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October 23, 2024

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

RE: 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
MPSC Case No. U-21534

Dear Ms. Felice:

Attached for electronic filing in the above captioned matter is DTE Electric Company's Reply Brief. Also attached is the Proof of Service.

Very truly yours,

Jon P. Christinidis
Digitally signed by Jon P. Christinidis
Date: 2024.10.23 15:55:45 -04'00'

Jon P. Christinidis

JPC/erb
Attachments

cc: Service List

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

<u>DTE ELECTRIC COMPANY'S</u>

<u>REPLY BRIEF</u>

Dated: October 23, 2024

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I. INTRODUCTION

In this case, DTE Electric Company (DTE Electric or the Company) supports approximately $2.6 billion of total new capital investment in 2025, the projected test year in this case, as well as additional capital in the bridge and historical test year. The Company is also seeking approval to extend its Distribution Infrastructure Recovery Mechanism (IRM), with associated revenues, through 2027. The total requested test year base rate relief is approximately $441 million, of which $316 million (72% of the total) is related to capital recovery and financing ($280 million for direct capital costs and $36 million for the increased cost of debt and change in return).[1]

The investments supported by the requested rate relief support DTE Electric's two strategic initiatives; 1) Rebuilding, modernizing and automating 46,000 miles of electric circuits to achieve reliability that is better than industry average by 2029; and 2) replacing aging coal plants with modern power generation and other assets, such as wind turbines, large scale solar arrays and battery installations. Both pursuits represent multi-year initiatives that can only be accomplished with the support of our customers, the Michigan Public Service Commission (Commission), and the investors that provide the capital needed to fund the necessary investments. These investments will not only reduce how often and how long customers experience power outages but will also support the transition to lower carbon generation and enable the Company to support greater optionality for customers in adopting technologies such as batteries, solar, and electric vehicles (EVs).

DTE Electric needs additional support from customers to execute on these strategic plans and achieve its forecasted reliability improvements. This support takes the form of the requested rate relief in this case. Without it, the Company's strategic initiatives and associated benefits are subject to delay.

[1] See generally Foley, 2T 80 as adjusted.

Several parties to the case argue the Company should not receive anything close to its requested rate relief in light of affordability concerns. DTE Electric customers, however, will benefit from the Company's strategic initiatives while bills remain affordable. According to the Energy Information Administration (EIA) average bills for DTE Electric customers remained below the national average in 2023. Specifically, in 2023 DTE Electric's Residential Electric Bills were 13% below the national average, and in 2022 were 11% below the national average. (Foley 2T 81-82)

In addition to having below average bills, since 2021 DTE Electric's residential bill growth has remained below the rate of inflation and below the rate of increase for peers in both the Great Lakes and nationally. Rate relief as proposed by the Company in this case would continue this trend. The requested test year rate relief would translate to average annual bill growth of approximately 3% since 2021. This is below the projected level of average inflation of 4.2% over the same period of time. Between 2021 and 2023, Great Lakes region residential electric bill growth has been 4.5% per year, and national electric bill growth has been 5.8% per year. Rate relief of $316 million, which would allow the recovery and financing costs for the capital as described above, results in a bill CAGR over that same period of about 2.3%. (Foley 2T 82-83)

In sum, progress cannot be made on the initiatives that are important to customers and the state's clean energy goals without the support of our customers, the Commission and other stakeholders. The rate relief requested in this case allows the Company to continue moving forward with its strategic plans while keeping bills below the national and regional average.

II. SUMMARY OF POSITION

Initial briefs were filed on October 3, 2024 by DTE Electric, the Michigan Public Service Commission Staff (Staff); the Association of Businesses Advocating Tariff Equity (ABATE); Michigan Attorney General (AG); City of Ann Arbor (Ann Arbor); the Ecology Center, Environmental Law & Policy Center, Vote Solar, and Union of Concerned Scientists (collectively the Clean Energy Organizations or CEO); Soulardarity and We Want Green, Too (collectively the Detroit Area Advocacy Organizations or DAAO); Electrify America, LLC (Electrify America); Energy Michigan, Inc. (Energy Michigan or EM); EVgo Services, LLC (EVgo); Great Lakes Renewable Energy Association (GLREA); International Transmission Company (ITC); the Kroger Company (Kroger); Michigan Energy Innovation Business Council, Institute for Energy Innovation, and Advanced Energy United (collectively MEIU); the Michigan Environmental Council (MEC), Natural Resource Defense Council (NRDC), the Sierra Club (SC) and the Citizens Utility Board of Michigan (CUB) (collectively MNSC); Michigan Municipal Association for Utility Issues (MI-MAUI); and Wal-Mart, Inc. (Wal-Mart).

For clarity and efficiency, and in accordance with the September 12, 2024 e-mail providing the Administrative Law Judge's (ALJ) request that reply briefs be focused and succinct, DTE Electric will avoid repetition, generally follow the order of its Initial Brief, collectively address related arguments, note matters that appear resolved, and include some discussion for context. DTE Electric relies on the content of its Initial Brief and Attachments,[2] along with its testimony and exhibits, and incorporates the same as if restated herein. DTE Electric, of course, cannot respond (other than noting this general objection) to the extent any party's Initial Brief does not articulate or explain a position.[3] Some issues also depend on the resolution of other issues, for example, as numbers flow through calculations. Lack of a discussion by DTE Electric to separately address

[2] Unless otherwise indicated, references to Attachments are to the Attachments accompanying this Reply Brief.

[3] There is similarly no requirement for the Commission to attempt to unravel and consider such matters. Courts have repeatedly recognized, for example: "It is not sufficient for a party 'simply to announce a position or assert a claim of error and then leave it up to this Court to discover and rationalize the basis for his claims, or unravel and elaborate for him his arguments, and then search for authority to sustain or reject his position.'" *Wilson v Taylor*, 457 Mich 232, 243; 577 NW2d 100 (1998), quoting *Mitcham v Detroit*, 355 Mich 182, 203; 94 NW2d 388 (1959). *See also*, *Gross v General Motors Corp*, 448 Mich 147, 161-62, n 8; 528 NW2d 707 (1995) ("Failure to properly brief an issue on appeal constitutes abandonment of the question"); *Isagholian v Transmerica*, 208 Mich App 9, 14; 527 NW2d 13 (1994).

every issue or position suggested or inferred by any party should not be deemed to constitute an agreement by DTE Electric.[4]

DTE Electric's Initial Brief reflects that the Company initially requested $456.4 million of rate relief, but after reviewing Staff's and other intervenors' positions and the full record in this case, DTE Electric requested $446.1 million (See Initial Brief, Attachments A and B).

After further review of the record and intervenors' positions set forth in Initial Briefs, DTE Electric has made additional adjustments and now requests rate relief for a revenue deficiency of approximately $441.0 million for the projected test year as set forth in this Reply Brief and Reply Brief Attachments A and B.

III. JURISDICTION, STANDARD OF REVIEW AND RATE SETTING LAW

DTE Electric's Initial Brief, pp 9-16, discussed the Commission's jurisdiction over this case, as well as the applicable standard of review and rate setting law. Despite the well-established and controlling legal requirements, some parties suggest that the Commission should rule otherwise.

There are various proposals that DTE Electric should provide new or expanded programs, without acknowledging the funding necessary to implement them. As indicated previously, rates are set to recover the revenue that a utility needs for a return "of" and "on" its investment in providing service. If the Commission were to order additional funding for something, then that funding must be recovered though a corresponding rate increase. DTE Electric has constitutional

[4] For example, but without limitation, some suggestions are beyond the scope of this case, but might be the subject of some other case(s) or proceeding(s). DTE Electric reserves all rights to address issues elsewhere and/or on appeal.

protections against "takings" and confiscatory rates,[5] and is entitled to rates that provide a corresponding recovery for investments that provide service to its customers.[6] DTE Electric's revenue recovery cannot be diminished by a requirement that the Company use some of that money to fund additional (uncompensated) services.

There are also suggestions that the Commission should shift costs among customers based on the proponents' views regarding what would be good social policy (but effectively constituting some monetary benefit for some customers that would need to be paid for by other customers). Such suggestions are contrary to the abolished prior regulatory practice of subsidized residential rates and law requiring that the Commission set cost-based rates. MCL 460.11 states in part:

> Except as otherwise provided in this subsection, the commission shall ensure the establishment of electric rates equal to the cost of service to each customer class.

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[5] DTE Electric has constitutional protections against "takings" and confiscatory rates under the Fifth Amendment to the US Constitution, which is applicable to the states through the Fourteenth Amendment. Similarly, Const 1963, art 10, § 2 provides in part, "Private property shall not be taken for public use without just compensation therefore being first made or secured in a manner prescribed by law." These constitutional protections have been recognized and applied to public utility rates in well-established case law. *See generally, Missouri ex rel Southwestern Bell Telephone Co v Public Service Comm of Missouri*, 262 US 276; 43 S Ct 544; 67 L Ed 981 (1923); *Federal Power Comm v Natural Gas Pipeline*, 315 US 575; 62 S Ct 736; 86 L Ed 1037 (1942); *Duquesne Light Co v Barasch*, 488 US 299; 109 S Ct 609; 102 L Ed 2d 646 (1989). *See also, Northern Michigan Water Co v Public Service Comm*, 381 Mich 340; 161 NW2d 584 (1968); *Consumers Power Co v Public Service Comm*, 415 Mich 134; 327 NW2d 875 (1982); *ABATE v Public Service Comm*, 430 Mich 33; 420 NW2d 81 (1988).

[6] As a matter of fundamental ratemaking law, DTE Electric is entitled to a commensurate return of and on its investment in providing utility service. *See, Bluefield Waterworks Improvement Co v Public Service Commission of West Virginia*, 262 US 679, 690-694; 43 S Ct 675; 67 L Ed 1176 (1923); *Federal Power Comm v Hope Natural Gas Co*, 320 US 591, 603; 64 S Ct 281; 88 L Ed 333 (1944). *See also, Permian Basin Area Rate Cases*, 390 US 747, 769-70; 88 S Ct 1344; 20 L Ed 2d 312 (1968); *FPC v Memphis Light, Gas and Water Division*, 411 US 458; 43 S Ct 1723; 36 L Ed 2d 426 (1973); *General Telephone Co v Public Service Comm*, 341 Mich 620; 67 NW2d 882 (1954); *Michigan Consolidated Gas Co v Public Service Comm*, 389 Mich 624; 209 NW2d 210 (1973).

The statute's plain language must be applied as written - cost causers shall pay their costs.[7] It is also axiomatic that "agencies cannot exercise legislative power by creating law or changing the laws enacted by the Legislature."[8]

There is similarly no legal basis for suggestions that the Commission should otherwise function as an agency to advance what certain intervenors may consider to be appropriate policy changes that are beyond the scope of this case, and the Commission's jurisdiction generally.[9]

The Commission is an "administrative body created by statute and the warrant for the exercise of all its power and authority must be found in statutory enactments."[10] The Commission's authority must be conferred by clear and unmistakable statutory language, and a doubtful power does not exist.[11] The Commission cannot expand its jurisdiction through its own acts or assumption of authority.[12] The Commission cannot re-write the Legislature's language to include new or different provisions.[13] If a Commission order conflicts with a statute, the order is void.[14]

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[7] *Di Benedetto v West Shore Hosp*, 461 Mich 394, 402; 605 NW2d 300 (2000) ("we presume that the Legislature intended the meaning it clearly expressed - no further judicial construction is required or permitted, and the statute must be enforced as written"); *Hanson v Mecosta Co Road Comm'rs*, 465 Mich 492, 504; 638 NW2d 326 (2002); *Lorencz v Ford Motor Co*, 439 Mich 370, 376; 483 NW2d 844 (1992); and *Ambs v Kalamazoo County Road Comm*, 255 Mich App 637, 650; 662 NW2d 424 (2003) ("where the language of a statute is clear, it is not the role of the judiciary to second-guess a legislative policy choice; a court's constitutional obligation is to interpret, not rewrite, the law").

[8] *In re Complaint of Rovas Against SBC Michigan*, 482 Mich 90, 98; 754 NW2d 259 (2008).

[9] See, for example, *In re Complaint of Consumers Energy Co*, 255 Mich App 496, 501; 660 NW2d 785 (2002); *In re Public Service Commission Guidelines for Transactions Between Affiliates*, 252 Mich App 254, 267; 652 NW2d 1 (2002).

[10] *Union Carbide v Public Service Comm,* 431 Mich 135, 146; 428 NW2d 322 (1988); *Sparta Foundry Co v Public Utilities Comm*, 275 Mich 562, 564; 267 NW 736 (1936). Accord *Ford Motor Co. v. Public Service Comm,* 221 Mich App 370, 385, 387-388; 562 NW2d 224 (1997) "The PSC here exceeded its ratemaking authority by, in effect, requiring Detroit Edison's management to adopt the DSM program the PSC thought best." *Attorney General v. Public Service Comm,* 269 Mich App 473; 713NW2d 290 (2005) MPSC exceeded its authority when it ordered the utility to expand its "green power" program and required customers who did not participate in the program to subsidize its costs.)

[11] *Mason Co Civil Research Council v Mason Co,* 343 Mich 313, 326-27; 72 NW2d 292 (1955).

[12] *Ram Broadcasting v Public Service Comm,* 113 Mich App 79, 92; 317 NW2d 295 (1982).

[13] *Hanson v Mecosta Co Rd Comm,* 465 Mich 492, 501-503; 638 NW2d 396 (2002).

[14] *Manufacturers Nat'l Bank v DNR*, 420 Mich 128, 146; 362 NW2d 572 (1984).

Finally, for purposes of this general discussion, Michigan's Constitution requires the Commission's findings to "be supported by competent, material and substantial evidence on the whole record." Const 1963, art 6, § 28. Substantial evidence is evidence "that a reasoning mind would accept as sufficient to support a conclusion."[15]

IV. TEST YEAR

DTE Electric's Initial Brief, pp 16-19, discussed the Company's projected test year of January 1, 2025 through December 31, 2025. ABATE's Initial Brief, pp 3-9, suggests policy arguments against projected test years, and that the Commission should instead use a historical test year.

The Company incorporates its prior discussion and emphasizes that MCL 460.6a(1) plainly states: "A utility may use projected costs and revenues for a future consecutive 12-month period in developing its requested rates and charges." And the January 1, 2025 – December 31, 2025 test year in this case is plainly a "consecutive 12-month period." Regardless of ABATE's disagreement with the Legislature's choice to reduce regulatory lag, the plain statutory language must be applied as discussed previously, and as the Commission recognized in DTE Electric's last four rate cases (Case Nos. U-20162, U-20561, U-20836 and U-21297).

The matching of costs and rates also supports the timely recovery of costs and helps ensure that the Company can continue making investments that benefit customers, such as improving reliability and transitioning to cleaner generation (Foley, 2T 183-84). Thus, *intentionally* extending regulatory lag (as ABATE proposes) could also have meaningful consequences with respect to a variety of stakeholder concerns. By way of example and not limitation, it would be unjust, unreasonable and unsustainable to contemporaneously demand greater reliability while

[15] *Monroe v State Employees' Retirement Sys*, 293 Mich App 594, 607; 809 NW2d 453 (2011).

intentionally delaying recovery of the cost of providing greater reliability.[16] Similar impacts might arise with respect to increasing the capacity of the grid to accommodate growing demand for distributed energy resources and electric vehicles as well as for implementation of the Case No. U-21193 Order.[17]

ABATE's Initial Brief, pp 3-4, quotes two Court of Appeals opinions suggesting that a projected test year set too far in the future could be problematic, but neglects that the suggestion is entirely hypothetical and disconnected from this case. The Court of Appeals has affirmed, and our Supreme Court has declined to review, the use of projected test years in every appeal. This case uses the same type of projected test year that DTE Electric used (and the Commission adopted, and the Courts affirmed) in Case Nos. U-20162[18] and U-20561,[19] which is designed to begin

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[16] DTE Electric has constitutional protections against "takings" and confiscatory rates under the Fifth Amendment to the US Constitution, which is applicable to the states through the Fourteenth Amendment. Similarly, Const 1963, art 10, § 2 provides in part, "Private property shall not be taken for public use without just compensation therefore being first made or secured in a manner prescribed by law." These constitutional protections have been recognized and applied to public utility rates in well-established case law. *See generally, Missouri ex rel Southwestern Bell Telephone Co v Public Service Comm of Missouri*, 262 US 276; 43 S Ct 544; 67 L Ed 981 (1923); *Federal Power Comm v Natural Gas Pipeline*, 315 US 575; 62 S Ct 736; 86 L Ed 1037 (1942); *Duquesne Light Co v Barasch*, 488 US 299; 109 S Ct 609; 102 L Ed 2d 646 (1989). *See also, Northern Michigan Water Co v Public Service Comm*, 381 Mich 340; 161 NW2d 584 (1968); *Consumers Power Co v Public Service Comm*, 415 Mich 134; 327 NW2d 875 (1982); *ABATE v Public Service Comm*, 430 Mich 33; 420 NW2d 81 (1988).

Also, as a matter of fundamental ratemaking law, DTE Electric is entitled to a commensurate return of and on its investment in providing utility service. *See, Bluefield Waterworks Improvement Co v Public Service Commission of West Virginia*, 262 US 679, 690-694; 43 S Ct 675; 67 L Ed 1176 (1923); *Federal Power Comm v Hope Natural Gas Co*, 320 US 591, 603; 64 S Ct 281; 88 L Ed 333 (1944). *See also, Permian Basin Area Rate Cases*, 390 US 747, 769-70; 88 S Ct 1344; 20 L Ed 2d 312 (1968); *FPC v Memphis Light, Gas and Water Division*, 411 US 458; 43 S Ct 1723; 36 L Ed 2d 426 (1973); *General Telephone Co v Public Service Comm*, 341 Mich 620; 67 NW2d 882 (1954); *Michigan Consolidated Gas Co v Public Service Comm*, 389 Mich 624; 209 NW2d 210 (1973).

[17] DTE Electric's cost of capital witness explained that the Company has a relatively large proportion of coal-based generation that needs to be replaced, leading to the need for large investments (Villadsen, 6T 2443-44).

[18] The Court of Appeals affirmed and denied rehearing, and our Supreme Court similarly denied RCG's application for leave to appeal and reconsideration. *In re Application of DTE Electric Company to Increase Rates*, unpublished opinion per curiam of the Court of Appeals, issued February 25, 2021 (Docket Nos. 349924 and 350008), *recon den* (April 19, 2021) *lv den* (November 2, 2021), *recon den* (January 31, 2022).

[19] The Court of Appeals affirmed, and our Supreme Court declined to hear the case. *In re Application of DTE Electric Co*, unpublished per curiam opinion of the Court of Appeals, issued December 21, 2021 (Docket No. U-353767), *lv den* 974 NW2d 192 (May 31, 2022).

approximately when the Commission's order is expected, which makes sense because new rates cannot be implemented until a final order is issued.

ABATE's Initial Brief, p 4, suggests that the use of a projected test year allows the Company to recover investments and expenses that are not supported by evidence. To the contrary, the Company supported its projected costs with extensive evidence as discussed previously, and further discussed below. Thus, ABATE's suggestion violates the requirement that the Commission must base its decision on the record.[20] ABATE's suggestion to use an historical test year and/or selective adjustments also threatens fundamental due process.[21]

ABATE's proposition that the Company's projections should be "precisely quantified" by the "specific quarter" in which they occur (Initial Brief, p 8) should be rejected because this would be an unnecessary waste of resources that would add more complexity both for the Company, as well as the Commission and all parties to an already voluminous and complex process, with no apparent benefit. It also disregards the reality that the Company operates a 24/7/365 business that provides power to millions of customers and needs to maintain some flexibility to adjust its plans in real time.

Therefore, ABATE's argument against projected test years should again be rejected because it (1) is contrary to plain statutory language, (2) simply rehashes policy arguments that have been

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[20] Const 1963, art 6, § 28; MCL 24.285.

[21] The Michigan Supreme Court cited with approval the conclusions of a circuit court judge granting an injunction against such unlawful rates:

> Certainly at first blush it would appear to anyone steeped in 'due process' considerations that it is grossly unfair to include certain items of decreased cost in rate determination while at the same time to exclude items of increased cost." *Michigan Consolidated Gas Company v Public Service Comm*, 389 Mich 624, 633; 209 NW2d 210 (1973).

See also most recently, *Bauserman v Unemployment Ins Agency*, 509 Mich 673; 983 NW2d 855 (2022) (broadly discussing judicial enforcement of constitutional rights, particularly for fundamental rights such as due process).

repeatedly rejected, and (3) is refuted by the massive record in this case (along with DTE Electric's Part III submission and voluminous responses to audit and discovery requests) verifying the Company's projected costs.

V. RATE BASE

DTE Electric's Initial Brief, p 19, discussed the Company's initially-filed ($22.108 billion) and adjusted ($22.1 billion, consisting of $20.8 billion of net plant and $1.3 billion of working capital) rate base. Staff recommends a rate base of $21,945,429,000, consisting of $20,499,380,000 of Net Plant and $1,284,697,000 of Working Capital (Staff Initial Brief, pp 1, 6, 8; and Appendix B). The Attorney General suggests a $1,018 million reduction in rate base, based on various recommendations reflected on Exhibit AG-18 (AG Initial Brief, p 43). The Staff's and AG's proposals are based on matters that are discussed below.

A. Working Capital

DTE Electric's Initial Brief, pp 20-22, explained why the Commission should reject the AG's proposal to remove $9,933,000 for the Ludington regulatory asset (Exhibit A-12, Schedule B4, line 27, column (c)) from working capital. The AG maintains her position, adding only the incorrect characterization of a discovery response as allegedly "show[ing] the Company is not willing to admit to refunding the return on disallowed Ludington deferred costs" (AG Initial Brief, p 78). To the contrary, the discovery response states: "In the event of any hypothetical future disallowance, the Company will follow the relevant Commission orders regarding any potential refund of the return included in base rates on the disallowed amounts" (Exhibit AG-61, p 3). The AG should not be heard to complain about the Company's commitment to follow Commission orders.

The Company also explained why the AG's proposal that the Commission "remove the $5,784,000 of working capital for the TOD program and the $1,693,000 of amortization expense from the Company's forecasted amounts for the projected test year" (Coppola, 6T 3646-47) should be rejected. The AG maintains her position, disregarding Mr. Hatsios' rebuttal testimony (AG Initial Brief, pp 79-80). The AG's position should be rejected for the reasons discussed previously (DTE Electric Initial Brief, p 21; Hatsios, 6T 2312-13).

The Company also explained the flaws in the AG's position regarding the incentive compensation regulatory asset. The AG maintains her position, suggesting that in response to discovery, Company witness Uzenski "generally admits that the calculation performed by Mr. Coppola conforms to the methodology approved by the Commission" (AG Initial Brief, p 78. See also, p 76). That is not an accurate characterization of the discovery responses (Exhibit AG-61, pp 4-6). The Company maintains its position as discussed previously (DTE Electric Initial Brief, pp 21-22).

B. Capital Expenditures

DTE Electric's Initial Brief, p 23, introduced the capital expenditures that the Company has made, or will make, from the historical test year to the end of the projected test year to maintain its safe and reliable system for generating and distributing electricity to its customers.

1. Energy Supply

DTE Electric's Initial Brief, pp 23-37, explained and supported Energy Supply capital expenditures.

The Company previously explained why the Commission should reject the AG's proposed disallowances for Belle River and Greenwood capital expenditures based on a simplistic three-year average of historical spending that ignores the necessary work, including increased project work expected due to planned outage schedules (*Id*., pp 24-26). The AG responds by complaining that the Company's rebuttal includes new information (AG Initial Brief, p 30), neglecting that this is a fundamental purpose of rebuttal. The AG goes on to acknowledge that "steam turbine replacements may be common in the industry," but asserts that the Company created a problem "by mischaracterizing large cost projects within routine projects" (*Id*). The AG's assertion is unfounded, contrary to past practice, and even contrary to the discovery response that she cites to purportedly support it, which states:

> Steam turbine replacements are common in the industry and in the Company, so steam turbine replacement projects are included in the routine maintenance capital projects listed on pages 4-7 of Exhibit A-12, Schedule B5.1, consistent with the Company's previous rate case filings. [Exhibit AG-54.]

ABATE's Initial Brief, pp 12-13, proposes that the Commission again disallow $3.3 million for the Blue Water Energy Center (BWEC) Conference Room Building. The Company maintains that the Commission should now approve the Company's requested recovery as sufficiently supported and reject ABATE's proposed disallowance (DTE Electric Initial Brief, pp 26-27).

Staff's Initial Brief, pp 15-16, and 18 recommends a $3,710,000 reduction for non-routine capital projects, and a $21,333,000 reduction (net 2023 increase and 2024 decrease) for routine capital projects based on the difference between November 2023 and April 2024 actual expenditures compared to projected amounts. DTE Electric's Initial Brief, pp 27-28, explained why the Company disagrees, including that the end result of capital projects' scope and cost are important, not the month-to-month journey to reach project completion. Capital projects are managed on a total beginning-to-end basis, with monthly estimates developed to track project evolution and annual total budget targets. There can be monthly timing differences that can shift spending between months during project execution (Guillaumin, 6T 1728-29, 1733).

Staff disagrees, reasoning that "the timing of projects is equally important as the total cost of the project in setting reasonable rates. For example, if a project is delayed far enough into the future, it may no longer occur within the test year" (Staff Initial Brief, p 16). The Company maintains its position, noting that Staff's example concerns a hypothetical situation that does not exist here. The record supports the Company's requested recovery, as discussed previously and above.

Staff's Initial Brief, pp 19-21, recommends a reduction of 15% for May-December 2024 ($10,648,865) and a reduction of 20% in 2025 ($28,451,121) for all PAT0 and PAT1 Routine Maintenance capital projects greater than $1 million on Exhibit A-12 Schedule B5.1 pages 6-7. DTE Electric's Initial Brief, pp 28-29, explained why the Company disagrees, including that Staff essentially proposes to de-risk projects that have already been de-risked because they do not include contingency.

Staff offers no direct response, but instead pivots to the proposition that "Staff cannot be certain that the base amount requested in the project sheets is not inflated by the Company's own forecasting process for capital projects" (Staff Initial Brief, p 21). To the contrary, there is the certainty provided by knowing that the projects do not include contingency, which Staff does not dispute. Staff's assertion is also unsupported and unexplained. Therefore, Staff's proposed disallowances to projects that already exclude contingency based on a misapplication of the AACE method contrary to the AACE instructions, and short-term timing variances in project spending that do not support a reduction in future spending, should be rejected (Guillaumin, 6T 1733-34).

ABATE's Initial brief, pp 10-12, recommends removal of $34.4 million of capital expenditures for five North American Reliability Corporation (NERC) black start projects, reasoning that the Project Management Documents (PMD) were redacted, so parties could not independently review the projects. DTE Electric's Initial Brief, pp 29-30, explained why ABATE's proposed disallowance should be rejected. ITC also supports the Company's recovery and the protection of security-sensitive information (ITC Initial Brief, pp 8, 12-13, 16-18).

Staff's Initial Brief, pp 22-28, recommends partial disallowances for three Blackstart Projects. DTE Electric's Initial Brief, p 30, explained why Staff's recommended disallowance should be rejected. ITC also supports the Company's full recovery (ITC Initial Brief, pp 17-18).

Staff's Initial Brief, pp 33-34, recommends a $9,910,000 disallowance ($1,612,000 and $8,298,000 in bridge period and test year) for the Trenton Channel Battery Energy Storage System (BESS) project. DTE Electric's Initial Brief, p 31, explained that the Company disagrees with Staff's proposed disallowances of 10% in 2024 and 20% in 2025 because these percentages are unexplained, and internally inconsistent (using contract spend to attempt to calculate non-contract spend). Staff maintains its position but continues to not explain how it arrived at the 10% and 20%. Therefore, the Commission should reject Staff's proposed disallowances.

ABATE's Initial Brief, p 10, recommends disallowing $4.4 million of 2024 expenditures for the River Rouge Decommissioning project. DTE Electric's Initial Brief, pp 31-32 explained why ABATE's proposed disallowance should be rejected.

Staff's Initial Brief, pp 31-33, recommends that the Commission disallow $2,178,000 in bridge period capital expenditures for the Slocum Battery Pilot, arguing that the Company did not adequately support the increase in overheads from Case No. U-21297. DTE Electric's Initial Brief, pp 32-33, explained why overhead charges changed between Case No. U-21297, and that overhead costs as a percentage of the total project cost remained consistent. Therefore, Staff's recommended disallowance should be rejected.

ABATE's Initial Brief, pp 9-10, proposes a complete ($10,934,000) disallowance for the Trenton Channel Seawall project. DTE Electric's Initial Brief, p 33, explained why ABATE's proposed disallowance should be rejected.

GLREA's Initial Brief, p 28, echoes witness Richter's proposal that the Commission direct the Company to "carefully consider the benefits of installing future BESS capacity in smaller, distribution-connected units, and that any future BESS proposal should include an analysis of opportunities for distribution-connected BESS, and why that option was, or was not, selected by the Company" (Richter, 6T 4857-58). DTE Electric's Initial Brief, p 33-34, explained why the Company disagrees, including that the Competitive Procurement Guidelines already require the open and transparent consideration and evaluation of distribution-connected resources, including different ownership structures and the benefits that different projects can provide, including distribution-level benefits.

GLREA's Initial Brief, pp 28-29, responds with vague and speculative concerns that seem disconnected from both the Company's rebuttal and Mr. Richter's proposal. Now GLREA appears to suggest that the Company should redesign RFPs to include information on stressed substations. The brief's new proposal is unfounded and comes too late for evaluation. Therefore, no Commission action is necessary or appropriate, and GLREA's proposal(s) should be disregarded.

In summary, the projected capital projects and associated expenditures for the Company's Energy Supply assets are required to support safety, regulatory compliance, environmental compliance, and reliability. Therefore, the Company's capital expense recovery should be fully approved.

i. Actions in Response to Steam Electric Effluent Limit Guidelines (ELG) Rule Changes

DTE Electric's Initial Brief, pp 34-37, discussed ELGs (national wastewater discharge standards that are developed by the Environmental Protection Agency (EPA)), and the EPA's ELG Reconsideration Rule, which contains time-based options for complying with the updated rules for

Bottom Ash Transport Water (BATW) and Flue Gas Desulfurization (FGD) wastewater. There appears to be no dispute.

2. Midwest Energy Resources Company (MERC) and Fuel Supply

Staff's Initial Brief, p 35, recommends a disallowance of $103,000 for MERC and Fuel Supply capital expenditures. DTE Electric's Initial Brief, pp 37-39, explained and supported the Company's Fuel Supply and Midwest Energy Resources Company (MERC) capital expenditures.

3. Nuclear - Fermi 2

DTE Electric's Initial Brief, pp 39-51, explained and supported capital expenditures for the Fermi 2 Nuclear Power Plant (Fermi 2).

Staff's Initial Brief, pp 35-41, proposes $45,550,000 of disallowances. DTE Electric's Initial Brief, pp 41-44, explained why the Company disagrees, including a discussion explaining that capital projects that are being implemented during a refueling outage must be managed as an integrated portfolio due to the highly integrated nature of refueling outages, and that three months following an outage is generally sufficient time to review the capital expenditures. That is July 31, 2024 for RF22, which was completed in May of 2024. Exhibit A-47, Schedule LL1 updates the five-month capital expenditures in Staff's Exhibit S-16.6 to include May, June, and July 2024 expenditures, and shows that the total capital expenditures for the eight-month period were essentially on plan (Davis, 6T 1888-89; Exhibit A-47, Schedule LL1, page 1, column (j) shows actual expenditures of $160.4 million (line 4) and planned expenditures of $162.8 million (line 5)).

Staff responds that it "can accept the Company's explanation on nuclear fueling during a refueling outage being variable. However, Staff did not have additional monthly information available before internal deadlines and would argue that the monthly amounts Staff updated are still representative of the Company's actual spending" (Staff Initial Brief, p 37).

The Company disagrees because it proved its position on the record and Staff even accepts the Company's explanation, as quoted above. The Commission must base its decision on the record.[22] Moreover, Staff's suggestion that there should be some evidentiary cut-off according to Staff's internal deadlines for its own filing would be inconsistent with the Company's right to submit rebuttal evidence.[23] The evidence demonstrates the Company's actual nuclear capital expenses through July 2024 and it would be unreasonable to simply disregard those facts.

The Company also previously explained that Staff improperly proposes to de-risk projects that have already been de-risked because they do not include contingency. Staff again offers no direct response, but instead pivots to the proposition that "Staff cannot be certain that the base amount requested in the project approval sheets is not inflated through the Company's own forecasting process for capital projects" (Staff Initial Brief, p 39). To the contrary, there is the certainty provided by knowing that the projects do not include contingency, which Staff does not dispute. Staff's assertion is also unsupported and unexplained.

The Company otherwise incorporates its prior discussion and maintains that full recovery of nuclear capital expenditures should be approved.

The AG's Initial Brief, pp 31-35, proposes various nuclear capital expenditure reductions. DTE Electric's Initial Brief, pp 44-51 explained why the Company disagrees. The Company relies on its prior discussion of the Security System Computer project, and the Plant Radio System project, noting that the AG's disagreement is unsupported by any citation to law or evidence.

The AG's Initial Brief, pp 34-35, also vaguely echoes Mr. Coppola's proposal for $24.0 million of capital expenditures disallowances for Natural Draft Cooling Towers, Document

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[22] Const 1963, art 6, § 28; MCL 24.285.

[23] MCL 24.272(4).

Management System Enhancements, and Remote Monitoring projects, asserting the Company is "following an unorthodox project management approach," and "should have identified project phases and timelines with a completion in-service date" (Coppola, 6T 3628). DTE Electric's Initial Brief, p 47, explained that AG witness Coppola apparently envisioned a "phase-gate "approval process that the Company does not use, and which would be unreasonable and imprudent in this context. The AG does not respond directly, but instead refers to discovery responses that (to the extent they may be relevant in this context) offer added support to the Company's position.

In response to the AG's proposed disallowance for projects that will be placed into service beyond the projected test year, the Company previously explained that projects that do not go into service during the projected test period have no impact on the Company's revenue requirement and deficiency (Uzenski, 6T 1567-68). [24] The AG responds that "those projects should still be removed from rate base if they will not completed by the end of the test year, because they will not be used and useful" (AG Initial Brief, p 35). This is unnecessary, but if it were to be done, then a corresponding adjustment (reduction) in pre-tax AFUDC should be added to offset the removal of the projects from approved rate base (Uzenski, 6T 1568).

The AG's Initial Brief, pp 33-34, vaguely echoes witness Coppola's assertion that "[t]he 2025 nuclear fuel cost is out of line with historical levels by at least $20,017,000. Therefore, I recommend that the Commission remove this amount from the Company's forecasted capital expenditures for 2025" (Coppola, 6T 3627). DTE Electric's Initial Brief, pp 48-51, explained that the increase in nuclear fuel costs corresponds to an increase in the number fuel assemblies for introduction into Fermi 2's reactor core. The AG does not respond other than asserting that "[i]n response to discovery requests, Mr. Davis confirms that the $135 million forecasted fuel cost for

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[24] The Company added the in-service year projection to Exhibit A-12, Schedule B5.2, pp 2-4 to be transparent (Davis, 6T 1896. See also, 6T 1901-1902).

2025 is the highest amount forecasted since 2018" (AG Initial Brief, p 34). The AG's reliance on the discovery response is misplaced because it further supports the Company's position, explaining in part that "the $135 million represents an increase of approximately 5% per year over the 2023 expenditure relative to the volume adjustments discussed in my [Mr. Davis'] rebuttal testimony" (Exhibit AG-50, p 21). Thus, the AG's attempt to suggest support for her position fails because it continues to neglect the increased volume of fuel, which (as demonstrated on the record and unsurprisingly) costs more.

Therefore, the nuclear capital expenditures should be approved.

4. Distribution Operations (DO)

i. Overview

DTE Electric's Initial Brief, pp 51-52, provided an overview of Distribution Operations (DO) capital expenditures, which are necessary to achieve the Company's goals of providing safe, reliable, and clean electricity to customers at reasonable rates. The Company explained, in response to various criticisms about reliability, that many customers are seeing reliability improvements from investments, but the Company continues to face three primary challenges going forward: (1) an increase in the number of high wind speed days, which adds additional stress to the already-aged fleet of equipment and provides more opportunities for failures; (2) the system continues to get older, which requires continuing investments to decrease the rate at which the Company's assets are aging; and (3) the Company is early in its plan to stabilize and rebuild the grid, which requires increased and sustained investments to improve and then maintain reliability.

ii. Emergent Replacement – Storm and Non-Storm

DTE Electric's Initial Brief, pp 53-59, discussed Emergent Replacement investments, Storm, and Non-Storm, which are essential to providing safe (e.g., responding to downed wires) and reliable power to customers. The Storm and Non-Storm forecasts are based on a five-year (2018-2022) inflation-adjusted historical average, consistent with the methodology approved in the Commission's Orders in Case Nos. U-20162, U-20561, U-20836 and U-21297.

The AG's Initial Brief, pp 14-20, reflects AG witness Coppola's recommendation that the Commission remove $24,526,000 for 2024 and $28,557,000 for 2025 from the Company's forecasted capital expenditures for emergent replacements. The Company previously explained that Mr. Coppola's three reasons all lack merit, so his recommendation should be rejected (DTE Electric Initial Brief, pp 56-57).

The AG's first assertion is that the Company's normalization adjustment "is simply an unsupported fabrication to inflate historical costs to arrive at an adjusted historical base and to then further inflate those costs for future years with projected inflation factors" (AG Initial Brief, p 15). The AG disregards the evidence provided by the Company but acknowledges that "the Commission accepted this approach with regard to emergent capital expenditures in Case No. U-20836" (*Id.*, p 16).

Second, the AG repeatedly asserts that the Company "could not" provide additional evidence in response to three discovery requests (AG Initial Brief, p 18, citing Exhibit AG-56, pp 5-7). To the contrary, the Company (1) simply stated that it had not performed the AG's requested analysis of other states, (2) provided an explanation in response to the AG's request to "explain," and (3) cited the Company's rebuttal testimony in response to the AG's request to "provide a reference where" the Company had already presented evidence. It is not a valid basis to reject the Company's request because the AG did not get the particular response she sought in discovery.

Third, the AG asserts that "[i]n reviewing the responses to discovery requests [Exhibit AG-56, pp 8-10], it is apparent that the Company is improperly conflating capital expenditure reductions from strategic capital expenditures and tree trimming costs, with efficiency costs savings that prior year Emergent Projects should have created" (AG Initial Brief, p 18). The AG's assertion neglects that Emergent investments are required to address emergency, public safety, and customer outages rather than create savings (See generally Table 3 at DTE Electric Initial Brief, p 54). The AG's assertion is also inconsistent with her own witness Coppola's incorrect (for a different reason) claim that the Company "did not provide an analysis in this rate case of the offsetting effects of significant distribution capital investments on inflationary pressures on Emergent Replacements" (Coppola, 6T 3601). In response, the Company pointed out that Exhibit A-12, Schedule B5.4, page 1, line 6, columns (e) and (f) show reductions in Emergent Replacements of $20,819,951 for 2024, and $21,435,815 in 2025. These savings are based on strategic capital investments and the tree trim surge program, calculated using the Company's reliability model. The Company provided the calculations as a workpaper with direct testimony and as an exhibit with rebuttal testimony (Kryscynski, 3T 366; Hill, 6T 3035, 3071; Exhibit A-43, Schedule HH5).

ABATE's Initial Brief, pp 14-15, reflects witness York's proposal for a $122.882 million disallowance (not broken out by period) for emergent replacements based on (1) a four-year (2018-2022, excluding 2021) average, and (2) the proposition that the Real GDP Chained Price Index should be used to project inflation on base capital. The Company previously explained why ABATE's reasoning lacks merit and its proposed disallowance should be rejected (DTE Electric Initial Brief, p 58-59). Staff's Initial Brief, pp 44-45, similarly disagrees with ABATE's proposed disallowance, explaining in part that "Staff agrees with Company witness Hill that it would be inappropriate to exclude 2021 from the five-year average spending for Emergent Replacements" (*Id.*, p 45).

iii. Substation Reactive

DTE Electric's Initial Brief, pp 59-60, discussed Substation Reactive investments. There does not appear to be a dispute.

iv. Customer Connections, Relocations & Other Capital Investments

DTE Electric's Initial Brief, pp 60-63, discussed Customer Connections, Relocations & Other Capital Investments. The AG's Initial Brief, pp 20-26, vaguely reflects witness Coppola's proposed disallowances. The Company previously explained why the disallowances should be rejected (DTE Electric Initial Brief, pp 61-63).

The AG responds by asserting that a discovery response "is irrelevant to the discussion and should be disregarded" (AG Initial Brief, p 21, citing Exhibit AG-56, pp 11-12). The Company disagrees. The AG asked why the Company is proposing inflation adjustments when the Commission rejected them in Case No. U-21297, to which the Company accurately responded that the Commission did not reject them, citing the December 1, 2023 Order in Case No. U-21297, p 201. While the response may not have been as expected, it is relevant, and the AG's complaints should be disregarded.

The Company previously explained that AG witness Coppola's use of Michigan housing starts forecasts is also inappropriate because Customer Connections and New Growth includes activities beyond connecting new homes, such as customer-requested upgrades, accommodating business development, and resolving circuit loading issues, which are not directly tied to residential housing starts.[25] Therefore, the Company's methodology of using a three-year inflation-adjusted

[25] Witness Coppola proposed a disallowance of $14,453,000 for 2024, and an increase of $3,405,000 for 2025 for Customer Connections and New Growth, based on calculations that (1) removed Utility Make Ready (UMR) expenditures, (2) then calculated the 2021-2023 average annual expenditures (without historic inflation adjustments), and (3) applied Michigan housing starts forecasts of -3.8% in 2024, and +10.8% in 2025 (Coppola, 6T 3607).

forecast is reasonable and prudent, and the Commission should reject the AG's proposed disallowance (Hill, 6T 3080).

Witness Coppola also proposed additional disallowances of "$3,734,000 for 2024 and $10,173,000 for 2025" for Customer Connections and New Growth associated with Utility Make Ready (UMR) projects supporting electric vehicle (EV) adoption (Coppola, 6T 3609). The Company disagrees and supports ensuring that the distribution grid is ready for EV adoption (Hill, 6T 3081). The AG's response simply restates her position that the Company's EV sales forecast is too high. The Company maintains its position. See also the detailed discussion in section VIII. C (Electric Vehicle Pilots - Charging Forward) in DTE Electric's Initial Brief and this Reply Brief.

The AG's Initial Brief, p 24, reflects Witness Coppola's proposed complete disallowances ($25 million for 2024 and $8 million for 2025) for the I-375 Relocation Project as allegedly premature. The Company previously explained that it must proceed with the work, and it is unreasonable for the AG to assume that no work will be performed in 2024 and 2025. The AG maintains her position, but the Company's latest forecast, which accounts for currently known project delays, is that $8,842,825 will be invested in 2024, and $13,802,315 will be invested in 2025. Therefore, the AG's proposed complete disallowance should be rejected, and it would be reasonable and prudent to approve recovery based on the Company's latest forecast (a reduction of $16,157,175 for 2024, and an increase of $5,802,315 for 2025). (Hill, 6T 3083-84).

v. Strategic Capital

DTE Electric's Initial Brief, pp 63-67, explained that Strategic Capital projects and programs are subcategorized into three investment pillars: (1) Infrastructure Resilience and Hardening; (2) Infrastructure Redesign and Modernization; and (3) Technology & Automation. The Company also presented a general discussion on its strategic capital governance.

ABATE's Initial Brief, pp 13, 15-17, reflects witness York's proposal that the Commission allow only the projected capital expenditures associated with projects that are expected to be in-service during the bridge period and projected test year, which results in a reduction of $613.586 million relative to the amount proposed by the Company.

The Company maintains that the Commission should again reject ABATE's proposed disallowance for projects with in-service dates beyond the projected test year (DTE Electric Initial Brief, p 65; December 1, 2023 Order in Case No. U-21297, p 94).[26] Staff's Initial Brief, pp 193-94, similarly opposes ABATE's position.

vi. 2022 Actual Expenditures versus Case No. U-21297 Forecast

DTE Electric's Initial Brief, pp 67-68, reflects that overall, the Company invested $56.6 million more in 2022 than was forecasted in Case No. U-21297 (approximately 4%).

vii. The Company's Projected DO Capital Expenditures

DTE Electric's Initial Brief, pp 68-84, explained and supported the Company's projected DO capital expenditures, including a discussion of DTE Electric's 2023 Distribution Grid Plan (2023 DGP; Exhibit A-23, Schedule M8), and the Company's Global Prioritization Model (GPM), which prioritizes investments by ranking projects and programs based on the benefits the project or program delivers for a given level of investment. The Company provided the GPM calculations as a workpaper with direct testimony and as an exhibit with rebuttal testimony (Kryscynski, 3T 346-361; Exhibit A-43, Schedule HH4).

[26] If the Commission were to accept ABATE's proposition, then the impact could be material, and the Commission should order a corresponding adjustment (reduction) in pre-tax AFUDC to offset the removal of projects from approved rate base (Uzenski, 6T 1568).

MNSC asserts that the GPM is flawed (Initial Brief, pp 11-21) so distribution capital spending should be slowed (*Id*, pp 8-11). This position is largely based on AG-MN witness Alvarez's asserted concerns. None of those concerns, or MNSC's related arguments, have any merit, as DTE Electric explained in detail previously (Initial Brief, pp 70-75 (describing the GPM generally) and 75-88 (specifically responding to assertions by AG-MN witness Alvarez).[27] MNSC's main argument asserts that the GPM is subjective and easily manipulated. Their arguments on this issue generally fall into five categories: 1) comparison of prior GPM rankings, such as those in Case No. U-21297 with those provided in this case, 2) exclusion of certain projects from GPM rankings, 3) claims that benefits are overly subjective, 4) general critiques of how PTMM is analyzed, and 5) accuracy and validity of program effectiveness measurements. None of these assertions have merit.

To support its first assertion, MNSC broadly alleges that because project rankings have changed between the filing of the Company's last general rate case and its most current DGP that this somehow invalidates the GPM (MNSC Initial Brief p. 12-13) Notably, however, when reviewing the ADMS:DMS/OMS project as an example, a clear explanation of the shift in rankings was given by Mr. Kryscynski (Kryscynski, 3T 490-93). MNSC argues the ADMS: DMS/OMS project was top-ranked in Case No. U-21297, then excluded from the DGP top 50 projects, and later included in the instant rate case. Witness Kryscynski explained that the project was excluded in the DGP top 50 projects because the DGP is a forward-looking document, and there was no significant investment left in the ADMS: DMS/OMS project in the future. The project is, however, included in the instant case due to the significant investment in 2022, the historical test year.

[27] The AG's Initial Brief, pp 84-90, adopts AG-MN witnesses Alvarez and Stephens' recommendations, and defers to MNSC for purposes of argument. Therefore, this Reply Brief does not separately reply to the AG.

Additionally, comparisons between GPM outputs from previous rate cases and the current case are inappropriate because of changes to the GPM structure. These changes were introduced in the 2023 DGP and discussed in detail in Witness Kryscynski's direct testimony. The changes included adding three new dimensions and updating the weighting of the dimensions. Due to these updates made to the GPM, project and programs would not and should not be expected to score or rank in an identical order to the previous iteration. (Kryscynski 3T 348-349, 352)

MNSC's comparison to prior GPM rankings is also based on speculation and should be disregarded. For example, they suggest that for PTMM, "reducing program/project costs, unit benefits per dollar increases. This manipulation *may partly* explain why PTMM rose from its middling rank No. 17 in U-21297 to No. 2 in U-21534." (MNSC Initial Brief p14). They also state "all else being equal, this doubles benefits per dollar invested in PTMM." (MNSC Initial Brief p 15). Fundamentally, however, all else does not remain equal. The PTMM program has undergone significant improvements in recent years (DTE Electric Initial Brief p 93), and the benefits of the program were updated for this rate case and provided in Exhibit A-43, Schedule HH6. More importantly, MNSC makes the logical error of believing that a decrease in investment will increase benefit-cost ratios. It will not. A decrease in investment will also decrease benefits, as fewer circuits will see benefits from fewer miles in the program scope. The DTE Electric capital investment amounts listed in the right-hand column of MNSC's table (MNSC Initial Brief p. 15) tie to the project's or programs' scope used to determine benefits in the GPM run for this rate case and, if applicable, align to the scope of work loaded into the Reliability Model to project system reliability improvements. The investment level from Case No. U-21297 shown in the middle column of the MNSC table, may or may not be comparable to the scope of work included in this Case No. U-21534 for several reasons including investment horizon changes (for PTMM ten years of costs and benefits were used in Case No. U-21297 compared to five years in the current case), and methodology updates for projects that standardize what costs are included in the GPM.

MSNC's second criticism of the GPM is the omission of certain projects or programs from GPM scoring and ranking. MNSC claims that this makes the GPM "easily manipulated", pointing to the fact that the GPM shows 189 programs/projects in total and only 138 of the programs/projects are ranked (MNSC brief, pp 12-13). However, the Company explained that it adds all the identified strategic capital projects into the GPM, but does not rank all identified projects for several reasons, including: 1) the primary benefits of the investment are not quantified by the GPM (examples include safety investments such as replacement of Pontiac Vaults or disconnect switches), 2) investments are pilot projects or NWAs, or 3) the investment is outside of the rate case window. (Kryscynski 3T 357-360) For example, the CODI: Amsterdam project has a preliminary score in the GPM but is not yet included in the rankings as the Company has not planned any expenditures on this project before the end of the rate case test year. (Exhibit A-43, Schedule HH4, column AK, row 187)

MNSC's third critique suggests that sound engineering and expert judgements included in the GPM are subjective (MNSC Brief, pp 18-19). In support of this argument, they cite as an example the Reduce Electrical Hazards score for Distribution Automation. MNSC mentions that "the wire down reduction is a projection not tied to any data documenting the benefits (wire down reductions) of automation or any DTE circuit" (MNSC Brief, pp 19). This is not accurate. The total number of wiredowns is based on a historical wiredown average, and the projected reduction of energized wiredowns is based on the capabilities of the technology. Start of circuit reclosers can detect and isolate (de-energize) downed wires "quickly eliminating the risk associated with the downed wire" (Hartwick, 4T 640). The GPM scoring is simply reflective of historical data and how the technology functions, which can be measured and verified. MNSC similarly categorizes load relief benefits as a subjective input by DTE Electric personnel (MNSC Initial Brief p. 18). The ability of a project to relieve load, however, is not subjective and is based on engineering analysis. For example, the Subtransmission Redesign and Rebuild: Boyne project, which is described in Exhibit A-23, Schedule M6, pp 200-203 will address two trunk lines loaded above 100% of summer emergency rating because the reconductoring of the circuit and new station equipment will add capacity. Load relief and capacity relief benefits are measurable and calculable.

MNSC's fourth critique relates to PTMM. First, they claim that the investments to inspect poles and the subsequent investment to replace poles which fail inspection should be evaluated separately in the GPM, and that only inspection (without remediating the results of the inspection) is what MPSC Staff has recommended to address the pole population (MNSC Initial Brief p. 14). This position is not reasonable as the objective of pole inspections is to identify issues and remediate them. Additionally, even if the PTMM program were not scored with the Regulatory Compliance benefits, the program would still rank third instead of second (based on Schedule A-43, Schedule HH4) in the Company's GPM. MNSC also complains that the GPM does not account for the variance between circuits where PTMM is cost effective, and those where it is not. While it is true that GPM does not perform this analysis, the Company has provided a circuit-level BCA on PTMM as evidence in this case, which is further discussed in the Infrastructure Resilience and Hardening section below.

MNSCs fifth critique of the GPM is that "the GPM provides no way to assess where and when such reductions are projected to materialize nor to validate them. There is thus no way to hold DTE accountable for its wire down, SAIFI, and SAIDI reduction projections." (MNSC Initial Brief p. 19). This is demonstrably incorrect. For PTMM, Customer Excellence, 4.8kV Hardening, 4.8kV Conversion projects, and Distribution Automation, the GPM uses benefits tied to the Reliability Model or Automation Model, on a circuit-by-circuit basis, and many of the underlying program effectiveness calculations based on historical data were provided in Exhibit A-43, Schedule HH6. In addition, the Company has historically provided effectiveness of benefits as they become available. Results for 4.8kV Hardening (4T 927-930), Tree Trimming (Exhibit A-31 Schedule V1), and Frequent Outage Program (4T 982) specifically were provided in this case. In line with historic precedent, the Company intends to provide effectiveness for PTMM and Distribution Automation programs as data is collected post-construction.

MNSC also asserts that the Company's Reliability Model is flawed on the same basis as the GPM, suggesting that it and does not justify specific capital programs (MNSC Initial Brief, pp 21-45). The Company previously explained that Witness Alvarez's description of the Reliability Model is inaccurate. The Reliability Model is just one component of support for the six reliability improvement programs/projects (Tree Trimming, Distribution Automation, PTMM, Customer Excellence, 4.8kV Hardening, and 4.8kV Conversion). Additional support is provided by capital summaries, testimony, and the GPM. The Company also responded to assertions by witnesses Alvarez and Stephens on this topic (DTE Electric Initial Brief, pp 80-84), and supported reliability improvement programs/projects in the context of specific discussions on those programs/projects, and as discussed below.

With respect to the Company's Reliability Model, MNSC criticizes the 10-month timeframe (January to October 2017-2022) which was used to calculate program effectiveness (MNSC Initial Brief p.23). The Company plans to update the analysis to use a full calendar year in the next iteration of the Reliability Model, but the 10 months used in the current version is not a fatal flaw. The baseline for the analysis includes 60 months of data which represents a significant volume of event data. (Exhibit A-43, Schedule HH6) Adding the full calendar year would increase the baseline time horizon by just 20% (to 72 months) and is unlikely to meaningfully change the results of the analysis since the 10-month window analyzed contains the main summer storm window.

Next, MNSC compares different effectiveness calculations to suggest that the Reliability Model is flawed. For example, they compare the event reductions in the Company's Annual Tree Trim reports with the event reduction assumptions used in the reliability model. (MNSC Initial Brief p. 25) The analysis in the Annual Tree Trim report estimates a reduction for all tree-related events, including single customer events, whereas the reliability model effectiveness compares only tree-related multiple customer events and excludes the volume of single events. (See Exhibit A-43, Schedule HH6). Because these two analyses are measuring a different set of changes in events, they cannot be compared to each other.

MNSC makes a similar logical error when critiquing the 4.8kV Hardening effectiveness analysis used for the Reliability Model, claiming that the program cannot achieve 80% effectiveness if the percentage of equipment related outages is not 80% and is instead caused by some other non-tree outage (MNSC Initial Brief p.36). The effectiveness analysis is valid because it compares the same types of events in the baseline and the post construction period, namely non-MED non-tree multiples. Since the effectiveness calculations show that the number of non-tree, non-MED multiple outages decreases by 80% after hardening, then 80% is the effectiveness that the data supports.

Finally, MNSC suggests including circuit specific CINT and CMINT projections in the model, stating that "the model fails to evaluate relative contributions from PTMM, Hardening, or Conversion on a circuit with 1,000 customers versus a circuit with 100 customers." (MNSC Initial Brief p.39) The Company is open to reasonable suggestions to improve the accuracy of the model, and a more granular assumption on the types of events may be considered in the future. There is always a balance between increasing model complexity, and the value that increased complexity brings.

CEO's Initial Brief, pp 7-15, is generally supportive of the progress the Company has made is providing support to justify its investments to improve reliability performance. They note that "the CEO called for years for DTE to develop the processes and planning principles necessary for the Commission to have more confidence in DTE's investment decisions. Now, the CEO believe the Company is on the right track". (CEO Initial Brief pp. 1-2). The CEO notes that the Company has made an "important step forward" (CEO Initial Brief p.13) with the inclusion of the two BCA models for PTMM and Strategic Undergrounding in this case, but request that the Commission order the Company to expand the application of BCAs to the rest of its major distribution programs (CEO Initial Brief, p15). The Company notes that BCA efforts are timely, costly, and may not make sense for all investment areas. The Company believes an order requiring BCAs for every investment area would be counter-productive and would instead encourage further engagement with interested parties to prioritize which BCAs would make the most sense.

viii. Specific Strategic Capital Investment Programs

DTE Electric's Initial Brief, pp 84-160, discussed specific Strategic Capital investments grouped in three pillars: 1) Infrastructure Resilience & Hardening, 2) Infrastructure Redesign and Modernization, and 3) Technology and Automation, as indicated above and further discussed below.

a. Infrastructure Resilience & Hardening.

DTE Electric's Initial Brief, pp 84-85, explained that the Company plans to invest in 16 different programs in this category. Seven warrant particular discussion: (1) 4.8 kV Hardening, (2) Pole and Pole Top Maintenance and Modernization (PTMM), (3) Substation Risk, (4) Frequent Outage Programs (CEMI), (5) Cable Replacement, (6) Underground Residential Distribution (URD) Replacement, and (7) Breaker Replacement, as discussed previously and below.

1. 4.8kV Hardening

DTE Electric's Initial Brief, pp 85-92, discussed the 4.8kV Hardening program, which was developed as a cost-effective and expeditious way of providing improvements in safety and reliability in areas of Detroit that have abandoned Detroit Public Lighting Department (DPLD) arc wire. The Company also discussed its progress and plans for arc wire removal, and customer benefits from the program.

MNSC's Initial Brief, pp 45-56, reflects AG-MN witness Stephens' suggestions that the program's benefits are overstated, and that there could be some cheaper/faster way to largely obtain the same benefits of arc wire removal, so he recommended disallowing $73.333 million from the bridge period (2024), and reducing the Company's test year capital spending to $43.2 million.

MNSC asserts that the record evidence does not result in meaningful reductions in non-tree outages in the year of or after treatment (MNSC Initial Brief, pp 49-50). MNSC isolates the year of and year before circuit hardening to support its position. It is important to consider, however, the 2021 hardened circuits only have a limited sample of one-year of post-hardening performance data. Circuits with more after-hardening years (those completed in 2018, 2019, 2020) show more substantial non-tree related event reductions. The 2017-2022 event count data in the Reliability Model provided in the tables below[28] shows 4.8kV Hardening provides clear benefits across all categories of events: non-tree related outage events, non-tree related non-outage events, and tree-related outage events as shown below.

[28] The Reliability Model was provided as WP AJK U-21534 Reliability Model with the initial filing and as Exhibit A-43 Schedule HH5 with rebuttal testimony.

2018 4.8kV Hardening – 9 circuits										
Events Excluding Major Event Days		**2017**	**2018**	**2019**	**2020**	**2021**	**2022**	**2017-2018 Avg**	**2019-2022 Avg**	**Before/ After**
Non-Tree	Multiple Outages	56	149	25	19	33	53	103	33	**-68%**
Non-Tree	Single Outages	390	432	297	335	322	371	411	331	**-19%**
Total Non-Tree	**Outage Events**	**446**	**581**	**322**	**354**	**355**	**424**	**514**	**364**	-29%
Non-Tree	Multiple Non-Outages	129	169	103	84	120	126	149	108	**-27%**
Non-Tree	Single Non-Outages	301	283	305	266	320	367	292	315	**+8%**
Non-Tree	Other Non-Outages	190	241	130	109	102	90	216	108	**-50%**
Total Non-Tree	**Non-Outage Events**	**620**	**693**	**538**	**459**	**542**	**583**	**657**	**531**	-19%
Tree	Multiple Outages	47	39	36	21	53	46	43	39	**-9%**
Tree	Single Outages	47	73	70	41	64	50	60	56	**-6%**
Total Tree	**Outage Events**	**94**	**112**	**106**	**62**	**117**	**96**	**103**	**95**	-8%

2019 4.8kV Hardening – 33 circuits										
Events Excluding Major Event Days		**2017**	**2018**	**2019**	**2020**	**2021**	**2022**	**2017-2019 Avg**	**2020-2022 Avg**	**Before/ After**
Non-Tree	Multiple Outages	187	325	562	146	127	128	358	134	**-63%**
Non-Tree	Single Outages	1,446	1,681	1,143	1,094	1,119	1,046	1,423	1,113	**-22%**
Total Non-Tree	**Outage Events**	**1,633**	**2,006**	**1,705**	**1,240**	**1,326**	**1,174**	**1,781**	**1,247**	-30%
Non-Tree	Multiple Non-Outages	520	604	426	374	416	396	517	395	**-23%**
Non-Tree	Single Non-Outages	1,061	1,265	1,142	1,069	1,105	1,060	1,156	1,078	**-7%**
Non-Tree	Other Non-Outages	803	886	622	447	343	361	770	384	**-50%**
Total Non-Tree	**Non-Outage Events**	**2,384**	**2,755**	**2,190**	**1,890**	**1,864**	**1,817**	**2,443**	**1,857**	-24%
Tree	Multiple Outages	143	170	111	111	106	119	141	112	**-21%**
Tree	Single Outages	169	259	204	165	198	154	211	172	**-18%**
Total Tree	**Outage Events**	**312**	**429**	**315**	**276**	**304**	**273**	**352**	**284**	-19%

2020 4.8kV Hardening – 41 circuits										
Events Excluding Major Event Days		**2017**	**2018**	**2019**	**2020**	**2021**	**2022**	**2017-2020 Avg**	**2021-2022 Avg**	**Before/ After**
Non-Tree	Multiple Outages	177	278	169	718	210	170	336	190	**-43%**
Non-Tree	Single Outages	1,858	2,114	1,541	1,610	1,519	1,444	1,781	1,482	**-17%**
Total Non-Tree	**Outage Events**	**2,035**	**2,392**	**1,710**	**2,328**	**1,729**	**1,614**	**2,116**	**1,672**	**-21%**
Non-Tree	Multiple Non-Outages	689	757	652	440	493	546	635	520	**-18%**
Non-Tree	Single Non-Outages	1,387	1,478	1,439	1,319	1,291	1,281	1,406	1,286	**-9%**
Non-Tree	Other Non-Outages	1,032	1,138	804	637	414	399	903	407	**-55%**
Total Non-Tree	**Non-Outage Events**	**3,108**	**3,373**	**2,895**	**2,396**	**2,198**	**2,226**	**2,943**	**2,212**	**-25%**
Tree	Multiple Outages	269	258	218	114	92	172	215	132	**-39%**
Tree	Single Outages	236	354	394	208	210	249	298	230	**-23%**
Total Tree	**Outage Events**	**505**	**612**	**612**	**322**	**302**	**421**	**513**	**362**	**-29%**

2021 4.8kV Hardening – 38 circuits										
Events Excluding Major Event Days		**2017**	**2018**	**2019**	**2020**	**2021**	**2022**	**2017-2021 Avg**	**2022**	**Before/ After**
Non-Tree	Multiple Outages	112	115	141	136	532	240	207	240	+16%
Non-Tree	Single Outages	966	929	862	863	1,002	777	924	777	-16%
Total Non-Tree	**Outage Events**	**1,078**	**1,044**	**1,003**	**999**	**1,534**	**1,017**	**1,132**	**1,107**	**-10%**
Non-Tree	Multiple Non-Outages	438	439	429	375	368	352	410	352	-14%
Non-Tree	Single Non-Outages	714	708	781	858	811	778	774	778	0%
Non-Tree	Other Non-Outages	639	655	568	520	349	277	546	277	-49%
Total Non-Tree	**Non-Outage Events**	**1,791**	**1,802**	**1,778**	**1,753**	**1,528**	**1,407**	**1,730**	**1,407**	**-19%**
Tree	Multiple Outages	126	103	157	134	69	52	118	52	-56%
Tree	Single Outages	114	141	215	152	121	103	149	103	-31%
Total Tree	**Outage Events**	**1,791**	**1,802**	**1,778**	**1,753**	**1,528**	**1,407**	**1,730**	**1,407**	**-42%**

MNSC's claim that there are no meaningful benefits from 4.8kV Hardening is demonstrably incorrect. Circuits hardened in 2018, 2019, and 2020 demonstrate significant reductions in ***non-tree*** related events. Circuits hardened in 2018 and 2019 demonstrate greater reduction of non-tree multiple customer outage events than tree-related multiple customer outage events and, therefore, a reduction in the total duration of time customers are left without power relative to non-tree related events. (WP AJK U-21534 Reliability Model, Exhibit A-43, Schedule HH5). Therefore, the Commission should disregard Witness Stephens' analysis and inaccurate claim that 4.8kV Hardening Program benefits are attributable to tree trimming only.

MNSC cites the Company's annual tree trim report filed in 2024 (Exhibit A-31 Schedule V1) to suggest that the 25% reduction in wire downs attributable to 4.8 kV Hardening is inconsequential compared to trimming to the ETTP (MNSC Initial Brief p.49). However, this ETTP analysis spans the Company's entire electrical system, includes data from 2012-2023, and is restricted to only wire downs associated with trees (Steudle, 6T 2967-2968). The 4.8kV Hardening Program before and after analysis provided in Company witness Elliott Andahazy's direct testimony more relevantly includes data from 2018-2023, all wire down events regardless of cause, and only considers 4.8kV circuits. The ETTP and 4.8kV Hardening analyses are simply not directly comparable as they include substantially different variables (e.g. geographical area, timeframe and types of wire downs included).

Notably, the 4.8kV Hardening Program tree trimming specification is more comprehensive than ETTP (Elliott Andahazy, 4T 1037). It therefore makes no logical sense that 4.8kV Hardening would provide less benefit than ETTP when all other variables are equivalent. For these reasons these two analyses should not be directly compared to each other, and AG-MN witness Stephens' argument should be dismissed as invalid.

As discussed above and as the Company previously explained in detail, witness Stephens' suggestions are incorrect. His recommendations should be rejected as unfounded as well as contrary to past proceedings and the record in this case (DTE Electric Initial Brief, pp 87-92). Therefore, the Commission should reject MNSC's proposals for lack of sound evidentiary basis, as well as for being demonstrably unreasonable and imprudent based on the record in this case and as further established in past cases recognizing the safety and other benefits of the 4.8kV Hardening Program.

2. Pole and Pole Top Maintenance and Modernization (PTMM)

DTE Electric's Initial Brief, pp 92-99, discussed this program, which inspects all wood poles and all pole-top equipment on distribution and subtransmission overhead circuits, and identifies and replaces poles and pole-top equipment that fails inspection.

MNSC's Initial Brief, pp 56-64, reflects AG-MN witness Stephens' criticisms of the Company's benefit-cost analysis (BCA), performed by 1898 & Co, and his recommendation of further analysis and to cap test year spending at $63.45 million. The Company previously explained in detail why Mr. Stephens' criticisms lack merit. His recommendations should be rejected.

MNSC claims that the PTMM BCA model demonstrates "PTMM is not a cost-effective program based on benefits to the Company and ratepayers generally; it only becomes cost-effective for some circuits when customer avoided customer outage costs through 2063 are included" (MNSC Initial Brief p.63). While AG-MN witness Stephens is correct in his assessment that approximately 100 circuits have a benefit-cost ratio of one or greater when only considering avoided emergent reactive costs, his claim that "some" circuits have benefit-cost ratios at one or above when also considering customer reliability benefits from avoided outages does not tell the whole story. In fact, as shown in the table below, 2,359 of the 2,890 circuits (or 81.6% of the circuits)[29] which contain overhead assets in the PTMM BCA Model have a benefit-cost ratio of one or greater[30] when considering both emergent reactive reductions and LBNL ICE Calculator reliability benefits. The PTTM Program's purpose is to increase safety and reliablity. It is unclear why AG-MN witness Stephens discounts these reliability benefits.

Circuits with Overhead Assets	Benefit-Cost Ratio (BCR) 0.00-0.25	Benefit-Cost Ratio (BCR) 0.26-0.50	Benefit-Cost Ratio (BCR) 0.51-0.75	Benefit-Cost Ratio (BCR) 0.76-0.99	Benefit-Cost Ratio (BCR) 1+	Total Circuits
Emergent Reduction Only	36	281	2,051	417	105	**2,890**
Emergent Reduction + LBNL ICE Calculator	21	87	253	170	2,359	**2,890**

Thus, the PTMM Program investments are well supported and should be approved. As such, there is no need for AG-MN witness Stephens' proposed alternative analysis (DTE Electric Initial Brief, pp 95-99).

3. Substation Risk

DTE Electric's Initial Brief, p 99, reflects that Substation Risk projects are designed to remediate failures at substations that have occurred or to prevent catastrophic substation failures in the future. There appears to be no disagreement.

[29] Exhibit A-51, Schedule PP10

[30] A ratio of one or greater means the benefits are equal to or greater than the costs.

4. Frequent Outage Programs (CEMI)

DTE Electric's Initial Brief, p 100, reflects that there are two primary programs under Frequent Outage (a/k/a Customers Experiencing Multiple Interruptions, or CEMI), programs: (1) Customer Excellence (CE), and (2) Strategic Reliability Improvement Program (SRIP). The Company also discussed its new Pre-Storm Season Strengthening (PS3) process. There appears to be no disagreement.

5. System Cable Replacement

DTE Electric's Initial Brief, pp 100-102, discussed the Cable Replacement program, which prioritizes and proactively replaces at-risk system cable prior to in-service failures based on multiple factors including insulation type, failure history, system impacts, and cable loading. There appears to be no disagreement for the System Cable Replacement program.

6. Underground Residential Distribution (URD) Replacement

DTE Electric's Initial Brief, pp 100-102, also discussed the URD program, which prioritizes and replaces URD cable based on multiple factors including number of failures on the circuit, and number of customers affected by those failures. The program also replaces live-front transformers with dead-front transformers.

MNSC's Initial Brief, pp 65-66, reflects AG-MN witness Stephens' opposition to the program and his recommendation that the Commission not include the URD program in the IRM in 2026 and 2027. The Company previously explained why the investments are reasonable and prudent, and witness Stephens' suggestion of not including the URD investments in the IRM for 2026 and 2027 should be rejected (DTE Electric Initial Brief, p 102. See also section VIII. A of DTE Electric's Initial Brief and this Reply Brief regarding the IRM).

7. Breaker Replacement

DTE Electric's Initial Brief, pp 103-104, reflects that this program replaces obsolete circuit breakers, and also replaces relays and controls to enable supervisory control and data acquisition (SCADA) utilization on equipment, to give the Electric System Operations Center (ESOC) greater visibility into system performance.

MNSC's Initial Brief, pp 65-66, reflects AG-MN witness Stephens' opposition to the program, and recommendation that the Commission not include the program in the IRM for 2026 and 2027. The Company previously explained why the investments are reasonable and prudent, and witness Stephens' suggestion of not including the investments in the IRM for 2026 and 2027 should be rejected (DTE Electric Initial Brief, pp 103-104. See also section VIII. A of DTE Electric's Initial Brief and this Reply Brief regarding the IRM).

8. Other Programs

DTE Electric's Initial Brief, pp 104-105, reflects that this category includes the Company's $4.5 million request for Portable Generators in 2024 to purchase generators that the Company will deploy to customers to provide temporary electric service during storms.

The AG's Initial Brief, pp 26-27, reflects witness Coppola's proposal for a full disallowance. The Company previously explained why that proposal lacks merit and should be rejected (DTE Electric Initial Brief, pp 104-105). One of the reasons is that Witness Coppola suggested that customers would not receive a generator during the first 48 hours of a storm. This is incorrect, and apparently based on his misunderstanding of a discovery response explaining that when storms occur, the Company creates a list of all customers likely to be without power for at least 48 hours, and immediately contacts customers on this list to offer them a generator (Hill, 6T 3085; Exhibit A-52, Schedule QQ2).

The AG responds by asserting that the Company's discovery responses indicate "conflicting information provided in testimony versus discovery responses on the 48-hour waiting period" (AG Initial Brief, p 26, citing Exhibit AG-58). To the contrary, the discovery response confirmed that the Company's testimony is accurate (Exhibit AG-58, p 3). There is no such thing as the AG's suggested "48-hour waiting period," as indicated previously and above.

b. Infrastructure Redesign and Modernization

DTE Electric's Initial Brief, pp 105-106, discussed Infrastructure Redesign and Modernization projects and programs, which fundamentally rebuild and upgrade distribution and subtransmission segments of the grid. They fall into five primary areas: (1) Conversion Programs (City of Detroit Infrastructure (CODI), 4.8 kV Conversion, 4.8 kV ISO Conversion, and 8.3 kV Pontiac Conversion); (2) Subtransmission Redesign and Rebuild; (3) Strategic Undergrounding (SUG); (4) Primary Deconductoring; and (5) System Loading.

1. City of Detroit Infrastructure (CODI) Conversion

DTE Electric's Initial Brief, pp 106-109, discussed this program, which converts some of the oldest sections of the Company's grid from 4.8 kV to 13.2 kV in the core Downtown, Midtown, and New Center areas of Detroit, serving customers including commercial and multi-tenant buildings, healthcare facilities, stadiums, and universities.

DAAO's Initial Brief, pp 50-56, reflects witness Koeppel's criticisms of CODI investments. The Company previously explained why it disagrees (DTE Electric Initial Brief, pp 108-109. See also section XI. B of DTE Electric's Initial Brief and this Reply Brief).

Therefore, the Company's requested recovery for CODI investments should be fully approved.

2. Other Conversion Programs

DTE Electric's Initial Brief, pp 109-14, discussed three programs:

<u>4.8 kV Conversion.</u> This program is aimed at upgrading the aged 4.8 kV system to higher grid voltage by, among other things, building new 13.2 kV substations to add capacity to serve growing load and rebuilding circuits to address safety hazards of the 4.8 kV ungrounded system, and address deteriorating reliability performance due to aging electrical infrastructure.

<u>4.8kV ISO Conversion.</u> This program relates to the Company operating some circuits at 4.8 kV that are fed from a 13.2 kV substation, which are known as isolation down areas (ISO down).

<u>8.3kV Pontiac Conversion.</u> This project concerns the 8.3 kV system that serves the City of Pontiac.

MNSC's Initial Brief, pp 77-89, reflects that AG-MN Witness Stephens made a number of criticisms about the Company's conversion programs, and recommended that the Commission reject the Company's proposal to include conversions in the IRM for 2026 and 2027. The Company previously explained why Mr. Stephens' criticisms and recommendations regarding the conversion programs lack any valid basis. The record further reflects that the conversion projects will improve safety and reliability for customers, and are otherwise reasonable and prudent, so cost recovery should be fully approved (DTE Electric Initial Brief, pp 111-14. See also section VIII. A of DTE Electric's Initial Brief and this Reply Brief regarding the IRM).

The Company further disagrees with MNSC's misstatement of circumstances. For example, MNSC's Initial Brief, p 83, asserts that "when asked for a list of actual OSHA-reportable safety incidents associated with the 4.8kV system, DTE claimed to not have that information." The comment is not a fair representation of the Company's response and neglects that OSHA requirements do not align with the discussion here, as the discovery response explained:

> The Company does not have the data in the format requested. In addition, the number of events is not relevant because they include, for example, injury resulting from automobiles or structures making contact with poles and/or lines, and other incidents that do not bear on the relative safety of the system, or whether fault was found to lay with the Company.
>
> The Company records injury incident data in the format required by the Michigan Occupational Safety and Health Administration, specifically Part 11 Recording and Reporting of Occupational Injuries and Illnesses. [Exhibit MEC-77, p 7.]

3. Subtransmission Redesign & Rebuild

DTE Electric's Initial Brief, pp 114-20, explained that the Subtransmission Redesign & Rebuild program focuses on installing new station equipment and rebuilding both the overhead and underground portions of the subtransmission system.

MNSC's Initial Brief, pp 67-78, reflects that AG-MN witness Stephens criticized the program and recommended disallowing three projects (Tie 4105 Phase 3; Tie 4105 Phase 4; and Trunk 3509) totaling $28.15 million, and that Subtransmission Redesign and Rebuild projects should not be included in the proposed 2026 and 2027 IRM extension. MNSC's Initial Brief, pp 75-78, argues that the Company did not accurately read the Order in Case No. U-21297 regarding Subtransmission Redesign and Rebuild projects and the Order did not include approval of expenditures for Tie 4105 Phase 3, Tie 4105 Phase 4, and Trunk 3509. However, as cited in MNSC's Initial Brief, p 77, the Commission Order in Case No. U-21297 on the subtransmission program approved bridge year and test year amounts that included these projects:

> *While not agreeing that the in-service dates are dispositive of the issue, the Commission finds the ALJ's recommendation to reject the proposed disallowances to be well-reasoned and supported by the record. The Commission adopts the ALJ's findings and conclusion on this issue* ***and approves the 11-month bridge period and test year amounts.*** *[emphasis added]. (MNSC Initial Brief, p 77)*

Therefore, witness Stephens' proposed disallowance for the three projects should be rejected, and all Subtransmission Redesign and Rebuild projects should be approved through the projected test year, as well as included in the IRM for 2026 and 2027 (DTE Electric Initial Brief, pp 115-20. See also section VIII. A of DTE Electric's Initial Brief and this Reply Brief regarding the IRM).

4. Strategic Undergrounding (SUG) Program

DTE Electric's Initial Brief, pp 120-23, discussed the Company's strategic undergrounding pilots, which seek to understand the viability of undergrounding in different technical scenarios to address grid resiliency challenges.

MNSC's Initial Brief, pp 183-86, reflects AG-MN witness Stephens' opposition to undergrounding and recommended full disallowances of $15.64 million in 2024 and $16.2 million in 2025.

The Company previously explained why it disagrees and the Commission should approve the Company's requested funding (DTE Electric Initial Brief, p 123). Staff's Initial Brief, pp 194-95, supports the Company's requested funding, explaining in part that "Staff supports these pilots and believes that the knowledge that can come from the undergrounding pilots will be very valuable in making decisions regarding the reliability and safety of the electric distribution system in the future" (*Id*., p 195). Ann Arbor also agrees that the requested funding should be approved, and further suggests that the Company should expand its undergrounding pilots (Ann Arbor Initial Brief, pp 19-20). Additionally, Ann Arbor's Initial Brief, p 20, states that the Company has not taken advantage of the City of Ann Arbor's interest in undergrounding pilots within the city limits. This is not accurate. Company witness, Deol, addressed this claim, citing discussions initiated in October of 2023 with the City to incorporate undergrounding to accommodate a paving project.

Witness Deol's rebuttal testimony also identifies Ann Arbor city officials with whom the Company has been actively meeting to explore a second infrastructure alignment opportunity. This alignment opportunity is pending engineering review for late 2024 and would allow undergrounding to take place in conjunction with city infrastructure work (Deol, 5T 1270).

5. Primary Deconductoring

DTE Electric's Initial Brief, p 124, reflects that Primary Deconductoring is the removal of unneeded or underutilized infrastructure such as aged small-sized primary wire, DPLD arc wire, overhead (OH) transformers, and other pole top equipment in abandoned or blighted neighborhoods. The Company has rolled primary deconductoring into the 4.8kV Hardening program and 4.8 kV Conversion projects, where applicable. There appears to be no dispute.

6. System Loading

DTE Electric's Initial Brief, pp 124-26, explained that load relief needs that are not included in the CODI, 4.8kV Conversion, or 8.3kV Pontiac Conversion programs are part of the System Loading projects category. These projects add capacity to the distribution system, and typically include construction of new substations, expansion of current substations by installing additional transformers, replacing existing transformers, installing new switchgear lineups, creating new distribution circuits, reconductoring circuits, converting circuits to higher voltage and transferring load once additional capacity has been created. There appears to be no dispute.

c. Technology & Automation

DTE Electric's Initial Brief, pp 126-27, explained that the Technology & Automation pillar consists of Grid Automation and Operational Technology (OT). Grid Automation is focused on the physical technology infrastructure needed to support the efficient control and operation of a modern distribution grid. OT is a set of enabling technologies that interact closely with Grid Automation and are tailored to support its objectives.

1. Distribution Automation

DTE Electric's Initial Brief, pp 127-32, explained that Distribution Automation (DA) uses digital sensors and switches with advanced control and communication technologies to automate feeder switching, monitor voltage and equipment health, and manage voltage and reactive power. DTE Electric's Distribution Automation program is composed primarily of pole-top recloser deployments.

MNSC's Initial Brief, pp 90-98, reflects AG-MN witness Stephens' recommendation that "the Commission should require the Company to develop a benefit-cost model to govern Distribution Automation deployment on a circuit-specific basis . . . [and] until a circuit-specific Distribution Automation model can be developed, I recommend the Commission limit the Distribution Automation deployment budget to the annual amount the Commission approved in U-21297 ($27.167 million less a 10% reduction recommended by Staff)." (Stephens, 6T 4024).

MNSC's Initial Brief inaccurately characterizes the record regarding measurable safety benefits.[31] In direct testimony, AG-MN witness Stephens asserts "DTE provides no measurable safety basis to support…"[32] the proposed investment. AG-MN witness Stephens then proceeds to present a three-point argument allegedly supporting his reasoning.[33] Each point was directly refuted in witness Hartwick's rebuttal, including directly explaining how historical wire downs are

[31] MNSC Initial Brief, p. 93

[32] Stephens Direct, 6 TR 4023, lines 6-7

[33] Stephens Direct, 6 TR 4023, lines 6-7

considered within the prioritization model.[34] MNSC's Initial Brief attempts to rewrite AG-MN witness Stephens' argument by characterizing witness Hartwick's rebuttal as "not responsive", suggesting that he meant "[o]nce the Company deploys reclosers on 4.8 kV Circuits, it should present historic data documenting wire down reductions."[35] This is a future recommendation for the Distribution Automation program, which does not address evidence supporting the program's safety benefits. Distribution Automation mitigates safety hazards by deenergizing the distribution line.[36]

The Company further notes that here and elsewhere MNSC presents discussions that are detached from the record, consisting instead of unfounded and speculative responses to the Company's rebuttal. Although MNSC are free to present their views, such assertions are not evidence that appropriately support the decisions MSNC propose.[37]

MSNC's Initial Brief also asserts that "Vipers have detection capabilities that support the Company's expectation the reclosers will provide new safety benefits" is non-responsive due to the fact other programs reduce the number of wire downs.[38] These programs have existed for years and do reduce wire downs. However, the fact remains wire downs still happen; thereby, a safety hazard is still present. G&W Vipers operate as an engineering control to mitigate the safety hazard. This operation, ground hunting isolation, is the new safety benefit technology has to offer.[39]

Another inaccurate assertion presented by MNSC's Initial Brief is that DTE Electric does not have the infrastructure to support Distribution Automation deployment—specifically the

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[34] Hartwick Rebuttal, 6 TR 825-828

[35] MNSC Initial Brief, p. 93

[36] Hartwick Direct, 6 TR 638-641; Hartwick Rebuttal, 6 TR 826, lines 1-14

[37] Const 1963, art 6, § 28: MCL 24.285

[38] MNSC Initial Brief, p. 93-94

[39] Hartwick Rebuttal, 4 TR 827

communication requirements.[40] First, the Grid Automation Telecommunication Investment began before various smart grid applications, like Distribution Automation, so that the infrastructure would be ready for grid modernization. This is clearly shown in MNSC's Initial Brief tables with Grid Automation Telecommunication investment beginning in 2021 and Distribution Automation in 2022.[41] While Distribution Automation requires real-time data transmission from field devices through a secure channel with sufficient, highly reliable bandwidth,[42] the need for the Grid Automation Telecommunication investment is not solely based on implementation of Distribution Automation.[43] A graphical representation of the dependencies related to Grid Automation Telecommunication can be seen in the DGP.[44] Overall, the status of the Grid Automation Telecommunication investment should not impact the implementation of the Distribution Automation program.

Aside from points discussed above, the Company has previously explained why these MNSC recommendations should be rejected for lack of foundation and merit. The Company has demonstrated that the investments provide benefits to customers and are otherwise reasonable and prudent. Therefore, the Company's funding request should be approved, and all contrary and additional proposals should be rejected (DTE Electric Initial Brief, pp 129-32).

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[40] MNSC Initial Brief, p. 99

[41] MNSC Initial Brief, Tables on p. 91 and p. 100

[42] Hartwick Rebuttal, 6 TR 853-854

[43] Hartwick Direct, 6 TR 650-652

[44] Ex A-23, Sch. M8, p. 49, DGP Ex 5.0.1 – Within the DSPx framework, the Grid Automation Telecommunication falls in Operational Communications, and all items above have some type of dependence.

2. Grid Automation Telecommunications

DTE Electric's Initial Brief, pp 132-40, explained that through 2025, the Company's Grid Automation Telecommunications investments are focused on expanding the backhaul network, which serves as the central communication backbone of the Company's infrastructure, connecting different sites, such as generators, switching stations, substations, and control centers.

AG-MN witness Stephens recommended disallowances of $16,900,000 for 2024 and $15,000,000 for 2025, relying only on witness Alvarez's testimony (Stephens, 6T 4028-29). Witness Alvarez inconsistently (and with no explanation) recommended "that the Commission disallow Telecommunications Plan costs incurred in 2022 and remove Plan spending from the 2023-2024 bridge period and 2025 test year" (Alvarez, 6T 3978).

The Company previously pointed out that in Case No. U-21297, the Commission approved $14,206,000 for 2022, and $17,508,000 for the 11 months ending November 30, 2023. There is no merit in Mr. Alvarez's suggestion for a retroactive disallowance. MNSC's Initial Brief, p 102, concedes the point.

MNSC's Initial Brief, pp 99-105, otherwise seeks disallowances for 2024 and 2025. The Company previously explained in detail why Mr. Alvarez's suggested reasons for cost disallowances lack merit. Again, MNSC presents a discussion that is largely disconnected from the record, other than to cite the Company's evidence as a springboard for non-record commentary that cannot support a decision.[45] Therefore, Grid Automation Telecommunications is a reasonable and prudent investment that should be fully approved (DTE Electric Initial Brief, pp 134-40).

[45] Const 1963, art 6, § 28; MCL 24.285.

3. Conservation Voltage Reduction (CVR)/Volt Var Optimization (VVO)

DTE Electric's Initial Brief, pp 140-41, discussed CVR/VVO. There appears to be no dispute.

4. Non-Wires Alternatives (NWA) Pilots

DTE Electric's Initial Brief, pp 141-48, discussed the Company's nine NWA pilots as shown in Table 2 of Ms. Hartwick's direct testimony (4T 680; reproduced at Initial Brief, p 142).

Staff's indicated concern about the Adaptive Networked Microgrids (ANM) pilot appears to be resolved (Staff Initial Brief, pp 45-46; DTE Electric Initial Brief, p 147).[46]

To the extent that other parties suggest additional pilots (e.g., CEO Initial Brief, p 20; GLREA Initial Brief, pp 25-27), the Company disagrees because it is committed to completing the ongoing NWA pilots and using the results to inform how to scale the piloted technologies. Although the Company does not have current plans to expand the set of NWA pilots, it will continue to evaluate promising new technologies, and use the recently developed expedited pilot process (February 23, 2023 Order in Case No. U-20898) for consideration of any future potential pilots (Kryscynski, 3T 467-68). See also V. B. 6. iii of DTE Electric's Initial Brief and this Reply Brief (Other DR Proposals) regarding pilots and limits on third-party aggregators.

[46] Staff "recommends a full disallowance of all requested capital expenditures for the ANM pilot . . . [and] the corresponding partner contributions and grant funding which offset a portion of these costs be credited, to ensure this pilot has no impact on the revenue requirement . . . While Staff is generally supportive of this pilot and the value that it could provide the Company through the development and operation of adaptive microgrids, Staff does not find it appropriate to include this pilot in rates when the status of the Company's grant application is uncertain, particularly given the Company's indication it would likely not proceed with this project if this grant funding is not approved" (DeCooman, 6T 5065).

The Company appreciates Staff's general support and will continue working diligently with the DOE to reach a funding agreement. Since the project's as-filed in-service date is 2027, the disallowance does not impact the revenue requirement (Hartwick, 4T 856). The Company is also generally pursuing grant opportunities to provide funding for investments in distribution infrastructure (Kryscynski, 3T 74-69).

In summary, the pilots are reasonable, prudent, and well-supported. Therefore, the Company's requested cost recovery should be approved.

5. Grid Edge Insights and New Technology

DTE Electric's Initial Brief, pp 148-49, explained that this collection of projects (summarized in Table 4 at Hartwick, 4T 706) is designed to consolidate the learnings from the NWA projects into a consistent platform, and to unlock the capabilities of new equipment that is being used to run the grid safer, more reliably and efficiently, and ultimately increase the amount of DER that the grid can accommodate. There appears to be no dispute.

6. Distribution Line Sensors

DTE Electric's Initial Brief, p 149, explained that the Distribution Line Sensors program includes overhead system sensors used to monitor power quality and fault data needed for real-time load transfer analysis, fault locating, and system status, as well as Underground Residential Distribution (URD) sensors to quickly direct field crews to underground fault sections to improve isolation and restoration times. There appears to be no dispute.

7. Grid Management

DTE Electric's Initial Brief, pp 149-54, discussed these investments, which enable the Company to monitor, control, and optimize the operation of Grid Automation investments. There appears to be no dispute.

8. Distribution Planning

DTE Electric's Initial Brief, pp 155-56, discussed these investments in the tools, processes, software applications and data models supporting the near and long-term planning of the distribution system. There appears to be no dispute.

9. Work Management and Scheduling

DTE Electric's Initial Brief, pp 157-58, discussed these investments for essential work-management tools and technologies that are used to coordinate work on the distribution system. There appears to be no dispute.

10. Asset Management

DTE Electric's Initial Brief, p 158, discussed these investments, which involve utilizing technology to support effective asset management, including projects that support managing physical assets as well as electronic asset data management. There appears to be no dispute.

11. Mobile Technology

DTE Electric's Initial Brief, pp 159-60, discussed these investments, which focus on creating seamless transitions between on-line and off-line operations, and provide integrated communication, including workflows, between the control room, field leaders, field crews, and supporting organizations. There appears to be no dispute.

5. Community Lighting

DTE Electric's Initial Brief, pp 160-66, explained that MI-MAUI previously persuaded the Commission that the Company spends too much on replacement LED luminaires for high-intensity discharge (HID) conversions, and the Company now requests the Commission revisit its disallowance based on new developments, including expert analysis and Leotek no longer supporting its crossover chart.[47]

MI-MAUI's Initial Brief, pp 4-11, instead supports witness Bunch's recommendation of a cumulative disallowance pertaining to HID-LED conversions of either $7,705,567 (including the $5.8 million written down based on the Order in Case No. U-21297) or $5,833,539 if the Company were to adopt Consumers' luminaire selections (Bunch, 6T 4347).

The Company maintains its position as discussed previously. MI-MAUI's proposition that the Commission cannot revisit its $5.8 million disallowance from Case No. U-21297 because that would be "a classic example of retroactive ratemaking" (MI-MAUI Initial Brief, p 11) is incorrect. The retroactive ratemaking doctrine provides that rates are prospective, and therefore cannot be applied retroactively.[48] Retroactive ratemaking does not take place where only future rates are affected, with no adjustment to previously set rates.[49] The doctrine is not relevant here, since rates to be applied in the future can plainly be set based on past events, as the Commission has done repeatedly. The Commission (as well as parties in Company rate cases) has also repeatedly recognized that if cost recovery is not provided due to lack of adequate support in a case, then the Company can ask for recovery again in a subsequent case when it has additional support. That is all that the Company is asking, with the amount put in rate base for recovery through prospective rates. Past rates would not be revisited, so MI-MAUI's retroactive ratemaking objection should be disregarded.

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[47] The Company notes in its Initial Brief (p 163) it discussed testimony of Witness Bunch concerning the issue of streetlight color temperature in error, as it is not part of the record. The subject testimony was stricken in the Revised Testimony of Richard Bunch for MI-MAUI (p 60-61).

[48] *See generally*, *Michigan Bell Tel Co v Public Service Comm*, 315 Mich 533, 544; 24 NW2d 200 (1946) ("a lawfully established rate remains in force until altered by a subsequently established lawful rate").

[49] *Attorney General v Pub Serv Comm*, 262 Mich App 649, 655, 658; 686 NW2d 804 (2004).

The Company also previously explained its proposal for Staff to conduct a technical workshop or joint collaborative that includes Consumers in which to compare and contrast the LED selection methodologies of the Company and Consumers. MI-MAUI's Initial Brief, pp 9-11, appears to indicate support for the Company's proposal, while conversely advocating for resolution through the litigation process. The Company maintains its position due to the voluminous and technical information involved, and because the purpose should be to establish an agreed-upon standard when selecting common LED fixtures best suited for municipal streetlighting customers (Bellini, 6T 3175-76).

Staff indicates agreement with the Company, stating that "Staff recommends the Commission adopt in the order that Staff shall work with interested parties to conduct a technical conference regarding streetlighting. Staff believes a technical conference would help Staff, MI-MAUI, and DTE better understand streetlighting and come to conclusions on what best fits DTE regarding HID to LED conversions" (Staff Initial Brief, pp 192-93).

Ann Arbor's Initial Brief, pp 13-14, asserts that it was financially disadvantaged in converting to LED streetlights because if it had waited until each of its remaining HID fixtures failed, then it eventually would have all LED streetlights with no requirement to pay CIAC. The Company disagrees, as discussed previously (DTE Electric Initial Brief, p 165).

DTE Electric's Initial Brief, pp 165-66 explained why the Company disagreed with MI-MAUI's proposal that the Commission disallow recovery for the underground cable replacement program. MI-MAUI responds that "if the program is administered primarily as described in the [Company's] rebuttal testimony, MI-MAUI withdraws its recommendation for a disallowance of the program costs" (MI-MAUI's Initial Brief, pp 16), Therefore, the issue seems to be resolved.

MI-MAUI's Initial Brief, pp 17-18, proposes that Community Lighting's underground cable replacement program should be included in the Company's Distribution Grid Plan (DGP). The

Company previously explained, and maintains, that the DGP's focus is specific to distribution investments and does not extend to streetlighting assets, system of operations, and investments that are distinctly different than the Company's distribution system. Also, Community Lighting from a cost-of-service / rate design perspective, maintains its own rate base, a separate set of projected capital and O&M expenditures, etc. Therefore, the Distribution Grid Plan appropriately does not extend to Community Lighting's non-distribution investments (Bellini, 6T 3146, 3164-65).

6. Demand Response (DR) Programs and DTE Insight

DTE Electric's Initial Brief, pp 166-75, discussed the Company's Demand Response (DR) portfolio, and DTE Insight, which is a stand-alone program developed around a mobile application that aims to drive customer behavior with the goal of reducing both overall energy (gas and electricity) consumption, as well as specific electricity demand during peak hours.

The PCT program (SmartCurrents) has generally had regulatory support, but it was agreed in the Company's 2021 DR reconciliation settlement (Case No. U-21242) to remove $1,672,895 in capital costs (the difference between actual spending in 2021 and the $3 million preapproved in Case No. U-20471 (the Company' 2019 IRP case), plus 10%. At the time of reconciliation, the monies were attributed to creation and launching of a new webpage to enhance customer usage and correlation between the spend and increase in usage could not be made. However, the Company has provided data in this case clearly showing the correlation. Therefore, the Company now seeks to recover this amount, which would increase the projected test year rate base by $914,448 (Farrell, 6T 2681-82, 2720).[50]

[50] The amount is based on a January 1, 2025 balance of $1,081,737, and a December 31, 2025 balance of $747,158. $334,579 should be added to depreciation expense (Farrell, 6T 2682, n 1).

Staff's Initial Brief, p 152 (and again at 155) maintains Staff's position of no additional recovery (no disallowance in this case). The Company maintains that the disallowed capital was reasonable and prudent, so it should be recovered, as discussed previously (DTE Initial Brief, p 169).

i. C&I Battery Storage Pilot

DTE Electric's Initial Brief, pp 171-73, explained and supported the Company's request to recover additional costs of the C&I battery storage pilot. Staff's Initial Brief, pp 47-51, maintains Staff's recommended disallowances of $1.4 million in the bridge period, and $0.6 million in the projected test year. See also MEIU's Initial Brief, pp 41-45. The Company maintains its position, as discussed previously.

ii. Residential Generator Pilot

DTE Electric's Initial Brief, pp 173-74, explained and supported this pilot, which the Commission approved previously (December 1, 2023 Order in Case No. U-21297, pp 252-253). Ann Arbor's Initial Brief, pp 17-18, asserts that the pilot and its costs should be disallowed. In response to the Company's discussion about Ann Arbor witness Stults apparently misunderstanding the pilot,[51] Ann Arbor's Initial Brief, p 18, disagrees based on a general opposition to fossil fuels that ignores the point of the pilot, and includes various assertions that are unsupported by any citation to the record. The Company maintains its position, as discussed previously. Therefore, the Commission should approve full funding for the Company's pilot and (although Ann Arbor's Initial

[51] The pilot targets customers who already have a whole-home generator. Therefore, the pilot would not incentivize any customer to purchase and install a natural gas generator. The pilot simply targets customers who already have the technology and incentivizes them to let DTE Electric shift their whole-house load to their generator during DR events. This also lowers the amount of new firm capacity that the Company requires, which allows for additional intermittent renewable resources, helping the Company achieve its clean energy goals (Farrell, 6T 2716).

Brief notes but does not explicitly support it) reject witness Stults' proposal to create an alternative pilot.[52]

iii. Other DR Proposals

GLREA's Initial Brief, pp 11-16, reflects its witness Richter's suggestions that the Commission direct the Company, in its next rate case or demand response case, to propose a pilot of a critical peak (CP) rebate program (Richter, 6T 4841), and a grid interactive water heater (GIWH) pilot (Richter, 6T 4847). The Company previously responded that GLREA's proposed directive would be inappropriate, but the Company appreciates GLREA's suggestions and will keep them in mind for potential future pilot opportunities (Farrell, 6T 2718).

GLREA responds that "[t]he Company's response fails to address GLREA's recommendation that the Commission *direct* the Company to propose these programs" (GLREA Initial Brief, p 14. Emphasis by GLREA). To the contrary, the Company will keep the suggestions in mind to be explored in future pilots, as indicated above. GLREA's new assertion that the Commission should direct the Company "to propose these programs" now appears to jump over the pilot suggestions of its own witness, in favor of a demand for programs - as if the merits and other characteristics of applying the suggestions had been vetted and established through pilots, which they have not. The Company agrees with Staff that the "pilot process is for examining potential outcomes, and those outcomes should be examined before being put into programs where they will be repeated" (Staff initial Brief, p 132).

Staff's Initial Brief, pp 153-55, further discuses Staff's position that GLREA's critical peak rebate (CPR) pilot requires careful consideration of cost effectiveness. GLREA's Initial Brief, p 15,

[52] The Company further notes that if the Commission were to approve some alternative involving additional costs, then corresponding cost recovery must also be provided, as discussed above in section III.

"concede[s] Staff's main point – that any CPR rate proposal must have carefully considered cost effectiveness."

The Company also previously explained that GLREA witness Richter's suggestion to allow a third party aggregator to conduct a residential DR pilot would violate the Commission's decisions in Case No. U-21099 (Farrell, 6T 2718).[53] GLREA does not dispute the Company's point on the current law, but instead suggests that the Commission could allow residential DR aggregation in the future, so the Commission should make "a directive to the Company in the instant case," which GLREA contemplates will possibly play out sometime in the future according to GLREA's speculation (GLREA Initial Brief, pp 14-15).

To the contrary, it would be fundamentally improper for the Commission to issue a "directive" in this case that is contrary to the Commission's own decision in another case. An agency must act consistently with its prior orders and cannot simply make *ad hoc* decisions to achieve different results. [54] The Commission similarly cannot lawfully deviate from its own rules to reach its different result in a particular case.[55]

The same response essentially applies to CEO's assertion that "the Commission should order the Company to explore the use of third-party aggregators and ultimately implement a pilot which utilizes third-party owned or aggregated resources" (CEO Initial Brief, p 21). The proposed

[53] The Commission's December 21, 2022 Order in Case No. U-21099 *et al*, partially lifted the ban on DR aggregation for commercial and industrial retail electric customers. The Commission later provided some additional clarity, including that "for the foreseeable future and until adequate progress is made by utilities, ARCs [aggregators of retail customers], the RTOs, and the Staff in addressing issues with DR aggregation, it does not intend to lift the ban for bundled retail residential customers" (February 23, 2023 Order in Case No. U-21099 *et al*, p 16).

[54] See, for example, *In re Application of Michigan Consolidated Gas Co*, 304 Mich App 155, 173; 850 NW2d (2014).

[55] See for example, *In re Complaint of Consumers Energy Co*, 255 Mich App 496, 501; 660 NW2d 785 (2002); *DeBeaussaert v Shelby Twp*, 122 Mich App 128, 130; 333 NW2d 22 (1982) ("Once an agency has issued rules and regulations to govern its activity, it may not violate them"); *Bohannen v Sheridan-Cadillac Hotel, Inc*, 3 Mich App 81, 82; 141 NW2d 722 (1966) ("When an administrative agency promulgates a rule for the benefit of litigants and then deprives a litigant of this right, it is a violation of both the 1908 and 1963 Michigan Constitutions").

requirement is also unnecessary in light of the Company's array of DR offerings and other DR activities (Farrell, 6T 2719-20).

Staff previously recommended that "the Company expand its analysis of the cost effectiveness of its DR programs to include all DR programs, as well as interruptible rates . . . [and] include this analysis in its next DR Reconciliation or General Rate Case, whichever happens sooner" (Doherty, 6T 5076-77). The Company agreed to expand its cost effectiveness test to include all DR programs, including its DR tariffs; however, any discussion of cost-effectiveness should remain only in DR reconciliation cases, and not be pulled out of the dedicated DR context for inclusion in more complex rate cases (Farrell, 6T 2722). Staff responds:

> Staff is not necessarily opposed should the three-phased regulatory framework for DR continue in its present form. However, should there be significant changes to this process, as suggested by Staff in its comments in the rate case improvements case (Staff's September 27, 2024 Comments in Case No. U-21637, p 19), then the cost-effectiveness analysis of DR will need to be included in future rate cases. [Staff's Initial Brief, p 153. See also, 155-56.]

The Company maintains its position as discussed above. Staff does not disagree based on current conditions. Potential changes affecting future rate cases are beyond the scope of this case, and it is speculative to opine on any effects of potential future changes.

7. Information Technology

DTE Electric's Initial Brief, pp 175-81, provided an overview of the Company's Information Technology (IT) investment spending.

i. IT Projects with a Level 2 Cost Estimate

Staff's Initial Brief, pp 55-59, reflects Staff's proposal for a 20% ($42.6 million) capital expense disallowance ($22.433 million in 2024; $20.169 million in 2025) for 102 projects with Level 2 cost estimates. The Company maintains its disagreement, as discussed previously (DTE

Electric Initial Brief, pp 181-82). The Company has taken significant measures to improve its estimation process which is evident in the variance between Level 2 and Level 3 estimates, and the Company should not be penalized for making improvements within its estimation process.

Exhibit A-46, Schedule KK1 demonstrates that 78 out of the 87 projects that were identified as Level 2 estimates at the time of filing progressed to Level 3 estimates when rebuttal testimony was filed in August 2024. These 78 projects are currently in execution phase and therefore should be considered as Level 3 estimates. At project execution, the Level 2 estimates are further vetted and refined before transitioning into a Level 3 estimate in alignment with the financial forecasting.

DTE Electric disagrees with Staff's proposed blanket 20% disallowance for all Level 2 projects in 2024 and 2025. As explained in Company witness Sharma's rebuttal testimony, the comprehensive and diligent reviews conducted for development of the Level 2 estimates, which are in alignment with the AACE Class 2 estimates, establish that the 20% blanket disallowance of $20.2 million Capital disallowance and $2.4 million O&M for 2025 should be rejected (Sharma, 6T 2165-69). At most, any reduction (which the Company does not agree is appropriate) should be no more than 10% due to the improved accuracy of estimates and current status of the applicable projects. *Id*.

ii. IT Projects with a Level 3 Cost Estimate

Staff's Initial Brief, pp 59-63, reflects Staff's proposal for a 10% ($12.684 million) capital expense disallowance ($11.315 million in 2023; $0.546 million in 2024; $0.823 million in 2025) for 104 projects with Level 3 cost estimates. The Company maintains its disagreement, as discussed previously (DTE Electric Initial Brief, pp 182-83). Project cost information provided as part of the rate case documentation is based on the rate case periods and not calendar years. Due to differing rate case periods between rate cases, it is not prudent to utilize calendar years for comparison for over recovery/under recovery analysis. The 36-month period ending December 2024 shows an accurate analysis of project cost performance between Case No. U-21297 and this case. It should also be noted that the timing and receipt of the final order impacts the annual cost performance of a project. Hence, the Company utilized the 36-month period ending December 2024 for the analysis, Exhibit A-46, Schedule KK4.

The Company acknowledges the three projects in the below table that the Staff has identified are outside the established variance percentage (Staff's Initial Brief, p 61). However, the projected spend for each of the three projects were under the prescribed threshold established by the Commission, including the May 2, 2019 Order in Case No. U-20162, pp 44-45. Therefore, the Company properly considered projects under the prescribed threshold as being within the variance allowance limitations.

Project name	**Case No. U-21534**	**Total Spend**
Cloud infrastructure and supporting capabilities project	$234,000	Under $250K
SAP Cloud Platform – Foundational Additions	$142,000	Under $250K
High Volume IVR	$23,000	Under $250K

See Exhibit A-46, Schedule KK4, p 1.

Staff's Proposed Individual IT Project Disallowances

a. Digital Worker Experience Electric EOL

Staff's Initial Brief, pp 52-54, reflects and updates Staff's proposal for a disallowance of $1.903 million in the bridge period ($0.943 million in 2023 and $0.960 million in 2024) and $1.041 million in the 2025 test year. The Company explained that Staff's calculation was inaccurate because it did not include labor costs, as reflected at DTE Electric's Initial Brief, p 183. Based on the Company's rebuttal, Staff now recommends an updated "disallowance of $0.3 million in the bridge period ($137,268 in 2023 and $162,309 in 2024) and $246,962 in the 2025 test year" (Staff Initial Brief, p 53).

The Company appreciates and accepts Staff's updated position.

b. End of Life Asset Replacements

Staff originally recommended a $0.5 million disallowance for the 2022 historical year. The Company disagreed, as reflected at DTE Electric's Initial Brief, p 184. Based on the Company's rebuttal, Staff now "reverses the ½ million disallowance" and "finds this expense to be reasonable and prudent" (Staff Initial Brief, pp 54-55). Therefore, the issue is resolved.

iii. AG's proposed disallowances

a. Customer IT Projects

The AG's Initial Brief, pp 36-37, reflects witness Coppola's proposed disallowances of $5,750,000 for 2024 and $15,393,000 for 2025 for three Michigan Green Power (MIGP) projects (Exhibit A-12, Schedule B5.7.3, lines 4, 11, and 15) and the 2025 Advanced Analytics (AA) Use Case for Reducing MPSC Complaints ($1.0 of the $3.0 million in Exhibit A-12, Schedule B5.7.3, line 18). DTE Electric's Initial Brief, pp 184-86, explained why the Company disagrees.

The AG suggests that Mr. Hatsios' discovery responses contradict Mr. Coppola's testimony (AG Initial Brief, pp 36-37). Instead, the discovery responses reflect that both the MIGP Customer-Requested Renewable Energy Projects were previously approved in Case No. U-21297 and the 2024-2025 project also kicked off on August 1, 2024 (Hatsios, 6T 2308-09; Exhibit AG-55, p 2).

With regard to the Rider 17 – MIGP, Residential and Small Commercial & Industrial Project, the AG asserts that Mr. Hatsios' discovery responses "confirmed that the information contained in Mr. Coppola's testimony is correct. His attempts to embellish the facts to DTE's favor in his rebuttal should be disregarded by the Commission" (AG Initial Brief, p 37. Footnote omitted).

More accurately, Mr. Hatsios confirmed that information provided in response to previous AG discovery "was correct as of the date issued" (Exhibit AG-55, pp 3-4). That prior date did not somehow set a cutoff for factual development as the AG suggests. The Company also submitted proper rebuttal in response to Mr. Coppola, in accordance with the Company's right to do so.[56]

b. Enhanced Document Management Capability Projects.

The AG's Initial Brief, pp 37-38, reflects witness Coppola's proposed disallowances of $1,218,000 for 2024 and $2,958,000 for 2025 for the Enhanced Document Management Capabilities projects. DTE Electric's Initial Brief, pp 186-87, explained why the Company disagrees.

The AG's Initial Brief, p 38, does not accurately characterize the Company's discovery responses and disregards the information that was provided as well as the evidentiary record. Similar to the discussion above, the Company submitted proper rebuttal to Mr. Coppola, as the Company has a right to do.[57] Therefore, the projects are supported by the record, and the AG's proposed disallowance should be rejected (Sharma, 6T 2047-48, 2050-51, 2176-78; Exhibit A-46, Schedule KK2).[58]

[56] MCL 24.272(4).

[57] MCL 24.272(4).

[58] The same result applies to the extent that the AG suggests a disallowance for the Cloud Health and Safety project, although her witness did not explicitly propose a disallowance, and her brief does not support such a disallowance.

c. 2023 Capital Expenditures.

The AG's Initial Brief, p 38, reflects witness Coppola's proposal for a $34,854,000 disallowance, based on a comparison of 2023 total projected capital expenditures to 2023 Shared Assets actuals. DTE Electric's Initial Brief, pp 187-88, explained that an appropriate comparison is 2023 total projected capital expenditures ($162,310,000) to 2023 total actual costs ($177,344,000). The AG's Initial Brief continues to compare data incorrectly and disregards the information that was provided as part of Company witness Sharma's rebuttal testimony as well as the evidentiary record (Sharma, 6T 2178-79; Exhibit A-12, Schedule B5.7, p 1; Exhibit A-46, Schedule KK3). Therefore, the AG's proposed disallowance is based on an incorrect data comparison and should be rejected.

iv. DAAO's proposed disallowances.

a. Collection Digital Self-Service.

DAAO's Initial Brief, pp 56-68, reflects witness Koeppel's proposal for a complete ($10.7 million) disallowance for Collection Digital Self-Service based on a number of his concerns. DTE Electric's Initial Brief, pp 188-91, previously addressed DAAO's indicated concerns, and otherwise explained why cost recovery is supported by the record and DAAO's proposed $10.7 million disallowance should be rejected.

v. Staff's recommendation regarding Error Free Communications (EFC) and Outage Map Project Updates.

In its Initial Brief, pp 174-76, Staff recommends that the Company be required to provide status and expenditure updates in future rate cases on the Error Fee Communications (EFC) and Outage Map project. The Company appreciates Staff's agreement on the prudency, reasonableness, and worthiness of the capital expenditures related to the EFC project and is aligned with Staff as it relates to the ongoing improvement of our outage processes, digital channels, and related systems. The EFC investments will further ensure that customers are provided with timely and accurate communications related to customer power status, restoration estimates, and other status updates and notifications to keep our customers informed during an outage event. Accordingly, the Company remains committed to achieving our long-term goals related to the key EFC metrics of Power Restoration Accuracy and Timeliness, First Estimate Accuracy, and Outage Notification Delivery. In future rate cases, we will provide details about our progress in improving the EFC Core and Customer-Facing Systems, including our continuous improvement efforts and learnings from executing on our customer outage commitments during storms and any impacts due to major project implementations (e.g., ADMS). Going forward, the Company will also provide Staff status updates biannually, as preferred by Staff, or at a cadence that allows us to provide meaningful status updates, to confirm that the EFC investments are steadily and reliably improving our customers' outage experience. (Hatsios, 6T 2328-2330).

8. Corporate Staff Group

DTE Electric's Initial Brief reflects that Staff originally proposed, and the Company disagreed with, vehicle fleet disallowances of $2.84 million in the bridge period and $3.83 million in the projected test year. Staff's Initial brief, pp 43-44, now withdraws that proposal and recommends that the Commission fully approve the Company's request.

The AG's Initial Brief, p 40, reflects witness Coppola's proposal for vehicle fleet capital expenditure disallowances of $4,564,000 for 2024 and $8,187,000 for 2025 based on a comparison of the Company's request to an average of expenditures during 2021-2023, reasoning that the Company did not provide data on the types of vehicles expected to be purchased in 2025. DTE Electric's Initial Brief, pp 191-92, explained why the Company disagrees, including that the

Company provided a list of vehicle and equipment purchases planned for 2025 in response to Staff's discovery (Exhibit A-37, Schedule BB2), which confirms that the Company has specific vehicle purchases planned for 2025. The Company also explained that it uses a life-cycle model to optimize the total cost of ownership and develop a replacement strategy. This is a more reasonable forecast methodology than the AG's simplistic historical average, so the Commission should reject the AG's proposed disallowance, which was, in any event, founded upon a mistaken belief that the Company had not provided the specific vehicles it intends to purchase (Uzenski, 6T 1521, 1561, 1564-65).

The AG's Initial Brief, p 40, responds by incorrectly characterizing a discovery response as allegedly "confirm[ing] that the Company did not provide justification for the year over year increase in vehicle capital expenditures." To the contrary, the discovery response supports the Company's requested recovery in the context of discussing Company witness Uzenski's direct testimony (Exhibit AG-61, p 1). The AG also disregards the record, including the additional evidence that the Company presented in proper rebuttal to Mr. Coppola.[59]

Staff agrees with the Company on recovery as indicated above, and further states regarding the AG's proposed disallowance: "The Company's discovery response on this topic, sent in response to Staff's request, did indeed include a spreadsheet listing approximately 260 planned vehicle purchases for 2025, totaling to the Company's projection of $42.6 million. (S-12.1 illustrates these figures as corrected by the Staff.) The Company also rebutted witness Coppola's disallowance through witness Uzenski's rebuttal testimony, where it is correctly pointed out that the Company had justified 2025 spending in its original discovery response. (6 TR 1564-65)." (Staff Initial Brief, pp 43-44).

Therefore, the AG's proposed disallowance should be rejected.

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[59] MCL 24.272(4).

The AG's Initial Brief, p 39, reflects witness Coppola's proposed disallowances totaling $14,265,000 for office space updates and office equipment. DTE Electric's Initial Brief, pp 192-93, explained why the Company disagrees, including that the Company had reduced its total office space by selling buildings and terminating leases, and then had to increase the number of workstations within that smaller space to accommodate employees returning to the office after the pandemic. The Company moved from 2,000 reservable workstations to 4,100 workstations assigned to each employee. Additional technology was required to enable more video conferencing for employees in the office with employees working remotely. In addition, the conversion of the open space in the downtown Detroit headquarters lobby was to accommodate large groups that previously used leased space or facilities the Company no longer owns (Uzenski, 6T 1561, 1566-67).

The AG responds by asserting that "[w]hen asked about this further in discovery, DTE's response shows indecision on the part of the Company and an incoherent, rapidly changing employee works strategy" (AG Initial Brief, p 39). To the contrary, the referenced discovery response is consistent with the testimony summarized above, reflecting the return-to-office environment that has arisen after the pandemic (Exhibit AG-61, p 2)

The Company maintains that its decisions were reasonable, prudent, and justified. Therefore, the AG's proposed disallowance should be rejected.

VI. RATE OF RETURN

DTE Electric requests a weighted, after-tax 5.92% overall rate of return (Vangilder, 6T 2812; Exhibit A-14, Schedule D1, line 10, column (g)), which the Commission should adopt for the reasons discussed below.

A. Capital Structure

DTE Electric's Initial Brief, pp 193-95, explained why the Company's capital structure should be maintained at 50% debt and 50% equity. Staff's Initial Brief, Appendix F, column (c), and the AG's Initial Brief, p 43, agree. There is no disagreement. Therefore, DTE Electric's 50/50 capital structure should be maintained.

B. Debt Cost Rates

1. Long-Term Debt

DTE Electric's Initial Brief, p 195, summarized the Company's recommendation for a 4.24% weighted cost of long-term debt. The AG's Initial Brief, p 44, agrees. Staff's Initial Brief, p 66, recommends 4.21%. The Company maintains that 4.24% is appropriate as discussed previously.

2. Short-Term Debt

DTE Electric's Initial Brief, pp 195-96, summarized the Company's recommendation for a 5.73% cost of short-term debt. The AG's Initial Brief, p 44, agrees with the Company's initial recommendation of 5.76%. Staff's Initial Brief, p 66, recommends 4.96%. The Company maintains that 5.73% is appropriate as discussed previously.

C. Return on Common Equity (ROE)

DTE Electric's Initial Brief, pp 196-207, explained and supported Dr. Villadsen's recommendation that a just and reasonable Return on Equity (ROE) for DTE Electric's common equity capital is 10.5%. This is below the midpoint of a reasonable range and is conservative because DTE Electric has greater-than-average risk (Villadsen, 6T 2407-2408, 2442, 2446, 2490-91).

Staff's Initial Brief, pp 67-73, recommends 9.9%. The AG's Initial Brief, pp 45-58, recommends 9.85%. ABATE's Initial Brief, pp 17-39, recommends 9.6%. MNSC's Initial Brief, pp 129-43, recommends 9.3%. DAAO's Initial Brief, pp 71-72, discusses various propositions, and asserts that "the Commission should adopt an ROE of 9.18%, the true cost of equity in the Attorney General's DCF analysis" (*Id*., p 71). This is not an accurate characterization of Mr. Coppola's analysis (he recommended 9.85% as indicated above) or an acceptable way to determine ROE (In addition to the Company's presentation, see also Exhibit AG-27, reflecting Mr. Coppola's results of 9.26% for DCF; 10.57% for CAPM; and 10.10% for Equity Risk Premium approaches). Ann Arbor's Initial Brief, pp 6-9, vaguely suggests that a lower ROE might be appropriate, but acknowledges that "Dr. Stults does not make a recommendation on a specific rate of return on equity, nor does she indicate that she has any expertise in calculating the cost of equity" (*Id*., p 9).[60] Walmart's Initial Brief, pp 2-6, opposes the Company's request to increase its ROE to 10.5%, but does not make a specific ROE recommendation.

DTE Electric's prior discussion largely anticipated the Staff and Intervenor arguments, and otherwise thoroughly addressed this topic. The Company further emphasizes that the only proposals supported by any analysis are Staff, the AG, ABATE, and CUB/MEC.[61] CUB/MEC's ROE recommendation is an outlier based on flawed methodologies that is inconsistent with all of the

[60] Various arguments by DAAO and Ann Arbor also lack merit and relevance to a ROE analysis, and also constitute proposals for subsidies and to deprive the Company of a return "of" and "on" its investment in providing service, which are contrary to law as discussed above, particularly in section III.

[61] Ann Arbor (Stults, 6T 4252-56) and Walmart (Perry, 6T 4727-34) suggested that the Company's ROE should either not increase, or be reduced, without a specific number. DAAO suggested 9.18% (Koeppel, 6T 4439), which is an inaccurate characterization of the AG's analysis, as discussed above. These witnesses did not support their recommendations with a ROE analysis using financial market data. Thus, their unfounded assertions cannot support a decision and merit no serious consideration (Villadsen, 6T 2495, 2497-99). See also section III above.

other analyses in this case, as well as the Commission's past ROE decisions and ROE decisions across the county, so it should be disregarded (e.g., Villadsen, 6T 2497, 2506, 2511).

Staff, the AG, and ABATE each recommend higher ROEs than they did in prior cases. In Case No. U-20836, Staff recommended 9.6% (Ufolla, Case No. U-20836, 8T 5085-5100-5101), the AG recommended 9.5% (Coppola, Case No. U-20836, 8T 4818, 4846), and ABATE recommended 9.4% (Walters, Case No. U-20836, 8T 3046-3047). In Case No. U-21297, Staff (Ufolla, Case No. U-21297, 7T 4704, 4720-21) and the AG (Coppola, Case No. U-21297, 6T 3728) recommended 9.8%, and ABATE recommended 9.55% (Walters, Case No. U-21297, 4T 1154-55, 1207). Thus, they all essentially acknowledge that the consistently used forms of ROE modeling indicate the cost of equity has increased since the Commission maintained DTE Electric's ROE at 9.9% in Case No. U-21297, as well as since the Commission set it previously (Villadsen, 6T 2493, 2496).

Dr. Villadsen explained that in response to persistent high inflation, the Federal Reserve had increased rates eleven times from March 2022 through July 2023. At the same time, systemic risk as measured by beta remains relatively constant,[62] as does the historical market risk premium, so the estimated cost of equity is now higher than it was in the recent past (Villadsen, 6T 2417-27, 2498). Thus, the underlying economic conditions support an increase in DTE Electric's ROE, as Dr. Villadsen recommended, rather than any decrease.

The Commission recognized the general validity of this reasoning in DTE Electric's last rate case. Although the Commission did not increase the Company's ROE as the Company recommended (and which the Commission should do now), the Commission rejected the PFD's recommendation to reduce the Company's ROE, explaining in part:

> The Commission notes that the cost of equity in the utility sector has generally increased over the last year, and further notes that the recommended ROEs provided

[62] Beta remains high at 0.93 for the Electric Utility Sample (Villadsen, 6T 2418, 2431), as compared to 0.88 in Case No. U-21297, and approximately 0.6% in Case No. U-20561 where the Commission set DTE Electric's ROE at 9.9%.

> by many parties, while lower than what is being adopted here, were generally higher than what those same parties proposed in previous cases. As such, the Commission finds that based on the record evidence in this case a reduction in the ROE is unwarranted at this time.
>
> Given the above, including DTE Electric's observation of today's financial environment of high inflation and rising interest rates, the Commission finds that the most prudent course of action is to maintain the current ROE. The Commission also again notes that it may revisit this determination in future cases as it gains greater insight into issues currently affecting the financial markets and longer-term macro-economic trends . . . . [December 1, 2023 Order in Case No. U-21297, p 186.]

The Commission has also emphasized that proposals to radically reduce a utility's ROE (particularly as ABATE, MNSC and DAAO have made) are neither realistic nor helpful to the Commission (September 13, 2018 Order in Case No. U-18999, p 52). The Commission has repeated its 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." *Id.*, quoting March 29, 2018 Order in Case No. U-18322, p 44. The Company acknowledges that it also seeks a significant ROE change; however, the Company's proposed increase is directionally correct and otherwise supported by the evidence (including Staff, the AG, and ABATE's analyses also moving upwards), as discussed previously and further detailed on the record.

This is also a particularly inopportune time to weaken the Company's credit metrics due to the Company's need for capital spending, as discussed in DTE Electric's Initial Brief and above. The Commission has historically recognized the connection between ROEs and capital spending. (January 31, 2017 Order in Case No. U-18014, pp 65-66; December 11, 2015 Order in Case No. U-17767, pp 54-55).

DTE Electric's Initial Brief otherwise thoroughly explained and supported the analyses and other considerations supporting the Company's position and responded to other parties' positions as relevant to a substantive ROE discussion. Therefore, the Company incorporates its prior discussion from its Initial Brief demonstrating that alternative analyses by Staff, the AG, and ABATE have numerous flaws, resulting in understated recommendations that, although all directionally increasing from prior cases, should be corrected, or simply rejected in favor of Dr. Villadsen's complete and correct analysis.

D. Other Cost Rates

DTE Electric's Initial Brief, p 207, reflects that tax law requires, and prior Commission orders have allowed a return on Job Development Investment Tax Credits (JDITC) at the rate of return for permanent capital, so the associated returns for JDITC-Debt and JDITC-Equity reflect the corresponding permanent capital rates of 4.24% and 10.5%, respectively. Deferred income taxes are at zero cost (Vangilder, 6T 2814, 2816; Exhibit A-14, Schedule D1, lines 6, 7, and 9). Staff agrees with the Company except regarding the long-term debt and ROE percentage (Staff Initial Brief, p 65, and Appendix F).

E. Overall Rate of Return

Staff's Initial Brief, p 64, recommends an overall cost of capital of 5.66%. The AG's Initial Brief, p 444, recommends 5.67%. MNSC's Initial Brief, p 143, recommends 5.45%. The Company maintains that the sum of the weighted cost of the above-described capital components results in a weighted, after-tax 5.92% overall rate of return (Vangilder, 6T 2812; Exhibit A-14, Schedule D1, page 1, line 10, column (g)), a weighted, pretax 9.20% rate of return applicable to the Tree Trim Regulatory Asset (Exhibit A-11, Schedule A1.1, line 5, column (b); Exhibit A-14, Schedule D1, page 1, column (g)), and a weighted, pretax 6.57% rate of return applicable to the Monroe Regulatory Asset (Exhibit A-11, Schedule A1.2, line 3, column (b); Exhibit A-14, Schedule D1, page 2, line 14, column (f)). A 1.3496 revenue conversion factor is appropriate for the projected period (Vangilder, 6T 2813; Exhibit A-13, Schedule C2). The corresponding weighted pre-tax overall rate of return is 7.37% (Exhibit A-14, Schedule D1, line 10, column (i)). DTE Electric supports the use of the 5.92% overall rate of return in the derivation of its revenue requirements and the use of the 7.37% pre-tax overall rate for the return on rate base.

VII. ADJUSTED NET OPERATING INCOME AND REVENUE DEFICIENCY

DTE Electric's Initial Brief, pp 208, explained that the Company revised its projected Total Electric Adjusted Net Operating Income (NOI) to be approximately $1,092 million (Initial Brief, Attachment A, page 3 of 4. See also Section I of the Initial Brief and above). Staff's Initial Brief, p 74, reflects that Staff revised its adjusted NOI projection from $1,174,574,000 to $1,175,319,000. After further review of Intervenors' positions, the Company agrees to adopt certain adjustments and update its projected test year NOI to approximately $1,096 million as shown on Reply Brief Attachment A, page 3 of 4.

A. Sales Forecast

DTE Electric's Initial Brief, pp 208-10, explained and supported the Company's projected future sales, and the rigorous and accurate forecasting methodology that the Company uses to determine those sales. Staff's Initial Brief, p 75, agrees. No party presented contrary or alternative testimony. Therefore, the Commission should adopt Mr. Leuker's well-supported and undisputed sales projections.

B. Fuel and Purchased Power Revenue and Expense

DTE Electric's Initial Brief, pp 210-11, outlined the Company's proposals to maintain the current Power Supply Cost Recovery (PSCR) base of 31.26 mills per kilowatt-hour at the generation level, and update the loss factor to 7.69%, which will result in a PSCR base of 33.66 mills per kilowatt-hour at the sales level as reflected on Exhibit A-13, Schedule C-4. There appears to be no dispute.

C. Operating and Maintenance (O&M) Expenses

DTE Electric's Initial Brief, p 211, reflects that the Company's projected O&M was adjusted by a $3.8 million reduction to Uncollectible Expense, a $1.2 million reduction for the amortization of deferred incentive compensation, and a $0.1 million reduction to the amortization of deferred ACPP and TOD costs, resulting in $1,261.8 million. (Initial Brief, Attachment A, page 3 of 4). In this Reply Brief, the Company made additional adjustments to projected O&M: $1.2 million for Merchant Fees and $3.2 million for IT Project O&M. The Company now supports a total projected O&M of $1,257 million (Reply Brief, Attachment A, page 3 of 4).

Staff's Initial Brief, p 88, reflects that Staff updated its originally-filed $1,161,522,000 projection to $1,161,527,000.

1. Inflation

DTE Electric's Initial Brief, pp 211-14, explained and supported inflation rates of 3.2% for 2023, 2.9% for 2024, and 2.9% for 2025, as shown on Exhibit A-13, Schedule C5.15, line 15. These are composite rates using a 3.0% inflation rate for labor, and the consumer price index (CPI)-Urban for non-labor costs (Uzenski, 6T 1497).

The AG's Initial Brief, pp 59-61, disagrees with the Company's use of "blended" rates. DTE Electric incorporates its prior discussion and maintains that the methodology is appropriate because, among other things, the Company's labor costs are largely driven by collective bargaining agreements with unionized employees.[63] The Commission also previously adopted the Company's proposed composite inflation rates (November 18, 2022 Order in Case No. U-20836, p 258. See also December 1, 2023 Order in Case No. U-21297, p 193).

ABATE's Initial Brief, pp 39-44, similarly opposes the blended rate, and instead recommends projected inflation rates based on the Real GDP Chained Price Index because it is "more responsive to consumer substitution" (*Id*, p 43). The Company maintains that ABATE's proposed use of the Real GDP Chained Price Index is inappropriate because, for example, it is not apparent how "customer substitution" would even be relevant for utility costs, particularly considering a utility's potentially limited ability for substitution in this context. The CPI-Urban is also a well-established and widely used measure of inflation. Therefore, ABATE's latest inflation alternative (the third different method in the last three cases, Case Nos. U-20836, U-21297, and U-21534) should be rejected (Foley, 2T 175-76).

MNSC's Initial Brief, pp 144-47, suggests that the Commission make a productivity adjustment to the Company's proposed inflation rates as CUB/MEC witness Bandyk suggested. The Company maintains that any known and measurable cost reductions related to productivity gains are already embedded in each business unit's financial exhibits, so CUB/MEC's proposed additional productivity adjustment would "double count" productivity improvements. CUB/MEC's proposal is also inconsistent with the "known and measurable" nature of rate case projections (Foley, 2T 177-78. See also Initial Brief and Reply Brief section IV regarding the Test Year). The Company also incorporates its prior responses to ABATE and the AG in response to MNSC's alternative proposal that the Commission adopt the inflation rates proposed by ABATE or the AG.

[63] Company witness Fix conservatively estimated annual wage increases of 3.0% for 2023, 2024, and 2025, based largely on mandatory base pay increases and progression increases set forth in the Company's collective bargaining agreements with labor unions representing DTE Electric employees (Fix, 6T 2866-67).

Therefore, the Commission should approve DTE Electric's proposed composite inflation rate and reject alternative and additional proposals.

2. Energy Supply (Exhibit A-13, Schedule C5, lines 1, 4 and 5; Schedules C5.1, C5.4 and C5.5)

DTE Electric's Initial Brief, p 214, summarized the Company's actual and forecast Energy Supply O&M expenses, and explained that they are reasonable and prudent, so they should be recovered. The Company utilized a 2022 test year and Witnesses Uzenski and Foley fully supported the appropriate inflation rates so arguments to utilize 2023 as a historical base year and disregard inflation should be rejected. (Foley, 2T 172–178; Uzenski, 6T 1466, 1496-97) (AG Initial Brief, pp 61-62; Staff Initial Brief, pp 89-93)

3. Midwest Energy Resources Company (MERC) and Fuel Supply (Exhibit A-13, Schedule C5, line 2; Schedule C5.2)

DTE Electric's Initial Brief, p 215, explained and supported the Company's Fuel Supply and Midwest Energy Resources Company (MERC) O&M expenses. The Company utilized a 2022 test year and Witnesses Uzenski and Foley fully supported the appropriate inflation rates so arguments to utilize 2023 as a historical base year and disregard inflation should be rejected. (Foley, 2T 172–178; Uzenski, 6T 1466, 1496-97) (Staff Initial Brief p. 91)

4. Nuclear Power (Exhibit A-13, Schedule C5, line 3; Schedule C5.3)

DTE Electric's Initial Brief, pp 215-16, explained and supported Fermi 2's O&M expenses, and Program Evaluation Review Committee (PERC) Regulatory Asset amortization. The Company utilized a 2022 test year and Witnesses Uzenski and Foley fully supported the appropriate inflation rates so arguments to utilize 2023 as a historical base year and disregard inflation should be rejected. (Foley, 2T 172–178; Uzenski, 6T 1466, 1496-97) (Staff Initial Brief pp. 91-92)

5. Distribution (Exhibit A-13, Schedule C5, line 6; Schedule C5.6)

DTE Electric's Initial Brief, pp 216-33, explained and supported Distribution Operations' O&M expenses, largely discussing the Company's proposals for base O&M and surge funding for tree trimming. Staff supports cost recovery for base O&M and surge funding (Staff Initial Brief, p 87 and 187).

The AG's Initial Brief, pp 80-82, reflects witness Coppola's objections to including an additional $87 million in the regulatory asset for the surge program. DTE Electric's Initial Brief, pp 217-33, explained why the objections lack merit. One reason was that witness Coppola took issue with the Company's investment in the Detroit Tree Trim Academy, claiming that it has "a retention rate of 33%," which "cannot be considered a success" (Coppola, 6T 3653). The Company pointed out that Mr. Coppola miscalculated the program's retention rate as 33%. Since 2021, 56% of the students who have been placed with a tree contractor continue to work as tree trimmers on property. This is a success because, historically, only 30% of trimmers who began the traditional bootcamp successfully progressed through full apprenticeship. Academy graduates who were placed on property are almost twice as likely to continue through the apprenticeship. The Academy also provides additional benefits of increasing diversity in the tree trimming workforce and providing career opportunities to the local community (Steudle, 6T 3016-18).

The AG's Initial Brief, p 81, responds that "[w]ith regard to the low retention rate of enrollees in the Detroit Tree Academy, the response to [Exhibit AG-60, p 26] does not address why the 30% retention rate should be considered an acceptable standard."

The discovery response does not say what is asserted and the AG does not acknowledge the proven facts. The 30% is an historical number that the Academy nearly doubles at 56%, as indicated above. Exhibit AG-60, p 26, similarly states: "The 30% retention is the historical percent of trimmers who make it from the beginning of the apprenticeship to becoming a qualified journeyman tree trimmer. . . . That was a key reason for developing the Tree Trim Academy. As discussed, those who have completed the Academy are twice as likely to remain in the apprenticeship compared to the historical retention rate."

The AG's Initial Brief, p 82, is similarly incorrect in asserting that "[t]he evidence points to no significant reductions in power outages caused by trees and vegetation." To the contrary, the record reflects that circuits trimmed as part of the Enhanced Tree Trimming Program (ETTP) have a 54.0% reduction in outage events in the year after trimming compared to non-ETTP trimmed circuits. ETTP-trimmed circuits similarly showed reductions of 57.9% in customer interruptions, 32.4% in the number of customer minutes of interruption, and 55.4% in wire-down events in the year following trimming, compared to non- ETTP circuits (Steudle, 6T 2968-72).[64] The Company otherwise relies on its prior explanation of why AG witness Coppola's criticisms and proposals all lack merit.

Staff (Initial Brief, p 109), and the AG (Initial Brief, p 82) maintain that the return on the tree trim regulatory asset should remain at the Company's short-term debt rate. The Company respectfully maintains that any future tree-trim surge regulatory asset amounts should be treated as being financed with permanent long-term debt and equity, and receive the respective return, as discussed previously (DTE Electric Initial Brief, p 227).

MNSC's Initial Brief, pp 178-81, suggests that there should be no return on the tree trim regulatory asset. The suggestion is unreasonable and otherwise lacks merit, particularly since the regulatory asset has allowed the acceleration of tree trim work that benefits customers and prevents

[64] Despite this success, tree trimming alone is not enough to improve reliability, as some witnesses seem to suggest (e.g. AG/MEC/NRDC witness Alvarez, 6T 3930-31). The Company must take a holistic, multipronged approach to achieve its reliability goals and ensure safe, reliable service to customers. Tree trimming is an important piece, but the Company also must make strategic capital investments to address the age and condition of its equipment (Steudle, 6T 3024-25).

the rate shock that would otherwise occur if the costs were treated as O&M expenses. MNSC's further commentary suggesting that the Company underspent and did not keep up with tree trimming (*Id*., 179, 181) is contrary to historical facts as reflected in numerous cases.[65] MNSC's suggestion that no return could be considered appropriate "for an asset that [has] dubious value" and based on analogy to an asset that is not yet "used and useful" (*Id*, pp 180-81) similarly misses the mark, since tree trimming plainly has produced results, as indicated previously and further detailed on the record.

The AG's Initial Brief, p 82, repeats but does not discuss witness Coppola's recommendation that "the Commission remove the $3,078,000 in capital expenditures for 2022 and the $3,824,000 for 2023 pertaining to the Tree Trim Risk Prioritization model because the Company did not perform a cost/benefit analysis and did not justify that the model and related expenditures are economically beneficial to customers" (Coppola, 6T 3656). DTE Electric's Initial Brief, pp 228-29, explained why the AG's proposed disallowance should be rejected.

The AG's Initial Brief, pp 27-28, also incorrectly describes discovery responses, asserting for example that the Company was "lost in semantics/playing language games in an attempt to avoid addressing the AG's questions" (*Id*., p 27, citing Exhibit AG-60, pp 10-11). To the contrary, the AG asked questions about a cost-benefit analysis (CBA) regarding LiDAR, which were inaccurate and not even consistent with witness Coppola's testimony. The Company explained in part:

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[65] Recounting briefly, after Michigan's 2013 ice storm left tens of thousands of customers without power and demonstrated that historic tree trimming practices were insufficient, the Commission recognized that trees are the primary cause of power outages, and that DTE Electric was fully spending its allocated funding for vegetation management to prevent such outages. (Case No. U-17542 Order dated May 2, 2014, p. 16; Case No. U-17542 Order dated December 4, 2014, pp. 4-5). Therefore, DTE Electric began investing in a new Enhanced Vegetation Management Program (EVMP, now re-named the Enhanced Tree Trimming Program or ETTP), which essentially removes vegetation in a clearance corridor rather than the historic clearance circle around DTE Electric's lines and equipment. The new process, including its progress and results, have been reviewed in subsequent cases where O&M and surge funding have been approved (See generally the background discussion at DTE Electric Initial Brief, pp 217-18).

> The Company correctly responded [to a prior discovery request] that it has *not* completed an NPV analysis related to the **LiDAR** investment that was made in 2021/2022.
>
> In Witness Coppola's direct testimony, page 33, lines 5-12, he recommended the Commission disallow the investment in the Tree Trim Risk Prioritization Model because he stated the Company had not completed an NPV to justify that model. The Company *did* submit an NPV related to the **Tree Trim Risk Prioritization Model** and submitted it as part of Case U-21297. [Exhibit AG-60, p 10. Emphasis in original.]

The remainder of the AG's discussion similarly pursues an unfounded theory about LiDAR technology, where even witness Coppola did not raise such a claim, and the Company has repeatedly attempted to correct the AG's apparent misunderstanding.

MNSC's Initial Brief, pp 105-106, and 149-50, reflects CUB-MN witness Denzler's suggestion that the Commission require the Company to perform an audit/review of the Tree Trim Risk Prioritization model to measure its accuracy and compare it to alternative models. The Company disagrees because it has already invested in the current model, which provides benefits to customers. The suggested additional investment would not be prudent. Instead, the Company is prioritizing using and testing the existing model (Steudle, 6T 3022-23).

MNSC's Initial Brief, p 150, responds that "the Commission should be concerned" with the Company's use of the model, and "[t]his dovetails with Mr. Alvarez' concerns about the Company falling behind the 5-year trim cycle." To the contrary, the model has been developed over some time and provides benefits. [66] There is also no basis for any inference that the Company neglects

[66] The Company developed a risk-based, variable cycle model that leverages remote sensing data (e.g., LiDAR), advanced analytics, and machine learning to estimate the probability of vegetation-driven failures, and determine optimal trim cycles for an area. The model will also provide key improvements to the Company's annual planning and execution of its maintenance plan. The Company anticipates that risk-based cycles will yield a minimum of 5% savings annually during the initial transition to variable cycles. In this case, the Company seeks to recover an incremental $0.6M above the original $6.3 million investment in the risk prioritization model (as approved in Case No. U-21297) for a total project cost of $6.9M as shown in Exhibit A-12, Schedule B5.4, page 17, line 24 (Steudle, 6T 2987-91, 3006).

its tree trimming efforts, as indicated above and further detailed in the Company's Initial Brief and on the record.

The AG's Initial Brief, pp 63-64, reflects witness Coppola's recommendation that the Commission remove "$8.8 million in additional cost savings from the Company's forecasted O&M expense" due to savings from the surge (Coppola, 6T 3689). DTE Electric's Initial Brief, p 230, explained that the savings have already been accounted for.[67]

The AG does not respond, but instead jumps to a different topic without explanation or even identifying the topic (AG Initial Brief, p 64). The Company objects to the AG's confusing discussion but attempts to address the substance for the Commission's convenience.[68] The AG's new topic apparently is witness Coppola's recommendation that "the Commission reduce the Company's forecasted capital expenditures for 2024 and 2025 by $66.9 million and $59.6 million, respectively" based on calculated savings from tree trimming (Coppola, 6T 3616-17). DTE Electric's Initial Brief, pp 229-30, explained that this recommendation should be rejected because the Company already accounted for tree trimming savings by reducing the requested emergent capital by $20.8 million for 2024, and $21.4 million for 2025 (Steudle, 6T 3001; Exhibit A-12, Schedule B5.4, page 1, line 6). The Company also explained, among other things, that the Exhibit A-22 Tree Trim Surge model relied on by witness Coppola used 2018-2020 as a baseline, but the

[67] Ms. Steudle explained that the $8.8 million is the net difference of the total calculated O&M savings ($17.6 million) and what was included in Exhibit A-13, Schedule C5.6 ($8.8 million). The $8.8 million difference represents the cost savings for the Tree Trim reactive line item. These costs are included in Exhibit A-22, Schedule L1, line 22, so the savings between the historical year and the projected test year are already accounted for (Steudle, 6T 3020).

[68] There is no requirement for the Commission to attempt to unravel the AG's arguments and consider such matters. Courts have repeatedly recognized, for example: "It is not sufficient for a party 'simply to announce a position or assert a claim of error and then leave it up to this Court to discover and rationalize the basis for his claims, or unravel and elaborate for him his arguments, and then search for authority to sustain or reject his position.'" *Wilson v Taylor*, 457 Mich 232, 243; 577 NW2d 100 (1998), quoting *Mitcham v Detroit*, 355 Mich 182, 203; 94 NW2d 388 (1959). *See also*, *Gross v General Motors Corp*, 448 Mich 147, 161-62, n 8; 528 NW2d 707 (1995) ("Failure to properly brief an issue on appeal constitutes abandonment of the question"); *Isagholian v Transmerica*, 208 Mich App 9, 14; 527 NW2d 13 (1994).

Exhibit A-12 Reliability Model relied on by the Company used 2018-2022 to account for more recent actuals. Additionally, the Company's Reliability Model accounted for system degradation, whereas Exhibit A-22 does not. Thus, Exhibit A-12 appropriately accounts for the emergent capital savings arising from the Tree Trim program using the most accurate and current data available, and the AG's proposal for an additional disallowance is unjustified (Steudle, 6T 3004).

The AG responds by asserting that "[i]n response to discovery [Exhibit AG-60, pp 1-2], the Company admits to providing conflicting information . . . If the Company cannot accurately determine which source is more accurate, that is a problem of its own making" (AG Initial Brief, p 64).

The AG's assertion is not accurate regarding the Company or the evidence. The AG also incorrectly describes the discovery response on which she purports to rely, which explains in part: "The purpose of providing Exhibit A-22 in this rate case is different than the purpose of the Reliability Model. Given these differences, some of the baseline data is different --- inherently these differences lead to outputs being slightly different between these two tools. . . . the reliability model uses a more recent baseline and therefore reflects the most current assessment of cost savings the Company forecasts from strategic investments in and around our grid" (Exhibit AG-60, pp 1-2).

DTE Electric's Initial Brief, p 231, reflects that the Company proposes the alternative of comparing circuits trimmed on the regular maintenance program (control group) to a subset of circuits that have been trimmed with all overhang removed in preparation for construction projects (test group) to understand the impact of potentially changing the trimming specification for Zones 2 and 3 (Steudle, 6T 2994-96). Staff's Initial Brief, p 188, indicates support for this proposal.

MNSC's Initial Brief, pp 147-49, reflects AG-MN witness Alvarez's recommendation that the Commission "order an independent audit of the state of DTE's overhead line rights of way every five years, commencing in 2025 or 2026" (Alvarez, 6T 3922). The Company disagrees as discussed previously (DTE Electric's Initial Brief, p 232).[69]

MNSC's Initial Brief, p 109, reflects AG-MN witness Alvarez's recommendation that the Commission "[r]equire DTE in its next rate case to identify the extent that it capitalized tree trimming costs in each program, each year, from 2021 through 2024" (Alvarez, 6T 3952). The Company already provides the capitalized costs associated with 4.8kV Hardening, which is the majority of tree trim capitalization costs, in the Tree Trim Annual Report (Steudle, 6T 3022). See also DTE Electric Initial Brief and Reply Brief section VIII. F. 1 (Tree Trimming Capitalization).

Ann Arbor's Initial Brief, p 31, suggests that the Company's tree trimmers should note tree damage specific to methane leaks and report it to Ann Arbor. The Company disagrees because this is beyond the scope of training provided in the Tree Trimming program and including it would require additional training and process development. The program should instead remain focused on the safe and efficient clearing of vegetation from around the Company's overhead infrastructure (Steudle, 6T 3023).

Therefore, the Commission should adopt the Company's tree-trimming requests and reject all contrary and additional proposals.

6. Community Lighting (Exhibit A-13, Schedule C5.6, line 23)

DTE Electric's Initial Brief, pp 233-34, explained and supported Community Lighting O&M expenses.

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[69] The additional audit would be redundant to existing activities that are more efficient and effective. The Commission previously adopted Staff's recommendations regarding tree-trimming audits (inspections) and an analysis of more aggressive trimming in Zones 2 and 3 (December 1, 2023 Order in Case No. U-21297, p 353). Ms. Steudle explained that the tree trimming program includes auditing (inspections), and explained the nature of those inspections. The Company also supports the continued submission of the Tree Trim annual report, and submits monthly data as part of the requested reliability data to Staff (Steudle, 6T 2993-94, 3021-22).

MI-MAUI's Initial Brief, pp 21-23, reflects witness Bunch's proposal that the Commission "disallow any recovery of [post] inspection and painting costs in the test year" based on a narrow comparison indicating that the Company spent less than what the Commission approved in 2022 and 2023. The Company maintains that the Commission should deny MI-MAUI's proposed disallowance (or conversely approve total O&M spend) because the actual combined spend for post inspections, post painting and net outage O&M shows that the Company under collected for both 2022 and 2023 compared to what the Commission approved (Bellini, 6T 3146, 3160-62).

MI-MAUI's Initial Brief, pp 23-24, reflects witness Bunch's recommendation that the Commission "order the Company to file as part of their next rate case a report on actual costs with amounts recovered in rates, looking back five years" (Bunch, 6T 4315-16). The Company maintains that isolating specific areas of Commission-approved spend to actual spend can be misleading. Company projections are snapshots in time based on information available at that time. There will be variances, both higher and lower when actual costs are incurred (Bellini, 6T 3161-62).

7. Customer Service, including Merchant Fees (Exhibit A-13, Schedule C5, line 7; Schedule C5.7)

DTE Electric's Initial Brief, pp 234-36, explained and supported the actual and projected O&M expenses for the Customer Service organization.

The AG's Initial Brief, pp 65-67, reflects witness Coppola's proposal for a $3,474,000 disallowance of non-residential merchant fees, asserting that "[n]onresidential customers, which consist primarily of small to medium size commercial and industrial businesses, have more options and sophistication than residential customers to pay their gas and electric bills through other less costly means, such as Electronic Funds Transfer (EFT) and Automatic Clearing House (ACH)." (Coppola, 6T 3690). The Company disagrees as discussed previously (DTE Electric Initial Brief, pp 235-36).

The AG responds by asserting that in response to a discovery response, "DTE clarified that its 2023 actual merchant fee expense were $4.053 million and the forecast in the projected test year is $4.09 million. This projected increase directly refutes Ms. Bennett's supposition that DTE's mitigation efforts are decreasing non-residential merchant fees" (AG Initial Brief, pp 65-66, citing Exhibit AG-49, p 3).

The AG does not accurately characterize the Company's position and disregards history. The Company implemented two mitigation policies in Case Nos. U-20162 and U-20561 that reduced merchant fees prior to her referenced time period. In 2019, the Company began mitigating merchant fees with a rate blocking policy for large commercial and industrial customers. In 2021, the Company further limited credit card usage for customers with over $75,000 in annual usage (Bennett, 6T 1981, 2017. See also, Exhibit AG-46, p 2).

After essentially eliminating large customers as indicated, the Company believes that the 54,000 non-residential customers that utilized a credit card payment last year are largely small business customers that often utilize credit cards to run their businesses, and that might not use other tools like EFT. The National Small Business Association also indicates that approximately 37% of small businesses have used credit cards over the past 12 months to meet their capital needs, which suggests that facilitating credit card use for small businesses is a meaningful part of maintaining business customer satisfaction and financial flexibility (Bennett, 6T 2017).

Staff proposes a $1,231,000 reduction based on 2023 (Staff Initial Brief pp 93-94). The Company agrees.

8. Uncollectible Accounts Expense (Exhibit A-13, Schedule C5, line 8; Schedule C5.8)

DTE Electric's Initial Brief, p 236, reflects that the Company originally projected $50.9 million of uncollectible expense, but now supports $47.0 million consistent with the AG's proposal (See also AG Initial Brief, pp 67-68).

Staff's Initial Brief, pp 94-95, maintains Staff's $41,029,000 proposal ($9,841,000 less than the Company's original request) based on the use of existing revenue instead of projected revenue, and excluding PSCR revenue (Rueckert, 6T 4991-92). The Company maintains its disagreements, and that the Commission should instead use the previously approved methodology of a three-year average of net write-offs to revenues, updated to include 2023 in the three-year average, as AG witness Coppola did resulting in a $47.0 million projection.

MI-MAUI's Initial Brief, pp 25-39, reflects witness Bunch's assertion that the requirement for cash-only payments for some customers increases uncollectible expense (so the Commission allegedly should disallow 1% of the uncollectible expense) and proposes that the Commission should restrict DTE Electric's ability to require cash payments from customers whose payments are dishonored or returned, and to change the tariff language that allows this practice.

The Company disagrees regarding the uncollectible expense propositions because they are unfounded, and the cash-only policy serves as a proactive measure to curb the escalation of arrears resulting from returned payments. The Company disagrees with the additional propositions because section C4.6 of the Company's rate book for electric service is a longstanding and appropriate provision (Sparks, 2396-20). The Company also complies with the billing rules (Sparks, 6T 2396), as even MI-MAUI's Initial Brief, p 32, essentially acknowledges ("the rules provide no explicit prohibition against imposing a cash-only payment for customers"). MI-MAUI's attempt to escape from this dispositive point by "negative implication" fails because, for example, the proposed prohibition is still not there, and it would be improper to impose a restriction that is not there. [70] Thus, MI-MAUI's proposal essentially boils down to a proposal to change the rules. Even if there were a basis to change the rules (which there is not), this is not a proper forum to do so.[71] It would also be improper for the Commission to order the Company to not do something that is allowed by the rules. [72]

9. Regulated Marketing (Exhibit A-13, Schedule C5, line 9; Schedule C5.9)

DTE Electric's Initial Brief, p 237, generally explained and supported the Company's Regulated Marketing O&M expenses.

Staff proposes a $292,000 reduction based on utilization of a 2023 base year. (Staff Initial Brief p. 96) The Company disagrees. DTE Electric's Initial Brief, p 237, explained and supported the Company's Regulated Marketing O&M expenses. The Company utilized a 2022 test year and Witnesses Uzenski and Foley fully supported the appropriate inflation rates so arguments to utilize 2023 as a historical base year and disregard inflation should be rejected (Foley, 2T 172–178; Uzenski, 6T 1466, 1496-97)

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[70] *Farrington v Total Petroleum, Inc*, 442 Mich 201, 210; 501 NW2d 76 (1993).

[71] *In re Public Service Commission Guidelines for Transactions Between Affiliates*, 252 Mich App 254, 267; 652 NW2d 1 (2002)

[72] See for example, *In re Complaint of Consumers Energy Co*, 255 Mich App 496, 501; 660 NW2d 785 (2002); *DeBeaussaert v Shelby Twp*, 122 Mich App 128, 130; 333 NW2d 22 (1982) ("Once an agency has issued rules and regulations to govern its activity, it may not violate them"); *Bohannen v Sheridan-Cadillac Hotel, Inc*, 3 Mich App 81, 82; 141 NW2d 722 (1966) ("When an administrative agency promulgates a rule for the benefit of litigants and then deprives a litigant of this right, it is a violation of both the 1908 and 1963 Michigan Constitutions").

10. Corporate Support (Exhibit A-13, Schedule C5, line 10; Schedule C5.10)

DTE Electric's Initial Brief, p 237, reflects that the Corporate Staff Group's (CSG) O&M expenses for Administrative and General (A&G) services (excluding employee benefit costs, and after rate case adjustments and normalizations) as allocated to DTE Electric were $183.4 million for the 2022 adjusted historical test year, and are expected to increase to $198.2 million for the 2025 projected test year. The Company utilized a 2022 test year and Witness Uzenski fully supported the appropriate calculation so arguments to utilize 2023 in the calculation should be rejected. (Uzenski, 6T 1512) (AG Initial Brief, p 68) (Staff's Initial Brief, pp 96-97)

i. IT O&M Disallowances

DTE Electric's Initial Brief, p 238, explained that to the extent that the Commission may decide to disallow IT capital projects, the related O&M must be reduced by the amount not applicable to DTE Electric. Staff's Initial Brief, pp 100-101, agreed by reducing Staff's originally proposed $2.5 million O&M reduction to $1.828 million. Hence, there appears to be no disagreement regarding this issue.

ii. Corporate Memberships

DTE Electric's Initial Brief, pp 238-41, reflects that the Company acquires and maintains corporate memberships that help in its mission to provide safe, affordable, and reliable energy.

DAAO's Initial Brief, pp 72-80 opposes the Company's recovery based on various assertions by witness Koeppel. The Company previously explained in detail why DAAO's propositions are contrary to the record and otherwise lack merit. Therefore, the Commission should again approve the Company's requested recovery of corporate membership expenses and reject DAAO's contrary and additional suggestions.

11. Pension and Benefits (Exhibit A-13, Schedule C5, line 11; Schedule C5.11)

DTE Electric's Initial Brief, p 241, reflects that the Company projects $103.59 million in employee pension and benefits costs. After adjustments for the portion of these costs capitalized, transferred and eliminated as being related to separate surcharge programs, this results in a net employee pension and benefits O&M expense of $84.259 million for the projected test year (Hooper, 6T 2943; Exhibit A-13, Schedule C5.11, line 31).

i. Pension

DTE Electric's Initial Brief, pp 241-43, explained how the Company developed its projected pension expense, and that the Commission should continue the Company's pension deferral mechanism. There appears to be no dispute.

ii. Other Post-Employment Benefit (OPEB) Expenses

DTE Electric's Initial Brief, pp 243-44, explained that the Company's OPEB costs are projected to increase from a negative $36.661 million in the 2022 historical test year to a negative $14.459 million in the 2025 projected test year, or negative $8.395 million, inclusive of the effects of costs capitalized and transferred. The Company also proposes the continued deferral of the negative net OPEB expense consistent with prior treatment. There appears to be no dispute.

iii. New Hire VEBA Expense

DTE Electric's Initial Brief, pp 244-45, reflects that the Company's New Hire VEBA expense is expected to increase from the normalized 2022 historic test year expense of $7.707 million to $9.847 million in the projected test year. There appears to be no dispute.

iv. Employee Savings Plan (ESP)

DTE Electric's Initial Brief, pp 246-47, explained and supported the Company's Employee Savings Plan (ESP) expense for the projected test year of $37.406 million.

Staff's Initial Brief, pp 102-103, instead maintains Staff's projection of $29.547 million ($7.859 million less than the Company's projection). The Company previously explained that Staff's use of 2023 ESP expense as a starting point is improper because the Company capitalized an abnormally high proportion of ESP costs in 2023 which is not anticipated to reoccur (Uzenski, 6T 1575; Fix, 6T 2908).

Staff's Initial Brief, p 103, responds, without support, that "[i]t is Staff's position that 2023 capitalization changes should be included in forecasts to the benefit of the Ratepayer." The Company disagrees, because as indicated previously and above, 2023 capitalization was abnormally high, skewing the projections and therefore it would be improper to include that in forecasts as Staff suggests.

It is worth noting that both the Staff and AG properly used the 2022 proportion of Active Healthcare costs capitalized rather than the 2023 proportion in their development of the Company's Active Healthcare cost projections (Fix, 6T 2908, Hooper 6T 2951). Staff has provided no basis for the use of the 2023 proportion of costs capitalized for ESP costs while appropriately using the 2022 proportion of Active Healthcare costs capitalized. For that reason, the Company also developed an alternative using the proportion of ESP costs capitalized in 2022 rather than the 2023 proportion, which is consistent with the Staff's use of the 2022 proportion of Active Healthcare costs. Exhibit A-35, Schedule Z2 updates Staff Exhibit S-15.4 by using the 2022 percentage of ESP expensed (60.4%) instead of the 2023 percentage (54.6%), resulting in adjusted 2023 expense of $2.901 million. Exhibit A-36, Schedule AA5 then uses this starting point and escalates it by 4.06%

(as Staff did) resulting in a 2025 ESP expense of $32.688 million (a $3.141 million increase to Staff's projection). (Fix, 6T 2908-2909).

v. Active Healthcare Benefits

DTE Electric's Initial Brief, pp 247-52, explained that the Company's costs to provide benefits to its active employees largely concern health care and are projected to increase from $50.126 million in the historic test year, to $56.083 million in the projected test year.

Staff's Initial Brief, pp 103-104, maintains Staff's proposal of $53,749,000 (a $2,334,000 reduction from the Company's projection). The Company maintains its disagreement, and that if the Commission were to use Staff's methodology, then the methodology should be corrected, as the Company explained previously (DTE Initial Brief, pp 250-251).

Staff responds only regarding Staff's use of a one-time credit, asserting that "the onetime credit should be to the benefit of the Ratepayer" (Staff Initial Brief, p 104). Staff's reasoning is unclear, since there was no further explanation given. The record reflects, however, that Staff's methodology includes a one-time credit that the Company received in 2023 from its Pharmacy Benefit Manager (PBM), which reduced Active Healthcare costs by $1.134 million. This was a non-recurring item, so it should be excluded from both the starting point and the average annual escalation rate. By failing to exclude this, Staff is essentially presuming that it will reoccur in the projected test year, which is an unreasonable assumption. Additionally, this inclusion increases the starting point to $49.589 million, and the annual escalating rate to 5.11%, resulting in a projected Active Healthcare expense of $54.784 million, or an increase to Staff's projection of $865,000 (Hooper, 6T 2948; Exhibit A-36, Schedules AA1 and AA5).

The AG's Initial Brief, pp 69-70, reflects witness Coppola's projected Active Healthcare costs of $52.947 million (a $3.136 million reduction to the Company's projection). The Company maintains its disagreement, including its support for the recognition of the constant dollar adjustment and the use of projected healthcare trends, rather than historical annual changes, in the Company's Active Healthcare costs[73]., However, if the Commission were to use the AG's methodology, then it should be corrected, as the Company explained previously (DTE Initial Brief, pp 251-252).

The AG responds by acknowledging the Company's points, but then tempers that agreement, stating: "Normally, the AG would agree with Mr. Hooper's assertions that the 2023 actual healthcare expense should be used, along with the 5.11% average rate of increase from 2019 to 2023 and the $1.837 million adjustment proposed on page 7, line 11 of Mr. Hooper's rebuttal testimony [6T 2951]. However, in this rate case that adjustment is unwarranted. The Company undertook a significant workforce reduction in 2024, which in addition to reducing labor costs also reduced employee benefits, such as healthcare costs" (AG Initial Brief, p 70). The AG goes on to cite discovery responses (in Exhibit AG-45) as allegedly showing employee benefit savings in 2025.

The Company disagrees as any savings for 2025 at this time are speculative and subject to offset. Exhibit AG-45, p 3 explains for example: "Currently, DTE Electric estimates that up to $20.2 million in expense reductions could materialize in 2025, inclusive of both labor and employee benefits. This estimate will continue to evolve due to the need to fill many key roles. This savings estimate also does not include any offset of the program costs." See also DTE Electric Initial Brief and Reply Brief section XI. D, Voluntary Separation Incentive Program (VSIP), explaining that proposals to reduce the Company's O&M recovery based on the VSIP should be rejected as

[73] The suggestion in the AG's Initial Brief that Company Witness Hooper partially agreed with AG Witness Coppola's proposals misunderstands Witness Hooper's Rebuttal testimony. Witness Hooper clearly stated that he continued to support the projections as initially filed by the Company but wasn't going to repeat the arguments reflected in his Direct testimony (Hooper 6T 2949).

premature, unreasonable, and unlawful. Moreover, the AG is essentially double counting any possible savings from the VSIP related to Active Healthcare costs. While the Company disagrees with the inclusion of any potential savings, it is inappropriate for the AG to seek to include $10.1 million of potential savings from the VSIP and use the VSIP as a rationale for understating the Company's projected Active Healthcare costs through the use of an unreasonably low Active Healthcare escalation rate.

Therefore, the Commission should approve the Company's requested $56.083 million Active Healthcare expense. In the alternative, if the Commission were to instead calculate the expense using the Staff or AG approach, then the Commission should correct those calculations and adopt an Active Healthcare expense of $54.784 million, as indicated above and as further discussed in DTE Electric's Initial Brief.

vi. Other Employee Benefit Costs

DTE Electric's Initial Brief, pp 252-55, reflects the Company's Other Employee Benefits are projected to increase from $5.318 million in 2022 to $18.554 million in the projected test year.

The AG's Initial Brief, pp 71-72, reflects witness Coppola's proposed complete disallowance of the Company's projected $3.207 million Supplemental Savings Plan (SSP) expense. The Company previously explained that the AG's proposal should be rejected because Mr. Coppola's characterization of the SSP is inaccurate and neglects that the Commission has previously authorized the recovery of SSP costs (DTE Electric Initial Brief, pp 252-53).

The AG's response maintains her position, disregarding the evidence and claiming that past Commission decisions "should not be afforded any weight" (AG Initial Brief, p 72). To the contrary, the AG repeats an argument that was rejected previously, and nothing has changed to now cause these recoverable costs to become unrecoverable. Therefore, based on the record[74] and Commission precedent,[75] the AG's proposed disallowance should be rejected, and the Commission should approve the Company's requested $3.207 million SSP expense as it is reasonable, prudent, and is sufficiently supported in the record.

Staff's Initial Brief, pp 104-105, reflects Staff's proposal for a $1.344 million decrease to the Company's projected $2.395 million General Benefits expense. The Company previously explained that Staff's proposal has four flaws so it should not be used, and that if the Commission were to use Staff's methodology, then the methodology should at least be corrected (DTE Electric Initial Brief, pp 254-55).

Staff's Initial Brief, p 105, does not dispute the Company's specific criticisms, but instead focuses only on the changes in the proportion of costs capitalized. Specifically, Staff asserts that Witness Rueckert's use of the Annual Average Growth Rate (AAGR) considers changes in the proportion of costs capitalized because it uses the Company's actual recorded expense. However, it is the use of the historical expense by Staff, rather than historical costs, prior to the effect of the proportion of costs capitalized that is one of the problems with Staff's approach. That is, by measuring only the change in expense, which is distorted by the change in the proportion of costs capitalized, the annual percent change is therefore also distorted. To avoid this, a more accurate measure of changes in historical costs is to measure the annual average percentage change based on costs, prior to the reduction in proportion capitalized. While the Company maintains its support for the projected General Benefits expense reflected in its original filing, if the Commission is persuaded that the Staff's methodology should be adopted it should be corrected to reflect the

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[74] The Commission must base its decision on the record. Const 1963, art 6, § 28; MCL 24.285.

[75] An agency must act consistently with its prior orders, and cannot simply make *ad hoc* decisions to achieve different results. *In re Application of Michigan Consolidated Gas Co*, 304 Mich App 155, 173; 850 NW2d (2014).

approach presented by the Company on rebuttal and adopt a projected General Benefits expense of $2.239 million, as reflected on Exhibit A-36 Schedule AA5 and supported by Exhibit A-36, Schedule AA3, for the reasons set forth in the Company's Initial Brief (DTE Electric Initial Brief pp 252-55).

Staff's Initial Brief, pp 105-106, reflects Staff's proposal for a $2.588 million decrease to the Company's projected $7.296 million Benefit Administration Fees (BAF). The Company previously explained that Staff's proposal has two flaws so it should not be used, and if the Commission were to use Staff's methodology, then the methodology should at least be corrected (DTE Electric Initial Brief, pp 254-55).

One of the flaws is that Staff's projected BAF was distorted by one-time O&M reductions that the Company implemented in 2023 which increased the proportion of BAF costs capitalized. Staff responds only on this point, stating that "[i]t is Staff's position that Company actions reducing expenses should be to the benefit of ratepayers and included in future cases" (Staff Initial Brief, p 106). Staff's support for the use of the actual capitalization rate in 2023 for BAF is flawed because it presumes that the proportion of costs capitalized in 2023 will continue into the future. The record instead reflects that "[g]iven the financial challenges experienced by the Company in 2023, non-recurring reductions to O&M were made in 2023... The Company is returning to a more standard level of O&M in 2024 and beyond" (Uzenski, 6T 1575). Therefore, based on this and other record evidence, if the Commission is persuaded by the Staff's methodology, Staff's projections should be corrected for the use of the historical annual change in BAF costs rather than BAF expense and the proportion capitalized should be based on the 2022 percentages. These corrections result in a projected BAF expense of $5.372 million, as reflected on Exhibit A-36, Schedule AA5.

12. Employee Compensation

DTE Electric's Initial Brief, pp 255-62, explained and supported the Company's incentive compensation programs, and the Company's request to recover the $59.504 million net projected test period incentive compensation expense.

Staff's Initial Brief, pp 97-99, reflects Staff's proposal to exclude $39,232,000, representing the entire incentive compensation expense related to financial measures, acknowledging that "Staff does not dispute the overall reasonableness of employee compensation" and that Staff's position is based on Commission precedent (*Id*, pp 97-98). ABATE's Initial Brief, pp 44-46, and Ann Arbor's Initial Brief, pp 12-13, reflect a similar view of simply denying cost recovery based on decisions in prior cases. The Company previously explained why it disagrees, including a summary of the evidence supporting cost recovery, and upon which the Commission should base its decision (e.g., DTE Electric Initial Brief, pp 256-59).

Staff's Initial Brief, p 99, reflects that Staff further proposed the disallowance of $8,960,000 of Restricted Stock expense, asserting that "[t]he value of the awards granted is dependent on the DTE Energy Company stock price." To the contrary, the record demonstrates that the cost of the awards (value when paid) does not depend on the DTE Energy stock price. Company witness, Fix, explained that the LTIP has two components (Performance Shares and Restricted Stock). Performance Shares are granted annually as detailed on Exhibit A-21, Schedule K5, based on the achievement of performance objectives. In contrast, Restricted Stock is not conditioned on any Company performance measures, but instead is based exclusively on the number of shares granted on the date of the grant. The stock price is not used to measure the awards; instead, the stock is used as the form of payment to deliver the awards (like dollars, bitcoin or other methods of payment). The number of shares is simply adjusted depending on the stock price when the grant is paid (for example, two $10 shares are worth the same as one $20 share). The amount of payment is the same regardless of how it is paid. The method of payment does not somehow change the payment (which remains the same in amount) into a financial measure (Fix, 6T 2887-88.890-91).

The AG's Initial Brief, pp 73-76, reflects AG witness Coppola's proposals for the complete elimination of incentive compensation expense related to financial measures ($39.2 million), plus 52.6% of incentive compensation expense related to operating measures ($10.663 million), which totals $49.895 million (6T 3791). The Company previously explained why it disagrees with the AG's proposals, and maintains its position (DTE Electric Initial Brief, pp 259-60).

ABATE's Initial Brief, pp 46-47, reflects witness York's proposal for the exclusion of expense related to those operating measures that do not have a measurable net customer benefit (Customer Satisfaction and Safety) and to exclude the expense related to SAIDI including MEDs and CEMI4, totaling $9.539 million. The Company previously explained why ABATE's proposal is flawed, and maintains its position (DTE Electric Initial Brief, pp 261-62).

In summary, DTE Electric demonstrated that the customer benefits of its incentive compensation plans significantly outweigh their costs, and that the total compensation is reasonable in comparison to the Company's peers. Therefore, the Commission should approve DTE Electric's request to include all the Company's incentive compensation expense (except for the top five DTE Energy executives) in the revenue requirement adopted in this case.

D. Depreciation and Amortization, and AFUDC

DTE Electric's Initial Brief, p 263, explained and supported the Company's projected depreciation and amortization (D&A) expense for the projected test year, consisting of the originally-filed $1,266.2 million, revised by $1.4 million resulting in a revised projected D&A amount of $1,264.8 million, as indicated in section I of DTE Electric's Initial Brief. Based on the additional adjustments to net plant adopted by the Company, DTE Electric supports and requests

$1,264.6 million projected D&A expense and AFUDC of $56.0 million (Reply Brief Attachment A, page 3 of 4).

Staff's Initial Brief, p 106, proposes $1,253,406,000 due to Staff's proposed capital expenditure disallowances. The AG's Initial Brief, p 83, similarly adjusts depreciation expense based on the AG's proposed reductions in capital expenditures. Staff's and the AG's proposals should be rejected as discussed in DTE Electric's Initial Brief and this Reply Brief, with corresponding D&A effects. The Company's projected D&A expense of $1,264.6 million is reasonable and should be approved by the Commission.

E. Property and Other Taxes

DTE Electric's Initial Brief, pp 263-64, explained and supported $328.8 million of Property Tax expense and $53.2 million of Other Tax Expense for the projected test year. Staff's Initial Brief, p 104, recommends that the Commission adopt the Company's projected other tax expense, and notes that the Company "agreed with the methodology used by Staff to calculate the proposed property tax expense adjustment." That property tax calculation would only arise, however, to the extent the Commission orders a capital expense disallowance, which it should not do as discussed in DTE Electric's Initial Brief and this Reply Brief.

Company tax expert Wisniewski explained three reasons why AG witness Coppola's methodology for calculating property tax adjustments is incorrect (6T 2843-44). The AG's Initial Brief, pp 83-84, suggests that follow-up discovery "confirmed" how property tax is expensed, and that Mr. Coppola's methodology did that. To the contrary, the discovery response (Exhibit AG-63) only discussed how property tax liability is expensed over a two-year period, as further discussed in Ms. Wisniewski's testimony.[76] Mr. Coppola's methodology remains flawed, so to the extent there is any capital expense disallowance, the property tax expense adjustment should be calculated using Staff's methodology as indicated above.

F. Income Tax Expenses

DTE Electric's Initial Brief, p 264-65, explained and supported a total income tax recovery of $169.2 million for the projected test year, consisting of a $107.8 million federal income tax (FIT) expense, a $58.4 million Michigan Corporate Income Tax (MCIT) expense, and a $3.0 million municipal income tax expense.

Staff's Initial Brief, pp 107-108, recommends $133,604,000 of FIT, and $69,557,000 of state and local taxes due to Staff's adjustments to the Company's revenues and expenses. Staff's proposed revenue and expense adjustments should be rejected as discussed in DTE Electric's Initial Brief and this Reply Brief, with corresponding tax effects.

VIII. OTHER REVENUE-RELATED ISSUES

A. Infrastructure Recovery Mechanism (IRM)

DTE Electric's Initial Brief, pp 265-73, explained and supported the Company's proposal to extend and expand the IRM that the Commission authorized in Case No. U-21297, and indicated that the Company is also agreeable to increasing the amount of capital authorized for IRM treatment in 2025 as a way to further increase the associated benefits.

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[76] The projected 2024 property tax liability is $313.8 million (Wisniewski, 6T 2834; Exhibit A-13, Schedule C7.1, column (c), line 54). The projected 2025 property tax liability is $349.7 million (Wisniewski, 6T 2835; Exhibit A-13, Schedule C7.1, column (e), line 56). Property tax *expense* is the amount of property taxes deducted for book purposes. Property tax *liability* is the amount of property taxes payable to local governments. The Company expenses its property tax liability over a two-year period, with the liability of each year being expensed 39% the current year and 61% the subsequent year. This two-year allocation methodology has been used for many years, and is generally based on the fiscal years of the various taxing jurisdictions to which property taxes are paid (Wisniewski, 6T 2828, 2833, 2836-37, 2844).

Staff's Initial Brief, pp 161-66, maintains Staff's position to not extend the IRM through 2026 and 2027. The Company previously explained why it disagrees, and maintains its position (DTE Electric Initial Brief, p 270).

ABATE's Initial Brief, pp 50-52, maintains ABATE's recommendation to only add a Year 3 (2026) for the existing authorized categories at a total investment of $275.0 million. The Company maintains its original position to extend the IRM though 2027 at the proposed investment levels. If the Commission does not find this appropriate, however, then the Commission should at least approve a one-year extension at the investment levels authorized previously for 2025 (IRM year 2). That is similar to ABATE's recommendation, and represents a better, more efficient path forward than allowing the IRM to lapse at the end of 2025. [77] It is also valuable for the Company to have clear visibility and certainty of the work it can execute in a specific year well in advance of project execution, so that it can procure the appropriate resources, obtain necessary permits, and otherwise ensure efficient and timely execution (Foley, 2T 155-56, 158). Since this is essentially ABATE's recommendation, MNSC is incorrect in characterizing it as "DTE's ham-handed attempt to pivot at the end of this case" where "other parties have not had a chance to introduce their own testimony" (MNSC Initial Brief, p 211).

Walmart's Initial Brief, pp 6-8, and MNSC's Initial Brief, p 212, oppose the Company's proposal based on general opposition to riders/IRMs. The Company disagrees, incorporating its prior discussion (e.g., DTE Electric Initial Brief, p 271), and emphasizing that the IRM already exists and is largely based on the DTE Gas IRM that the Commission referenced in Case No. U-

[77] Although Staff does not support extending the IRM, "Staff supports modifying the scope of '4.8 kV Circuit Automation' to 'Distribution Automation' after the conclusion of IRM Plan Year 2" (Staff Initial Brief, p 166).

20836.[78] Various philosophical arguments opposing IRMs have been repeatedly found unpersuasive.[79]

Walmart's Initial Brief, p 9, also recommends that if the Commission approves extending the IRM, it should require the Company to file a base rate case at the earliest possible date when assets can be included in the Company's test year. The Company previously explained that Walmart's recommendation should be rejected because existing processes already address Walmart's indicated concerns (DTE Electric Initial Brief, p 272).

MNSC's Initial Brief, pp 198-214, also attempts to suggest that the Company's proposal was somehow ill-conceived based on internal Company communications reflecting how the proposal evolved before it was filed in this case. Instead, as Company witness Foley explained, the "IRM provides a lot of benefits to our customers, to the Commission Staff, to intervenors in our

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[78] The Commission stated:

> The Commission cannot stress enough its expectation that DTE Electric will invest the amounts approved for strategic capital investments and not shift them to other categories such as emergent replacement and other reactive spending. As such, **the Commission may be willing to consider a long-term investment recovery mechanism (similar to the Infrastructure Recovery Mechanism for the gas Main Renewal Program first approved in the April 16, 2013 order in Case No. U-16999) to ensure that the spending included in rates for strategic capital improvements—including the ultimate conversion of DTE Electric's distribution grid—is spent for these purposes, and to provide greater long-term certainty on recovery of reasonable and prudent costs related to these strategic distribution grid investments.** The Commission expects that DTE Electric will include in any such proposal a full description of costs and benefits, as well as associated timelines. [Case No. U-20836 Order dated November 18, 2022, p. 77. Emphasis added.]

[79] The DTE Gas IRM began when the Commission approved DTE Gas's recovery of 2013-17 IRM capital investments for the Meter Move Out Program (MMO), the Main Renewal Program (MRP), and incremental MRP and Pipeline Integrity (PI) investments (April 16, 2016 Order in Case No. U-16999). The Court of Appeals affirmed this decision. *In re Application of Michigan Consolidated Gas Company to increase rates*, unpublished opinion per curiam of the Court of Appeals, issued December 11, 2014 (Docket Nos. 316141 and 316263) (2014 WL 7003882). The Commission approved additional infrastructure investments as part of an expanded IRM for 2016 and 2017 (November 23, 2015 Opinion and Order in Case No. U-17701), and authorized additional spending of $102.1 million in 2016, and $127.6 million in 2017 through 2021 on IRM programs, as well as flexibility in spending among the programs (December 9, 2016 Order in Case No. U-17999, pp 52, 67). In DTE Gas's next rate case, the Commission approved additional capital expenditures, including funding to further expand and accelerate infrastructure replacement (September 13, 2018 Order in Case No. U-18999, pp 21, 26, 32-33). Most recently, the Commission again approved additional funding for the DTE Gas IRM and rejected anti-IRM arguments (December 9, 2021 Order in Case No. U-20940, p 172).

rates cases . . .[and] those benefits grow as IRM authorization grows" (2T 202. See also, p 203-204, 249), and the IRM expansion proposal was collaboratively developed among various groups and other experts within the Company to produce a reasonable proposal that could be executed (2T 195, 225, 235, 242). Contrary to MNSC's characterization, the Company's internal communications demonstrate that it considered many different options, consulted various internal experts, and spent significant time aligning on what it believed to be the best proposal to put forth in the current case. The fact that the Company refined its thinking in the months leading up to the filing is simply a product of the careful consideration that went into the Company's proposal. Simply put, the presently approved IRM provides value as recognized by the Commission, but greater benefits will be provided if the IRM authorization was expanded and extended. This was a guiding principle when developing the Company's proposal, and it should inform the decision whether to approve it. MNSC's attempts to suggest other motivations are simply distractions that add nothing to a reasoned analysis.

Therefore, and as further discussed in DTE Electric's Initial Brief, the Company's proposed Distribution IRM extension and expansion is supported by substantial evidence and should be approved along with the Company's proposed IRM surcharges included in Exhibit A-33, Schedule X7.

B. Storm Restoration Cost Sharing Mechanism (SRCSM)

DTE Electric's Initial Brief, pp 273-79, explained and supported the Company's proposed SRCSM.

Staff's Initial Brief, pp 189-91, maintains Staff's lack of support for the SRCSM. The Company maintains that its proposed SRCSM is justified as discussed previously (DTE Electric Initial Brief, pp 275-76).

MNSC's Initial Brief, pp 214-20, opposes the SRCSM, largely based on CUB-MN witness Denzler's assertion that the SRCSM "skews the share of risk significantly in favor of the Company, at the expense of ratepayers" (*Id*., p 216, citing 6T 3769). To the contrary, storm restoration O&M costs are uncertain and volatile as discussed previously. The SRCSM would protect both customers and the Company through the equal sharing of costs that deviate from projections (Foley, 2T 129, 167-68). DTE Electric responded to further assertions made by Mr. Denzler in the Company's Initial Brief, pp 276-77.

In its Initial Brief, MNSC relies on the testimony of CUB-MN witness Denzler to suggest that the Company is attempting to shift risk onto customers while claiming storm events and expense are trending upward (MNSC Initial Brief, pp 219-20). MNSC attempts to describe the Company's position as boiling down to a claim that if storm expense is trending up, then the higher it gets the more probable it is that the SRCSM will produce a credit to customers in the future, even if such a credit is unlikely now (MNSC Initial Brief, p 220). However, MNSC's characterization of the SRCSM's mechanics remains flawed, particularly because it neglects that restoration O&M expenses are calculated based on a five-year trailing average (as discussed previously). Thus, for example, if a year's storm restoration expense turns out to be higher than the base amount, then the Company would recover 50% of the difference from customers. Going forward, however, that higher year would increase the base (by being included in the five-year average), increasing the likelihood of actual expenses being less than the amount authorized for recovery going forward, in which case the Company would return 50% of the difference to customers.

Ann Arbor's Initial Brief, pp 21-25, opposes the SRCSM based largely on witness Stults' contentions. The Company previously explained why Ann Arbor's contentions lack merit and relevance, and maintains its positions (DTE Electric Initial Brief, pp 277-78).

Ann Arbor responds by asserting that its concerns are reinforced by the Company's alleged "failure to address" a concern indicated by Staff (Ann Arbor Initial Brief, p 22). To the contrary, as reflected by DTE Electric's Initial Brief, p 54, n 41, and Staff's Initial Brief, p 189, the Company agrees with Staff's recommendation (Duell, 6T 5147) to improve descriptions of the work performed under Emergent Replacements Storm (Hill, 6T 3087).

Ann Arbor's Initial Brief, pp 23-25, further asserts that projected storm restoration expenses should be reduced to account for the amount that allegedly could have been prevented by tree trimming. This proposition disregards the evidence in this case, as well as historical facts reflected in numerous cases, as discussed in section VII. C. 5 of DTE Electric's Initial and this Reply Brief.[80]

Therefore, the proposed SRCSM should be approved, and contrary and additional proposals should be rejected.

C. Electric Vehicle Pilots - Charging Forward

DTE Electric's Initial Brief, pp 279-81, discussed Charging Forward's history, and outlined the costs for various Charging Forward programs and pilots.

1. Transportation Electrification Plan (TEP) Proposal

DTE Electric's Initial Brief, p 281, outlined Case Nos. U-20836 and U-21297 leading to the Company's Transportation Electrification Plan (TEP).

[80] Recounting briefly, after Michigan's 2013 ice storm left tens of thousands of customers without power and demonstrated that historic tree trimming practices were insufficient, the Commission recognized that trees are the primary cause of power outages, and that DTE Electric was fully spending its allocated funding for vegetation management to prevent such outages. (Case No. U-17542 Order dated May 2, 2014, p. 16; Case No. U-17542 Order dated December 4, 2014, pp. 4-5). Therefore, DTE Electric began investing in a new Enhanced Vegetation Management Program (EVMP, now re-named the Enhanced Tree Trimming Program or ETTP), which essentially removes vegetation in a clearance corridor rather than the historic clearance circle around DTE Electric's lines and equipment. The new process, including its progress and results, have been reviewed in subsequent cases where O&M and surge funding have been approved (See generally the background discussion at DTE Electric Initial Brief, pp 217-18).

2. Background and Approach

DTE Electric's Initial Brief, pp 281-84, reflects the development of Company's TEP. The Company appreciates the general support that it has received and agrees to provide additional information and consider various proposals (Bennett, 6T 1993-96, 2006, 2009-11).[81]

MEIU's Initial Brief pp 4-6, reflects witness Sherman's suggestion that the Company's EV adoption forecast is likely too low. The AG's Initial Brief, pp 41-42, reflects witness Coppola's suggestion that the market for EVs is less than what the Company projects, so the Company need not make certain investments to accommodate future EV growth. The Company previously explained why its EV projections are supported by the evidence and otherwise appropriate (DTE Electric Initial Brief, pp 282-83).[82] CEO (Initial Brief, pp 31-32), EVgo (Initial Brief, pp 21-26), MEIU (Initial Brief, pp 29-31), and MNSC (Initial Brief, pp 19-21) also oppose the AG's proposed disallowances.

3. TEP Portfolio Proposal

DTE Electric's Initial Brief, pp 284-89, discussed the proposed TEP rebate programs (summarized at Table 9 at Bennett, 6T 1955).

Electrify America's Initial Brief, pp 9-11, reflects witness Davis' opposition to the 97% uptime requirements associated with DTE's Proposed on-route DCFC rebates, indicating concerns about the information being competitively sensitive. DTE Electric's Initial Brief, pp 285-86, explained that charger uptime has to be measured to ensure ratepayer funding is utilized most

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[81] Among other things, Company witness Bennett provided an update of the Charging Hubs pilot, and responded to Staff's request for additional information by agreeing to provide a Charging Hubs update in the Company's EV Annual Status Report (6T 1928-29, 1993-94). There appears to be no disagreement. The Company also appreciates ITC's support regarding the Charging Hubs pilot (ITC Initial Brief, pp 8-10, 14-16, 18).

[82] The AG's and MNSC's briefing do not appear to support AG-MN witness Stephens' recommendation for an independent expert analysis of EV adoption forecasts (Stephens, 6T 4006), and the Company previously explained why it strongly disagrees (DTE Electric Initial Brief, pp 283-84).

effectively, and the Commission previously adopted the 97% uptime standard (November 18, 2022, Order in Case No. U-20836, p 331).

Electrify America responds by "acknowledge[ing] that the Commission has previously required uptime data to be provided as a condition of receiving charger rebates" (Electrify American Initial Brief, p 10), but speculates that this might somehow become a problem. The Company maintains its position as discussed previously.

Electrify America (Initial Brief, pp 11-14), EVgo (Initial Brief, pp 9-20), and MEIU (Initial Brief, pp 25-27) propose to eliminate the requirement that public DCFC must be at "on-route" locations within one mile of a major throughway to qualify for a rebate and proposed instead to extend these rebates to all public DCFC locations. The Company disagrees as discussed previously (DTE Electric Initial Brief, p 286).

MEIU's Initial Brief, pp 21-23, reflects witness Sherman's proposal to set the income-qualified threshold for the residential customer rebates program at 400% of the federal poverty level. Ann Arbor witness Stults proposed 300%, but now Ann Arbor proposes 400% (Ann Arbor Initial Brief, pp 15-17). The Company previously explained, and maintains, that it set the income-eligibility threshold to 200% in response to stakeholders, and the Company does not deem it appropriate to modify the threshold without further participant data (DTE Electric Initial Brief, pp 286-87).

MEIU's Initial Brief, pp 23-24, reflects witness Sherman's further suggestion that customers should be allowed to attest to their income. The Company previously explained why it disagrees, and maintains its position (DTE Electric Initial Brief, p 287).

Staff's Initial Brief, pp 9, 12, reflects Staff's proposals to disallow $8,000,000 for the Business and eFleet Charger Rebates program, and $1,000,000 for the Residential Customer Rebate program. The Company disagrees as discussed previously (DTE Electric Initial Brief, p 288). CEO (Initial Brief, pp 31-32), EVgo (Initial Brief, pp 21-26), MEIU (Initial Brief, p 29-31), and MNSC (Initial Brief, pp 19-21) also oppose Staff's proposed disallowances.

MNSC's Initial Brief, pp 125-27, reflects witness Jester's recommendation that the Company "prepare a supplement to its Transportation Electrification Plan that addresses grid integration of electric vehicle charging by providing a forecast of load profiles at line transformers, circuit feeder origination at the substation, and generation when electric vehicle charging is combined with existing loads at various levels of electric vehicle adoption and by also providing an analysis of load net of renewable generation at various levels of electric vehicle adoption with Michigan attaining 50% renewables, 60% renewables, and 80% renewables" (Jester, 6T 3808-3809), plus "include full 8760-hour annual load profiles for electric vehicle charging amongst the metrics . . . ." (Jester, 6T 3815).

The Company maintains its disagreement due to challenges in data availability, data cleaning efforts, and potential misunderstanding of the data (DTE Electric Initial Brief, pp 288-89). MNSC responds by acknowledging that where data is unavailable, then the Company need not provide it (MNSC Initial Brief, p 126). The Company agrees because, of course, that would be impossible. MNSC goes on to suggest that the Company's further concerns could be addressed by the Company somehow manipulating the data. The Company disagrees, emphasizing that MNSC have the burden to prove their proposal, [83] and, whatever MNSC may have in mind, the challenges in data availability, data cleaning, data modifying, and potential misunderstanding are still manifest. The burden is unjustified for MNSC's vague and speculative suggestion of a possible benefit.

MEIU's Initial Brief, pp 27-28, reflects witness Sherman's recommendation to make rebates available to public Level 2 chargers. The Company maintains its disagreement as discussed previously (DTE Electric Initial Brief, p 289).

As indicated previously, the Company also decided not to waive CIAC beyond revenue credits from existing line extension policy, which aligns with feedback from stakeholders, and will

[83] *Kar v Hogan*, 399 Mich 529, 539; 251 NW2d 77 (1976) ("The party alleging a fact to be true should suffer the consequences of a failure to prove the truth of that allegation".

align the TEP with the Company's rate book.[84] Electrify America (Initial Brief, pp 7-8), MEIU (Initial Brief, pp 31-34), and MNSC (Initial Brief, pp 122-23) disagree. Staff's Initial Brief is unclear, stating that "Staff recommends that the Commission adopt the limits for CIAC waiver of residential charging as proposed by Staff and that limits for commercial charging waivers be further investigated" (Staff Initial Brief, p 134), but later stating "the Company's proposed EV CIAC waiver elimination should be approved" (*Id.*, p 149). The Company maintains its position as discussed previously (DTE Electric Initial Brief, p 289).

Furthermore, with respect to the various other arguments and suggestions to modify the Company's EV-related proposals (see by way of example and not limitation, EVgo Initial Brief pp 26-28; MEIU Initial Brief, pp 20-21) the Company is amenable to the following: (1) while the Company proposes to ensure uniformity in how income thresholds are treated across DTE programs, it is open to revisiting this decision with the next stakeholder meeting discussion, using the latest data from the current EV Income Rebates pilot. (2) modifying the proofs required to prove eligibility for multi-unit dwelling rebates to allow self-attestation if there are also other reasonable indications of legitimate charging demand. Some examples might include those identified by the Company in discovery response MEIUDE-2.4a, which is also Exhibit MEIU-21 (LSS-21). This would include tenant surveys, signed letters of interest from tenants, pre-commitments from tenants, documents from past requests for EV charging, or data on the number of tenants with EVs. (3) offering partial rebates to schools that do not utilize bi-directional chargers, and implementing a charger output capacity tier- based rebate approach similar to the existing Charging Forward eFleets Charger Rebates but otherwise maintains its original as-filed program proposals, opposes additional or contrary suggestions, and remains committed to implementation of the Company's TEP. (See generally Bennett, 6T 2007-11)

[84] The Company proposes to delete the Charging Forward CIAC waiver in section C6.1(16). (Bennett, 6T 1968; Willis, 6T 2614-15).

4. Benefit-Cost Analysis (BCA)

DTE Electric's Initial Brief, pp 189-91, reflects that overall, the TEP portfolio-level BCA has a net present value (NPV) revenue requirement of $56 million, which is conservative.

MEIU's Initial Brief, pp 3-19, reflects witness Sherman's criticisms of the Company's BCA alleging: (1) it is overly conservative in a number of its assumptions; (2) it incorrectly assumes a constant utilization rate over time for all types of chargers; and (3) it fails to account for societal benefits from transportation electrification. MNSC's Initial Brief, pp 123-25, suggests a similar view, and recommends that the Commission approve the TEP without endorsing the Company's BCA. CEO's Initial Brief, pp 32-33, indicates agreement with MEIU and MNSC, and seeks to expand rebates. Staff (Initial Brief, p 30) and ABATE (Initial Brief, pp 52-55) disagree with proposals that the BCA include societal benefits, with Staff's Initial Brief, pp 134-35 and 142-49, providing somewhat related discussions.

The Company maintains that its BCA is appropriate as discussed previously (DTE Electric Initial Brief, 290-91).

Staff's Initial Brief, pp 135-36, reflects Staff's proposal that customer-specific BCAs should be performed for fleet customers, and rebates should be allowed only for net positive BCAs. The Company maintains its disagreement, as discussed previously (DTE Electric Initial Brief, p 291). MEIU's Initial Brief, pp 19-20, also disagrees with Staff.

Electrify America (Initial Brief, pp 3-6), EVgo (Initial Brief, pp 3-4, 6-8), MEIU (Initial Brief, pp 37-40) and Walmart (Initial Brief, pp 9-10) propose that the Commission extend the Rate Schedule D3 demand charge holiday. The Company disagrees as discussed previously (DTE Electric Initial Brief, p 291). Staff similarly recommends to not extend the demand charge holiday (Staff Initial brief, pp 132-33).

Therefore, the Company's transportation electrification proposals and requested cost recovery should be approved, and additional and contrary recommendations should be rejected.

D. Advanced Customer Pricing Pilot (ACPP) and 2023 Full TOD Rollout

DTE Electric's Initial Brief, p 292, discussed the Company's requested ACPP cost recovery. There appears to be no dispute.

E. Outage Credits

DTE Electric's Initial Brief, pp 292-96, explained and supported the Company's proposal to recover credits paid for outages caused by events outside of the Company's control.

Staff's Initial Brief, pp 166-70, agrees in part, maintaining Staff's original position of agreeing with deferring the costs related to credits eligible for recovery, but proposing a more limited recovery than what DTE Electric proposed. MNSC's Initial Brief, pp 151-55, similarly supports only a recovery that is more limited than what the Company proposed. GLREA's Initial Brief, pp 22-25, ultimately "*slightly* revises and clarifies its original recommendation, to instead recommend that the Commission order outage credit recovery exactly as described in Staff's proposal" (*Id*. Emphasis in original). The Company maintains its original position, but believes Staff's recommendation is reasonable (Foley, 2T 148).

In contrast, DAAO's Initial Brief, pp 90-92, recommends that the Commission should not allow for any recovery of outage credits.[85] This recommendation should be rejected because it is contrary to the Commission's determination that "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 circumstances as developed in collaboration with the Staff" (February 2, 2023 Order in Case No. U-20836, p 367). Since the Commission has already decided

[85] Ann Arbor's Initial Brief, pp 9-11, suggests a similar viewpoint, but its only specific proposal is to deny the Company's proposal.

that some recoverability is appropriate, the focus should now just be on which credits are appropriate for recovery, as discussed previously and above.

DAAO's Initial Brief, pp 92-94, falls back to the position that the Company's recovery should not include credits for outages caused by animal or weather interference. The Company incorporates its response to other parties' positions suggesting limited recovery, as indicated previously and above.

DAAO's Initial Brief, pp 89-90, discusses outage credits and recommends that the Commission "reconsider establishing an hourly, progressive, automatic credit . . . in this case (*Id*., p 90). DAAO's real disagreement is with Case No. U-20629, where hourly credits were specifically contemplated during rulemaking and rejected in the Commission's September 28, 2023 Order. This is not a proper forum to dispute that Order. Moreover, Service Quality and Reliability Standards (SQRS) for electric distribution systems, and any credits to be paid to customers as a result of not meeting those standards, are established through rulemaking and not through general rate cases. DAAO's suggestion that "the Commission has the authority to update these rules" (DAAO Initial Brief, p 90) neglects that this is not a rule case, and DAAO threatens an illegal result to the extent that it suggests that the Commission should depart from its rules by ordering additional outage credits against the Company.[86] Therefore, DAAO's recommendation should be rejected.

[86] See for example, *In re Complaint of Consumers Energy Co*, 255 Mich App 496, 501; 660 NW2d 785 (2002); *DeBeaussaert v Shelby Twp*, 122 Mich App 128, 130; 333 NW2d 22 (1982) ("Once an agency has issued rules and regulations to govern its activity, it may not violate them"); *Bohannen v Sheridan-Cadillac Hotel, Inc*, 3 Mich App 81, 82; 141 NW2d 722 (1966) ("When an administrative agency promulgates a rule for the benefit of litigants and then deprives a litigant of this right, it is a violation of both the 1908 and 1963 Michigan Constitutions").

F. Accounting Issues

DTE Electric's Initial Brief, p 296, outlined the Company's accounting requests, which were largely discussed elsewhere, and the Company's request for approval to use accounts 182.3 and 254 to record any under/over recovery from the proposed storm restoration cost sharing mechanism (SRCSM). Any disputes are discussed, or implicitly included, in the topics discussed elsewhere.

1. Tree Trimming Capitalization

MNSC's Initial Brief, pp 106-14, reflects AG-MN witness Alvarez's assertion that "the only permitted capitalization of vegetation management spending is in the initial construction of a brand-new overhead distribution line. Any other capitalization of tree trimming expense is an unequivocal violation of the Michigan USOA" (Alvarez, 6T 3951), and recommendation that the Commission require that the Company do things including "in its next case to explain the legitimacy of its decision to capitalize tree trimming expenses for distribution capital programs" (Alvarez, 6T 3952).

DTE Electric's Initial Brief, pp 296-98, explained why Mr. Alvarez's accounting proposition and recommendation should be rejected.

MNSC responds by asserting that "[f]urther legitimizing Mr. Alvarez's concerns, DTE in discovery confirmed it has no 'comprehensive written policy' in regard to 'guid[ing] whether a tree trim expense is capitalized or expensed,' providing at least indirect support for the conclusion that the Company's capitalization policy may be haphazard in practice" (MNSC Initial Brief, pp 108-109, citing Exhibit MEC-126).

MNSC's attempt at "legitimizing" Mr. Alvarez's position fails and disregards context because the discovery response sets forth the standards that the Company applies to record tree trim expense into and among (1) capital, (2) O&M, and (3) regulatory asset categories. Thus, there similarly is no basis for MNSC's further proposition that the Company's tree trim capitalization "may be haphazard in practice." MNSC's unfounded speculation is not a sound basis for a decision, as discussed in section III of DTE Electric's Initial Brief and this Reply Brief.

The Company previously summarized Company accounting expert Uzenski's explanation of why Mr. Alvarez's interpretation of the Uniform System of Accounts (USOA) is flawed, and his characterization of Case No. U-17767 is inaccurate (DTE Electric's Initial Brief, p 297-98). MNSC responds that "[t]here are four flaws in the Company's logic" regarding the USOA, and the "Company's rebuttal related to U-17767 is unavailing" (MNSC Initial Brief, pp 110-13).

MNSC's attempt to present lawyer-crafted surrebuttal at pages 110-13 of its initial brief (and elsewhere) fails because the Commission must base its decision on the record.[87] MNSC does not support its new arguments with any evidence, so they should be disregarded as unfounded.

Moreover, MNSC acknowledges that it "raised this same issue in Case No. U-20836 and Case No. U-21297." Most recently, in Case No. U-21297, the ALJ disagreed with MNSC, noting that "it appears the company's accounting practice has been ongoing for a while" and that a decision on the matter would be better made after the audit of the Company's accounting practices is complete (Case No. U-21297 PFD, 701). The Commission agreed with the ALJ (December 1, 2023 Order in Case No. U-21297, p 281).

Thus, if MNSC had anything else to say about the matter, then it should have presented revised testimony or other new evidence as part of its direct case filing, and in accordance with its obligation to support its propositions.[88] Instead, MN-AG witness Alvarez rehashed the same arguments that MNSC witness Ozar made previously, to which the Company again (and

[87] Const 1963, art 6, § 28.

[88] *Kar v Hogan*, 399 Mich 529, 539; 251 NW2d 77 (1976) ("The party alleging a fact to be true should suffer the consequences of a failure to prove the truth of that allegation".

appropriately) provided essentially the same responses that it provided in past cases where MNSC's requested relief was denied.

Now, MNSC attempts to fault the Company for not providing a more expansive discussion and speculates about what might be said on issues that MNSC could have raised but did not. That approach cannot support a decision, and also raises due process concerns because the Company cannot present additional evidence to the new issues that MNSC now attempts to raise after the record was closed. [89]

The Company otherwise stands on its prior discussion. Therefore, MNSC's accounting position and recommendation on tree trimming capitalization should be rejected.[90]

2. Shared Assets

DTE Electric's Initial Brief, p 299, reflects that the Company forecasted $63.5 million of revenue from shared assets (such as building and IT), assuming the capital projects in this case are approved (Exhibit A-13, Schedule C3, line 14). If the Commission disallows a capital project that is for a shared asset, then for consistency it must also remove the revenue related to that asset from projected net operating income (Uzenski, 6T 1560, 1563-64; Exhibit A-36, Schedule BB1).

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[89] Michigan Const 1963, art 1, § 17 provides: "No person shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law. The right of all individuals, firms, corporations and voluntary associations to fair and just treatment in the course of legislative and executive investigations and hearings shall not be infringed."

Procedural due process essentially requires adequate notice and an opportunity to be heard. See generally, *Warren v Athens*, 411 F3d 697, 708 (CA 6, 2005).

Substantive due process requires an agency to act consistently with its prior orders. See, for example, *In re Application of Michigan Consolidated Gas Co*, 304 Mich App 155, 173; 850 NW2d (2014).

[90] AG-MN presented only an accounting-classification issue, and did not dispute the reasonableness and prudency of the tree trimming. If the Commission were to order that tree trimming costs associated with capital work must be expensed as incurred, then the Commission should provide a corresponding increase to O&M (Uzenski, 6T 1579).

IX. SUMMARY OF REVENUE DEFICIENCY AND REQUESTED RATE RELIEF

Based on adjustments identified by the Company after reviewing Staff's and other intervenors' positions and the full record in this case, DTE Electric supports and requests approximately $441.0 million in rate relief. See DTE Electric's Reply Brief, Attachments A and B.

X. COST ALLOCATION AND RATE DESIGN

A. DTE Electric's Cost of Service Study Supports the Company's Rate Design Proposals

DTE Electric's Initial Brief, pp 299-304, explained and supported the Company's proposal to allocate costs among its customers.

MNSC's Initial Brief, 186-90, reflects witness Jester's recommendation that the Commission "require that DTE Electric file in its next rate case an analysis of the seasonality for cost causation of distribution costs and distribution rate designs consistent with that seasonality" (Jester, 6T 3800), indicating that he relied on MNSC witness Woolley's proposition that transformer aging largely occurs in the summer (Jester, 6T 3795).

DTE Electric's Initial Brief, pp 302-303, explained why MNSC's recommendation should be rejected. MNSC does not respond directly, but instead suggests that the Company's position "appears to not have considered [this topic] in combination with creating residential subclasses for multi-family and electric heating customers," which MNSC then proceeds to discuss (MNSC Initial Brief, p 189). To the contrary, MNSC's additional proposal should also be rejected, as the Company explained previously (DTE Electric Initial Brief, pp 308-309), and further discussed below in section X. D (Residential Rate Design Proposals), following the order of the Company's Initial Brief.

ABATE's Initial Brief, pp 47-48, reflects ABATE's opposition to MNSC's seasonal approach to distribution rate design as flawed. MNSC does not disagree, but instead asserts that it just seeks additional information, to which ABATE can further respond in a subsequent case (MNSC Initial Brief, pp 189-90). The Company does not speak for ABATE, but from its own perspective, maintains that MNSC's proposal would impose burdens with no benefit, so it should be rejected as discussed previously.

Staff's Initial Brief, pp 117-19, reflects Staff's recommendation that allocator 255 (4 CP 75/0/25) be used to allocate purchased power capacity costs. DTE Electric's Initial Brief, pp 303-304, explained two points: (1) the Company instead proposes to continue allocating purchased power capacity costs using 4CP 100-0-0 demand less R10 (allocator 251) and purchased power energy using 0-0-100 energy less R10 (allocator 111); and (2) if the Commission agrees with Staff and changes the allocation to align the allocation of purchased power capacity with the current allocator for production plant using allocator 255 (4 CP 75-0-25), then it would be prudent to ensure consistency in the allocation of purchased power energy and fuel costs.

ABATE's Initial Brief, pp 48-50, opposes Staff's proposal and agrees with the Company on the first point.

Staff maintains its position, but agrees with the Company on the second point, stating: "However, Staff does agree with the Company that a reexamination of the appropriateness of the allocation of energy-related costs, particularly the 12 CP 10/0/90 allocator for fuel, is necessary. Both energy and fuel costs are directly energy-related and should be allocated based on energy" (Staff Initial Brief, p 119). While witness Maroun discussed fuel cost allocation in his rebuttal testimony, this was only in the hypothetical context of the Commission presenting an order in line with Staff witness Pung's proposal to align the allocation of purchased power capacity with the current allocator used for production plant. If the Commission did so, it would then be prudent to examine consistency across allocation of purchased power and fuel costs. However, without such a change from the Commission's previous orders, the Company sees no need to reexamine these allocations at this time (Maroun 6T 2796-7). Therefore, the Commission should order the continuation of purchased power capacity cost allocation using 4CP 100-0-0 demand less R10 (allocator 251) and purchased power energy cost allocation using 0-0-100 energy less R10 (allocator 111). In the alternative, if the Commission agrees with Staff to align the allocation of purchased power capacity with the current allocator for production plant using allocator 255 (4 CP 75-0-25), only then would it be prudent to ensure consistency in the allocation of purchased power energy and fuel costs as further articulated in the Company's Initial Brief pp 303-304.

B. Rider 10

DTE Electric's Initial Brief, p 304, explained why the Company disagrees with an R10 tariff proposal by ABATE witness Dauphinais that ABATE does not appear to pursue in briefing. Therefore, ABATE's proposed changes to R10 should be rejected.

C. State Reliability Mechanism (SRM) Capacity Charge

DTE Electric's Initial Brief, pp 304-307, discussed the Company's capacity charge revenue requirement ($973.7 million as reflected on Exhibit A-16, Schedule F1.5 Revised, line 11).

Energy Michigan's Initial Brief, pp 1-9, reflects witness Zakem's assertion that removing $260.787 million of fuel cost associated with power purchase agreements (PPAs) and Company-owned renewables would result in an SRM capacity charge of $159.21/MW-day. The Company previously explained why it disagrees (DTE Electric Initial Brief, pp 305-306). Staff's Initial Brief, pp 115-16, also indicates disagreement with Energy Michigan.

Energy Michigan's Initial Brief, pp 7-8, responds by asserting that the Company's testimony should be disregarded because it allegedly "fails to establish a basis for these costs to be treated as fuel." Energy Michigan neglects the Company's fundamental point that Energy Michigan's attempted focus on a narrow proposition, even if accurate, would ultimately be irrelevant because if the $260.787 million is not considered fuel, then this amount would be considered a capacity-related cost, resulting in the amount also needing to be removed from Exhibit A-16, Schedule F1.5, line 5. Thus, witness Zakem's recommendation would have no impact on the Company's as-filed $217.30/MW-day SRM capacity charge (Burgdorf, 6T 2347-49; Maroun, 6T 2781, 2795; Exhibit A-38, Schedule CC2). Energy Michigan also argues, without support, that some costs are neither fuel nor capacity. This does not make logical sense since all costs associated with generation assets need to be recovered and should be somehow incorporated as part of the SRM capacity charge calculation. Any customer that pays the SRM capacity charge is receiving the full benefit from the Company's generation, thus all costs need to be included and the simplest way is to categorize them as either fuel or capacity.

Energy Michigan's Initial Brief, pp 9-14, reflects witness Zakem's further suggestion that the Commission "could require that the SRM Capacity Charge also be determined by season" (Zakem, 6T 4177). The Company previously explained why it disagrees (DTE Electric Initial Brief, pp 306-307). Staff "agrees with the Company that the MISO seasonal Auction Clearing Price does not consider long-term resource adequacy needs nor the need for capacity demonstrations due to using only one Planning Year and should not be used to set the SRM Capacity Charge to the MW value of deficiency" (Staff Initial Brief, p 115).[91]

Energy Michigan's Initial Brief, pp 11-12, responds by suggesting that the Company's rebuttal should be disregarded because it allegedly "does not address Energy Michigan's actual proposal" (*Id*., p 12). The Company maintains that it properly responded to what Energy Michigan

[91] Staff's Initial Brief, pp 139-42, also disagrees with other claims by witness Zakem.

presented, further noting that Energy Michigan's additional discussion repeatedly asserting what Energy Michigan allegedly is "not" proposing makes no substantive difference. Energy Michigan also does not distinguish its current proposal from its similar proposal that the Commission previously declined to adopt (December 1, 2023 Order in Case No. U-21297, p 307).

Energy Michigan's Initial Brief, p 12, further asserts that "given the present MISO capacity obligations by season, an SRM Capacity Charge determined by annual analysis does not and cannot fit with the Cost-of-Service statute." The Company disagrees with Energy Michigan's suggestion that MCL 460.6w must be construed according to Energy Michigan's preferences. It is axiomatic that the Commission cannot re-write the Legislature's language to include new or different provisions.[92] Our Supreme Court has also recognized that, notwithstanding MISO, "the Michigan Legislature passed Public Act 341 to promote and ensure the long-term reliability of Michigan's electric grid" and that the Commission "is charged with ensuring the reliability of Michigan's grid for retail consumers throughout the state."[93]

Staff's Initial Brief, pp 136-139, conceptually discussed Staff witness Revere's Alternative SRM Calculation (Revere, 6T 4961-65), and presented the Alternative SRM Calculation for the Commission's consideration in this case. Staff's Initial Brief confirms that Mr. Revere did not calculate the Alternative SRM, and instead recommends that should the Commission find his proposed Alternative SRM compelling, the Commission should "require the Company to file a calculation consistent with that determination in their next general rate case" (Staff's Initial Brief, p 139, citing Revere, 6T 4965).

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[92] *Hanson v Mecosta Co Rd Comm'rs*, 465 Mich 492, 501-503; 638 NW2d 396 (2002). See also *In re Complaint of Rovas Against SBC Michigan*, 482 Mich 90, 98; 754 NW2d 259 (2008) ("agencies cannot exercise legislative power by creating law or changing the laws enacted by the Legislature").

[93] *In re Reliability Plans of Electric Utilities for 2017-2021*, 505 Mich 97, 114, 128; 949 NW2d 73 (2020).

The Company addressed Staff's Alternative SRM Calculation in its Initial Brief, p 307, and maintains that the Commission should not adopt Staff's proposal due to the lack of requisite details and possibilities for misinterpretation (Burgdorf, 6T 2351). Staff has not provided substantial evidence on the whole record to support adoption of its Alternative SRM Calculation. Staff suggests that the Alternative SRM Calculation will avoid pitfalls but did not provide a sample calculation to prove how it may fluctuate during high and low market prices. DTE Electric's capacity fleet is based on many diverse resources required to maintain grid reliability, and the Company disagrees with Staff's claim that the proper cost of capacity is the capacity to build a combustion turbine (CONE). Moreover, Staff witness Revere testified that the Alternative SRM Calculation reflects the methodology put forward by Staff in the initial round of SRM cases (Revere, 6T 4962). The Commission conducted a proceeding in Case No. U-18239 to establish a method for determining the SRM charge, in which Staff's Alternative SRM Calculation was already considered and rejected. If Staff wishes for the Commission to reverse its prior decision rejecting the Alternative SRM Calculation, it should petition to reopen the docket in Case No. U-18239.

Energy Michigan's Initial Brief, pp 17-20, requests that the Commission deny Staff's proposed Alternative SRM Calculation based on CONE. Energy Michigan agrees with Staff's critiques of the existing SRM capacity charge methodology but asserts that the optimal alternative is using the MISO Zonal Capacity Charge based on the MISO seasonal auction price (Zakem, 6T 4187-4210). Importantly, Energy Michigan did not request that the Commission adopt the MISO seasonal auction price for setting the SRM capacity charge in this case, nor provide an alternative calculation for the Commission's review on the record.

D. Residential Rate Design Proposals

DTE Electric's Initial Brief, p 307-309, reflects that Exhibit A-16, Schedule F3 shows the present and proposed rate designs and corresponding revenue by rate schedule.

MNSC's Initial Brief, pp 190-95, reflects witness Gard and Jester's proposal that the Company study separate single-family and multi-family cost-of-service classes and rate design, and separate electric space heating cost-of-service and rate design. CEO's Initial Brief, pp 15-16, agrees. The Company disagrees as discussed previously (DTE Electric's Initial Brief, pp 308-309). MNSC's Initial Brief, pp 193-95, consists of unfounded speculation and other rhetoric that adds nothing to a reasoned analysis, nor can it support a decision.[94] As the Company explains below, MNSC's Initial Brief essentially introduces new positions without any support in the record.

The Company previously explained that it has no ability to conduct MNSC's proposed study (Willis, 6T 2621-22), and even if the Company had the necessary data, there is no specific significance to single-family vs. multi-family or electric space heating as it concerns which usage drivers ought to be considered for their own cost-of-service class (Willis, 6T 2622-23). The only new evidence cited by MNSC (Exhibit MEC-125) simply confirms Mr. Willis' rebuttal testimony on the latter point. Therefore, and for the additional reasons that the Company discussed previously, MNSC's proposal should be rejected.

MNSC suggests that the Company's present knowledge of which residential customers are single family or multifamily, and which customers use electric heating (unless they are on the existing space heating rate) is "not the point" of the proposed study (MNSC Initial Brief, p 193). MNSC posits that the point of the proposed study is that it "warrants investigating these issues" and advises that "[a] good place to start is whether customer addresses contain an apartment or unit

[94] The Commission must base its decision on the record. Const 1963, art 6, § 28; MCL 24.285.

number, or just a street number." *Id*. MNSC's contention that whether DTE Electric currently has this knowledge is "not the point" confuses the record and ignores the evidence. As MNSC itself appears to acknowledge above, the Company explained in its rebuttal that the actual information required to conduct MNSC's proposed study does not exist (Willis, 6T 2621).

MNSC's Initial Brief, p 193, suggests that its proposed study is similar to EWR, but EWR rate design and cost of service are based on well-defined characteristics of total usage, customer count, and voltage. EWR ratemaking and cost of service do not rely on an interpretation of customer addresses, which MNSC suggests as the basis for distinguishing between single family and multifamily customers. MNSC's suggested approach is further complicated by its own proposals, such as "a Single-Family class should include duplexes and mobile homes since these appear to have similar load profiles." (Jester, 6T 3796). It is likely that many duplexes share street addresses and are distinguished by other address characteristics, rendering ineffective MNSC's proposed solution to the lack of requisite data.

MNSC also failed to establish that the distinction between single family / multifamily and heating source are uniquely important drivers of load characteristics sufficient to justify the proposed study. MNSC did not show any specific significance to single v. multifamily or electric space heating as it concerns which usage drivers ought to be considered for their own cost of service class. MNSC's reliance on the table of peak load characteristics by residential usage levels in Exhibit MEC-125, p 2, is telling because it disregards the core point of the Company's discovery response (MNSC Initial Brief, p 194). Namely, the Company's discovery response to MNSC in Exhibit MEC-125 shows that the distinction between single family / multifamily and heating source is not a uniquely important driver of load characteristics. The table referenced by MNSC was provided by the Company to illustrate this lack of uniqueness and included the clarification it was being shared "not to make the case that usage should be the basis for different cost of service classes, but rather to underscore that there is no specific significance to single v. multifamily or electric space heating as it concerns which usage drivers ought to be considered for their own cost of service class" (Exhibit MEC-125, p 2). As is evident from the table, the peak behavior characteristics are not homogenous across different usage levels (as usage goes up, the apparent load factor improves), but that does not mean it is appropriate to adopt usage as the basis for different residential cost of service classes or rate schedules (Willis, 6T 2622).

The Commission should reject MNSC's proposed study. Contrary to MNSC's Initial Brief, p 195, the Company has not asserted that the number of rate schedules should be fixed in perpetuity. However, MNSC has presented no evidence that DTE Electric's existing set of rate schedules is unreasonable or that MNSC's proposed study warrants further investigation.

Staff's Initial Brief, pp 125-26, addresses MNSC's proposed study:

> Staff does not necessarily take issue broadly with the proposal, but pointed out that electric heating customers are already separated in the COSS and have a different rate design than other customers. (6 TR 4908) It is unreasonable to only differentiate residential heating source for single-family but not multi-family dwellings. (6 TR 4909.) If, as witness Jester seems to imply, both heating source and the type of dwelling are major drivers of differences in the cost to serve customers then both variables should be studied under MNSC's proposal for future cost of service studies. For these reasons, if the Commission approves MNSC's recommendation that the Commission require the Company to file in its next case an alternative COSS that separates residential customers into multi-family, single-family with electric space heating, and single-family with fossil-fueled space heating that the Company further separate multi-family with electric space heating customers.

Notably, Staff provides no guidance or evidentiary support on how such an alternative COSS would be completed. Staff also fails to acknowledge the Company's threshold concern that, "the actual information required to conduct such a study does not exist" (Willis, 6T 2621). Staff's Initial Brief, p 126, goes on to state that, "MNSC witness David Gard recommended that the Commission require the Company to provide a 'robustly time-differentiated rate structure that is available to electric heating customers' (Gard, 6 TR 3831). However, MNSC witness Gard did not elaborate on what a "robust" rate design means." The fact that Staff points out that MNSC did not elaborate on what its proposed rate design means is yet another reason MNSC's proposal, or any variation thereof, should be denied because it is not supported in the evidentiary record.

CEO's Initial Brief, p 16, reflects CEO witness Kenworthy's agreement with witness Jester's recommendation but advocates for adoption of a further modified rate design (Kenworthy, 6T 3216). Instead of the one rate for multi-family dwellings proposed by witness Jester, witness Kenworthy advocates for the differentiation of multi-family dwellings by electric versus fossil-fueled heating and utilization of differing demand charges and volumetric charges for each class that reflect the ways in which they use the grid (Kenworthy Rebuttal, 6T 3217). For the reasons explained *supra*, CEO's proposal should likewise be rejected by the Commission. CEO witness Kenworthy's rebuttal testimony on this issue should also be disregarded because it constitutes improper rebuttal that was not given to contradict, explain or disprove evidence produced by the other party and tending to directly weaken or impeach that evidence.[95]

1. Rate Schedule D1.6 Transition and Closure

DTE Electric's Initial Brief, pp 310-11, explained and supported the Company's renewed proposal to (1) open Low-Income Assistance (LIA) credit availability to all residential base rate schedules, (2) transition D1.6 customers to D1.11, and (3) retire D1.6.

DAAO's Initial Brief, pp 68-71, reflects witness Koeppel's proposals that the Commission (1) reject DTE Electric's request to retire the D1.6 flat rate for low-income customers and transition all customers to the D1.11 TOU rate, 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. The Company previously explained why it disagrees (DTE Electric Initial Brief, p 311).

[95] See *Kirk v Ford Motor Co*, 147 Mich App 337 (1985); *app lv den* 426 Mich 866 (1986).

Staff's Initial Brief, pp 120-124, supports the Company's three proposals, noting among other things that DAAO witness Koeppel failed to mention that expanding the LIA credit to all residential rates would mean that existing Rate D1.6 customers would still receive the $40 per month credit on other rates (*Id*., pp 120-21), and that "[t]ransitioning customers from Rate D1.6 to Rate D1.11 would lower bills for more than half of those customers and provide the opportunity to lower bills for the remainder" (*Id*., p 123).

CEO's Initial Brief, pp 17-18, supports DAAO's proposals despite acknowledging that their own witness Kenworthy provided a preliminary analysis finding that nearly two-thirds (65.7%) of applicable customers would have been better off under the TOU rate (Kenworthy Rebuttal, 6T 3229). CEO further states that, "[i]mportantly, the magnitude of savings for those who were better off exceeded the rate increase for the remaining one-third" (CEO Initial Brief, p 18).

Even DAAO witness Koeppel recognized the primary conclusion of the Company's study that most customers would benefit from being on Rate D1.11 (6T 4406). Nonetheless, DAAO disregards the analyses supporting the transition to TOU rates in favor of speculation to suggest a need for further analysis with no apparent end point. The Company maintains that there is no reasonable basis for further delay or analysis, and requests that the Commission should adopt the Company's three proposals in this case (Willis, 6T 2592-93, 2627-31).

2. Energy Assistance Programs

DTE Electric's Initial Brief, pp 311-13, discusses the Company's energy assistance programs.

Staff's Initial Brief, pp 178-80, disagrees with the Company's proposal to increase the LIA credit from $40 to $50. The Company maintains its position, as discussed previously (DTE Electric Initial Brief, pp 311-12). Staff notes that the EAAC subcommittee is reviewing analysis and will recommend any LIA credit reforms to the Commission. While the Company is actively involved in these meetings, waiting for the subcommittee's recommendation is reactive and may not meet the legitimate needs of low-income households. Increasing credits now provides immediate relief while longer-term solutions are developed. Unlike proposals from NRDC-MEC Witness Colton (6TR 2390-92) and DAAO Witness Schott and Jacob's (6TR 2394-95), which suggest overhauling energy assistance programs or changing the Shut Off Protection (SPP) plan all of which require long term strategy and analysis, the Company's proposal to increase the LIA credit maintains the current structure of energy assistance program. The Company's proposal addresses the immediate needs of vulnerable customers and aligns with the original fiscal intent. Although DTE Electric remains committed to collaborative subcommittee work with interested parties, the Company's proposal to increase the LIA credit from $40 to $50 is the most reasonable and prudent option presented to the Commission for consideration in this case.

Staff's Initial Brief, pp 128-130, proposes edits to the LIA tariff language to better reflect the current administration of the credit. The Company does not oppose Staff's proposed changes.

Staff's Initial Brief, pp 75-83, reflects Staff's proposal to set the Residential Income Assistance (RIA) credit enrollment in the forecasted test year at 56,134 (instead of the Company's forecast of 83,000 with a corresponding revenue adjustment of $2,740,321) based on using a three-year historical average. The Company previously explained why it disagrees, including that Staff should have included the Company's 2023 RIA counts (DTE Electric Initial Brief, pp 112-13).

Staff's Initial Brief, p 80, argued that exclusion of 2023 RIA data was proper because of differences in what was reported in Company witness Sparks' testimony and what was reported in Part III Attachment 5(9). Staff further stated that it was unacceptable for the Company to report what it characterized as several different numbers for the same data in the same timeframe (Staff's

Initial Brief, p 80). Company witness Sparks made clear in his direct testimony, however, that the RIA customer counts he presented did not match exactly to Part III, because customer counts are billing period end of month snapshots and year end variances to Part III reporting due to timing (Sparks, 6T 2370). Furthermore, Company witness Sparks provided tables in rebuttal testimony showing the RIA customer counts per his direct testimony for 2020-2023 and the RIA customer counts per Part III for 2020-2022 to illustrate the differences between the two were minimal (Sparks, 6T 2387).

Staff's Initial Brief, p 81, asserts that LIHEAP funding levels are a predictor of RIA enrollment trends. However, as Mr. Sparks showed in his rebuttal testimony, the data presented in table 13 in Staff witness Braunschweig's testimony showed significant differences between LIHEAP funding levels and RIA enrollment, along with trends that were sometimes even directionally different (Sparks, 6T 2388). Furthermore, DTE Electric's systems automatically enroll customers who receive not only LIHEAP funding, but also Home Heating Credit (HHC) or one-time assistance. *Id*. Thus, Staff's testimony and evidence is not supportive that LIHEAP funding levels are a predictor of RIA enrollment trends.

Staff's Initial Brief, p 81, goes on to claim that Company witness Sparks did not provide evidence to support the position that some RIA recipients will not reapply, but the majority will remain due to auto enrollment and self-attestation (See Sparks, 6TR 2389). Staff cited to DAAO witnesses Watts and Jacob regarding claimed difficulties customers face with applying for assistance. Company witness Sparks supplied evidence directly refuting DAAO's claims that DTE Electric's low-income programs are difficult to understand and navigate (Sparks, 6T 2392-96). Company witness Sparks emphasized that DTE utilizes numerous channels to provide information about low-income programs, which are not limited to the Company's website or document portal. DTE hosts face-to-face Community Resource Fairs and Community Pop-ups to allow customers to interact with representatives to address any inquiries and obtain hands-on assistance, in addition to communicating through email and printed correspondence. In addition, DTE Electric employs a team of specialized representatives known as the Energy Advocacy Group who connect customers with access to both agency and government programs. The Energy Advocacy Group also navigates customers through applications for energy assistance crisis funding or State Emergency Relief administered by the MDHHS (Sparks, 6T 2392-2396).

Staff's Initial Brief, pp 83-86, reflects Staff's proposal for a Residential Senior Credit (RSC) customer count of 94,525 based on a three-year (2020-2022) average, instead of the Company's originally proposed 104,224, which reflects a trendline from Staff's historical years and included 2023 data to date when that number was finalized. The Company maintains that 19,849 credit counts were inadvertently excluded from the Company's initially filed forecast. Therefore, the Company's initially proposed 104,224 is reasonable, and likely under-forecast. The Commission should also update the Company's initial forecast to include the additional 19,849 credits, for a total of 124,073 (DTE Electric Initial Brief, p 313).

Staff argued that the Company's RSC projections were inflated absent significant outreach and that RSC credit disbursements have been relatively stable for the three historical years 2020-2022 (Staff's Initial Brief, p 84). Staff disagreed with Company witness Willis' RSC projection methodology because of the claimed use of a trend line to project a credit that has been historically relatively stable that assumes an increase in enrollment will continue in the future (Staff's Initial Brief, p 85). The Company responds by emphasizing the numbers quoted from Mr. Willis' testimony are based on historical actuals and already reflect a level supportive of the 124,073 customers that Mr. Willis recommends (Willis, 6T 2619). Thus, contrary to Staff's claim that the Company's RSC projection is significantly inflated, the evidentiary record supports adoption of the Company's projection which is based on 2023 and 2024 actual data.

E. Commercial Secondary Rate Design Proposals

DTE Electric's Initial Brief, pp 313-14, summarized the Company's proposal to change Rate Schedule D1.7 (Secondary) rate design with proposed non-capacity power supply rates that vary across summer and winter, and by time-of-use period (instead of the previous rate design's flat non-capacity energy charge). There appears to be no dispute.

1. Rate Schedule D3.11, Commercial Secondary Time of Use

DTE Electric's Initial Brief, pp 314-15, explained and supported the Company proposal for Rate Schedule D3.11 as an optional time-of-use rate for commercial customers. The Company also proposes Rate Schedule D14 as an optional time-of-use rate for primary customers.

MEIU's and GLREA's proposals regarding D3.11 and D14 are addressed collectively in section X. F. 1 of DTE Electric's Initial Brief, pp 317-321, and below.

2. EV Fast Charger Rate

DTE Electric's Initial Brief, pp 315-16, described the Company's EV fast charger rate, which the Company developed in response to the December 1, 2023 Order in Case No. U-21297, pp 342, 373. Due to data constraints, however, the proposal should be used as a starting point for discussion only, and not as a rate to be implemented at the conclusion of this case. Electrify America (Initial Brief, pp 2-3), EVgo (Initial Brief, pp 4-6), and MEIU (Initial Brief, pp 36-37) agree. Thus, there appears to be no disagreement.

F. Commercial and Industrial Primary Rate Design Proposals

DTE Electric's Initial Brief, pp 316-17, provided an overview of the Company's primary rate schedules, and explained that no changes were made to existing rate design.

1. Rate Schedule D14, Primary Time of Use

DTE Electric's Initial Brief, pp 317-22, explained and supported the Company's proposal for Rate Schedule D14 as an optional time-of-use rate for primary customers.

MEIU's Initial Brief, pp 46-60, reflects witness Barnes' proposals that the Commission should instead establish C/I TOU rates that: (1) modify the Company's proposal by creating a TOU corollary for Rate Schedule D4 in addition to those proposed for Rate Schedules D3 and D11; (2) have a common on-peak pricing period of 1:00 – 5:00 PM weekdays, which would change the Company's proposed on-peak period for D14; and (3) eliminate the Company's proposed enrollment caps (Barnes, 6T 4160). Witness Barnes further proposed that the "C/I TOU rates should be made available for customer enrollment within three (3) months of the Commission's final order in this case," and that the Company in that same time develop a C/I rate modeling tool that produces standardized reports for customers (Barnes, 6T 4160).

The Company previously explained why it disagrees with MEIU's proposals (DTE Electric Initial Brief, pp 318-20). MEIU's disagreement with the evidence and further supposition do not advance its proposals, which therefore should be rejected.[96]

Regarding MEIU's proposal to create a third new TOU rate schedule for Rate Schedule D4, MEIU's Initial Brief, p 47, asserts, "[s]ince the average volumetric rate under Rate D3 (8.48 cents/kWh) is higher than that under Rate D4 (7.87 cents/kWh), this means that by switching to a TOU rate schedule, a D4 customer would automatically sign up for a rate with a higher average volumetric rate/kWh from day one and would be left to dig out of that hole each month before seeing any cost savings from adopting a TOU rate." This summary of the Company's proposed rate design is misleading. As shown in Witness Willis's Exhibit A-16, Schedule F3, the proposed Rate

[96] *Kar v Hogan*, 399 Mich 529, 539; 251 NW2d 77 (1976), ("The party alleging a fact to be true should suffer the consequences of a failure to prove the truth of that allegation").

Schedule D3.11 is proposed to be revenue neutral to Rate Schedule D3 if all D3 customers were instead to take service on Rate Schedule D3.11. Moreover, *all* rate schedules offered by the Company have different average rates, and any customer has a choice between a subset of rates. That the D3 and D3.11 average rate is the same does not mean each individual customer will pay the same average rate on D3 or D3.11, nor is the invalid comparison of D3 and D4 average rates dispositive of any given customer's actual average rate on either. Further, MEIU's Initial Brief cites no evidence regarding what the average rate of individual D4 customers would be on the Company's proposed D3.11 Rate Schedule.

MEIU's Initial Brief, pp 48-49, argues that allowing customers to arbitrage load factors would "offer a more economically compelling TOU option to D4 customers." While customers being able to take advantage of rates that allow them to pay less than cost-based rates may be economically compelling for such customers, it also conflicts with fundamental rate design principles.

MEIU's Initial Brief, p 48, goes on to summarize Mr. Willis's rebuttal stating, "He argues that the customers who are most likely to switch to a D4-neutral TOU rate in the near term, i.e. D4 customers with load factors below the D4 class average and D3 customers with load factors above the D3 class average, would by their adoption of the rate (i.e., MEIU Schedule D4.1) drive the average volumetric cost of that rate up." In turn, MEIU's Initial Brief, p 49, argues that Mr. Willis's summary is, "…essentially an acknowledgement that existing D4 customers who might be inclined to take service under a TOU rate would benefit from MEIU Schedule 4.1 when compared to Rate D3.11. Even if, as witness Willis argues, the customer class that would coalesce around a new Rate D4.1 would end up with an average volumetric power supply rate between rates D3 and D4, this would still represent an improvement on the average volumetric rate of a TOU rate schedule mapped to be revenue-neutral to Rate D3."

MEIU's Initial Brief disregards one of Witness Willis' main points, which is the customers that would likely switch to MEIU's proposed D4.1 would be those customers with load factors less than D4 class average. This would eventually drive the rate up because those customers would no longer exhibit the behavior (i.e., load factor) characteristics that is the basis of the D4 cost of service class and rate schedule. In fact, MEIU's Initial Brief, p 49, appears to characterize this dynamic as a benefit when stating, "Witness Willis' argument therefore fails to refute witness Barnes' main purpose for proposing MEIU Schedule D4.1, i.e., that it offers a more economically compelling TOU option to D4 customers, thereby increasing the number of customers who would be able to take advantage of that rate." Witness Willis' testimony illustrates that the customers likely to transition to a rate such as D4.1 from D4 would be those customers exhibiting higher cost causing characteristics than the average D4 customer (Willis, 6T 2633-34).

MEIU's Initial Brief, p 50, states, "Witness Willis' alternative proposal for D4 customers, the new rate D14, requires customers to take service at least at primary voltage." MEIU's Initial Brief incorrectly characterizes Witness Willis' rebuttal on this topic as an "alternative proposal" – however, what Mr. Willis' rebuttal actually states is: "To the extent an existing D4 customer could benefit by switching to the Company's proposed D3.11, they would be able to do so. Moreover, if the customer exceeds 50 kW of demand, they may also be able to leverage the Company's proposed primary TOU rate D14, which has an even lower average power supply rate (by 13% compared to D4 and based on the better D11 load factor) and a lower distribution demand charge. Far from a "poison pill" for existing D4 customers, the Company's TOU proposal is conceptually sound and offers options for all C&I customers." (Willis, 6T 2634). MEIU's proposal, on the contrary, would embed inappropriate rate arbitrage opportunities. As witness Willis states in his rebuttal, "it is inappropriate to introduce potential structural drivers of under-recovery." (Willis, 6T 2638).

MEIU's Initial Brief, p 50, argues all three TOU rates (the Company's proposed D3.11 and D14, and MEIU's proposed D4.1) should use the same on peak window of 1-5PM. The proposal to create D4.1, as shown through evidence provided by the Company and referenced in the discussion above, should be rejected. Regarding the Company's proposed Rate Schedule D14, as explained by Witness Willis, "An on-peak window beginning at 1:00 pm certainly presents the possibility of customer's shifting load to before the period and in doing so inadvertently create a new system peak hour in the noon – 1:00 pm hour. In addition, Witness Barnes' indicative D14 rates under a 1:00 – 5:00 scenario appear to assume no change in load behavior, which for voluntary time of use rates with new pricing windows is highly unlikely. The Company's proposed D14 included no shift because it mimics the existing TOU pricing window on D11 and therefore is already embedded in existing rate design." (Willis, 6T 2635).

MEIU's Initial Brief, pp 51-52, states, "When asked in discovery 'why a shift in DTE's system peak during one or more months to the hour from noon – 1 PM would have detrimental impacts on DTE's system and customers,' witness Willis claimed for the first time that the 'new system peak' referenced in his Rebuttal Testimony could represent more than a time shift in the peak and could in fact 'reset the system peak to something higher than it would otherwise be,' creating an 'incremental [capacity] cost.' However, it is unclear from all of the above how likely it actually is that a shift in the load of a single class would be sufficient to cause a shift in the system peak. It is even less clear how likely it is that that shift in the timing of the system peak (particularly to an earlier time) would simultaneously cause the extreme result of an absolute increase in system peak load."

The Company has several concerns with the arguments set forth in MEIU's Initial Brief, pp 51-52. First, criticizing the Company for providing a piece of information "for the first time" that is directly responsive to a discovery question asked to the Company should be given no weight, particularly as the Company's discovery response to MEIUDE-4.1b (Exhibit MEIU-33, p 2) was entirely consistent with Witness Willis' testimony (Willis, 6T 2633-39). Second, while MEIU's Initial Brief indicates it is unclear to them how likely it is that such a shift could take place, they appear to offer no evidence to the contrary, other than to compare a Consumers Energy rate, which is further discussed below. Third, MEIU's Initial Brief appears to disregard the Company's point that its proposed D14 included no shift because it mimics the existing TOU pricing window on D11 and therefore is already embedded in the existing rate (Willis, 6T 2635). In fact, MEIU's Initial Brief, p 50, confirms that all of Mr. Willis' points are reasonable concerns when it states that Witness Barnes' proposal to use 1-5PM is aligned with the principle of using a limited duration in order to provide actionable price signal for load shifting. MEIU apparently believes both that the window should be truncated to induce shifting, but that the resultant shifting will never have an impact on the system. The Company struggles with the proposition that both claims can be true. MEIU's Initial Brief, p 52-55, proposes that the Commission should reject the Company's proposed caps on Rate Schedules D3.11 and D14. MEIU Initial Brief, p 53, states that as long as a given rate schedule has a solid foundation in cost causation, there is no reason to limit participation. The Company agrees with the general premise that a rate schedule must have a solid foundation in cost causation, which is one of the reasons why it proposed D3.11 and D14 to have participation caps. As stated by Witness Willis:

> The Company's existing rates have strong historical, empirical data to support forecasts – new rates with fundamentally different pricing structures do not. One outcome of this, particularly for larger and more sophisticated primary customers, could be drastically different load profiles than what was anticipated based on historical information (and ultimately incorrect cost allocation assumptions). (Willis, 6T 2638)

MEIU's Initial Brief, p 53, reflects Mr. Barnes' conclusion that, the proposed rates are designed to be revenue neutral relative to the broader groups of customers who would qualify for participation (Barnes, 6T 4147). This is an incorrect conclusion. As illustrated in the Company's Exhibit A-16, Schedule F3, revenue neutral design of its proposed D3.11 and D14, the respective rates are design based on current customers on those rates, not the broader groups of customers who would qualify (Willis, 6T 2586). Thus, Mr. Willis clearly demonstrates why MEIU's contention that the risk of under-recovery is no greater than such risk that exists with the "core rate schedules" is wrong. Thus, the Company has made a clear showing of why MEIU's contention that there is a "solid foundation in cost causation" at this point simply cannot be concluded.

MEIU's Initial Brief attempts to address these arguments by referring to a past Consumers Energy case, then on page 55 argues, "Unless witness Willis expects its primary customers to be either materially different or materially more sophisticated and more flexible than Consumers' primary customers, however, these risks must necessarily be overblown, as Consumers did not experience any such massive under-recovery created by "structural drivers" inherent in its primary TOU rate". Neither DTE Electric nor MEIU have done a comprehensive analysis to compare the circumstances surrounding the history of Consumers Energy primary rate proposals and its own. In addition, the Company and Consumers Energy have fundamentally different rate offerings, different customers, and different cost of service particulars. Moreover, and despite MEIU assertions about what revenue impacts did or did not materialize for Consumers Energy, the fact remains that their initial implementations of similar rates had Commission approved caps. Regardless, MIEU provides no evidence specific to DTE Electric and its rate proposals in this case.

GLREA's Initial Brief, pp 4-11, reflects witness Richter's proposal that "it would be accurate to assign the entire cost of capacity to the peak demand time period" periods in the Company's proposed Rate Schedules D3.11 and D14 (Richter, 6T 4808), and that the Company should be ordered to redesign the rates to do so (Richter, 6T 4863). The Company previously explained why it disagrees (DTE Electric Initial Brief, p 321).

Among other things, the Company explained that Witness Richter's proposal suggests that all capacity costs be recovered in only the 4CP on-peak periods to maintain consistency with the basic approach of production plant allocation. This would create extraordinarily high summer on-peak rates (Willis, 6T 2642).

GLREA acknowledges the nature of its proposal and that the Company's concern is directionally-correct: "we proposed that the 75% of generation plant costs allocated to capacity be recovered during the TOU on-peak time periods" (GLREA Initial Brief, p 8) and "[w]e agree that our proposal would lead to higher on-peak rates and lower off-peak rates than the Company's proposal; that is intentional" (*Id*, p 9).

GLREA then quotes a discovery response stating, "Mr. Richter's proposal would, for D3.11, result in a capacity revenue requirement in the summer on peak approximately 7.6x larger than the Company's proposal" (*Id*, p 10, quoting Exhibit GLREA-6). GLREA's Initial Brief, p 10, attempts to question the discovery response because the Company did not say how it performed the calculation of extraordinarily high on-peak, but concedes that it has no proof to indicate otherwise, so it presents two assertions that lack merit: (1) GLREA's suggestion that the Company has some higher evidentiary burden neglects that GLREA made its request, so it has the burden of proof,[97] and (2) GLREA's suggestion that the evidence should be "disregarded" neglects that the Commission's decision must be based on the evidence.[98]

The Company also explained that Witness Richter's proposal to move toward making such rates mandatory as "the default, standard rate schedule" (6T 4863) is inappropriate because the rates

[97] *Kar v Hogan*, 399 Mich 529, 539; 251 NW2d 77 (1976) ("The party alleging a fact to be true should suffer the consequences of a failure to prove the truth of that allegation").

[98] Const 1963, art 6, § 28; MCL 24.285.

should remain optional. It would be exceptionally premature to begin any discussion of requiring these rates when the Commission has yet to approve their basic structure and there currently are no customers enrolled on them (Willis, 6T 2643).

GLREA's Initial Brief, p 11, responds that "*we concede the point* that it is premature to immediately require them, that discussion should wait for a future rate case" (Emphasis by GLREA). GLREA otherwise does not add to the discussion.

Therefore, the Commission should approve the Company's proposed rates as filed and reject MEIU's and GLREA's contrary and additional proposals.

G. Streetlighting Rate Design

DTE Electric's Initial Brief, pp 422-27, explained and supported the Company's Community Lighting rates.

MI-MAUI's Initial Brief, pp 39-44, reflects witness Bunch's proposal that the Commission "should deny the proposal to continue a CIAC for group LED conversions" (6T 4303), and create a "bill credit method" to refund CIAC to customers that converted lighting systems to LEDs (6T 4308). Ann Arbor's Initial Brief, pp 13-15 supports MI-MAUI's credit proposal (Ann Arbor otherwise does not support, but also does not explicitly abandon its own proposal). Staff's Initial Brief, pp 127-28, opposes Ann Arbor's proposal and supports MI-MAUI's proposal. The Company previously explained why it disagrees with both proposals, and maintains its position (DTE Electric Initial Brief, p 323-24). Both proposals simply attempt to circumvent the Commission's previous positions in both DTE Electric and Consumers prior rate cases in which the Commission affirmed the appropriateness of customer CIAC pertaining to proactive customer HPS-LED conversions. This is the 3rd consecutive case in which Witness Bunch has advocated for the elimination of CIAC. (Bellini Rebuttal, 6T 3153). The only difference is that now Witness Bunch seeks to unwind years of HPS-LED municipal CIAC-driven conversions through his proposed "bill credit method." (Bunch Revised Direct, 6T 4304-4311).

Mr. Bunch has introduced no new evidence indicating the Company has deviated from its Commission approved CIAC methodology. In fact, Mr. Bunch did not dispute the Company's point that this process is consistent with mercury vapor (MV) lights that have become obsolete. Pursuant to the Energy Policy Act of 2005, Mercury Vapor lamps became obsolete and DTE Electric began to convert failed MV lighting to LED for Rate E1 Option I customers starting in 2017 in accordance with the Commission's order on January 31st, 2017, in Case No. U-18014. HPS has now reached the same point of de-facto obsolescence as its MV counterpart (Bellini Rebuttal, 6T 3152). Contrary to Mr. Bunch's suggestion that the Company's approach is novel and unjust, the Company's replacement of failed HPS lights with an equivalent LED is no different than the Commission approved MV to LED replacement process upon failure.

Further, Witness Bunch has taken multiple positions on the topic of CIAC as Staff Witness Isakson has explained in concurrent DTE Electric and Consumers cases, U-21297 & U-21389. In DTE Electric's case, Witness Bunch advocated then (as he does now), that CIAC should be eliminated, while at the same time having argued inconsistently in Consumer's case that customers should be charged the full cost for new streetlight installations (Bellini Rebuttal, 6T 3134).

Last, if MI-MAUI's bill credit approach were to be approved, not only would it set a dangerous precedent in unwinding long standing Commission approved CIAC policy, but it would result in \$15M-\$20M in expenses associated with conversion of the remaining 40,000 HPS lights to LEDs (Bellini Rebuttal, 6T 3155). The impact to rate base, and in turn customer rates, to refund the already converted 125,000 LED lights through the proposed credit scheme would be far worse. Witness Bunch explains at the outset of his direct testimony that "for many local governments, street lighting is their biggest utility cost." (Bunch Revised Direct, 6T 4298). Should the

Commission adopt this MAUI proposal, municipal street lighting costs would be driven significantly higher and the Commission's current CIAC position would reverse course. Alternatively, if the Commission believes anything should be done, it should have Staff facilitate a technical conference including DTE Electric and interested stakeholders to fully understand the impacts and appropriateness of such a proposal.

MI-MAUI's Initial Brief, pp 44-45, indicates agreement with the Company's proposals to reduce the streetlighting sales forecast by 0.81% (4.06% based on night patrol outages minus 3.25% ordered in Case No. U-21297), and work with Staff and MI-MAUI to establish a methodology that provides for a long-term, sustainable approach to approximate system-wide outages (discussed further at DTE Electric's Initial Brief, p 325).

MI-MAUI's Initial Brief, pp 45-48, reflects witness Bunch's proposal that the Commission "order the Company to provide a proposed reporting scheme within three months of its final order in this case, for review and discussion with Staff and intervenors. The proposal should provide a taxonomy of root outage causes, causes of delays in restoration, cost breakdowns and other data to be provided" (Bunch, 6T4322-23). The Company previously explained why it disagrees, and that the Company instead proposes a Staff-facilitated workshop where the Company, Staff, and MI-MAUI can discuss the Company's OMS capabilities, the potential for enhancements, and whether such investments would be prudent relative to their benefits (DTE Electric Initial Brief, p 326). MI-MAUI ultimately states that "MI-MAUI agrees that [the Company's proposed Staff-facilitated workshop] could be helpful and notes that this could be combined with the recommended tripartite discussion of how to estimate system-wide outage rates if Night Patrol is altered [with which MI-MAUI's Initial Brief, p 45, indicates agreement as reflected above], since many of the same issues will be relevant in both contexts" (MI-MAUI Initial Brief, p 48). This is an agreeable and appropriate way to proceed.

MI-MAUI's further suggestions that the Commission order certain reporting requirements (e.g., based on OMS capabilities that MI-MAUI overstated and that will be the subject of discussions) are neither necessary or appropriate in light of the agreement for discussions, and for the additional reasons previously.

MI-MAUI's Initial Brief, pp 13-15, reflects witness Bunch's proposal that E1 lighting rates be adjusted to eliminate the current subsidy and be brought in line with the cost of service.

The Company maintains its position that it is not advocating for a specific outcome, but instead providing information to the Commission to support a prudent decision on whether to continue using the current design methodology while considering the interests of all customers (6T 3177). In reality, the actions advocated by MI-MAUI would have a significant financial impact for certain communities, many of whom are under financial constraint, and still have a high concentration of HID fixtures in service.

H. Nuclear Surcharge

DTE Electric's Initial Brief, p 327, explained and supported the Company's proposal to increase the nuclear surcharge only with respect to inflation for the Site Security and Radiation Protection portion of the surcharge. There appears to be no dispute.

I. Distributed Generation (DG) Tariff (Rider 18)

DTE Electric's Initial Brief, p 327, reflects that Exhibit A-16, Schedule F7 calculates the Rider 18 outflow credits using the same methodology that the Commission approved in Case No. U-21297. There appears to be no dispute.

XI. OTHER PROPOSALS

A. Reliability Performance and Capital Investment

Ann Arbor's Initial Brief, pp 2, 7-8, suggests that the Commission should take the Company's performance into consideration when setting the Company's rate of return on equity (ROE). Ann Arbor makes no specific recommendation to which the Company can respond. DTE Electric's Initial Brief, pp 328-29, responded generally to a similar proposition by Ann Arbor witness Stults. See also section VI. C of DTE Electric's Initial Brief and this Reply Brief regarding ROE.

B. Environmental Justice in System Reliability and Distribution Planning

DTE Electric's Initial Brief, pp 329-33, discussed (1) the Company's method for evaluating reliability metrics in vulnerable communities, which the Company believes is reasonable and prudent, and (2) the Company's past and proposed investments, which are significantly benefitting vulnerable customers and communities, consistent with the Company's commitment to improving reliability in vulnerable communities.

DAAO's Initial Brief, pp 49-51, generally reflects witness Koeppel's suggestions that the draft MiEJScreen tool is not "sufficiently granular" regarding "individual neighborhoods, households or customer subgroups within each tract" (6T 4410-11), and that the Company should do more tracking and reporting of EJ-related metrics (Koeppel, 6T 4416). The Company previously explained why it disagrees (DTE Electric Initial Brief, pp 330-31).

DAAO's Initial Brief, pp 50-56, further reflects witness Koeppel's criticisms of CODI investments. The Company previously explained why it disagrees (DTE Electric Initial Brief, pp 331-32. See also section V. B. 4 viii, b. 1 of DTE Electric's Initial Brief and this Reply Brief regarding CODI investments). DAAO responds with unfounded and speculative statements that do not add to the discussion, so the Company simply notes its objection to that approach, and that the Commission's decision must be based on the record.[99] DAAO's related proposition that spending on the CODI program should be reduced also fails as unfounded and contrary to the record. Staff similarly disagrees with DAAO, stating "Staff supports the projected spending for nearly all of the strategic capital programs. The projected numbers are in line with the Company's current path to improve the reliability, resilience, and safety of the electric system" (Staff Initial Brief, p 196).

DAAO's Initial Brief, pp 54-56, also attempts to rely on CEO witness Tan's updated regression analysis.[100] The Company previously explained why witness Tan's analysis is flawed and should not be used, and that the Company is actively working on EJ regression analysis with CEO and Staff (DTE Electric Initial Brief, pp 332-33). Staff similarly states: "Because regression analysis efforts are on-going Staff recommends that the Commission only rely on that collaborative analysis when it is completed for its decision making and not the one presented by CEO in the instant case" (Staff Initial Brief, p 177). Even CEO "recommend that the Company continue to work with Staff and the CEO on its regression analysis" (CEO Initial Brief, p 29). Therefore, DAAO's attempted reliance on CEO witness Tan's analysis is misplaced.

C. Contributions in Aid of Construction (CIAC) and Standard Allowance Table

DTE Electric's Initial Brief, pp 333-34, reflects that the Company proposes (1) updates to the CIAC standard allowance table for customers with new or expanded load greater than 1,000 kW consistent with the method approved in Case No. U-20836, and consistent with the Order in Case No. U-21297, and (2) to eliminate Section C6.1(16) of the Company's rate book, which is the waiver of CIAC for certain customers participating in the Charging Forward program.

[99] Const 1963, art 6, § 28; MCL 24.285.

[100] In Case No. U-21297, CEO witness Tan proposed a regression analysis that met considerable criticism.

MNSC's Initial Brief, pp 196-97, reflects CUB-MN witness Denzler's recommendations to order a report in the next rate case proceeding detailing the impact of the CIAC changes, and a regular review of CIAC costs, preferably every other year but at least every five years. The Company maintains that the report recommendation is inappropriate because the information is already provided in the Company's publicly available Exhibit A-12, Schedule B5.4 for each rate case; however, the Company agrees it is reasonable and prudent to have regular CIAC reviews, and believes a five-year cadence is appropriate (DTE Electric Initial Brief, p 334).

Ann Arbor's Initial Brief, pp 25-26, reflects witness Stults' proposal to limit CIAC for customers on 4.8kV circuits. The Company previously explained why it disagrees (DTE Electric Initial Brief, p 334). Ann Arbor adds nothing of substance in maintaining its proposal to essentially subsidize developments in its community at the expense of other DTE Electric customers. Therefore, the Company maintains that Ann Arbor's proposal should be rejected. See also section III above.

D. Voluntary Separation Incentive Program (VSIP)

The AG's Initial Brief, pp 62-63, reflects Witness Coppola's proposal to reduce the Company's O&M expense by $10.1 million based on employee reductions in 2024, reasoning that this is half of the Company's projection of $20.3 million of estimated potential savings in 2025. MNSC's Initial Brief, pp 156-60, indicates support for the AG's position. The Company previously explained that it would be premature to include any savings from the VSIP in the Company's revenue requirement because the Company continues to assess the need to fill key positions, which will impact any actual savings that may potentially be realized in 2025. The AG's proposal is also unreasonably and illegally one-sided in seeking a cost reduction for potential savings in 2025, where the Company has not sought to recover the $30.6 million in costs related to the separation payments in 2024 (DTE Electric Initial Brief, p 335).[101] To the extent MNSC suggests any alternative support for CUB-MN witness Denzler's proposal to reduce the Company's O&M recovery by an even greater amount (MNSC Initial Brief, p 124-126), the Company maintains that this should be rejected as similarly premature, and even more one-sided (and therefore unreasonable and unlawful) than the AG's proposal (DTE Electric Initial Brief, pp 335-36).

The AG responds by asserting that "discovery responses and related attachments received confirm that the Company has performed detailed calculations about the cost savings it plans to achieve in 2025, net of any employee replacements. This information dispels the claim that the information is too preliminary to include in cost savings in the projected test year" (AG Initial Brief, pp 62-63, citing Exhibit AG-52).

The AG neglects that the Company's creation of calculations does not mean that the calculations are not preliminary. Any savings for 2025 are speculative and subject to offset. The AG also neglects her own Exhibit AG-45, p 3, which explains for example: "Currently, DTE Electric estimates that up to $20.2 million in expense reductions could materialize in 2025, inclusive of both labor and employee benefits. This estimate will continue to evolve due to the need to fill many key roles. This savings estimate also does not include any offset of the program costs." MNSC's allegation that witness Fix is requesting the Commission "sign off on overearning" is similarly inaccurate given neither proposal MNSC supports, that of the AG nor CUB-MN, account for the $30.6 million in costs incurred for VSIP separation payments in 2024. (MNSC Initial Brief, p 126).

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[101] The Michigan Supreme Court has recognized that creating rates that recognize *reductions* in certain costs while ignoring the *increase* in other costs, violates the due process rights of utilities. The Court cited with approval the conclusions of a circuit court judge granting an injunction against such unlawful rates in *Michigan Consolidated Gas Company v Public Service Comm*, 389 Mich 624, 633; 209 NW2d 210 (1973) ("Certainly at first blush it would appear to anyone steeped in 'due process' considerations that it is grossly unfair to include certain items of decreased cost in rate determination while at the same time to exclude items of increased cost.")

Therefore, the proposals to reduce the Company's O&M recovery based on the VSIP should be rejected as premature, unreasonable, and unlawful.

E. Nanogrids and Microgrids

GLREA's Initial Brief, pp 30-31, reflects witness Rafson's description of several apparent benefits of microgrids and nanogrids, and recommendation that the Commission "should specifically allow nanogrids and microgrids" (6T 4878). The Company incorporates and maintains its prior responses (DTE Electric Initial Brief, pp 336-37).

DAAO's Initial Brief, pp 81-89 recommends a variety of studies and directives related to microgrids premised on the belief that there are "clear benefits and economic viability of microgrids when properly evaluated" (DAAO Initial Brief, p87). DAAO has not provided any such evidence to support its determination of a "proper" evaluation or that the asserted benefits should be localized while costs are socialized. Fundamentally, the users of microgrids should pay the costs arising from those investments. DAAO has not provided compelling evidence to the contrary.

Staff Initial Brief, pp 130-32 supports the idea that certain circumstances may support socialized cost recovery for microgrids. The Company disagrees and reiterates that microgrid costs should be paid for by the users.

F. Community Coordination

DTE Electric's Initial Brief, pp 337-39, outlined how the Company communicates and coordinates with municipalities regarding projects located within communities, and the Company's ongoing efforts focused on improving communication and coordination with municipalities and county road commissions.

MI-MAUI's Initial Brief, pp 1-4, reflects witness Bunch's suggestion that the Company should have provided more detail regarding its coordination activities. Ann Arbor's Initial Brief, pp 29-32, reflects witness Stults' suggestion that the Company should do more to coordinate. The Company provided extensive rebuttal demonstrating otherwise and further addressing various assertions and the indicated concerns, as outlined at DTE Electric Initial Brief, p 338. Therefore, the Company satisfied the Commission's directive to demonstrate its efforts to improve communication and coordination with local governments regarding construction activities (December 1, 2023 Order in Case No. U-21297), and criticisms of that response as well as the Company's efforts do not merit any further action by the Commission.

MI-MAUI's Initial Brief, pp 3-4, reflects witness Bunch's further suggestion that the Commission should "presume that 10% of the costs of electric infrastructure projects that involve excavation in the public right of way or easements are not recoverable unless the Company can show neither DTE Gas nor the government plans potential work in the same area, or the Company made reasonable attempts to coordinate work with such projects" (6T 4363-64).

The Company disagrees because the proposed presumption is unfounded as indicated in DTE Electric's Initial Brief and above, as well as inconsistent with regulatory law including evidentiary burdens as indicated above in section III. The same can be said for the proposed "reasonable attempts" standard, which would also be difficult to apply with subjective opinions adding to already-unwieldy rate cases. Moreover, although work coordination is preferable, there are many reasons why it might not be possible. For example, the Company's investment work might need to be done sequentially and might not be able to be aligned perfectly with the municipality. There also might be regulatory requirements that do not allow for timeline adjustments. There also might be times due to unforeseen circumstances (for example, new business work) when a project needs to be built on a short timeline, which might not allow much time for coordination. Therefore, witness Bunch's proposed presumption should be rejected (Kryscynski, 3T 465).

The same response essentially applies to Ann Arbor's proposition that the "Commission should put DTE on notice that its cost recovery may be reduced in future rate cases if it does not provide evidence of improved efforts to coordinate, including at a minimum, reviewing the CIPs of local governments and capital plans for large school systems in its service territory in its capital planning process" (Ann Arbor Initial Brief, p 32).

Again, the Company makes substantial efforts to coordinate, and coordination is preferable, but there are many reasons why it might not be possible. The suggested assertion of local authority over utility matters also neglects that state interests prevail over local interests in utility regulation.[102]

G. Miss Dig

DTE Electric's Initial Brief, p 339, reflects the Company's compliance with the Commission's directives regarding Miss Dig (December 1, 2023 Order in Case No. U-21297, pp 355, 376). There appears to be no dispute.

H. DTE Electric's filing in Case No. U-21798

GLREA's Initial Brief, pp 16-22, asserts that the Company's filing in Case No. U-21798 should be rejected, largely repeating GLREA's petition for rehearing in Case Nos. U-21569 and U-21767. GLREA's arguments should be rejected because this rate case is not a proper forum to present them, and the October 10, 2023 Order in Case Nos. U-21569 and U-21767 denied GLREA's petition for rehearing.

More specifically, the Commission's July 23, 2024 Order in Case No. U-21569 and U-21767, p 22, ordered the Company to "file an *ex parte* application for approval of a revised

[102] See generally, *City of Taylor v Detroit Edison Co*, 475 Mich 109; 715 NW2d 28 (2006).

distributed generation tariff consistent with the provisions of Public Act 235 of 2023 and this order in a new docket . . . ." The Company did so by filing an *ex parte* compliance application in Case No. U-21798.

GLREA filed a petition for rehearing in Case Nos. U-21569 and U-21767. The Company filed a response opposing the petition for rehearing. The Commission denied the petition for rehearing on October 10, 2024, as indicated above. The Commission is undoubtedly familiar with the details, as reflected for example in its orders, so the Company will not belabor them.

Therefore, GLREA's arguments, which concern other cases and have been rejected in those cases, merit no consideration here.

XII. REQUEST FOR RELIEF

DTE Electric respectfully requests that the Commission issue its final order:

A. Granting DTE Electric's request for final rate relief, as further supported and explained in its Application, testimony, exhibits, Initial Brief (including Attachments A and B) and this Reply Brief (including Reply Brief Attachments A and B) approving rates that will recover the Company's revenue deficiency of approximately $441.0 million, based on a January 1, 2025 through December 31, 2025 projected test year;

B. Approving an annual revenue increase effective as soon as possible in the projected test year;

C Approving new rates effective as early as January 28, 2025 in the manner described in the Company's Application, testimony, exhibits, Initial Brief (including Attachments A and B), and this Reply Brief (including Reply Brief Attachments A and B);

D Approving DTE Electric's proposed capital structure and return on equity;

E. Granting DTE Electric's request to approve the PSCR base;

F. Approving DTE Electric's proposals to implement certain customer rate schedules and tariffs;

G. Approving recovery of DTE Electric's generation investments;

H. Approving recovery of DTE Electric's investments related to the strengthening of the Company's distribution system and reliability improvements;

I. Approving the continuation, extension, and expansion of the IRM;

J. Approving the SRCSM as proposed by the Company;

K. Approving all proposed pilot programs as requested by the Company;

L. Approving all proposed regulatory accounting treatments as requested by the Company;

M. Approving the capacity charge calculated by the Company, which is based on the methodology utilized in Case No. U-21297, and approving the capacity-related costs supported by the Company in this proceeding;

N. Approving the remainder of DTE Electric's proposals and requested relief as set forth in the Company's Application, testimony, exhibits, Initial Brief (including Attachments A and B), and this Reply Brief (including Reply Brief Attachments A and B); and

O. Granting such other lawful relief that the Commission deems reasonable and appropriate.

Respectfully submitted,

DTE ELECTRIC COMPANY
Legal Department

By: Jon P. Christinidis Digitally signed by Jon P. Christinidis Date: 2024.10.23 15:56:23 -04'00'

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Dated: October 23, 2024

DTE Electric Company
Computation of Revenue Deficiency
Projected 12 Month Period Ending December 31, 2025
($000)

Line No.	(a) Description	(b) Initial Brief Position	(c) Adjustments	(d) Reply Brief Position	(e) MPSC Staff Initial Brief	(f) Difference
1	Rate Base (1)	$ 22,067,519	$ (4,958)	$ 22,062,561	$ 21,945,429	$ 117,131
2	Adjusted Net Operating Income (2)	1,092,211	3,421	1,095,632	1,175,319	(79,687)
3	Rate of Return (3)	5.9223%	0.0000%	5.9223%	5.6598%	0.2625%
4	Income Requirements	1,306,905	(294)	1,306,611	1,242,077	64,534
5	Income Deficiency (Sufficiency)	214,694	(3,715)	210,979	66,758	144,221
6	Revenue Conversion Factor (4)	1.3496	-	1.3496	1.3496	-
7	**Rev Deficiency / (Sufficiency)**	**$ 289,758**	**$ (5,013)**	**$ 284,745**	**$ 90,099**	**$ 194,646**
8	Tree Trim Surge (5)	18,786	-	18,786	10,133	8,653
9	Monroe Regulatory Asset (5)	137,518	-	137,518	136,947	572
9	**Revenue Deficiency / (Sufficiency) - Total**	**$ 446,063**	**$ (5,013)**	**$ 441,049**	**$ 237,179**	**$ 203,871**

Sources
(1) Attachment A, Page 2
(2) Attachment A, Page 3
(3) Attachment A, Page 4
(4) Exhibit A-13, Schedule C2
(5) Exhibit A-11, Schedule A1

DTE Electric Company
Rate Base - Average Net Plant
For the 13-Month Average Period Ending Dec. 31, 2025
($000)

	(a)	(b)	(c)		(d)	(e)	(f)
Line No.	**Description**	**Initial Brief Position**	**Adjustments**		**Reply Brief Position**	**MPSC Staff Initial Brief**	**Difference**
1	Plant in Service	$ 24,844,948	$ (5,329)	(1)	$ 24,839,619	$ 24,705,694	$ 133,925
2	Plant Held for Future Use	22,532			22,532	22,532	-
3	Construction Work in Progress	2,450,590			2,450,590	2,450,590	-
4	Acquisition Adjustments	83,332			83,332	83,332	-
5	Total Utility Plant	27,401,403	(5,329)		27,396,074	27,262,149	133,925
6							
7	Less: Depreciation Reserve	6,775,109	(371)	(2)	6,774,738	6,762,768	11,970
8							
9	Net Utility Plant	20,626,294	(4,958)		20,621,336	20,499,380	121,955
10							
11	Net Capital Lease Property	6,051			6,051	6,051	-
12	Net Nuclear Fuel Property	162,350			162,350	162,350	-
13							
14	Total Utility Property and Plant	20,794,695	(4,958)		20,789,737	20,667,781	121,955
15							
16	Less: Capital Lease Obligations	7,049			7,049	7,049	-
17							
18	Net Plant	20,787,646	(4,958)		20,782,688	20,660,732	121,955
19							
20	Allowance for Working Capital	1,279,873	-		1,279,873	1,284,697	(4,824)
21							
22							
23	Rate Base	$ 22,067,519	$ (4,958)		$ 22,062,561	$ 21,945,429	$ 117,131

(1) (2) Capital adjustments to Plant and Depreciation Reserve:

	Net Cap Ex	Plant Adj. (1)	Accum. Depr. (2)	
Digital Worker Experience EOL	$ (547)	$ (423)	$ (100)	Staff Brief pp 52 - 54
Monroe Bottom Ash Conv.	(1,910)	(955)	(15)	Staff Brief p 17
2023 Generation Projects Underspent	(3,951)	(3,951)	(256)	AG Brief p 31
	$ (6,407)	$ (5,329)	$ (371)	

($000) | Page 3 of 4

Line No.	Description (a)	Initial Brief Position (b)	Adjustments (c)	Reply Brief Position (d)	MPSC Staff Initial Brief (e)	Difference (f)
1	**Operating Revenues**					
2	Sales Revenues	$ 5,465,416	$ -	$ 5,465,416	$ 5,468,651	$ 3,235
3	Other Operating Revenue	-		-	-	-
4	Fuel and Purchased Power	1,354,105		1,354,105	1,354,105	-
5	Net Margin	4,111,311	-	4,111,311	4,114,546	3,235
6						
7	**Operating Expenses**					
8	Operations and Maintenance Expenses	1,261,840	(4,405) (1)	1,257,435	1,161,527	(100,314)
9	Depreciation and Amortizations	1,264,819	(243) (2)	1,264,576	1,253,406	(11,413)
10	Property Taxes	328,095	- (3)	328,095	328,080	(15)
11	Other Taxes	53,180		53,180	53,180	-
12	Total Operating Expenses	2,907,934	(4,648)	2,903,286	2,796,192	(111,742)
13						
14	**Operating Income**	1,203,377	4,648	1,208,025	1,318,354	114,977
15						
16	**Other Operating Income Adjustments**					
17	Allow. For Funds Used During Constr	55,969		55,969	55,969	-
18	Amortization of Loss on Reacquired Debt	(2,244)		(2,244)	(2,244)	-
19	Other Income	6,400		6,400	6,400	-
20	Total Operating Income Adjustments	60,126	-	60,126	60,126	-
21						
22	**PreTax Adjusted Net Operating Income**	$ 1,263,503	$ 4,648	$ 1,268,151	$ 1,378,480	$ 114,977
23						
24	State Income Taxes	61,917	294	62,211	69,557	7,639
25	Federal Income Taxes	109,374	934	110,308	133,604	24,230
26						
27	**Net Operating Income**	$ 1,092,211	$ 3,421	$ 1,095,632	$ 1,175,319	$ 83,108

Description	Amount	Source
(1) Operations and Maintenance		
Merchant Fees	$ (1,231)	Staff Brief p 94
IT project O&M	(3,174)	Staff Brief p 101
	$ (4,405)	
(2) Depreciation and Amortization		
Digital Worker Experience EOL	$ (85)	Staff Brief pp 52 - 54
Monroe Bottom Ash Conv.	(31)	Staff Brief p 17
2023 Generation Projects Underspent	(128)	AG Brief p 31
	$ (243)	
(3) Property Taxes		
Digital Worker Experience EOL	$ -	Staff Brief pp 52 - 54
Monroe Bottom Ash Conv.	-	Staff Brief p 17
2023 Generation Projects Underspent	-	AG Brief p 31
	$ -	

DTE Electric Company
Rate of Return Summary
Projected 12 Month Period Ending December 31, 2025
Based on Average Rate Base
($000)

MPSC Case No. U-21534
Reply Brief
Attachment A

	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
		Capital Structure				Weighted Costs			
Line No.	Description	Amounts ($000)	Percent Permanent Capital	Percent of Total Capital	Cost Rate %	Permanent Capital	Total Cost %	Conversion Factor	Pre-Tax Return
	Initial Brief Position (Test Period Average Basis)								
1	Long-Term Debt	$ 8,663,922	49.97%	39.19%	4.24%	2.117%	1.66%	100.000%	1.660%
2	Preferred Stock	0		0.00%	0.00%	0.000%	0.00%	134.964%	0.000%
3	Common Shareholders' Equity	8,673,528	50.03%	39.23%	10.50%	5.253%	4.12%	134.964%	5.560%
4	Total	17,337,450	100.00%			7.370%			
5									
6	Short-Term Debt	509,454		2.30%	5.73%		0.13%	100.000%	0.132%
7									
8									
9									
10	Job Development - ITC - Debt	15,742		0.07%	4.24%		0.00%	100.000%	0.003%
11	Job Development - ITC Equity	15,742		0.07%	10.50%		0.01%	134.964%	0.010%
12	Total Job Development - ITC	31,485							
13									
14	Deferred Income Taxes (Net)	4,229,600		19.13%	0.00%		0.00%		0.000%
15									
16	Total	22,107,989		100.00%			5.92%		7.365%
	Reply Brief Position (Test Period Average Basis)								
17	Long-Term Debt	$ 8,663,922	49.97%	39.19%	4.24%	2.117%	1.66%	100.000%	1.660%
18	Preferred Stock	0		0.00%	0.00%	0.000%	0.00%	134.964%	0.000%
19	Common Shareholders' Equity	8,673,528	50.03%	39.23%	10.50%	5.253%	4.12%	134.964%	5.560%
20	Total	17,337,450	100.00%			7.370%			
21									
22	Short-Term Debt	509,454		2.30%	5.73%		0.13%	100.000%	0.132%
23									
24									
25									
26	Job Development - ITC - Debt	15,742		0.07%	4.24%		0.00%	100.000%	0.003%
27	Job Development - ITC Equity	15,742		0.07%	10.50%		0.01%	134.964%	0.010%
28	Total Job Development - ITC	31,485							
29									
30	Deferred Income Taxes (Net)	4,229,600		19.13%	0.00%		0.00%		0.000%
31									
32	Total	22,107,989		100.00%			5.92%		7.365%

DTE Electric Company
Revenue Deficiency Summary
Projected 12 Month Period Ending December 31, 2025
($000)

MPSC Case No. U-21534
Reply Brief
Attachment B

Line No.	Description (a)	Source (b)	Rate Base Changes	Revenue Deficiency (Pre Tax Amts) (c)
1	**Initial Brief Position**	Exhibit A-11 Sch A-1		**$ 446,063**
2				
3	**Adjustments to Revenue Deficiency:**			
4				
5				
6	**Rate Base (1)**			
7	Capital Expenditure, Increase/(Decrease)	Attachment A page 2	(4,958)	(365)
8				
9	**Operations and Maintenance Expenses**			
10	O&M, Increase/(Decrease)	Attachment A page 3		(4,405)
11				
12	**Depreciation and Amortization**			
13	Depreciation Expense, Increase/(Decrease)	Attachment A page 3		(243)
14				
15				
16	**Total Adjustments to Company's Position**	Line 7 through Line 13		$ (5,013)
17				
18	**Reply Brief Position**	Line 1 + Line 16		**$ 441,049**

(1) Rate Base Change multiplied by pre-tax return 7.37% (Attachment A page 4)

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	)	Case No. U-21534
distribution and supply of electric energy,	)	
and for miscellaneous accounting authority	)	

PROOF OF SERVICE

STATE OF MICHIGAN	)	
	)	ss.
COUNTY OF WAYNE	)	

CAITLIN D. MYERS states that on October 23, 2024, she served a copy of DTE Electric Company's Reply Brief in the above captioned matter, via electronic mail upon the persons listed on the attached service list.

Caitlin D. Myers
Digitally signed by Caitlin D. Myers
Date: 2024.10.23 15:57:09 -04'00'

CAITLIN D. MYERS

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