

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * *

In the matter of the application of)
DTE ELECTRIC COMPANY)
for a financing order approving the)
securitization of qualified costs)
_____)

Case No. U-21015

QUALIFICATIONS AND DIRECT TESTIMONY OF
ROBERT F. NICHOLS II, CPA
MICHIGAN PUBLIC SERVICE COMMISSION

May 6, 2021

QUALIFICATIONS OF ROBERT F. NICHOLS II, CPA
CASE NUMBER U-21015
PART I

1 Q. Please state your name and business address.

2 A. My name is Robert F. Nichols II, and my business address is 7109 West Saginaw
3 Highway, Lansing, MI 48917.

4 Q. By whom are you employed and in what capacity?

5 A. I am employed by the Michigan Public Service Commission (Commission or
6 MPSC) as the Manager of the Revenue Requirements Section of the Regulated
7 Energy Division.

8 Q. How long have you been employed by the MPSC and what are your duties?

9 A. I have been employed by the MPSC since November of 2011. As Manager of the
10 Revenue Requirements Section, I am primarily responsible for the planning and
11 direction of electric and gas rate case audits and presentations, as well as cases
12 involving accounting standards and requests for accounting authority. From 2011
13 through March 2016, as an Auditor within the Revenue Requirements Section, my
14 responsibilities included auditing, analyzing, and making recommendations
15 regarding utility revenues, expenses, and rate base.

16 Q. Please describe your educational background.

17 A. I graduated from Davenport University, with highest honors, in 2009 with a
18 Bachelor of Business Administration degree in Accounting Information
19 Management. I attended a regulation and ratemaking conference hosted by the
20 Michigan State University Institute of Public Utilities (MSU IPU) in May of
21 2012. In August of 2012, I attended the National Association of Regulatory
22 Utility Commissioners (NARUC) annual two-week Regulatory Studies Program
23 held at Michigan State University. Each August from 2013 through 2016 and in

QUALIFICATIONS OF ROBERT F. NICHOLS II, CPA
CASE NUMBER U-21015
PART I

1 2019, I attended the Annual Regulatory Studies Program hosted by MSU IPU. I
2 also attended a one-week Advanced Regulatory Studies Program in fall of 2013,
3 2014, and 2016, hosted by MSU IPU.

4 Q. Please describe your professional background.

5 A. Prior to coming to the MPSC, from 2000 to 2011, I was employed by Genesee
6 Cut Stone & Marble Company. My duties there included sales, drafting, and
7 estimating.

8 Q. Do you have any professional licenses?

9 A. Yes. I am a Certified Public Accountant, licensed by the State of Michigan.

10 Q. Have you prepared testimony or assisted in any other proceedings?

11 A. I have assisted or filed testimony in the following cases:

<u>Case No.</u>	<u>Company</u>	<u>Subject/Type</u>
U-16855	Consumers Energy Co. Gas	Rate Case
U-16969	SEMCO Energy Gas Company	Merger and Acquisition
U-16794	Consumers Energy Co. Electric	Rate Case
U-16999	Michigan Consolidated Gas Co.	Rate Case
U-16855	Consumers Energy Co. Gas	Self-Implementation Refund
U-17087	Consumers Energy Co. Electric	Rate Case
U-17197	Consumers Energy Co. Gas	Rate Case
U-17273	Michigan Gas Utilities Corp.	Rate Case
U-17274	Upper Peninsula Power Co.	Rate Case
U-17440	Consumers Energy Co. Electric	Self-Implementation Refund
U-17488	Northern States Power Co. Gas	Rate Case

QUALIFICATIONS OF ROBERT F. NICHOLS II, CPA
CASE NUMBER U-21015
PART I

1	U-16999	DTE Gas IRM	Reconciliation
2	U-17620	Consumers Energy Co.	OPEB Trust Funding
3	U-17643	Consumers Energy Co. Gas	Rate Case
4	U-17669	WPSC Electric	Rate Case
5	U-17735	Consumers Energy Co. Electric	Rate Case
6	U-17882	Consumers Energy Co. Gas	Rate Case
7	U-17999	DTE Gas Company	Rate Case
8	U-18014	DTE Electric Company	Rate Case
9	U-17990	Consumers Energy Co. Electric	Rate Case
10	U-18124	Consumers Energy Co. Gas	Rate Case
11	U-18322	Consumers Energy Co. Electric	Rate Case
12	U-18255	DTE Electric Company	Rate Case
13	U-18370	Indiana Michigan Power Co.	Rate Case
14	U-18419	DTE Electric Company	Certificate of Necessity
15	U-18424	Consumers Energy Co. Gas	Rate Case
16	U-18999	DTE Gas Company	Rate Case
17	U-20111	Upper Peninsula Power Co.	TCJA Credit A Case
18	U-20268	Alpena Power Company	TCJA Credit B Case
19	U-20134	Consumers Energy Co. Electric	Rate Case
20	U-20287	Consumers Energy Co. Gas	TCJA Credit B Case
21	U-20165	Consumers Energy Co. Electric	Integrated Resource Plan
22	U-20162	DTE Electric Company	Rate Case
23	U-20276	Upper Peninsula Power Co.	Rate Case

QUALIFICATIONS OF ROBERT F. NICHOLS II, CPA
CASE NUMBER U-21015
PART I

1	U-20322	Consumers Energy Co. Gas	Rate Case
2	U-20350	Upper Peninsula Power Co.	Integrated Resource Plan
3	U-20479	SEMCO Energy Gas Co.	Rate Case
4	U-20359	Indiana Michigan Power Co.	Rate Case
5	U-20561	DTE Electric Company	Rate Case
6	U-20642	DTE Gas Company	Rate Case
7	U-20650	Consumers Energy Co. Gas	Rate Case
8	U-20697	Consumers Energy Co. Electric	Rate Case
9	U-20713	DTE Electric Company	Voluntary Green Pricing

DIRECT TESTIMONY OF ROBERT F. NICHOLS II, CPA
CASE NUMBER U-21015
PART II

1 Q. What is the purpose of your testimony?

2 A. The purpose of my testimony is to present the MPSC Staff's (Staff) position on
3 the DTE Electric Company's (DTE or the Company) proposed securitization of
4 regulatory assets net of deferred federal income tax (DFIT or deferred taxes)
5 benefits.

6 Q. Are you sponsoring any exhibits?

7 A. Yes. I am sponsoring the following exhibits:

8 Exhibits:

9 S-1 Discovery Response STDE-1.1a through 1.1i

10 S-2 Discovery Response AGDE-1.6

11 S-3 MPSC Case No. U-10083 Commission Order dated February 8, 1993

12 S-4 Discovery Response and Attachment AGDE-1.15b

13 **SECURITIZATION OF REGULATORY ASSETS NET OF DEFERRED TAX**

14 **BENEFITS**

15 Q. Why is DTE Electric requesting financing authority to securitize certain qualified
16 costs?

17 A. DTE Witness Serna, testimony page 2 states:

18 Due to the availability of favorable credit ratings from the rating agencies,
19 securities issued pursuant to the provisions of Act 142 are designed to
20 lower the cost of financing of the electric utility and to thereby allow retail
21 customers' electric rates to be at a lower level than they would be if
22 conventional financing methods were employed by the electric utility to
23 finance the costs being securitized.

24
25 DTE Electric is filing this application with the Commission because it has
26 incurred qualified costs as that term is defined and used in Act 142, that
27 are eligible for securitization under Act 142.
28

DIRECT TESTIMONY OF ROBERT F. NICHOLS II, CPA
CASE NUMBER U-21015
PART II

1 Q Why is DTE Electric seeking to issue securitization bonds using the “net of tax”
2 approach?

3 A. DTE Witness Serna, page 23-24, states:

4 [t]he Company is proposing to securitize the portion of the net book
5 values for River Rouge and the Tree Trim Surge regulatory assets that
6 are financed by debt and/or equity. There is also a portion of the
7 balances that is currently financed by deferred taxes. Since deferred
8 taxes are a zero-cost source of financing, the Company proposes to
9 recover that portion of the regulatory assets through a surcharge
10 without re-financing it with securitization debt. This is a lower cost
11 approach for customers because there will be no interest applied to the
12 portion of the regulatory assets that will continue to be supported by
13 deferred taxes. Basically, customers will pay the principal over time,
14 without paying a carrying charge. It is also appropriate that the amount
15 of equity retired will not exceed the actual level of equity currently
16 supporting the River Rouge generation site.

17
18 Q. Do you agree that the “net of tax” approach is a less costly option than
19 securitizing the entire remaining net book value of these assets?

20 A. No. It is less costly to securitize the entire remaining net book value of the assets
21 and use the proceeds to refinance or retire debt and/or equity.

22 Q. Why is it less costly to securitize the entire remaining net book value in lieu of the
23 “net of tax” approach?

24 A. It is less costly to securitize the entire remaining net book value in lieu of the “net
25 of tax” approach for two reasons. First, because the DFIT is ratepayer-supplied
26 funds, it should remain in base rates in the capital structure until the timing
27 differences that resulted in the DFIT unwind/reverse over time. Second, the
28 securitization bond issuance proceeds must be applied to refinancing or retiring
29 debt and/or equity per MCL 460.10i(2)(a). The combination of DFIT remaining
30 in the capital structure and the Company retiring debt and/or equity results in a

DIRECT TESTIMONY OF ROBERT F. NICHOLS II, CPA
CASE NUMBER U-21015
PART II

1 lower cost of capital in base rates, which more than offsets the incremental cost of
2 the securitization bonds for the financing the incremental “net of tax” portion of
3 the assets.

4 Q. Do you agree with DTE Witness Serna that “[i]t is also appropriate that the
5 amount of equity retired will not exceed the actual level of equity currently
6 supporting the River Rouge generation site.”

7 A. Yes, but that amount, as I will show, is 50% of the entire remaining net book
8 value, with no reduction for the “net of tax” approach. If the entire remaining net
9 book value is securitized and the proceeds are used to refinance debt and or
10 equity, the Company is made whole by way of receiving securitization proceeds
11 equal to the amounts of assets being removed from rates. The remaining DFIT is
12 ratepayer-supplied and should remain in the capital structure for setting base rates
13 until it unwinds/reverses. The Company has not provided any evidence
14 supporting the concept that it has bought down debt and equity with accrued
15 DFIT liability, and in fact, has provided evidence disproving that it buys down
16 debt and equity with the DFIT cashflows provided by comprehensive deferred
17 income tax normalization in rates paid by ratepayers. (Exhibit S-1, page 8).

18 Q. In MPSC Case No. U-20889, the Consumers Energy recent securitization case of
19 Karn 1 & Karn 2, did Consumers request to securitize the entire remaining net
20 book value of plant, or did Consumers use the “net of tax” approach?

21 A. In MPSC Case No U-20889, Consumers Energy’s recent securitization case for
22 Karn 1 & Karn 2, Consumers requested to securitize the entire remaining net book
23 value of plant and did not use the “net of tax” approach. In that case, Consumers

DIRECT TESTIMONY OF ROBERT F. NICHOLS II, CPA
CASE NUMBER U-21015
PART II

1 witness Ms. Myers explained that savings result from the substitution of low-cost
2 securitization debt for conventional financing which usually involves a mix of
3 higher cost debt and equity. 2 Tr 151.

4 Q. If DTE were to securitize the entire remaining book value in lieu of a lesser
5 amount, does MCL 460.10i(2)(1) require that the incremental amount securitized
6 must also be used solely to refinance or retire debt and/or equity?

7 A. Yes. If DTE were to securitize the entire remaining book value in lieu of a lesser
8 amount, MCL 460.10i(2)(1) requires that the incremental amount securitized must
9 be used solely to refinance or retire debt and/or equity. This results in a lower
10 cost of capital when rates are reset in the Company's next general rate case,
11 thereby reducing the revenue requirement in that case.

12 Q. What is the cost rate of securitization debt?

13 A. DTE Exhibit A-6, page 1, indicates that the securitization debt combined total
14 could be estimated at a weighted average coupon rate of 1.98% plus \$500,000
15 annual administration fee. River Rouge weighted average coupon rate is estimate
16 at 2.597% (Exhibit A-6, page 2) and the Tree Trim Surge Regulatory Asset
17 weighted average coupon rate is estimated at 1.1% (Exhibit A-6, page 3).

18 Q. What are the approved cost rates for equity, long-term debt, and short-term debt
19 in DTE's most recently approved general rate case, MPSC Case No. U-20561?

20 A. The approved cost rates in DTE's most recently approved general rate case,
21 MPSC Case No. U-20561, are 9.9% return on equity, 4.22% long-term debt rate,
22 and 2.73% short-term debt rate.

DIRECT TESTIMONY OF ROBERT F. NICHOLS II, CPA
CASE NUMBER U-21015
PART II

1 Q. When do the timing differences that result in the DFIT in the base rate capital
2 structure unwind/reverse?

3 A. In discovery response AGDE-1.6 (Exhibit S-2), the Attorney General asked the
4 following question regarding DFIT related to River Rouge:

5 Refer to page 7, lines 13-24, of Ms. Uzenski's direct testimony. From a
6 tax and accounting treatment standpoint, what happens to the deferred
7 taxes once the River Rouge plant assets are retired? Do they need to be
8 zeroed out and the liability extinguished, or do they continue to be
9 amortized and paid over the original book depreciable life of the assets?
10 Explain your answer and provide authoritative references.

11
12 To which DTE witness Uzenski responded:

13
14 River Rouge's deferred taxes are driven by the difference between book
15 depreciation/amortization and tax depreciation, which will result in a
16 difference between Net Book Value (NBV) and Net Tax Value (NTV).

17
18 For book purposes, River Rouge will be retired and subsequently
19 securitized, which will result in a recategorization between book
20 depreciation and regulatory asset amortization. For tax purposes, River
21 Rouge will not follow book retirement and will continue to be depreciated.
22 For tax purposes the Company does not retire a facility until the year there
23 is a permanent withdrawal of depreciable property from use in the trade or
24 business, as described in Treas. Reg § 1.167(a)-8(a). For tax purposes the
25 Company will recognize the retirement of River Rouge once the assets are
26 permanently rendered inoperable or sold for scrap.

27
28 To summarize, the deferred taxes related to River Rouge will remain as
29 long as there is a difference between book amortization and tax
30 depreciation, which will result in a difference between NBV and NTV.
31

32 Q. What amortization periods did the Company select to amortize the DFIT
33 associated with the River Rouge and the Tree Trim Surge Regulatory Assets?

34 A. DTE Exhibit A-5, page 1 shows that the Company expects to amortize the DFIT
35 portion over 14 years for River Rouge, while Exhibit A-5, page 2 shows that the

DIRECT TESTIMONY OF ROBERT F. NICHOLS II, CPA
CASE NUMBER U-21015
PART II

1 Company expects to amortize the DFIT portion for the Tree Trim Surge
2 Regulatory Asset over 5 years.

3 Q. Has the Company previously committed to securitizing the entire remaining net
4 book value of River Rouge?

5 A. Yes. In MPSC Case No. U-18150, the December 16, 2018 Order approving the
6 November 13, 2018 settlement agreement, stipulation #6 states, “DTE Electric
7 agrees to seek recovery of the remaining net book value associated with its Tier 2
8 coal plants through securitization after the Tier 2 coal plants are retired if this is
9 the lowest cost option for ratepayers. Other options to be evaluated include
10 traditional depreciation, regulatory asset amortization in base rates, or other forms
11 of ratemaking or regulatory relief.”

12 Q. Is the Company proposing a lower cost option in the instant case than securitizing
13 the remaining net book value associated with its Tier 2 coal plants?

14 A. No, the Company is proposing a more costly option in the instant case than
15 securitizing the remaining net book value associated with its Tier 2 coal plants?

16 Q. In MPSC Case No. U-20162 and U-20561, did the company request to securitize
17 the Tree Trim Surge Regulatory Assets using the “net of tax” approach?

18 A. No. The Company’s applications and the Commission Orders approving the
19 Company’s Tree Trim Surge request in MPSC Case No. U-20162 and U-20561
20 do not propose or mention the “net of tax” approach.

21 Q. Did the Commission order in U-20162 approve DTE to apply the short-term debt
22 cost rate of 3.56% rather than the pre-tax permanent overall cost of capital as the
23 carrying cost for the tree trim regulatory asset?

DIRECT TESTIMONY OF ROBERT F. NICHOLS II, CPA
CASE NUMBER U-21015
PART II

1 A. Yes. The Commission approved DTE to apply the short-term debt cost rate of
2 3.56% rather than the pretax permanent overall cost of capital as the carrying cost
3 for the tree trim regulatory asset:

4 “[T]he Commission approves the originally requested \$95.1 million of
5 O&M for tree trimming in the projected test period, and the first three
6 years of spending for the surge program, being \$43.3 million for 2019,
7 \$74.1 million for 2020, and \$70.5 million for 2021, as a regulatory asset,
8 with application of the short-term debt cost rate adopted in this order of
9 3.56% rather than the pretax permanent overall cost of capital proposed by
10 DTE Electric. This will reduce overall costs and is expected to be
11 temporary given the company’s plans to file for securitization of the tree
12 trimming regulatory asset....Thus, the Commission finds the short-term
13 debt rate to be more appropriate than the overall cost of capital. The
14 company may accrue carrying costs in the regulatory asset at the short-
15 term debt rate, and may seek recovery in a future proceeding such as a
16 securitization or rate case using a traditional ratemaking approach.” (May
17 2, 2019 Order U-20162, Page 21 80)
18

19 Q. Does Staff agree with DTE witness Solomon, that “the proceeds from the
20 securitization of the Tree Trim Surge regulatory asset net of its proportional share
21 of the Initial Other Qualified Costs should appropriately retire short-term debt.”

22 A. Yes. It is reasonable to refinance or retire short-term debt with the proceeds from
23 securitization bonds to the extent that the tree trim regulatory asset is financed by
24 the Company with short-term debt. Conversely, if the Company simply applied
25 the short-term debt carrying cost to the reg asset, but the asset is financed with
26 long-term debt and equity, then to the extent that the assets are not financed with
27 short-term debt, it would be more appropriate to retire long-term debt and equity.
28 Discovery response to AGDE 1.15b (Exhibit S-4) details the company’s monthly
29 short-term borrowing from 2017 to 2021 and indicates that short-term borrowing
30 as of March 2021 is \$78 million, down from a high of \$724 million in January

DIRECT TESTIMONY OF ROBERT F. NICHOLS II, CPA
CASE NUMBER U-21015
PART II

1 2020. This indicates that at least a portion of short-term debt associated with the
2 Tree Trim Regulatory Surge Asset most likely has already been refinanced with
3 long-term debt and equity. Additionally, in MPSC Case No. U-20162, The
4 Commission Order, page 76 notes:

5 DTE Electric proposed that prior to securitization, the regulatory asset for
6 the tree trimming surge will be financed consistent with the company's
7 capital structure and once the regulatory asset balance reaches \$100
8 million, DTE Electric intends to securitize the asset. This securitization of
9 the regulatory asset is expected to occur every other year starting in 2020.
10 5 Tr 1053-1054.
11

12 Because the short-term debt attributable to the Tree Trim Regulatory Asset
13 appears to already be refinanced with long-term debt and equity, and in U-20162
14 the Company had proposed financing consistent with the Company's capital
15 structure, it may be more appropriate for the Company to retire long-term debt
16 and equity with the proceeds from the tree trim regulatory asset securitization. As
17 shown on Exhibit A-3, line 3, the balance of deferred Tree Trim Surge costs is
18 \$118.6 million at December 31, 2020. This balance is greater than the total
19 amount of all outstanding short-term debt of \$78 million as of March 2021.
20 Therefore, it isn't reasonable or possible to entirely buy down short-term debt
21 with the proceeds of the Tree Trim Regulatory Asset Securitization.

22 Q. For securitization assets that are not financed by short-term debt, what ratio of
23 debt and equity should be refinanced or retired with the securitization proceeds?

24 A. Generally speaking, the Company should retire debt and equity at the permanent
25 capital proportion that is approved in rates. In DTE's last approved general rate
26 case, MPSC Case No. U-20561, the permanent capital structure approved was

DIRECT TESTIMONY OF ROBERT F. NICHOLS II, CPA
CASE NUMBER U-21015
PART II

1 50/50 long-term debt and equity. Therefore, securitization proceeds should retire
2 long-term debt and equity 50/50, except to the extent the Company can provide
3 evidence in rebuttal that the tree trim regulatory asset is financed with short-term
4 debt.

5 Q. Should the Company securitize the entire Tree Trim Surge Regulatory Asset with
6 no reduction for the “net of tax” approach?

7 A. Yes. The Company should securitize the entire Tree Trim Surge Regulatory
8 Asset with no reduction for the “net of tax” approach if the cost rate to support the
9 incremental securitization is less than the corresponding rate in the capital
10 structure that is being retired. The Company estimates that the securitization cost
11 rate for the Tree Trim Surge Regulatory Asset will be 1.1% (Exhibit A-6, page 3)
12 which is significantly below the return on equity of 9.9%, the long-term debt rate
13 of 4.22%, and the short-term debt rate of 2.73% approved in the Company’s
14 capital structure in its last general rate case MPSC Case No. U-20561. It is also
15 significantly below the 3.56% short-term debt rate approved in U-20162.

16 Q. In Discovery STDE-1.1e (Exhibit S-1, page 5), DTE was asked:

17 Is it the company’s position that the proposal in the instant case produces a
18 lower cost to ratepayers than securitizing the entire amount, subsequently
19 buying down debt and equity with the proceeds per MCL 460 (thereby
20 making the company whole) and including the zero cost of capital DFIT
21 benefit in the capital structure until it unwinds?

22
23 To which, DTE witness Solomon responded:

24 DTE Electric’s proposal in this case produces the lowest cost to customers
25 under the circumstances. DTE Electric disagrees with the assumption in
26 the question that the alternate transaction would make the Company
27 whole. Securitizing the entire amount and buying down debt and equity
28 with the proceeds would not make the Company whole. Equity would be

DIRECT TESTIMONY OF ROBERT F. NICHOLS II, CPA
CASE NUMBER U-21015
PART II

1 reduced beyond the amount supporting the River Rouge site,
2 inappropriately reducing capital.

3
4 Do you agree with DTE witness Solomon that the Company will not be made
5 whole if “[e]quity would be reduced beyond the amount supporting the River
6 Rouge site, inappropriately reducing capital.”

7 A. Yes, but the amount of equity the company has supporting the River Rouge asset
8 is 50% of the entire remaining net book value, with no reduction for the “net of
9 tax” approach. I will explain this in detail below. The Company position that it
10 will not be made whole fails to consider the entire rate base and the entire capital
11 structure impacts of the DFIT liability it has accrued due to comprehensive
12 deferred income tax normalization. Typically, when setting rates, the entire rate
13 base and the entire capital structure are considered in totality. For example, in
14 addition to River Rouge rate base, consideration must also be made for the fact
15 that DTE either 1) has a cash balance on its balance sheet supplied from
16 ratepayers which offsets the River Rouge DFIT liability accrued on its balance
17 sheet or 2) has used the cash balance provided by River Rouge DFIT liability to
18 finance other assets or business operations apart from River Rouge that are offset
19 by the River Rouge DFIT liability. The Company has stated that it used the cash
20 provided by River Rouge DFIT liability to finance other assets in lieu of issuing
21 additional equity and debt (Exhibit S-1, page 8). Therefore, by securitizing the
22 entire remaining net book value, the Company still maintains the cash and/or asset
23 financed by the DFIT on its balance sheet in rate base and thus, must also keep
24 the offsetting DFIT on the balance sheet in base rates.

DIRECT TESTIMONY OF ROBERT F. NICHOLS II, CPA
CASE NUMBER U-21015
PART II

1 Q. Is the Company’s capital structure including all rates and balances related to debt,
2 equity, and deferred taxes analyzed and set in each general rate case so that the
3 appropriate capital structure is projected to support the projected rate base for the
4 test year, inclusive of an analysis of any DFIT that has unwound/reversed?

5 A. Yes. The Company capital structure including all rates and balances related to
6 debt, equity, and deferred taxes are analyzed and set in each general rate case so
7 that the appropriate capital structure is projected to support the projected rate base
8 for the test year. This analysis is inclusive of the projected changes in the capital
9 structure due to DFIT unwinding/reversing over time.

10 Q. Has the Company incorrectly stated that DFIT is investor-supplied funds?

11 A. Yes. Discovery response STDE-1.1h (Exhibit S-1, page 8) states:

12 “DFIT are investor-supplied funds. DFIT liabilities are considered an
13 interest free loan from the U.S. Treasury. The Company has deployed the
14 cash to finance rate base in lieu of issuing additional equity or debt.
15 Customers get the benefit of this in the form of a reduced weighted
16 average return on capital.”
17

18 DFIT liabilities are considered an interest free loan from the U.S. Treasury, but in
19 the context of ratemaking for a regulated utility in Michigan, the funds are
20 ratepayer-supplied because of the impact that comprehensive deferred income tax
21 normalization (income tax normalization) has on rate setting. (U-10083, Exhibit
22 S-3). Due to income tax normalization, rates are set to collect deferred income
23 taxes from ratepayers prior to when they are required to be paid to the IRS.
24 Because the deferred taxes are collected in rates prior to when they are due to be
25 paid to the IRS, the funds are ratepayer-supplied. Ratemaking precedent (U-

DIRECT TESTIMONY OF ROBERT F. NICHOLS II, CPA
CASE NUMBER U-21015
PART II

1 10083) requires that ratepayers receive the benefit of those deferred taxes that are
2 collected in rates prior to when they are due to IRS, as a reduction to rate base or
3 alternatively, as zero cost capital in the capital structure. The latter is the
4 traditional method that the MPSC treats DFIT for rate making when setting rates
5 for regulated utilities in Michigan.

6 Q. While the Company and Staff disagree on the source of the capital attributable to
7 the DFIT liability in base rates, does Staff agree with the Company in STDE-1.1h,
8 that “[t]he Company has deployed the cash to finance rate base in lieu of issuing
9 additional equity or debt. Customers get the benefit of this in the form of a
10 reduced weighted average return on capital.”

11 A. Yes. In the context of ratemaking, as stated by the Company in STDE-1.1h
12 (Exhibit S-1, page 8), the DFIT liability in base rates is used by the Company to
13 “finance rate base in lieu of issuing additional capital.”

14 Q. If the Company admits to using the DFIT liability to finance rate base in lieu of
15 issuing additional capital, could the Company also use that same capital to buy
16 down debt and equity to the “net of tax” amount simultaneously?

17 A. No. The Company cannot simultaneously “deploy the cash” to buy down debt
18 and equity and also “deploy the cash” to “finance rate base in lieu of issuing
19 capital”. Only one or the other can occur, and as stated by the Company it is the
20 latter.

21 Q. In DTE’s most recent rate case, MPSC Case No. U-20561, did the Company
22 project \$3.995 billion in deferred income taxes on Exhibit A-14, Schedule D1?

DIRECT TESTIMONY OF ROBERT F. NICHOLS II, CPA
CASE NUMBER U-21015
PART II

1 A. Yes. In DTE's most recent rate case, MPSC Case No. U-20561, the Company
2 projected \$3.995 billion in deferred income taxes on Exhibit A-14, Schedule D1.

3 Q. When did the Commission approve comprehensive deferred income tax
4 normalization?

5 A. On February 8, 1993, in MPSC Case No U-10083, the Commission approved
6 comprehensive deferred income tax accounting (income tax normalization).
7 (Exhibit S-3).

8 Q. What is the result of income tax normalization?

9 A. The result of income tax normalization, as the Commission pointed out at page 6
10 of the MPSC Case No. U-10083 Order, dated February 8, 1993 Order states:

11 "Over the full cycle for each temporary difference, normalization costs no
12 more than flow-through accounting and the record does not support a
13 contrary conclusion. Furthermore, until the temporary differences reverse,
14 ratepayers are compensated in the ratemaking process for the time value of
15 the deferred tax balances, which are treated as zero cost capital in each
16 utility's capital structure ." (Exhibit S-3).

17
18
19 Q. Does the Company intend on leaving the deferred tax balances in base rates in the
20 capital structure at zero cost as required by the Commission Order in U-10083?

21 A. No. The Company intends on removing the deferred tax balance from base rates
22 so as to finance the "portion of the balance that is currently financed by deferred
23 taxes. Since deferred taxes are a zero-cost source of financing, the Company
24 proposes to recover that portion of the NBV through a surcharge covering the
25 amortization, without re-financing it with securitization debt." (Uzenski Direct
26 Testimony, page 7). My understanding of the Company proposal is that this
27 specific portion of the regulatory asset would not be in rate base, not earn a return,

DIRECT TESTIMONY OF ROBERT F. NICHOLS II, CPA
CASE NUMBER U-21015
PART II

1 would be financed specifically by DFIT which would also be excluded from base
2 rates, and amortized into the surcharge over 14 years for River Rouge and 5 years
3 for the Tree Trim Regulatory Asset.

4 Q. Does the DTE request in the instant case comply with net present value
5 requirements in MCL 460.10i?

6 A. Yes. The Company's initial proposal complies with the net present value
7 requirement in MCL 460.10i. The securitization costs are less costly than
8 conventional financing, meet the statutory requirements for net present value
9 analysis, and may be approved, but, it is not the least cost option. Staff
10 recommends the Commission reject the "net of tax" approach requested by DTE
11 and instead, the Company should be approved to securitize the entire remaining
12 book value, with no reduction for the "net of tax" approach, for the River Rouge
13 and Tree Trim Surge Regulatory Assets, because it is a less costly option for
14 ratepayers which also makes the Company whole.

15 Q. Does this conclude your testimony.

16 A. Yes.

S T A T E O F M I C H I G A N
B E F O R E T H E M I C H I G A N P U B L I C S E R V I C E C O M M I S S I O N

* * * *

In the matter of the application of)
DTE ELECTRIC COMPANY)
for a financing order approving the)
securitization of qualified costs)
_____)

Case No. U-21015

EXHIBITS OF
ROBERT F. NICHOLS II, CPA
MICHIGAN PUBLIC SERVICE COMMISSION

May 6, 2021

MPSC Case No.: U-21015
Requestor: Staff
Question No.: STDE-1.1a
Respondent: T.M. Uzenski
Page: 1 of 1

Question: U-18150 produced a settlement agreement. Paragraph #6 from that settlement agreement is attached in its entirety as Exhibit A but consider the following sentence: "DTE Electric agrees to seek recovery of the remaining net book value associated with its Tier 2 coal plants through securitization after the Tier 2 coal plants are retired if this is the lowest cost option for ratepayers." Please explain.

- a) In the instant case, is the company requesting to securitize the remaining net book value associated with its Tier 2 coal plants through securitization, or is the company requesting to securitize a lesser amount? Please explain.

Answer: DTE Electric Company objects to this request to the extent it seeks privileged attorney-client communications, attorney work product, or a legal opinion to which no response is required. Subject to, and without waiving, the above objections, the Company responds as follows:

The proposed amount to be securitized is associated with the Company's River Rouge generation plant, which is one of the Company's Tier 2 coal plants. The proposed amount to be securitized for the River Rouge generation plant excludes the reserve for removal costs within accumulated depreciation. Of the remaining \$73.2 million projected amount, the Company is requesting to securitize \$61.3 million. The Company is proposing to recover the difference of \$11.9 million through amortization expense with no carrying costs.

Attachments: None

MPSC Case No.: U-21015
Requestor: Staff
Question No.: STDE-1.1b
Respondent: T.M. Uzenski
Page: 1 of 1

Question: U-18150 produced a settlement agreement. Paragraph #6 from that settlement agreement is attached in its entirety as Exhibit A but consider the following sentence: “DTE Electric agrees to seek recovery of the remaining net book value associated with its Tier 2 coal plants through securitization after the Tier 2 coal plants are retired if this is the lowest cost option for ratepayers.” Please explain.

b) If the entire “remaining net book value” was securitized would this include portions financed by DFIT? If no, please explain.

Answer: DTE Electric Company objects to this request to the extent it seeks privileged attorney-client communications, attorney work product, or a legal opinion to which no response is required. Subject to, and without waiving, the above objections, the Company responds as follows:

With respect to the River Rouge generation plant, the answer is yes.

Attachments: None

MPSC Case No.: U-21015
Requestor: Staff
Question No.: STDE-1.1c
Respondent: E.J. Solomon
Page: 1 of 1

Question: U-18150 produced a settlement agreement. Paragraph #6 from that settlement agreement is attached in its entirety as Exhibit A but consider the following sentence: "DTE Electric agrees to seek recovery of the remaining net book value associated with its Tier 2 coal plants through securitization after the Tier 2 coal plants are retired if this is the lowest cost option for ratepayers." Please explain.

- c) If the entire amount including the DFIT portion is securitized does MCL 460 require that the company buy down (reduce) debt and equity by that amount in the capital structure? If no, please explain. After completion, would the capital structure be in equilibrium with the rate base it is financing? If no, please explain.

Answer: DTE Electric Company objects to this request to the extent it seeks privileged attorney-client communications, attorney work product, or a legal opinion to which no response is required. The Company also objects because the request is vague and incapable meaningful response with respect to the legal citation provided. Subject to, and without waiving, the above objections, the Company responds as follows:

While I am not an attorney and do not purport to offer a legal opinion Section 10i(2)(a) of Act 142 provides that proceeds derived from the sale of securitization bonds must be used solely for the purposes of refinancing or retiring DTE Electric's debt or equity. If the Company securitized the entire amount including the DFIT portion , there would be more cash generated than needed to retire the debt and equity currently supporting the River Rouge site.

Attachments: None

MPSC Case No.: U-21015
Requestor: Staff
Question No.: STDE-1.1d
Respondent: E.J. Solomon
Page: 1 of 1

Question: U-18150 produced a settlement agreement. Paragraph #6 from that settlement agreement is attached in its entirety as Exhibit A but consider the following sentence: “DTE Electric agrees to seek recovery of the remaining net book value associated with its Tier 2 coal plants through securitization after the Tier 2 coal plants are retired if this is the lowest cost option for ratepayers.” Please explain.

d) Is it the company’s position that not securitizing the reg asset attributable to DFIT is the “lowest cost option for ratepayers” that was agreed to by the company in U-18150?

Answer: DTE Electric Company objects to this request to the extent it seeks privileged attorney-client communications, attorney work product, or a legal opinion to which no response is required. Subject to, and without waiving, the above objections, the Company responds as follows:

Yes, it is the lowest cost option for refinancing the River Rouge rate base and Tree Trim Surge regulatory asset. Customers benefit because rather than paying interest on the DFIT balance were it to be included in the securitization bond, it remains on DTE’s books at a zero cost of financing.

Attachments: None

MPSC Case No.: U-21015
Requestor: Staff
Question No.: STDE-1.1e
Respondent: E.J. Solomon
Page: 1 of 1

Question: U-18150 produced a settlement agreement. Paragraph #6 from that settlement agreement is attached in its entirety as Exhibit A but consider the following sentence: “DTE Electric agrees to seek recovery of the remaining net book value associated with its Tier 2 coal plants through securitization after the Tier 2 coal plants are retired if this is the lowest cost option for ratepayers.” Please explain.

- e) Is it the company’s position that the proposal in the instant case produces a lower cost to ratepayers than securitizing the entire amount, subsequently buying down debt and equity with the proceeds per MCL 460 (thereby making the company whole) and including the zero cost of capital DFIT benefit in the capital structure until it unwinds? If yes, please provide a brief explanation how this is possible.

Answer: DTE Electric Company objects to this request to the extent it seeks privileged attorney-client communications, attorney work product, or a legal opinion to which no response is required. The Company also objects because the request is vague and incapable meaningful response with respect to the legal citation provided. Subject to, and without waiving, the above objections, the Company responds as follows:

DTE Electric’s proposal in this case produces the lowest cost to customers under the circumstances. DTE Electric disagrees with the assumption in the question that the alternate transaction would make the Company whole. Securitizing the entire amount and buying down debt and equity with the proceeds would not make the Company whole. Equity would be reduced beyond the amount supporting the River Rouge site, inappropriately reducing capital.

Attachments: None

MPSC Case No.: U-21015
Requestor: Staff
Question No.: STDE-1.1f
Respondent: E.J. Solomon
Page: 1 of 1

Question: U-18150 produced a settlement agreement. Paragraph #6 from that settlement agreement is attached in its entirety as Exhibit A but consider the following sentence: "DTE Electric agrees to seek recovery of the remaining net book value associated with its Tier 2 coal plants through securitization after the Tier 2 coal plants are retired if this is the lowest cost option for ratepayers." Please explain.

- f) Does the company agree that as per MCL 460, when the company buys down debt and equity with securitization proceeds, and makes no change to the DFIT in the capital structure, that this has the effect of reducing the cost of capital for base rates in the company's next general rate case? If no, please explain.

Answer: DTE Electric Company objects to this request to the extent it seeks privileged attorney-client communications, attorney work product, or a legal opinion to which no response is required. The Company also objects because the request is vague and incapable meaningful response with respect to the legal citation provided. Subject to, and without waiving, the above objections, the Company responds as follows:

Yes.

Attachments: None

MPSC Case No.: U-21015
Requestor: Staff
Question No.: STDE-1.1g
Respondent: E.J. Solomon
Page: 1 of 1

Question: U-18150 produced a settlement agreement. Paragraph #6 from that settlement agreement is attached in its entirety as Exhibit A but consider the following sentence: “DTE Electric agrees to seek recovery of the remaining net book value associated with its Tier 2 coal plants through securitization after the Tier 2 coal plants are retired if this is the lowest cost option for ratepayers.” Please explain.

g) Does the company agree that any impact from the securitization on the capital structure for setting base rates should be considered in the context of this securitization in selecting the “lowest cost option for ratepayers”? If no, please explain.

Answer: DTE Electric Company objects to this request to the extent it seeks privileged attorney-client communications, attorney work product, or a legal opinion to which no response is required. Subject to, and without waiving, the above objections, the Company responds as follows:

Yes.

Attachments: None

MPSC Case No.: U-21015
Requestor: Staff
Question No.: STDE-1.1h
Respondent: T.M. Uzenski
Page: 1 of 1

Question: U-18150 produced a settlement agreement. Paragraph #6 from that settlement agreement is attached in its entirety as Exhibit A but consider the following sentence: "DTE Electric agrees to seek recovery of the remaining net book value associated with its Tier 2 coal plants through securitization after the Tier 2 coal plants are retired if this is the lowest cost option for ratepayers." Please explain.

h) Is it the company's position that the DFIT is ratepayer supplied-funds or investor-supplied funds?

Answer: DTE Electric Company objects to this request to the extent it seeks privileged attorney-client communications, attorney work product, or a legal opinion to which no response is required. Subject to, and without waiving, the above objections, the Company responds as follows:

DFIT are investor-supplied funds. DFIT liabilities are considered an interest free loan from the U.S. Treasury. The Company has deployed the cash to finance rate base in lieu of issuing additional equity or debt. Customers get the benefit of this in the form of a reduced weighted average return on capital.

Attachments: None

MPSC Case No.:	U-21015
Requestor:	Staff
Question No.:	STDE-1.1i.i
Respondent:	T.M. Uzenski
Page:	1 of 1

Question: U-18150 produced a settlement agreement. Paragraph #6 from that settlement agreement is attached in its entirety as Exhibit A but consider the following sentence: “DTE Electric agrees to seek recovery of the remaining net book value associated with its Tier 2 coal plants through securitization after the Tier 2 coal plants are retired if this is the lowest cost option for ratepayers.” Please explain.

- i) Is it the company’s position that if the entire remaining net book value associated with Tier 2 coal plants were securitized, and the company subsequently bought down debt and equity per MCL 406, that the company would remove the associated DFIT from the capital structure? Please explain.
- i) If yes, must the company also replace the removed DFIT balance with debt and equity so that the capital structure was in equilibrium with the rate base being financed? Please explain. Does this have the effect of increasing the cost of capital in base rates in the next general rate case? Please explain.

Answer: DTE Electric Company objects to this request to the extent it seeks privileged attorney-client communications, attorney work product, or a legal opinion to which no response is required. The Company also objects because the request is vague and incapable meaningful response with respect to the legal citation provided. Subject to, and without waiving, the above objections, the Company responds as follows:

No. The Company would not remove the associated DFIT from the capital structure. The deferred tax balance would remain at DTE Electric until the plant is fully disposed (e.g., dismantled and sold).

Attachments: None

MPSC Case No.: U-21015
Requestor: Staff
Question No.: STDE-1.1i.ii
Respondent: T.M. Uzenski
Page: 1 of 1

Question: U-18150 produced a settlement agreement. Paragraph #6 from that settlement agreement is attached in its entirety as Exhibit A but consider the following sentence: “DTE Electric agrees to seek recovery of the remaining net book value associated with its Tier 2 coal plants through securitization after the Tier 2 coal plants are retired if this is the lowest cost option for ratepayers.” Please explain.

- i) Is it the company’s position that if the entire remaining net book value associated with Tier 2 coal plants were securitized, and the company subsequently bought down debt and equity per MCL 406, that the company would remove the associated DFIT from the capital structure? Please explain.
- ii) If yes, why does the company believe that the timing difference related to the DFIT balance should inure to the company’s investors in lieu of ratepayers? Please explain.

Answer: DTE Electric Company objects to this request to the extent it seeks privileged attorney-client communications, attorney work product, or a legal opinion to which no response is required. The Company also objects because the request is vague and incapable meaningful response with respect to the legal citation provided. Subject to, and without waiving, the above objections, the Company responds as follows:

N/A. The Company’s response to STDE1.1i.i was “no.”

Attachments: None

MPSC Case No.: U-21015
Requestor: AG
Question No.: AGDE-1.6
Respondent: T.M. Uzenski
Page: 1 of 1

Question: Refer to page 7, lines 13-24, of Ms. Uzenski's direct testimony. From a tax and accounting treatment standpoint, what happens to the deferred taxes once the River Rouge plant assets are retired? Do they need to be zeroed out and the liability extinguished, or do they continue to be amortized and paid over the original book depreciable life of the assets? Explain your answer and provide authoritative references.

Answer: River Rouge's deferred taxes are driven by the difference between book depreciation/amortization and tax depreciation, which will result in a difference between Net Book Value (NBV) and Net Tax Value (NTV).

For book purposes, River Rouge will be retired and subsequently securitized, which will result in a recategorization between book depreciation and regulatory asset amortization. For tax purposes, River Rouge will not follow book retirement and will continue to be depreciated. For tax purposes the Company does not retire a facility until the year there is a permanent withdrawal of depreciable property from use in the trade or business, as described in Treas. Reg § 1.167(a)-8(a). For tax purposes the Company will recognize the retirement of River Rouge once the assets are permanently rendered inoperable or sold for scrap.

To summarize, the deferred taxes related to River Rouge will remain as long as there is a difference between book amortization and tax depreciation, which will result in a difference between NBV and NTV.

Attachments: None

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter, on the Commission's own motion,)
to examine the provisions of the Uniform Systems)
of Accounts for electric and gas utilities related)
to deferred income tax accounting.)
_____)

Case No. U-10083

At the February 8, 1993 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Steven M. Fetter, Chairman
Hon. Ronald E. Russell, Commissioner
Hon. John L. O'Donnell, Commissioner

OPINION AND ORDER

The gas and electric Uniform Systems of Accounts provide that utilities may use Account 190, Accumulated deferred income taxes, and Account 283, Accumulated deferred income taxes - Other, only when the Commission has authorized the use of those accounts after notice and an opportunity for a hearing. Over the years, utilities have filed applications requesting approval to use deferred tax accounting in what can be time consuming cases and the resulting orders have established a variety of procedures. The Commission found it appropriate to consider whether the Commission should grant a general authorization for utilities to practice deferred tax accounting through Accounts 190 and 283 or should otherwise alter existing procedures. Therefore, on April 1, 1992, the Commission issued a notice of hearing initiating this generic proceeding. The Commission invited all affected gas and electric utilities and

other interested parties to participate. The Commission set a prehearing conference and required the utilities to publish notice of the hearing.

Administrative Law Judge Robert E. Hollenshead (ALJ) presided over the May 13, 1992 prehearing conference and the August 17, 1992 evidentiary hearing. Consumers Power Company (Consumers), The Detroit Edison Company, Michigan Consolidated Gas Company (Mich Con), Indiana Michigan Power Company (I & M), Michigan Gas Utilities, Michigan Gas Company, Southeastern Michigan Gas Company, Wisconsin Public Service Corporation (WPS Corp), Wisconsin Electric Power Company (Wisconsin Electric), the Commission Staff (Staff), Attorney General Frank J. Kelley (Attorney General), and the Michigan Electric & Gas Association (MEGA) participated in the case¹.

The parties cross-examined the direct testimony of the following witnesses on August 17, 1992: Michael G. VanHaerents for Detroit Edison, Christine G. Price for Consumers, Gary H. Duke for Mich Con, Scott M. Krawec for I & M and MEGA, William A. Peloquin for the Attorney General, and James A. Mendenhall for the Staff. The testimony of Ralph W. Kane for Wisconsin Electric and WPS Corp was bound into the record without cross-examination. Twelve exhibits were received into evidence.

Consumers, Detroit Edison, Mich Con, I & M, the Staff, the Attorney General, and MEGA filed briefs on September 25, 1992 and reply briefs on October 4, 1992. The ALJ issued a Proposal for Decision (PFD) on November 4, 1992 recommending, for a variety of reasons, that the Commission grant a general authorization for utilities to use deferred tax accounting as of January 1, 1993.

¹The Michigan Electric Cooperative Association appeared at the prehearing conference, but did not participate beyond then because the electric cooperatives are tax exempt.

Detroit Edison, the Attorney General, Mich Con, MEGA, and the Staff filed exceptions by November 24, 1992. The Attorney General, Consumers, Detroit Edison, I & M, MEGA, Mich Con, and the Staff filed replies on December 8, 1992.

Deferred tax accounting becomes an issue because taxable income differs from book income when revenues or expenses are reported for tax purposes in periods other than those for which they are reported on a company's books. If the tax expense used in computing net income is the actual taxes paid, the result is flow-through income tax accounting. If the tax expense used in computing net income is derived from book revenues and expenses, the result is deferred income tax accounting or income tax normalization, which creates temporary book/tax-timing differences. When a company uses such accounting for all income taxes, the result is comprehensive deferred income tax accounting or income tax normalization.

With respect to the Commission's ability to grant the general authorization, the ALJ concluded that the Commission did not need to revise the Uniform Systems of Accounts because the required notice and hearing were provided in this case.

In his exceptions, the Attorney General argues that he has not asserted that the Commission cannot procedurally grant a general authorization in this case. Rather, he argues, there should be a significant burden of proof on those who seek such an authorization because it is the functional equivalent of ending the requirement of a notice and hearing. He asserts that no party has presented evidence that the time and expense of the current procedure, an annual filing and opportunity for a hearing on each utility's request to use deferred tax accounting, justifies a general authorization. He asserts that the procedure has worked well, has resulted in the denial or modification of some requests, and has not created a significant burden. Further, he argues, the opportunity for the Staff to audit the utilities' books is not

sufficient regulatory oversight. He concludes that the record in this case does not justify nullifying the Commission's previous decision, embodied in the Uniform Systems of Accounts, that notice and an opportunity for a hearing should be provided before utilities may use Accounts 190 and 284.

The Commission finds that it has authority under the Uniform Systems of Accounts to grant a general authorization for utilities to use deferred tax accounting. No party challenges that conclusion. The Commission does not agree with the Attorney General that the parties seeking a general authorization bear any special or unusual burden of proof, if that is what he is suggesting. As discussed below, the Commission also finds that the record adequately supports a decision to grant a general authorization.

In his PFD, the ALJ noted that the Federal Energy Regulatory Commission and the Indiana and Wisconsin commissions have adopted comprehensive deferred tax accounting. The ALJ recommended, based on the lack of dispute, that I & M and the Wisconsin-based utilities be permitted to implement the deferred tax accounting approved by the commissions in Indiana and Wisconsin, respectively.

No exceptions were filed, and the Commission agrees with that recommendation.

The ALJ also recommended that the Commission approve comprehensive deferred tax accounting for the other utilities because (1) it matches the tax effects of revenues and expenses with the book recognition of those revenues and expenses, (2) deferred tax accounting is the generally accepted accounting principle adopted by the Financial Accounting Standards Board and flow-through accounting is not a fully accepted alternative, (3) a general authorization would eliminate the resources spent on individual deferred tax applications, and (4) deferred tax accounting promotes rate stability.

The Commission agrees with the ALJ's conclusion and reasoning. Deferred tax accounting better matches book revenues and expenses to their related tax effects. It thus better reflects the financial results of the companies' operations and assigns to the same ratepayers the costs and benefits of the items for which deferred tax accounting is used, which promotes intergenerational equity. Deferred tax accounting is not harmful to ratepayers, the Attorney General's argument notwithstanding. A general authorization eliminates the need for annual filings. Even if the Attorney General is correct that those cases have not created a large burden, it is an unnecessary burden in light of the benefits of comprehensive normalization, particularly when the Commission has granted most requests for deferred tax accounting and has granted many requests for continuing authority. Furthermore, the Staff witness testified that Michigan is almost a full normalization jurisdiction, although he did not quantify the extent to which normalization is followed.

With respect to generally accepted accounting principles, despite the Attorney General's argument, deferred tax accounting is the preferred accounting for taxes, even if the relevant accounting standards have permitted an exception for regulatory agencies to require flow-through accounting. Deferred tax accounting also promotes rate stability because it eliminates distortions due to fluctuations in book/tax-timing differences. As the record (Tr. 86) and Exhibit I-2 show, for a \$100 tax-deferred expense, normalization causes a \$100 change in the revenue requirement. Flow-through accounting causes a change of twice that amount. Finally, the Attorney General's concession that I & M and the Wisconsin-based utilities should be permitted to follow the deferred tax accounting permitted by the states where they conduct a majority of their business does much to undercut his argument that deferred tax accounting is both harmful to ratepayers and unnecessary.

The Attorney General's exceptions challenge the ALJ's conclusions that deferred tax accounting does not cost ratepayers more than flow-through accounting and that deferred tax accounting is the generally accepted accounting principle.

The Attorney General argues that the ALJ ignored the record when he concluded that ratepayers do not pay more under deferred tax accounting than under flow-through accounting. In fact, he says, competent, material, and substantial evidence on the whole record contradicts that conclusion. He cites the testimony of his witness that income tax normalization increases a utility's revenue requirements. He also asserts that the direct testimony and cross-examination of the utilities' witnesses support that conclusion.

The Commission finds that the Attorney General is in error in asserting that income tax normalization costs ratepayers more than flow-through tax accounting. He may be right that under some circumstances normalization costs more initially, but there are other circumstances under which normalization costs less initially. But, upon reversal of each temporary book/tax-timing difference, income tax normalization does not cost ratepayers more than the Attorney General's preferred flow-through accounting. It is true that the reversal of one year's temporary book/tax-timing difference may be more than offset by the next year's new temporary difference, but the Attorney General is wrong in concluding from that fact that ratepayers therefore pay more under income tax normalization. Over the full cycle for each temporary difference, normalization costs no more than flow-through accounting and the record does not support a contrary conclusion. Furthermore, until the temporary differences reverse, ratepayers are compensated in the ratemaking process for the time value of the deferred tax balances, which are treated as zero cost capital in each utility's capital structure.

The Attorney General's examples do not prove that ratepayers are worse off with deferred tax accounting. He can show that, by ignoring the reversal of the temporary differences, normalization of some differences can cost more initially. He can also show that two temporary differences cost more than one. He cannot show that upon reversal of the temporary differences, normalization costs more. Even his best example, that the utilities refunded approximately \$1.50 for every \$1.00 of excess deferred taxes as a result of the Tax Reform Act of 1986, only shows the error of his reasoning.² For each \$1.00 in the deferred tax accounts, the utilities had collected enough from ratepayers to pay taxes on that revenue and still place \$1.00 into the deferred tax accounts. It is only appropriate that the utilities refund what their customers paid, \$1.00 plus the tax on that amount, or approximately \$1.50.

The Attorney General also challenges the conclusion that income tax normalization is the generally accepted accounting principle. He acknowledges that the ALJ correctly recognized that Statement of Financial Accounting Standards No. 109 (SFAS 109) does not prohibit flow-through accounting, but he challenges the ALJ's conclusions that flow-through accounting is an exception to SFAS 109 and that normalization is the generally accepted accounting principle. He asserts that the ALJ failed to recognize that SFAS 109 and the prior standards all recognize that regulated businesses can be treated differently because of the ratemaking process. He says that generally accepted accounting principles do not require regulated utilities to use deferred tax accounting and SFAS 109 does not require normalization. He also points out that the utilities' witnesses admitted that utilities can use flow-through accounting.

²The Attorney General's example is based largely on settlement agreements, which is a violation of those settlements if he is using them to show that the utilities agree with his position. The refunds for Consumers were not the result of settlements and the Attorney General may properly cite them.

He concludes that rate regulation justifies the use of flow-through accounting, particularly because he believes that normalization has adverse effects on ratepayers.

The Commission does not agree. Although it is true, as the Attorney General argues, that the relevant accounting standards do not require regulated utilities to use deferred tax accounting, it does not follow that the two methods of accounting for taxes are equally favored. The Commission concludes that the ALJ correctly characterized deferred tax accounting as the generally accepted accounting for taxes.

The ALJ recommended that the general authorization take effect January 1, 1993. He rejected Mich Con's request that comprehensive normalization for non-plant items be effective as of the date those difference arose. He found that such an authorization would require the booking of substantial deferred taxes, which would result in adjustments to revenue requirements. He concluded that Mich Con's request should be examined on a case-by-case basis.

MEGA, the Staff, and Detroit Edison except to the recommended effective date and variously argue that the utilities affected by this proceeding would be required to file applications for authorization to use deferred tax accounting for 1992 if the Commission were to adopt the ALJ's recommendation. They believe that no purpose would be served by conducting a case-by-case review of 1992 book/tax-timing difference when the parties have fully litigated in 1992 the issue of a general authorization and the Commission must be presumed to have intended to resolve these issues for 1992. MEGA therefore suggests that the Commission permit utilities, at their option, to adopt comprehensive normalization effective January 1, 1992 or 1993. The Staff suggests December 31, 1992, which would also permit the utilities to implement comprehensive deferred tax accounting for 1992.

The Attorney General responds that no one has offered any evidence of any 1992 temporary differences that cannot be booked without complying with the notice requirements of the Uniform Systems of Accounts nor any evidence that there will be a flood of applications for 1992 temporary differences. Further, he argues, SFAS 109 applies to fiscal years that begin after December 15, 1992, and thus the effective date of SFAS 109 and the general authorization recommended by the ALJ are consistent. He concludes that some of the parties are trying to change the Uniform Systems of Accounts by seeking to have the general authorization apply to all of 1992.

The Commission agrees with MEGA that utilities should be permitted, at their option, to adopt normalization effective January 1, 1992. The case was noticed and heard in 1992. Having concluded that utilities should be permitted to adopt full normalization, it would be redundant and administratively wasteful to require them to file individual applications for 1992 timing differences. This conclusion is consistent with the long-standing practice of approving deferred tax accounting for a year if the utility files an application by March 31 of the following year (and proves its case).

In its exceptions, Mich Con says that the ALJ's recommendation is ambiguous with respect to plant items because it is not clear whether the ALJ recommended prospective comprehensive normalization for all temporary differences originating on or after January 1, 1993 or all temporary differences relating to plant placed in service on or after January 1, 1993. Mich Con argues that it is theoretically inappropriate to apply the new treatment to the former because that would not ensure consistent treatment of plant items, for which records are maintained on a vintage year basis. Mich Con therefore asks the Commission to

state that comprehensive normalization is authorized for all temporary differences relating to plant placed in service on or after January 1, 1993.

With respect to non-plant items, Mich Con says that different factors are present and the Commission should authorize utilities to normalize the temporary differences relating to non-plant items from the time the differences arose, even those that arose in the past. Mich Con asserts that, based on the record, it is appropriate for utilities to begin making up deficiencies or eliminating excesses in their deferred tax reserves. As a result, it says, within a reasonable time, utilities would be operating under a full normalization policy.

The Commission agrees with Mich Con's requested clarification that the authorization should take effect for plant placed in service on and after the effective date permitted by this order. It seems likely that the alternative would be burdensome and unduly complicated. The adoption of comprehensive normalization should not be the occasion for substituting one unnecessary administrative burden for another. The Commission disagrees with Mich Con's suggestion that the Commission should authorize utilities to restate previously recorded deferred taxes for non-plant items to effectuate a transition to comprehensive normalization. If that is to occur, it should be on a case-by-case basis. For now it is enough that, as new temporary differences arise, utilities will make the transition to comprehensive income tax normalization.

The ALJ recommended that the Commission provide appropriate assurances that the Commission will continue to recognize for ratemaking purposes the regulatory assets and liabilities arising from Accounts 192 and 286. Further, the ALJ recommended that, to implement SFAS 109, utilities should be authorized to use Accounts 191, 192, 285, and 286 of the Uniform Systems of Accounts.

In his exceptions, the Attorney General argues that he does not oppose granting that assurance, but asserts that by recommending a general authorization to implement deferred tax accounting through Accounts 190 and 283 and flow-through accounting through Accounts 191, 192, 285, and 286, while also recommending that the Commission provide assurances of future recovery and refunding for purposes of SFAS 109, the ALJ would permit Michigan utilities to use either accounting at their option or to alternate between the two depending on which better serves their needs in a rate case.

The Commission agrees with the ALJ that, to implement SFAS 109, the Commission should authorize utilities to use Accounts 191, 192, 285, and 286. It also agrees that it should provide assurance that it will continue to recognize in ratemaking the regulatory assets and liabilities related to deferred tax assets and liabilities. The Commission does not agree with the Attorney General that the effect is to permit utilities to change their accounting to serve their rate case interests.³ The general authorization to use deferred tax accounting is necessary to implement the decision that comprehensive deferred tax accounting is preferable to the present system. The authorization to use flow-through accounting is necessary for items previously flowed through and for which flow-through accounting remains appropriate. Both authorizations are needed for a smooth transition to SFAS 109 and to provide a proper treatment of items previously flowed through. Although the Commission has permitted each utility to choose an effective date, January 1, 1992 or 1993, after having made that choice, the utility must consistently implement the appropriate accounting. If there are abuses, the

³In fact, the general authorization granted by this order will eliminate the ability that utilities have had to decide each year whether to request deferred tax authority for that year and the items, if any, for which to seek authorization.

Commission can revoke or alter the general authorization granted by this order, as well as take appropriate action in a rate case.

In his exceptions, the Attorney General requests the Commission to clarify that utilities may use subaccounts to reflect offsetting entries to Accounts 410.2 and 411.2 for items that do not affect the rates set by the Commission (items that are "below the line" on the income statement). He also asks the Commission to clarify that deferred tax accounting related to accelerated depreciation is permitted by the instructions to Account 282 and therefore is not at issue in this case.

Neither request is opposed. Both are reasonable and consistent with current practice. The Commission therefore grants both clarifications, with the addition requested by Consumers, that Account 282 is not limited to accelerated depreciation.

The Commission FINDS that:

a. Jurisdiction is pursuant to 1909 PA 106, as amended, MCL 460.551 et seq.; 1919 PA 419, as amended, MCL 460.51 et seq.; 1939 PA 3, as amended, MCL 460.1 et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; and the Commission's Rules of Practice and Procedure, R 460.17101 et seq.

b. Electric and gas utilities regulated by the Commission should be granted a general authorization to use Accounts 190 and 283 for temporary book/tax-timing differences arising on and after January 1, 1992 or 1993, at their option.

c. Electric and gas utilities regulated by the Commission should be granted a general authorization to use Accounts 191, 192, 285, and 286 to comply with SFAS 109 as of January 1, 1993, with an earlier effective date at their option.

d. Electric and gas utilities regulated by the Commission should receive an assurance of continued recovery of regulatory assets in Account 192 and continued refunding of regulatory liabilities in Account 286 through current ratemaking practices.

e. I & M and the Wisconsin-based utilities should be permitted to follow the deferred tax accounting approved by the Indiana and Wisconsin commissions, respectively.

THEREFORE, IT IS ORDERED that:

A. Electric and natural gas utilities regulated by the Commission are granted a general authorization to use Accounts 190 and 283 for temporary book/tax-timing differences arising on and after January 1, 1992 or 1993, at their option.

B. Electric and gas utilities regulated by the Commission are granted a general authorization to use Accounts 191, 192, 285, and 286 to comply with SFAS 109 as of January 1, 1993, with an earlier effective date at their option.

C. Electric and gas utilities regulated by the Commission are assured of continued recovery of regulatory assets in Account 192 and continued refunding of regulatory liabilities in Account 286 through current ratemaking practices.

D. Indiana Michigan Power Company, Wisconsin Public Service Corporation, Wisconsin Electric Power Company, and the other Wisconsin-based utilities may follow the deferred tax accounting approved by the Indiana and Wisconsin commissions, respectively.

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

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ Steven M. Fetter
Chairman

(S E A L)

/s/ Ronald E. Russell
Commissioner

/s/ John L. O'Donnell
Commissioner

By its action of February 8, 1993.

/s/ Dorothy Wideman
Its Executive Secretary

MPSC Case No.: U-21015
Requestor: AG
Question No.: AGDE-1.15b
Respondent: E.J. Solomon
Page: 1 of 1

Question: Refer to page 7 of Mr. Solomon's direct testimony. Please:

- b. Provide the monthly short-term debt balance that DTEE had outstanding under its bank line of credits and commercial paper borrowings for each month from January 2017 to March 2021 in Excel.

Answer: Attached in Excel (file U-21015 AGDE-1.15b-01 Short Term Balances) are the monthly short-term borrowings for DTE Electric from January 31, 2017 to March 31, 2021.

Attachments: *U-21015 AGDE-1.15b-01 Short Term Balances*

DTE Electric Short-Term Borrowings
January 31, 2017 through March 31, 2021
\$'s in millions

Date	Total Short-Term Borrowings
January 31, 2017	\$ 335
February 28, 2017	273
March 31, 2017	265
April 28, 2017	433
May 31, 2017	374
June 30, 2017	404
July 31, 2017	451
August 31, 2017	317
September 29, 2017	377
October 31, 2017	419
November 30, 2017	368
December 29, 2017	354
January 31, 2018	533
February 28, 2018	432
March 30, 2018	522
April 30, 2018	558
May 31, 2018	51
June 29, 2018	205
July 31, 2018	193
August 31, 2018	180
September 28, 2018	194
October 31, 2018	236
November 30, 2018	538
December 31, 2018	250
January 31, 2019	533
February 28, 2019	59
March 29, 2019	51
April 30, 2019	196
May 31, 2019	214
June 28, 2019	295
July 31, 2019	429
August 30, 2019	473
September 30, 2019	480
October 31, 2019	518
November 29, 2019	373
December 31, 2019	452
January 31, 2020	724
February 28, 2020	334
March 31, 2020	210
April 30, 2020	307
May 29, 2020	307
June 30, 2020	307
July 31, 2020	310
August 31, 2020	305
September 30, 2020	308
October 30, 2020	295
November 30, 2020	105
December 31, 2020	101
January 29, 2021	268
February 26, 2021	283
March 31, 2021	78

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application of
DTE ELECTRIC COMPANY for
Financing Order Approving the
Securitization of Qualified Costs.

Case No. **U-21015**
(e-file paperless)

/

PROOF OF SERVICE

STATE OF MICHIGAN)
) ss
COUNTY OF EATON)

Jennifer M. Brooks, being first duly sworn, deposes and says that on **May 6, 2021**, she served a true copy of **Michigan Public Service Commission Staff's Testimony and Exhibits – Nichols**, upon the following parties **via email only**:

DTE Electric Company

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mpscfilings@dteenergy.com

Administrative Law Judge

Hon. Dennis Mack
Administrative Law Judge
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Michigan Attorney General

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ABATE

Michael J. Pattwell

Stephen A. Campbell

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scampbell@clarkhill.com

Subscribed and sworn to before me
this **6th** day of **May, 2021**.

Jennifer M. Brooks

Michelle L. Conarton, Notary Public
State of Michigan, County of Ingham
Acting in the County of Eaton
My Commission Expires: 6-18-2026