



Carlton D. Watson  
(313) 235-6648  
carlton.watson@dteenergy.com

October 7, 2024

Lisa Felice  
Executive Secretary  
Michigan Public Service Commission  
7109 West Saginaw Highway  
Lansing, MI 48917

RE: 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  
MPSC Case No. U-21291

Dear Ms. Felice:

Attached for electronic filing in the above captioned matter is DTE Gas Company's Replies to Exceptions. Also attached is the Proof of Service.

Very truly yours,

Carlton D. Watson

CDW/erb  
Attachments

cc: Service List

**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 for the distribution )  
of natural gas and for other relief )  
\_\_\_\_\_ )

Case No. U-21291

**DTE GAS COMPANY'S**  
**REPLIES TO EXCEPTIONS**

Dated: October 7, 2024

<b>I. INTRODUCTION</b> .....	<b>1</b>
<b>II. REPLIES TO EXCEPTIONS</b> .....	<b>2</b>
<b>A. MANY OF THE EXCEPTIONS RAISED BY THE PARTIES ARE NOT PROPER EXCEPTIONS OR ARE OTHERWISE CONTRARY TO CONTROLLING LAW.</b> .....	<b>2</b>
<b>B. THE COMPANY AGREES WITH STAFF’S CORRECTIONS TO THE PFD’S UNDERLYING CALCULATIONS.</b> .....	<b>7</b>
<b>C. DTE GAS’S PROJECTED TEST YEAR IS CONSISTENT WITH MICHIGAN LAW.</b> .....	<b>8</b>
<b>D. DTE GAS’S RATE BASE IS \$6,939,800,000.</b> .....	<b>10</b>
1. Capital Expenditures .....	10
(a) Routine Capital Spending.....	10
(1) Public Improvements.....	11
(2) Communications and Control – Meters .....	12
(3) Transportation Vehicles & Equipment .....	14
(b) Large Capital Projects – Van Born Project.....	16
(c) Infrastructure Recovery Mechanism .....	19
(1) Infrastructure Recovery Mechanism Capital Expenditures Request.....	19
(2) Non-IRM Capital Expenditure Programs.....	23
2. Working Capital .....	25
<b>E. CAPITAL STRUCTURE AND RATE OF RETURN</b> .....	<b>26</b>
1. Risk Premium Estimates .....	26
2. Decarbonization .....	28
<b>F. ADJUSTED NET OPERATING INCOME</b> .....	<b>30</b>
1. Midstream Revenue .....	30
2. Operating and Maintenance Expenses .....	32
(a) Inflation .....	32
(b) Storage, Transmission, and Distribution O&M Expenses .....	34
(c) Customer Service O&M Expenses.....	36
3. Property and Other Taxes.....	38
<b>G. COST OF SERVICE</b> .....	<b>39</b>
<b>H. OTHER ISSUES</b> .....	<b>42</b>
1. Energy Assistance Programs .....	42
(a) Low-Income Assistance Credit .....	42
(b) Affordability.....	44
2. Methane Leak Detection and Vegetation Management .....	46
3. Environmental Justice.....	47
(a) Equity and Energy Justice Analyses.....	47
(b) Future of Heat Docket.....	48

4. Natural Gas Balance Program.....	50
<b>I. Rate Design and Tariffs .....</b>	<b>50</b>
1. Proposed Monthly Customer Charges .....	50
2. Individual Customer Attachments.....	52
<b>III. REQUEST FOR RELIEF .....</b>	<b>55</b>

## I. INTRODUCTION

On September 25, 2024, DTE Gas Company (DTE Gas, DTE, or the Company) filed its Exceptions to the September 4, 2024, Proposal for Decision (PFD). Exceptions were also filed by Staff; the Association of Businesses Advocating Tariff Equity (ABATE); the City of Ann Arbor (Ann Arbor); the Attorney General (AG); the Ecology Center, Environmental Law and Policy Center, Union of Concerned Scientists, and Vote Solar (collectively, The Clean Energy Organizations (CEO)); Soulardarity, Urban Core Collective, and We Want Green, Too (collectively, the Frontline Organizations (FLO)); the Michigan Environmental Council, Natural Resources Defense Council, Sierra Club, and Citizens Utility Board of Michigan (MNSC or CUB); and the Michigan Power Limited Partnership (MPLP).

These Replies to Exceptions attempt to be succinct in light of the Michigan Public Service Commission's (Commission or MPSC) knowledge, expertise, and prior decisions. Further support for DTE Gas's positions and the reasons for those positions can be found in DTE Gas's Initial Brief (including Attachments A and B), Reply Brief, Exceptions (including Exceptions Attachment A), Application (including Attachments), testimony, and exhibits, all of which are incorporated by reference here. For consistency and ease of reference, the discussion is presented largely in the order the issues arise in the PFD, parties are referenced as designated in the PFD, and related matters are addressed collectively in the most relevant or logically sequential context.

It is important to note that lack of discussion by DTE Gas on any one issue suggested by or consequence resulting from the PFD should not be deemed to constitute agreement by DTE Gas. Finally, DTE Gas maintains and reserves all of its appellate rights, as well as all other rights, to address issues in other proceedings.

## II. REPLIES TO EXCEPTIONS

### A. MANY OF THE EXCEPTIONS RAISED BY THE PARTIES ARE NOT PROPER EXCEPTIONS OR ARE OTHERWISE CONTRARY TO CONTROLLING LAW.

As a preliminary matter, DTE Gas objects to the extent that certain parties' "exceptions" simply disagree with the PFD's recommendations, without acknowledging the legal and evidentiary bases for those conclusions or specifying any basis in law or evidence for a contrary conclusion. It is similarly improper for parties to present "exceptions" that merely use the PFD as a springboard for discussions on policy issues, particularly when they are beyond the scope of this case. These arguments are not proper exceptions, and do not provide any sound or lawful basis for a decision by the Commission. DTE Gas objects to such practices, but focuses these Replies to Exceptions on the PFD, and maintains all appellate rights.

More specifically, Rule 435 of the Rules of Practice and Procedure before the Commission, R. 792.10435, relevantly states:

(3) Exceptions and replies to exceptions must be supported by reasoned discussion of the evidence and the law. Exceptions and replies to exceptions containing factual allegations claimed to be established by the evidence must include a reference to the specific portions of the record where the evidence may be found. Materials incorporated by reference must be attached.

(4) Exceptions must clearly and concisely recite the specific findings of fact and conclusions of law to which exception is taken or the omission of, or imprecision in, specific findings of fact and conclusions of law to which the party takes exception.

The required connection to the law and record is in accordance with the Michigan Constitution of 1963, art. 6, § 28, which requires the Commission's decision to be "authorized by law," and its findings to "be supported by competent, material and substantial evidence on the whole record." Expert testimony is "substantial" if it is offered by a qualified expert who has an

informed and rational basis for his or her view, even if other experts disagree.<sup>1</sup> The Administrative Procedures Act (APA) precludes the Commission from making decisions based on non-record materials. MCL 24.276 provides: “Evidence in a contested case . . . shall be offered and made part of the record. Other factual information or evidence shall not be considered in determination of the case except as permitted under [MCL 24.277 concerning official notice of judicially cognizable facts and facts within the agency’s specialized expertise].” Noncompliance with the APA is reversible error.<sup>2</sup> It is similarly well established that an agency decision may not be based on speculation.<sup>3</sup>

Unproven allegations cannot stand in the place of evidence. Things not proven must be taken as not existing, since a decision cannot be based upon conjecture. *Star Steel v. USF&G*, 186 Mich. App. 475, 481; 465 N.W.2d 17 (1990); see also, *Skinner v. Square D Co.*, 445 Mich. 153; 516 N.W.2d 475 (1994); *Yellow Freight System, Inc. v. Public Service Comm.*, 73 Mich. App. 476, 488; 252 N.W.2d 495 (1977) (“If all of the testimony in this regard was nebulous, the complainants failed to carry their burden.”). The Company is not required to disprove, or even respond to, unfounded allegations. *Lendberg v. Brotherton Iron Mining Co.*, 75 Mich. 84, 89; 42 N.W. 675 (1889) (“Every defendant is entitled to go clear unless made answerable by legal testimony.”). In addition to the discussion above, this Commission’s ability to take official notice is limited under

---

<sup>1</sup> *Great Lakes Steel v. Public Service Comm.*, 130 Mich. App. 470, 481; 334 N.W.2d 321 (1983).

<sup>2</sup> *In re Public Service Commission Guidelines for Transactions Between Affiliates*, 252 Mich. App. 254, 267; 652 N.W.2d 1 (2002).

<sup>3</sup> *Ludington Service Corp v Comm’r of Insurance*, 444 Mich. 481, 483, 494–97, 500–501, 507; 511 N.W.2d 661 (1994), amended 444 Mich. 1240 (1994) (unanimously reversing agency decision that was based on speculation instead of the required competent, material and substantial evidence); *In re Complaint of Pelland*, 254 Mich. App. 675, 685–86; 658 N.W.2d 849 (2003); *Battiste v. Dep’t of Social Services*, 154 Mich. App. 486, 492; 398 N.W.2d 447 (1986) (holding that agency’s decision was not supported by evidence that a reasonable person would consider adequate).

applicable rules.<sup>4</sup> *See also Freed v. Salas*, 286 Mich. App. 300, 341; 780 N.W.2d 844 (2009) (affirming the trial court’s refusal to take judicial notice of a speed limit, explaining in part: “Given that the signage and the traffic control order did not agree as to the speed limit for the area, the fact could not reasonably be said to have been undisputed or capable of accurate and ready determination”). The Commission has also explained that “because of the unforgiving time limits under MCL 460.6a [which at that time had a twelve-month deadline], official notice requests, especially those that may generate controversy regarding the materiality or weight of the evidence proffered, can rarely, if ever, be entertained after the close of the record” (December 11, 2015 Order in Case No. U-17767, p 136, agreeing with ALJ’s denial of official notice request).

It is also axiomatic that rates are set to recover the revenue that a utility needs for a return “of” and “on” its investment in providing service.<sup>5</sup> If the Commission were to order additional

---

<sup>4</sup> Rule 428 of the Commission’s Rules of Practice and Procedure provides:

Except as otherwise provided by law, the commission and the presiding officer may take official notice of judicially cognizable facts and may take notice of general, technical, or scientific facts within the commission’s specialized knowledge. The commission or the presiding officer shall notify the parties at the earliest practicable time of any noticed fact that pertains to a materially disputed issue that is being adjudicated and, on timely request, the parties shall be given an opportunity before the final decision to dispute the fact or its materiality. The commission may use its expertise, technical competence, and specialized knowledge in the valuation of evidence presented to it.”

R 792.10428.

MRE 201(b) similarly provides:

***A judicially noticed fact must be one not subject to reasonable dispute*** in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.

(Emphasis added).

<sup>5</sup> Rates for utility service are set prospectively so that the utility provides service and its customers receive service at established rates. Those rates are based on the estimated costs of providing that service, plus a reasonable return on the utility’s investment. *ABATE v. Public Service Comm*, 208 Mich. App. 248, 257–258; 527 N.W.2d 533 (1994). This is part of the “regulatory compact,” under which the utility dedicates its private property to serve the public, and correspondingly receives a reasonable return on the value of its private property. In *Board of Public Utility Comm’rs v. New York Telephone Co.*, 271 U.S. 23; 46 S. Ct 363; 70 L. Ed. 808 (1926), the United States Supreme Court

funding for something, then that funding must be recovered through a corresponding rate increase. DTE Gas has constitutional protections against “takings” and confiscatory rates,<sup>6</sup> and is entitled to rates that provide a corresponding recovery for investments that provide service to its customers.<sup>7</sup> DTE Gas’s revenue recovery cannot be diminished by a requirement that the Company use some of that money to fund additional (uncompensated) services.

There is similarly no legal basis for suggestions that the Commission should otherwise function as an agency to advance what certain parties may consider to be appropriate policy changes. Statutes must be applied as written regardless of perspectives as to whether they reflect appropriate policy.<sup>8</sup> The Commission is an “administrative body created by statute and the warrant

---

explained that the just compensation safeguarded to the utility by the Fourteenth Amendment is a reasonable return on the value of the property used at the time that the property is being used for the public service. Rates that are not sufficient to yield that present return are confiscatory. *Id.* at 31. To the extent that the utility might have earned sufficient revenue in the past, such past revenue cannot be used to sustain confiscatory rates in the future. *Id.* at 32.

<sup>6</sup> DTE Gas has constitutional protections against “takings” and confiscatory rates under the Fifth Amendment to the U.S. Constitution, which is applicable to the states through the Fourteenth Amendment. Similarly, Michigan Const. of 1963, art 10, § 2 provides in part, “Private property shall not be taken for public use without just compensation therefore being first made or secured in a manner prescribed by law.” These constitutional protections have been recognized and applied to public utility rates in well-established case law. *See generally Missouri ex rel. Southwestern Bell Telephone Co. v. Public Service Comm. of Missouri*, 262 U.S. 276; 43 S. Ct. 544; 67 L. Ed. 981 (1923); *Federal Power Comm. v. Natural Gas Pipeline*, 315 U.S. 575; 62 S. Ct. 736; 86 L. Ed. 1037 (1942); *Duquesne Light Co. v. Barasch*, 488 U.S. 299; 109 S. Ct. 609; 102 L. Ed. 2d 646 (1989); *see also Northern Michigan Water Co. v. Public Service Comm.*, 381 Mich. 340; 161 N.W.2d 584 (1968); *Consumers Power Co. v. Public Service Comm.*, 415 Mich. 134; 327 N.W.2d 875 (1982); *ABATE v. Public Service Comm.*, 430 Mich. 33; 420 N.W.2d 81 (1988).

<sup>7</sup> As a matter of fundamental ratemaking law, DTE Gas is entitled to a commensurate return of and on its investment in providing utility service. *See Bluefield Waterworks Improvement Co. v. Public Service Comm. of West Virginia*, 262 U.S. 679, 690–694; 43 S. Ct. 675; 67 L. Ed. 1176 (1923); *Federal Power Comm. v. Hope Natural Gas Co.*, 320 U.S. 591, 603; 64 S. Ct. 281; 88 L. Ed. 333 (1944); *see also, Permian Basin Area Rate Cases*, 390 U.S. 747, 769–70; 88 S. Ct. 1344; 20 L. Ed. 2d 312 (1968); *F.P.C. v Memphis Light, Gas and Water Division*, 411 U.S. 458; 43 S. Ct. 1723; 36 L. Ed. 2d 426 (1973); *General Telephone Co. v. Public Service Comm.*, 341 Mich. 620; 67 N.W.2d 882 (1954); *Michigan Consolidated Gas Co. v. Public Service Comm.*, 389 Mich. 624; 209 N.W.2d 210 (1973).

<sup>8</sup> *Di Benedetto v. West Shore Hosp.*, 461 Mich. 394, 402; 605 N.W.2d 300 (2000) (“[W]e presume that the Legislature intended the meaning it clearly expressed—no further judicial construction is required or permitted, and the statute must be enforced as written”); *Hanson v. Mecosta Co. Road Comm’rs*, 465 Mich. 492, 504; 638 N.W.2d 326 (2002); *Lorencz v. Ford Motor Co.*, 439 Mich. 370, 376; 483 N.W.2d 844 (1992); and *Ambs v. Kalamazoo County Road Comm.*, 255 Mich. App. 637, 650; 662 N.W.2d 424 (2003) (“where the language of a statute is clear, it is not the role of the judiciary to second-guess a legislative policy choice; a court’s constitutional obligation is to interpret, not rewrite, the law”).

for the exercise of all its power and authority must be found in statutory enactments.”<sup>9</sup> The Commission’s authority must be conferred by clear and unmistakable statutory language, and a doubtful power does not exist.<sup>10</sup> The Commission cannot expand its jurisdiction through its own acts or assumption of authority.<sup>11</sup> The Commission cannot rewrite the Legislature’s language to include new or different provisions.<sup>12</sup> If a Commission order conflicts with a statute, the order is void.<sup>13</sup>

It is similarly well-established that the Commission cannot lawfully encroach on matters of private utility management and control. For example, in *Union Carbide v. Public Service Comm.*, 431 Mich. 135; 428 N.W.2d 322 (1988) our Supreme Court explained:

The power to fix and regulate rates, however, does not carry with it, either explicitly or by necessary implication, the power to make management decisions.

It must never be forgotten that while the State may regulate with a view to enforcing reasonable rates and charges, it is not the owner of the property of public utility companies and is not clothed with the general power of management incident to ownership.

(Citations and punctuation omitted).

DTE Gas further objects to vague and unsupported assertions. It is well established in the judicial process that: “It is not sufficient for a party ‘simply to announce a position or assert a claim of error and then leave it up to this Court to discover and rationalize the basis for his claims, or unravel and elaborate for him his arguments, and then search for authority to sustain or reject his

---

<sup>9</sup> *Union Carbide v. Public Service Comm.*, 431 Mich. 135, 146; 428 N.W.2d 322 (1988); *Sparta Foundry Co. v. Public Utilities Comm.*, 275 Mich. 562, 564; 267 N.W. 736 (1936).

<sup>10</sup> *Mason Co. Civil Research Council v. Mason Co.*, 343 Mich. 313, 326–27; 72 N.W.2d 292 (1955).

<sup>11</sup> *Ram Broadcasting v. Public Service Comm.*, 113 Mich. App. 79, 92; 317 N.W.2d 295 (1982).

<sup>12</sup> *Hanson v. Mecosta Co. Rd. Comm.*, 465 Mich. 492, 501–503; 638 N.W.2d 396 (2002).

<sup>13</sup> *Mfrs. Nat’l Bank v. D.N.R.*, 420 Mich. 128, 146; 362 N.W.2d 572 (1984).

position.”” *Wilson v. Taylor*, 457 Mich. 232, 243; 577 N.W.2d 100 (1998), quoting *Mitcham v. Detroit*, 355 Mich. 182, 203; 94 N.W.2d 388 (1959). *See also Gross v. General Motors Corp.*, 448 Mich. 147, 161–62, n. 8; 528 N.W.2d 707 (1995) (“Failure to properly brief an issue on appeal constitutes abandonment of the question”).

DTE Gas will proceed to address the topics of the other parties’ filings for completeness, without waiving these overall objections. Furthermore, the Company’s Initial Brief and Reply Brief are incorporated by reference for further detail.

**B. THE COMPANY AGREES WITH STAFF’S CORRECTIONS TO THE PFD’S UNDERLYING CALCULATIONS.**

In DTE Gas’s Exceptions to the PFD, DTE Gas identified multiple glaring inconsistencies between the amounts in the PFD’s Appendices and the recommendations made in the narrative of the PFD (DTE Gas Exceptions, pp 3–5). Similarly, in Staff’s exceptions to the PFD, Staff identified inconsistencies between the narrative language of the PFD, the PFD’s Appendices, and the PFD’s revenue deficiency calculation (*See Staff’s Exceptions to the PFD*, pp 2–3). Both DTE Gas and Staff identified a nearly \$11 million difference between the PFD’s positions and the PFD’s revenue deficiency calculation, and both DTE Gas and Staff agree that that the PFD’s revenue deficiency, after accounting for these significant errors, should be \$87,132,000.

Notwithstanding these corrections, the PFD’s revenue deficiency is insufficient, as the Company sufficiently supported a revenue deficiency of \$262.4 million for the projected test year. The PFD’s recommendation should be increased based on the record evidence, the Company’s Initial Brief and Reply Brief (and related Attachments), the Company’s Exceptions to the PFD

(including Exceptions Attachment A), and these Replies to Exceptions. Attachment A to DTE Gas's Exceptions reflects the Company's position.

**C. DTE GAS'S PROJECTED TEST YEAR IS CONSISTENT WITH MICHIGAN LAW.**

DTE Gas proposed a projected test year of October 1, 2024, through September 30, 2025 (4T 1843). Staff agreed (Exhibit S-1, Schedule A-1) and the only disagreement was by ABATE. ABATE Witness York recommended that the Commission reject the Company's projected test year in this proceeding and instead adopt DTE Gas's historical test year (4T 1267). The PFD disagreed with ABATE, stating:

This PFD recommends that the Commission adopt the 12-month period ending September 30, 2025 proposed by DTE as the projected test year. The time period of the projected test year in this case is in similar proximity to the date of this case filing and the expected date of the Commission's order in this case as previously projected test years were with the filing and order dates in past cases in which the Commission approved the projected test year. Moreover, as MCL 460.6a permits other parties to propose appropriate costs and revenues on a basis other than DTE's projections, it is incumbent on the party proposing a different test period to provide the revenue and expense amounts corresponding to that period, as well as evidence to show that the alternative test period is more just and reasonable than the utility's proposal or any proposal by any other party. In this instance, neither ABATE nor MNSC have specifically identified or explained which of DTE's estimates are flawed, nor otherwise shown that the projected test year is "set so far removed from circumstances actually in view as to render it less than workable." (PFD, pp 12–13) (footnotes omitted).

ABATE asserts that the Company failed to meet its burden under MCL 460.6a in establishing the accuracy of its test year projections and, therefore, DTE Gas's existing revenue requirement should be maintained with no increase (ABATE Exceptions, pp 2–3). Specifically, ABATE claims that the Company reported a large revenue sufficiency in its historic test year in this proceeding and that the Company also reported a historic test year revenue sufficiency in four of its last five rate cases (ABATE Exceptions, pp 2–3). As such, ABATE argues that the Company's request is unreasonable and imprudent in light of these alleged revenue sufficiencies (ABATE

Exceptions, p 3). ABATE also takes issue with the PFD’s assertion that it is incumbent upon ABATE to provide evidence demonstrating that an alternative test period is more just and reasonable (ABATE Exceptions, pp 2–3).

ABATE’s exception fails because the test year in this case (October 1, 2024–September 30, 2025) is consistent with plain language of MCL 460.6a(1). Indeed, MCL 460.6a(1) plainly states: “A utility may use projected costs and revenues for a future consecutive 12-month period in developing its requested rates and charges.” The October 1, 2024, through September 30, 2025, projected test year in this case is clearly a “consecutive 12-month period.” As such, the Company satisfies this statutory standard. This should be the beginning and end of this statutory analysis, as a statute’s plain language must be applied.<sup>14</sup> As such, ABATE’s claim that the Company’s historic test year revenue sufficiency was “more generous than necessary to provide the Company a reasonable opportunity to earn its authorized return” cannot change the valid statutory authority for projected years (ABATE Exceptions, p 3).

Moreover, the Company met its burden under MCL 460.6a(1) in establishing the accuracy of its test year projections. As demonstrated by the robust record in this proceeding, the Company provided substantial support and justification for its projected expenditures (4T 1874–75). Commission Staff and Intervenors were also provided extraordinary access that permitted rigorous examination of the Company’s request in this docket (4T 1874–75). As such, the Company has clearly carried its burden under MCL 460.6a(1). Any and all arguments to the contrary must be rejected, as they are not consistent with a plain reading of the applicable statute.

---

<sup>14</sup> *In re Complaint of Rovas Against SBC Mich.*, 482 Mich. 90, 98; 754 N.W.2d 259 (2008) (“agencies cannot exercise legislative power by creating law or changing the laws enacted by the Legislature”); *see also AFSCME v. City of Detroit*, 468 Mich. 388, 399; 662 NW2d 695 (2003) (“If the statute’s language is clear and unambiguous, we assume that the Legislature intended its plain meaning, and we enforce the statute as written.”)

In addition, the Commission and Court of Appeals have repeatedly rejected challenges to the projected test year methodology as unfounded and contrary to MCL 460.6a(1). *See, e.g.*, December 1, 2023 Order, Case No. U-21297, p 9 (explaining that stating that “the Commission’s approval of projected test years is permissible under MCL 460.6a and challenges to the use of a projected test year have been well-settled by the Court of Appeals”); May 2, 2019 Order, Case No. U-20162, p 4 (explaining that MCL 460.6a(1) “contains no limitation on the future consecutive 12-month period and no requirement to use a historical period. The test year may be in the future, and the 12 months must be consecutive; those are the requirements of the statute”); *In re Application of DTE Electric Co*, unpublished per curiam opinion of the Court of Appeals, issued December 21, 2021 (Docket No. U-353767) (affirming the Commission’s approval of a projected test year); *In re Application of DTE Electric Co. to Increase Rates*, unpublished opinion per curiam of the Court of Appeals, issued February 25, 2021 (Docket Nos. 349924 and 350008) (same).

Accordingly, the Commission should decline ABATE’s invitation to violate MCL 460.6a(1) and other well-established and regulatory requirements, and the Company’s October 1, 2024, through September 30, 2025, projected test year should be adopted.

**D. DTE GAS’S RATE BASE IS \$6,939,800,000.**

**1. Capital Expenditures**

**(a) Routine Capital Spending**

Routine capital spending supports distribution, transmission, storage, and general plant assets. DTE Gas has made or will make \$817.1 million of routine capital expenditures from January 1, 2023 (the end of the historical test year) to September 30, 2025 (the end of the projected test year) (4T 1900; Exhibit A-12, Schedule B5.1, line 6, columns (e) and (f), with components reflected in lines 2 through 5).

### **(1) Public Improvements**

From January 1, 2023, through September 30, 2025, DTE Gas will have incurred \$71.6 million of public improvement capital expenditures (3T 335; Exhibit A-12, Schedule B5.1, page 2, line 4, columns (f) and (g)). Specifically, the Company forecasted public improvements capital expenditures of \$32.2 million for 2023; \$19.9 million for the nine months ending September 2024; and \$19.5 million for the twelve months ending September 2025 (Exhibit A-12, Schedule B5.1, page 2, line 4, columns (d), (e), and (g)).

The AG suggested that the Commission remove the four largest capital projects—the East Jefferson project, the Connor & I-94 project, the US-24/8-mile project, and the US-24/7-mile project—from the historical period (4T 1439). After removing the four largest projects from the historical period, the AG recommended that forecasted capital expenditures be calculated based on a three-year historical average of actual public improvement capital expenditures from 2021 to 2023, as adjusted for inflation (4T 1439). Accordingly, employing a three-year average methodology from actual costs from 2021 to 2023, and excluding the four major projects listed above from the historical period, the AG recommended a disallowance of \$1,160,000 for the nine months ending September 2024 and \$2,574,000 for the projected test year (4T 1440).

The PFD rejected the AG’s proposal, explaining that the AG “does not provide a reasonable explanation for excluding major projects from test year cost projections” (PFD, p 28). The AG takes exception, arguing that she explained in her briefing that these are “outlier projects” designed to drive up Company recovery (AG Exceptions, p 5). The AG claims that “there is no indication from DTE that the four historical projects Mr. Coppola removed are ongoing or are likely to recur in the projected test year” (AG Exceptions, p 5). As such, the AG states that these projects should

be removed “to normalize DTE’s costs” and prevent the Company from further “exploit[ing] th[e] system” (AG Exceptions, p 6).

The AG’s argument fails because the PFD’s recommendation is fully supported by the record. Contrary to the AG’s assertion otherwise, the record contains clear evidence that these four projects are not “outliers” and are rather “ongoing” projects that could dramatically affect average capital expenditures (3T 385–86; DTE Gas Initial Brief, p 19). Specifically, the Company explained that these four projects are “extensive” and not isolated to a single year; rather, they are ongoing endeavors that will recur over time and therefore ought to be factored in when forecasting capital expenditures (3T 386; Initial Brief, p 19). The AG’s claim that the Company included these costs to “drive up [] recovery” is mere conjecture and patently false. As the Company explained, the costs of these four projects were included to accurately capture the full spectrum of costs the Company faces (3T 386; DTE Gas Initial Brief, p 19). Therefore, the Commission should reject the AG’s exception and adopt the PFD’s appropriate and fully supported recommendation for cost recovery for these public improvements.

## **(2) Communications and Control – Meters**

The Company supported \$56.6 million of capital expenditures for distribution Communications & Control – Meters assets from January 1, 2023, through September 30, 2025 (3T 355; Exhibit A-12, Schedule B5.1, page 2, line 10, columns (f) and (g)).

The AG recommended a disallowance of \$1,963,000 for the nine months ending September 2024 and \$1,406,000 for the twelve months ending September 2025, as well as a disallowance of \$7,509,000 for the nine months ending September 2024 and \$2,128,000 for the twelve months ending September 2025 (4T 1445–46). The PFD rejected the AG’s recommendation, instead

finding that the Company had “supported its cost projections for the meters and modules” (PFD, p 34).

The AG takes exception (AG Exceptions, pp 6–8). The AG states that the PFD failed to consider the AG’s arguments that prior price increases for meters and modules and inflation factors were included in the AG’s projections and that the AG’s forecast relied on historical periods that also used a mix of meters (AG Exceptions, p 7). The AG claims that DTE Gas’s Communications & Control – Meters capital expenditure projection is another “example of DTE attempting to exploit the use of a projected test year to drive up cost recovery[] by putting forth nebulous cost projections that are difficult to quantify and/or verify” (AG Exceptions, pp 7–8).

The AG’s argument fails because the PFD’s recommendation on this issue is fully supported by the record. Specifically, the record supports the Company’s position that historic average meter prices should not be used to estimate the average meter price for future years (3T 389). Indeed, as evident from the Company’s quotes for 2024 meter purchases, three primary vendors that source gas meters and modules have raised their prices, on average, by 8% from 2023 to 2024 (3T 388). The price of DTE Gas’s largest and most expensive rotary meters has surged by 12.5% (3T 388–89). The supplier of diaphragm meters, which are the meters predominantly used in small businesses and homes, has introduced an average increase of 3.9% (3T 389). Collectively, DTE Gas’s module vendors have raised prices by an average of 9%. Therefore, the Company’s cost projections are not “nebulous,” but rather are supported by the actual cost increases that DTE Gas is experiencing, which are all contained in the record. Accordingly, the Commission should reject the AG’s exception and adopt the PFD’s appropriate and fully supported recommendation for cost recovery for meter assets.

### **(3) Transportation Vehicles & Equipment**

From January 1, 2023, through September 30, 2025, DTE Gas will have incurred \$43.2 million of transportation vehicles and equipment capital expenditures (3T 376; Exhibit A-12, Schedule B5.1, page 2, line 27, columns (f) and (g)). Specifically, the Company forecasted transportation vehicles and equipment capital expenditures of \$12.9 million for 2023; \$10.0 million for the nine months ending September 2024; and \$20.3 million for the twelve months ending September 2025 (Exhibit A-12, Schedule B5.1, page 2, line 27, columns (d), (e) and (g)).

The AG recommended a capital disallowance in transportation vehicles and equipment capital expenditures of \$7,097,000 for the nine months ending September 2024 and \$11,378,000 for the projected test year claiming that the Company significantly inflated and overstated these expenditures (4T 1471–72). The PFD rejected the AG’s recommended disallowance and instead found that DTE Gas had “adequately supported its projected expenditures for this category” (PFD, p 41).

The AG takes exception (AG Exceptions, pp 6–8). The AG argues that the Company’s testimony is “inconsistent” with its responses to certain discovery requests, fails to support that DTE Gas has a “reasonable, prudent methodology for competitive bidding when purchasing vehicles,” and fails to support that the Company’s historical annual costs are accurate (AG Exceptions, p 9). Specifically, the AG claims that the Company “failed to provide any evidence to justify the large unit cost increase of 57% to 70% over recent historical levels” and that the PFD made no attempt to discern why projected vehicle costs were significantly above recent average costs (AG Exceptions, p 9). The AG argues that the PFD failed to consider these factors and its recommendation should therefore be disregarded (AG Exceptions, p 9).

The Company disagrees as the PFD's recommendation is fully supported by the record and appropriate. Contrary to the AG's claim, the Company provided ample evidence demonstrating why the average cost per vehicle was projected to rise in 2024 and 2025 (3T 394–95; DTE Gas Initial Brief, p 28). The Company explained that the average cost per vehicle was projected to increase in 2024 and 2025 largely due to DTE Gas's acquisition of a different mix of vehicles (3T 394–95; DTE Gas Initial Brief, p 28). Specifically, the Company stated that purchases of twenty-eight Class 7 and 8 trucks—the fleet's most sophisticated and costly units— in 2024 and 2025 will contribute significantly to this increase (3T 394; DTE Gas Initial Brief, p 28). In comparison, the Company explained that from 2021 to 2023, it had only purchased a total of four Class 7 and 8 trucks (3T 394; DTE Gas Initial Brief, p 28).

The Company also explained that another significant factor influencing the cost increase was the substantial rise in vehicle prices (3T 394–95; DTE Gas Initial Brief, p 28). Specifically, the Company noted price increases for the 2024 Model T350, 2023 Model F150, and 2024 Model F250 (3T 394–95). In further support of the projected cost increases, the Company provided, in response to discovery received from the AG, a list of vehicles replaced outlining both the financial and quantitative data for each vehicle class from 2018 to 2025 (3T 395).

The AG argues that the Company's rebuttal testimony is "inconsistent with the apparent facts disclosed in response to discovery," and then concludes that the Company's rebuttal testimony on this issue "should not be relied on" (AG Initial Brief, p 43). The AG's position is unsupported and illogical. First, there is no inconsistency. In rebuttal testimony, the Company explained that the fleet's most sophisticated and costly units (the Class 7 and 8 vehicles) will contribute significantly to the increase in average cost per vehicle because the Company anticipates purchasing thirteen trucks in 2024 and fifteen trucks in 2025 (as compared to zero in 2021 and two

each in 2022 and 2023) (3T 394). In discovery, the Company simply stated that (1) supply chain limitations (mainly chassis manufacturers failing to fulfill customer demand) prevented the Company from purchasing additional Class 7 and 8 vehicles between 2021 and 2023 and that (2) inflation specifically applied to Class 2 and 3 vehicles (Exhibit AG-57, p 1 of 3). Both the rebuttal testimony and discovery responses are accurate and neither contradicts the other.

In all, the AG's claim that the Company "failed to provide any evidence" justifying the increase in transportation vehicles and equipment capital expenditures is untrue. Therefore, the AG's exception should be rejected and the PFD's recommendation for cost recovery for transportation vehicles and equipment should be adopted.

**(b) Large Capital Projects – Van Born Project**

The Van Born Project requires the installation of new regulation at DTE Gas's Rouge Station that allows gas from the existing 30" 540 psig pipeline to flow into the 36" 300 psig system (4T 1926). The project will significantly reduce the risk of potential customer outages from 160,000 to less than 1,400 on a peak heating day (4T 1927). In the absence of the proposed improvements to the Van Born pipeline, DTE Gas would not be able to serve all of its customers and would require mutual aid in order to recover in the event of a major outage (4T 1927–28). In addition, the Company's proposed outage risk mitigation while maintaining operational flexibility complies with the 2019 Michigan Statewide Energy Assessment final report (4T 1928–29).

Since the costs for the Van Born Project were initially presented in DTE Gas's last general rate case, the Company has completed 90% of the engineering, solicited bids from construction contractors, and obtained firm material costs (4T 1932). The cost estimate increased from \$96.0 million to \$185.4 million due to the refinement of the project scope, increase in material cost, and higher than expected construction costs (4T 1932). As a result, DTE Gas re-evaluated the

alternative risk mitigation solutions for a more cost-effective solution (4T 1932), and the Company has elected to change course and install and retrofit the Main Line Valves with remote capability and construct a new regulation at the Rouge Station (*See* 4T 1932–33). The modified project plan better serves to mitigate the highest number of potential outages, provide a lower cost solution, and minimize the impact on the community during construction (4T 1933). The modified project plan was afforded less weight previously because it could involve curtailment of gas supply to the two industrial customers taking service on the line in the event of supply disruption (4T 1934). However, the substantial cost savings between the original and modified project plans justifies the potential for curtailment under the modified plan (4T 1934).

Of the \$40.6 million in capital expenditures already incurred on the Van Born Project from 2020 through August 31, 2023, all but \$1.9 million was necessary to develop the new scope and project plan (4T 1935–36). DTE Gas is not seeking cost of service recovery for the \$1.9 million written off (4T 1936). The Company seeks cost recovery for the \$42.7 million of capital expenditures incurred through the end of the test period (4T 1937).

The AG recommended the removal of \$6.7 million of project costs incurred prior to May 2022 from rate base (AG Initial Brief, pp 28–30). The PFD found that DTE Gas had supported the nature and amount of the expenditures related to the modified Van Born Project and recommended that the Commission reject the AG’s proposed disallowance (PFD, pp 54–57).

The AG takes exception (AG Exceptions, pp 10–11). Specifically, the AG argues that the PFD failed to provide any explanation for its finding and that the PFD merely states that “DTE has supported the amount of and nature of these expenditures, with no other explanation” (AG Exceptions, p 10 (punctuation omitted)). The AG alleges that the PFD made no attempt to address or examine \$6.7 million and argues that this amounts to “an attempt by DTE to improperly keep

that amount in rate base without customers or the Commission having any idea what it was spent on or whether it is providing any value to customers” (AG Exceptions, p 11).

The AG’s claim that DTE Gas has been furtive or surreptitious with regard to the Van Born project is incorrect, and the benefits and value that this project brings to customers is apparent in the record (*See* DTE Gas Initial Brief, p 37). Specifically, DTE Gas testified that the Van Born System has a higher risk area needing mitigation of customer outage risks (4T 1927). Multiple DTE Gas witnesses noted that this project mitigates the risk of potential customer outages from 160,000 customers on a peak heating day to less than 1,400 customers (4T 1848, 4T 1927). A potential outage to 160,000 customers during the winter heating season would be unprecedented, and such an incident would require mutual aid (4T 1927–28). An incident such as this would be further complicated if it occurred during the winter season, causing businesses to close and requiring the need for customer warming centers or customer relocation (4T 1928). Further, the Van Born Project helps meet the Commission’s recommendation to “develop solutions that mitigate risk of outages, improve operational flexibility, and accommodate future growth in demand” (4T 1929). The Van Born project is one of the ways DTE Gas is addressing this recommendation. Accordingly, DTE Gas has provided plenty of evidence to demonstrate the value of the Van Born project to customers, particularly the 160,000 customers who might be affected by a system outage that the project seeks to remedy. DTE Gas has therefore justified the inclusion of this project’s cost in rate base, and the PFD’s finding is supported by the evidence in the record.

Further, the AG’s disallowance is aimed at costs incurred prior to May 2022 that she argues are no longer needed due to the project’s scope change (4T 1450–52). However, the Company demonstrated that it was in customers’ best interest for DTE Gas to reevaluate the Van Born project’s scope given substantial increases in cost estimates, and the costs incurred by the Company

in modifying that scope were reasonable, prudent, and transparent (DTE Gas Initial Brief, p 37). Moreover, the Company noted that of the capital expenditures already incurred on the project from 2020 through August 31, 2023, all but \$1.9 million were necessary to develop the new scope and project plan, and the Company is not seeking cost of service recovery for the \$1.9 million written off that was not necessary to develop the new plan. For all of the above reasons, the PFD's recommendation on the Van Born project should be adopted.

### **(c) Infrastructure Recovery Mechanism**

#### **(1) Infrastructure Recovery Mechanism Capital Expenditures Request**

Regarding Infrastructure Recovery Mechanism (IRM) spending, DTE Gas will have incurred \$23.7 million of cathodic protection capital expenditures from January 1, 2023, through September 30, 2025 (4T 629). Cathodic protection is installed on metallic components of DTE Gas's gas infrastructure to protect it from external, internal, and atmospheric corrosion (4T 627). If these expenditures are not approved to be included in the IRM, these costs must be included in routine capital plant expenditures as they were in Case No. U-20940 (4T 632).

The AG argued that the costs associated with the IRM were not sustainable and should be reversed, and that the Commission should set a maximum spending level or cap to avoid increasing costs (4T 1457). Specifically, the AG proposed a spending level of \$303 million for the IRM for 2025 and proposed allowing the Company to increase that amount by a 2.5% annual inflation factor beginning 2026 and subsequent years (4T 1459).

The PFD agreed with DTE Gas, and specifically acknowledged the AG's affordability concerns but noted that the "proposed broad, top-down approach to cap costs regardless of consideration of the reasonableness of the specific expenditures or the context within which the expenditures were requested and made is itself an unreasonable approach" (PFD, p 85). The PFD

additionally found that DTE Gas's proposed expenditures were "consistent with the policy considerations previously emphasized by the Commission" (PFD, p 85).

The AG, CEO, and MNSC each take exception (AG Exceptions, pp 13–14; CEO Exceptions, pp 4–5; MNSC Exceptions, pp 29–47). The AG argues that the PFD failed to "adequately grapple" with the AG's concerns and that the PFD "made no attempt to analyze the arguments the AG presented in briefing" (AG Exceptions, pp 13–14). Further, the AG argues that Witness Coppola's approach to calculating his proposed cost cap is not "broad" and "top-down" but rather is comprised of the more appropriate totals calculated for each program proposed by DTE Gas for inclusion in its IRM (AG Exceptions, p 14). Accordingly, the AG argues that Witness Coppola gave direct consideration to the reasonableness and prudence of the specific expenditure recovery levels requested by DTE Gas. Finally, the AG alleges that the PFD shifted evidentiary burdens from DTE Gas to intervenors and alleges that the Company is attempting to "put as many programs and dollars into the IRM as possible" (AG Exceptions, p 13).

CEO opposes the IRM and alleges that the Company has failed to plan for the shifting energy landscape (CEO Exceptions, p 4). CEO argues that in order to maintain the gas system as demand declines due to electrification and compliance with the State's emissions reductions goals, the Company must limit capital investment and explore alternatives to keep costs down (CEO Exceptions, p 5). CEO argues that the IRM is antithetical to that path and recommends that the Commission deny future approval of the IRM.

MNSC opposes the levels of IRM spending, arguing that DTE Gas failed to support its claims of higher costs with substantial evidence, and recommends that spending be held to recent historic levels (MNSC Exceptions, p 30). MNSC also opposes the inclusion of cathodic protection in the IRM and recommends that the Commission initiate a ten-year review of the IRM in a

separate proceeding to examine the costs, effectiveness, and prudence of the IRM (MNSC Exceptions, p 30). MNSC reiterates its position that the Commission should disallow inclusion of additional expenditures of \$74 million for 2024 and \$70.5 million for 2025 through 2027 (MNSC Exceptions, p 40).

The Company disagrees and supports the PFD’s recommendation as fully supported by the record and appropriate. As a preliminary matter, the AG’s argument that the PFD “made no attempt to analyze the arguments the AG presented in briefing” and CEO’s argument that the “PFD too quickly dismissed Intervenors’ important concerns about the IRM” are not accurate. As the AG acknowledged herself, the PFD found Witness Coppola’s proposed disallowances to be “broad” and “top-down.” The PFD also extensively recounted MNSC witness Napoleon’s recommendations and testimony and found that DTE Gas had successfully rebutted most of these recommendations (PFD, pp 87–92). Additionally, the claim that the PFD is shifting the burden of proof from DTE Gas to intervenors is patently false—the burden of proof has always been on DTE Gas, but the PFD simply found that DTE Gas met that burden here.

Further, any accusation by any party that the Company is attempting to inflate IRM costs for its own benefit is false, and recommendations to disallow related IRM costs should be denied. For example, MNSC proposes an outright disallowance of \$74 million in expenditures for 2024, and \$70.5 million for costs in 2025–2027 (MNSC Initial Brief, p 58; MNSC Exceptions, p 40). The Company cannot emphasize enough that the IRM program is necessary to ensure the safety and reliability of DTE Gas’s distribution system. Further, this Commission has been exceedingly clear that the obligation to assure safe and reliable utility service is paramount and of critical importance, which includes eliminating cast iron and other poor-performing mains and inside meters—the core objectives of the IRM programs. In Case No. U-18999, the Commission ordered

an *expansion* of the MRP scope on the basis that rapid replacement and retirement of poor-performing and unprotected mains would stabilize the distribution system and reduce the threat of major failure. The impetus for expanding the IRM and accelerating its progress will not be resolved until it is complete. Shorting the funding of these programs to arbitrarily pause forward progress would de-stabilize the system and make it riskier to provide service.

This outcome should not be supported by the Commission, and some parties apparently recognize the importance of this program (*See* MNSC Exceptions, p 30 (recognizing that the Commission “has approved the IRM and re-approved it in several cases” and clarifying that it does not seek to repeal the IRM in this case)). The record is replete with evidence indicating the reliability and safety benefits of these expenditures. Accordingly, the PFD’s recommendation for IRM cost recovery should be adopted.

MNSC also argues that the Commission should open a separate proceeding to consider changes to the IRM. MNSC argues that the IRM (1) fails to provide adequate incentives for DTE Gas to minimize costs; (2) lacks meaningful external review and opportunity for contesting IRM expenditures; (3) lacks criteria for what types of projects qualify for the IRM; (4) does not include consideration of alternatives; and (5) creates risks of stranded and underutilized assets (*See* MNSC Exceptions, pp 41–47). The Company submits that this recommendation is wholly unnecessary, and the PFD correctly dismissed this recommendation.

MNSC underestimates the capabilities of this Commission to understand the Company’s requests and the related ramifications. The Commission is perfectly capable of understanding the complexities of DTE Gas’s request and coming to a reasoned and rational conclusion as a part of the contested case process. As MNSC acknowledges, the Commission has done so with respect to the IRM for ten years (*See* MNSC Exceptions, pp 45–46). The Commission need not open a

separate proceeding to consider the IRM because it already considers the IRM as part of contested litigation. Rate cases such as this one provide ample opportunity for parties like MNSC to review and contest the expenditures. Every other concern—incentive to minimize costs, criteria for projects that qualify, consideration of alternatives, and risk of stranded and underutilized assets—are all factors that are considered when assessing the reasonableness of DTE Gas’s requests. If DTE Gas fails to convince the Commission of any of these aspects, the Commission can reject DTE Gas’s spending requests. That the Commission has approved DTE Gas’s requests over the years is not indicative of any issues with the review process—it is indicative of the fact that DTE Gas has met its burden and proven that its IRM expenditures are reasonable and prudent and therefore worthy of cost recovery. The Commission should accordingly deny MNSC’s request to open a separate proceeding to examine the IRM.

## **(2) Non-IRM Capital Expenditure Programs**

Ann Arbor requested that the Commission put DTE Gas on notice that it will consider costs to be imprudently incurred if DTE Gas does not review publicly available Capital Improvement Plans to identify cost savings opportunities (3T 508–09). Ann Arbor argued that this lack of coordination creates waste, which in turn drives up rates, and that the Commission should require DTE Gas, in its next rate case, to report on changes it makes to coordinate projects with other utilities and local governments.

The PFD disagreed, stating that “DTE need not be put on notice that the Commission might consider costs to be imprudently incurred if DTE has failed to take advantage of opportunities for cost savings” and that similarly, DTE Gas “should not be required to report on systematic changes it has made to coordinate its infrastructure projects,” noting that Ann Arbor failed to demonstrate that such changes are required (PFD, p 96).

Ann Arbor takes exception to this finding (Ann Arbor Exceptions, pp 3–4). Ann Arbor argues that the Commission order in DTE Electric Company’s most recent rate case suggests that orders alone have proven insufficient to cause the utility to comply with MPSC-ordered requirements (Ann Arbor Exceptions, p 3). Ann Arbor therefore calls on this Commission to require DTE Gas to “demonstrate efforts to better coordinate infrastructure projects with local governments” (Ann Arbor Exceptions, p 4).

The Company disagrees. The Commission does not need to incentivize DTE Gas to work with customers like Ann Arbor to accomplish goals that are mutual to the two entities. DTE Gas already does this, as described below. Further, the Commission’s power to fix and regulate rates does not carry with it the power to make management decisions. *Union Carbide Corp. v. Pub. Serv. Comm’n*, 431 Mich. 135, 148, 428 N.W.2d 322 (1988) (“It must never be forgotten that while the State may regulate with a view to enforcing reasonable rates and charges, it is not the owner of the property of public utility companies and is not clothed with the general power of management incident to ownership.” (Citation and punctuation omitted)). DTE Gas has the burden to prove the reasonableness and prudence of its costs, but that burden does not require that it take every single cost saving measure, particularly when other factors such as safety and reliability must be considered. And while additional coordination with Ann Arbor might save some dollars, there are just as many scenarios where the same costs or more would be incurred, despite coordination. Accordingly, the Commission should focus its evaluation as to whether the decisions DTE Gas *did* make were reasonable and prudent.

The record in this case demonstrates that DTE Gas acted reasonably in its coordination efforts. DTE Gas coordinated with Ann Arbor by meeting with Ann Arbor representatives, providing timelines and maps of planned work, and designating a dedicated Regional Relations

employee to be a resource and point of contact to address DTE Gas's plans and Ann Arbor's concerns (4T 649–50). Ann Arbor acknowledges that DTE Gas has previously, and is currently, working with Ann Arbor in connection with capital projects that are sought for recovery in this case: Ann Arbor notifies utilities of planned right of way work and works with DTE Gas to secure the benefits of various cost savings (Ann Arbor Initial Brief, p 14). All of these measures are reasonable.

The Commission should find that DTE Gas's coordination efforts were reasonable, adopt the PFD's findings, and reject Ann Arbor's proposal.

## **2. Working Capital**

The PFD recommended that the Commission adopt Staff's proposed decrease of \$11,096,000 from DTE Gas's working capital projections (PFD, p 108). This amount includes \$4.1 million in reductions agreed to by DTE Gas to account for actual 2023 results for the deferred incentive compensation regulatory asset as well as an adjustment for a Treasury clearing account included in error (PFD, pp 104–05; *see also* DTE Gas Initial Brief, p 64).

The AG takes exception, as this finding excludes the AG's proposed \$10.1 million disallowance related to the deferred Regulatory Asset-Incentive Tracker balance of \$13.3 million calculated by DTE Gas (AG Exceptions, pp 14–15; *see also* PFD, p 101). Specifically, the AG notes that the PFD concluded “without providing any explanation or other analysis, that the AG's calculation is mistaken and that DTE's calculation should be used to assess the proposed expenditure at issue” (AG Exceptions, p 15 (punctuation omitted)).

The record is clear as to why the AG's calculations are mistaken. As DTE Gas outlined in its Initial Brief, AG witness Coppola used incentive compensation forecasts from a prior gas rate case, rather than the actual incentive compensation expense incurred during 2022 (DTE Gas Initial

Brief, pp 63–64). The design of the incentive compensation mechanism compares actual expense to a pre-determined base amount; thus, Witness Coppola’s use of a previous forecast misses the point of the mechanism’s design entirely. The correct starting point, and the one used by the Company, is the actual 2022 incentive compensation expense related to operating metrics, or \$6.378 million (4T 2336). Further, DTE Gas highlighted how the AG’s position undervalues the performance results related to the incentive compensation program. By assuming performance results of 88.9% and 87.5%, AG witness Coppola fails to account for the fact that the results of the performance plan exceed 100% on a weighted average basis (4T 2336–37; *see also* Rebuttal Exhibit A-34, Schedule X2). The weighted average is the basis for the incentive compensation plan (4T 2337), and under this basis, payouts can in fact exceed 100%. Accordingly, the amount eligible for deferral and recovery should be based on the 100% cap, which is \$6.378 million (4T 2336–37). DTE Gas has demonstrated elsewhere that the AG’s misunderstanding of the target metric mechanism undermines the positions taken by the AG (*See* DTE Gas Initial Brief, p 121 (highlighting how AG’s misunderstanding of operating measures related to short-term incentive programs is inaccurate and fails to recognize gradients of performance that are basis for actual payouts)). Accordingly, the AG’s position on working capital should be rejected.

## **E. CAPITAL STRUCTURE AND RATE OF RETURN**

### **1. Risk Premium Estimates**

DTE Gas supports Staff’s exception to the PFD as it relates to the ALJ’s recommendation that the Commission direct parties in the next rate case to address whether the Risk Premium Model remains an appropriate method for determining return on equity (ROE) (*See* Staff Exceptions, pp 5–9). The Company shares Staff’s position that there is no reason to require the parties to justify or analyze the Risk Premium Model more or less than any other model (Staff Exceptions, p 6). In

each rate case, parties estimate the necessary ROE using the results of several models, each of which can be performed using varying approaches with different assumptions (*See, e.g.*, 4T 2472-92). The Commission has reviewed, and should continue to review, the totality of the ROE estimations, recommendations, and defenses put forth by each party as it determines the appropriate ROE for a given utility. DTE Gas supports Staff’s recommendation that the Commission “consider the range of financial models put forth on the record in this case, including taking into account the diversity of inputs” (Staff Exceptions, p 7). As with other parties in this case, the Company’s ROE recommendation, as presented by Dr. Villadsen, is based on a well-balanced portfolio of standard cost of capital estimation models, including two versions each of the Discounted Cash Flow model and the Capital Asset Pricing Model, as well as an implied risk premium analysis, along with an analysis of DTE Gas’s business risks (*See* 4T 2472–92).

Nevertheless, DTE Gas reiterates its exception to Staff’s reframing of the ALJ’s dismissal of the Risk Premium Model employed by Company witness Villadsen for its use of approved ROEs as an input (*See* DTE Gas Exceptions, pp 27–28). Staff argues that “[e]xamining the difference between market ROE and bond rates (as done by Staff, and AG, and ABATE) instead results in a market based premium that investors ought to expect in return for bearing the additional risk of holding an equity security instead of a bond security,” which is useful in finding a fair market return (Staff Exceptions, p 8). However, comparing the risk of holding an equity security instead of a bond security is not the exclusive way to measure a market-based premium. As reiterated in the Company’s briefing and exceptions, the *Hope* and *Bluefield* standards provide that the ROE should “be commensurate with returns on investments in other enterprises having corresponding risks.” (DTE Gas Exceptions, pp 25–26; *Federal Power Comm. v. Hope Nat. Gas Co.*, 320 U.S. 591, 603, 64 S. Ct. 281, 88 L.Ed. 333 (1944); *see also Bluefield Water Works Co. v. Pub.*

*Serv. Comm. of W. Va.*, 262 U.S. 679, 692, 43 S. Ct. 675, 67 L.Ed. 1176 (1923) (“A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties . . . .”)).

While earned ROE is one way to gauge the returns on investments for other enterprises having corresponding risks, it is just as relevant for this Commission to consider the approved ROEs that similarly situated gas utilities have been awarded in other jurisdictions. As Staff highlights, neither *Hope* nor *Bluefield* endorse a particular model or set of models in determining the appropriate ROE (Staff Exceptions, p 9). Notably, DTE Gas’s recommended ROE was not solely based on the outputs of Dr. Villadsen’s approach of conducting the Risk Premium Model. Rather, it was reasonably based on a comprehensive analysis produced from the portfolio of cost of capital models utilized (4T 2472–92; *see also* DTE Gas Initial Brief, p 69). The Commission should continue to evaluate cost of equity models and recommendations on a case-by-case basis. As such, DTE Gas reiterates its exceptions to the PFD to the extent the PFD arbitrarily dismisses the Company’s recommendations and diminishes the value and diversity of the cost of equity models considered.

## **2. Decarbonization**

Ann Arbor calls for the Commission to “make a clear ruling that the risk of obsolescence due to decarbonization is an appropriate consideration in calculating depreciation rates and thus should not be considered when setting the rate of return on equity” (Ann Arbor Exceptions, p 8 (punctuation altered)). The Commission should disregard Ann Arbor’s request.

As a preliminary matter, Ann Arbor makes a request to the Commission, not an exception, which is improper to advocate for at this stage of the proceeding. Further, the PFD made no specific finding regarding the interplay between obsolescence due to decarbonization and either depreciation or ROE. In fact, the word “obsolescence” appears nowhere in the PFD. Accordingly, Ann Arbor’s exception related to this topic is inappropriate, as there is nothing in the PFD to take exception to. *See* Commission R. 792.10435(4) (“Exceptions must clearly and concisely recite the specific findings of fact and conclusions of law to which exception is taken or the omission of, or imprecision in, specific findings of fact and conclusions of law to which the party takes exception.”).

To the extent Ann Arbor takes exception to the absence of a finding, this issue (i.e., whether the Commission should rule that obsolescence due to decarbonization is appropriate in depreciation calculation only and *not* appropriate in calculating a ROE) was not properly raised for the ALJ’s consideration—hence the absence of any discussion on the matter in the PFD. In the absence of any nexus to the PFD, Ann Arbor can only point to its own briefing or pleadings. In fact, the only record support Ann Arbor provides for this argument is its post-hearing briefing (*See* Ann Arbor Exceptions, p 8 (noting that the issue and reasoning behind it were discussed “extensively in its initial brief” but not elsewhere)). In short, there is no record evidence to support Ann Arbor’s position on the effect of obsolescence on depreciation or ROE determinations. The Commission has ruled that the raising of new issues in briefing is untimely if not raised previously and no party had the opportunity to respond. *See Order*, Case No. U-20561 (May 8, 2020), pp 222–23 (“The Attorney General introduced a new justification for her recommendation in her reply brief, which was properly rejected by the ALJ as untimely”).

Thus, Ann Arbor is inappropriately leveraging its right to file exceptions in the current case as a springboard for further policy discussions on issues that are beyond the scope of this case. As Ann Arbor notes, it makes the same arguments in DTE Gas’s depreciation case, Case No. U-21384 (Ann Arbor Exceptions, pp 8–9). And although it now seeks to make the same argument in a case where ROE is actually at issue, it attempts to do so with no record evidence to support its claim and at a stage in the proceeding where requests require such evidentiary support.

Ann Arbor’s attempt to hijack the Commission’s audience is also inappropriate for due process reasons. Ann Arbor’s recommendation calls for the Commission to clarify its stance on Michigan law regarding the calculation of ROEs, a decision that would affect all utilities under the Commission’s jurisdiction—not just DTE Gas and not just gas utilities. None of these affected utilities are parties to this proceeding. Thus, if the Commission were to adopt Ann Arbor’s position on this issue in this case, the Commission’s ruling would be ripe for appeal on due process grounds from any of the myriad of affected utilities. For all of the above reasons, the Commission should resoundingly reject Ann Arbor’s exception to this portion of the PFD.

## **F. ADJUSTED NET OPERATING INCOME**

### **1. Midstream Revenue**

DTE Gas realizes Midstream revenue from selling storage and transportation services to off-system customers.<sup>15</sup> These sales maximize the utilization of DTE Gas’s rate base assets and help mitigate rate increases (2T 53). DTE Gas projected \$111.6 million of Midstream revenue, consisting of \$38.5 million of storage revenue and \$73.2 million of transportation revenue (2T 54–55). Of the projected \$73.2 million in transportation revenue, \$60.4 million consisted of Off-

---

<sup>15</sup> An off-system customer transports gas through the DTE Gas storage and transmission system from a specified receipt point to an off-system delivery point. These customers ultimately consume gas outside the DTE Gas service territory, in contrast to GCR, GCC and EUT customers (2T 53).

System Transportation revenue and \$12.8 million consisted of Exchange revenue (2T 62; Exhibit A-13, Schedule C3.3, lines 6, 7, and 8, column (d)).

The AG proposed to increase Midstream revenue by \$6,230,000 based on two adjustments (4T 1521–22). First, the AG increased Off-System Transportation revenue by \$3,398,000 based on an average of the most recent three-years of actual revenues (4T 1522). Second, the AG increased Exchange services revenue by \$2,832,000 based on a three-year average ending 2023 (4T 1522). The PFD agreed with the AG’s proposed increase to Exchange services revenue but disagreed with the AG’s proposed increase to Off-System Transportation revenue (PFD, p 255). The PFD explained that the Company’s approach to calculating Off-System Transportation revenue using revenue under contract was “the best approach for estimating future revenue” (PFD, p 255).

The AG takes exception to the PFD’s rejection of its proposed increase to Off-System Transportation revenue (AG Exceptions, pp 16–18). The AG disagrees that using revenue under contract is the best approach for forecasting future revenue (AG Exceptions, p 17). The AG reiterates that using the most recent three-year average of actual revenues realized is the appropriate methodology because it addresses the “clear pattern” in the Company’s recent rate cases of “forecasts being understated, or less than actual revenues realized” (AG Exceptions, p 17). The AG also argues that the PFD’s contention that this is the best approach for projecting Off-System Transportation revenue is “inapt” because “DTE’s methodology also includes *estimated* revenue for assets *available* for sale” (AG Exceptions, p 17 (emphasis in original)). The AG claims that DTE Gas’s methodology therefore adds “additional uncertainty and ambiguity” that the PFD fails to address (AG Exceptions, p 17).

The AG fails to support her position. As the record accurately reflects, the Company explained that it is not appropriate to use historical averages to forecast Off-System Transportation

revenue because taking an average of prior years' revenue includes transportation capacity that is no longer available for sale (2T 124). Rather, the appropriate methodology, as used and approved in Case Nos. U-18999, U-20642, and U-20940 is to add revenue already under contract to the estimated revenue for assets available for sale (2T 124).

Additionally, the AG mischaracterizes the PFD as “inapt” (AG Exceptions, p 17). To the contrary, the PFD accurately captured that it is appropriate to add revenue under contract to the estimated revenue for assets available for sale, as opposed to utilizing an average for the Off-System Transportation services forecast (PFD pp 254–55). The PFD also noted that the Company's methodology has been “utilized and approved in Case Nos. U-18999, U-20642, and U-20940” (PFD, p 255).

Therefore, the AG's exception should be rejected, and the Commission should adopt the PFD's recommendation for Midstream revenue, as modified by the discussion in Section II.E.2 of DTE Gas's Exceptions (DTE Gas Exceptions, pp 34–36).

## **2. Operating and Maintenance Expenses**

### **(a) Inflation**

DTE Gas used a 2022 historical test year and assumed inflation rates of 3.2% in 2023, 2.9% in 2024, and 2.2% in 2025, and then calculated a composite inflation rate based on a labor factor and a non-labor factor. Relevant here, DTE Gas used a consumer price index (CPI)-Urban from HIS Markit in August 2023 to determine its non-labor costs (DTE Gas Initial Brief, p 92). The non-labor rates were then used, along with labor rates, to calculate a composite inflation rate for 2023, 2024, and a nine-month proration for 2025 (DTE Gas Initial Brief, p 92). ABATE suggested that the Blue Chip GDP Chained Price Index should be used for the inflation factors, arguing that the CPI-U non-labor inflation rate is above the consensus industry experts' opinion of the GDP Chained Price Index (ABATE Exceptions, pp 4–5).

The PFD adopted the AG's position, noting that the Commission customarily applies the CPI-Urban inflation rate used by the AG. This recommendation results in the removal of approximately \$4 million from forecasted operations and maintenance (O&M) expense for the projected test year (AG Initial Brief, p 98). The PFD found that DTE Gas's recommendation of a blended inflation rate was not supported by the Commission, and that ABATE did not provide support for its assertion that the CPI-U non-labor inflation rate is above the consensus industry experts' opinion of the GDP Chained Price Index (PFD, p 266).

ABATE takes exception to the PFD's adoption of the AG's position, as well as the finding that ABATE did not support its proposed CPI-U non-labor inflation rate (ABATE Exceptions, pp 4–5). However, the PFD's finding is correct: the statement made by ABATE witness Fitzhenry is an unsupported statement without any evidence, either in exhibits or otherwise, to back up the claim. Things not proven must be taken as not existing, since a decision cannot be based upon conjecture. *Star Steel v. USF&G*, 186 Mich. App. 475, 481; 465 N.W.2d 17 (1990); *see also Skinner v. Square D Co.*, 445 Mich. 153; 516 N.W.2d 475 (1994); *Yellow Freight System, Inc. v. Public Service Comm.*, 73 Mich. App. 476, 488; 252 N.W.2d 495 (1977) (“If all of the testimony in this regard was nebulous, the complainants failed to carry their burden.”). The Company is not required to disprove, or even respond to, unfounded allegations. *Lendberg v. Brotherton Iron Mining Co.*, 75 Mich. 84, 89; 42 N.W. 675 (1889) (“Every defendant is entitled to go clear unless made answerable by legal testimony.”). The PFD was therefore entitled to reject ABATE's statement outright.

Nevertheless, DTE Gas reiterates its exception to this finding and incorporates by reference its arguments against the PFD's adoption of the AG's position (*See* DTE Gas's Exceptions, pp 40–41). DTE Gas especially highlights the fact that the Company's proposed inflation rates reflect the

Company's actual 2024 annual pay adjustment, indicating that its proposed rates are more up to date and therefore more reasonable to use. Accordingly, the Commission should reject the use of the AG's proposed inflation rates and should adopt DTE Gas's inflation rates instead.

**(b) Storage, Transmission, and Distribution O&M Expenses**

Maximum Allowable Operating Pressure (MAOP) Records Review is the review of pipeline records to ensure that records are traceable, verifiable, and complete, and substantiates MAOP (4T 618). DTE Gas implemented the MAOP Records Review program in response to obligations under regulatory rulemaking to ensure the reliability of the data used to establish pipeline MAOP and to verify that records for gas transmission pipelines in certain locations both (1) accurately reflect pipeline physical and operational characteristics and (2) can substantiate MAOP (4T 618–19). Thereafter, the regulations were revised, requiring DTE Gas to develop a MAOP Reconfirmation Plan and to remediate affected piping by July 2, 2035 (4T 620). DTE Gas has included capital expenditures to address this MAOP reconfirmation, is currently executing the plan to remediate defects much earlier than required by the revised rules, and has paused its legacy high pressure steel distribution records review to focus its efforts on process improvements to prevent record defects in the future (DTE Gas Initial Brief, p 97).

The AG proposed a disallowance of \$875,000 of O&M expense related to MAOP records remediation, arguing that DTE Gas should have kept adequate records of the construction of its pipelines and facilities prior to 2011, the year that the initial MAOP records requirement was preliminarily issued (4T 1537).

The PFD agreed with DTE Gas, finding that it had adequately supported these O&M expenses (PFD, p 273). Additionally, the PFD found that “it is unreasonable to purport to hold

DTE to asserted best practices before applicable regulations mandated those practices as such” (PFD, p 273).

The AG takes exception to this finding and “strenuously objects to a standard that absolves DTE or any utility of responsibility for acting reasonably and prudently in the absence of an explicit regulation or law” (AG Exceptions, p 20). The AG also notes that she “believes that the cost to remedy the record gaps should be entirely absorbed by the Company,” but agrees to a 50% reduction as an “accommodation for the long passage of time since the pipeline was installed” (AG Exceptions, p 20).

The Company disagrees and supports the PFD’s finding. Most crucially, the AG’s exception seeks to create a standard whereby the Commission punishes utilities for failing to meet requirements at times when those requirements were nonexistent. This amounts to a hindsight analysis, and Commission decisions based on hindsight are unconstitutional. *See Detroit Edison Co. v. Mich. Pub. Serv. Comm.*, 261 Mich. App. 448, 452, 683 N.W.2d 679 (2004) (“[T]he PSC must review the utility’s expenses in light of the knowledge that was available at the time the expenditures were made.”).

Moreover, the nature of the AG’s “accommodation”—a 50% reduction—bears no relationship to the passage of time since the installation of the pipeline. Rather than determine a reasonable, specific, and measured reduction or engage in a thorough analysis of the impact of DTE Gas’s purported failure based on record evidence, the AG suggests a simple 50% reduction and nothing more. The Michigan Constitution of 1963, art. 6, § 28, requires the Commission’s decision to be “authorized by law,” and its findings to “be supported by competent, material and substantial evidence on the whole record.” For these reasons alone, the Commission should reject the AG’s proposal.

The AG provides no requirement, regulation, or law prior to 2011 that obligated DTE Gas to keep adequate records of its pipelines and facilities that are traceable, verifiable, and complete (*See* 4T 1536–38). The only record evidence of any such obligation is the 2011 Advisory Bulletin, the Pipeline Safety, Regulatory Certainty and Job Creation Act of 2011, and the Federal Pipeline Safety Regulation revision from October 2019 (DTE Gas Initial Brief, p 98), and DTE Gas has demonstrated ample evidence on the record exactly how it complied with these regulations and requirements (4T 618–21, 626–27). For these reasons, the Commission should adopt the PFD’s finding on storage, distribution, and transmission expenses.

**(c) Customer Service O&M Expenses**

Merchant transaction fees are transactional costs that are associated with the processing of debit and credit card payments (2T 92). These costs, or fees, are expenses borne by DTE Gas and levied by the customer’s debit and credit card issuer and payment processors (2T 92). DTE Gas allows for the use of all debit cards, as well as Visa, Discover, or MasterCard credit cards for bill payment (2T 92). More than half a million customers pay using a debit or credit card, with customer counts ranging from more than 536,000 in 2016 to nearly 727,000 in 2022—a 35% increase over that timeframe (*See* 2T 93). DTE Gas forecasts and seeks recovery of \$6.26 million of merchant fees in the test year (2T 96; *see also* Exhibit A-13, Schedule C.5.8, page 1, column (g), line 5)).

The PFD agreed with DTE Gas, finding that business customers appreciate the flexibility and convenience to choose a card payment transaction, as demonstrated by the large number of customers utilizing this choice (PFD, pp 259–61). The AG takes exception, arguing that the number of customers utilizing card payments is irrelevant to whether or not these transaction fees should be socialized across DTE Gas’s customer base (AG Exceptions, pp 18–19). Specifically,

the AG states that “DTE’s argument that business customers appreciate the flexibility and convenience of using a credit card is unsupported by any citation or other customer-centric case study” (AG Exceptions, p 19). The AG also argues that DTE Gas should provide non-residential customers with the option of paying a credit card fee or using a fee-free method such as Electronic Funds Transfer (EFT) and Automatic Clearing House (ACH) (AG Exceptions, p 19). According to the AG, customers that truly value the flexibility and convenience of credit or debit cards can continue to use those options, while customers that prefer to save the fees can use a fee-free or less costly methods such as EFT or ACH (AG Exceptions, p 19).

The Company disagrees and submits that the PFD’s position is well-supported by the record evidence. First, the AG’s concerns regarding the socialization of merchant fees have already been considered both by the Company and MPSC Staff. The Company met with MPSC Staff in January of 2023 to share its analysis evaluating the impact of socialized merchant fees on low-income customers (2T 95). Based on 2021 total payment transactions, low-income customers overwhelmingly utilize higher cost payment methods such as credit cards (2T 95). Thus, the Company determined that low-income customers benefit from the socialization of merchant fees (2T 95).

Moreover, the record indicates that hundreds of thousands of customers use debit or credit payment options, that the volume of customers has grown by 35% over the last seven years, and that non-residential merchant fee costs increased from 2016 to 2018 but decreased from 2019 to 2021 thanks to DTE Gas’s mitigation efforts (2T 93–95). Further, DTE Gas testified that the non-residential customers that utilized a card payment are largely small business customers, who often utilize credit cards to run their businesses (2T 135). These customers may also not be as sophisticated as the AG believes to use tools such as EFT or ACH (2T 135). The AG calls for a

“customer-centric case study,” but this analysis of the Company’s own card-using customer base serves exactly that purpose. The PFD’s finding is accordingly well-supported by the evidence; the AG’s recommendation should be rejected, and the PFD’s finding on merchant fees should be adopted.

### **3. Property and Other Taxes**

The PFD agreed with DTE Gas that the AG’s and Staff’s property tax expense calculations are “overly broad and general, and thus are unreasonable and unsupported” (PFD, p 311). Accordingly, the PFD rejected the disallowances proposed by the AG and Staff (PFD, p 311).

The AG takes exception, arguing that the PFD’s findings are unsupported by any explanation (*See* AG Exceptions, pp 21–22). The AG reiterates that she presents a “straightforward calculation, based on capital expenditure reductions . . . and the corresponding reduction of property tax expense” (AG Exceptions, p 21). However, DTE Gas presented evidence that the AG’s calculations failed to account for multiple aspects. This included variations in plant additions and changes in construction work in progress (CWIP), which are taxed differently from each other (DTE Gas Initial Brief, p 131). The AG responds that “the time that construction costs reside in CWIP for purposes of property taxes is relatively short” but nevertheless discounts this from her calculation. DTE Gas includes this aspect as part of its analysis, however short the CWIP period and however remote the impact may be—but the critical point is that DTE Gas does in fact account for this aspect.

Further, the property tax liability for any given year is based on the taxable value of property on December 31 of the previous year, so any disallowances of capital (which the AG recommends) will not impact the property tax liability until the subsequent calendar year (2T 2390). Additionally, AG witness Coppola fails to calculate the true cash value (i.e., multiplying the

appropriate State Tax Commission multiplier by the cost of property) (4T 2390); fails to expense the property tax liability over a two-year period (4T 2390–91); and fails to appropriately parse out projected test period property tax expense across the 2024 and 2025 calendar years (4T 2391). The AG does not address these differences in briefing, asserting merely that Witness Coppola’s “proposed property tax adjustments are similar to the property tax expense that the Company performs” (AG Exceptions, p 22). However, these differences are significant and demonstrate that the AG’s calculation methods are not “similar” to the Company’s calculations—if anything, they demonstrate significant deviation from the Company’s calculations. The AG’s recommendation should therefore be rejected and the PFD’s position on property taxes should be adopted.

#### **G. COST OF SERVICE**

Company witness Krysinski supported DTE Gas’s cost of service study (COSS) for the projected test year (4T 2145; Exhibit A-16, Schedule F1.1). The Company’s rate design reflected the Commission’s long-standing approval of two demand/capacity allocation methods, which are the Average and Peak (A&P) method for functionalized transportation costs and non-customer related distribution costs; and a blended method (50% cost allocation on the Peak method and 50% cost allocation on the percentage of storage capacity) for storage costs (4T 2151). Staff agreed with the Company’s use of the A&P methodology (4T 1728–32; Staff Initial Brief, pp 71–75).

MPLP recommended that a peak day demand allocation method be used instead of DTE Gas’s proposed demand and throughput (4T 791). Alternatively, MPLP recommended that a “75/25” method, in which peak day demand is weighted seventy-five percent and average volume is weighted 25%, be used instead (4T 791). ABATE also disagreed with the Company’s use of the A&P method and instead argued that a design day demand allocation method be used (4T 1261). The PFD disagreed with both MPLP and ABATE, stating:

This PFD agrees with DTE and Staff that the Commission has long-held its approval of using two demand / capacity allocation methods as approved in DTE's last five gas rate cases, including Case No. U-20940, with the Average and Peak (A&P) allocation method being approved for allocating functionalized transportation costs and non-customer related distribution costs, and for storage costs, a blended method of 50% cost allocation on the Peak method and 50% cost allocation on the percentage of storage capacity. Moreover, this PFD finds that neither ABATE nor MPLP have offered compelling reasons why the Commission should adopt a changed approach to its allocation methods. Indeed, this PFD finds that the evidence and arguments put forth by ABATE and MPLP in this case have been effectively rebutted by DTE and Staff here, and that the same or similar arguments have been consistently rejected by the Commission in the past. See, e.g., Case No. U-20940, Order, December 9, 2021, p. 190–210. Thus, this PFD recommends that the Commission again adopt the allocation method utilized by DTE and Staff. (PFD, pp 360–361).

MPLP and ABATE both take exception. MPLP maintains its positions, but offers nothing new (MPLP Exceptions, pp 5–11). The Company disagrees and supports the PFD. Witness Krysinski noted that the Commission has consistently approved the use of the A&P method since December 1988 in DTE Gas's general rate case U-8812 (4T 2177–78). Staff also continues to support the A&P methodology “as it is a reasonable allocation method which follows cost-causative principles while balancing the interests of all of the Company's customers[] [] [and] results in fair and reasonable rates for all classes” (4T 1728–32; Staff Initial Brief, pp 71–75).

ABATE categorizes the PFD's findings as “inaccurate,” claiming that DTE Gas did not rebut ABATE's arguments regarding the use of a design day demand allocation (ABATE Exceptions, pp 5–6). ABATE states that “[r]egardless of whether the Commission has previously approved the method recommended by the PFD, the record in this case demonstrates that it does not reflect DTE's cost of service and allocates costs to customers which they do not cause” (ABATE Exceptions, p 10). To the contrary, the record contains ample evidence of the flaws in ABATE's design day demand allocation (4T 1727–32; Staff Initial Brief, pp 71–75). Specifically, Staff explains, in great detail, that the design day allocation method does not “properly reflect the

actual way the system [is] used,” “is not more accurate or objective” than the A&P method and, in fact, is “incorrect, aiming to inappropriately allocate fewer costs to the customer classes ABATE represents at the expense of recognizing how costs are caused” (4T 1671; Staff Initial Brief, pp 71–72). Staff reiterates that “the A&P method best reflects the way costs are caused by customer classes’ use of the system, as the Commission has properly found for many years” (Staff Initial Brief, p 71). As such, because “[t]he reasons for the Commission’s previous decisions, as well as the flaws in the position advanced by ABATE witness York, are still as relevant as they were when the Commission approved the [A&P method],” ABATE’s exception should be rejected (4T 1729–30).

MPLP also recommended that a distribution surcharge be applied to low-pressure distribution customers taking service on Rate XXLTL to recover the cost associated with the low-pressure distribution required for service (4T 791). The Company and Staff disagreed with this proposal (DTE Gas Initial Brief, pp 134–135; Staff Initial Brief, pp 69–70; Staff Reply Brief, pp 21–23). While the PFD discussed the record with regard to the appropriate allocation of other distribution costs (PFD pp 335–36, 344–45, 348, 350), there does not appear to be a recommendation on this issue. The MPLP therefore argues that the PFD erred by not addressing its Rate XXLTL distribution cost concern (MPLP Exceptions, pp 13–16).

The Company disagrees with MPLP’s proposal and reiterates that the proposed distribution surcharge should be rejected (DTE Gas Initial Brief, pp 134–35). The record reflects that Distribution Plant – Other costs contain facility-related costs that are used by all distribution-served customers (2T 2179; DTE Gas Initial Brief, pp 134–35). Moreover, due to system limitations, it is impossible to implement MPLP’s recommendation (2T 123). As Witness Decker explains, because customers with multiple meters may have some meters served from high-

pressure distribution and other meters served from the low-pressure distribution, the Company would need to bill surcharges on an individual meter basis (2T 123). However, the current DTE Gas billing system is not capable of billing surcharges on an individual meter basis and implementing such a billing system change would require incremental time and expense working with an external IT contractor (2T 123). Accordingly, the MPLP's recommendation should be rejected.

## **H. OTHER ISSUES**

### **1. Energy Assistance Programs**

#### **(a) Low-Income Assistance Credit**

DTE Gas proposed to increase the amount of the Low-Income Assistance (LIA) credit from \$30 to \$40 (4T 2230). When the LIA was originally proposed and approved in Case No. U-17999, a \$30 per month LIA credit covered approximately 68% of the customer's customer and distribution charges (4T 2230). However, based on final rates in the previous Case No. U-20940, a \$30 monthly LIA credit would cover only 58% of a customer's customer and distribution charges, while a \$35 monthly LIA credit could cover 68% (4T 2230). Further, a 68% LIA credit calculated for customer and distribution charges in this rate case would be \$45 per month (4T 2230). Thus, DTE Gas proposed to increase the LIA credit to \$40 per month to provide customers receiving the LIA credit with a benefit that is more closely aligned in value and is as meaningful as when it was originally proposed (*See* 4T 2230). As rates change, DTE Gas will maintain an LIA credit that offsets approximately 70% of a customer's distribution charges (4T 2231).

The PFD agreed, finding that the LIA credit should be increased from \$30 to \$40, noting that this change can be implemented without incurring costly expenditures (PFD, p 393). Additionally, the PFD found that the LIA credit has proven effective and is in the best interests of customers who urgently require bill relief (PFD, p 393).

Both Staff and FLO take exception. Staff states that “there is no evidence, aside from Company testimony, on the record to support the fact that the LIA credit is effective” and argues that the decision to increase the LIA credit is premature (Staff Exceptions, pp 3–5). In contrast, FLO argues that the PFD does not go far enough and failed to provide any reasoning as to why it rejected FLO’s proposal to increase the LIA credit to cover 70% of the typical customer’s customer and distribution charges (FLO Exceptions, pp 11–15).

The Company disagrees with both exceptions. First, Staff attacks the PFD’s finding by claiming that “there is no evidence, aside from Company testimony, on the record to support the fact that the LIA credit is effective” (Staff Exceptions, p 4). Put another way, the *only* evidence on the record is Company testimony indicating that the LIA credit is effective; Staff does not appear to provide any additional record evidence rebutting this position. With nothing more, the PFD was entirely correct to find that the LIA credit is effective. Further, the PFD’s finding that granting the LIA credit increase provides urgent rate relief to customers is compelling. Staff’s recommendation should accordingly be rejected.

Second, FLO argues that “the ALJ failed to provide any indication of why they recommended rejecting FLO’s proposal” to cover 70% of the typical customer’s customer and distribution charges (FLO Exceptions, p 11). To the contrary, the PFD noted that “many of the other stated criticisms and asserted shortcomings of DTE’s energy assistance programs are well-taken and should be further evaluated for the Commission’s consideration” (PFD, p 393). The PFD goes on to discuss that it is not appropriate to address these issues in this rate case and explains its rationales as to why (PFD, p 394). Thus, the PFD discussed its opinion of FLO’s proposal as part of a larger affordability discussion.

FLO also argues that there is “sufficient evidence in the record to approve a larger increase to the LIA credit” but that the Commission “should not let an amorphous preference for gradual change” limit the increase of the credit and limit relief to customers within DTE Gas’s service territory (FLO Exceptions, pp 14–15). But the Commission must balance more than just the needs of customers: DTE Gas is a party to this case as well. The PFD’s conclusion on this issue strikes a meaningful and appropriate balance between customer needs and the burden on the Company. Importantly, this issue is not foreclosed from future consideration, and the Commission and DTE Gas can continue to reevaluate this proposal as needs evolve and arise in future rate cases.

Finally, FLO argues that “the ALJ has provided no reason not to increase the LIA credit to FLO’s proposed level” (FLO Exceptions, p 12). This argument completely ignores the relevant law. Findings by the Commission must be supported by record evidence, not the absence of evidence in the record. *See* Michigan Constitution of 1963, art. 6, § 28 (requiring Commission decisions to be “authorized by law” and findings to “be supported by competent, material and substantial evidence on the whole record”). Accordingly, the Commission should reject FLO’s proposal and adopt the PFD’s finding that the LIA credit should be raised from \$30 to \$40.

### **(b) Affordability**

Regarding affordability, the PFD stated the following:

This PFD finds that many of the other stated criticisms and asserted shortcomings of DTE’s energy assistance programs are well-taken and should be further evaluated for the Commission’s consideration. Indeed, this PFD notes that Staff agrees that Michigan’s most vulnerable customers would benefit from additional assistance and is not persuaded that DTE provides the comprehensive analysis and diverse, collaborative input the Commission is looking for to inform utility energy assistance changes. This PFD also notes that the record supports that DTE may not be advertising adequately and conduct meaningful outreach on its energy assistance programs. However, this PFD does not find it appropriate to address these issues on this record in this rate case. This PFD agrees with Staff that collaborative discussions with interested/invested parties in the EAAC workgroups as well as all investor-owned utilities will lead to the most informed positions and decisions on

this matter and that any final assessments and changes by the Commission should await the completion of the work by the EAAC. (PFD, pp 393–94).

FLO takes exception to two of the PFD’s affordability-related findings. First, FLO argues that the Commission should not direct discussion of affordability and assistance programs to its working groups, and that the Commission should take affordability action in this rate case. Further, FLO takes exception to the PFD’s purported refusal to consider FLO’s requests requiring the Company to improve its advertising and customer outreach related to DTE Gas’s assistance programs.

As a preliminary matter, FLO’s affordability arguments in its exceptions are largely policy arguments. For example, FLO argues that “[a]ffordability is of paramount customer interest” and that “an unaffordable rate is an unjust rate;” further, FLO accuses the Commission of refusing “to take any meaningful action to address the affordability crisis for years” and inquiring “[a]fter years of refusing to address the affordability crisis in rate cases . . . what does the Commission have to show for it?” DTE Gas certainly appreciates the seriousness of affordability concerns, but nevertheless argues that policy discussions are an inappropriate basis for exceptions. As DTE Gas has already stated in these Replies to Exceptions, there is no legal basis for suggestions that the Commission should otherwise function as an agency to advance what certain parties may consider to be appropriate policy changes. The PFD, as well as Commission findings based off the PFD, must be based on the law and record and should not be a springboard for proposals that depart from regulatory practice and have no basis in the record.

The Commission’s Energy Affordability and Accessibility Collaborative (EAAC) is the appropriate venue for such policy discussions. And here, the PFD identified the EAAC as such and rightfully directed relevant policy discussions and questions to that working group, which is already discussing critical affordability issues. To send these issues to the EAAC is not tantamount

to “ignoring” affordability issues, as FLO argues (*see* FLO Exceptions, p 11), but is instead directing them to the correct forum where they will be meaningfully considered. The Commission should therefore adopt the PFD’s findings related to affordability.

## **2. Methane Leak Detection and Vegetation Management**

Ann Arbor witness Ackley prepared a methane leak detection report surveying the location of possible natural gas leaks and the condition of the natural gas infrastructure in Ann Arbor (Methane Leak Detection Report) (3T 486). In reviewing the Methane Leak Detection Report, Ann Arbor witness Stults expressed concerns that valuable street trees were dying as a result of gas leaks on DTE Gas’s system in Ann Arbor (3T 526). Witness Stults claimed that DTE Gas was knowingly violating MCL 247.185 by operating its pipeline system in a way that damages Ann Arbor’s trees in the right of way (3T 527). As such, witness Stults recommended that the Company should be required to repair any leaks identified as damaging trees or vegetation within six months or reimburse Ann Arbor for costs associated with replacing trees they identify as damaged by gas leaks (3T 529–30). Witness Stults further recommended that the Company track reimbursement costs for future disallowances (3T 529–30). The PFD rejected Ann Arbor’s recommendations, stating:

This PFD agrees with DTE that Ann Arbor has not supported its assertion that DTE gas leaks are the cause of the trees asserted to be dying. Moreover, while Ann Arbor is free to pursue any cause of action it feels it may have for damages caused by gas leaks, this PFD concludes that a rate case is not an appropriate case to do so. This PFD finds that DTE has supported its assertion that it takes measures to protect trees to avoid damage when performing maintenance or construction activities and that it remediate damage to trees or vegetation from maintenance or construction activities. This PFD also agrees with DTE that it is cost prohibitive and thus unreasonable to require DTE to track all expenses related to tree death and soil remediation. Thus, this PFD recommends that the Commission reject Ann Arbor’s claim and proposals. (PFD, pp 396–97)

Ann Arbor takes exception (Ann Arbor Exceptions, pp 9–10). Ann Arbor claims that “[n]owhere in the record does DTE deny the existence of gas leaks at any of the locations identified in Mr. Ackley’s study, including the locations of the 31 identified trees” (Ann Arbor Exceptions, p 9). Ann Arbor states that “it provided sufficient and un rebutted expert evidence to support its assertion that DTE gas leaks are causing damage to trees, and specifically to the 31 trees identified by Mr. Ackley” (Ann Arbor Exceptions, p 10). Accordingly, Ann Arbor urges the Commission to reject the PFD’s finding on this issue (Ann Arbor Exceptions, p 10).

The Company disagrees. The Company explained that Ann Arbor’s assumption that trees are dying as a result of gas leaks on DTE Gas’s system was arbitrary and unsupported by any actual evidence (4T 2053; DTE Gas Initial Brief, p 157). Specifically, Ann Arbor failed to demonstrate that methane is the cause or sole source of damage to any dying trees or vegetation in Ann Arbor (4T 2053; DTE Gas Initial Brief, p 157). As such, Ann Arbor’s claims of tree damage are hardly “sufficient” or “un rebutted.” Ann Arbor also ignores evidence of the measures the Company takes to protect trees to avoid damage when performing maintenance or construction activities and evidence of the remediation work the Company undertakes in repairing damage to trees or vegetation from maintenance and construction activities (4T 2053). Accordingly, Ann Arbor’s exception should be rejected and the PFD’s recommendation regarding methane leak detection and vegetation management should be adopted.

### **3. Environmental Justice**

#### **(a) Equity and Energy Justice Analyses**

CEO recommended the MiEJScreen tool to inform DTE Gas’s capital investments and the design and implementation of its customer programs in the next rate case (4T 756–57). CEO argued that the tool should be immediately used to plan, develop, and implement capital investment decisions (2T 139–40).

The PFD found that many affordability issues are “currently being addressed in the EAAC workgroups” and that proposals in this case “would benefit from further analysis and informed decision-making” (PFD, p 410). The PFD therefore determined that it was premature to address these affordability and energy justice issues in this rate case until the completion of the work by the EAAC. CEO takes exception, arguing that the PFD “ultimately failed to discuss or act on CEO’s recommendations” and instead combined these considerations with “broader concerns about energy assistance and found that it was not appropriate to address these issues on this record in this rate case” (CEO Exceptions, pp 5–7).

The Company disagrees. As CEO notes, the EAAC is “working to define key terms surrounding equity” (CEO Exceptions, p 6). Confusingly, however, CEO simultaneously argues that DTE Gas must carry the burden of showing that its proposals are just and reasonable, including considerations of equity (CEO Exceptions, p 6). These considerations are entirely appropriate for the EAAC, which is “working to define key terms surrounding equity.” Further, positions that DTE Gas or the Commission take in this rate case regarding such considerations may be influenced or rendered obsolete based on the EAAC’s findings. Accordingly, the PFD was reasonable to conclude that the EAAC is the appropriate venue for these considerations and that the Commission would be better served by awaiting the conclusion of the EAAC’s work. The Commission should therefore adopt the PFD’s conclusion on this issue.

#### **(b) Future of Heat Docket**

MNSC recommends that the Commission initiate a “Future of Heat” docket to “ensure a least-cost path forward to maintaining safe and reliable heating service to all customers throughout the energy transition” (MNSC Initial Brief, p 85 (punctuation omitted)). MNSC argues that other states have initiated similar proceedings (MNSC Initial Brief, p 86).

The PFD found that:

[O]ur society is undergoing a fundamental energy transition in which society is shifting away from fossil fuels and towards renewable forms of energy. This PFD also agrees that this energy transition may result substantial reductions in the amount of gas delivered. Moreover, this PFD finds that DTE has not made much if any assessment or study of how any energy transition will be accomplished and at what costs. This PFD agrees that that DTE's Gas Delivery Plan is a good avenue to set forth its preliminary assessment of how it expects the transition to take place and what the resultant changes or ramifications may be for the utility and the ratepayers. Thus, this PFD recommends that the Commission direct DTE to update its Gas Delivery Plan to include its assessment of how, when, and at what cost, the transition may occur. (PFD, p 409).

MNSC takes exception, arguing that the PFD "is misguided in recommending that the Commission direct DTE Gas to update its Gas Delivery Plan to assess the energy transition" (MNSC Exceptions, pp 27–28). The Company disagrees and reiterates its exceptions to this portion of the PFD (*See* DTE Gas Exceptions, pp 60–61). Calling on DTE Gas to update its Gas Delivery Plan to include an assessment or study of the energy transition while simultaneously finding that the Commission should await the conclusion of its EAAC workgroup are at odds. These two findings grant the Commission the benefit of the EAAC's ultimate finding but deprive DTE Gas of the same findings by requiring it to update its Gas Delivery Plan before the workgroup has concluded. Similarly, initiating a Future of Heat docket while the EAAC's work is ongoing would likely lead to duplicative work and topics. To ensure consistent findings and avoid duplicative work, the Commission should defer any further work on assessing the energy transition until the conclusion of the EAAC. Moreover, the issue of a "Future of Heat" proceeding is outside the scope of this case. To the extent the Commission feels inclined to initiate a "Future of Heat" proceeding, it would be most appropriate and efficient for all gas utilities and electric utilities in the State of Michigan to be involved- not just DTE Gas.

#### **4. Natural Gas Balance Program**

MNSC recommends that the Commission bar DTE Gas from using customer premiums to fund the Natural Gas Balance (NGB) Program unless and until emissions reductions benefits are supported by substantial evidence (MNSC Exceptions, pp 23–27). In support, MNSC argues that the PFD appropriately rejected DTE Gas’s proposed Responsibly Sourced Gas Program, and that for the same reasons, DTE Gas should discontinue ratepayer funding of the NGB Program. MNSC takes exceptions to the PFD’s finding on this point, arguing that the PFD did not address MNSC’s evidence that purportedly demonstrates flaws with the NGB Program (MNSC Exceptions, p 25).

The Company submits that the NGB Program is not at issue in this case. The record indicates that the NGB Program is not being sought for recovery in this case, that the NGB Program is not part of the ratemaking framework, and that expenses for the NGB Program are borne entirely by shareholders (2T 146, 162–63). Thus, MNSC seeks to apply this rate case’s logic to a program that is not at issue, making this an inappropriate exception that should be rejected by the Commission. Finally, it is worth noting that this Commission has recently approved the NGB Program for an additional thirty-six months with some modifications (*see Order*, Case No. U-21408 (Sept. 26, 2024) (“The Commission has reviewed the Application as well as the revised testimony and exhibits . . . and finds that the request to extend the NGB pilot program is reasonable and in the public interest and should be approved.”)). As part of this approval, the Company agreed to account for all costs associated with the NGB Program separately and outside of either the gas cost recovery mechanism or base rates (*Order*, Case No. U-21408 (Sept. 26, 2024), p 2). Therefore, the Commission should disregard MNSC’s exception.

#### **I. Rate Design and Tariffs**

##### **1. Proposed Monthly Customer Charges**

DTE Gas proposed a \$17.60 monthly customer charge for residential Rate A (2T 98–99); Exhibit A-16, Schedule F2, page 2, line 2, column (c)). To maintain historical consistency, the same charge should apply to the Rate 2A-Meter Class 1, and the monthly customer charge for Rate 2A-Meter Class II and Rate GS-1 should be set at \$50.00 (2T 99; Exhibit A-16, Schedule F2, page 2, lines 7–8, and 14, column (c)). DTE Gas established the monthly customer charges for the remaining rate schedules by using the economic break-even points and proposed Rate GS-1 monthly customer charge (2T 99). The Rate GS-2 monthly service charge is \$925.00 (2T 99; Exhibit A-16, Schedule F2, page 2, line 17, column (c)). The Rate S monthly service charge is \$275.00 (2T 99; Exhibit A-16, Schedule F2, page 2, line 11, column (c)). The monthly customer charges for EUT Rates ST, LT, XLT, and XXL T are \$3,300.00, \$9,100.00, \$20,000.00, and \$230,000.00, respectively (2T 99; Exhibit A-16, Schedule F2, page 3, lines 2, 7, 12, and 17, column (c)).

The AG recommended that the Commission instead either maintain the current residential (Rate A and 2A-1) monthly charge of \$13.50, and the current Rate GS-1 charge of \$40.00, or limit the monthly service charge increases to no more than \$1.00, to \$14.50 (4T 1569; AG Initial Brief, p 130).

The PFD disagreed with the AG, stating:

This PFD agrees with Staff modification of DTE’s calculation of customer charges using a combination of historical and projected expenses as utilizing only historical costs ensures that DTE’s method of spreading projected costs does not include costs that are inappropriate for inclusion in the customer charge. Thus, this PFD recommends that the Commission adopt Staff’s recommendations of the following customer charges: Residential - \$14.50, School - \$270.00, and GS-1 \$50.00, with all other customer charges being determined by rate design. This PFD notes that Staff’s proposed Residential charge of \$14.50 coincides with the alternative charge proposed by the Attorney General. (PFD, p 361).

The AG takes exception, maintaining her position (AG Exceptions, pp 22–23). The Company disagrees because, as Mr. Krysinski explained, the AG’s proposal is arbitrary, unsupported by cost-based calculations, and not aligned with accepted regulatory practice (4T 2175; DTE Gas Initial Brief, p 164). In contrast, the Company’s proposal follows the Commission’s guidance regarding the calculation of cost-based charges as well as accepted regulatory practice for the customer charge to cover certain fixed costs as reflected in the National Association of Regulatory Utility Commissioners Gas Rate Design Manual (4T 2175–76; DTE Gas Initial Brief, p 164).

Therefore, the AG’s exception should be rejected and, as discussed in DTE Gas’s Exception II.E.11, the monthly residential customer charge should be increased to \$17.60 (DTE Gas Exceptions, pp 62–64).

## **2. Individual Customer Attachments**

The Customer Attachment Program (CAP) was authorized by the Commission (for multiple utilities) in 1995 and is designed to enable the expansion of cleaner, safer, more reliable, and more affordable gas to new customers (*See Order Approving Settlement Agreement*, Case No. U-10745 (June 5, 1995) (finding, under the then-proposed Rules, that “it is expected that a new customer attachment will, over the long run, have a beneficial impact on the rates charged to existing customers”). The CAP also offers a financing mechanism for customers to avail gas services (DTE Gas Initial Brief, p 165). Under the CAP, the costs of installing the necessary facilities for expansions are charged to new customers (DTE Gas Initial Brief, p 165). These costs are balanced by the revenue generated by the newly attached customers over a period of twenty years (DTE Gas Initial Brief, pp 165–66). This extended timeframe allows for a more thorough evaluation of the financial feasibility of the expansion (DTE Gas Initial Brief, p 166). DTE Gas,

along with five other utilities participating in the CAP, aligns with the program by utilizing this twenty-year period (DTE Gas Initial Brief, p 166). The Company's CAP also includes community expansion projects. Community expansion projects extend the Company's natural gas infrastructure to underserved areas (3T 403).

MNSC recommended several changes to DTE Gas's CAP tariff (4T 858–59, 878–79). First, MNSC recommended that the Commission require DTE Gas to amend its tariffs and associated calculations to set a final date of 2034—a ten-year period—beyond which DTE Gas will not provide any cost support for new customer attachments (4T 858–59). Second, MNSC recommended that the Commission require DTE Gas to use customer adoption rates for the CEPs based on historical experience when calculating new attachment surcharges (4T 878–79). Third, MNSC recommended that the Commission order DTE Gas to gradually sunset subsidies for new attachments by 2034 (4T 878). The PFD declined to make any changes to DTE Gas's CAP, stating:

This PFD agrees with DTE that imposing a ten-year period at this time is unreasonable. While MNSC's concerns about the transition in the utility industry potentially leading to a future in which existing customers are subsidizing new customers to construct potential future stranded assets are well taken – see discussion, *supra* – making the fundamental change that MNSC proposes without significant evidence supporting what the future holds for the housing market (whether and how much new customer additions may fall) and how the proposed changes may affect that market (whether and how much housing affordability may be impacted) is unreasonable. Thus, this PFD recommends that the Commission reject MNSC's proposal. (PFD, pp 418–19).

MNSC takes exception (MNSC Exceptions, pp 18–23). MNSC “disagrees with the PFD finding any merit in the claims DTE made about impacts to the housing market from changing the CAP tariff” (MNSC Exceptions, pp 18–19). MNSC states that DTE Gas's claims about the housing market are “unfounded and should not have been given any weight” (MNSC Exceptions, p 19). Specifically, MNSC claims that “there is no evidence” that shifting from a twenty-year period to a ten-year period “would push a significant or even measurable number of Michigan households

out of the market for newly-constructed houses – and certainly not the housing market in general” (MNSC Exceptions, p 20). MNSC further argues that DTE Gas’s claims of an impact to the market for newly-built houses “are not relevant to the Commission’s consideration of these issues – even if those claims were well-founded” (MNSC Exceptions, p 20). The MNSC states that the CAP tariff is “severely out-of-date and causing the problem of current customers being at risk of subsidizing new customers” (MNSC Exceptions, p 21). As such, MNSC maintains its original position that the CAP tariff be revised (MNSC Exceptions, pp 21–22).

The Company disagrees and supports the PFD’s recommendation as fully supported by the record and appropriate. MNSC acknowledges that the PFD provided a “detailed review of the evidence regarding CAP program” (MNSC Exceptions, p 18). In fact, DTE Gas provided ample evidence demonstrating the problems with MNSC’s recommendations (DTE Gas Initial Brief, pp 166–68). Specifically, the Company explained that switching from a twenty-year period to a ten-year period would: ignore the reality that existing homes will remain viable for more than twenty years; be inconsistent with the period that is stated in the Commission’s CAP and the period used by the five other utilities participating in the CAP; and place additional financial burdens on homeowners, thereby impacting housing affordability in Michigan (3T 396–98; DTE Gas Initial Brief, pp 166–67). Additionally, the Company explained that MNSC incorrectly calculates customer connections because the data MNSC relies on does not provide an accurate depiction of the total customer count spanning a period of five years (3T 399; DTE Gas Initial Brief, p 168).

Accordingly, MNSC’s proposed CAP tariff revisions should not be adopted as the PFD recommends.

### III. REQUEST FOR RELIEF

DTE Gas respectfully requests that the Commission issue its final order in accordance with the PFD as modified by the discussion above:

A. Granting DTE Gas's request for final rate relief, as further supported and explained in its Application, testimony, exhibits, Initial Brief (including Attachments A and B), Reply Brief, Exceptions (including Exceptions Attachment A), and these Replies to Exceptions, approving rates that will recover the Company's revenue deficiency of approximately \$262.4 million, based on an October 1, 2024, through September 30, 2025, test year, effective as soon as possible on or after November 5, 2024;

B. Approving recovery of DTE Gas's new rates effective no later than November 5, 2024, in the manner described in the Company's Application, testimony, exhibits, Initial Brief (including Attachments A and B), Reply Brief, Exceptions (including Exceptions Attachments A), and these Replies to Exceptions;

C. Acknowledging that DTE Gas has satisfied all of the directives of the Commission's Order in Case No. U-20940, which were required components of the Company's next general rate case;

D. Approving the Company's recovery of the requested infrastructure-related capital and the associated IRM;

E. Approving the Company's capital structure and return on investment;

F. Approving the Company's recovery of projected Manufactured Gas Plant expenses;

G. Approving continuation of and changes to the Company's LIA credit pilot and Residential Income Assistance credit, including regulatory asset and liability treatment for LIA customer credits applied greater or less than those approved in rates;

H. Approving the Company's proposal to amend certain customer rate schedules and proposed tariff changes;

I. Authorizing implementation of DTE Gas's proposed accounting changes as described in the Company's Application, testimony, exhibits, Initial Brief (including Attachments A and B), Reply Brief, Exceptions (including Exceptions Attachment A), and these Replies to Exceptions;

J. Approving the remainder of DTE Gas's miscellaneous proposals, and rejecting other parties' additional or inconsistent proposals, as set forth in the Company's Application, testimony, exhibits, Initial Brief (including Attachments A and B), Reply Brief, Exceptions (including Exceptions Attachment A), and these Replies to Exceptions; and

K. Granting such other lawful relief that the Commission deems reasonable and appropriate.

Respectfully submitted,

**DTE GAS COMPANY**

Dated: October 7, 2024

By: \_\_\_\_\_  
Its Attorney  
Carlton D. Watson (P77857)  
One Energy Plaza, 1635 WCB  
Detroit, Michigan 48226  
(313) 235-6648

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 )  
\_\_\_\_\_ )

Case No. U-21291

**PROOF OF SERVICE**

STATE OF MICHIGAN )  
 ) ss.  
COUNTY OF WAYNE )

ESTELLA R. BRANSON states that on October 7, 2024, she served a copy of DTE Gas Company's Replies to Exceptions in the above captioned matter, via electronic mail, upon the persons listed on the attached service list.

\_\_\_\_\_  
ESTELLA R. BRANSON

**MPSC Case No. U-21291  
Service List**

**ADMINISTRATIVE LAW JUDGE**

Hon. Jonathan F. Thoits  
Administrative Law Judge Division  
7109 West Saginaw Hwy  
Lansing, MI 48917  
[thoitsj@michigan.gov](mailto:thoitsj@michigan.gov)

**ABATE**

Michael J. Pattwell  
Clark Hill, PLC  
212 East César E. Chávez Avenue  
Lansing, MI 48906  
[mpattwell@clarkhill.com](mailto:mpattwell@clarkhill.com)

Stephen A. Campbell  
Clark Hill, PLC  
500 Woodward Avenue, Ste. 3500  
Detroit, MI 48226  
[scampbell@clarkhill.com](mailto:scampbell@clarkhill.com)

Consultant:

Jim Dauphinais  
[jdauphinais@consultbai.com](mailto:jdauphinais@consultbai.com)

**ATTORNEY GENERAL (ENRA)**

Joel King  
Assistant Attorney General  
G. Mennen Williams Bldg.  
525 W. Ottawa Street, 6<sup>th</sup> Floor  
P.O. Box 30755  
Lansing, MI 48909  
[kingj38@michigan.gov](mailto:kingj38@michigan.gov)  
[ag-enra-spec-lit@michigan.gov](mailto:ag-enra-spec-lit@michigan.gov)

Seb Coppola, Consultant  
[sebcoppola@corpolytics.com](mailto:sebcoppola@corpolytics.com)

**BILLERUD AMERICAS  
CORPORATION**

Tim Lundgren  
Justin K. Ooms  
Potomac Law Group  
120 N. Washington Square, Suite 300  
Lansing, MI 48933  
[tlundgren@potomaclaw.com](mailto:tlundgren@potomaclaw.com)  
[jooms@potomaclaw.com](mailto:jooms@potomaclaw.com)

**CITIZENS UTILITY BOARD OF  
MICHIGAN; MICHIGAN  
ENVIRONMENTAL COUNCIL;  
NATURAL RESOURCES DEFENSE  
COUNCIL; SIERRA CLUB**

Christopher M. Bzdok  
Holly L. Hillyer  
Troposphere Legal, PLC  
420 East Front Street  
Traverse City, MI 49686  
[chris@tropospherelegal.com](mailto:chris@tropospherelegal.com)  
[Holly@tropospherelegal.com](mailto:Holly@tropospherelegal.com)

Breanna Thomas  
[breanna@tropospherelegal.com](mailto:breanna@tropospherelegal.com)

**SIERRA CLUB**

Nihal Schrinath  
[nihal.shrinath@sierraclub.org](mailto:nihal.shrinath@sierraclub.org)

**CITY OF ANN ARBOR**

Valerie J.M. Brader  
Rivenoak Law Group PC  
3331 W. Big Beaver Rd., Suite 109  
Troy, MI 48084  
[valerie@rivenoaklaw.com](mailto:valerie@rivenoaklaw.com)  
[ecf@rivenoaklaw.com](mailto:ecf@rivenoaklaw.com)

Valerie Jackson  
Assistant City Attorney  
City of Ann Arbor  
Guy C. Larcom City Hall  
301 E. Huron, 3rd Floor ·  
Ann Arbor MI 48104  
[vjackson@a2gov.org](mailto:vjackson@a2gov.org)

**DEARBORN INDUSTRIAL  
GENERATION, L.L.C.**

Sean P. Gallagher  
Fraser Trebilcock Davis & Dunlap  
124 West Allegan Street, Suite 1000  
Lansing, MI 48933  
[sgallagher@fraserlawfirm.com](mailto:sgallagher@fraserlawfirm.com)

**MPSC Case No. U-21291  
Service List**

**THE ECOLOGY CENTER, THE  
ENVIRONMENTAL LAW & POLICY  
CENTER, UNION OF CONCERNED  
SCIENTISTS, AND VOTE SOLAR**

Nicholas Wallace  
Daniel Abrams  
William Kenworthy  
Boratha Tan  
James Gignac  
Lee Shaver  
Alexis Blizman  
Saad Siddique  
Charles Griffith  
Shubha Harris  
Environmental Law & Policy Center  
35 E Wacker Dr., Ste. 1600  
Chicago, IL 60601  
[dabrams@elpc.org](mailto:dabrams@elpc.org)  
[bklein@elpc.org](mailto:bklein@elpc.org)  
[will@votesolar.org](mailto:will@votesolar.org)  
[btan@votesolar.org](mailto:btan@votesolar.org)  
[jgignac@ucsusa.org](mailto:jgignac@ucsusa.org)  
[lshaver@ucsusa.org](mailto:lshaver@ucsusa.org)  
[alexis@ecocenter.org](mailto:alexis@ecocenter.org)  
[ssiddique@elpc.org](mailto:ssiddique@elpc.org)  
[charlesg@ecocenter.org](mailto:charlesg@ecocenter.org)  
[shubha.m.harris@gmail.com](mailto:shubha.m.harris@gmail.com)

Carolyn Boyce, Paralegal  
Alondra Estrada, Legal Assistant  
[cboyce@elpc.org](mailto:cboyce@elpc.org)  
[aestrada@elpc.org](mailto:aestrada@elpc.org)  
[MPSCDocket@elpc.org](mailto:MPSCDocket@elpc.org)

**MICHIGAN POWER LIMITED  
PARTNERSHIP; RETAIL ENERGY  
SUPPLY ASSOCIATION**

Jennifer Utter Heston  
Fraser Trebilcock Davis & Dunlap, P.C.  
124 W. Allegan, Ste. 1000  
Lansing, MI 48933  
[jheston@fraserlawfirm.com](mailto:jheston@fraserlawfirm.com)

**Michigan Power LP Consultants:**

Nick Phillips  
Brian Collins  
Donna Fricke

[nphillips@consultbai.com](mailto:nphillips@consultbai.com)  
[bcollins@consultbai.com](mailto:bcollins@consultbai.com)  
[dfricke@consultbai.com](mailto:dfricke@consultbai.com)

**MPSC STAFF**

Heather MS. Durian  
Michael J. Orris  
Monica M. Stephens  
Anna B. Stirling  
Public Service Division  
7109 West Saginaw Hwy, 3<sup>rd</sup> Floor  
Lansing, MI 48917  
[durianh@michigan.gov](mailto:durianh@michigan.gov)  
[orrism@michigan.gov](mailto:orrism@michigan.gov)  
[stephensm11@michigan.gov](mailto:stephensm11@michigan.gov)  
[stirlinga1@michigan.gov](mailto:stirlinga1@michigan.gov)

Lori Mayabb, Case Manager  
[mayabbl@michigan.gov](mailto:mayabbl@michigan.gov)

**SOULARDARITY; WE WANT GREEN,  
TOO; URBAN CORE COLLECTIVE**

Mark Templeton  
Amanda Urban  
Jacob Schuhardt  
Sam Heppell  
Andrew Obeso  
Zara Salman  
Andrew Kieffer  
Claire Black  
Elizabeth Maltby  
Eliza Martin  
Joseph Amdur  
Jason Frey  
Michelle David  
University of Chicago Law School  
Abrams Environmental Law Clinic  
6020 South University Avenue  
Chicago, IL 60637  
[templeton@uchicago.edu](mailto:templeton@uchicago.edu)  
[t-9aurba@lawclinic.uchicago.edu](mailto:t-9aurba@lawclinic.uchicago.edu)  
[jschuhardt@uchicago.edu](mailto:jschuhardt@uchicago.edu)  
[heppell@uchicago.edu](mailto:heppell@uchicago.edu)  
[obeso@lawclinic.uchicago.edu](mailto:obeso@lawclinic.uchicago.edu)  
[zysalman@lawclinic.uchicago.edu](mailto:zysalman@lawclinic.uchicago.edu)  
[akieffer@lawclinic.uchicago.edu](mailto:akieffer@lawclinic.uchicago.edu)  
[claireblack@uchicago.edu](mailto:claireblack@uchicago.edu)

**MPSC Case No. U-21291**  
**Service List**

[emaltby@lawclinic.uchicago.edu](mailto:emaltby@lawclinic.uchicago.edu)  
[elizamartin@lawclinic.uchicago.edu](mailto:elizamartin@lawclinic.uchicago.edu)  
[jamdur@lawclinic.uchicago.edu](mailto:jamdur@lawclinic.uchicago.edu)  
[jmfrey@lawclinic.uchicago.edu](mailto:jmfrey@lawclinic.uchicago.edu)  
[madavid@uchicago.edu](mailto:madavid@uchicago.edu)  
[aclc\\_mpsc@lawclinic.uchicago.edu](mailto:aclc_mpsc@lawclinic.uchicago.edu)

Madison S. Wilson, Legal Assistant  
[madisonswilson@uchicago.edu](mailto:madisonswilson@uchicago.edu)