BOEHM, KURTZ & LOWRY
ATTORNEYS AT LAW
36 EAST SEVENTH STREET, SUITE 1510
CINCINNATI, OHIO 45202
TELEPHONE (513) 421-2255
TELECOPIER (513) 421-2764

VIA ELECTRONIC CASE FILING

December 11, 2019

Kavita Kale, Executive Secretary
Michigan Public Service Commission
7109 W. Saginaw Highway
Lansing, MI 48909

Re: Case No. U-20561

Dear Ms. Kale:

Please find attached the **REVISED** DIRECT TESTIMONY OF JUSTIN BIEBER on behalf of THE KROGER CO. and its PROOF OF SERVICE for filing in the above captioned matter.

Please place this document of file. Thank you for your assistance in this matter.

Very truly yours,

Kurt J. Boehm, Esq. Digitally signed by Kurt J. Boehm, Esq. Date: 2019.12.11 13:38:18 -05'00'

Kurt J. Boehm, Esq.
Jody Kyler Cohn, Esq.
Michael L. Kurtz, Esq., (Michigan ##P67067)
BOEHM, KURTZ & LOWRY

MLKkew
Enclosure
Cc: Administrative Law Judge Sharon Feldman(feldmans@michigan.gov)

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-20561

REVISED

Direct Testimony of Justin Bieber

on behalf of

The Kroger Co.

November 6, 2019

Introduction

Q. Please state your name and business address.

A. My name is Justin Bieber. My business address is 215 South State Street, Suite 200, Salt Lake City, Utah, 84111.

Q. By whom are you employed and in what capacity?

A. I am a Senior Consultant for Energy Strategies, LLC. Energy Strategies is a private consulting firm specializing in economic and policy analysis applicable to energy production, transportation, and consumption.

Q. On whose behalf are you testifying in this proceeding?

A. My testimony is being sponsored by The Kroger Co. ("Kroger"). Kroger is one of the largest retail grocers in the United States, and operates more than 80 facilities in the territory served by DTE Electric Company ("DTE" or the "Company"). DTE delivers more than 200 million kWh annually to Kroger's facilities, which are mostly served under Rate Schedule No. D11, Primary Supply Rate. The majority of Kroger's accounts receive Retail Access Service, but some of Kroger's accounts receive Full Service from DTE.

Q. Please describe your professional experience and qualifications.

A. My academic background is in engineering and business. I earned a Bachelor of Science in Mechanical Engineering from Duke University in 2006 and a Master of Business Administration from the University of Southern California in 2012. I am also a registered Professional Civil Engineer in the state of California.

I joined Energy Strategies in 2017, where I provide regulatory and technical analyses on a variety of energy issues, including regulatory services, transmission

and renewable development, and financial and economic analyses. During the time I have worked at Energy Strategies, I have filed and supported the development of testimony before various different state utility regulatory commissions.

Prior to joining Energy Strategies, I held positions at Pacific Gas and Electric Company as Manager of Transmission Project Development, ISO Relations and FERC Policy Principal, and Supervisor of Electric Generator Interconnections. During my career at Pacific Gas and Electric Company, I supported multiple facets of utility operations, and led efforts in policy, regulatory, and strategic initiatives, including supporting the development of testimony before and submittal of comments to the FERC, California ISO, and the California Public Utility Commission.

Q. Have you testified previously before this Commission?

A. Yes. I filed testimony in Consumers Energy Company's 2018 Rate Case, Case No. U-20134 and DTE's 2018 Rate Case, Case No. U-20162.

Q. Have you filed testimony previously before any other state utility regulatory commissions?

A. Yes. I have testified before the Colorado Public Utilities Commission, the Indiana Utility Regulatory Commission, the Kentucky Public Service Commission, the Montana Public Service Commission, the North Carolina Utilities Commission, the Public Utilities Commission of Ohio, the Public Utility Commission of Oregon, the Utah Public Service Commission, and the Public Service Commission of Wisconsin.

Overview and Conclusions

Q. What is the purpose of your testimony in this proceeding?

A. My testimony addresses the following issues in DTE's general rate case filing:

1) DTE's reliability issues;
2) DTE's inclusion of inflation in calculating its projected test period non-labor operations and maintenance ("O&M") expenses; and,
3) the primary customer charge.

Q. Please summarize your recommendations to the Commission.

A. Based on my review of DTE's direct filing, I am providing the following recommendations:

1) In its filing DTE acknowledges its poor reliability performance. If fact, DTE has consistently been ranked in the fourth (worst) quartile in the industry, based on its System Average Interruption Duration Index (SAIDI) metrics.[1] At the same time, DTE has already received $775 million in authorized rate increases since 2015, the second highest in the nation,[2] and is requesting an additional $351 million rate increase in this case. Providing reliable service is a fundamental responsibility for a utility. Given DTE's extraordinary rate increases and consistent fourth quartile reliability performance, I recommend that the Commission authorize a Reliability Incentive Mechanism ("RIM") that will provide a credit from the Company to its customers until it achieves at least one

[1] Direct Testimony of Marco A. Bruzzano, p. 11.
[2] S&P Global Market Intelligence, SNL Energy Data, Past Rate Cases.

full year of average reliability performance or better. This will provide the Company an incentive to actually improve its reliability, instead of continuing to raise rates without improving performance.

2) I recommend that inflation be removed from DTE's projected test year non-labor Operations and Maintenance (O&M) expense. The best evidence of what it costs DTE for non-labor O&M is the Company's actual costs recorded in the historical period, adjusted for certain known and measurable changes. The cost increases represented by DTE's inflation assumption may or may not come to fruition. In any case, DTE should be expected to strive to improve its O&M efficiency on a continuous basis, and thereby lessen the net impact of inflation on its O&M costs. It is not reasonable to simply gross up the Company's historical period non-labor costs by an inflation factor and pass these costs on to customers.

3) In DTE's prior 2018 rate case, the Commission ordered that the primary voltage customer charge should be calculated using the same methodology that has consistently been used to determine the residential and commercial customer charges.[3] Under this previously approved method, the costs to be included in the customer charge are the marginal costs associated with attaching a customer to the system. Although the proposed primary customer charges in this case would represent an increase of over 40%, DTE's proposed methodology to determine the

[3] May 2, 2019 Final Order, Case No. U-20162, pp. 137-170.

primary voltage customer charge is consistent with prior Commission orders. While I am not taking a position regarding level of costs included in the customer charge, I do support the *methodology* that DTE has utilized to develop a cost-based primary customer charge in this case.

SERVICE RELIABILITY ISSUES

Q. How does DTE measure its service reliability?

A. According to DTE witness Marco Bruzzano, the Company's primary focus with respect to reliability is on the SAIDI metric. SAIDI measures the average time that customers are without power in a year because it measures both the frequency and the duration of the interruptions. DTE measures an all-weather SAIDI, which includes all outages, and SAIDI excluding major event days (MEDs), which excludes days with outages that exceed a size threshold in order to isolate the impact of severe weather events.[4]

Q. What is DTE's assessment of its own reliability service performance?

A. According to Mr. Bruzzano, DTE's SAIDI excluding MEDs has consistently been in the fourth (worst) quartile of the industry for the past several years.[5]

Q. Can you identify any other important indicators of reliable service?

A. Power quality is another important component of reliable service. In addition to enduring DTE's high outage rates, I understand that Kroger has

[4] Direct Testimony of Marco A. Bruzzano, p. 11.
[5] Id.

experienced numerous single-phase outages, voltage fluctuations, and power sag events. These types of power quality issues can require equipment to be shut down or risk significant and expensive damage to the equipment.

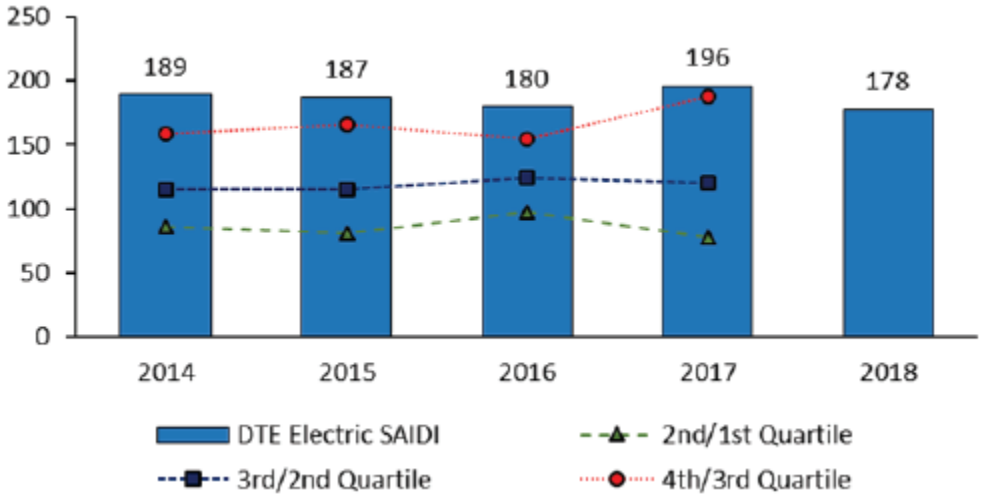
Q. What actions do you recommend regarding DTE's service reliability issues?

A. Despite the extraordinary rate increases that DTE has received over the past several years, it consistently continues to provide some of the least reliable service in the nation, relative to its peers in the industry. It is frustrating for customers to be contending with significant proposed rate increases in the face of sub-par service quality that negatively impact operations. The Company needs an effective mechanism to incentivize it to improve its poor reliability performance. I recommend that in approving any rate increase, the Commission establish a Reliability Improvement Mechanism ("RIM") that will provide a credit from the Company to its customers until it achieves at least one full year of average reliability performance or better.

Q. Please explain how your proposed Reliability Improvement Mechanism would function.

A. The RIM would be a simple mechanism that would provide a per kWh credit to all customers until the time when DTE achieves two quarters in a row of average reliability performance or better, as measured by SAIDI – Excluding MEDs. The average SAIDI – Excluding MEDs is represented by the dotted line with the square dots in the graph of DTE's SAIDI performance provided by DTE witness Mr. Bruzzano, and reproduced in Figure KRO-1 below.

Figure KRO-1
DTE SAIDI Performance
SAIDI – Excluding MEDs[6]



Q. How should the Commission determine the amount of the proposed RIM credit?

A. I recommend that a RIM credit equal to the revenue requirement impact that would result from 10 basis point differential in the Company's return on equity ("ROE") would be a reasonable credit to incentivize DTE to improve its reliability performance. Based on DTE's proposed rate base and capital structure in this case, the proposed RIM credit would be $9.4 million. The derivation of the proposed RIM credit is shown in Table KRO-1 below. To the extent that the Commission approves a different level of used and useful rate base in this case, the RIM credit should be adjusted accordingly.

[6] Reproduced from the Direct Testimony of Marco A. Bruzzano, p. 12, Figure 2.

Table KRO-1
Derivation of Kroger Proposed Reliability Incentive Mechanism Credit
At DTE's Proposed Rate Base

1	Rate Base (per DTE Exh. A-12, Sch. B1) ($000)	$18,251,329
2	Shareholder Equity Percent of Total Capital (per DTE Exh. A-14, Sch. D1)	38.3156%
3	RIM Credit of 0.1% ROE	-0.1000%
4	Weighted Cost % (line 2 x line 3)	-0.0383%
5	Revenue Conversion Factor (per DTE Exh. A-14, Sch. D1)	1.3496
6	Pre-Tax Rate of Return Impact (line 4 x line 5)	-0.0517%
7	RIM Credit (line 1 x line 6) ($000)	-$9,438

Q. Are you making a recommendation regarding the appropriate ROE in this case?

A. No, I am not taking a position regarding ROE in this case. To be clear, I am simply using the ROE as a reference point relative to my proposed RIM incentive. The ROE, which is an important factor in determining DTE's final revenue requirement, is dependent on financial and market conditions and is designed to allow the Company to access capital under reasonable terms. In contrast, my proposed RIM is intended to be a *performance-based* incentive to encourage DTE to improve the level of service and reliability that it provides to its customers. My recommended RIM mechanism would provide DTE the *opportunity* to earn its approved ROE based on its ability to fulfill one of its most fundamental responsibilities as a utility, providing reliable service.

INFLATION

Q. What has DTE proposed with respect to inflation in this case?

A. The Company proposes to add inflation to its historical O&M costs. DTE witness Theresa M. Uzenski explains that an inflation rate of 3% was applied to internal labor and contract labor, while the inflation rate for non-labor costs is based on a consumer price Index (CPI)-Urban published by IHS Markit. Ms. Uzenski explains that DTE proposes to apply the 3% labor inflation rate for contract labor because a portion of the contract workforce comes from the same unions as DTE union employees.[7] DTE applies this 3% inflation rate to all Outside Services.[8]

Q. Do you agree with the Company's treatment of inflation?

A. No, I do not agree with the application of a generic inflation factor to non-labor O&M expense. While I recognize that the company's *labor* cost increases are driven in part by collective bargaining agreements and other contractual arrangements that may contain cost escalation provisions, I have concerns regarding the inclusion of a generic inflation factor in calculating test year *non-labor* O&M expense.

Q. Please explain your concerns regarding the inclusion of general inflation assumptions in a forecasted test period.

A. From a ratemaking perspective, I have two serious concerns with DTE's inclusion of inflation in its forecasted test period revenue requirement. First, at a broad policy level, I have concerns about regulatory pricing formulations that reinforce inflation. This occurs when *projections* of inflation are built into formulas

[7] Direct Testimony of Theresa M. Uzenski, p. 29.
[8] DTE response to discovery KCDE-1.2b, reproduced in Kroger Exhibit KRO-1.

that are used to set administratively-determined prices, such as utility rates. Such pricing mechanisms help to make inflation a self-fulfilling prophecy. As a matter of public policy, this is a serious concern. It is one thing to adjust for inflation after the fact; it is another to help guarantee it. For this reason, I believe that regulators should use extreme caution before approving prices that contribute to inflation before it occurs.

Q. What is your second major concern?

A. A related, but distinct, concern involves the building of this "cost cushion" into the Company's test period costs. Allowing this type of systemic uplift in rates goes well beyond the basic rationale advanced by advocates for using a projected test period, which is to ameliorate the effect of regulatory lag on the recovery of investment in new plant.

Q. Please explain.

A. The primary justification for utilizing a projected test period is to allow a utility with expanding rate base the ability to avoid regulatory lag; that is, the use of a projected test period is intended to provide a utility a better opportunity to recover its ***investment*** cost than might occur with an historical test period.

By including inflation in its non-labor O&M expenses, DTE is attempting to go well beyond simply aligning the test period with its projected test year investment to mitigate regulatory lag; the Company is also attempting to gain an additional benefit by inflating its baseline costs by applying an inflation factor. DTE should not be rewarded for the use of a forecasted test period with a windfall mark-up of its baseline costs. The Commission should not allow the utilization of

a forward-looking test period to also become a vehicle for utility recovery of such "pseudo costs."

The best evidence of what it costs DTE for non-labor O&M is the Company's actual costs recorded in the historical period, adjusted for certain known and measurable changes. The cost increases represented by DTE's inflation assumption may or may not come to fruition. In any case, DTE should be expected to strive to improve its O&M efficiency on a continuous basis, and thereby lessen the net impact of inflation on its O&M costs. It is not reasonable to simply gross up the Company's historical period costs by an inflation factor and pass these costs on to customers.

Q. What are the limited situations in which projected inflation should be considered in ratemaking?

A. The United States experienced major inflation during the late 1970s. In that type of severe increasing-cost environment, some consideration for O&M inflation in a forecasted test period would probably be necessary. However, we are very far from such a cost environment. Inflation in the United States has been at very low levels for several years. The prospects for core inflation, which excludes the relatively volatile pricing components of energy and food, remain subdued.

Q. Can you cite to any independent sources to support your contention that the prospects for core inflation remain subdued?

A. Yes. I have reviewed the Minutes of the Federal Open Market Committee for September 17-18, 2019. The published Minutes of that meeting indicate that the Fed's central tendency forecast for Core personal consumption expenditures

(PCE) inflation is 1.7% to 1.8% for 2019, 1.9% to 2.0% for 2020, and 2.0% for 2021.[9]

Q. What alternative for establishing non-labor O&M expense for the forecasted test period do you recommend?

A. According to DTE's response to discovery KCDE-1.2b, DTE has included approximately $7.4 million[10] of inflation in its calculation of Materials and Other Non-Labor, non-fuel O&M expense. I recommend removing these general inflation cost adders from DTE's projected test year non-labor O&M expense. These costs are not subject to the same wage increase pressures as DTE's labor costs and DTE can reasonably be expected to continue to improve its O&M efficiency in these cost categories.

Additionally, DTE has included approximately $25.5 million[11] of inflation in its calculation of Outside Services O&M expense. I also recommend removing these general inflation cost adders from DTE's projected test year non-labor O&M expense. Although outside contract labor may be subject to some wage pressures, it is not unreasonable to expect DTE to manage its outside contracts for services in a manner to continue to improve its O&M efficiency in this area by performing work more efficiently.

PRIMARY DISTRIBTUION RATE DESIGN

[9] Minutes of the Federal Open Market Committee for September 17-18, 2019, Table 1.
[10] DTE response to discovery KCDE-1.2b, reproduced in Kroger Exhibit KRO-1. DTE's unspecified Inflation Adjustment has been pro-rated among the O&M cost categories.
[11] DTE response to discovery KCDE-1.2b, reproduced in Kroger Exhibit KRO-1. DTE's unspecified Inflation Adjustment has been pro-rated among the O&M cost categories.

Q. How does DTE propose to allocate distribution costs?

A. According to DTE witness Thomas Lacey, DTE allocates distribution costs using demand and customer allocators, as well as special studies. Mr. Lacey explains that DTE uses demand-based allocators for poles, wires, conduit, substations, transformers, and other distribution equipment. He uses customer-based allocators for service drops and special studies to allocate meter costs and uncollectible expense. This allocation method is used to allocate costs by voltage level class, as opposed to individual rate classes.[12]

Q. How is DTE proposing to recover distribution costs from primary customers?

A. First, DTE allocates distribution costs in its Unbundled Cost of Service study (UCOS) by voltage level to determine the distribution revenue requirement for primary voltage customers. Next, Mr. Lacey explains that he calculates the monthly customer charges for each voltage level using the "Staff" method, approved in the Commission's May 2, 2019 Order in Case No. U-20162.[13] Then, DTE witness Timothy A. Bloch designs a single primary distribution demand charge to collect the remainder of the proposed primary distribution revenue requirement.[14]

Q. Are these primary distribution rates cost-based?

A. Yes, the primary distribution rates are cost-based rates. The "Staff" method that Mr. Lacey utilizes to calculate the monthly customer charges refers to a methodology that the Commission has consistently approved in prior DTE rate

[12] Direct Testimony of Thomas W. Lacey, p. 17.
[13] Id, pp. 19-20.
[14] Direct Testimony of Timothy A. Bloch, pp. 10-11.

cases to determine the monthly customer charge for residential and secondary customers. This method is designed to only recoup those costs through the customer charge that are required to connect the customer to the system.[15]

Q. What is your assessment of DTE's proposed primary distribution rates?

A. DTE's proposed primary customer charge represents an increase of over 40% relative to the current rate. While I am not taking a position regarding level of costs included in the customer charge, I do support the methodology that DTE has utilized to develop a cost-based primary customer charge in this case, which is consistent with the Commission's precedent on this issue.

Q. Does this conclude your direct testimony?

A. Yes, it does.

[15] May 2, 2019 Final Order, Case No. U-20162, p. 136.

STATE OF MICHIGAN
BEFORE THE PUBLIC UTILITIES 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-20561

PROOF OF SERVICE

Kurt J. Boehm, Esq. duly sworn, deposes and says that on December 11, 2019 he served (via electronic mail) when available or regular U.S. Mail THE KROGER CO's REVISED DIRECT TESTIMONY OF JUSTIN BIEBER and a copy of this PROOF OF SERVICE upon those listed on the attached Certificate of Service.

Kurt J. Boehm, Esq. Digitally signed by Kurt J. Boehm, Esq. Date: 2019.12.11 13:38:49 -05'00'

Kurt J. Boehm, Esq.
Jody Kyler Cohn, Esq.
Michael L. Kurtz, Esq., (Michigan #P67067)
BOEHM, KURTZ & LOWRY
36 East Seventh Street, Suite 1510
Cincinnati, Ohio 45202
Ph: 513-421-2255 Fax: 513-421-2764
E-mail: KBoehm@BKLlawfirm.com
JKylerCohn@BKLlawfirm.com
mkurtz@BKLlawfirm.com

COUNSEL FOR THE KROGER CO.

Subscribed to and sworn before me
This 11TH day of December, 2019

Kimberly E. Nonelle Digitally signed by Kimberly E. Nonelle Date: 2019.12.11 13:39:16 -05'00'

Notary Public
My Commission expires: 8-26-2024

SERVICE LIST
CASE NO. U-20561

ADMINISTRATIVE LAW JUDGE
Hon. Sharon Feldman
feldmans@michigan.gov

DTE ENERGY COMPANY
Patrick B. Carey
Jon P. Christinidis
Lauren D. Donofrio
Megan E. Irving
David S. Maquera
patrick.carey@dteenergy.com
jon.christinidis@dteenergy.com
lauren.donofrio@dteenergy.com
megan.irving@dteenergy.com
david.maquera@dteenergy.com
mpscfilings@dteenergy.com

MPSC STAFF
Heather M.S. Durian, Assistant Attorney General
Michael J. Orris, Assistant Attorney General
Daniel E. Sonneveldt, Assistant Attorney General
Monica M. Stephens, Assistant Attorney General
Lori A. Mayabb (case coordinator)
durianh@michigan.gov
orrism@michigan.gov
sonneveldtd@michigan.gov
stephensm11@michigan.gov
mayabbl@michigan.gov

ATTORNEY GENERAL DANA NESSEL
Joel B. King, Assistant Attorney General
kingj38@michigan.gov
AG-ENRA-SPEC-LIT@michigan.gov

ASSOCIATION OF BUSINESSES ADVOCATING TARIFF EQUITY (ABATE)
Bryan A. Brandenburg
Stephen A. Campbell
Michael J. Pattwell
Robert A.W. Strong
Jim Dauphinais
bbrandenburg@clarkhill.com
scampbell@clarkhill.com
mpattwell@clarkhill.com
rstrong@clarkhill.com
jdauphinais@consultbai.com

CITIZENS UTILITY BOARD (CUB)
John R. Liskey
Constance De Young Groh
cub.legal@cubofmichigan.org
cdgroh@liskeypllc.com

ENERGY MICHIGAN, INC.
FOUNDRY ASSOCIATION OF MICHIGAN
Laura A. Chappelle
Timothy J. Lundgren
Justin Ooms
lachappelle@varnumlaw.com
tjlundgren@varnumlaw.com
jkooms@varnumlaw.com

LOCAL 223, UTILITY WORKERS UNION OF AMERICA (UWUA), AFL-CIO
John R. Canzano
Benjamin L. King
jcanzano@michworkerlaw.com
bking@michworkerlaw.com

GREAT LAKES RENEWABLE ENERGY ASSOCIATION (GLREA)
DTE RESIDENTIAL CUSTOMER GROUP (RCG)
Don L. Keskey
donkeskey@publiclawresourcecenter.com

WAL-MART INC.
Melissa M. Horne
mhorne@hcc-law.com

THE SIERRA CLUB
Michael C. Soules
msoules@earthjustice.org

MICHIGAN ENVIRONMENTAL COUNCIL (MEC)
THE SIERRA CLUB
NATURAL RESOURCES DEFENSE COUNCIL (NRDC)
CITIZENS UTILITY BOARD (CUB)
Christopher M. Bzdok
Karla Gerds
Kimberly Flynn
Breanna Thomas
chris@envlaw.com
karla@envlaw.com
kimberly@envlaw.com
breanna@envlaw.com

ENVIRONMENTAL LAW & POLICY CENTER (ELPC)
ECOLOGY CENTER
SOLAR ENERGY INDUSTRIES ASSOCIATION (SEIA)
VOTE SOLAR
Margrethe Kearney
Nikhil Vijaykar
mkearney@elpc.org
nvijaykar@elpc.org
MPSCDocket@elpc.org

SOULARDARITY
Nicholas Leonard
nicholas.leonard@glelc.org

MICHIGAN CABLE TELECOMMUNICATIONS ASSOCIATION
Michael S. Ashton
Shaina R. Reed
mashton@fraserlawfirm.com
sreed@fraserlawfirm.com

CENTRAL TRANSPORT, LLC
CENTRAL TRANSPORT, INC.
CROWN ENTERPRISES, INC.
DETROIT INTERNATIONAL BRIDGE COMPANY
UNIVERSAL TRUCKLOAD SERVICES, INC.
Sean P. Gallagher
sean@LegalSPG.com