



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

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

January 9, 2026

VIA ELECTRONIC CASE FILING

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

Re: Case No. U-21860 – 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.

Dear Ms. Felice:

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

Sincerely,

CLARK HILL PLC
Stephen A.
Campbell
Stephen A. Campbell

Digitally signed by: Stephen A. Campbell
DN: CN = Stephen A. Campbell
email = SCampbell@clarkhill.com C
= US O = Clark Hill PLC
Date: 2026.01.09 16:20:09 -05'00'

SAC/lkd
Enclosure

cc: Parties of Record

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the Application of)	
DTE ELECTRIC COMPANY)	Case No. U-21860
for authority to increase its rates, amend)	
its rate schedules and rules governing the)	ALJ Sally L. Wallace
distribution and supply of electric energy, and)	
<u>for miscellaneous accounting authority.</u>)	

**EXCEPTIONS OF THE
ASSOCIATION OF BUSINESSES ADVOCATING TARIFF EQUITY**

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

TABLE OF CONTENTS

I. INTRODUCTION 1

II. ARGUMENT 1

A. Capital Cost Recovery – Numerous cost recovery requests for capital expenditures are unreasonable and should not be approved. 1

 1. The Commission should limit cost recovery for pole top maintenance and modernization. 1

 2. The Company’s requested base capital program cost recovery is unreasonable and should be rejected. 3

 3. The Company’s requested strategic capital program cost recovery is unreasonable and should be rejected. 4

B. Operations and Maintenance Cost Recovery – The Company’s inflation and incentive compensation projections are unreasonable. 6

 1. The Company’s inflation projections consistently and significantly exceed its actual costs. 6

 2. Certain incentive costs for operational performance exceed benefits and would result in a net detriment to customers. 7

C. Cost Allocation and Rate Design – Numerous cost allocation proposals are unreasonable and do not align cost recovery with cost causation. 9

 1. Primary rate class power supply rates should be adjusted to accurately reflect the demand and energy portions of those rates. 9

 2. The record does not support continuing the flawed allocation of TEP costs. 11

III. RELIEF REQUESTED 13

I. INTRODUCTION

While the PFD in this proceeding made a number of reasonable recommendations regarding the Company's cost recovery, rate design, and cost allocation, certain additional recommendations were unreasonable and inconsistent with the record in this case. These recommendations include those regarding the Company's cost recovery for pole top maintenance and modernization ("PTMM"), its base capital program, strategic capital program, inflation amounts, and operational incentive compensation. Further, the PFD's recommended rate design for the Primary rate classes and cost allocation for the Company's Transportation Electrification Plan ("TEP") were unreasonable and should not be adopted. To instead ensure just and reasonable rates the Commission should reject these recommendations and adopt those set out below. This will ensure DTE's rates are reasonable and prudent and that the Company's costs are allocated to customers consistent with the principle of cost causation.

II. ARGUMENT

A. Capital Cost Recovery – Numerous cost recovery requests for capital expenditures are unreasonable and should not be approved.

1. The Commission should limit cost recovery for pole top maintenance and modernization.

The PFD left "aside the results of the BCA" and recommended the "PTMM program investment amount should be increased to \$200 million in the test year and included in the IRM." (PFD at 157.) As this recommendation is unreasonable the Commission should limit the Company's revenue for this program to 2025 levels adjusted for inflation.

First, the Commission should not "leav[e] aside the results of the BCA," as the PFD apparently did. (*Id.*) As the PFD itself acknowledged in this case, "the BCAs presented by DTE for the programs [including PTMM], are insufficient to support the hundreds of millions of dollars in ratepayer funding that the Company proposes here" and "do appear to significantly

underestimate costs, by excluding items like ROE, taxes, debt financing, and potential above-inflation material and labor increases, while at the same time overestimating future benefits through the introduction of critical customers in the ICE calculator and the failure to update reliability (SAIDI) for 2024.” (PFD at 153.) As such, the Company’s proposal is not cost efficient.

Second, beyond the flawed BCA, the PFD stated that “a five-year cycle for pole top inspections and a 10-year cycle for pole inspections are standard in the industry,” the Liberty Audit “endorsed the need for the program,” and stated that “DTE’s current inspection cycle and funding levels are not sufficient to even achieve a 20-year cycle.” (*Id.*) These claims do not reflect the conclusions of the Audit. Instead, while the Audit noted that these cycles are typical, it stated the following:

DTE has recently provided information that demonstrates large cost increases from moving to cycles that it appears to agree it needs. That information indicates pole and equipment repair and replacement rates well in excess of those that appear to underlie projected costs of the first years (2027 and 2028) under which plans call for employing a ten-year PTMM cycle.

The potential for such large costs makes it appropriate to consider how to lessen the scale of work called for under a first four-to-five year overhead circuit inspection cycle, in order to mitigate first cycle costs. After the first cycle, costs will drop significantly; over time, both shorter and longer cycles should produce roughly the same repair and replacement rates. Thus, the principal challenge lies in finding ways to spread over a longer duration the costs of repairs and replacements identified from completing the inspections within the first cycle’s duration.

We did not find a source of reliable DTE data or analysis for estimating the first and subsequent cycle costs for instituting an industry-standard overhead circuit inspection program. DTE needs to establish one to craft such a program, taking proper account of short-and long-term costs implications. Several factors make estimating problematic now . . . [(See Case No. U-21305, Filing No. 13 (September 23, 2024), pp 40-41.)]

Thus, the Audit noted both the substantial cost increases represented by increasing inspections as the Company proposes and the lack of reliable data to accurately estimate the costs for DTE’s proposal, meaning the Company’s projections are speculative and unreasonable. Further, the Audit

recommended *not* simply ramping up costs for the projected test year. (*Id.*) As explained in ABATE’s Initial and Reply Briefs, therefore, accelerating investment as DTE proposed would significantly increase PTMM program costs without an adequate demonstration that its projections are reasonable. (ABATE Initial Br at 22-24; ABATE Reply Br at 7-8.) Again, the speculative nature of these projections must be considered in the context of the Company’s flawed BCA and the overstated benefits of reliability improvements with respect to the PTMM program. (*Id.*) Rather than simply ramping up costs DTE should evaluate how to improve program efficiencies to improve inspections without dramatically increasing costs, which have already been elevated above historical expenditure levels. (*Id.*)

The Commission should therefore reduce PTMM investments for the 2026-2029 period to 2025 levels adjusted only for inflation. Until the Company can improve program and expenditure efficiencies, or it provides better data to support the exorbitant program costs, PTMM program expenditures should remain at current levels.

2. The Company’s requested base capital program cost recovery is unreasonable and should be rejected.

The PFD declined to recommend ABATE’s proposal to exclude 2021 from the five-year average for these costs, stating “the Commission has twice previously rejected this recommendation, stating in the U-21534 order that ‘high variations in weather are becoming the norm and the Commission supports the use of the five-year average.’” (PFD at 120.) As additional years pass and the outlier status of this year becomes more glaring, it is appropriate for the Commission to exclude 2021 from the average used to project costs.

As explained in ABATE’s Initial and Reply Briefs the Company has previously acknowledged that in 2021 it experienced storm events unprecedented in terms of frequency, intensity, and number of customer outages. (Case No. U-21297, Hill 5 Tr 2737-51.) It’s related

2021 expenditures more than doubled relative to DTE's annual expenditures from 2018 through 2020. (*Id.*) Further, in 2022 the number of storm days was lower than DTE projected, and there was only one catastrophic storm, which was also lower than the Company's internal forecast. (*Id.*) In 2023 the Company experienced an uptick in storm-related emergent replacements, but still to a significantly lower degree than in 2021. (Exhibit A-12, Schedule B5.4) Moreover, the Company acknowledged that actual investment in storm-related emergent replacements in 2024 was only \$151.8 million due to fewer storm events. (ABATE Initial Br at 25-28; ABATE Reply Br at 10-12.) Indeed, the PFD itself found that "within Emergent Replacements the Storm and Substation Reactive categories showed a downward movement in both 2020 and 2022, and the Non-Storm category showed downward movement in 2020." (PFD at 114.) Costs for 2021 therefore continue to stand apart as unreasonably excessive for the purpose of establishing projections.

The five-year average for determining projected costs should therefore reflect 2019-2020 and 2022-2024 instead of 2019-2023. Relying on actual 2021 data as the basis for future projections skews a reasonable forecast and unnecessarily inflates DTE's projected capital expenditures. The Company has not demonstrated that the bridge period or projected test year will require emergent replacements that significantly exceed a five-year average based on this alternative time period, nor has it demonstrated that including these abnormal outliers produces a reasonable expectation of expenses in the projected test year.

3. The Company's requested strategic capital program cost recovery is unreasonable and should be rejected.

The PFD stated that "ABATE's recommended disallowance on the basis that certain projects will not be useful in the bridge or test periods should be rejected." (PFD at 135 n 562.) As this was not the basis for ABATE's recommended cost disallowance the Commission should reduce the Company's requested cost recovery for this program accordingly.

As set out in ABATE's Initial and Reply Briefs, despite DTE's significant proposed spending increases the Company has demonstrated minimal improvement to system reliability and has a history of underspending relative to forecasts and instead diverting this revenue to emergent replacements. (ABATE Initial Br at 29-30; ABATE Reply Br at 12.) Indeed, as the PFD acknowledged, numerous parties raised myriad concerns with the Company's proposed cost recovery for these programs. (PFD at 134-36.) Further, the PFD also acknowledged that "the Commission has made clear that it is not required to accept those projections that it finds insufficiently supported or where it determines that there is a likelihood that the funds will not be spent as planned." (PFD at 38.) That is precisely the situation here, where the Company routinely underspends relative to its cost recovery and simply shifts revenue to emergent replacements. As such, the Commission should review cost recovery requests for this program, particularly for projects with completion timelines that extend far out into the future, with significant scrutiny. A reasonable approach to curbing the Company's unreasonable request is to limit cost recovery to projected capital expenditures associated with projects that are expected to be in-service during the bridge period and projected test year. (ABATE Initial Br at 29-30; ABATE Reply Br at 12.)

Given the Company's limited improvements to system performance, historic underspending in this cost category, and diversion of inflated revenues based on excessive projections to other cost categories, the Commission should only approve cost recovery for reasonable projections for this program. As such it should only approve cost recovery associated with projects that are expected to be in-service during the bridge period and projected test year.

B. Operations and Maintenance Cost Recovery – The Company’s inflation and incentive compensation projections are unreasonable.

1. The Company’s inflation projections consistently and significantly exceed its actual costs.

The PFD recommended CPI-U inflation rates of 2.9% for 2024, 2.7% for 2025, and 2.4% for 2026. (PFD at 101-02.) This recommendation is contrary to the PFD’s own acknowledgements of DTE’s actual inflation costs for 2024 and the Company’s O&M expense consistently falling below the rate of inflation. As such, the Commission should not approve an inflation adjustment for 2024 and limit the projected inflation rates for 2025 and 2026.

As the PFD noted, ABATE demonstrated that “O&M numbers for 2024 are now known, and while DTE initially projected a \$30.2 million increase in O&M expense over 2023, DTE’s forecast was overstated by \$42.8 million,” and thus ABATE recommended “no inflation be applied for 2024.” (PFD at 94-95 (citing York 4 Tr 3244-47).) A 2.9% inflation rate for 2024 is therefore entirely unwarranted and unsupported by the record. The Company’s actual O&M expense for 2024 is known; there is no reason to approve an inflation rate for that year that results in cost recovery in excess of the Company’s actual costs. Beyond being unreasonable and imprudent, it is incoherent to grant the Company an O&M revenue increase for 2024 that exceeds its known and actual O&M costs. (See ABATE Initial Br at 48-55; ABATE Reply Br at 17-19.)

In terms of 2025 and 2026 inflation rates, the PFD also acknowledged ABATE’s testimony that “actual annual O&M expense decreased by an average rate of 0.1% per year from 2017 to 2024, while the adjusted O&M expense decreased by an average rate of 0.9% per year,” that “DTE’s total actual O&M expense for the projected test years . . . has been about 6% to 11% less than the amount requested,” and “based on DTE’s historical performance, the Company has demonstrated that its overall O&M costs change at a rate less than inflation.” (*Id.*) The PFD also noted that “the Company does not dispute” this data “which show that total O&M expense has

increased, if at all, at a rate less than inflation.” (PFD at 101-02.) Given this record it is neither reasonable nor prudent to adopt the CPI-U inflation rates recommended by the PFD. As the PFD acknowledged, the record here demonstrates that DTE’s O&M costs have consistently increased at a rate below both inflation and the cost recovery approved by the Commission, facts which the PFD noted that the Company did not dispute. There is simply no basis for assuming that trend will suddenly change and the Company’s O&M expense will begin matching inflation figures. Such a projection is instead directly contrary to the record evidence. (See ABATE Initial Br at 48-55; ABATE Reply Br at 17-19.)

The Commission should therefore adopt inflation projections which are consistent with the reality of the Company’s costs. Here, actual costs from 2024 demonstrate no inflation amount should be approved for that year, while the Company’s historic O&M costs demonstrate the 2.7% amount for 2025 and 2.4% amount for 2026 will almost certainly exceed the Company’s actual costs. The Commission should cease continually approving inflation cost recovery which exceeds the Company’s actual O&M costs. As such a more appropriate and reasonable projection for these years is 1.4% as indicated by the Real GDP Chained Price Index. (*Id.*)

2. Certain incentive costs for operational performance exceed benefits and would result in a net detriment to customers.

The PFD pointed to Case No. U-21534 and simply stated that as “the facts and arguments in the instant matter are substantial similar to U-21534, this PFD recommends that the Commission decline to disallow \$9.330 million associated with operational performance program measures as in accordance with its decision in U-21534.” (PFD at 518.) As the Company did not satisfy the standard the Commission set in Case No. U-21534 here the Commission should disallow \$9.330 cost recovery of million associated with operational performance program measures with insufficient benefits.

In Case No. U-21534 the Commission stated that the operational metrics used to determine incentive eligibility “must continue to be rooted in measures that are meaningfully tied to core operational performance, and that the levels used for threshold and target must continue to be connected to performance expectations of the company’s customers,” before finding “that in this case, the metrics and performance levels used for operational incentive compensation satisfy these requirements.” *In the Matter of the Application of DTE Electric Co*, order of the Public Service Commission, entered January 23, 2025 (Case No. U-21534), p 278. In this case, the Company’s performance relative to its incentive compensation does not satisfy these requirements.

As explained in ABATE’s Initial and Reply Briefs, certain components of the Company’s operational performance incentive measures have expenses which exceed customer benefits, meaning the metrics and incentive amounts are incongruent and do not reflect adequate operational performance. (ABATE Initial Br at 55-58; ABATE Reply Br at 21.) For example, the expense associated with Customer Satisfaction measures is \$4.483 million, but the benefit is only \$1.747 million, resulting in a net expense of \$2.736 million. (*Id.*) Similarly, the benefits do not outweigh the expenses for certain Safety & Engagement measures (e.g., OSHA Recordable Incident Rate, DTE Energy High Energy Serious Injury or Fatality, Nuclear Total Industrial Safety Accident Events, and Nuclear On-Line Radiation Exposure). (*Id.*) In total, the expense of these programs exceeds the benefit by \$2.790 million. Lastly, there are several Operating Excellence metrics for which the benefits do not exceed the costs (e.g., Generation Availability, and several nuclear-related metrics). In total, the net expense associated with these metrics is \$3.802 million. (*Id.*) There is simply no reason to approve incentive compensation when it dwarfs measurable customer benefits by millions of dollars, thus resulting in a net detriment to ratepayers. As the cost associated with these incentives outweighs the benefit to customers, at a minimum the Company’s projected

test year incentive compensation expense tied to operational performance measures should be reduced by a total of \$9.33 million.

Cost recovery for the incentive compensation related to operational performance noted above is therefore unreasonable and imprudent here. These incentive costs exceed customer benefits and thus produce a net detriment to customers. As such the Commission should not approve cost recovery of these expenses.

C. Cost Allocation and Rate Design – Numerous cost allocation proposals are unreasonable and do not align cost recovery with cost causation.

1. Primary rate class power supply rates should be adjusted to accurately reflect the demand and energy portions of those rates.

The PFD “recognize[d] the challenges that arise in designing primary power supply rates and appreciate[d] ABATE’s and Kroger’s efforts to find a resolution for those challenges,” although it found “that the current rate design is consistent with the most recent Commission orders and directives” as well as the Commission’s decision to not revise the current rate design in Case No. U-21297, and “that ABATE has not presented any distinguishing facts or circumstances in this case that would prompt a recommendation for change.” (PFD at 676.) As this assertion is not consistent with the record in this proceeding or the Commission’s determination in Case No. U-21297 the Commission should adopt ABATE’s proposed rate design.

In Case No. U-21297 the Commission simply adopted the ALJ’s findings and conclusion and stated that this “issue should be revisited in the future to determine if refining or reformulating the current methodology is necessary and appropriate.” *In the Matter of the Application of DTE Electric Co*, order of the Public Service Commission, entered December 1, 2023 (Case No. U-21297), p 323-28. Indeed, as noted by the Commission Order, the ALJ found in that case that the “current methodology used [to] calculate the ratio may need to be refined or reformulated in future cases because it is apparently susceptible to an unacceptable level of volatility when the ratio of

demand to energy charges should be significantly more stable.” (*Id.* (internal citation omitted).) The record in this case demonstrates the significance of the volatility recognized by the ALJ and Commission has only increased since that time, leading to DTE proposing here, for the first time, the contrivance of a power supply capacity energy charge, while zeroing out the power supply non-capacity demand charge. (See ABATE Initial Br at 65-73; ABATE Reply Br at 24-27.) As such, consistent with the ALJ and Commission’s directives in Case No. U-21927, the methodology used to calculate the ratio should be reformulated here to more accurately align the allocation of these costs with the way in which customers cause them, particularly given the more pronounced volatility in the inputs for this method since that time.

As explained in ABATE’s Initial Brief, continued volatility of the SRM capacity charges has resulted in an additional issue in this case that cannot be addressed by the current fixed 47/53 split. (*Id.*) Here, the SRM capacity charge suggests that 68% of the power supply revenue requirement is capacity related. (*Id.*) Because the SRM capacity charge is so high, and total power supply charges are subject to the fixed 47/53 demand/energy split resulting from the Commission’s Case No. U-21297 Order, in this proceeding DTE has proposed, for the first time, the aforementioned approach to manipulating the power supply capacity energy and non-capacity demand charges. Thus, increasing volatility in the SRM capacity charge has now resulted in such significant swings in the amounts collected through the capacity-related power supply charge and non-capacity-related charge that DTE is proposing a brand new modification to its rate design in this proceeding. Instead of continuing to plaster over an increasingly cracking foundation in this manner, the Commission should adopt the more reasonable and straightforward approach to allocating capacity and non-capacity costs outlined in ABATE’s briefing. (See ABATE Initial Br

at 65-73; ABATE Reply Br at 24-27.) Contrasted with the Company's proposal here, ABATE's recommendation will provide the stability the Commission and ALJ sought in Case No. U-21297.

Beyond the need for a new capacity energy charge as noted above, the inadequacies of continuing to try and stand up the Company's volatile and ever-shifting rate design method are further illustrated by the fact that DTE's new proposal results in issues for additional rate classes. Specifically, the Company has proposed to revise the tariff language for Rate Schedule R3. As set out in ABATE's briefing, this revision necessitated by adherence to the previous method introduces additional vagaries and unknowns that will require interpretation and clarification for proper implementation. (*Id.*) Thus, the deficiencies in the manner in which demand and energy charges are established for primary customers under the current method, and new rate design required thereby, will reverberate out across both the Company's rates and the manner in which it collects revenue.

In contrast to this series of contrivances necessitated by adherence to the current flawed method, ABATE's proposed rate design for Primary rate class power supply rates is consistent with cost causation and provides a more stable basis for establishing cost recovery from the Company's customers. (*Id.*) As such, consistent with its directive in Case No. U-21297 to revisit this method for necessary and appropriate refining or reformulating, the Commission should adopt ABATE's recommendation here.

2. The record does not support continuing the flawed allocation of TEP costs.

The PFD declined to recommend ABATE's proposal to allocate TEP costs on the basis of net plant and instead recommended continuing a revenue-based allocation across all customer classes. (PFD at 631.) As this approach reflects neither cost causation nor the impact of purported benefits associated with this program the Commission should adopt ABATE's recommendation.

The PFD noted that it found “MEIU’s argument to be persuasive” and noted that to “properly evaluate how the costs associated with the Company’s TEP are functionalized and allocated to support cost of service principles, more granular information to support that allocation may be required.” (*Id.*) Whether or not more granular information is necessary, MEIU’s arguments and the record here do not support continuing to misallocate costs in a manner which clearly does not reflect cost causation. First, MEIU’s arguments are based entirely on speculative claims regarding information that is *not* in the record. As explained in ABATE’s Initial and Reply Briefs, MEIU’s claims that there is an assumed “90 percent actual increase in expected revenue from EV charging through 2030” and “utilization has been rising, and will continue to do so,” are based entirely on assumptions and relate to a period extending well beyond the projected test year in this case. (ABATE Initial Br at 73-77; ABATE Reply Br at 27-32.) As MEIU stated, ABATE’s proposal and “logic may be sound as it relates to the Company’s provided data,” which is the basis on which the Commission’s decision must be based in this proceeding. (*Id.*)

The assertion that the data is incomplete and an alternative perspective may “[p]resumably . . . result in an increase in the Company’s assessed net benefits” is not an appropriate basis for continuing to allocate millions of dollars of costs to customers which do not cause them, particularly where no benefit has been shown over the period relevant to this case. Even if the Commission is inclined to consider benefits for the purposes of cost allocation (which it should not as such an approach is inconsistent with cost-causation principles), this acknowledgment demonstrates that there is no basis for doing so here. As MEIU itself stated, “any evaluation of that data would also be incomplete and therefore cannot be fully relied upon to accurately assess the full scope of the NPV benefits offered by TEP programs and the timeline under which DTE customers can expect to realize said benefits.” (*Id.*) As such, these costs should be allocated to the

customers which cause them, rather than allocated across customer classes based on incomplete and uncertain NPV benefit speculation and assumptions. Stated differently, MEIU's assertion that the current policy debate is based on assumptions and incomplete information merits allocating these costs in accordance with their demonstrated causation, not assumptions regarding admittedly unknown NPV benefits.

The record in this case supports allocating these costs to the customers which cause them. (See *Id.*) Regardless of what more granular information may indicate in the future, the evidence here demonstrates the current cost allocation method does not reflect cost causation. As such, the Commission should order these costs be allocated on the basis of net plant to the customers which cause them.

III. RELIEF REQUESTED

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

Respectfully submitted,

CLARK HILL PLC

Stephen A.
By: **Campbell**

Digitally signed by: Stephen A. Campbell
DN: CN = Stephen A. Campbell email =
SCampbell@clarkhill.com C = US O =
Clark Hill PLC
Date: 2026.01.09 16:20:28 -05'00'

Michael J. Pattwell (P72419)
Stephen A. Campbell (P76684)
Benjamin J. Holwerda (P82110)
Attorneys for the Association of
Businesses Advocating Tariff Equity
Clark Hill PLC
500 Woodward, Suite 3500
Detroit, Michigan 48226
313-309-4274
mpattwell@clarkhill.com
scampbell@clarkhill.com
bholwerda@clarkhill.com

Date: January 9, 2026

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)
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distribution and supply of electric energy, and)
for miscellaneous accounting authority.)

Case No. U-21860

ALJ Lesley C. Fairrow

PROOF OF SERVICE

STATE OF MICHIGAN)
) ss
COUNTY OF INGHAM)

Lauren Degnan, being first duly sworn, deposes and says that on January 9, 2026, she did cause to be served the *Association of Businesses Advocating Tariff Equity's Exceptions*, as well as this *Proof of Service*, in the above docket, via electronic mail, to the persons identified on the attached service list.

Lauren K.
Degnan

Digitally signed by: Lauren K. Degnan
DN: CN = Lauren K. Degnan email =
LDegnan@clarkhill.com C = US O = Clark
Hill PLC
Date: 2026.01.09 16:20:50 -05'00'

Lauren Degnan

SERVICE LIST
MPSC Case No. U-21860

<p>Administrative Law Judge Hon. Fairrow Administrative Law Judge Michigan Public Service Commission 7109 W. Saginaw Hwy., 3rd Floor Lansing, Michigan 48917 Email: fairrow11@michigan.gov</p>	<p>Counsel for MPSC Staff Heather Durian Adam M. Cozort Monica Stephens Anna B. Stirling Email: durianh@michigan.gov cozort1@michigan.gov stephensm11@michigan.gov stirlinga1@michigan.gov</p> <p>Lori Mayabb Email: mayabbl@michigan.gov</p>
<p>DTE Electric Company Jon P. Christinidis John Janiszewski Andrea E. Hayden Breanne K. Reitzel Carlton D. Watson Email: jon.christinidis@dteenergy.com john.janiszewski@dteenergy.com andrea.hayden@dteenergy.com breanne.reitzel@dteenergy.com carlton.watson@dteenergy.com mpscfilings_account@dteenergy.com</p>	<p>Counsel for Michigan Environmental Council; Sierra Club; Natural Resources Defense Council; and Citizens Utility Board of Michigan Tracy Jane Andrews Christopher M. Bzdok Holly L. Hillyer Email: tjandrews@tropospherelegal.com chris@tropospherelegal.com holly@tropospherelegal.com</p> <p>Natasha Fowles Email: natasha@tropospherelegal.com</p>
<p>Counsel for PROTEC (The Michigan Coalition to Protect the Public Rights of Way) and Michigan Municipal Association for Utility Issues Michael Watza Nathan Inks Email: mike@bloomsluggett.com nathan@bloomsluggett.com</p>	<p>Counsel for Dept. of Attorney General Joel King Lucas Wollenzien Email: kingj38@michigan.gov wollenzienl@michigan.gov</p>
<p>Counsel for Walmart, Inc. Melissa Horne Email: mhorne@hcc-law.com</p>	<p>Counsel for Utility Workers Union of America, Local 223 and Counsel for Great Lakes Renewable Energy Association Jacob S. Porcarelli Email: jporcarelli@millercohen.com</p>

<p>Counsel for We Want Green, Too and Soulardarity Amanda Urban Mark Templeton Jacob Schuhardt Email: aurbanlaw@gmail.com templeton@uchicago.edu jschuhardt@uchicago.edu</p>	<p>Counsel for International Transmission Company Richard Aaron Olivia R.C.A. Flower Hannah Buzolits Courtney Kissel Email: raaron@dykema.com oflower@dykema.com hbuzolits@dykema.com ckissel@dykema.com</p>
<p>Counsel for The Kroger Company Kurt J. Boehm Jody Kyler Cohn Email: kboehm@bkllawfirm.com jkylercohn@bkllawfirm.com</p>	<p>Counsel for Utility Workers Union of America, Local 223 Richard G. Mack Jr. Email: richardmack@millercohen.com</p>
<p>Counsel for Gerdau MacSteel, Inc. Jennifer Heston Email: jheston@fraserlawfirm.com</p>	<p>Counsel for City of Ann Arbor Valerie Jackson Email: vjackson@a2gov.org</p>
<p>Counsel for Michigan Energy Innovation Business Council; Institute for Energy Innovation; Advanced Energy United; Foundry Association of Michigan; and Energy Michigan, Inc. Timothy Lundgren Laura Chappelle Justin Ooms Email: lachappelle@varnumlaw.com tjlundgren@varnumlaw.com jooms@varnumlaw.com</p>	<p>Counsel for The Ecology Center; The Environmental Law & Policy Center; Union of Concerned Scientists; and Vote Solar Daniel H.B. Abrams Katie Duckworth Email: dabrams@elpc.org kduckworth@elpc.org</p> <p>Consultant for The Ecology Center Curt Volkman Email: curt@newenergy-advisors.com</p>
<p>Counsel for Electrify America, LLC Stephen Bright Krystal D. Hermiz Email: steve.bright@electrifyamerica.com khermiz@grsm.com</p>	<p>Counsel for Michigan Cable Telecommunications Association Sean Gallagher Email: sgallagher@fraserlawfirm.com</p>

<p>Counsel for Great Lakes Renewable Don Keskey Email: donkeskey@publiclawresourcecenter.com</p>	
<p>Counsel for ABATE Michael J. Pattwell Stephen A. Campbell Benjamin J. Holwerda Email: mpattwell@clarkhill.com scampbell@clarkhill.com bholwerda@clarkhill.com</p> <p>Lauren Degnan Email: ldegnan@clarkhill.com</p>	<p>Consultants for ABATE James Dauphinais Email: jdauphinais@consultbai.com</p>