



201 N. Washington Square • Suite 910
Lansing, Michigan 48933
Telephone 517 / 482-6237 • www.varnumlaw.com

Timothy J. Lundgren

Direct: 616 / 336-6750
tjlundren@varnumlaw.com

December 22, 2016

Ms. Kavita Kale
Michigan Public Service Commission
7109 W. Saginaw Highway
P.O. Box 30221
Lansing, Michigan 48909

Re: MPSC Case No. U-18014

Dear Ms. Kale,

Attached for electronic filing in the above-referenced matter, please find Energy Michigan Inc.'s Reply to Exceptions to the Proposal for Decision, as well as Proof of Service. Thank you for your assistance in this matter.

Sincerely yours,

VARNUM

Timothy J. Lundgren

TJL/kc

c. ALJ
Parties

11276968_1.docx

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-18014

REPLY TO EXCEPTIONS

OF

ENERGY MICHIGAN, INC.

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) Case No. U-18014
distribution and supply of electric energy, and)
for miscellaneous accounting authority.)
_____)

REPLY TO EXCEPTIONS OF ENERGY MICHIGAN, INC.

On December 8, 2016, DTE Electric Company (“DTE”) filed its Exceptions to the Proposal for Decision (“PFD”) issued by the Administrative Law Judge (“ALJ”) in this case. Energy Michigan’s Reply to DTE’s Exceptions focuses on two issues: 1) DTE’s proposal that the Commission should approve its economic development costs; 2) DTE’s proposal that the Commission adopt its proposed language for Retail Access Service Rider EC2.

Energy Michigan’s failure here to reply to other Exceptions of DTE or any other party does not signify an agreement with those Exceptions, nor a waiver of the positions it has taken in its testimony and briefing with respect to the issues raised in this case.

Economic Development Costs

DTE’s exceptions provide no new arguments nor any new basis for reversing the well-reasoned conclusions of the PFD. As the PFD noted, economic development is not a core utility function and the utility’s customers should not be made to bear the costs of DTE promoting its business. DTE is free to spend shareholder money on economic development activities. DTE’s “interest” in seeing economic growth in its service territory does not mean that promoting such

growth is a core utility function that ratepayers should fund. DTE also fails to address the concerns voiced by Energy Michigan, that even if it were true that there was a direct benefit to DTE's ratepayers from the proposed economic development activities (which DTE has not shown), such a benefit would not accrue to distribution-only customers such as those on electric choice, as the increased sales of electricity would at best only aid in spreading fixed generation costs more broadly. 6 Tr 1714-1718. As retail choice customers do not pay such costs, they would not see the benefit of these expenditures, and so should not be required to reimburse the utility for making them. For these reasons, as well as those set forth in its testimony and brief, Energy Michigan supports the conclusions of the PFD and objects to DTE's Exception seeking approval of economic development expenses.

Retail Access Service Rider EC2

For reasons that Energy Michigan's Alex Zakem addressed (6 Tr 1722–1724), and the PFD discussed at some length (pp. 301–304), DTE's proposal to have sole discretion to determine when the installation of separate metering at a customer site is impractical is unfair to customers. DTE's response in its Exceptions, that in order to fulfil its responsibility “for the design and installation of its revenue meters” it “must have sole discretion to determine if the installation of separate metering is impractical and may be waived” is not responsive to that concern. Exceptions p. 105. No one is proposing to tell DTE how to design and install its meters, instead the issue is whether customers are able to challenge DTE's determination that an installation would be impractical at the customer's site or not. DTE points out that the company is currently making such determinations “without incident” and “the Company is not aware of any complaints.” Exceptions p. 105. If that is the case, it is difficult to see what harm the

company suffers if a customer is able to challenge the utility's determination. Apparently such challenges would be extremely rare, and so would not be an undue burden on the utility while it would preserve the due process rights of customers and enable the Commission to continue to play its traditional role of providing a check on the unbridled discretion of the utility in the treatment of its customers.

For these reasons, as well as those set forth in its testimony and brief, Energy Michigan supports the conclusions of the PFD accepting Energy Michigan's amended language for Retail Access Service Rider EC2 and objects to DTE's Exception seeking approval of its own amended language.

WHEREFORE, Energy Michigan hereby respectfully requests that the Commission:

- A. Accept the recommendation in the PFD to reject recovery of costs for the Economic Development Program proposed by DTE from ratepayers; and
- B. Accept the recommendation in the PFD to amend the Retail Access Service Rider EC2 in accordance with the amended language provided by Energy Michigan witness, Mr. Alex Zakem, so as to ensure customers a role in decision-making over metering on their sites; and
- C. Provide such other and further relief as the Commission may find lawful and appropriate.

Respectfully submitted,

Varnum LLP
Attorneys for Energy Michigan, Inc.

December 22, 2016

By: _____

Laura A. Chappelle (P42052)
Timothy J. Lundgren (P62807)
The Victor Center
201 N. Washington Square, Ste. 910
Lansing, MI 48933
517/482-6237

11279892_1.docx

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-18014

PROOF OF SERVICE

STATE OF MICHIGAN)
) ss.
COUNTY OF INGHAM)

Kimberly Champagne, the undersigned, being first duly sworn, deposes and says that she is a Legal Secretary at Varnum LLP and that on the 22nd day of December, 2016, she served a copy of Energy Michigan, Inc.'s Reply to Exceptions to the Proposal for Decision in the above-referenced case, as well as this Proof of Service, on the Persons identified on the attached service list via electronic mail.

Kimberly Champagne

SERVICE LIST
MPSC Case No. U-18014

Administrative Law Judge

Hon. Sharon Feldman
Administrative Law Judge
Michigan Public Service Comm.
7109 W. Saginaw Hwy., 3rd Floor
Lansing, MI 48917
feldmans@michigan.gov

Counsel for Attorney General

Bill Schuette

Michael Moody
Celeste R. Gill
John A. Janiszewski
525 W. Ottawa St., 6th Floor
Williams Bldg.
PO Box 30755
Lansing, MI 48909
moodym2@michigan.gov
gillc1@michigan.gov
JaniszewskiJ2@michigan.gov

Counsel for MPSC Staff

Lauren D. Donofrio
Amit T. Singh
Graham Filler
7109 W. Saginaw Hwy., 3rd Floor
Lansing, MI 48919
donofriol@michigan.gov
singha9@michigan.gov
fillerg@michigan.gov

**Counsel for Michigan Cable
Telecommunications Association**

David E. S. Marvin
Fraser, Trebilcock, Davis & Dunlap, P.C.
124 W. Allegan, Ste. 1000
Lansing, MI 48933
dmarvin@fraserlawfirm.com

Counsel for DTE Electric Company

Jon P. Christinidis
Richard P. Middleton
Michael J. Solo
David S. Maquera
Andrea Hayden
One Detroit Plaza, 688 WCB
Detroit, MI 48826
christinidisj@dteenergy.com
middletonr@dteenergy.com
solom@dteenergy.com
maquerad@dteenergy.com
andrea.hayden@dteenergy.com
mpscfilings@dteenergy.com

**Counsel for Association of Businesses
Advocating Tariff Equity**

Robert A.W. Strong
Clark Hill PLC
151 S. Old Woodward Ave., Ste. 200
Birmingham, MI 48009
rstrong@clarkhill.com

Sean P. Gallagher
Michael J. Pattwell
Clark Hill, PLC
212 E. Grand River Ave.
Lansing, MI 48906
sgallagher@clarkhill.com
mpattwell@clarkhill.com

James Dauphinais
Michael Gorman
Brubaker & Associates, Inc.
16690 Wingley Ridge Road, Suite 140
Chesterfield, MO 63017
jdauphinais@consultbai.com
mgorman@consultbai.com

Counsel for Michigan Environmental Council, Natural Resources Defense Council and Sierra Club

Christopher M. Bzdok
Tracy J. Andrews
Olson, Bzdok & Howard P.C.
420 East Front St.
Traverse City, MI 49686
chris@envlaw.com
tjandrews@ymail.com
karla@envlaw.com
kimberly@envlaw.com

Casey A. Roberts
Sierra Club
85 Second St., 2nd Floor
San Francisco, CA 94105
Casey.roberts@sierraclub.org

Shannon Fisk
Earthjustice
1617 John F. Kennedy Blvd., Suite 1130
Philadelphia, PA 19103
sfisk@earthjustice.org

Counsel for The Kroger Co.

Kurt J. Boehm
Jody Kyler Cohn
Boehm, Kurtz & Lowry
36 East Seventh St., Ste. 1510
Cincinnati, Ohio 45202
KBoehm@BKLawfirm.com
JKylerCohn@BKLawfirm.com

Anthony J. Szilagyi
Law Offices of Anthony J. Szilagyi, PLLC
110 South Clemens Ave.
Lansing, Michigan 48912
szilagylaw@sbcglobal.net

Kevin Higgins
Energy Strategies, LLC
Parkside Towers
215 South State Ste, Ste. 200
Salt Lake City, Utah 84111
khiggins@energystrat.com

Counsel for Utility Workers Local 223

John Canzano
Lilyan N. Talia
Mcknight, Mcclow, Canzano,
Smith & Radtke, P.C.
400 Galleria Officentre, Ste. 117
Southfield, MI 48034
jcanzano@michworkerlaw.com
ltalia@michworkerlaw.com

Counsel for Residential Customer Group

Brian W. Coyer
Don L. Keskey
Public Law Resource Center, PLLC
University Office Place
333 Albert Ave., Ste. 425
East Lansing, MI 48823
bwcoyer@publiclawresourcecenter.com
donkeskey@publiclawresourcecenter.com

Counsel for Detroit Public Schools

Michael G. Olivia
Leah J. Brooks
Loomis, Ewert, Parsley, Davis & Gotting, PC
124 W. Allegan St., Ste. 700
Lansing MI 48933
mgoliva@loomislaw.com
ljbrosks@loomislaw.com

Counsel for Wal-Mart Stores East, LP, and Sam's East, Inc.

Tyler D. Tennent
Dawda, Mann, Mulcahy & Sadler, PLC
39533 Woodward Ave., Ste. 200
Bloomfield Hills, MI 48304
ttennent@dmms.com

Rick D. Chamberlain
Behrens, Wheeler & Chamberlain
6 N.E. 63rd St., Ste. 400,
Oklahoma City, OK 73105
rdc.law@gmail.com

**Counsel for Municipal Street Lighting
Coalition**

Constance De Young Groh
John R Liskey Attorney At Law
921 N. Washington Ave
Lansing, MI 48906
cdgroh@liskeypllc.com