



CITY OF ANN ARBOR, MICHIGAN

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October 23, 2024

VIA ELECTRONIC CASE FILING

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

RE: MPSC Case No. U-21534

Dear Ms. Felice,

Attached please find the **Reply Brief by the City of Ann Arbor and Proof of Service** for the above referenced case.

Please contact me if you have any questions.

Sincerely,

Valerie Jackson
Assistant City Attorney,
City of Ann Arbor

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.

U-21534

REPLY BRIEF BY THE CITY OF ANN ARBOR

The City of Ann Arbor (“Ann Arbor” or “the City”), without repeating the arguments made in its initial brief, files this reply brief to respond to positions taken by DTE Electric Company (“DTE” or “the Company”) and the Michigan Environmental Council, Natural Resources Defense Council, Sierra Club, and Citizens Utility Board of Michigan (collectively, “MNSC”).

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I. **ANN ARBOR EXCEPTS TO DTE’S CHARACTERIZATION OF ITS RATE INCREASE AS NECESSARY AND REASONABLE**

DTE makes several sweeping claims in the introduction to its initial brief to which Ann Arbor takes exception. Specifically, Ann Arbor excepts to the following:

- “The Company’s requested rate increase is necessary to pay for a modern, reliable, and cleaner electric grid.” DTE’s Initial Brief, p. 1.
- “The Company appreciates that it is asking its customers to pay higher electric bills; however, the cost is justified because the investments will generate significant benefits and value to customers, as well as the State of Michigan.” *Id.* at 1-2.
- “Ongoing grid modernization efforts have already produced significant benefits.” *Id.* at 2.
- “The Company proposes to take this step at a reasonable cost to customers, as reflected for example by comparisons to the rate of inflation and both regional and national electric bills.” *Id.*

Contrary to DTE’s claim regarding the necessity of its proposed rate increase, many costs included in the Company’s calculation of its proposed revenue deficiency are not “necessary” for upgrading the grid and should not be borne by ratepayers. These costs include, among others, an unnecessarily high rate of return on equity (*see*, Ann Arbor’s Initial Brief, p. 6-9), incentive compensation for the achievement of financial measures (*see, id.* at 12-13), and unnecessarily high storm restoration costs (*see, id.* at 23-25).

Regarding DTE’s claims that asking its customers to pay ever-increasing rates is “justified” because it “will generate significant benefits and value to customers,” and that its ongoing investments in the grid have “already produced significant benefits,” Ann Arbor would

like to remind the Commission that the Company's average All Weather SAIDI for the three-year period from 2021 through 2023 was more than double that of the three-year period from 2018 through 2020 (1,018 minutes versus 448 minutes) (Kryscynski, 3 Tr 311, Figure 2), and the All Weather SAIFI for the same two three-year periods increased by over 13% (1.34 for 2018-2020 versus 1.52 for 2021-2023). Kryscynski, 3 Tr 312, Figure 4. While Ann Arbor believes tree-trimming expenses have very likely benefitted customers, customers who are on average experiencing longer and more frequent power outages have reason to be concerned that reliability improvements have not been commensurate to the costs. The Company continues to earn an ROE that is above-average, as if the Company's capital investments yielded unusually high improvement levels, when the lived customer experience is the opposite. The value of DTE's service has demonstrably decreased as customers' rates have increased. DTE has not shown that asking these customers to keep paying more and more for unreliable electric service is "justified."

Finally, DTE's claim that its proposed investments come at a "reasonable cost to customers" is based on its misleading presentation of data. The Company presents a table demonstrating that the average residential bill for DTE customers is less than the national average residential bill – but what the Company fails to mention is that the data does not take into account the amount of electricity each bill represents, which means bills that include the use of electricity for space heating are being compared to bills that do not include this expense. As indicated in Ann Arbor's testimony and briefing, when the cost of electricity is compared in a more meaningful way – by unit – it is apparent that DTE customers (in particular, residential customers) are actually paying some of the highest rates per kWh in the nation. *See*, Stults, 6 Tr 42541; Ann Arbor's Initial Brief, p. 2-3.

The Company simply cannot demonstrate that its requested rate increase is necessary or that it charges its customers reasonable rates.

II. ANN ARBOR EXCEPTS TO DTE'S POSITION ON RETURN ON EQUITY

In support of its requested increase to the Company's rate of return on equity ("ROE"), DTE cited the Commission's "recent request for parties 'to consider the degree of financial adjustment they are requesting the Commission to undertake in one proceeding, because it is not realistic to make a significant change in ROE absent a radical change in underlying economic conditions.'" DTE, Initial Brief, p. 204 (quoting Case No. U-18322, Order dated March 29, 2018, p. 44).

DTE is requesting an ROE of 10.5%, which is 60 basis points higher than its current authorized ROE of 9.9%. The other quantitative ROE recommendations in the record are Staff's recommended 9.9% (no change), the AG's recommended 9.85% (decrease of 5 basis points), ABATE's recommended 9.6% (decrease of 30 basis points), and CUB/MEC's recommended 9.3% (decrease of 60 basis points). Only one of these recommendations reaches the "degree of financial adjustment" that DTE is requesting (i.e., a change of 60 basis points); another is for half the degree of adjustment DTE is recommending, and the other recommendations are for comparably little or no adjustment to the currently authorized ROE.

Shouldn't DTE also be considering the "degree of financial adjustment" that is being recommended to be undertaken in this proceeding? If the Company really believes that "it is not realistic to make a significant change in ROE absent a radical change in underlying economic conditions," then it should never have itself proposed a 60 basis point increase that is not only unrealistic, but also shows a total disregard by the Company for customer affordability. Not a single intervenor position recommends a larger change to ROE than DTE does, and all but one recommend a smaller change than the Company seeks. If DTE really believes that such a "degree

of financial adjustment” is unreasonable, then DTE shouldn’t have proposed such an increase in ROE. The Commission should disregard DTE’s argument because, if the Company will swear under penalty of perjury that a 60 basis point increase is reasonable for the goose, it must accept that a 60 basis point decrease is equally reasonable for Michiganders.

III. ANN ARBOR EXCEPTS TO DTE’S PROPOSAL FOR RECOVERY OF FREQUENT-OUTAGE CREDITS

Ann Arbor’s opposition to DTE’s outage credit recovery proposal as a whole is thoroughly discussed in Section V(A) of its initial brief. Ann Arbor maintains its position that DTE’s outage credit recovery proposal should be rejected entirely. However, should the Commission determine that DTE may recover certain outage credits, Ann Arbor excepts to DTE’s proposal for calculating its recovery amount for credits paid for exceeding outage frequency limits by applying a common percentage to all frequent-outage credits. If the Company is going to be allowed to recover credits paid to customers who lost power eight times in one year, it should have to provide evidence for each credit it intends to recover, so there is no chance that ratepayers will have to bear the cost of outage credits that were rightfully paid.

IV. ANN ARBOR EXCEPTS TO DTE’S POSITION ON CREDITS FOR COMMUNITIES WHO PROACTIVELY CONVERTED TO LED STREETLIGHTS

Ann Arbor takes exception to DTE’s claim that “there is no basis for witness Stults’ suggestion that a municipal customer choosing to convert to LEDs is paying for both its own conversion and a portion of others.” DTE’s Initial Brief, p. 324. DTE attempts to support its position by explaining, “Cost of reactive conversions (including those performed in Ann Arbor) are socialized among all municipalities, and municipal project conversion costs to convert a specific municipality’s lights to LED are excluded from impacting all other municipal customers (including Ann Arbor) that would otherwise be reflected through higher rates.” *Id.* However, this

explanation actually supports Ann Arbor’s assertion that communities who are required to pay a CIAC for proactively converting their streetlights to LEDs will pay both the entire cost of converting their own streetlights and a portion of the cost of the LEDs installed in other communities that do not opt to proactively convert their streetlights. As DTE indicated, reactive conversion costs are “socialized among all municipalities,” which means all municipalities pay a portion of those conversion costs. Hence, communities that proactively convert to LEDs not only pay the full cost of their conversions through a CIAC, but they also subsidize the reactive conversion to LEDs in other communities through rates. This is unreasonable and inequitable.

As suggested by both Ann Arbor and the Michigan Municipal Association for Utility Issues, and supported by MPSC Staff, this inequity can be resolved through the provision of credits to communities who have proactively converted to LEDs. Those credits would be socialized through rates, just as the cost of reactive conversions are, the result being that the cost of all LED conversions is ultimately socialized, and communities who opted to proactively convert to LEDs are not financially disadvantaged.

V. ANN ARBOR EXCEPTS TO DTE’S POSITION REGARDING COORDINATION

DTE claimed “the Company satisfied the Commission’s directive to demonstrate its efforts to improve communication and coordination with local governments regarding construction activities, and criticisms of that response as well as the Company’s efforts do not merit any further action by the Commission.” DTE’s Initial Brief, p. 338. For the reasons below, in addition to those discussed in Section IX(D) of its initial brief, Ann Arbor takes exception to this claim.

Despite admitting in its brief that “work coordination is preferable,” the Company argued that its cost recovery should not be impacted by whether or not it attempts coordination with

local governments because “there are many reasons why it might not be possible.” DTE’s Initial Brief, p. 338. The Company then lists several scenarios that may prevent DTE from being able to coordinate its work with a municipality. However, none of these scenarios prevent the Company from *attempting* to coordinate its work. The fact that the Company’s work *may* not be able to be aligned with a municipality’s work in some situations should not excuse DTE from attempting to identify coordination opportunities in other situations. Ann Arbor did not recommend that DTE be prevented from doing work if it could not be coordinated, only that DTE actually check to see if such opportunities are available and try to pursue them when they make sense.

Ann Arbor understands that it is not possible for DTE to coordinate all its projects. However, the Company should try to coordinate as much work as possible with local governments, as well as other utilities, to maximize potential cost savings. Consider Ann Arbor witness Stewart’s example of the 14% project cost savings that could be realized as a result of a coordination opportunity that was nearly missed. 6 Tr 4239-40. It would be reasonable for the Commission to require DTE to, at a minimum, review the Capital Improvements Plans (“CIPs”) of local governments (including but not limited to large school systems) in its service territory sufficiently in advance to identify coordination opportunities and prevent avoidable costs from being passed on to ratepayers. The Company has failed to explain why it is *unreasonable* for the Commission to require it to show it performed a Google search and a quick review of locations in the publicly available CIPs, to identify possible opportunities for coordination for planned projects before they are officially scheduled. In light of the explicit and specific example of noticeable reductions to planned project costs that can result from coordination, as well as the established fact that the Company would have missed this opportunity but for a lucky coincidence, the Commission should require the Company to undertake this minimal and

reasonable coordination activity for all of its pre-planned underground projects in order to receive full rate recovery for those projects.

VI. ANN ARBOR EXCEPTS TO MNSC'S POSITION ON STRATEGIC UNDERGROUNDING

The Michigan Environmental Council, Natural Resources Defense Council, Sierra Club, and Citizens Utility Board of Michigan (collectively, "MNSC") oppose the Company's Strategic Undergrounding Program and recommend that the Commission eliminate it. MNSC's Initial Brief, p. 149-52. MNSC argues that undergrounding pilots "produce insufficient benefit to justify continuation." *Id.* at 152. Ann Arbor takes exception to this position because, as the Company indicated in its briefing, undergrounding has benefits beyond those that can be accounted for in a financial cost-benefit analysis, such as increased safety and resiliency, and the Company "is still in the early stage of undergrounding pilots." DTE's Initial Brief, p. 122. Ann Arbor supports funding for further undergrounding pilots to explore the potential benefits of undergrounding and to gain experience that may lead to more cost-effective undergrounding processes, with the caveat that DTE must implement a more transparent selection process for undergrounding pilot projects and make the opportunity to coordinate with a municipality and other utilities on planned work a criterion for selection, for the reasons discussed below.

Ann Arbor appreciates intervenor concerns regarding the cost of undergrounding and believes these concerns could be mitigated through better coordination efforts. For example, strategic undergrounding could be planned to align with streetlighting Cable Replacement projects, DTE Gas main replacement projects, and municipal utility projects that involve digging up the right of way to gain cost efficiencies. Thus, including coordination as part of the strategic identification of opportunities for any additional undergrounding pilot projects would allow the

Company to learn lessons regarding how to identify and execute on the lowest-cost opportunities for such improvements.

October 23, 2024

CITY OF ANN ARBOR



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PROOF OF SERVICE

On the date below, an electronic copy of the **Reply Brief by the City of Ann Arbor** was served on the following:

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

Dated October 23, 2024

CITY OF ANN ARBOR



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