



201 North Washington Square | Suite 910
Lansing, Michigan 48933
Telephone 616 / 336-6750 | Fax 517 / 482-6937 | www.varnumlaw.com

Timothy J. Lundgren

tjlundgren@varnumlaw.com

February 25, 2021

Ms. Lisa Felice
Executive Secretary
Michigan Public Service Commission
7109 W. Saginaw Highway
P.O. Box 30221
Lansing, MI 48909

Re: MPSC Case No. U-20940

Dear Ms. Felice:

Attached for electronic filing in the above-referenced matter, please find the Counsel Appearances and Petition for Leave to Intervene by Energy Michigan, Inc. Thank you for your assistance in this matter.

Very truly yours,
VARNUM

Tim Lundgren

TJL/sej
Enclosures
c. ALJ
All parties of record.
17620278.1

MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
PUBLIC SERVICE COMMISSION

ENTRY OF APPEARANCE IN AN ADMINISTRATIVE HEARING

This form is issued as provided for by 1939 PA 3, as amended, and by 1933 PA 254, as amended. The filing of this form, or an acceptable alternative, is necessary to ensure subsequent service of any hearing notices, Commission orders, and related hearing documents.

General Instructions:

Type or print legibly in ink. For assistance or clarification, please contact the Public Service Commission at (517) 284-8090.

*Please Note: The Commission will provide **electronic** service of documents to all parties in this proceeding.*

THIS APPEARANCE TO BE ENTERED IN ASSOCIATION WITH THE ADMINISTRATIVE HEARING:

Case / Company Name: _____ Docket No. _____

Please enter my appearance in the above-entitled matter on behalf of:

1. (Name)
2. (Name)
3. (Name)
4. (Name)
5. (Name)
6. (Name)
7. (Name)

Name _____

Address _____

City _____ State _____

Zip _____ Phone (____) _____

Email _____

Date _____

<input type="checkbox"/> I am not an attorney
<input type="checkbox"/> I am an attorney whose:
Michigan Bar # is P- _____
_____ Bar # is: _____
(state)

Signature: _____

Save Form

MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
PUBLIC SERVICE COMMISSION

ENTRY OF APPEARANCE IN AN ADMINISTRATIVE HEARING

This form is issued as provided for by 1939 PA 3, as amended, and by 1933 PA 254, as amended. The filing of this form, or an acceptable alternative, is necessary to ensure subsequent service of any hearing notices, Commission orders, and related hearing documents.

General Instructions:

Type or print legibly in ink. For assistance or clarification, please contact the Public Service Commission at (517) 284-8090.

*Please Note: The Commission will provide **electronic** service of documents to all parties in this proceeding.*

THIS APPEARANCE TO BE ENTERED IN ASSOCIATION WITH THE ADMINISTRATIVE HEARING:

Case / Company Name: _____ Docket No. _____

Please enter my appearance in the above-entitled matter on behalf of:

1. (Name)
2. (Name)
3. (Name)
4. (Name)
5. (Name)
6. (Name)
7. (Name)

Name _____

Address _____

City _____ State _____

Zip _____ Phone (____) _____

Email _____

Date _____

I am not an attorney

I am an attorney whose:

Michigan Bar # is P- _____

_____ Bar # is: _____
(state)

Signature: _____

Save Form

EAHR1 - 09/29/2016

MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
PUBLIC SERVICE COMMISSION

ENTRY OF APPEARANCE IN AN ADMINISTRATIVE HEARING

This form is issued as provided for by 1939 PA 3, as amended, and by 1933 PA 254, as amended. The filing of this form, or an acceptable alternative, is necessary to ensure subsequent service of any hearing notices, Commission orders, and related hearing documents.

General Instructions:

Type or print legibly in ink. For assistance or clarification, please contact the Public Service Commission at (517) 284-8090.

*Please Note: The Commission will provide **electronic** service of documents to all parties in this proceeding.*

THIS APPEARANCE TO BE ENTERED IN ASSOCIATION WITH THE ADMINISTRATIVE HEARING:

Case / Company Name: _____ Docket No. _____

Please enter my appearance in the above-entitled matter on behalf of:

1. (Name)
2. (Name)
3. (Name)
4. (Name)
5. (Name)
6. (Name)
7. (Name)

Name _____

Address _____

City _____ State _____

Zip _____ Phone (____) _____

Email _____

Date _____

I am not an attorney

I am an attorney whose:

Michigan Bar # is P- _____

_____ Bar # is: _____
(state)

Signature: _____

Save Form

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-20940

**PETITION FOR LEAVE TO INTERVENE
OF ENERGY MICHIGAN, INC.**

Energy Michigan, Inc. ("Energy Michigan"), by its attorneys Varnum LLP, hereby files this Petition with the Michigan Public Service Commission ("Commission") for leave to intervene in and become a party to the above-titled proceedings pursuant to R 792.10410 ("Rule 410") of the Commission's Rules of Practice and Procedure and the Michigan Administrative Procedures Act, MCL § 24.201 et seq.¹ In support of this Petition, Energy Michigan states as follows:

1. Energy Michigan is a Michigan nonprofit corporation which was originally formed to protect and promote the interests of producers and users of independent power and now serves as the trade association for alternative and independent power supply, cogeneration, and advanced energy industries, and their customers in Michigan. Its membership includes independent power producers and suppliers, large customers of electricity and gas, project developers, those interested in cogeneration, local units of government, institutions, and private businesses, including those who are customers in the DTE Gas Company ("DTE Gas") service territory.

¹ The comments expressed in this filing represent the position of Energy Michigan as an organization, but may not represent the views of any particular member of Energy Michigan.

2. Over its history, Energy Michigan has taken, and continues to take, an active interest in utility rate and rate design issues. For example, Energy Michigan participated in a number of recent DTE general rate cases, including U-17767, U-18014, U-18255, U-20162, U-20561, and is currently an intervenor in DTE's Voluntary Green Pricing case no. U-20713.

3. On February 15, 2021, DTE Gas filed an amended application requesting authority to increase rates, amend its rates schedules, obtain approval of certain accounting matters and modify certain terms and conditions of providing natural gas services. It also filed supporting testimony and exhibits.

4. In its filed Application and supporting testimony and exhibits, DTE proposes increases in rates and changes in terms of service that will affect Energy Michigan members.

5. Energy Michigan expects to represent the interests of its members by examining the underlying costs and charges, as well as proposed terms of service presented by DTE and ensuring that such costs, charges, and terms of service are reasonable, prudent, and cost-based. Energy Michigan reserves the right to take other positions and/or seek other relief based on a review of the Applicant's and other parties' filings, the responses to discovery, or positions taken in briefs.

6. Energy Michigan intends to participate in these proceedings to the extent necessary to protect the interests of its members and address the issues as set forth herein. The interests of Energy Michigan and its members in this proceeding cannot be adequately represented or protected by any other party.

7. This Commission applies a two-prong test for standing as of right, as set forth in *Association of Data Processing Service Organizations, Inc. v Camp*, 397 US 150 (1970) ("Data Processing"), which has been applied to utility matters in *Drake v The Detroit Edison Co.*, 453 F Supp 1123 (WD Mich, 1978). As set forth in *Data Processing* and applied by the Commission,

the two-prong test requires a party to show that: (1) it would likely suffer injury in fact (i.e., its interests are endangered or at issue); and (2) its interests that are allegedly endangered are within the zone of interests to be protected or regulated by the statute under consideration. See, e.g., *In Re. Michigan Consolidated Gas Co.*, Case No. U-9138 (November 10, 1988).

8. Energy Michigan meets the "injury in fact" test because its members are customers of DTE who will be directly affected by the charges approved in this proceeding. These members, as customers of DTE, are within the zone of interest protected by the statutes under which this case has been brought.

9. Energy Michigan is therefore entitled to intervene as of right because the issues to be addressed in this proceeding will have a direct and substantial impact upon Energy Michigan and its members, and Energy Michigan meets the Commission's two-pronged test.

10. Even if Energy Michigan's members did not satisfy the test for intervention as of right, Energy Michigan should be permitted to intervene under the Commission's permissive intervention standards. As the Commission has noted, "the Commission's discretion to grant leave to intervene is broader than the two-prong test. As recognized in prior Commission orders, the requirements for standing before the Commission are not as strict as those applied by the courts. Unlike a court of law, an administrative agency can allow intervention whenever the resulting delay will likely be outweighed by the benefit of the intervenor's participation." *In re Michigan Consolidated Gas Co.*, Case No. U-10150, at 5 (December 8, 1992) (finding that discretionary intervention was appropriate, and "a detailed discussion of the two-prong test is unnecessary"). Furthermore, the Commission has recently stated that, "[t]he granting of permissive intervention without satisfying the two-pronged test is a long-established Commission practice." *In re DTE Gas Co.*, Case No. U-17332, at 4 (May 13, 2014).

11. The Commission has said that, “permissive intervention is appropriate where the intervenor’s participation will provide a benefit that outweighs any resulting delay or expense. Permissive intervention has also been granted where a proceeding ‘raises novel questions and important issues of policy’ and the intervenor will ‘bring a unique perspective’ to the case.” *In re. the application of DTE Electric Co*, Case No. U-17319 (March 6, 2014) at 10. Furthermore, the Commission has granted permissive intervention in a rate case “to an association that represents the interests of its members, where the members generally meet the zone of interests test.” *Ibid*.

12. As noted above, Energy Michigan's members meet the zone of interest test, and Energy Michigan, as an association with a long history of involvement in Michigan's utility rate cases, working groups, and legislative processes, brings a unique perspective and is uniquely situated to provide information to this Tribunal and the Commission.

WHEREFORE, Energy Michigan respectfully requests that:

- a. Energy Michigan's Petition for Leave to Intervene be granted; and
- b. Such other and further relief as is deemed lawful and appropriate be granted.

Respectfully submitted,

Varnum, LLP
Attorneys for Energy Michigan, Inc.

February 25, 2021

By: _____
Tim Lundgren (P62807)
Laura Chappelle (P42052)
Justin Ooms (P82065)
The Victor Center
201 N. Washington Square, Ste. 910
Lansing, MI 48933
517/482-6237

17615024.2

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-20940

PROOF OF SERVICE

STATE OF MICHIGAN)
) ss.
COUNTY OF INGHAM)

Sarah E. Jackinchuk, the undersigned, being first duly sworn, deposes and says that she is a Legal Assistant at Varnum LLP and that on the 25th day of February, 2021 she served a copy of Counsel Appearances and the Petition for Leave to Intervene by Energy Michigan, Inc. as well as a Proof of Service upon those individuals listed on the attached Service List via email.

Sarah E. Jackinchuk

SERVICE LIST MPSC CASE NO. U-20940

Administrative Law Judge

Hon. Sally Wallace
Administrative Law Judge
Wallaces2@michigan.gov

Counsel for DTE Gas Company

Paula Johnson-Bacon
Jon P. Christinidis
David S. Maquera
Andrea E. Hayden
Lauren D. Donofrio
Paula.bacon@dteenergy.com
jon.christinidis@dteenergy.com
david.maquera@dteenergy.com
andrea.hayden@dteenergy.com
lauren.donofrio@dteenergy.com
mpscfilings@dteenergy.com

Counsel for DTE Gas Company

Paula Johnson-Bacon
Jon P. Christinidis
David S. Maquera
Andrea E. Hayden
Lauren D. Donofrio
Paula.bacon@dteenergy.com
jon.christinidis@dteenergy.com
david.maquera@dteenergy.com
andrea.hayden@dteenergy.com
lauren.donofrio@dteenergy.com
mpscfilings@dteenergy.com

Counsel for Verso Corporation

Timothy J. Lundgren
Laura A. Chappelle
tjlundgren@varnumlaw.com
lachappelle@varnumlaw.com

**Counsel for Michigan Public Service
Commission Staff**

Monica M. Stephens
Michael J. Orris
Heather M.S. Durian
Daniel E. Sonneveldt
Stephensm11@michigan.gov
orrism@michigan.gov
durianh@michigan.gov
sonneveldtd@michigan.gov

**Counsel for Department of Attorney
General Dana Nessel**

Joel B. King
KingJ38@michigan.gov

**Counsel for Michigan Power Limited
Partnership (MPLP); Retail Energy
Supply Association (RESA)**

Jennifer U. Heston
jheston@fraserlawfirm.com

Counsel for Detroit Thermal LLC

Arthur J. LeVasseur
levasseur@fischerfranklin.com

**Counsel for Citizens Utility Board of
Michigan (CUB)**

John Liskey
john@liskeypllc.com