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December 6, 2024

VIA ELECTRONIC CASE FILING

Executive Secretary
Michigan Public Service Commission
7109 W. Saginaw Highway
Lansing, Michigan 48917

Re: Case No. U-21291 – 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

Dear Executive Secretary:

Enclosed for filing please find the **Association of Businesses Advocating Tariff Equity's Petition for Rehearing** and **Proof of Service** in the above referenced proceeding.

Sincerely,

CLARK HILL PLC
Stephen A. Campbell
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SAC/lkd
cc: Parties of Record

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the application of)	
DTE GAS COMPANY for authority)	Case No. U-21291
to increase its rates, amend its rate)	
schedules and rules governing the)	
distribution and supply of natural gas,)	
and for miscellaneous accounting authority)	
_____)	

PETITION FOR REHEARING OF THE ASSOCIATION OF BUSINESSES ADVOCATING TARIFF EQUITY

The Association of Businesses Advocating Tariff Equity (“ABATE”), by and through its attorneys, Clark Hill PLC, pursuant to Mich Admin Code, R 792.10437 (“Rule 437”), for the reasons more fully described below, hereby petitions the Michigan Public Service Commission (“Commission”) to grant rehearing of the Commission’s November 7, 2024 Order (“Order”) in this proceeding initiated by DTE Gas Company (“DTE” or “Company”). In support of this Petition, ABATE states as follows:

I. INTRODUCTION

The Commission Order in this proceeding adopted the continued use of DTE’s existing cost allocation method. Despite this approval the summary of revenue by rate class included at the Order’s Attachment A reflected an alternate class cost of service study (“CCOSS” or “COSS”) and cost allocation that was not explicitly approved by the Order. This error will result in the unintended consequence of dramatically increasing the costs allocated to large customers relative to the continued use of the Company’s proposed cost allocation approved by the Order. Given this error and unintended consequence the Commission must grant rehearing to provide a correct summary of revenue by rate class.

I. STANDARD OF REVIEW

Mich Admin Code, R 792.10437 states that a “petition for rehearing after a decision or order of the commission shall be filed with the commission within 30 days after service of the decision or order of the commission unless otherwise specified by statute.” A petition for rehearing based on a claim of error shall specify all findings of fact and conclusions of law claimed to be erroneous with a brief statement of the basis of the error. A petition for rehearing based on a claim of newly discovered evidence, on facts or circumstances arising subsequent to the close of the record, or on unintended consequences resulting from compliance with the decision or order shall specifically set forth the matters relied upon.

II. ARGUMENT

A. **The Commission Order includes an error and unintended consequence by setting out a summary of revenue by rate class inconsistent with the cost allocation approved in this case.**

The Commission Order in this proceeding approved the continued use of DTE’s prevailing cost allocation method which used the Company’s primary COSS. Despite doing so the rate design attached to the Order at Attachment A reflected an alternate COSS not explicitly approved by the Order. As such the Order contains an error which will have the unintended consequence of dramatically overallocating costs to large customers relative to the cost allocation actually approved by the Order.

As explained in the Order, a “COSS determines the cost of providing service to each customer class and is used to allocate the revenue requirement among the customer classes; that is, once the Commission has determined the amount of total revenue to which the utility is entitled, the COSS is used to determine how much of that revenue requirement is paid by each customer class, such as residential, small commercial, large industrial, etc.” (Order at 222.) In this case the Company’s “proposed primary COSS relies upon the same method for determining the cost to

serve as was applied in Case No. U-20940” and which was approved in the Company’s last rate case. (*Id.*) The Company and Staff also each presented an alternate COSS, which Staff described “as a guide to how revenue responsibility should be shifted between transportation schedules to maintain breakeven points,” although Staff also “explain[ed] that it is not advisable to switch to the alternate COSS for all cost allocation at this time.” (*Id.* at 234-36.)

In arriving at a recommended cost allocation in this proceeding, the Proposal for Decision (“PFD”) found the following:

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 at 360-61.)]

In other words, the PFD recommended the Commission continue to adopt the same allocation method previously utilized by DTE, meaning the A&P method and the Company’s proposed primary COSS.

Regarding the alternate COSS, the PFD simply recommended “that the Commission require DTE to continue filing the alternate COS in future cases,” as “including the additional COSS, updated for DTE’s filing information, in future rate cases will allow this method to continue to be utilized and continue to explore the best way to modify rate design to directly utilize this alternate COSS.” (*Id.*) Thus, the PFD simply recommended “that the Commission require DTE to

continue to file the alternate COS in future cases;” not that it be used for cost allocation in this proceeding. (*Id.*)

The Commission Order followed these recommendations, stating that the Commission “agrees with the ALJ and the Staff and approves the continued use of the A&P method.” (Order at 228-29.) Regarding the alternate COSS, the Order simply noted that the “ALJ recommended that the Commission continue to require DTE Gas to file the alternate COSS in future rate cases” before adopting “the findings and recommendations of the ALJ.” (*Id.* at 236-37.) In explaining its decision, the Order stated that “Staff showed that the alternate COSS continues to prove useful” while acknowledging that “Staff goes on to explain that it is not advisable to switch to the alternate COSS for all cost allocation at this time.” (*Id.*) Thus, regarding the alternate COSS, the Order simply stated “that DTE Gas shall continue to submit the alternate COSS with updated information.” (*Id.*) The Order therefore did not explicitly approve an alternate COSS or direct Staff to use an alternate COSS when developing the final rates included at the Order’s Attachment A.

Despite the Order approving the continued use of DTE’s prevailing cost allocation method the “summary of revenue by rate class” included at the Order’s Attachment A incorrectly reflects an alternate COSS. This error results in the unintended consequence of producing a cost allocation wildly at odds with that which would properly result from the Company’s proposed method. Specifically, the summary of revenue by rate class results in an increase to Transportation Rate XXLT of 26.36% (or 2.25 times the system average increase), while even Staff’s initial proposed rate design would have only resulted in a Rate XXLT increase of 1.75 times the system average, and the Rate XXLT increase under the Company’s primary COSS would have only been 14.73%, or 0.54 times the system average at DTE’s claimed revenue deficiency. (See Exhibit A-16, Schedule F2, p 1; Revised Exhibit S-6.0, Schedule F2.) In other words, despite the Commission

approving an overall revenue increase roughly \$133 million *less* than the Company requested, the summary of revenue by rate class attached to the Order represents an increase to Rate XXLT which is nearly *twice as high* as that proposed by the Company under its original \$266 million requested revenue increase. (*Id.*) This outcome is an extraordinary departure from the continued use of the Company's cost allocation method approved in the Order.

Furthermore, in addition to this incongruence, the summary of revenue by rate class included at the Order's Attachment A is also inconsistent with any other party's filed position on the COSS and cost allocation. If the Order had approved an alternate COSS (which it did not), the summary of revenue by rate class should have reflected a revenue increase for each transportation class which was scaled down proportionately from that filed COSS to reach the revenue requirement approved in the Order. That is not, however, demonstrated in the Order's summary of revenue by rate class. Instead, it appears the rate design included in Attachment A reduced Staff's proposed increase for XLT by about 90% (i.e., from \$2.458 million to \$242,000), but only reduced the proposed XXLT increase by about 15% (from \$9.879 million to \$8.389 million). (*Id.*) In other words, while the summary of revenue by rate class attached to the Order does not reflect the continued use of the Company's cost allocation method, which was approved in the Order, it also does not reflect any of the other alternate COSSs presented in this case. Instead, it appears the COSS used for the Order's Attachment A started with DTE's preferred A&P COSS, as approved by the Order, before then being amorphously and selectively modified by some variation on Staff's alternate COSS. The Order contains no support for establishing rates using this opaque and unauthorized approach.¹

¹ Under MCL 462.26 Commission orders must be reasonable, while under Const Art 6 § 28 they must be "supported by competent, material and substantial evidence on the whole record." Further, under MCL 24.285 final agency decisions must "include findings of fact and conclusions of law,"

Thus, in addition to this error being inconsistent with the Order, this outcome constitutes the unintended consequence of rate shock for these customers and may further result in their efforts to seek out bypass opportunities to avoid the Company's system (and avoid contributing associated revenues) altogether. *See In the Matter of the Application of Aquila, Inc.*, order of the Public Service Commission, entered November 30, 2005 (Case No. U-14400) ("The Commission agrees with all the parties that minimizing rate shock, to the extent possible, is a legitimate regulatory concern"). This unintended consequence resulting from the error in the Order requires rehearing to appropriately revise the "summary of revenue by rate class" and associated rate design included at the Order's Attachment A.

While the Order therefore approved the continued use of DTE's existing cost allocation method, the "summary of revenue by rate class" included at the Order's Attachment A reflects an alternate COSS which dramatically increases rates for large customers. As such the Commission must grant rehearing to correct this error and unintended consequence and appropriately revise the summary of revenue by rate class included at the Order's Attachment A.

which findings of fact "shall be based exclusively on the evidence and on matters officially noticed," and a "decision or order shall not be made except upon consideration of the record as a whole or a portion of the record as may be cited by any party to the proceeding and as supported by and in accordance with the competent, material, and substantial evidence." The selective application of a modified alternate COSS to develop rates for certain classes inconsistent with the cost allocation actually approved in the Order (or proposed in the case) does not meet this standard.

II. CONCLUSION

For the reasons, and pursuant to the authority, described above, ABATE requests that the Commission grant this Petition for Rehearing and the relief requested herein.

Respectfully submitted,

CLARK HILL PLC

Stephen A.

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Date: December 6, 2024

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and for miscellaneous accounting authority)
_____)

Case No. U-21291

ALJ Jonathan F. Thoits

PROOF OF SERVICE

STATE OF MICHIGAN)
) ss
COUNTY OF WAYNE)

Stephen A. Campbell, being first duly sworn, deposes and says that on December 6, 2024 he did cause to be served the *Association of Businesses Advocating Tariff Equity's Petition for Rehearing*, as well as this *Proof of Service* in the above docket, via electronic mail, to the persons identified on the attached service list.

Stephen A.
Campbell

Stephen A. Campbell

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SERVICE LIST
MPSC Case No. U-21291

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