follows: ‘Highland Park, Michigan, community members face frequent, long-duration power interruptions due largely to the aging distribution system serving the area and the legacy design standards used in its construction.’”<sup>405</sup> DTE’s Port Arthur substation is experiencing technical challenges and is located an area “vulnerable to severe weather.”<sup>406</sup> Those who would benefit from these microgrids would start to receive the kind of service to which they are entitled and for which they have been paying but have not been receiving; they should not be required to pay for or pay more for a microgrid that benefits them. Second, gas stations and grocery stores do provide critical services.<sup>407</sup> Community members need to be able to fuel their cars and their bodies, and these are at risk during long-duration outages. Thus, it makes sense to socialize the costs of microgrids that provide power to gas stations, grocery stores, and other similar enterprises that a community defines as critical

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<sup>404</sup> *Id.* at 6 TR 5201–02.

<sup>405</sup> Makhijani Direct Testimony at 6 TR 4610.

<sup>406</sup> Hartwick Revised Direct Testimony at 4 TR 687–88

<sup>407</sup> Makhijani Direct Testimony at 6 TR 4608.

loads with participation from the utility and oversight from the Commission.<sup>408</sup> Third, concerns about cost are mitigated when non-energy benefits are properly accounted for, as described above. Moreover, Witness Rafson also argues that microgrids can actually decrease the burden on the wider distribution system, potentially reducing costs for all customers in the long term.<sup>409</sup> Therefore, while some cost allocation considerations are valid, the broader societal benefits of microgrids justify their implementation and financing by ratepayers generally.

Given the clear benefits and economic viability of microgrids when properly evaluated, DAAO requests that the Commission:<sup>410</sup>

- Order DTE to conduct a study of the benefits of microgrids that includes analyses of:
  - Non-energy and carbon reduction benefits, and
  - The disproportionate costs of long-duration outages on low- and moderate-income households.
- Initiate an analysis of the ways that front-of-the-meter microgrids could be encouraged and implemented in Michigan, particularly in ways that will allow for community ownership of the distributed generation and storage resources (or controlled by the community such as with a special governing board) and the terms under which they would have access to DTE's distribution system.
- Set conditions and incentivize microgrid development in areas with poor reliability, especially in vulnerable and historically underserved communities whose members disproportionately lack the means to address the impacts of outages on their households.

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<sup>408</sup> *Id.*

<sup>409</sup> Rafson Direct Testimony at 6 TR 4873–78.

<sup>410</sup> *See* Makhijani Direct Testimony 6 TR 4625–30 (stating recommendations).

- Establish and implement guidelines for geographic targeting, cost recovery, and ownership models for microgrids that balance utility, customer, and public interests.
- Order DTE and other utilities to revise their existing tariffs or develop a new tariff specifically for microgrids.<sup>411</sup>

By conducting studies and ultimately implementing a tariff consistent with these considerations, the Commission would promote grid resilience, support the clean energy transition, and enhance energy equity.

In addition, the Commission should order DTE to develop the microgrids studied in NREL's Highland Park study, as well as microgrids for City Hall, the fire station, and the Senior Building in Highland Park. Witness Makhijani's supplemental analysis to the NREL study shows that when avoided loss of business, non-energy benefits—such as food spoilage prevention and emergency shelter provision—and avoided CO2 emissions are factored in, most of the resilience microgrid cases become economically viable or close to it.<sup>412</sup> Some are economical even without any or many of these additional benefits.<sup>413</sup> Given Highland Park's history of long-duration outages that disproportionately affect its low-income population, implementing these microgrids would significantly enhance community resilience.<sup>414</sup> The additional microgrids for City Hall, the fire station, and the Senior Building are necessary to address public safety needs and to accommodate more Highland Park families during extended outages because the Ernest T. Ford Community Center cannot do so alone.<sup>415</sup> Providing resilience for seniors in their residences

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<sup>411</sup> *See id.* *See also* Krause Rebuttal Testimony at 6 TR 5199–201 (discussing riders that could apply to microgrids but noting that additional analysis would need to be performed and discussions held between utilities and microgrid customers).

<sup>412</sup> *See* Makhijani Direct Testimony 6 TR 4628.

<sup>413</sup> *Id.*

<sup>414</sup> *Id.*

<sup>415</sup> *Id.*

through the Senior Building microgrid would be particularly efficient and beneficial.<sup>416</sup> By ordering DTE to build these microgrids and include the necessary utility facilities in the rate base, the Commission would be taking a crucial step towards ensuring energy equity and resilience in Highland Park.<sup>417</sup> Other similarly-situated communities could benefit from similar microgrids in similar ways. At the very least, the Commission should order DTE to proceed with engineering studies on these specific microgrids and to begin community engagement to develop proposals to implement them.

**I. The Commission Should Establish an Hourly, Progressive, Automatic Outage Credit that Appropriately Compensates Customers, and Should Reject DTE’s Request to Recover Outage Credits<sup>418</sup> (*Issue 53. Outage Credit Recovery; Issue 116. Outage Credits*)**

DTE customers who live in vulnerable communities continue to face lengthy and frequent outages. Michigan law requires DTE to provide all customers with a similar quality of service; therefore, it is just and reasonable for customers receiving a lower quality of service and experiencing frequent and lengthy outages to be compensated through outage credits.

**a. The Commission Should Establish Increased, Hourly, Automatic Outage Credits**

The Commission should reconsider the establishment of increased, hourly, and automatic outage credits for all DTE customers.<sup>419</sup> DTE has argued that outage credits “are established through rulemaking and not through general rate cases” and that “hourly credits were specifically contemplated during rulemaking and rejected by the Commission in its March 24, 2023, Order in

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<sup>416</sup> *Id.*

<sup>417</sup> *Id.*

<sup>418</sup> DAAO believes the following are relevant to this issue:

Relevant testimony: Koeppel Direct Testimony at 6 TR 4395–97; ; Foley Direct Testimony at 2 TR 97–98; Foley Rebuttal Testimony at 2 TR 150–51; Watts Direct Testimony at 6 TR 4692–93.

Relevant Other Authorities: MCL § 460.6a; MCL § 24.233; MCL § 24.239; U-20836 MPSC Order at 366-7; *In re DTE Electric Co.*, MPSC Case No. U-20836, Proposal for Decision (Sept. 19, 2022) at 602–03 (quoting 8 TR 5437–38).

<sup>419</sup> Koeppel Direct Testimony at 6 TR 4432.

Case No. U-20629.”<sup>420</sup> However, the Commission has the authority to update these rules<sup>421</sup> and should update these rules so that outage credits better reflect the costs and inconvenience of outages to customers. The current outage credits do not reflect the costs and inconvenience of outages to customers and, therefore, are not just and reasonable. The flat \$38 credit per outage does not cover the expenses that many customers incur during an extended outage.<sup>422</sup> DAAO requests that the Commission reconsider establishing an hourly, progressive, automatic outage credit that would accurately account for the costs incurred during an outage in this rate case.

**b. The Commission Should Not Allow DTE to Recover Any Outage Credits**

The Commission should not allow DTE to recover any outage credits from its customers through rates. In Case U-20836, the Commission stated: “It is reasonable that the company have the ability to recover outage credits when the outage was caused by customer negligence or the transmission system operator, among other limited circumstances as developed in collaboration with the Staff.”<sup>423</sup> In the current case, DTE has argued that DAAO’s “recommendations to reject all recoverability of outage credits conflicts with the Commission’s November 2022 order” and “as such, the focus of outage credit recovery in this case should not be if recoverability is appropriate since that has already been ordered upon by the Commission.”<sup>424</sup> However, the Commission can and should change its order from Case U-20836 because it is not just and reasonable for DTE to recover outage credits from customers.

First, the Commission should not allow DTE to recover outage credits from customers because it undermines the Company’s incentive to improve its reliability for customers. If DTE

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<sup>420</sup> Foley Rebuttal Testimony at 2 TR 151.

<sup>421</sup> MCL § 460.6a; MCL § 24.233; MCL § 24.239.

<sup>422</sup> Watts Direct Testimony at 6 TR 4673.

<sup>423</sup> U-20836 MPSC Order at 367.

<sup>424</sup> Foley Rebuttal Testimony at 2 TR 150.

shareholders are responsible for paying for outage credits, then the Company has a financial incentive to minimize the frequency and duration of outages.<sup>425</sup> Therefore, by making outage credits unrecoverable for the Company, the Commission can help to ensure that DTE makes the necessary investments and operational improvements to maintain a high level of service reliability for its customers.<sup>426</sup> However, by allowing DTE to recover the cost of outage credits, the Commission would allow the Company to externalize the cost of these outages and, therefore, the Company would be less incentivized to make necessary investments to improve reliability.<sup>427</sup> If DTE chooses not to make necessary investments to improve reliability, then the Company, not ratepayers, should have to internalize the cost of outages.<sup>428</sup>

Furthermore, DTE is better situated than ratepayers to prevent or minimize the impact of all outages, even those caused by factors it deems to be outside of its control. In fact, even in the most extreme examples of outages considered to be outside of the Company's control, such as outages caused by customer negligence or the transmission system operator, DTE is still the best situated to prevent or manage them. For example, DTE is better situated to determine how best to improve its infrastructure to protect it from customer negligence; ratepayers at large, conversely, have no influence on outages due to customer negligence. Similarly, ratepayers at large have no way to influence the transmission system operator or capacity to plan around potential issues. However, if the transmission system is causing outages, the Company could minimize those impacts by investing in distributed generation that does not utilize the transmission system. In other words, even if the Company is not directly responsible for the failure of its system to provide ratepayers with energy, the Company is still better situated than ratepayers to plan for,

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<sup>425</sup> Koeppel Direct Testimony at 6 TR 4397.

<sup>426</sup> *Id.*

<sup>427</sup> *Id.*

<sup>428</sup> *Id.*

address, and minimize the impact of these disruptions. Indeed, allowing recovery of outage credits through rates is not just a determination that the Company is not responsible for the outages; it is, in effect, a determination that ratepayers are better situated than the Company to internalize the cost of the credits. Because in all cases the Company has a greater ability to impact the frequency and duration of outages than ratepayers, it is not just and reasonable for ratepayers to pay for any outage credits through rates.

Furthermore, by allowing DTE to recover outage credits for some types of outages, such as outages caused by customer negligence or the transmission system operator, the Commission has opened the door for DTE to request to recover outage credits for all types of outages the Company believes are “outside of its control.” However, as discussed above, even in the cases of outages for which the Company may be least culpable, the Company is still the party most capable of limiting the frequency and duration of these outages, and so such outages are, at least to an extent, within the Company’s control. As such, the designation of any outages as “outside of [the Company’s] control” is a dangerous concession that risks allowing the Company to continue to push for recovery of outage credits not originally intended to be recoverable. In fact, in the current rate case, DTE has already tried to broaden the Commission’s order from Case U-20836 by requesting to recover outage credits for outages caused by animal and weather interference.<sup>429</sup> Opening the door for DTE to recover outage credits would be a mistake, and the Commission should reject DTE’s request to recover any outage credits.

**c. The Commission Should Not Allow DTE to Recover Outage Credits for Outages Caused by Animal or Weather Interference**

The Commission should reject DTE’s request to be able to recover outage credits for outages caused by animal interference or weather interference. In the current case, DTE Witness Crozer

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<sup>429</sup> Foley Direct Testimony at 2 TR 97–98.

cites the Commission’s order in Case No. U-20836: “it is reasonable that the company have the ability to recover outage credits when the outage was caused by customer negligence or the transmission system operator, among other limited circumstances as developed in collaboration with the Staff.”<sup>430</sup> Witness Crozier then proposes that the outages for which DTE can recover outage credits be broadened to include outages caused by animal interference and weather interference.<sup>431</sup> However, these types of outages go far beyond what the Commission intended in Order U-20836.

The Commission did not intend for DTE to be able to recover credits for outages caused by animal interference or weather interference. In the Proposal for Decision in Case U-20836, the Administrative Law Judge explained Staff’s proposal as follows:

Under Staff’s preliminary proposal, credits paid out due to 2 events such as a car hitting a DTE Electric-owned pole or an animal damaging equipment could not be recovered from ratepayers, because restoring customers in a timely manner after car-pole accidents or animal interference is an expected utility function. Staff anticipates that most outage credits paid out after a storm would also not be recoverable, because restoring customers after storms is an expected utility function.<sup>432</sup>

The ALJ found that Staff’s proposal was reasonable<sup>433</sup>, and the Commission “adopt[ed] the ALJ’s findings and conclusions and direct[ed] DTE Electric to work with the Staff toward the full development of the Staff’s proposed limited recovery of outage credits.”<sup>434</sup> In examining the Proposal for Decision and the Commission’s order, it is clear that the Commission intended for DTE to be able to recover outage credits in only very limited circumstances, specifically excluding outages caused by weather and animal interference.

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<sup>430</sup> U-20836 MPSC Order at 367.

<sup>431</sup> Foley Direct Testimony at 2 TR 97–98.

<sup>432</sup> *In re DTE Electric Co.*, MPSC Case No. U-20836, Proposal for Decision (Sept. 19, 2022) at 602–03 (quoting 8 Tr 5437–38).

<sup>433</sup> *Id.* at 603.

<sup>434</sup> U-20836 MPSC Order at 366.

Furthermore, by allowing DTE to recover outage credits for outages caused by weather or animal interference, the Commission undermines DTE's incentive to make necessary investments to improve reliability. In these two specific cases of weather and animal interference, DTE could make investments to significantly reduce the frequency and duration of outages.<sup>435</sup> If DTE chooses not to make necessary investments to improve reliability in these cases, then the Company, not ratepayers, should have to cover the cost of the outage credits. Any increase in rates to pay for these outages, therefore, cannot be just and reasonable.

#### **IV. CONCLUSION AND PRAYER FOR RELIEF**

To address the concerns articulated above, the Detroit Area Advocacy Organizations respectfully request that the Commission:

(1) With respect to affordability:

- a. Require the Company to track and provide information on the affordability gap in its service territory;
- b. Order the Company to put forward a proposal for a universal PIPP program capping energy bills at 6% of income as soon as possible;
- c. Require the Company to propose substantial investments in in low-income communities to reduce the cost of service, including investments in energy efficiency upgrades, electrification, demand response, and renewable energy projects such as community solar; and
- d. Return meaningful consideration of issues of affordability to rate cases.

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<sup>435</sup> Koeppel Direct Testimony at 6 TR 4397.

(2) With respect to non-energy benefits:

- a. Require the Company to account for these avoided costs explicitly when making proposals, including but not limited to those related to unaffordability and poor reliability; and
- b. Consider these avoided costs under similar circumstances.
- c. Explicitly account for these avoided costs when considering addressing the issues of unaffordability and poor reliability.

(3) With respect to the Company's equity analysis:

- a. Require the Company to provide a more comprehensive analysis going beyond MI EJScreen's 80<sup>th</sup> percentile threshold, including a regression analysis; and
- b. Limit the Company's recovery for investments in its CODI program until the Company has provided an appropriate analysis of equity.

(4) With respect to the Company's IT Capital investments:

- a. Reject DTE Electric's requested recovery of \$10.7 million in its Collections digital solutions program;
- b. Reject recovery of any of the Company's other IT Capital expenditures that are unsupported by the record;
- c. Initiate an inquiry into the Company's capital expenditures on its IT programs that is designed to determine which investments are reasonable and appropriate; and
- d. Require the Company to provide a comprehensive and detailed cost-benefit analysis of all IT Capital requests.

(5) With respect to the Company's request to retire the D1.6 rate schedule:

- a. Reject the Company's request to retire the D1.6 rate until it has provided an analysis that complies with the Commission's order in Case No. U-21297;

(6) With respect to the Company's requested return on equity:

- a. Reject the Company's request to increase its return on equity to 10.50%; and
- b. Reduce the Company's return on equity to 9.18% to balance shareholder and ratepayer interests more justly and reasonably.

(7) With respect to DTE Electric's request to recover its corporate membership dues:

- a. Reject the Company's request to recover all discretionary corporate membership fees for which the Company has failed to provide evidence of specific customer benefits;
- b. Specifically reject recovery of corporate membership fees for organizations like the EEI which actively harm customer interests; and
- c. Explicitly hold that the failure to provide evidence of specific customer benefits in the future will result in denial of recovery of corporate membership dues.

(8) With respect to microgrids:

- a. Require DTE to provide a study of the benefits of microgrids to specific communities in its service territory;
- b. Initiate an analysis of how microgrids could be effectively implemented in Michigan;
- c. Incentivize microgrids in areas with poor reliability and particularly in underserved communities;

- d. Establish and implement guidelines for geographic targeting, cost recovery, and ownership models for microgrids that balance utility, customer, and public interests;
- e. Order the Company and other utilities to revise their existing tariffs or propose a new tariff specifically for microgrids; and
- f. Order the Company to engage with communities like Highland Park on specific existing microgrid proposals by taking the next step on these proposals, such as through engineering studies.

(9) With respect to the Company's outage credits:

- a. Reconsider requiring DTE Electric to provide an hourly, progressive, automatic outage credit that compensates customers appropriately;
- b. Reject the Company's request to recover any outage credits; and
- c. In the alternative, reject the Company's request to recover outage credits for outages caused by animal and weather interference.

Date: October 3, 2024

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STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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

Case No. U-21534

ALJ Sally Wallace

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**PROOF OF SERVICE**

On the date below, an electronic copy of the Initial Brief on Behalf of Soulardarity and We Want Green, Too was served on the following:

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

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