

**STATE OF MICHIGAN**

**BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION**

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In the matter, on the Commission's own motion,	)	
to revise the standard rate application filing forms	)	Case No. U-18238
and instructions previously adopted in Case	)	
No. U-15895.	)	
_____	)	

**COMMENTS OF THE  
ASSOCIATION OF BUSINESSES ADVOCATING TARIFF EQUITY**

**I. INTRODUCTION**

Pursuant to the Michigan Public Service Commission ("Commission")'s August 11, 2022 Order in this proceeding Commission Staff filed its Final Proposal regarding Rate Case Standard Filing Requirements revisions on January 10, 2023. The Association of Businesses Advocating Tariff Equity's comments thereon are provided below.

**II. COMMENTS**

**A. Staff recommendations regarding information pertaining to utility spending and projections should be included.**

Staff's Final Proposal notes that "Staff removed proposed language regarding overspend and conditions/stipulations that were found in the Part I – Instructions" from its earlier draft proposal. (Final Proposal at 3.) Specifically, Staff removed the following proposed language:

If the utility spent more than what was approved in a prior/different case and seeks recovery of part or all of the amount it overspent then the utility shall identify each such item (expense, capital expenditure, or otherwise). The utility shall provide documentation and explanation for each item of overspend.

...

From the most recent rate case, list any capital expenditures or expenses approved subject to conditions, along with any separate mandates or requests not tied to approved capital expenditures or expenses. The utility should further explain whether each condition, mandate, or request was fulfilled and how.

These are important provisions for providing interested parties and the Commission a clearer understanding of both utility spending circumstances and the reasonableness and prudence of revenue increase requests. Conceptually they are also generally reasonable if modified.<sup>1</sup>

**1. Utilities should provide more information regarding variances between projections and spending.**

Regarding the first provision listed above, DTE Electric Company and DTE Gas Company's November 3, 2022 comments provided the following:

The draft RCFR adds a requirement for utilities to provide documentation and explanation for each item that was "overspent" in comparison to the projections made in the prior rate case, if the utility seeks recovery of amounts spent above the previous projections. The use of the term "overspend" is misplaced here as the Companies' projections are not intended to be capped spending levels. In fact, for example, DTE has removed contingency from the majority of its projections even though we know that costs will vary from the projected amounts. Overspend implies that utilities are prohibited from spending additional sums above those that were forecasted in its projections, which is not the appropriate legal analysis. It is important to note that the projections provided in each rate case are not budgets – rather they are forecasted amounts based on the best information available at the time. The Companies do not believe this exhibit is necessary, and it is not clear what the perceived benefit or usefulness will be. If the Commission chooses to implement this requirement, the Companies recommend a minimum reporting threshold of 20%.

Similarly, Consumers Energy Company's November 3, 2022 comments requested "that a filing requirement of this nature include a materiality threshold of spending that is 20% or more above what was approved in a prior case" and requested "clarification that this would apply to

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<sup>1</sup> Regarding both provisions the Michigan Electric and Gas Association ("MEGA")'s November 3, 2022 comments stated the following:

These requirements are overbroad in they do not set a reasonable threshold. The requirements also fail to acknowledge there may not be specific amounts of capital expenditures approved in a rate case if it results in a black box negotiated settlement agreement. In such event, the utility would not be able to provide specific approved amounts unless they were specified in the Commission's approval of such a settlement agreement. These requests amount to accounting after the fact and should not be included in the Requirements.

categories of programs included in rate case filings,” claiming that “[w]ithout these clarifications this request would be unreasonably burdensome.”

In addressing DTE’s concerns, it should be noted that Staff’s previously-proposed provision addressed a utility spending “more than what was approved in a prior/different case and seek[ing] recovery of part or all of the amount it overspent.” In other words, the proposed provision pertained to spending in excess of what the Commission had previously approved for recovery, not a variance from a utility projection. As such the Commission should require this provision be added to the Rate Case Standard Filing Requirements and require that, for categories of programs included in rate case filings, if a utility seeks recovery of part or all of a spent amount above what the Commission had approved for recovery in a prior or different case, the utility must document and explain why it spent more than the Commission had approved for recovery. It would be reasonable to limit the applicability of this provision to recovery of additional spending in categories of programs included in rate case filings, and to amounts more than 20% above what the Commission had approved in a prior or different case.

**2. Utilities should provide more information regarding capital expenditures tied to conditions, mandates, or requests.**

Regarding the second proposed provision listed above, DTE Electric Company and DTE Gas Company’s November 3, 2022 comments provided the following:

Staff also suggests that utilities list any capital expenditures or expenses approved subject to conditions, along with any separate mandates or requests not tied to approved capital expenditures or expenses, and how each condition, mandate, or request was fulfilled. If the Commission sets requirements or conditions around spending or otherwise, the Companies address these requirements within the testimony of each witness supporting the respective spend or requirement. If the Commission implements this recommendation, the Companies recommend that Commission maintain flexibility in the method of presenting this information. For clarity and consistency, the Companies also recommend “condition, mandate, or request” should be limited to those items listed in the ordering paragraphs of the final order of a utility’s previous general rate case.

This requested modification of Staff's previously-proposed provision is reasonable and also addresses MEGA's concern. (See supra n 1.) As such the Commission should require Staff's previously-proposed provision be included in the rate case filings requirements as modified by Consumers' requested clarification.

### **III. CONCLUSION**

Pursuant to the Commission's solicitation of comment and for the reasons set forth herein, ABATE recommends the Commission revise the Rate Case Standard Filing Requirements in accordance with the above comments as well as those previously submitted by ABATE in this docket.

Respectfully submitted,

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