

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of Detroit)
Thermal, LLC for approval of its Steam)
Supply Cost Recovery Plan and Factors for)
the 12-month period from April 1, 2019)
through March 31, 2020)
_____)

Case No. U-20237

**AMENDED APPLICATION TO FREEZE SSCR FACTOR AND TEMPORARILY
SUSPEND OPERATION OF STEAM SUPPLY COST RECOVERY CLAUSE**

Detroit Thermal, LLC (“Detroit Thermal”) submits this Amended Application requesting the Commission authorize the Company to freeze its SSCR factor and temporarily suspend operation of its existing Steam Supply Cost Recovery Clause due to a significant, unanticipated change in circumstances that has materially and adversely affected Detroit Thermal’s expected operations during and after the SSCR Plan Year commencing April 1, 2019. In support of this Amended Application, Detroit Thermal states the following:

1. On December 27, 2018, Detroit Thermal, pursuant to 2008 PA 132, MCL 460.6r, requested that the Michigan Public Service Commission (“MPSC” or “Commission”) approve its Steam Supply Cost Recovery (“SSCR”) Plan, 3-Year Forecast, SSCR factor and incremental contingent SSCR factors for the 12-month period from April 1, 2019 through March 31, 2020 as set forth in this Amended Application.

2. In its original Application for the 12-month period April 1, 2019—March 31, 2020 (the “Plan Period”), Detroit Thermal proposed to implement a maximum base SSCR Factor of \$14.05 per thousand pounds of steam (“Mlb.”) that could be increased by Incremental Contingent SSCR Factors based upon an increase in natural gas futures prices on the New York Mercantile

Exchange (“NYMEX”) in comparison to the natural gas futures price utilized in the development of the SSCR Plan and SSCR Factor for the Plan Period.

3. The testimony and exhibits of Robert W. Cullen attached to the original Application and made part of it supported the proposed 12-month SSCR Factor and Incremental Contingent SSCR Factors and constituted Detroit Thermal’s SSCR Plan for the requested 12-month SSCR Factor and Detroit Thermal’s 3-Year Forecast of steam supply requirements in accordance with Sections 6r(3) and (4) of 2008 PA 132 as of the date the original Application was filed.

4. In its original Application, Detroit Thermal expressly reserved the right to amend, modify or otherwise revise the relief it sought in any way appropriate under the Commission’s Rules of Practice and Procedure.

5. Pursuant to Section 6r(9) Detroit Thermal is currently authorized to charge its tariff customers an amount in addition to their base rate of up to \$14.05 per Mlb., the factor incorporated in its SSCR plan.

6. The original Application was premised upon supporting testimony and exhibits demonstrating that Detroit Thermal expected to generate approximately 25% of its steam needs in its own gas-fired boilers located at its Beacon plant and to purchase approximately 75% of its steam needs from Michigan Waste Energy, Inc. d/b/a Detroit Renewable Power’s (“DRP”) waste-to-energy plant that produces steam by burning municipal solid waste.

7. Between the time Detroit Thermal filed its original application in this matter on December 27, 2018 and March 26, 2019, the DRP plant continued to sell steam to Detroit Thermal as contemplated in the original plan.

8. On March 27, 2019, the DRP plant ceased operations and stopped producing steam for sale to Detroit Thermal.

9. From and after March 27, 2019 all of Detroit Thermal's steam supply has been produced by Detroit Thermal in its own boilers using natural gas as fuel and no steam has been purchased from DRP.

10. Detroit Thermal's current overall rate structure was established based on the assumption that Detroit Thermal's steam demand would be met primarily through the purchase of steam from DRP, with Detroit Thermal using its own gas-fired boilers as backup or when the total load exceeds the capacity of DRP's refuse-fueled boilers, which typically happens during the coldest times of the year.

11. The shift in production from purchased steam to self-generated steam has and will eliminate Detroit Thermal's cost for purchased steam, while at the same time increasing Detroit Thermal's costs for natural gas, but will also substantially and immediately increase Detroit Thermal's non-gas variable costs for water, electricity, chemicals, labor, additional maintenance, none of which costs are recovered via the current rate structure.

12. The shift from purchasing steam from DRP to generating 100% of steam in its own boilers at Beacon, Henry and Boulevard will not only produce an immediate and unprecedented increase in Detroit Thermal's variable costs that cannot be recovered via the existing SSCR rate mechanism or the existing base rate element but, in addition, the cessation of operations at DRP means those boilers will not be available in the future to provide a source of backup steam. While Detroit Thermal's existing steam plants have sufficient capacity with a reserve margin to serve expected peak load even in the coldest hours of the winter, prudent operating practice requires the Company to have sufficient redundancy to serve peak load in the event one of its existing boilers were to be out of service. Therefore, Detroit Thermal will need to invest significant capital in advance of next winter to ensure reliability during the next heating season.

13. By way of general background what follows is an overview of how Detroit Thermal's rate structure has evolved since it first began operations in 2003.

14. On January 24, 2003 Detroit Thermal purchased from the Detroit Edison Company the assets of the latter's steam division, including but not limited to the Beacon, Henry, Willis and Boulevard steam plants, some 39 miles of underground steam pipelines, five miles of steam tunnels and other infrastructure used to provide steam for heating, cooling and industrial processing purposes to various customers in downtown, midtown and the new center areas of Detroit.

15. At the time that Detroit Thermal acquired the system there was no tariff in effect and all of Detroit Thermal's steam customers took steam under special contracts with a substantial portion of the contracts providing for a term expiring on October 31, 2003 and a fixed volumetric rate of \$19.89 per Mlb.

16. On September 26, 2003 Detroit Thermal filed an application seeking approval of an initial steam tariff and that the tariff rate be set at \$20.44 per Mlb. subject to monthly adjustments based on changes in NYMEX natural gas prices, MPSC Case No. U-13691.

17. Also on September 26, 2003 Detroit Thermal filed an Ex Parte Motion to Freeze Status Quo requesting authority to continue to serve customers who elected not to renew their contracts when they expired at the contract rate pending final adjudication of a tariff rate.

18. On October 26, 2003 the Commission granted Detroit Thermals' Ex Parte Motion to Freeze Status Quo allowing it to continue to serve its contract customers after their respective contracts expired and charge the same rates, subject to posting a bond to provide for partial refunds to the extent the rates charged after the contracts expired might exceed the tariff rate ultimately approved by the Commission.

19. Pursuant to the Commission's October 23, 2003 Order Detroit Thermal charged the bulk of its customers a fixed rate per Mlb. of \$19.89 from November 1, 2003 until the Commission

entered its final order in MPSC Case No-U-13691 on September 8, 2005, which order set the initial tariff rate at \$19.77 per Mlb.

20. In its September 8, 2005 final order in MPSC Case No. U-13691 the Commission also concluded that due to the volatility of natural gas prices it would allow Detroit Thermal to recoup a portion of its revenue requirements through an adjustable rate mechanism that would allow Detroit Thermal to make monthly adjustments in its rates. On a temporary basis the adjustment mechanism was to be based on the MichCon (now DTE Gas) monthly GCR and Detroit Thermal was directed to file a new application for approval of a permanent Gas Cost Adjustment Mechanism (GCAM) to go into effect on April 1, 2006.

21. In its final order in MPSC Case U-13691 the Commission also noted that Detroit Thermal had only begun operations in January, 2003 and had little operating history when it filed its application, testimony and exhibits for its initial tariff. Therefore, the Commission directed Detroit Thermal to file a new rate case by March 1, 2007, at which point it would have three full years of operating experience.

22. On September 30, 2005 Detroit Thermal filed an application for approval of a permanent GCAM, MPSC Case No. U-14648.

23. On March 14, 2006 the Commission entered its Order approving a settlement agreement of the GCAM case, MPSC Case No. U-14648.

24. The GCAM settlement agreement provided for establishment of an adjustable rate element designed to recover the cost of natural gas used to produce steam and the cost of purchased steam, but with respect to the latter only “if the amount of steam purchased by the Company in any Plan year is, or will be, less than 1,500,000 Mlb.” The settlement also provided that Detroit Thermal would file an application for a revised rate adjustment mechanism that would provide for the recovery of all fuel costs and the full cost of steam purchased from third parties.

25. On December 29, 2006 Detroit Thermal filed an application for approval of a revised gas cost adjustment mechanism referred to as the Steam Cost Recovery (“SCR”) mechanism, MPSC Case No. U-15045.

26. On March 1, 2007, pursuant to the Commission’s previous directive, Detroit Thermal filed a new rate case, MPSC Case No. U-15192. The Application proposed to increase rates and replace the existing GCAM with a restructured volumetric rate that would include a base rate element set at a level designed to recover all fixed and variable costs other than the cost of steam purchased from third parties and the cost of fuels utilized by Detroit Thermal in the production of steam in its own facilities, and for all purchased steam and gas costs to be recovered via a separate rate element, the SCR.

27. On June 12, 2007 the Commission issued its Order approving a settlement in MPSC Case U-15045 and authorizing Detroit Thermal to incorporate an SCR mechanism into its tariff.

28. On July 5, 2007 the Commission approved a settlement agreement in the pending general rate case, MPSC Case No. U-15192. This settlement agreement provided for an initial rate of \$23.10 per Mlb. comprised of a base rate element of \$8.59 and an initial SCR rate element of \$14.51 per Mlb.

29. On May 21, 2008 PA 132 became effective. Section 2 of the Act authorized, but did not require, the Commission to approve a Steam Supply Cost Recovery (“SSCR”) Mechanism for inclusion in a steam utility’s rates. Prior to this time a steam utility was not able to recoup an under-recovery of purchased steam and gas costs. Consequently, the previous GCAM and SCR mechanisms approved by the Commission had required refunds of an over-recovery but did not provide Detroit Thermal with an opportunity to roll an under-recovery into a subsequent plan year. Section 2 is codified as MCL 460.6r.

30. On August 29, 2008 Detroit Thermal filed an application to modify its tariff to include a proposed rate adjustment mechanism conforming to the requirements of 2008 PA 132, MCL 460.6r, MPSC Case No. U-15648.

31. On November 13, 2008 the Commission issued its Order authorizing Detroit Thermal to revise its tariff to include an SSCR rate adjustment mechanism conforming to the requirements of MCL 460.6r.

32. Under the SSCR rate adjustment mechanism contained in Detroit Thermal's approved tariff the Company files an annual plan by the end of December setting forth its expected costs for natural gas and purchased steam for the 12 month plan period commencing April 1 and the Commission establishes a maximum SSCR rate that can be billed to customers during the 12 month plan period. During the period covered by the plan Detroit Thermal then updates its tariff on a monthly basis to set forth the actual amount it will bill for the SCCR rate for each month, which may be at or below the maximum authorized rate.

33. Within three months following the end of a plan year Detroit Thermal prepares and files a reconciliation of revenues derived from the SSCR rate element and actual costs for natural gas and purchased steam to determine if the revenues exceeded actual costs or if actual costs exceeded its revenues. Once the reconciliation is audited by Staff and approved by the Commission any surplus in revenues over costs is credited against the next plan period costs. If costs exceed revenues the under-recovered amount is added to the amount to be recovered in the subsequent plan period.

34. On July 15, 2016 Detroit Thermal filed a general rate case seeking to increase its rates with supporting testimony and exhibits, including but not limited to a full and complete cost of service study, MPSC Case No. U-18131. The Application also sought to revise the Company's

tariff to create four rate classes based on volume of demand, with different rates applicable to each rate class.

35. On October 11, 2016 the Commission issued its final Order in MPSC Case No. U-18131 approving a settlement agreement and setting cost-based rates for four separate rates as follows:

- a. Small Volume, Base Rate \$18.84 plus SSCR \$13.91, Total Rate: \$32.75
- b. Medium Volume, Base Rate \$15.59 plus SSCR \$13.91, Total Rate \$29.50
- c. Large Volume, Base Rate \$12.09 plus SSCR \$13.91, Total Rate \$26.00
- d. Extra-large Volume, Base Rate \$6.09 plus SSCR \$13.91, Total Rate \$20.00

36. The total rate for each rate class approved by the Commission in Case U-18131 is comprised of two volumetric rate elements. The fixed rate element was designed to capture all of the company's fixed and variable rate elements except for fuel to produce steam in Detroit Thermals' own boiler and steam purchased from third parties. The other rate element is the SSCR, designed in accordance with MCL 460.6r and intended to recover only the cost of fuel used to produce steam in Detroit Thermal's boilers and to purchase steam from third parties.

37. On December 27, 2018, at the time it filed the original Application in the instant case Detroit Thermal's expectation was that it would continue to purchase steam from DRP produced by burning refuse-derived fuel. Accordingly, the plan requested approval of an SSCR factor of \$14.05, which would be sufficient to recoup the anticipated natural gas costs for Detroit Thermal to produce approximately 700,000 Mlbs of steam in Detroit Thermal's gas-fired boilers at its Beacon plant and the cost to purchase approximately 2,000,000 Mlbs of steam generated from DRP, consistent with past practice.

38. While the existing rate structure and application of the SSCR clause would allow Detroit Thermal to recoup the additional costs for natural gas needed to produce all steam in Detroit Thermal's own boilers, it will not provide Detroit Thermal with the ability to recover for the immediate and substantial increase in other variable costs necessary for Detroit Thermal to produce

steam in its boilers or to recover on capital investment needed to insure reliable service to its customers for the next heating season starting in October, 2019.

39. Because in its last general rate case Detroit Thermal agreed to a moratorium on a new rate case absent certain conditions, and because the loss of DRP as a source of steam was not anticipated until shortly before it occurred, Detroit Thermal had not prepared or even undertaken any of the preliminary work necessary to prepare a new general rate case for submission to the Commission premised upon a steam supply generated exclusively from Detroit Thermal's own facilities and the costs associated with that type of operation.

40. While Detroit Thermal has had brief periods of time when it operated without purchasing steam from DRP and used its own gas-fired boilers as the sole source of steam, it has not had any operating experience in which purchased steam is not available on a permanent basis and to quantify the full impact on Detroit Thermal's costs will require substantial effort.

41. Detroit Thermal and its customers are both entitled to just and reasonable rates.

42. In order to address the immediate rate/financial uncertainty faced by Detroit Thermal and to allow the Company to research and file a new rate case while continuing to provide reliable service to its customers, Detroit Thermal requests authority to freeze the rates for each class of customer and to suspend for a period not to exceed 24 months, or the date of a final commission order in a rate case, the application of any adjustment mechanism, such that each class of customer would pay for all steam at the following fixed rates per Mlb.:

<u>Rate Class</u>	<u>Base Rate</u>	<u>SSCR</u>	<u>Total Fixed Rate</u>
Small Volume	\$18.84	\$14.05	\$32.89
Medium Volume	\$15.59	\$14.05	\$29.64
Large Volume	\$12.09	\$14.05	\$26.14
Extra Large Volume	\$6.09	\$14.05	\$20.14

43. This request would simply have the effect of combining the two existing rate elements in Detroit Thermal's tariffs into one fixed rate and suspend application of the SSCR adjustment mechanism but would not increase the total rates paid by Detroit Thermal's customers beyond their current total authorized level, nor would it increase the cost of service to Detroit Thermal's customers.

44. While MCL 460.6r permits the Commission to allow a utility to include an adjustment mechanism in its tariffs for steam supply costs, the statute does not require that a steam utility's tariffs include an SSCR mechanism.

45. If a rate freeze and suspension of operation of the SSCR clause are approved as requested, then in the event that total natural gas costs exceed the amount that Detroit Thermal recovers from the requested fixed rates Detroit Thermal would assume that risk and not be able to pass through those additional costs, nor would there be any reconciliation of revenues and costs for the period commencing April 1, 2019 and for the duration of the suspension.

46. In addition, in order to address any surplus balance (i.e., "over-recovery") for the recently concluded plan year covering the period April 1, 2018 through March 31, 2019 if the relief requested herein is granted, Detroit Thermal will request in its application for that reconciliation case, which is due to be filed no later than June 30, 2019, for approval to refund the full amount of any over-recovery to its tariff customers on a pro-rata basis by issuing credits against current bills over eighteen months or such other period of time the Commission may deem reasonable. This will eliminate the need to rollover the amount refunded into a subsequent plan period once the suspension of the SSCR clause has ended.

47. Detroit Thermal further represents that it intends to file a new full rate case as soon as one can be prepared and that it believes it will be able to demonstrate that its return on common

equity is less than ten percent (10%), which would satisfy the condition allowing it to file a full rate case prior to the end of the five year moratorium set in MPSC Case U-18131.

48. Detroit Thermal further requests that the freeze of the SSCR factor and suspension of the SSCR clause requested herein continue until the earlier of 24 months, the approval of a final rate in the contemplated full rate case to be filed, or the approval of an interim rate in such case if one were to be approved on an interim basis.

WHEREFORE, Detroit Thermal respectfully requests that the Commission

a) Approve a rate freeze of the SSCR factor for each of its four customer classes at rates for the period commencing April 1, 2109 in an amount equal to the base rates approved in the Company's last full rate case plus \$14.05 and authorize the Company to revise its tariff to set the following fixed rates for a period of 24 months or until a final order is issued in a new rate case, or an interim rate is approved in a new rate case, whichever first occurs and that it be allowed to revise its tariffs to provide for rates for each rate class at the following fixed amounts:

<u>Rate Class</u>	<u>Base Rate</u>	<u>SSCR</u>	<u>Total Fixed Rate</u>
Small Volume	\$18.84 +	\$14.05 =	\$32.89
Medium Volume	\$15.59 +	\$14.05 =	\$29.64
Large Volume	\$12.09 +	\$14.05 =	\$26.14
Extra Large Volume	\$6.09 +	\$14.05 =	\$20.14

b) Suspend operation of the SSCR Clause in Detroit Thermal's existing tariff for a period of 24 months or until a final order is issued in a new rate case or until an interim rate order is approved in a new rate case, whichever first occurs.

c) Waive its notice by publication requirement and allow Detroit Thermal to notify its customers of this Amended Application individually through a specific notice of hearing mailing; and

d) Grant Detroit Thermal such other and additional relief as may be deemed appropriate under the circumstances.

Dated: April 18, 2019

Respectfully submitted,

FISCHER, FRANKLIN & FORD

By: Arthur J. LeVasseur

Arthur J. LeVasseur (P29394)
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**STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION**

In the matter of the application of Detroit)
Thermal, LLC for approval of its Steam)
Supply Cost Recovery Plan and Factors for)
the 12-month period from April 1, 2019)
through March 31, 2020)
_____)

Case No. U-20237

PROOF OF SERVICE

STATE OF MICHIGAN)
) SS:
COUNTY OF OAKLAND)

Arthur J. LeVasseur, being first duly sworn, deposes and says that on the 18th day of April, 2019, he served a copy of the attached Amended Application to Freeze SSCR Factor and Temporarily Suspend Operations of Steam Supply Cost Recovery Clause upon the following parties via e-mail only:

MPSC Staff

Michael J. Orris
Michigan Public Service Commission
7109 W. Saginaw Hwy., 3rd Floor
Lansing, MI 48917
orrism@michigan.gov

Benjamin J. Holwerda
Michigan Public Service Commission
7109 W. Saginaw Hwy., 3rd Floor
Lansing, MI 48917
holwerdab@michigan.gov

Administrative Law Judge

Hon. Sharon L. Feldman
Administrative Law Judge
Michigan Public Service Commission
7109 W. Saginaw Hwy., 3rd Floor
Lansing, MI 48917
feldmans@michigan.gov

Arthur J. LeVasseur

Arthur J. LeVasseur

Subscribed and sworn to before me
on April 18, 2019

Diane M. MacArthur

Diane M. MacArthur, Notary Public
State of Michigan, County of Wayne
My Commission expires: 6/4/2019
Acting in the County of Oakland

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION
NOTICE OF HEARING
FOR THE STEAM CUSTOMERS OF
DETROIT THERMAL, LLC
CASE NO. U-20237

- Detroit Thermal, LLC requests Michigan Public Service Commission’s approval of its amended application to freeze its SSCR factor and temporarily suspend operation of its steam supply cost recovery clause. The information below describes how a person may participate in this case.
- You may call or write Detroit Thermal, LLC, 541 Madison Ave., Detroit, MI 48226, phone: 313-972-4415 for a free copy of its application. Any person may review the documents at the offices of Detroit Thermal, LLC.
- A pre-hearing will be held:

DATE/TIME: _____, 2019, at 9:00 AM

BEFORE: **Administrative Law Judge Sharon L. Feldman**

LOCATION: Michigan Public Service Commission
7109 West Saginaw Highway
Lansing, Michigan 48917

PARTICIPATION: Any interested person may attend and participate. The hearing site is accessible, including handicapped parking. Persons needing any accommodation to participate should contact the Commission's Executive Secretary at (517) 284-8090 in advance to request mobility, visual, hearing or other assistance.

The Michigan Public Service Commission (“Commission”) will hold a pre-hearing to consider Detroit Thermal, LLC’s (“Detroit Thermal”) April 18, 2019 amended application which requests the following: (1) authorization to freeze the SSCR Factor at \$14.05 per Mlb. (2) temporary suspension of the Steam Supply Cost Recovery clause, and (3) other relief.

All documents filed in this case shall be submitted electronically through the Commission’s E-Dockets website at: <https://mi-psc.force.com/s/>. Requirements and instructions for filing can be found in the User Manual on the E-Dockets help page. Documents may also be submitted in Word or PDF format, as an attachment to an email sent to: mpscedockets@michigan.gov. If you require assistance prior to e-filing, contact the Commission staff at (517) 284-8090 or by email at: mpscedockets@michigan.gov.

Any person wishing to intervene and become a party to the case shall electronically file a petition to intervene with this Commission by _____, 2019. (Interested persons may elect to file using the traditional paper format.) The proof of service shall indicate service upon Detroit Thermal, LLC’s attorney, Arthur J. LeVasseur, Fischer, Franklin & Ford, 24725 W. 12 Mile Road, Suite 230, Southfield, MI 48034.

Any person wishing to appear at the hearing to make a statement of position without becoming a party to the case may participate by filing an appearance. To file an appearance, the

individual must attend the hearing and advise the presiding Administrative Law Judge of his or her wish to make a statement of position. All information submitted to the Commission in this matter becomes public information, thus available on the Michigan Public Service Commission's website, and subject to disclosure. Please do not include information you wish to remain private.

Requests for adjournment must be made pursuant to the Michigan Administrative Hearing System's Administrative Hearing Rules R 792.10422 and R 792.10432. Requests for further information on adjournment should be directed to (517) 284-8130.

A copy of Detroit Thermal, LLC's amended application may be reviewed on the Commission's website at: michigan.gov/mpscedockets, and at the office of Detroit Thermal, LLC. For more information on how to participate in a case, you may contact the Commission at the above address or by telephone at (517) 284-8090.

The Utility Consumer Representation Fund has been created for the purpose of aiding in the representation of residential utility customers in various Commission proceedings. Contact the Chairperson, Utility Consumer Participation Board, Department of Licensing and Regulatory Affairs, P.O. Box 30004, Lansing, Michigan 48909, for more information.

Jurisdiction is pursuant to 1909 PA 300, as amended, MCL 462.2 et seq.; 1919 PA 419, as amended, MCL 460.54 et seq.; 1939 PA 3, as amended, MCL 460.1 et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; and Parts 1 & 4 of the Michigan Administrative Hearing System's Administrative Hearing Rules, Mich. Admin Code, R 792.10106 and R 792.10401 through R 792.10448.