



## CITY OF ANN ARBOR, MICHIGAN

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October 7, 2024

*VIA ELECTRONIC CASE FILING*

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

RE: MPSC Case No. U-21291

Dear Ms. Felice,

Attached please find the **City of Ann Arbor's Reply to Exceptions to the Proposal for Decision and Proof of Service** for the above referenced case.

Please contact me if you have any questions.

Sincerely,

Valerie Jackson  
Assistant City Attorney,  
City of Ann Arbor

STATE OF MICHIGAN  
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application of **DTE GAS COMPANY** for authority to increase its rates, amend its rate schedules and rules governing the distribution and supply of natural gas, and for miscellaneous accounting authority.

U-21291

ALJ Jonathan F. Thoits

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**THE CITY OF ANN ARBOR’S REPLY TO EXCEPTIONS  
TO THE PROPOSAL FOR DECISION**

Intervenor, the City of Ann Arbor (“Ann Arbor” or “the City”), by its counsel, files its Reply to Exceptions to the Proposal for Decision (“PFD”) issued by the presiding Administrative Law Judge, the Honorable Jonathan F. Thoits, on September 4, 2024 in the above-captioned proceeding initiated by DTE Gas Company (“DTE” or the Company”) before the Michigan Public Service Commission (“MPSC” or “the Commission”) in accordance with the schedule established in the PFD. Specifically, Ann Arbor replies to the Exceptions of DTE and of the Michigan Environmental Council, Natural Resources Defense Council, Sierra Club, and Citizens Utility Board of Michigan (collectively, “MNSC”).

**I. REPLY TO DTE’S OPPOSITION TO THE PFD’S RECOMMENDED \$62 MILLION DISALLOWANCE FOR THE MAIN REPLACEMENT PROGRAM**

DTE takes exception to the PFD’s recommendation to reduce its Main Replacement Program capital expenditures by approximately \$62 million for the period from 2022 through 2024, in part because it “prevents DTE Gas from being able to maintain a steady level of expenditures.” DTE’s Exceptions, p. 19. The PFD’s recommendation was based on the Association for Businesses Advocating Tariff Equity’s (“ABATE”) proposal to limit the Company’s average retirement of mains to 190 miles per year (to meet the pace approved in Case No. U-18999), rather than the 206 miles per year as proposed by DTE.

In its Exceptions to the PFD, DTE admits that “the PFD’s proposal to adjust the Company’s target to 190 miles of main each year keeps DTE Gas consistent with minimum mileage goals,” but takes issue with the \$62 million reduction in capital expenditures. DTE’s Exceptions, p. 19. The Company argues that the \$62 million is necessary because it gives the Company “the flexibility to exceed the 190-mile target when doing so is prudent and in the best interest of customers.” *Id.* This suggests that, despite the fact that DTE’s original request included this \$62 million and was intended to cover the replacement of 206 miles per year, the Company would now be okay with a 16-mile reduction in its yearly goal – as long as it is still paid as if it were replacing those 16 miles each year. Based on the Company’s reasoning, it should be able to charge ratepayers an extra \$62 million for maybe replacing 48 miles<sup>1</sup> more than its goal – or maybe not. Either way, the \$62 million will flow to DTE’s coffers, and the Company will come back in its next rate case asking to be paid again for whatever portion of those 48 miles it didn’t cover with the \$62 million. Multiple collections for the same number of replacement miles would be unreasonable and is likely to result unless ABATE’s proposal is adopted.

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<sup>1</sup> 16 miles per year times 3 years.

Ann Arbor would also like to reiterate its general opposition to the Company's Gas Renewal Program ("GRP"), which it discussed in Sections III(A) and (B) of its initial brief. Much of DTE's current infrastructure can be operated safely for its remaining useful life. *See*, Ackley, 3 Tr 491. Rather than continuing with the wildly expensive (e.g., \$62 million for a mere 48 miles) and short-sighted GRP, which replaces pipes wholesale – even those without a leak history or safety concern – DTE should be focusing on repairing its infrastructure only where necessary. This is a much more cost-effective means of reducing carbon emissions and ensuring the safety of the gas system. The GRP is especially unreasonable and imprudent because it focuses on expensive and time-consuming pipe replacements that are intended to accommodate higher pressures when the demand for fossil gas is decreasing and more and more customers are predicted to leave the system over the coming decades, leaving fewer and fewer ratepayers to cover an ever-growing rate base. A more prudent approach would be to default to repairing infrastructure rather than replacing it unless replacement is necessary for public health and safety reasons. Spending less time and money on wholesale pipe replacements and shifting the Company's focus to increased leak repair and protection will better prepare the Company should federal safety rules change. Such a strategy would also result in better compliance with the requirements of Michigan law, including notably MCL 247.185.

## **II. REPLY TO MNSC'S RECOMMENDATION REGARDING A FUTURE OF HEAT DOCKET**

MNSC recommended the Commission initiate a "Future of Heat" docket, "where electric and gas system heating costs can be systematically evaluated." MNSC's Exceptions, p. 28. MNSC also expressed disagreement with the PFD's recommendation that the Commission direct DTE to update its Gas Delivery Plan to assess the energy transition. *Id.*

Ann Arbor recognizes the importance of proactive and collaborative planning to address the energy transition. However, the City wants to ensure that the Commission’s decision in this case works in harmony with its decision in the currently pending DTE Gas depreciation proceeding (Case No. U-21384), and that the legal question regarding the accounting and ratemaking treatment of the risk of obsolescence of assets due to decarbonization is answered before commencing such efforts. The City also wants any Future of Heat docket to have clearly stated goals and a definite timeline for results.

The parties are awaiting a final order in the DTE Gas depreciation case (Case No. U-21384). However, in that docket, Administrative Law Judge (“ALJ”) Wallace made specific findings and recommendations in her Proposal for Decision and, whether or not those recommendations are adopted by the Commission, any Future of Gas proceeding should go forward in such a way as to complement any orders in that case.

Specifically, ALJ Wallace found “the potential for obsolescence and future reduction in customer demand due to a shift toward carbon-free energy sources, is an appropriate consideration in establishing depreciation rates.” Case No. U-21384, PFD, August 15, 2024, p. 43. If the Commission adopts this finding – that the risk of obsolescence due to decarbonization is properly considered as a factor when calculating depreciation rates – and its corollary that this risk of obsolescence may not be considered when setting an appropriate rate of return on equity – then Ann Arbor would be more comfortable supporting a Future of Gas proceeding. For a detailed discussion of the importance of the Commission making this legal finding, please see Section IV of Ann Arbor’s Reply Brief.

ALJ Wallace also recommended the Commission direct DTE to undertake a “study of the potential impacts of a significant reduction of natural gas usage in the Company’s service

territory.” Case No. U-21384, PFD, August 15, 2024 at 56. Specifically, ALJ Wallace recommended the Commission direct DTE to perform a study of five of the seven scenarios recommended in Ann Arbor’s proposed Climate Policy Impact Study, including varying timelines for the obsolescence of all DTE’s fossil gas assets and varying levels of adoption of thermal energy networks in the Company’s territory. *Id.* at 51, 56. If the Commission adopts ALJ Wallace’s recommendation, the City would like to ensure that any Future of Gas docket would be in harmony with and not create any delay in the Climate Policy Impact Study. The City also urges the Commission not to initiate a Future of Heat docket in lieu of the Climate Policy Impact Study because the study of how various scenarios will specifically impact depreciation rates is vital to planning for a future where the Company avoids intergenerational inequity and stranded assets as much as possible.

Additionally, if the Commission orders a Future of Heat proceeding, Ann Arbor urges it to set a specific agenda with clear goals and a required completion date. Such a docket should be limited in scope to allow for productive collaboration on the most important issues. The Commission should establish a timeline that is long enough for meaningful input and analysis, but also has a clear end date that discourages delay, so that conclusions reached in the docket can be implemented in other proceedings as soon as reasonably possible.

Accordingly, Ann Arbor recommends the Commission order a Future of Heat docket only if the following conditions are met: (1) the Commission resolves the outstanding legal question regarding the treatment of the risk of obsolescence of DTE’s gas assets due to decarbonization (i.e., if the risk should be considered in depreciation or alternatively, in ROE) before the commencement of any Future of Heat docket; (2) the Climate Policy Impact Study, as recommended by ALJ Wallace in Case No. U-21384, proceeds in harmony with the Future of Gas

docket; (3) the Commission sets clear goals and limits the scope of the Future of Heat docket; and  
(4) the Commission sets a clear and reasonably brief timeline for the Future of Heat docket.

October 7, 2024

Respectfully Submitted,

**CITY OF ANN ARBOR**



By: \_\_\_\_\_

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U-21291  
ALJ Jonathan F. Thoits

**PROOF OF SERVICE**

On the date below, an electronic copy of the **City of Ann Arbor's Reply to Exceptions to the Proposal for Decision** was served on the following:

Name/Party	E-mail Address
<b>Michigan Office of Administrative Hearings and Rules</b> Jonathan F. Thoits, ALJ	thoitsj@michigan.gov
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The statements above are true to the best of my knowledge, information and belief.

Dated October 7, 2024

**CITY OF ANN ARBOR**



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