



Andrea E. Hayden
(313) 235-9449
andrea.hayden@dteenergy.com

December 16, 2022

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

RE: In the matter of the application of **DTE ELECTRIC COMPANY** for authority to increase its rates, amend its rate schedules and rules governing the distribution and supply of electric energy, and for miscellaneous accounting authority
MPSC Case No. U-20836

Dear Ms. Felice:

Attached for electronic filing in the above captioned matter is DTE Electric Company's Petition for Rehearing. Also attached is the Proof of Service.

Very truly yours,

Andrea E. Hayden

AEH/cdm
Attachments

cc: Service List

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of)
DTE ELECTRIC COMPANY)
for authority to increase its rates, amend)
its rate schedules and rules governing the)
distribution and supply of electric energy,)
and for miscellaneous accounting authority)
_____)

Case No. U-20836

DTE ELECTRIC COMPANY'S
PETITION FOR REHEARING

Dated: December 16, 2022

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	LEGAL STANDARD.....	2
III.	DISCUSSION	2
A.	The Commission erred by adopting the Attorney General’s residential sales forecasting methodology.....	3
1.	<i>The AG’s forecasting method is unsubstantiated and varies from year to year</i>	4
2.	<i>The Commission’s rejection of mobility data in the Company’s residential sales forecast creates conflicting guidance on the use of mobility data</i>	7
3.	<i>The Commission’s correction of a material \$50M calculation error in the AG’s evidence is not authorized by law.....</i>	9
B.	The Commission’s order has unintended consequences.....	10
C.	The Company will commit to its practice of voluntarily crediting customers to account for COVID-19 impacts over the next year	11
IV.	REQUEST FOR RELIEF	13

I. INTRODUCTION

On November 18, 2022, the Michigan Public Service Commission (“Commission”) issued a final order in this case (the “November 18 Order”). This petition seeks rehearing of the order with respect to the projected energy use of DTE Electric Company’s residential customers.

The COVID-19 pandemic hit our state and our communities hard. To ensure our customers were not faced with another challenge, DTE Electric Company (“DTE Electric” or the “Company”) proactively paused rate increases for nearly three years – a notable difference from our peer electric companies across the country.¹ Additionally, in acknowledgement of the shift in residential energy usage driven by the pandemic, the Company responded fairly by providing a voluntary refund to our customers at the end of 2020 and 2021.

We recognize that the post-pandemic period is no less unprecedented as our state and our communities adjust to a new normal. However, approving a forecast that assumes the future environment will mirror the conditions experienced by our residential customers during the early days of the pandemic is not supportable. As we enter three years since the start of the pandemic, it is critically important that a reliable and accurate sales forecast that utilizes widely accepted industry standards is adopted. This will enable the Company to continue making necessary electrical system investments for its customers without requiring drastic measures to mitigate the substantial cash flow pressures created by the November 18 Order. Adopting the sales forecast recommended in the Proposal for Decision (“PFD”) will mitigate these unintended consequences.

For these reasons, DTE Electric requests that the Commission reconsider its choice to adopt the Attorney General’s sales forecast and instead adopt the recommendation in the PFD which more accurately reflects the changing trend in customer usage and is consistent with prior sales

¹ Based on data reported to the U.S. Energy Information Administration

forecast methodologies adopted by the Commission. DTE Electric is also requesting that the Commission accept the Company's proposal to refund the incremental margin to all customers for any difference between our forecast and actual usage as described below.

II. LEGAL STANDARD

DTE Electric seeks rehearing of the November 18 Order pursuant to Rule 437 of the Commission's Rules of Practice and Procedure, R 792.10437, which provides:

(1) 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. The petition shall be accompanied by proof of service on all other parties to the proceeding.²

III. DISCUSSION

The November 18 Order in this proceeding addresses the sales forecast for the projected test period at pp. 245-251. The residential sales forecast (as opposed to the Small and Large Commercial and Industrial (C&I)³ or Industrial customer classes) is the only aspect of the sales forecast in dispute. More specifically, the residential sales impacts of the COVID-19 pandemic and the means to evaluate those impacts were the subject of disagreement between the Company and the Attorney General (AG). The Commission Staff and the September 19, 2022 Proposal For

² DTE Electric maintains its prior positions, but will not belabor them for purposes of seeking rehearing. DTE Electric, of course, maintains all of its appellate rights.

³ The Attorney General accepted the results of the Company's C&I load projection which utilized the same Michigan-specific Google Maps "wedge" adjustment mechanism she criticized with respect to residential load projections. ("For Small C&I, the primary variables used to explain utilization are weather, gross state product, non-manufacturing employment and households. Additionally, resulting from the COVID-19 pandemic, Michigan mobility data was integrated into the model through a 'wedge'..."7T 2621;"On page 119, lines 10-16, Witness Coppola asserts that he finds the sales forecast for commercial and industrial customers reasonable."7T 2642)

Decision (PFD) adopted DTE Electric’s residential customer class sales forecast (November 18 Order p. 248; PFD pp. 457-462; Staff Initial Brief p. 155). The Commission chose to adopt the Attorney General’s residential sales forecast. (November 18 Order pp. 249-251) DTE Electric seeks rehearing of this decision because it was made in error and is inconsistent with the Commission’s acceptance of the same approach in other cases and with respect to other customer classes. The unintended consequences of this decision are substantial and unwarranted, reducing the Company’s rates by over \$100 million – well below a reasonable and prudent level.

A. The Commission erred by adopting the Attorney General’s residential sales forecasting methodology

Rather than adopting the PFD, as it did with so many other issues in this case, the Commission instead (1) rejected the Administrative Law Judge’s (“ALJ’s”) recommendation to approve the Company’s sales forecast due to the use of a “wedge” adjustment, (2) rejected the sales analyses of its own Staff, and (3) defaulted to the AG’s simple assumption that the most recent full-year COVID-impacted residential use per customer levels from 2021 would continue unabated into the future. The Commission’s decision to rely on the AG’s speculative assumption is demonstrably erroneous as it is unsupported by scientific methods of load forecasting analysis⁴, is contrary to the Commission’s decision to adopt other sales forecasts utilizing the same or similar data, and was based on evidence that was materially flawed with respect to the impact of the disallowance.

⁴ In point of fact, the AG’s witness has switched the bases for his load forecast *four (4) times* in as many DTE Electric general rate cases. (7T 2648-2649)

1. The AG's forecasting method is unsubstantiated and varies from year to year

The Company's long-serving Manager of Corporate Energy Forecasting, Markus Leuker,⁵ presented competent, material, and substantial evidence to support the scientific rigor and accuracy of the Company's sales forecasting explaining that "the general approach reflects widely accepted industry standards for electricity forecasting, including end-use regression modeling." (7T 2610-2657, 2617; Exhibits A-5, Schedule E1, A-15 Schedules E1, E2, E3, E4, and E5, and A-36 Schedules AA1, AA2, AA3, and AA4)⁶ As part of his forecast, Mr. Leuker correctly acknowledged and accounted for the trailing impacts of the COVID-19 pandemic on everyday life in the Company's electric service area.⁷

In light of the unprecedented impacts of the COVID-19 pandemic, the Company applied Michigan-specific Google Maps mobility data (sometimes described as a "wedge") to project trends in residential customer electric use, a practice being implemented throughout the country by other experts. (7T 2646 "Additionally, the use of mobility data has been examined and recommended by other industry experts such as Itron's Load Forecasting Group...") The Company tested the "wedge" in its sales models and it proved statistically significant. "The results show the Company's residential model has a model accuracy of 99.5% (or 0.5% error) with the use of

⁵ Mr. Leuker has been the Company's Manager of Corporate Energy Forecasting for over a decade. He brings substantial business research and analytical experience and is a member of the Edison Electric Institute's Load Forecasting Group and the Detroit Association for Business Economics. He has testified on topics involving electric forecasting in over 20 Commission proceedings. (7T 2611-2613)

⁶ Michigan's Constitution requires that the Commission's findings "be supported by competent material and substantial evidence on the whole record." Const. 1963, art 6, sec. 28.

⁷ Mr. Leuker explained "Additionally, resulting from the COVID-19 pandemic, Michigan mobility data was integrated into the model through a "wedge" due to the shift in electricity consumption patterns caused by shelter-in-place and social distancing policies." (7T 2619)

Google Mobility data, and a model accuracy of 93.7% (or 6.27% error) without the use of Google Mobility data for the first six months of 2021.” (7T 2646)

The Attorney General’s residential sales approach, on the other hand, is described in its entirety at 8T 4847-4853 and effectively relies on the unscientific conclusion that the 2021 COVID-19-impacted residential sales level will simply continue unabated into the future. (8T 4848-4852 “Based on the continued high average usage per customer the decline in residential sales to 15,114 GWh in the projected test year forecasted by the Company does not seem warranted...No direct connection has been presented showing that individuals moving around in a certain geographical area will result in changes in their electricity consumption. The link between those factors seems farfetched despite the statistical gyrations that Mr. Leuker’s [sic] may have done within his model. In fact, the increase in average residential customer usage in 2021, which is past the COVID-19 lockdown, undermines the results of the ‘wedge’ adjustment and the correlation to the mobility data. Therefore the ‘wedge’ factor used by Mr. Leuker likely understated the forecasted sales for the projected test year and more severely for the residential customer class.”) At bottom, the Attorney General’s witness dismisses scientific rigor⁸ in favor of the implausible assumption that the unprecedented electrical system load impacts of the COVID-19 era will not moderate in the future. This assumption is speculative and demonstrably incorrect.⁹ The actual residential sales data for 2022 provided by the Company in this case showed a 2.01% reduction from 2021, confirming that sales had already begun to decrease. (8T 5472)

⁸ The Company continually checks the accuracy of its sales forecast models and DTE Electric’s electric load forecasts consistently achieve better accuracy than peer utilities across the nation. (7T 2637-2638)

⁹ It is well established that an agency decision may not be based on speculation. *Ludington Service Corp v Comm’r of Insurance*, 444 Mich 481, 483, 494-97, 500-501, 507; 511 NW2d 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 NW2d 849 (2003); *Battiste v Dep’t*

Nevertheless, the Commission agreed with the AG’s forecast and criticized the “wedge” adjustment, stating that “six months of out-of-sample testing does not provide the analytical rigor with which the Commission expects companies to project sales multiple years into the future” (November 18 Order, p 250). But if such analytical rigor is the standard, then the Commission should have applied that same standard to the AG’s simplistic supposition.¹⁰ Instead, the sales proposal adopted by the Commission utilizes just one data point (2021 annual sales) with adjustments only for Energy Waste Reduction (EWR), distributed generation, and electric vehicles (8T 4852; Exhibit AG-1.38). Notably, this forecasting method was changed from those put forth by the Attorney General’s witness in past cases.¹¹ Changing forecasting methodologies repeatedly from case to case is unjustified, arbitrary, and lends itself to outcome-based data mining. In contrast, the Company has consistently employed an end-use approach to forecast residential sales – the most widely accepted methodology in the industry – with statistically demonstrated accuracy (7T 2648; Exhibit A-15, Schedule E5).¹² Staff’s analysis reached a similar conclusion utilizing more recent data than the Company used (which is an appropriate consideration) to arrive at an

of Social Services, 154 Mich App 486, 492; 398 NW2d 447 (1986) (holding that agency’s decision was not supported by evidence that a reasonable person would consider adequate).

¹⁰ An agency must act consistently, and cannot simply make *ad hoc* decisions to achieve different results. See, for example, *In re Application of Michigan Consolidated Gas Co*, 304 Mich App 155, 173; 850 NW2d (2014) (vacating decision where the MPSC “engaged in creative interpretation of the evidence and of its orders,” and “acted unreasonably, or capriciously” in setting a prospective pricing change, then applying that change retroactively); *In re Complaint of Consumers Energy Co*, 255 Mich App 496, 501; 660 NW2d 785 (2002) (reversing the MPSC because it misinterpreted and misapplied its own rule in order to reach its desired result).

¹¹ In U-20561, the AG utilized a *four year* Compound Annual Growth Rate (“CAGR”) on use per customer; in U-18255, the AG utilized a *six year* CAGR on use per customer, and in U-18014 the AG utilized a the *last historical year* use per customer. 7T 2649

¹² For example, the 2019 total sales forecast compared to total weather-normalized service area sales reflects 98.2% accuracy. On average, for historical years 2016 through 2019, the absolute percent variance for the total sales forecast is 0.77% (7T 2617, 2637; Exhibit A-15, Schedule E5, page 1). DTE Electric also achieves better accuracy than peer utilities across the nation in forecasting various customer classes, total sales, and peak demand (Leuker, 7T 2638; Exhibit A-15, Schedule E5, page 2).

initially recommended 17 GWh (0.11%) increase, to 15,131 GWh (8T 5470-73). Accordingly, the AG's sales forecast was not supported by competent, material and substantial evidence on the record and the Commission should reconsider adopting the recommendation of the PFD.

2. The Commission's rejection of mobility data in the Company's residential sales forecast creates conflicting guidance on the use of mobility data

As discussed above, both the AG and the Commission expressed concern that use of Google Mobility data was a "novel" approach " 'with no prior track record to show that the use of Google Maps mobility data can be an accurate predictor of future electric sales' " (November 18 Order at p. 250 citing the AG's witness testimony 8T 4851), but statistical significance, rather than number of times utilized, is the scientifically appropriate consideration when determining the best explanatory variable.¹³ Nevertheless, this is not the first time that mobility data has been utilized in Company sales forecasts that were approved by the Commission. In fact, sales forecasts utilizing similar mobility data were utilized in Case No. U-20826 (See Case No. U-20826 Docket Entry no. 88 at 3T 115 and October 5, 2022 Order at p.31 (accepting the Company's five-year forecast)) and Case No. U-20876 (See Docket No. U-20876-0115, 2T 221) without concern from the AG, the ALJ, or the Commission.

Notably, the *exact same* mobility data was utilized to forecast the impacts of COVID-19 on the Company's commercial and industrial sales in this case. (See 7 T 2621- 2622) Yet, the Commission adopted the Company's commercial and industrial sales forecasts that include and utilize the very same "wedge" adjustment that is criticized with respect to the residential sales

¹³ See November 18, 2022 Order p. 250 citing with approval the Attorney General's observation that "[t]his is the first time that [DTE Electric's 'wedge' adjustment] has been tried..." While the "wedge" may be relatively new, the unprecedented COVID-19 pandemic and resulting changes in electric consumer behaviors are a new variable which brought highly unusual electric load shifts; these COVID-19-driven load shifts required a new means to quantify this new variable. Mr. Leuker confirmed that "...historical relationships between economics and energy consumption cannot fully capture the variances associated with the impact of COVID-19." (7T 2623)

forecast. (See November 18 Order Attachment adopting the C&I sales as proposed in company Exhibit A16, Schedule F2; 7T 2620-2625) The Commission's decision to reject the use of mobility data for residential sales in this case, while allowing its use in other matters and for different customer classes creates conflicting guidance for electric utility sales forecasting going forward. DTE Electric utilizes a sophisticated statistical forecasting model, and as noted above mobility data has been recommended and utilized throughout the forecasting industry. The Commission's decision here puts the Company in the irreconcilable position of being able to use an industry recommended and tested forecasting methodology for anything other than residential base rates.

Additionally, had the AG and Commission uniformly applied the same methodology to account for COVID impacts across all of the Company's customer classes (i.e., the AG's assumption that 2021 sales patterns would continue into 2023 and beyond), the result would have shown a decrease from the Company's forecasted commercial and industrial sales of approximately 2,100 GWh.¹⁴ This incongruous result further demonstrates that the sales forecast adopted for the residential class is erroneous and arbitrary. Moreover, the underlying rationale for the AG's methodology is that the COVID conditions experienced in 2021 have not changed. If this is true, then the Commission should apply the AG's methodology to all customer classes rather than viewing residential COVID usage patterns in a vacuum. Therefore, the Company is requesting that the Commission reconsider its decision to adopt the AG's residential sales forecast, or otherwise apply that same methodology to all customer classes.¹⁵

¹⁴ Using the 2021 sales provided in the AG's testimony at 8T 4848 by sales class, and the customer counts provided by the Company in Exhibit A-16, Sch F3.

¹⁵ See for example, *Entergy Gulf States, Inc v. Louisiana Public Service Comm*, 730 So2d 890, 901 (1999) (reversing agency's decision as "untenable" and finding all its reasons to be "arbitrary or capricious or unsupported by the record."); *Bureau of Health Care Services v Pol*, unpublished opinion per curiam of the Court of Appeals, issued June 23, 2016 (Docket No. 327346; 2016 WL 3452174 at *7) (reversing agency decision). See also the United States Supreme Court in *Permian Basin* construing the 5th Amendment in conjunction with utility ratemaking "Regulation

3. *The Commission's correction of a material \$50M calculation error in the AG's evidence is not authorized by law*

The record in this case contains substantial evidence concerning the effect of the AG's proposed sales forecast methodology upon the Company's revenue deficiency:

Mr. Coppola calculated an alternative forecast for residential sales using the most recent average customer data from 2021 and adjusting for EWR, DG, and EV adoption, which yielded an increase of 796.4 GWh (for a total of 45,843.4 GWh) compared to the company's forecast. He recommended that the Commission should "reject the company's novel and unproven approach" and should instead accept his approach and include \$52,653,407 of additional revenue in this rate case to reduce the company's calculated revenue deficiency. (PFD, p. 459 (citing 8T 4843)) (emphasis added)

This proposed disallowance flowed through testimony, briefs, and the PFD. The Commission's November 18 Order also recognizes that the evidence presented in this case recommended a \$52M decrease in the Company's revenue deficiency:

The Attorney General calculated an alternative forecast for residential sales which yielded a 796.4 GWh upward adjustment for a total sales forecast of 45,843.4 GWh. 8T 4852. The Attorney General recommended an incremental sales revenue of \$52,652,407. 8T 4853; Exhibit AG-1.38. (November 18 Order, page 256.) (emphasis added)

It is a fundamental principle of Michigan administrative law that a state agency's decision in a contested case hearing must contain findings of fact and conclusions of law based upon competent, material, and substantial evidence.¹⁶ Moreover, an agency order that is not based upon

may, consistently with the Constitution, limit stringently the return recovered on investment, for investors' interests provide only one of the variables in the constitutional calculus of reasonableness (citations omitted). It is, however, plain that 'the power to regulate is not a power to destroy,' (citations omitted) and that maximum rates must be calculated for a regulated class in conformity with the pertinent constitutional limitations. Price control is 'unconstitutional if arbitrary, discriminatory, or demonstrably irrelevant to the policy the legislature is free to adopt.'" (*Permian Basin Area Rate Cases*, 390 US 747, 769-770; 88 S Ct 1344; 20 L Ed 2d 312 (1968))

¹⁶ See *Att'y Gen v Pub Serv Comm'n*, 269 Mich App 473, 479-80, 713 NW2d 290 (2005 final order of the PSC must be authorized by law and supported by competent, material, and substantial evidence on the whole record. Citing Const 1963, art 6, § 28.) See also *Att'y Gen v Pub Service Comm*, 165 Mich.App 230, 235; 418 NW2d 660 (1987).

record evidence is unreasonable.¹⁷ Here the Commission's finding that the Company's revenue deficiency should be reduced by \$100,750,000 based upon reliance on an unsupported forecast methodology, with a substantial mathematical error that the Commission had to look outside the record to correct, constitutes material error. This finding cannot be characterized as a ministerial correction of information because it nearly doubles the already significant revenue deficiency proposed by the AG.¹⁸ The error was not readily apparent to any party, nor the ALJ, thus the Commission could not correct the AG's proposed disallowance without reopening the record in the case.¹⁹ As such, the Commission's corrected sales forecast disallowance cannot stand and the Commission should adopt the recommendation of the PFD.

B. The Commission's order has unintended consequences

There are factual conflicts and legal errors with the adoption of the Attorney General's sales forecast, and the gravity of these errors is significant. The use of the AG's sales forecast, with the Commission's own corrections, creates financial conditions that are not conducive to the improvement of grid infrastructure programs necessary to ensure reliability amid threats such as aging infrastructure, severe weather, and cyber and physical security. These improvements are needed for the benefit of our customers, and the impact of the November 18 Order and the related regulatory uncertainty could make them particularly challenging.

¹⁷ See *In re Antrim Shale Formation re Operation of Wells Under Vacuum*, 319 Mich App 175, 181; 899 NW2d 799 (2017) ("An order is unreasonable if the evidence does not support it.").

¹⁸ See PFD, p. 459 (citing 8T 4843).

¹⁹ See e.g. *NLRB v Johnson*, 322 F2d 216, 220 (CA 6, 1963) (denying enforcement to part of agency order where "we cannot avoid the conclusion that the [issue that the agency decided] was an issue unrecognized by the respondent and not one that should have been readily perceived from the progress of the proceedings; *Consumers Power Co v United States Dep't of Energy*, 1982 WL 1149 (E.D. Mich, 1982) (reversing agency decision where "[e]ven if the decision were based upon substantial evidence, the Agency exceeded its authority in changing its theory of the case without notice to the parties").

DTE Electric will be financing and funding over \$6.5 billion of electric capital expenditures for the period January 2021 through October 2023. “In a period of intense capital investment, a sound capital structure and a favorable regulatory environment are essential to maintain the financial well-being of the Company.” (7T 1288) The Company needs access to capital to improve grid reliability and resilience and facilitate its generation transformation strategy. The significantly decreased rate relief in the November 18 Order creates cash flow pressures for the Company that could lead to a downgrade in the Company’s credit rating making it more difficult to access cost competitive capital. To mitigate this outcome, the Company will need to take unsustainable actions to lessen the consequences of the sales forecast revenue disallowance adopted in the November 18 Order.²⁰

Coupled with the material errors in adopting the AG’s forecasting methodology, these significant consequences warrant the Commission’s reconsideration of its sales forecast adjustment.

C. The Company will commit to its practice of voluntarily crediting customers to account for COVID-19 impacts over the next year

The Company recognizes that electricity consumption had previously shifted during the COVID-19 pandemic. However, adopting a sales number that assumes 2021 usage patterns will continue unchanged into future years for residential customers only, creates a dramatic and wholly unjustified revenue swing that unreasonably impacts the Company.

The Company is seeking a fair result and one that is supported by competent, material and substantial evidence on the record. Both the Company’s and the Staff’s sales forecast methodology and resulting revenue calculations, as recommended by the PFD, meet that evidentiary standard.

²⁰ For instance, reducing the Company’s call center operating hours, limiting hiring, eliminating contractors (impacting the local economy), and deferring or scaling back electrical system work.

Based on the discussion above, the Company is requesting that the Commission grant rehearing and adopt the recommendation of the PFD with respect to the Company's residential sales.

Recognizing that the Commission appears concerned that the post-COVID transition could create sales anomalies to the detriment of customers, if the Commission grants rehearing and approves the Company's (or Staff's) forecast methodology in its entirety, the Company will commit to continue the voluntary credit practice that it implemented in 2020 and 2021²¹ with respect to COVID related sales. In the event that incremental revenue is received due to greater than forecasted residential sales, the Company would commit to voluntarily credit customers via a mechanism similar to the COVID-related credits that the Commission approved for the Company in 2020 and 2021 and one that has been employed by other utilities throughout the pandemic.²²

The Company's commitment would span the twelve-month period beginning on the date that new rates are implemented following an order on this rehearing request. Within 60 days following this 12-month period, if there are excess residential sales, the Company will file a report in this docket outlining its refund calculation. If a refund is applicable, it will be based on the differential between actual weather normalized residential rate schedule D1²³ sales per customer and the forecasted average consumption per D1 customer.²⁴ This differential would be multiplied by the number of customers taking service on rate schedule D1 as approved in this case and then

²¹ See December 9, 2020 Order in Docket No. U-20921 granting the Company accounting authority to refund \$30M in the form of continued capital investment programs without an increase in rates; November 4, 2021 Order in Docket No. U-21128 authorizing accounting treatment to facilitate \$90M to advance the Company's tree trimming efforts while avoiding future customer expense for those investments.

²² See e.g., Case No. U-20932.

²³ Rate schedule D1 customers will become Rate schedule D1.11 customers in March of 2023 when the Company's time of use rates become effective. Actual weather normalized sales will reflect the full period sales for D1 / D1.11 customers.

²⁴ Utilizing D1/D1.11 sales as initially forecasted by the Company in this case.

the D1 ordered margin rate. The result of this calculation would be refunded as a one-time bill credit to customers with the ordered short-term interest rate of 1.74% applied.²⁵ The total refund would be capped at the amount of the initially ordered reduction in the revenue deficiency related to changes in the sales forecast, \$100,750,000.²⁶

Again, while the Company is not legally required²⁷ (nor legally prohibited)²⁸ from issuing a refund to customers, under these specific and unique circumstances, the Company will commit to this treatment if the Commission chooses to grant rehearing and adopt the PFD's sales forecast recommendation.

IV. REQUEST FOR RELIEF

DTE Electric respectfully requests that the Commission grant rehearing, adopt the recommendation of the PFD with respect to Company's sales forecast, and accept the Company's refund proposal.

²⁵ November 18 Order, p.243.

²⁶ November 18 Order, p.251.

²⁷ See *Detroit Edison Co v Pub Serv Comm*, 82 Mich App 59, 68; 266 NW2d 665 (1978).

²⁸ A voluntary refund is not ratemaking. See *Attorney General v Pub Serv Comm*, 206 Mich App 290, 297; 520 NW2d 636 (1994) ("We have previously held that retroactive ratemaking does not occur when 'one-time refunds are merely potential, not guaranteed,' in connection with a consensual agreement between a utility and the PSC that does not change existing rates and 'applies on a prospective basis only.'")

Respectfully submitted,

DTE ELECTRIC COMPANY

Legal Department

Dated: December 16, 2022

By: _____

Attorneys for Applicant
Andrea Hayden (P71976)
Jon P. Christinidis (P47352)
David S. Maquera (P66228)
Paula Johnson-Bacon (P55862)
Lauren D. Donofrio (P66026)
Carlton D. Watson (P77857)
Breanne K. Reitzel (P81107)
One Energy Plaza, 1635 WCB
Detroit, Michigan 48226
(313) 235-7706

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the Application of)
DTE ELECTRIC COMPANY for)
authority to increase its rates, amend its)
rate schedules and rules governing the)
distribution and supply of electric energy,)
and for miscellaneous accounting authority)

Case No. U-20836

PROOF OF SERVICE

STATE OF MICHIGAN)
) ss.
COUNTY OF WAYNE)

CAITLIN D. MYERS states that on December 16, 2022, she served a copy of DTE Electric Company's Petition for Rehearing in the above captioned matter, via electronic mail, upon the persons listed on the attached service list.

CAITLIN D. MYERS

MPSC Case No. U-20836

Discovery Service List

Page 1

ABATE

Michael J. Pattwell
Clark Hill PLC
212 E. Cesar E. Chavez Avenue
Lansing, MI 48906
mpattwell@clarkhill.com

Stephen A. Campbell
Clark Hill PLC
500 Woodward Avenue, Suite 3500
Detroit, MI 48226
scampbell@clarkhill.com

Consultants:

Jim Dauphinais
Brian C. Andrews
Chris Walters
Jessica York
Dwain Shelby
jdauphinais@consultbai.com
bandrews@consultbai.com
cwalters@consultbai.com
jyork@consultbai.com
dshelby@consultbai.com

**BLOOM ENERGY; CHARGEPOINT, INC.;
ENERGY MICHIGAN, INC.; MICHIGAN
ENERGY INNOVATION BUSINESS COUNCIL;
INSTITUTE FOR ENERGY INNOVATION**

Laura A. Chappelle
Timothy J. Lundgren
Justin K. Ooms
Laura Sherman
Justin Barnes
Matthew Deal
Potomac Law Group PLLC
120 N. Washington Square, Suite 300
Lansing, MI 48933
lcappelle@potomacclaw.com
tlundgren@potomacclaw.com
jooms@potomacclaw.com
laura@mieibc.org
jbarnes@eq-research.com
matthew.deal@chargepoint.com

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

Christopher M. Bzdok
Tracy Andrews
Jill Smigielski

Kimberly Flynn
Karla Gerds
Breanna Thomas
Tyler Comings
Joshua Castigliego
Tanya Stasio
David Garrett
Robert Ozar
Olson, Bzdok & Howard, P.C.
420 East Front Street
Traverse City, MI 49686
chris@envlaw.com
tjandrews@envlaw.com
jill@enlaw.com
kimberly@envlaw.com
karla@envlaw.com
breanna@envlaw.com
tyler.comings@aeclinic.org
Joshua.castigliego@aeclinic.org
tanya.stasio@aeclinic.org
dgarrett@resolveuc.com
rozar@5lakesenergy.com

Shannon Fisk
sfisk@earthjustice.org
Hema Lochan
hlochan@earthjustice.org

**CITY OF ANN ARBOR; MICHIGAN
MUNICIPAL ASSOCIATION FOR
UTILITY ISSUES**

Valerie J.M. Brader
Valerie Jackson
Rick Bunch
Rivenoak Law Group P.C.
3331 W. Big Beaver Rd., Suite 109
Troy, MI 48084
valerie@rivenoaklaw.com
valeriejackson@rivenoaklaw.com
rick@mi-maui.org
ecf@rivenoaklaw.com

**ENVIRONMENTAL LAW AND POLICY
CENTER/ECOLOGY CENTER/SOLAR
ENERGY INDUSTRIES
ASSOCIATION/VOTE SOLAR**

Heather Vogel
Alondra Estrada
Daniel Abrams
Bradley Klein
Kevin Lucas
William Kenworthy

MPSC Case No. U-20836

Discovery Service List

Page 2

Charles Griffith
James Gignac
1514 Wealthy Street SE, Suite 256
Grand Rapids, MI 49506
hvogel@elpc.org
astrada@elpc.org
MPSCDocket@elpc.org
dabrams@elpc.org
bklein@elpc.org
klucas@seia.org
will@votesolar.org
charlesg@ecocenter.org
jgignac@ucsusa.org

Nicholas J. Schroeck
University of Detroit Mercy School of Law
Environmental Law Clinic
651 E. Jefferson,
Detroit, MI 48226
schroenj@udmercy.edu

EVGO SERVICES, LLC

Brian R. Gallagher
Moblo Fleming PC
93555 Orchard Hill Pl., Ste 310
Novi, MI 48375
bgallagher@moblofleming.com

Nikhil Vijaykar
Keyes & Fox LLP
580 California Street, 12th Floor
San Francisco, CA 94104
nvijaykar@keyesfox.com

GERDAU MACSTEEL, INC.

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

Consultant:

Jeffrey Pollock
Joseph Selsor
Kitty Turner
JCP@jpollockinc.com
JMS@jpollockinc.com
KAT@jpollockinc.com

**GREAT LAKES RENEWABLE ENERGY
ASSOCIATION INC.; RESIDENTIAL
CUSTOMER GROUP**

Don L. Keskey
Brian W. Coyer
Carol Dane
John Richter
Emily Prehoda
John Freeman
Robert Rafson
University Office Place
333 Albert Avenue, Suite 425
East Lansing, MI 48823
donkeskey@publiclawresourcecenter.com
bwcoyer@publiclawresourcecenter.com
adminasst@publiclawresourcecenter.com
energyprophet@comcast.net
emily@charthouseenergy.com
jfreeman13@comcast.net
rob@charthouseenergy.com

**INTERNATIONAL TRANSMISSION
COMPANY**

Richard J. Aaron
Olivia R.C.A. Flower
201 Townsend Street, Suite 900
Lansing, MI 48933
RAaron@dykema.com
OFlower@dykema.com
mpscfilings@dykema.com

MICHIGAN ATTORNEY GENERAL

Joel King
Assistant Attorney General
ENRA Division
525 W. Ottawa Street, 6th Floor
P.O. Box 30755
Lansing, MI 48909
KingJ38@michigan.gov
ag-enra-spec-lit@michigan.gov

Amanda Churchill
ChurchillA1@michigan.gov

Consultants:

Sebastian Coppola
David Dismukes
Michael Deupree
David Kantrow
Stephen Butler
Andrea Attipoe
Taylor Deshotels

Tyler French
Emily Mouch
Cameron Cates
sebcoppola@corplytics.com
daviddismukes@acadianconsulting.com
michaeldeupree@acadianconsulting.com
davidkantrow@acadianconsulting.com
stephenbutler@acadianconsulting.com
andreaattipoe@acadianconsulting.com
taylorshotels@acadianconsulting.com
tylerfrench@acadianconsulting.com
emilymouch@acadianconsulting.com
cameroncates@acadianconsulting.com

MICHIGAN CABLE TELECOMMUNICATIONS ASSOC.

Michael S. Ashton
Fraser Trebilcock Davis & Dunlap
124 West Allegan Street, Suite 1000
Lansing, MI 48933
mashton@fraserlawfirm.com
ljohnson@fraserlawfirm.com

MPSC STAFF

Benjamin J. Holwerda
Spencer A. Sattler
Daniel E. Sonneveldt
Nicholas Q. Taylor
Lori Mayabb
Naomi Simpson
Jon DeCooman
Marceline Champion
Lisa M. Kindschy
Jesse Harlow
Tayler Becker
Stephanie Haney
Joy Wang
Theresa McMillan-Sepkoski
Jim LaPan
Danielle Rogers
Anne Armstrong
Nicholas Evans
Elaina Braunschweig
Shannon Rueckert
Charles Putnam
7109 West Saginaw Hwy, 3rd Fl
Lansing, MI 48917
holwerdab@michigan.gov
sattlers@michigan.gov
sonneveldtd@michigan.gov
taylorn10@michigan.gov
mayabbl@michigan.gov

simpsonn3@michigan.gov
DeCoomanJ@michigan.gov
ChampionM1@michigan.gov
kindschyl@michigan.gov
harlowj@michigan.gov
beckert4@michigan.gov
haneys1@michigan.gov
wangj3@michigan.gov
mcmillan-sepkoskit@michigan.gov
lapanj@michigan.gov
RogersD8@michigan.gov
ArmstrongA3@michigan.gov
EvansN@michigan.gov
BraunschweigE@michigan.gov
RueckertS@michigan.gov
PutnamC@michigan.gov

SOULARDARITY; WE WANT GREEN, TOO

Andrew Bashi
Jackson Koepfel
Great Lakes Environmental Law Center
4444 Second Avenue
Detroit, MI 48201
andrew.bashi@glelc.org
jkoepfel.consulting@gmail.com

Mark Templeton
Simone Gewirth
Meera Gorjala
So Jung Kim
Julian Manasse-Boetani
Jacob Pavlecic
Darice Xue
University of Chicago Law School
Abrams Environmental Law Clinic
6020 South University Avenue
Chicago, IL 60637
templeton@uchicago.edu
sgewirth@uchicago.edu
gorjala@lawclinic.uchicago.edu
jfmanbo@lawclinic.uchicago.edu
jpavlecic@lawclinic.uchicago.edu
ddxue@lawclinic.uchicago.edu
sjmkim@lawclinic.uchicago.edu
aelc_mpsc@lawclinic.uchicago.edu

THE KROGER CO.

Kurt J. Boehm

MPSC Case No. U-20836
Discovery Service List
Page 4

Jody Kyler Cohn
Michael L. Kurtz
Boehm, Kurtz & Lowry
36 East Seventh Street, Suite 1510
Cincinnati, OH 45202
kboehm@BKLawfirm.com
jkylercohn@BKLawfirm.com
mkurtz@BKLawfirm.com

Consultant:

Justin Bieber
jbieber@energystrat.com

UTILITY WORKERS LOCAL 223

John A. Canzano
Ben King
Mcknight, Canzano, Smith Radtke & Brault, P.C.
423 N. Main Street, Suite 200
Royal Oak, MI 48067
jcanzano@michworkerlaw.com
king@michworkerlaw.com

WALMART, INC.

Melissa M. Horne
Higgins, Cavanagh & Cooney, LLP
10 Dorrance Street, Suite 400
Providence, RI 02903
mhorne@hcc-law.com

ZECO SYSTEMS, INC. d/b/a GREENLOTS

Sean P. Gallagher
Thomas Ashley
Kathryn Chelminski
Gallagher Law
321 West Lake Lansing Road
East Lansing, MI 48823
sgallagher@fraserlawfirm.com
tom@shellrecharge.com
kchelminski@shellrecharge.com