

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**
(e-file paperless)

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**MICHIGAN PUBLIC SERVICE COMMISSION STAFF'S
RESPONSE TO PETITIONS FOR REHEARING**

**MICHIGAN PUBLIC SERVICE
COMMISSION STAFF**

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I. Introduction

On November 7, 2024, the Commission issued an order in this docket (November 7 Order) approving DTE's Application in part. The November 7 Order stated that the Commission is "adopting a October 1, 2024 through September 30, 2025 test year, rate base of \$6,888,851,000, an authorized rate of return on common equity of 9.80%, and an authorized required rate of return of 5.80%", among other holdings. MPSC Case No. U-21291, 11/7/2024 Order, p 250.

On December 6, 2024, the following parties filed petitions for rehearing: Michigan Power Limited partnership (MPLP), Association of Businesses Advocating Tarriff Equity (ABATE) and the DTE Gas Company (DTE Gas or the Company). This response by the Michigan Public Service Commission Staff (Staff) replies to those petitions.

In this response, Staff does not address all aspects of the petitions for rehearing but touches on issues relating to uncollectibles, the use of the alternate cost of service (COS) to inform transportation rate design and the calculation of Gas-in-Kind (GIK). Any failure to respond should not be taken as agreement. Staff submits that the Commission's November 7 Order is well-supported by the record evidence in this case and also recognizes the Commission's right to clarify any matters it sees fit to do so.

II. Standard for Petitions for Rehearing

Rule 437 of the Commission's Rules of Practice and Procedure describes the requirements that a party must meet when petitioning for rehearing. Mich Admin Code, R 792.10437(1). Among other things, the Rule allows a party to petition for rehearing based on a claim of error. *Id.* Specifically, within Rule 437, it is contemplated that a party may petition for rehearing if it discovers new evidence that circumstances have changed since the close of the record or if the party learns that an order will have unintended consequences:

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. [Mich Admin Code, R 792.10437(1).]

As the Commission has summarized this rule, “[u]nless a party can show the decision to be incorrect or improper because of errors, newly discovered evidence, or unintended consequences of the decision, the Commission will not grant a rehearing.” *In re Cherryland Electric Coop’s Application for a Large Resort Service Rate*, MPSC Case No. U-13716, 10/14/2004 Order, p 2. In other words, the petitioner must add something new to the discussion to be successful; it may not merely repeat arguments that have already been rejected. *In re Consumers Energy Co’s 2004 Power Supply Cost Recovery Plan*, MPSC Case No. U-13917, 8/1/2005 Order, p 4. (“[A]n application for rehearing is not merely another opportunity for a

party to argue a position or to express disagreement with the Commission's decision.")

III. The Commission's decision concerning uncollectibles is well-grounded in the record.

The Company stated that it "seeks rehearing with respect to a portion of Staff's recommended changes [concerning uncollectibles], specifically the exclusion of test year revenues that are attributable to Energy Waste Reduction (EWR), cost of gas, the Company's Home Protection Plan (HPP), and miscellaneous revenue."

Staff stated in its initial brief at page 64, "[i]t is Staff's position that projected revenue amounts not included, or subject to audit, in this general rate case should not be included in the UCX projection." The Company stated, "The exclusion of these revenues in the test year, despite their inclusion in historical revenues used to calculate the average net write-offs to revenue, resulted in an unsupported \$3.96 million disallowance of uncollectible." (Company's Petition for Rehearing, pp 3-4.) There is record evidence to support the disallowance. Staff witness Shannon Rueckert testified recording uncollectibles:

While the Company's methodology is consistent with Staff's direct write off method, the revenue amount used is excessive. Revenue is multiplied by the bad debt loss ratio (BDLR) to create the expense projection. See Exhibit A-13, Schedule C5.7. An excessive revenue amount creates an unreasonable UCX projection. Staff requested the revenue categories that compose its projection. The Company's response is displayed on exhibit 4 S-9.5, page 3. Staff disagrees with the use of the proposed revenue. Use of future revenue at proposed rates creates an iterative calculation. It is Staff's position that Energy Optimization Revenue should be excluded as it is not included in this general rate case. Staff recommends the use of total current revenue projected test year billing determinants at the current base rates, as

presented on Staff Exhibit S-6, F2, p 1, ln. 14, col. (d.) and 9 supported by Staff witness Todd. [4 TR 1650-51.]

The Company simply disagrees with the Staff that the EWR or energy optimization revenue related uncollectibles should be excluded from the rate case. The Company states:

If EWR revenues are not included in calculating uncollectible expense, DTE Gas does not have an opportunity to recover these costs until they can be rolled into the EWR surcharges. [4 TR 2247.]

The Staff, the Administrative Law Judge (ALJ) and the Commission were well aware of the Company's argument and simply disagreed with the relief requested.

As the Company states in its petition for rehearing, the ALJ agreed with Staff's overall recommended disallowance. The Company is concerned that the ALJ did not address the impacts of excluding these revenues from the UCX calculation or the exclusion of these revenues from projected revenues while leaving them in historic revenues. (MPSC Case No. U-21291, 9/4/2024 PFD, p 305.) The Commission agreed with the ALJ's recommendation and its position, as espoused by Staff, is well-grounded in the record evidence. MPSC Case No. U-21291, 11/7/2024 Order, p 192.

IV. Staff disagrees with the petitions for rehearing of ABATE and MPLP.

Both the Association of Businesses Advancing Tariff Equity (ABATE) and the Michigan Power Limited Partnership (MPLP) filed requests for rehearing in the instant docket regarding the transportation rate design approved by the

Commission, alleging both legal errors (a lack of findings of fact and/or conclusions of law that support the approved transportation rate design) and unintended consequences.

Both parties make certain statements and or claims in support of their requests that share similarities; such statements and claims will be dealt with together as appropriate. Staff will also address unique statements and claims made by each party. In short, Staff's position is that the Commission did not make legal errors in approving the Staff's proposed method of calculating transportation, and any consequences of that approval were part of the record and cannot be considered unintended or are unsupported. For these reasons, as explained further below, both ABATE's and MPLP's petitions for rehearing should be rejected.

A. The Commission's approved rate design (that proposed by Staff) in the instant case is a continuation of the same method previously approved by the Commission in the Company's last rate case, MPSC Case No. U-20940.

Both ABATE and MPLP make several statements or implications that approving Staff's proposed method of transportation is somehow a change from what the Commission approved in the Company's previous rate case, MPSC Case No. U-20940, or that it is new or novel. ABATE constructs a chain of faulty logic by claiming and/or implying that, in the previous case, as the Commission approved the Average and Peak (A&P) cost allocation method the Company's primary COSS was used with no use of the alternate COS, and therefore the same applies in the

instant case.¹ Similarly, MPLP claims “DTE included a transportation service rate design in its application based on previously approved cost allocation and rate design methodologies,” further claiming Staff “proposed an alternative transportation class rate design;”² that Staff’s transportation class rate design is based on the alternative COS which “has never been used prior for DTE,”³ and that “the default rate design should have been the one contained in DTE’s application consistent with prior DTE rate orders.” These claims are incorrect; in short, while the Commission approved the A&P allocation method in the previous case (and the instant case), that allocation method was used in both the alternative and primary COSs, and the Commission approved Staff’s proposed use of the alternate COS to guide transportation rate design, as will be shown. Therefore, both parties are incorrect that the use of the alternate COS to guide transportation rate design

¹ For example, twice ABATE refers to “the continued use of the Company’s proposed cost allocation,” (ABATE Petition for Rehearing, p 1) the “continued use of DTE’s prevailing cost allocation method which used the Company’s primary COSS,” (ABATE Petition for Rehearing, p 2) that the “Company’s ‘proposed primary COSS [which] relies upon the same method for determining the cost to serve as was applied in Case No. U-20940’” was approved in the Company’s previous case (ABATE Petition for Rehearing, pp 2-3, internal citation omitted), that “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*,” (ABATE Petition for Rehearing, p 3, emphasis added) “continued use of DTE’s prevailing cost allocation method,” (ABATE Petition for Rehearing, p 4) and “continued use of the Company’s cost allocation method” (ABATE Petition for Rehearing, p 5) twice and once more “continued use of DTE’s existing cost allocation method.” (ABATE Petition for Rehearing, p 5.)

² MPLP’s Petition for Rehearing, p 4.

³ *Id.*, p 7.

would be novel, new to the instant case, or a change from what was previously approved, but is in fact a continuation of prior approval.

B. Approval of the A&P method of cost allocation is not approval of only using the Company’s primary COS for transportation rate design.

First, there are two separate issues being conflated by both parties; the allocation method for distribution mains approved in prior cases (as well as the instant case), and how the alternative COS was used in the instant case and the prior case. Both parties are correct that the Company’s proposed *cost allocation method* for distribution mains, the average and peak (A&P) method, was approved by the Commission in both the previous case and instant case. MPSC Case No. U-20940, 12/9/2021 Order, pp 192-193; MPSC Case No. U-21291, 11/7/2024 Order, pp 228-229. What both parties fail to recognize in their current pleadings is that the allocation method was used in both the “primary” COS and the “alternate” COS. Both parties, however, acknowledged this fact in their previous briefs on this issue.⁴ Therefore, the previous and current approval of the allocation method is not the same thing as the disposition of how the alternative COS was used to guide rate design in either case. In fact, the Staff’s method of using the “alternate” COS to guide the spread of revenue responsibility amongst the transportation classes *was approved by the Commission in the Company’s previous case* (as well as the instant

⁴ For examples, see MPLP’s Exceptions p 12 and ABATE’s Initial Brief, p 52.

case). In the previous case, the Commission found fit to approve the ALJ's recommendation that:

in the instant case, a reasonable and prudent approach is to *employ the Staff's alternate COSS* and to require DTE Gas, in its next rate case, to submit a COSS consistent with the Staff's second alternate COSS. [MPSC Case No. U-20940, 12/9/2021 Order, p 210, emphasis added.]

The September 8, 2021 PFD in U-20940 referenced by the Order found that the "Staff's recommendation should be adopted,"⁵ and quoted Staff witness Revere's description of that recommendation:

Staff has used the second alternate COSS, as modified for Staff's adjustments (hereafter referred to as Staff's Alternate COSS) as a guide to how revenue responsibility should be shifted between transportation schedules when adjustments must be made to maintain the current breakeven points. This better reflects the differences in cost between the current schedules and the mix of service levels on each, moving toward a more rational distribution of revenue responsibility. To effect this, I instructed Staff witness Madison S. Todd to keep each transportation schedule's share of the total transportation revenue requirement between the results of the COSS using the current methods of allocation and Staff's alternate COSS while conducting rate design. This is a reasonable interim solution, which is a step toward the current state of Consumers Gas' transportation rate design. Staff recommends the Company be required to include the second alternate COSS, updated for the Company's filing information, in future rate cases so that this method can continue to be utilized, and continue to explore the best way to modify rate design to directly utilize this alternate COSS. [MPSC Case No. U-20940, 9/28/2021 PFD, p 264, internal citation omitted.]

The Staff's method of transportation rate design using the alternate COS was approved in the previous case. Therefore, both ABATE and MPLP are incorrect in claiming that using the Company's primary COS alone for transportation rate

⁵ MPSC Case No. U-20940, 9/28/2021 PFD, p 264

design as proposed by the Company would be consistent with the Commission's decision in the prior case. It would, in fact, be a departure from the previous decision and therefore arguments relying on such claims, including those previously discussed, should be rejected.

C. The Commission approved Staff's proposed transportation rate design method in the instant case.

MPLP further claims that "it was an error for the MPSC Staff, when providing assistance to the Commission, to decide to utilize what appears to be its own transportation class rate design to prepare the rates reflected in the attachments to the November 7 Order absent direction from the Commission to do so." (MPLP's Rehearing Petition, p 8.) Contrary to this claim, a proper reading of the Order shows the Commission did indeed direct that Staff's proposed transportation rate design method be utilized for the Commission ordered rates.⁶ After an extensive discussion of the record on this matter (said discussion starts at page 233 of the 11/7/2024 Order), the Commission states, starting at page 235:

The Commission adopts the findings and recommendations of the ALJ. The Staff showed that the alternate COSS continues to prove useful. After explaining that the alternate COSS excludes transmission volumes from certain cost allocations and reflects the fact that certain distribution costs are split between high-pressure, low-pressure, and transmission customers, the Staff goes on to explain that it is not advisable to switch to the alternate COSS for all cost allocation at this time because:

⁶ It bears repeating if the Commission disagrees with Staff's or any party's characterization of its November 7, 2024 Order, the Staff recognizes its right to clarify said Order.

recognizing the difference in costs in rates should be accompanied by a reexamination of the structure of rates. If the additional COSS were to be used directly, it may also be appropriate to set up different rates for different levels of service, as only the customers served at each of those levels are responsible for the costs allocated based on volumes at those levels. The scope of this redesign, as well as determining the best way to approach it, is too large for the context of a 10-month rate case. Instead, as a stopgap, Staff has used the additional COSS, as modified for Staff's adjustments (hereafter referred to as Staff's Alternate COSS) as a guide to how revenue responsibility should be shifted between transportation schedules when adjustments must be made to maintain the current breakeven points. This better reflects the differences in cost between the current schedules and the mix of service levels on each, moving toward a more rational distribution of revenue responsibility. 4 Tr 1663.

The alternate COSS helps to “guide the appropriate increases amongst the transportation class schedules.” 4 Tr 1664. DTE Gas did not dispute the Staff's description of how the alternate COSS works and how it is used to shape the relative increases between transportation rate classes. On rebuttal, DTE Gas proposed the reuse of certain workpapers, but the Commission is not persuaded that doing so would ensure that properly updated information is made available as part of the alternate COSS. The Commission finds that DTE Gas shall continue to submit the alternate COSS with updated information. [MPSC Case No. U-21291, 11/7/2024 Order, pp 235-236, emphasis added.]

The alternate COS is only “useful” in this context insofar as it is used in the way described by Staff and discussed by the Commission: to guide the revenue responsibility spread amongst the transportation classes. To further clarify, the PFD's “findings and recommendations” approved by the order (again after an extensive review of the record on the alternate COS) are:

This PFD agrees with Staff's recommendation that the Commission require DTE to continue filing the alternate COS in future cases. As Staff asserts, 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. In addition, this PFD disagrees with DTE's proposal whereby the Commission allows DTE to reuse workpapers provided in this instant case to prepare the Alternate COSS in DTE's next rate case. As Staff points out in its brief, this approach would not require an update of all data necessary for the alternate COS to be useful. Thus, this PFD recommends that the Commission require DTE to continue to file the alternate COS in future cases. [MPSC Case No. 21291, 9/4/2024 PFD, p 361.]

The method the PFD, with respect to the instant case, is recommending *continue* to be utilized is that proposed by Staff and approved in the prior case, as further described by the PFD in quoting Staff:

Mr. Revere states that in DTE's previous case, the Commission agreed with Staff that what was then deemed Staff's second alternate COS should be used to shape the relative increases amongst transportation rate classes, and that a similar COS should be filed in its next rate case (the instant case). He adds that for the purposes of the instant case, Staff is not recommending the additional COSS be directly utilized, as it would be inappropriate to utilize the additional COSS directly, as recognizing the difference in costs in rates should be accompanied by a reexamination of the structure of rates. *He states Staff has used the additional COSS, as modified for Staff's adjustments (Staff's Alternate COSS) as a guide to how revenue responsibility should be shifted between transportation schedules when adjustments must be made to maintain the current breakeven points. He states that he instructed Ms. [sic] Todd to keep each transportation schedule's share of the total transportation revenue requirement between the results of the COSS using the current methods of allocation and Staff's alternate COSS to the extent possible while conducting rate design.* He asserts that this is a reasonable interim solution, which is a step toward the current state of Consumers Gas' transportation rate design. He states that Staff recommends DTE be required to include the additional COSS, updated for DTE's filing information, in future rate cases *so that this method can continue to be utilized*, and continue to explore the best way to modify rate design to directly utilize this alternate COSS. [MPSC Case No. U-21291, 9/4/2024 PFD, pp 343-344, internal citations omitted, emphasis added.]

Therefore, it is clear that the PFD recommended, and the Commission approved, continuing to base rate design for transportation customers on Staff's use of the alternate COS, as they both did in the previous case. For this reason, MPLP's claim that the Staff erred in using same to prepare the order attachments is, in fact, itself in error. MPLP's further claim that the disputed rate design was not discussed⁷ is also incorrect, as are the claims that the Commission did not explicitly discuss the decision or reasoning for same; a review of the above-quoted parts of the Order and PFD show the Commission relied on the support and reasoning provided by Staff, the same support and reasoning they relied on in making the same decision in the previous case.

D. ABATE's unsupported musings on how changing inputs affect COS and rate design should be rejected.

ABATE claims the results of the application of Staff's Commission-approved method reflected in the Order attachments "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 it does not reflect any alternate COSs in the case, and that the alternate COS associated with the Order appears to be "amorphously and selectively modified by some variation on Staff's alternate COSS." (ABATE's Petition for Rehearing, p 5.) ABATE offers no support for these claims; in fact, the application of the approved method contains a number of variables that affect the results, as does any COS or

⁷ MPLP's Petition for Rehearing, p 7.

rate design run with new inputs. As the Commission well knows, the primary COS and alternate COS associated with the order were rerun using the decisions in the order, and then the method used by Staff, approved by the Commission, and described several times above (that being to end up with transportation rate schedule increases to have a share of the total revenue requirement between the results of the two COSs) was applied in a way that maintained breakevens. Therefore, these unsupported claims should be rejected, as should the claim that “[t]he Order contains no support for establishing rates using this opaque and unauthorized approach.” (ABATE’s Petition for Rehearing, p 5.)

E. Attempts to reargue issues which were not decided favorably for MPLP should not be considered.

MPLP also rehashes arguments made in previous briefings. (MPLP’s Petition for Rehearing, pp 8-9.) As these arguments were fully addressed by Staff in previous briefings,⁸ Staff will not be repeat its responses here.

F. Continuation of the previously approved transportation rate design method does not result in unintended consequences.

Both MPLP and ABATE also claim the results will result in unintended consequences, such as large increases to XXLT and customers potentially considering bypassing the Company’s system.⁹ As these claims were either

⁸ See, for example, Staff’s Initial Brief, pp 68-74, 76-78; Staff’s Reply Brief pp 15-23.

⁹ MPLP’s Petition for Rehearing, pp 5, 9-11; ABATE’s Petition for Rehearing, pp 1, 6.

presented by the parties and thoroughly discussed by the Order¹⁰ or are not supported by the record, any consequence either cannot be reasonably considered unintended or supported as occurring. Therefore, the claims should be rejected.

For all of the reasons discussed above, the Commission clearly approved Staff's transportation rate design method, and relied on record evidence which explained the reasons for that approval; no legal or factual errors or omissions occurred, there were no unintended consequences associated with that decision, and therefore MPLP and ABATE's rehearing petitions should be denied.

V. The Company is correct that Staff neglected to recalculate Gas-In-Kind (GIK) to reflect the proposed cost of gas (COG)

The Company states Staff recalculated LAUF and CU consistent with its proposed COG in its initial filing but neglected to recalculate GIK revenues based on the proposed COG, and that Staff proposed recalculating LAUF, CU, and GIK consistent with the final order decisions. (Company's Petition for Rehearing, p 2.) The Company is correct that Staff neglected to recalculate GIK based on its proposed COG, and that the omission of the recalculated amount carried through to the final order.

VI. Conclusion

For the reasons above and the reasons stated elsewhere in the record, the Staff submits that the Petitions for rehearing concerning Staff's cost allocation

¹⁰ See, for example, MPSC Case No. U-21291, 11/7/2024 Order, pp 223-224, 228-229, and the portions of the record referenced therein.

method and rate design, as well as uncollectibles, filed in this proceeding should be denied, as further explained above. As stated repeatedly, Staff also recognizes the Commission's right to clarify or correct any matters previously addressed in its order at the Commission's discretion.

Respectfully submitted,

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DATED: December 27, 2024

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Subscribed and sworn to before me
this **27th** day of **December, 2024**.

Cherie A. R. Shea, Notary Public
State of Michigan, County of Jackson
Acting in the County of Eaton
My Commission Expires: 04-13-31