

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion,)
to consider changes in the rates of all of the)
Michigan rate-regulated electric, steam, and)
natural gas utilities to reflect the effects of the)
federal Tax Cuts and Jobs Act of 2017: **DTE**)
GAS COMPANY files an application for)
determination of Calculation C as described in)
order U-18494.)

Case No. U-20298

In the matter, on the Commission's own motion,)
to consider changes in the rates of all of the)
following Michigan rate-regulated electric,)
steam, and natural gas utilities to reflect the effects)
of the federal Tax Cuts and Jobs Act of 2017:)
ALPENA POWER COMPANY, CONSUMERS)
ENERGY COMPANY, DETROIT THERMAL, LLC,)
DTE ELECTRIC COMPANY, DTE GAS COMPANY,)
INDIANA MICHIGAN POWER COMPANY,)
NORTHERN STATES POWER COMPANY-)
WISCONSIN, UPPER PENINSULA POWER)
COMPANY, UPPER MICHIGAN ENERGY)
RESOURCES CORPORATION,)
WISCONSIN ELECTRIC POWER COMPANY,)
PRESQUE ISLE ELECTRIC & GAS CO-OP,)
MICHIGAN GAS UTILITIES CORPORATION, and)
SEMCO ENERGY GAS COMPANY.)

Case No. U-18494

In the matter, on the Commission's own motion,)
to consider changes in the rates of all the Michigan)
rate-regulated electric, steam, and natural gas utilities)
to reflect the effects of the federal Tax Cuts and Jobs)
Act of 2017: **DTE GAS COMPANY**)
files an application for determination of Credit A)
as described in order U-18494.)

Case No. U-20106

In the matter, on the Commission's own motion, to)
consider changes in the rates of all the Michigan)
rate-regulated electric, steam, and natural gas utilities)
to reflect the effects of the federal Tax Cuts and Jobs)
Act of 2017: **DTE GAS COMPANY** files an)
application for determination of Credit B as)
described in order U-18494.)
_____)

Case No. U-20189

At the August 20, 2019 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Sally A. Talberg, Chairman
Hon. Daniel C. Scripps, Commissioner

ORDER

History of Proceedings

On December 22, 2017, the Tax Cuts and Jobs Act of 2017 (TCJA) was signed into law. The TCJA contains provisions reducing the corporate tax rate and revising the federal tax structure. These new federal requirements affect the current tax expense and deferred tax accounting methods used by corporations, including utilities. Most of the provisions of the TCJA went into effect on January 1, 2018.

The Commission took action, on its own motion, in an expeditious manner following the passage of the TCJA to ensure tax savings were identified and returned to Michigan natural gas and electric utility customers. *See*, December 27, 2017 order in Case No. U-18494. To ensure that all utilities account for these changes in a similar manner, on February 22, 2018, the Commission issued an order in Case No. U-18494 (February 22 order) adopting a three-step approach to address the impacts of the federal corporate tax reduction arising from the TCJA.

The February 22 order directed certain utilities, including DTE Gas Company (DTE Gas), to file a Credit A application no later than March 30, 2018. Credit A addressed utility rate reductions to reflect the new, lower federal tax rate on a going forward basis. DTE Gas filed its Credit A application on March 28, 2018, in Case No. U-20106, and a settlement agreement resolving the company's revenue reduction associated with Credit A was approved by the Commission on May 30, 2018, in that docket.

The second step, the Credit B proceeding, addressed the impacts of the TCJA from January 1, 2018, to the date of the order in the utility's Credit A case. DTE Gas filed its Credit B application on July 30, 2018, and the Commission issued an order in Case No. U-20189 on October 24, 2018, approving the total Credit B refund, including interest, of \$24,995,319.

The February 22 order also directed utilities to file an application no later than October 1, 2018, with supporting testimony and exhibits, for the third step, the Calculation C proceeding, to capture all remaining impacts of the tax law change. On September 4, 2018, DTE Gas filed a motion for extension of time to file its application for determination of Calculation C in Case No. U-20298. No response to the motion was filed and the Commission granted the motion on September 13, 2018, extending the deadline to November 16, 2018.

On November 16, 2018, DTE Gas filed an application, with supporting testimony and exhibits, requesting approval of base rate credits for its Michigan customers reflective of the remainder of its Calculation C federal tax expense.

A prehearing conference was held on January 9, 2019, before Administrative Law Judge Martin D. Snider (ALJ). At the prehearing conference, the ALJ granted intervenor status to the Michigan Department of the Attorney General (Attorney General), the Association of Businesses Advocating Tariff Equity (ABATE), and the Residential Customer Group (RCG). The Commission Staff (Staff) also participated in the proceeding.

An evidentiary hearing was conducted on April 17, 2019. The parties filed initial briefs and reply briefs on May 21, 2019, and June 4, 2019, respectively, and the ALJ issued his Proposal for Decision (PFD) on June 21, 2019. On July 16, 2019, DTE Gas, the Attorney General, ABATE, and RCG filed exceptions to the PFD. On July 23, 2019, the Attorney General filed replies to exceptions, and on July 25, 2019, DTE Gas, the Staff, and RCG filed replies to exceptions, while ABATE filed a letter stating it was not filing replies to exceptions. The record consists of 218 pages of transcript and 22 exhibits admitted into evidence.

Discussion

DTE Gas contended that its Calculation C is a remeasurement of deferred taxes resulting in a reduction of \$333 million in excess accumulated deferred income taxes (ADIT). 2 Tr 24-25; Exhibit A-6, Schedule C8.1. The company split the total into three components, protected plant, unprotected plant, and non-plant, and it proposed to return the excess ADIT to customers “through amortization of the tax regulatory liability.” 2 Tr 24-25.

The protected plant category includes excess ADIT related to the cumulative difference between tax depreciation and book depreciation. DTE Gas lists an excess liability of \$238.1 million, before gross up, in the protected plant category. Exhibit A-6, Schedule C8.1. “The normalization requirements in the TCJA require the use of the Average Rate Assumption Method (ARAM) to return to customers the excess deferred taxes related to accelerated depreciation.” 2 Tr 26.

The unprotected plant includes excess ADIT for certain capital expenditures which are deducted for tax purposes but must be capitalized and depreciated as fixed assets for book purposes. *Id.* DTE Gas indicates an excess ADIT asset of \$1.3 million, before gross up, and that

amortization of this component should be calculated on a straight-line basis over 34 years. 2 Tr 26; Exhibit A-6, Schedule C8.1.

The non-plant category includes excess ADIT for the non-plant cumulative timing differences. The company lists a non-plant excess liability of \$96.2 million, before gross up. Exhibit A-6, Schedule C8.1. Further, DTE Gas calculated amortization of this component on a straight-line basis over 13 years which “is the average life of the largest cumulative timing differences making up most of the total.” 2 Tr 26.

The ALJ noted that DTE Gas, the Staff, the Attorney General, and ABATE agree with the overall regulatory liability as calculated by DTE Gas. *See*, 2 Tr 177, 185; ABATE’s initial brief, p. 4. The ALJ concluded “that there is a preponderance of the evidence that DTE Gas’s has a \$333.7 million regulatory liability;” however, the record reflects a regulatory liability, prior to gross up, of \$333,037,000 consisting of \$238,062,000 of protected plant ADIT, \$96,247,000 of unprotected non-plant ADIT, and \$1,272,000 in unprotected plant, which is summarized as follows:

Summary of Excess ADIT Balances

\$ Millions

Description	Excess ADIT	(Refund)/Collection Period
Protected Plant	\$ (238.1)	ARAM
Unprotected Plant	\$ 1.3	34 years
Non-Plant	\$ (96.2)	13 years
Total DTE	\$ (333.0)	

PFD, pp. 51, 74; *see*, 2 Tr 208; Exhibit A-6, Schedule C8.1. The Commission finds that the record supports a \$333,037,000 regulatory liability and no exceptions were filed on this issue.

Therefore, the Commission adopts the ALJ's findings and recommendations regarding the parties' agreement and a regulatory liability of \$333,037,000, as set forth in Exhibit A-6, Schedule C8.1.

According to the ALJ, the parties substantially agree that DTE Gas's proposal to amortize the \$1.3 million in unprotected plant ADIT over 34 years is reasonable. PFD, p. 52; *see*, 2 Tr 177, 193. No exceptions were filed and the Commission adopts the findings and recommendations of the ALJ.

As discussed by the ALJ, the parties are in dispute regarding the following issues, which are individually discussed below: (1) the amortization period for the non-plant ADIT, (2) DTE Gas's proposed modification of its capital structure, (3) the Attorney General's proposed acceleration of the amortization of the excess ADIT from 2018 and 2019, (4) whether the excess ADIT should be returned through negative surcharges or revised rates, and (5) whether the company should be required to file annual reconciliation letters.

A. Amortization of Non-Plant Accumulated Deferred Income Taxes

DTE Gas proposed that the non-plant ADIT should be returned to customers over a 13-year period which "is the average life of the largest cumulative timing differences making up most of the total." 2 Tr 26. The company stated that the largest cumulative timing differences utilized in this calculation account for 85% of the absolute value of the total non-plant cumulative timing differences. *Id.*, p. 31. The Attorney General, however, proposed that a more reasonable amortization period would be 10 years. *Id.*, p. 194. She contended that the company improperly used the simple average of the remaining life of the five timing differences rather than a weighted average which supports a lower amortization period. Further, the Attorney General argued that DTE Gas selected only 5 of 27 of the items and that "[i]t is likely that the remaining

22 items have amortizable lives of less than 10 years.” *Id.*, p. 194. The 10-year amortization was also supported by ABATE, who contended that a 10-year period more reasonably balances the interests of the parties and that “a quicker refund period helps prevent potential, or exacerbated, intergeneration inequalities.” *Id.*, p. 211. ABATE cited several cases, most of which were from states other than Michigan, where an amortization period of 10 years or less was utilized or recommended. *See, id.* pp. 211-212.

The ALJ found that DTE Gas failed to provide adequate support for its proposed 13-year amortization period. According to the ALJ, the Attorney General’s proposal, as supported by ABATE and RCG, is more reasonable and he recommended that the Commission “exercise its discretion with regard to DTE Gas’s Unprotected Non-Plant ADIT and approve the pass-through of TCJA tax benefits to customers by approving an amortization period of 10 years or less.” PFD, p. 57.

DTE Gas takes exception to the ALJ’s recommendation, arguing that its 13-year amortization period is reasonable and supported “by at least a preponderance of the evidence on the record in this case.” DTE Gas’s exceptions, p. 2. DTE Gas reiterates that the 13-year period is the average life of the largest non-plant cumulative timing differences, those greater than \$70 million, which represents 85% of the absolute value of the total non-plant cumulative timing differences. The company asserts that its position is “a logical and mathematical approach supported by the numbers as evidence on the record.” *Id.*, p. 3. Although the ALJ found that the Staff was silent on this issue, DTE Gas contends that the Staff actually supports the 13-year amortization. Further, the company argues that the intervenors’ proposed 10-year amortization period is “speculative, inapplicable, overly complex, or totally absent.” *Id.*

Regarding the Attorney General’s contention that the weighted average was more appropriate, the company argues that this method would have had a marginal effect making the

timeframe “closer to 12 years” and is more complex than the use of the simple average. *Id.*, p. 4. In addition, the company states that use of a weighted average contravenes the February 22 order. Responding to the Attorney General’s claim that including the additional 22 timing differences would reduce the amortization period, DTE Gas asserts that her proposal is mere speculation and there are “simply no mathematics provided to support the position.” *Id.* Finally, the company argues that ABATE’s contentions are similarly speculative because they reference “potential intergenerational inequities” but ABATE does not support its claim with evidence and the additional cases cited in support ignore the differences between the companies’ cumulative timing differences.

The Attorney General replies that, in her opinion, the Staff’s silence does not indicate support but indifference and whether the Staff supports the company’s position is ultimately irrelevant. Attorney General’s replies to exceptions, pp. 3-4. She further states that DTE Gas failed to provide new information to demonstrate that its 13-year proposal was based on a mathematical approach. The Attorney General “continues to argue that the Company’s tailored analysis of the timing differences leads to a lengthy and inappropriate amortization period” *Id.*, p. 5.

RCG also replies, arguing that DTE Gas’s contention that the Staff’s silence equals support is a stretch and if the Staff supported the 13-year amortization, it would have filed exceptions. Additionally, RCG states that the company’s rationale of a mathematical calculation “appears more in the nature of fishing for a rationale for the 13 years, rather than either a more complete mathematical calculation of the entire account or as a reason for departing from the more prompt 10 year period for amortization.” RCG’s exceptions, p. 2.

The Commission has reviewed the record and finds that the company included the non-plant cumulative timing differences for those over \$70 million, including property taxes, other post-

employment benefits (OPEB), pension, and state deferred, in its calculation. These cumulative timing differences represent 85% of the absolute value of total non-plant cumulative timing differences. *See*, 2 Tr 31. Although the Attorney General opines that a weighted average is more appropriate and that it “shows an average life for the five items of closer to 12 years,” she does not propose a 12-year amortization and simply states that “[i]t is likely that the remaining 22 items have amortizable lives of less than 10 years” in an attempt to support the proposed 10-year amortization proposal. *Id.* The Commission finds her position is speculative and unsupported by evidence on the record, whereas the 13-year amortization period proposed by DTE Gas is mathematically supported by evidence on the record. The Commission also notes that the Staff’s silence on the amortization period is not indicative of an agreement with the company’s position as aptly pointed out by the Attorney General.

In addition, the Commission finds ABATE’s list of other cases utilizing a 10-year or lower amortization period to be unpersuasive. As stated by DTE Gas, relying on the examples presented by ABATE “incorrectly assumes that these other companies have the same underlying non-plant timing differences and tax situation/portfolio as DTE Gas.” 2 Tr 32. The Commission agrees. Therefore, the Commission finds that DTE Gas’s proposal for a 13-year amortization period for the non-plant ADIT is reasonable and supported by the record and should be adopted.

B. Proposed Capital Structure Modification

DTE Gas proposed a modification to its capital structure as a result of the proposed amortization of ADIT in this case. The company contends that the proposed capital structure adjustment was not included in Case No. U-18999 and is related to the remeasurement of the deferred tax balance as of December 31, 2017. DTE Gas reduced deferred taxes, including the tax regulatory liability, and increased permanent capital by the same amount. The \$4.7 million

change was allocated using DTE Gas's approved debt to equity ratio. *See*, 2 Tr 67; Exhibit A-7, Schedule D1. The company stated that "[t]he changes in the deferred taxes and permanent capitalization produce a small change in the overall weighted cost of capital from 5.56% to 5.57%" which was carried forward to calculate the income requirement. 2 Tr 67.

The Staff opposed the company's proposed capital structure modification and argued that the "entire Excess Deferred Tax regulatory liability and the over/under regulatory asset/liability be included in the capital structure as zero cost capital." *Id.*, p. 179. The Attorney General also objected to DTE Gas's proposal, stating that the company should not be allowed to modify its capital structure based on one adjustment and should only be permitted to review the "entire array of increases and decreases" in a general rate case. *Id.*, p. 198. Finally, RCG argues that the company's proposal is not supported by record evidence and is merely a mathematical hypothetical. RCG's initial brief, pp. 4-5.

The ALJ recommended that the Commission reject DTE Gas's proposed capital structure adjustment. The ALJ found that the capital structure approved in Case No. U-18999 "reflects the reversal of the excess deferred taxes for the relevant 14 percentage point TCJA difference and no new adjustment is required." PFD, p. 61. The ALJ also recommended that the Commission review potential changes to DTE Gas's capital structure in the company's next general rate case.

DTE Gas excepts, stating that the deferred tax adjustment made in Case No. U-18999 "was only for the impacts of the projected incremental activity [and] did not reflect the amortization of the new TCJA regulatory liability related to the re-measurement of the December 31, 2017 deferred tax liability." DTE Gas's exceptions, p. 6. The company disputes the ALJ's finding that the proposed tax adjustment was included in the calculation in Case No. U-18999, and therefore, contends that the proposed capital structure change is reasonable to be included in this proceeding.

The Attorney General notes in reply that the ALJ did not solely rely upon the finding that the capital structure approved in Case No. U-18999 reflected the reversal of the TCJA reduction in federal income tax (FIT). Rather, she contends that “only in a general rate case can the entire array of increases and decreases to a deferred tax balance be adequately considered.” Attorney General’s replies to exceptions, p. 8.

In reply, RCG contends that the record reflects that DTE Gas is relying upon a hypothetical change in the capital structure even though it has not issued any common equity or debt to offset the impacts resulting from the TCJA. In RCG’s opinion, “[t]he scope of DTE [Gas’s] proposal goes beyond that necessary to address the tax changes.” RCG’s replies to exceptions, p. 3.

The Commission agrees that this case is not the appropriate forum for resetting the capital structure. Even if, assuming *arguendo*, Case No. U-18999 did not fully capture the change in the FIT rate, the ALJ’s recommendation to review the capital structure in the company’s next general rate case is well-reasoned. A full examination of all factors impacting capital structure, which would commonly be presented in the context of a general rate case, were not presented or examined in this case. *See*, 2 Tr 115-118. As stated by the Attorney General, “[t]o isolate only one particular adjustment, as the Company has done in this case, is unfair to customers” and “[o]nly in a general rate case can the entire array of increases and decreases be adequately taken into consideration.” 2 Tr 198.

In addition, the Commission finds that the appropriate treatment of the excess ADIT is to have it remain as a regulatory liability, included in the capital structure at zero cost of capital. As indicated by the Staff, prior to the change in FIT under the TCJA, “the Deferred Federal Income Tax that resulted in these regulatory assets and liabilities was included in the capital structure as zero cost capital, and for consistency, it makes sense for the resulting regulatory assets and liabilities to remain in the capital structure at zero cost.” 2 Tr 178. The Commission agrees and

adopts the ALJ's findings and recommendation to defer any adjustment in the capital structure to DTE Gas's next general rate case, wherein all factors can be fully evaluated.

C. Amortized Net Excess Deferred Tax Liabilities for 2018 and 2019

Pursuant to the Attorney General's proposal to accelerate the amortization of the excess ADIT from 2018 and 2019, she calculated a total of \$31,168,315, which she recommended be returned to ratepayers through a credit for 12 months, beginning with the first billing cycle after the entry of the Commission's order in this case. Additionally, the Attorney General proposed that, beginning in January 2020, the company should refund \$16,069,507 to ratepayers, "until a new appropriate amount is reflected in base rates in the next rate case." 2 Tr 195; Exhibit AG-2. The Attorney General argued that the company's proposal delays the pass through of the benefits, which she alleged conflicts with the guiding principles set forth in the February 22 order. DTE Gas disagreed and argued that the accelerated depreciation would cause additional rate fluctuations and complicate customers' bills, which is inconsistent with the guiding principles set forth in the February 22 order.

The ALJ rejected the Attorney General's proposal, finding that it was unnecessarily complex and inconsistent with the third guiding principle set forth in the February 22 order. The ALJ agreed with the company, stating that the Commission has not required "DTE Gas to accelerate amortization of regulatory assets for the time between the new tax laws were [sic] effective date and the date of the Commission's order." PFD, p. 65.

In exceptions, the Attorney General contends that neither the ALJ nor DTE Gas identifies how her proposal is unnecessarily complex. She asserts that her proposal is no more complicated than the company's and would return money to customers in a timelier manner. The Attorney General further argues that, on a per customer basis, the fluctuation in customer bills would only

be about \$1-2 per month. As such, she requests that the Commission disregard DTE Gas's concern about rate fluctuation. In addition, the Attorney General states that the cases relied upon by DTE Gas are distinguishable because they "each dealt with smaller tax increases, in the context of other cases (such as general rate cases), for which DTE was requesting recovery." Attorney General's exceptions, p. 8. In conclusion, the Attorney General clarifies that she did not contend that the company was delaying Credit A or Credit B refunds but, instead, argued that DTE Gas's proposal "is delaying the payback of a sizeable portion of the Calculation C refund." *Id.*, p. 10.

ABATE also excepts, arguing that the Commission should order the company to refund excess ADIT for 2018 and 2019 "soon after the Commission issues its final order in this matter." ABATE's exceptions, p. 1. Additionally, ABATE contends that DTE Gas's proposal does not incorporate any excess ADIT for 2018 and only a portion of the excess ADIT for 2019. ABATE states that the company's allegations of rate fluctuation "lack evidentiary support" and should be disregarded. ABATE's exceptions, p. 2. ABATE argues that the company's reliance on prior cases is not relevant because they "may or may not be analogous to the facts in this case" and whether DTE Gas was previously ordered to accelerate amortization is also irrelevant. *Id.*, pp. 3-5.

Similarly, RCG contends that the Commission should disregard the ALJ's recommendation and order DTE Gas to promptly refund the 2018 and 2019 excess ADIT to ratepayers through a credit. Moreover, RCG states that "the Attorney General's proposal for refunding the excess deferred tax liabilities for 2018 and 2019 is not and need not be complex, and such an approach would not be unreasonable or imprudent." RCG's exceptions, p. 3.

In reply, DTE Gas states that the Attorney General's proposal includes "multiple, layered credits [which] is more complex than the Company's proposal to reduce rates." DTE Gas's

replies to exceptions, p. 3. DTE Gas continues that, even if its reduced rates proposal is rejected, only one form of credit would be required under its proposal. Therefore, the company argues that the ALJ was correct in finding that the Attorney General's proposal does not meet the guiding principles in the February 22 order as it is unnecessarily complex and does involve rate swings. DTE Gas contends that the Attorney General failed to demonstrate any erroneous findings of fact or law.

In response to ABATE, DTE Gas states that the ALJ properly found that the company is not delaying the return of customers' money. According to the company, "[t]he timing of the Credit A, Credit B, and Calculation C filings together reinforce the return of the benefits as quickly as practicable." *Id.*, p. 6. Further, the company avers that, contrary to ABATE's assertions, the record demonstrates that the Attorney General's proposal is more complex than the company's proposal. Finally, regarding ABATE's contention that the ALJ erred in finding that the Attorney General's proposal is inconsistent with past Commission orders, DTE Gas argues that "ABATE does not attempt to explain how the [Attorney General's] proposal is consistent" with the cases cited. *Id.*, p. 9.

DTE Gas also replies to RCG's exceptions claiming that the exceptions take issue with the Commission's approach to implementing the TCJA and "raises an entirely new approach that is in fact, not the [Attorney General's] proposal and was not mentioned before on the Record in this case." *Id.*, p. 10. Therefore, the company contends that it did not have an opportunity to rebut this claim on the record, RCG's claim is speculative and outside the record, and the issue is not related to the findings in the PFD. Therefore, DTE Gas asserts that RCG's exceptions on this issue are without merit and should be disregarded.

The Staff replies that it agrees with the ALJ's recommendations. The Staff opines that the most reasonable approach is to preserve the 2018 and 2019 excess ADIT in the company's

structure at zero cost capital until it is returned to customers. Nevertheless, the Staff states that acceleration of the 2018 and 2019 portion of the excess ADIT is not without precedent as several companies have agreed to similar accelerated refunds. As a result, the Staff avers that “it is within the Commission’s authority to accelerate the refund, and [the Attorney General], ABATE and RCG all make a reasonable recommendation, albeit, unsupported by the Staff” Staff’s replies to exceptions, p. 5.

The Commission agrees with the ALJ that the Attorney General’s proposal does not meet the third guiding principle set forth in the February 22 order, which states that the Commission should “avoid accounting pitfalls, such as unnecessary complexity, large annual rate fluctuations for ratepayers, penalty interest, and cash flow volatility for investors.” February 22 order, p. 8. The Commission finds that the Attorney General’s proposal involves the application of multiple credits and overlapping timeframes, which adds unnecessary complexity. Further, the application of multiple credits in overlapping timeframes will cause rate fluctuations for ratepayers. The record does not support the Attorney General’s contentions regarding DTE Gas delaying the return of TCJA benefits to ratepayers and that beginning amortization after the entry of this order is reasonable and prudent.

The Commission also agrees with the Staff that the most reasonable approach is to treat the excess ADIT in the company’s capital structure as zero cost capital until it is returned to ratepayers. Therefore, the Commission adopts the ALJ’s findings and recommendations and denies the Attorney General’s request to accelerate amortization for the 2018 and 2019 excess ADIT.

D. Recovery of Excess ADIT through Negative Surcharges

DTE Gas recalculated the ADIT resulting from the TCJA, which resulted in a \$12.2 million reduction in the company's currently approved revenue requirement. 2 Tr 65; Exhibit A-1, Schedule A1. The company used the reduced revenue requirement to prepare its proposed cost of service study (COSS) using the methodology approved in Case No. U-18999. *See*, 2 Tr 133-134; Exhibit A-8, Schedule F1.1. The Staff also presented its calculations and contended that the company's rate design method is reasonable and is the same method as the Staff utilized. 2 Tr 170. No exceptions were filed on this issue. The Commission finds DTE Gas's and the Staff's calculations to be reasonable and prudent and that they should be adopted.

The Staff proposed that the Calculation C rate reductions be implemented through a credit rather than revised rates, except for the off-system transportation rate. 2 Tr 171. The Staff contended that the application of a credit on customer bills would enhance the clarity of the Calculation C implications. Further, the Staff recommended that, in a future rate case, the amounts be included as revised rates without being separately identified. The Attorney General, ABATE, and RCG agree with the Staff, stating that Calculation C should be applied through negative surcharges, or credits, albeit over a shorter amortization period as discussed above. *See*, 2 Tr 192, 210-211; RCG's initial brief, p. 1. DTE Gas objected to the use of a negative surcharge, arguing that a separate Calculation C credit for DTE Gas would cause unnecessary confusion because many DTE Energy Company customers receive a single combined bill for gas (DTE Gas) and electric service (DTE Electric Company) and will not have a listed Calculation C credit for electric service. 2 Tr 140.

The ALJ found the Staff's proposal to be the most reasonable and recommended that Calculation C amounts be returned to customers through a credit rather than revised rates. PFD, p. 71. The ALJ stated that this is consistent with past Commission practice of returning TCJA

benefits to customers and that the company failed to adequately support its contention that a credit would increase customer confusion.

DTE Gas excepts, arguing that the ALJ erred in finding that no evidence was presented that a credit would cause confusion and that a credit would be consistent with past practices. The company contends that it submitted testimony stating that additional line items cause more customer confusion and that DTE Electric returned Calculation C amounts through rate revision and a credit would cause additional confusion for customers with combined bills. DTE Gas further asserts that the ALJ ignored DTE Gas's evidence, including additional information technology (IT) costs, and "maintains it has proven that revised rates are a reasonable and prudent approach" DTE Gas's exceptions, p. 8.

In reply, the Staff states that it "continues to support the . . . use of a bill credit rather than revised rates" Staff's replies to exceptions, p. 1. Contrary to the company's claims, the Staff argues that the ALJ addressed the testimony regarding potential confusion and correctly pointed out a lack of evidence to support DTE Gas's testimony on this issue. Further, the Staff states that the company did not provide any evidence regarding the cost of adding additional bill line items and, therefore, the ALJ could not have appropriately considered the company's contention.

The Staff also contends that DTE Gas improperly compares the DTE Electric Credit A and Calculation C cases to this case. DTE Electric's Calculation C was included in base rates during its general rate case, Case No. U-20162, which is consistent with the Staff's position in this case. Specifically, the Staff asserts that, in DTE Gas's next general rate case, the Calculation C amounts should be included as part of base rates. Additionally, the Staff explains that in DTE Electric's Credit A case, the rates were revised through a settlement agreement and "can have no

bearing on the instant case.” *Id.*, p. 3. As a result, the Staff concludes, the ALJ properly rejected the company’s arguments.

The Attorney General also replies that DTE Electric’s Calculation C was included in its general rate case, which is very different than the case at hand. She also argues that DTE Gas made no attempt to quantify any IT cost associated with adding additional line items on customer bills; therefore, this claim should be disregarded. Attorney General’s replies to exceptions, p. 10.

In reply, RCG contends that a credit on customer bills is in the public interest because it “ensures that the refunds will occur on an accurate basis, without being delayed or buried in some eventual future gas rate case.” RCG’s replies to exceptions, p. 3. Further, RCG contends that there is no merit to DTE Gas’s additional IT cost in implementing the credit as an additional line item.

The Commission agrees with the Staff, the Attorney General, and RCG, that this case is not analogous to DTE Electric’s Calculation C refund. While DTE Electric implemented the Calculation C refund as part of rate base, it was as part of a general rate case. This is consistent with the Staff’s proposal in this case, which recommends that the Calculation C amounts be included in base rates in the company’s next general rate case.

The Commission finds that the most reasonable and prudent manner of returning the excess ADIT, excluding the company’s off-system rate, is in the form of a line item credit, or negative surcharge, on customer bills. The use of a line item credit will increase transparency for ratepayers who will be able to see the amount refunded on their bills. The ALJ properly found that, although the company entered testimony, no additional evidence was submitted to demonstrate that a credit results in customer confusion. Similarly, no evidence or quantification was proffered regarding the alleged additional costs resulting from the implementation of a line item credit. Therefore, the Commission concludes that the Staff’s proposal to return the excess

ADIT in the form of a line item credit on customer bills, excluding the company's off system rate which will be in the form of a modified rate, is the most reasonable and prudent and adopts the findings and recommendations of the ALJ.

E. Annual Calculation C Reconciliation Letter

The Staff recommended that the Commission require that "any differences between the actual amount of Excess Deferred Tax expense in a given year and the estimated amount included in rates be recorded as a regulatory liability or asset" and that DTE Gas file a letter in this docket by March 31 of each year until the excess ADIT is fully refunded to ratepayers. 2 Tr 177-178. Additionally, the Staff indicated the letter should include:

1) the beginning refundable balances, 2) the yearly amount refunded, 3) the over/under regulatory asset/liability the company has recorded which is calculated as the differences between the actual amount of excess [ADIT] in a given year and the estimated amount included in rates, and 4) the ending refundable balances.

2 Tr 178. Similarly, the Attorney General contended that "[t]he amortization amount changes from year to year as the timing difference of the underlying depreciable assets vary." 2 Tr 200. She proposed that the Commission require DTE Gas to establish a regulatory deferred asset or liability account to record differences between the excess ADIT passed on to ratepayers and the actual amortization amounts on an annual basis. The company argued that a reconciliation is unnecessary given that the company will file updated information in its future rate case filings. 2 Tr 77-79.

The ALJ found that an annual reconciliation process was reasonable and would create clarity and transparency as well as protect ratepayers. The ALJ further concluded that "an annual reconciliation of deferred taxes would allow Staff, to track DTE Gas['] progress in refunding

excess deferred taxes.” PFD, p. 74. Therefore, the ALJ recommended that the Commission adopt the Staff’s and the Attorney General’s proposal.

DTE Gas takes exception to the ALJ’s recommendation, reiterating that an annual reconciliation is unnecessary as the “amortization amounts are and will remain transparent” given that the information will be provided in each of its future rate case filings. DTE Gas’s exceptions, p. 9. In addition, the company states that an annual letter will not perform any regulatory purpose that will not be provided in a base rate case.

In reply, the Attorney General explains that the reconciliation process to which the company objects only consists of creating a deferred regulatory account to record excess ADIT and a reconciliation letter. She argues that merely providing information in the company’s next rate case “does not adequately protect customers” and that the ALJ’s recommendation should be adopted. Attorney General’s replies to exceptions, p. 11.

RCG also replies arguing that “a reconciliation process would provide clarity and transparency” and will “also assist the review of any future gas rate cases filed . . . as the Staff and intervening parties will be able to keep abreast of the tax-related reconciliations on an ongoing basis.” RCG’s replies to exceptions, p. 4.

The Commission finds that the Staff’s and the Attorney General’s proposal to require the company to create a deferred regulatory account to record the excess ADIT and file a letter annually, in this docket, by March 31 of each year until the excess ADIT is fully refunded to ratepayers is reasonable and prudent and should be adopted. Although DTE Gas contends this information will be provided in the company’s general rate case, it is uncertain as to when the company will file its next rate case. In addition, the Commission agrees with the ALJ’s finding that the annual filing will provide clarity and transparency. Furthermore, DTE Gas is not required to open a new, full reconciliation proceeding. Rather, the company is required to file a

letter in this docket by March 31 of each year until the excess ADIT is fully refunded to ratepayers, which shall include: (1) the beginning refundable balances, (2) the yearly amount refunded, (3) the over/under regulatory asset/liability the company has recorded which is calculated as the differences between the actual amount of excess ADIT in a given year and the estimated amount included in rates, and (4) the ending refundable balances.

THEREFORE, IT IS ORDERED that:

A. DTE Gas Company shall refund the excess accumulated deferred income tax, calculated as set forth in this case, in the form of a line item credit, or negative surcharge, on customer bills as shown on page 1 of Exhibit A, to this order, but for the company's off-system rate which will be in the form of a modified rate shown on page 2 of Exhibit A.

B. DTE Gas Company shall create a deferred regulatory account to record the excess accumulated deferred income tax and shall file a letter in this docket, as set forth in the order, on or before March 31 of each year until the excess accumulated deferred income tax is fully refunded to ratepayers.

C. Within 30 days of the date of this order, DTE Gas Company shall file with the Commission tariff sheets substantially similar to those set forth in Exhibit B to this order.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any person desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26. To comply with the Michigan Rules of Court's requirement to notify the Commission of an appeal, appellants shall send required notices to both the Commission's Executive Secretary and to the Commission's Legal Counsel. Electronic notifications should be sent to the Executive Secretary at mpscdockets@michigan.gov and to the Michigan Department of the Attorney General - Public Service Division at pungp1@michigan.gov. In lieu of electronic submissions, paper copies of such notifications may be sent to the Executive Secretary and the Attorney General - Public Service Division at 7109 W. Saginaw Hwy., Lansing, MI 48917.

MICHIGAN PUBLIC SERVICE COMMISSION

Sally A. Talberg, Chairman

Daniel C. Scripps, Commissioner

By its action of August 20, 2019.

Barbara S. Kunkel, Acting Executive Secretary

**Michigan Public Service Commission
DTE Gas Company
Calculation C Credits
FOR ORDER**

MPSC Case No. U-20298

Page: 1 of 2

Line No.	Rate Schedule	Current Rate	Proposed Rate	Imputed Credit
1	A	\$ 3.3683	\$ 3.3107	\$ (0.0576)
2	2A	\$ 3.3683	\$ 3.3107	\$ (0.0576)
3	GS-1	\$ 2.7796	\$ 2.6967	\$ (0.0829)
4	GS-2	\$ 2.2919	\$ 2.2090	\$ (0.0829)
5	S	\$ 1.7987	\$ 1.6600	\$ (0.1387)
6	ST	\$ 0.9733	\$ 0.9541	\$ (0.0192)
7	LT	\$ 0.6615	\$ 0.6421	\$ (0.0194)
8	XLT No Discount	\$ 0.5183	\$ 0.4987	\$ (0.0196)
9	XLT Discount	\$ 0.3715	\$ 0.3519	\$ (0.0196)
10	XXLT No Discount	\$ 0.1483	\$ 0.1292	\$ (0.0191)
11	XXLT Discount	\$ 0.1060	\$ 0.0869	\$ (0.0191)

Michigan Public Service Commission
DTE Gas Company
Calculation C Derivation of Transportation Cost of Service Rate
FOR ORDER
(000)

MPSC Case No. U-20298
Page: 2 of 2

Line No.	Description	(b)	
		(Per WP KLS-6) Transmission Revenue Requirement	
1	Plant In Service (Pg 1 of 5)		
2	Transmission Plant	\$	812,875
3	Total - Plant in Service	\$	<u>812,875</u>
4	Base O&M (Pg 2 of 5)		
5	Transmission	\$	51,536
6	Lost & Company Use Gas		4,362
7	Base O&M	\$	<u>55,897</u>
8	Rate Base (Pg 3 of 5)		
9	Transmission Plant	\$	812,875
10	Intangible Plant		(929)
11	General Plant		42,634
12	Intang. Plt. - Transmission		4,694
13	Plant Held FFU- Transm		-
14	CWIP Transmission		11,833
15	CWIP General		5,427
16	CWIP Intangible		198
17	Accum. Depr. - Transmission		(291,561)
18	Accum. Depr. - Intangible		(5,920)
19	Accum. Depr. - General		(11,507)
20	W/C - Plant in Service		142,689
21	W/C - Revenue		12,721
22	W/C - Sales Storage		-
23	Total Rate Base	\$	<u>723,153</u>
24	Operating Expenses (Pg 4 of 5)		
25	Transmission	\$	51,536
26	Lost & Company Use Gas		4,362
27	A&G Expense		22,957
28	Depr Transmission		13,018
29	Depr General		1,330
30	Amort. Of Intangible Plt.		632
31	Amort. Of Reg. Debits		(73)
32	Property Taxes		10,216
33	Other Taxes		556
34	Payroll Taxes		2,120
35	State/City Income Taxes		1,142
36	Operating Expenses	\$	<u>107,795</u>
37	Revenue Requirement (Pg 5 of 5)		
38	Operating Expenses	\$	107,795
39	Amort. Of Debt Disc.		271
40	AFUDC		(196)
41	Income Required		39,624
42	Federal Income Tax		4,974
43	Uncollectibles		6,834
44	Total Cost of Service	\$	<u>159,301</u>
45			
46	Off System Transp. Revenue	\$	(63,514)
47	Gas-in-Kind Revenue		(3,136)
48	Other Revenue		(1,864)
49	Blue Lake Pipeline		(130)
50	Vector Pipeline		(761)
51	Standby Chrgs		<u>(2,743)</u>
52	Revenue Requirement	\$	87,153
53	Lost Gas Recovery From GCC/GCR		(1,226)
54	Adjusted Revenue Requirement	\$	<u>85,927</u>
55	Capacity (Exh. A-8, Sch. F1.2, Pg 2, Col. b, Line 11)		293,140
56	Commodity Rate	\$	<u>0.293</u>

M.P.S.C. No. 1 – Gas
DTE Gas Company
(Revised pursuant for Tax Credit C)

Revised Sheet No. D-2.00
Cancels _____ Revised Sheet No. D-2.00

D2. SURCHARGES

	Rate Schedule No.	Credit C (Credit) \$/Ccf
A	Residential	\$(0.00576)
2A	Residential Multiple Family Dwelling Class I	\$(0.00576)
2A	Residential Multiple Family Dwelling Class II	\$(0.00576)
GS-1	Non-Residential General Service	\$(0.00829)
GS-2	Large Volume	\$(0.00829)
	<100,000 Mcf	
	>100,000 Mcf	
S	School	\$(0.01387)
ST	Small Volume Transportation	\$(0.00192)
LT	Large Volume Transportation	\$(0.00194)
XLT	Extra Large Volume Transportation	\$(0.00196)
XXLT	Double Extra Large Volume Transportation	\$(0.00191)

The Credit C Credit is implemented on a “bills rendered” basis and is effective indefinitely commencing with the first billing cycle of the September 2019 billing month and ending with the implementation of future rates integrating Calculation C as approved by the Commission.

Issued _____, 201__
D. M. Stanczak
Vice President
Regulatory Affairs

Detroit, Michigan

Effective for bills rendered on and after the first billing cycle of
_____, 201__ billing month

Issued under authority of the
Michigan Public Service Commission
Dated _____, 201__
In Case No. U-20298

(Continued from Sheet No. E-34.00)

Applicable for Off-System Storage and Transportation Service

E25. TRANSPORTATION OFF-SYSTEM (FIRM) SERVICE RATE TOS-F (Contd.)

Imbalance

Company and Customer shall work to keep the gas flow in balance at all times. If at any time, the volumes of gas received by Company at the Receipt Point(s) are greater or lesser than the gas delivered at the Delivery Point(s), Company may refuse, increase or decrease deliveries to correct the imbalances. If, upon termination of a Contract, Customer has not delivered to Company quantities of gas that are equal to those Customer has taken at the Delivery Point(s), Customer must deliver the deficient volumes to Company, within 60 days of the termination of Contract, at a mutually agreeable rate of delivery. If Customer fails to correct the imbalance within the 60 day period, then Customer shall pay an Unauthorized Gas Usage Charge to Company. The charge for such Unauthorized Gas Usage shall be \$10.00 per MMBtu plus the highest price reported in Gas Daily in the midpoint column of the Daily Price Survey for the following locations for the month in which the Unauthorized Gas Use occurred: Dawn, Ontario; ANR, ML7; Chicago city-gates; Consumers city-gate; or MichCon city-gate. In the event Gas Daily discontinues its reporting such prices, the Company will select a comparable reporting service.

Gas in Kind

Company shall retain 1.00% of all gas received at the Receipt Point(s) to compensate it for the allowance for company-use and lost-and-unaccounted-for gas on Company’s system. This volume shall not be included in the quantity available for delivery to Customer. In no event will Customer pay Gas-in-Kind more than once on the same volumes.

Rates

- A. For contracts less than 365 days, a rate as mutually agreed to by Customer and Company and set forth in Contract, consisting of a demand portion and/or a commodity portion.
- B. For contracts equal to or exceeding 365 days, a rate not to exceed **\$0.2931** per MMBtu, consisting of a demand portion and/or a commodity portion shall be mutually agreed to by Customer and Company and set forth in Contract.

Late Payment Charge and Due Date

A late payment charge of 2% shall be applied to the unpaid balance outstanding if the bill is not paid in full on or before the date on which the bill is due. The due date of Customer’s bill shall be 21 days from the date bill was sent.

(Continued on Sheet No. E-35.01)

Issued _____, 201__
D. M. Stanczak
Vice President
Regulatory Affairs

Detroit, Michigan

Effective for bills rendered on and after the first billing cycle of
_____, 201__ billing month

Issued under authority of the
Michigan Public Service Commission
Dated _____, 201__
In Case No. U-20298

(Continued from Sheet No. E-36.00)

Applicable for Off-System Storage and Transportation Service

E26. TRANSPORTATION OFF-SYSTEM (INTERRUPTIBLE) SERVICE RATE TOS-I (Contd.)

Imbalance

Company and Customer shall work to keep the gas flow in balance at all times. If at any time, the volumes of gas received by Company at the Receipt Point(s) are greater or lesser than the gas delivered at the Delivery Point(s), Company may refuse, increase or decrease deliveries to correct the imbalances. If, upon termination of a Contract, Customer has not delivered to Company quantities of gas that are equal to those Customer has taken at the Delivery Point(s), Customer must deliver the deficient volumes to Company, within 60 days of the termination of Contract, at a mutually agreeable rate of delivery. If Customer fails to correct the imbalance within the 60 day period, then Customer shall pay an Unauthorized Gas Usage charge to Company. The charge for such Unauthorized Gas Usage shall be \$10.00 per MMBtu plus the highest price reported in Gas Daily in the midpoint column of the Daily Price Survey for the following locations for the month in which the Unauthorized Gas Use occurred: Dawn, Ontario; ANR, ML7; Chicago city-gates; Consumers city-gate; or MichCon city-gate for all gas taken by Customer in excess of the cumulative volume delivered to Company (less Gas-in-Kind) on behalf of Customer. In the event Gas Daily discontinues its reporting such prices, the Company will select a comparable reporting service.

Gas in Kind

Company shall retain 1.00% of all gas received at the Receipt Point(s) to compensate it for the allowance for company-use and lost-and-unaccounted-for gas on Company’s system. This volume shall not be included in the quantity available for delivery to Customer. In no event will Customer pay Gas-in-Kind more than once on the same volumes.

Rates

- A. For contracts less than 365 days, a rate as mutually agreed to by Customer and Company and set forth in Contract, consisting of a demand portion and/or a commodity portion.
- B. For contracts equal to or exceeding 365 days, a rate not to exceed **\$0.2931** per MMBtu, consisting of a demand portion and/or a commodity portion shall be mutually agreed to by Customer and Company and set forth in Contract.

Late Payment Charge and Due Date

A late payment charge of 2% shall be applied to the unpaid balance outstanding if the bill is not paid in full on or before the date on which the bill is due. The due date of Customer’s bill shall be 21 days from the date the bill was sent.

(Continued on Sheet No. E-37.01)

Issued _____, 201__
D. M. Stanczak
Vice President
Regulatory Affairs

Detroit, Michigan

Effective for bills rendered on and after the first billing cycle of _____, 201__ billing month

Issued under authority of the
Michigan Public Service Commission
Dated _____, 201__
In Case No. U-20298

PROOF OF SERVICE

STATE OF MICHIGAN)

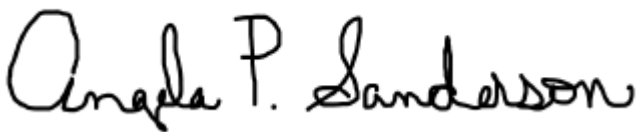
Case No. U-20298

County of Ingham)

Brianna Brown being duly sworn, deposes and says that on August 20, 2019 A.D. she electronically notified the attached list of this **Commission Order via e-mail transmission**, to the persons as shown on the attached service list (Listserv Distribution List).


Brianna Brown

Subscribed and sworn to before me
this 20th day of August 2019.



Angela P. Sanderson
Notary Public, Shiawassee County, Michigan
As acting in Eaton County
My Commission Expires: May 21, 2024

Service List for Case: U-20298

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DTE Energy

Xcel Energy

Great Lakes Energy

Michigan Public Power Agency

American Transmission Company

American Transmission Company

UMERC, MERC and MGU

Phil Forner