STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of
DTE ELECTRIC COMPANY MPSC Case No. U-21534
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
_______________________________________/

**ATTORNEY GENERAL'S INITIAL BRIEF**

Dana Nessel
Attorney General

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Dated: October 3, 2024

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## INTRODUCTION

The Attorney General of Michigan, Dana Nessel, by and through Joel B. King, Assistant Attorney General, files this initial brief before the Michigan Public Service Commission ("MPSC" or "Commission") to respond to DTE Electric Company's ("DTE," "DTE Electric," or the "Company") application seeking an annual rate increase of almost half a billion dollars – specifically $456.4 million.

After reviewing the testimony, exhibits, and discovery conducted in this case and with the help of her expert witnesses Mr. Sebastian Coppola, Mr. Paul Alvarez, and Mr. Dennis Stephens, the Attorney General concludes that the Company has a revenue deficiency for the projected test year of no more than $139.5 million. Additionally, the Attorney General makes other recommendations regarding the Company's filing as laid out in her testimony and this brief.

On March 28, 2024, DTE filed an application in this docket, U-21534, requesting authority to increase its electric rates in the annual amount of $456.4 million and for other relief. A prehearing conference was held on April 26, 2024, before Administrative Law Judge (ALJ) Sally L. Wallace. At the prehearing conference, the ALJ noted the intervention of Michigan Attorney General Dana Nessel ("Attorney General" or "AG") and granted intervention to numerous other parties.[1]

[1] U-21534-0063.

The case schedule is reflected in the ALJ's April 26, 2024 Scheduling Memo and a Protective Order was entered on April 29, 2024.[2]

## STATEMENT OF FACTS

Pursuant to the schedule, Staff and Intervenors were required to file direct testimony on or before July 26, 2024 and any rebuttal testimony was due on or before August 16, 2024. Numerous parties filed either or both direct and rebuttal testimony.

**<u>DTE Testimony</u>**

DTE filed both direct testimony and rebuttal testimony regarding its requested annual revenue increase of $456.4 million. The Company's requested rate relief spans the 12-month period from January 1, 2025 through December 31, 2025 ("projected test year" or "test year").

As part of its case, DTE is requesting a return on equity (ROE) of 10.50%, approval of certain accounting requests, approval of numerous pilot programs, and an expansion of its Infrastructure Recovery Mechanism (IRM), among other things.[3] DTE's requests represent an overall increase in rates of 8.2%, and a 9.6% increase for residential customers. DTE's filing and its assertion that almost half a billion dollars of annual rate relief is necessary is just the latest in a long line of recent, enormous rate increase requests.

Based on the rapidity and predictability with which DTE files rate cases, it is apparent that DTE Electric is in a continual cycle of preparing for and filing annual

[2] U-21534-0063 and U-21534-0067, respectively.
[3] See DTE Application, pp. 2-5.

rate increase requests in the hundreds of millions of dollars, and in this case approaching half a billion dollars. While part of DTE's team is in the midst of litigating its "current" rate case, another part is working to prep a new one, without knowing the outcome of the pending case. *Clearly, this does not allow the Company time to adequately consider its own needs or the tremendous burden it is placing on its customers*. While this may be good for company shareholders, it is an abuse of the ratemaking system, places a continuous burden on Commission and Intervenor resources, and most importantly creates an ever-increasing demand on DTE Electric's customers, specifically its most vulnerable low-income customers.

Lest the Commission, ALJs, Staff, or other parties to these cases become inured to the enormity of what DTE is requesting on a predictable, annual cycle, the Attorney General encourages all interested stakeholders to take a step back and consider what DTE is truly asking of its customers, and the more often than not slipshod presentation it relies upon to support its requests. DTE needs to rein in its requests and be held accountable for continued service and reliability shortcomings – not rewarded for subpar performance by simply dumping more money into the machine. DTE's customers and the entire state of Michigan deserve better.

**<u>Attorney General Testimony</u>**

The Attorney General sponsored the direct testimony and exhibits of one expert witness, Sebastian Coppola, which was filed on July 26, 2024. Additionally, she co-sponsored the direct testimony and exhibits of two other expert witnesses, Paul Alvarez and Dennis Stephens, which were also filed on July 26, 2024. All of the

Attorney General's testimony and exhibits were bound into the record without cross examination by any party on September 10, 2024.

Mr. Coppola's direct testimony consists of 126 pages, along with an Appendix A, which contains his qualifications,[4] along with 48 pre-filed exhibits numbered AG-1 through AG-48.

In addition to the above, 16 additional exhibits, numbered AG-49 through AG-64, were admitted during cross examination.

<u>Overview of the Attorney General's Direct Testimony</u>

**Sebastian Coppola**

After reviewing the testimony, exhibits, and discovery conducted in this case, and after consideration of the expert testimony of other AG witnesses, Mr. Coppola concluded that the Company has a revenue deficiency for the projected test year of no more than $139.5 million. Mr. Coppola's conclusions are based on recommendations and related adjustments for the following major topics:

1. The level of proposed Rate Base and Capital Expenditures
2. The Company's Cost of Capital
3. Working Capital
4. The level of Operations and Maintenance expenses
5. The Adjusted Revenue Deficiency

He also explained that the absence of discussion on other matters in his testimony should not be taken as an indication that he agrees with those aspects of DTE's filing.

[4] 6 Tr 3584-734.

The narrow focus of his testimony is, instead, a consequence of focusing on priority issues within the available resources.

Mr. Coppola summarized his conclusions, adjustments, and recommendations regarding these issues as follows:

> The Company filed for a base rate increase of $456.4 million. This rate increase represents an overall increase in rates of 8.2% with a 9.6% increase to residential customers. As a result of the rate case adjustments that I propose in my testimony, I determined that the Company has a revenue deficiency of $139.5 million. Based on this amount of rate increase, the average residential customer should see an increase of approximately 2.5% in their total bill.
>
> It is noteworthy to point out that for the historical test year, the Company reported a revenue excess of $80.5 million.
>
> Based on my analysis of the Company's case, I have reached the following summary conclusions and recommendations:
>
> 1. I propose a lower level of Operations and Maintenance expenses of $123.5 million for the test year.
> 2. Along with other AG witnesses, I have included a reduction in capital expenditures of $1.018 billion and a reduction in rate base of $783.9 million, including a reduction in working capital of $25.7 million, for a reduction in revenue requirement of $60 million.
> 3. I propose a reduction in depreciation expense of $40.8 million pertaining to the proposed reductions in capital expenditures.
> 4. I propose a reduction in property tax expense of $12.3 million pertaining to the proposed reductions in capital expenditures.
> 5. I recommend an authorized rate of return on equity of 9.85% in comparison to the Company's proposed ROE rate of 10.50%, for a reduction in the revenue deficiency of $75.5 million.
> 6. I recommend that the Commission reject the addition of $87 million to the Tree Trimming Surge program for 2025 and reduce the return on the regulatory asset by $8.9 million to reflect a return rate based on the short-term debt.[5]

[5] 6 Tr 3592-93.

The O&M dollar adjustments broken down by topic are as follows:

| Summary of O&M Expense Reductions | Amount ($Millions) |
|---|---|
| Inflation Adjustments | $ 14.6 |
| Steam Generation Expense | 21.9 |
| Voluntary Separation Program | 10.1 |
| Tree Trimming Surge Savings | 8.8 |
| Merchant Credit Card Fees | 3.5 |
| Uncollectible Accounts Expense | 3.8 |
| Injuries & Damages Expense | 2.9 |
| Active Health Care | 3.1 |
| Supplemental Savings Plan | 3.2 |
| Corporate Aircraft | 0.3 |
| Employee Incentive Compensation | 51.3 |
| Total Reduction | $ 123.5 |

The Capital Expenditure and Rate Base dollar adjustments broken down by topic are as follows:

| Summary of AG Disallowed Capital Expenditures | | Amount (millions) |
|---|---|---|
| Distribution Operations | $ | 688 |
| Power Generation | | 34 |
| Nuclear Operations | | 175 |
| Customer Service/IT | | 60 |
| Corproate Facilities | | 52 |
| EV Program | | 9 |
| Total | $ | 1,018 |

As noted, these reductions equate to a reduction of the Company's proposed capital expenditures and deferred costs of approximately $317 million. These adjustments do not take into account adjustments by other parties in the case or additional adjustments that the Attorney General may adopt in her initial or reply brief. Mr.

Coppola's recommendations will be addressed in depth later in the Attorney General's brief.

**Paul Alvarez and Dennis Stephens**

After reviewing the testimony, exhibits, and discovery conducted in this case, Mr. Alvarez and Mr. Stephens analyze and discuss DTE's rate of capital spending, Distribution Grid Plan (DGP) and infrastructure recovery mechanism (IRM), among other issues.[6] While they do present separate testimony, their discussion is best considered in concert. Ultimately, Mr. Alvarez and Mr. Stephens recommend requiring DTE to slow the rate of its capital spending, significant changes to DTE's DGP, and a rejection of the proposed extension and expansion of its IRM. Their testimony is discussed more fully below, and the AG both adopts their recommendations and agrees with the discussion and argument as laid out in MNSC's briefing.

This initial brief has been prepared based on available resources and therefore it focuses on the significant issues of concern summarized above. The Attorney General's silence on other issues should not be construed as approval of the Company's position. Places where the AG does not specifically address another party's rebuttal to her direct testimony are not concessions on that issue, but instead are because the rebuttal does nothing to undercut the AG's argument and therefore

[6] 6 Tr 3914-4030; *see also* Confidential Record starting at 6 Tr 5263.

need not be addressed. Additionally, the Attorney General reserves the right to address, in a reply brief, other issues raised by other parties in their initial briefs.

## ARGUMENT

While examining the Attorney General's substantive objections and adjustments, the Commission should consider that DTE Electric bears the burden of proof to demonstrate that its proposals are just and reasonable. The obligation of proving any fact lies upon the party who substantially asserts the affirmative of the issue.[7] A plaintiff always has the burden of proving its cause of action.[8] In administrative cases, a party seeking relief must prove his, her, or its claim by a preponderance of the evidence.[9] Likewise, in MPSC Cases, a utility has the burden of proof by a preponderance of the evidence.[10] Given the nature of the burden of proof, the Commission may reject even uncontradicted evidence.[11] When the burden of proving a fact falls on one party, the other party does not have the burden of proving the opposite fact.[12]

In addition, as the Commission has previously explained and as has been clarified in prior proposals for decisions, the utility has an obligation to support its rate base projections in a general rate case:

> Section 6a (1) of Act 286, MCL 460.6a(1) provides that a utility "may use projected costs and revenues for a future consecutive 12-month period" to

[7] *White v Campbell,* 25 Mich 463, 475 (1872).
[8] *Caruso v Weber,* 257 Mich 333; 241 NW 198 (1931).
[9] *Dillon v Lapeer State Home & Training School,* 364 Mich 1, 8; 110 NW2d 588 (1961), *and BCBSM v Governor,* 422 Mich 1, 88-89; 367 NW2d 1 (1985).
[10] *In re Michigan Gas Utilities Co,* MPSC Case No. U-7484, Opinion & Order dated 8-30-83, p. 10, and *In re Detroit Edison Co,* MPSC Case No. U-8030-R, Opinion & Order dated 7-9-87, pp. 16-17.
[11] *Woodin v Durfee,* 46 Mich 424, 427; 9 NW 457 (1881). *Accord, Yonkus v McKay,* 186 Mich 203, 211; 152 NW 1031 (1915), and *Cuttle v Concordia Mut Fire Ins Co,* 295 Mich 514, 519; 295 NW 246 (1940).
[12] *S C Gary, Inc v Ford Motor Co,* 92 Mich App 789, 803-804; 286 NW 2d 34 (1979).

develop its requested rates and charges. As the Commission has discussed previously:

> In a case where a utility decides to base its filing on a fully projected test year, the utility bears the burden to substantiate its projections. Given the time constraints under Act 286, all evidence (or sources or evidence) in support of the company's projections should be included in the company's initial filing. If the Staff or intervenors find insufficient support for some of the utility's projections, they may endeavor to validate the company's projection through discovery and audit requests. If the utility cannot or will not provide sufficient support for a particular revenue or expense item (particularly for an item that substantially deviates from the historical data) the Staff, intervenors, or the Commission may choose an alternative method for determining the projection.[13]

Therefore, before examining the Attorney General's recommendations and arguments, the Commission should consider that DTE bears the burden of proof to demonstrate that all its requests, including its request for a rate increase, are just and reasonable.[14] The following sections lay out the Attorney General's analysis of DTE's case and support for the Attorney General's recommendations. In this initial brief, the AG presents her analysis and recommendations as organized by witness, while attempting to present her arguments and discussion in the outline order. Mr. Coppola's testimony is addressed first, followed by Mr. Alvarez's and Mr. Stephens'.

**<u>Sebastian Coppola</u>**

Attorney General witness Sebastian Coppola took an in-depth look at DTE's entire filing and provided testimony regarding much of the Company's request. After integrating the positions of other AG witnesses, he determined that DTE has a

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[13] September 8, 2016 Order in Case No. U-17895, p. 4, citing January 11, 2010 order in Case No. U-15768 et al., pp. 9-10.

[14] See also, U-20963, Commission's December 22, 2021 order at p. 10, stating that "the burden is on the company to prove the accuracy of each and every test year projection."

revenue deficiency of no more than $139.5 million and that the ROE should be set at or below 9.85%, both of which the AG recommends that the Commission now adopt.

## I. TEST YEAR

DTE's filed test year in this case spans the 12-month period from January 1, 2025 through December 31, 2025.[15]

## II. LARGE INCREASE IN RATE BASE AND CAPITAL EXPENDITURES

***(RATE BASE: DTE-Uzenski, 6 Tr 1471-1472, 1476-1477, 1481, 1556, 1567-1568, Ex. A-2 Schedule B6.1, B6.2; DTE-Davis, 6 Tr 1883-1901, Ex. A-12 Schedule B5.3, B5.7; DTE-Villadsen, 6 Tr 2432; DTE-Vanglider, 6 Tr 2808, 2812-2814, Ex. A-2 Schedule B1, Ex. A-12 Schedule B1; ABATE-York, 6 Tr 3347-3361; Staff-Hecht, 6 Tr 4885, Ex. S-2 Schedule B1)***

***(CAPITAL EXPENDITURES: DTE-Uzenski, 6 Tr 1517-1534, Ex. A-12 Schedule B5, B5.8; DTE-Guillaumin, 6 Tr 1586, 1594-1596, 1601-1605, 1620, 1633-1635, 1692-1706, 1721-1729, 1734-1741, Ex. A-12 Schedule B5.1; DTE-Milo, 6 Tr 1757-1762, Ex. A-12 Schedule B5.2; DTE-Davis, 6 Tr 1807-1809, 1814-1817, 1821-1854, 1882-1907, Ex. A-12 Schedule B5.3, Ex. A-47 Schedule LL1; DTE-Bennett, 6 Tr 2000, Ex. A-49 Schedule NN2; DTE-Sharma, 6 Tr 2029-2042, Ex. A-12 Schedule B5.7, B5.7.1; DTE-Hatsios, 6 Tr 2305-2306, 2325-2326, Ex. A-12 Schedule B5.7.3; DTE-Villadsen, 6 Tr 2445, Ex. A-14 Schedule D5.18; DTE-Farrell, 6 Tr 2664, 2708, Ex. A-12 Schedule B5.6; DTE-Hill, 6 Tr 3050-3054, 3065-3067, Ex. A-12 Schedule B5.4; DTE-Bellini, 6 Tr 3118-3119, Ex. A-12 Schedule B5.5; ABATE-York, 6 Tr 3347-3361, Ex. AB-2; ABATE-Dauphinais, 6 Tr 3370-3373; Staff-DeCooman, 6 Tr 5050-5055, 5063-5068, Ex. S-10.0, S-10.1, S-10.2; Staff-Kindschy, 6 Tr 5178-5187, Ex. S-16.0, S-16.2, S-16.3, S-16.4, S-16.5, S-16.6)***

Mr. Coppola's analysis begins with a discussion of the level of capital expenditures proposed by DTE in this case and the resulting increase in rate base. This is an area of ever-escalating concern for the AG and the customers she represents.

[15] *See* DTE Rate Case Summary, March 25, 2024, p. 2.

> In this general rate case, DTEE has proposed capital expenditures of $2.7 billion for 2023, $2.6 billion for the 2024, and an additional $2.9 billion for 2025, including expenditures under the Infrastructure Recovery Mechanism (IRM). The total proposed capital expenditures over this 36-month period are $8.2 billion.[16] These expenditures follow capital expenditures of $4.9 billion made during the prior two years in 2021 and 2022.[17]

Based on Table 1 in Mr. Coppola's testimony,[18] up until 2011 DTE was able to keep capital expenditures below $1 billion annually. Now, only fifteen years later, the level of capital expenditures has tripled.

DTE's capital expenditures have in turn fueled a tremendous increase in rate base. The Company's proposal in this case would increase rate base by 16%, to $22.1 billion, which is more than double the amount of DTE's rate base just 10 years ago.[19] Table 3 in Mr. Coppola's testimony shows the accelerated trend of increases in recent years.[20]

Simply put, this unbridled growth in rate base has, and will continue to have, significant negative implications for customer bills as DTE seeks ever-larger rate increases, year after year.

As Mr. Coppola discusses in his testimony,[21] there appear to be two main drivers behind the increase in rate base. First, there is some necessary replacement of aging infrastructure and new capital spending to address market growth that have required an increase in capital expenditures. While some of the work is necessary and should be performed, DTE's recent requests have included hundreds of millions

[16] Ex. A-12, Schedule B5 and Exhibit A-33, Schedule X1.
[17] 6 Tr 3594.
[18] 6 Tr 3594.
[19] 6 Tr 3595.
[20] 6 Tr 3596.
[21] 6 Tr 3596-97.

of dollars in expensive automation projects, digital projects, a dizzying number of pilot projects, information technology projects, and office remodeling, all of which are unrelated or only tangentially related to fundamental infrastructure upgrades and serve mainly to increase rate base and customer costs without providing commensurate customer value.

The second, and arguably bigger, driver behind the increase in rate base is that it has given DTE the opportunity to increase earnings growth. For utility companies, earnings growth is directly related to rate base growth, dividend growth, and stock price appreciation for shareholders. As shown in Tables 1 through 3 in Mr. Coppola's testimony,[22] large increases in capital expenditures result in double digit increases in rate base, which in turn fuels earnings growth, dividend growth and stock price appreciation for shareholders.

Exhibit AG-1 includes pertinent pages from a March 8, 2022 Investor Presentation, which shows this drive to increase earnings through increased capital spending at the utility. It also shows how investors and shareholders have been well rewarded. For a utility such as DTEE with limited sales and revenue growth, the increase in earnings comes almost entirely from the increase in capital expenditures and rate base. The presentation is devoid of any discussion about sales or revenue growth to propel earnings growth at the utility.

It is important to keep this tremendous increase in rate base in mind when considering DTE's requests in the rest of this case – how approving those requests

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[22] 6 Tr 3594-96.

will affect DTE's customers and the validity/necessity of the different requests. The Company has proposed to increase residential rates in this rate case by 9.6% over current rates. This increase in annual customer bills poses a significant burden on all residential customers, and especially those with fixed and low income. The compounding effect of large additions to rate base will continue to increase customer rates to unaffordable levels for many customers, particularly those in fixed and lower income brackets. To avoid even greater bill affordability problems than exist today, DTE needs to moderate and be more selective in its capital spending in coming years.

## III. RATE BASE (CAPITAL EXPENDITURES)

***(RATE BASE: DTE-Uzenski, 6 Tr 1471-1472, 1476-1477, 1481, 1556, 1567-1568, Ex. A-2 Schedule B6.1, B6.2; DTE-Davis, 6 Tr 1883-1901, Ex. A-12 Schedule B5.3, B5.7; DTE-Villadsen, 6 Tr 2432; DTE-Vanglider, 6 Tr 2808, 2812-2814, Ex. A-2 Schedule B1, Ex. A-12 Schedule B1; ABATE-York, 6 Tr 3347-3361; Staff-Hecht, 6 Tr 4885, Ex. S-2 Schedule B1)***

***(CAPITAL EXPENDITURES: DTE-Uzenski, 6 Tr 1517-1534, Ex. A-12 Schedule B5, B5.8; DTE-Guillaumin, 6 Tr 1586, 1594-1596, 1601-1605, 1620, 1633-1635, 1692-1706, 1721-1729, 1734-1741, Ex. A-12 Schedule B5.1; DTE-Milo, 6 Tr 1757-1762, Ex. A-12 Schedule B5.2; DTE-Davis, 6 Tr 1807-1809, 1814-1817, 1821-1854, 1882-1907, Ex. A-12 Schedule B5.3, Ex. A-47 Schedule LL1; DTE-Bennett, 6 Tr 2000, Ex. A-49 Schedule NN2; DTE-Sharma, 6 Tr 2029-2042, Ex. A-12 Schedule B5.7, B5.7.1; DTE-Hatsios, 6 Tr 2305-2306, 2325-2326, Ex. A-12 Schedule B5.7.3; DTE-Villadsen, 6 Tr 2445, Ex. A-14 Schedule D5.18; DTE-Farrell, 6 Tr 2664, 2708, Ex. A-12 Schedule B5.6; DTE-Hill, 6 Tr 3050-3054, 3065-3067, Ex. A-12 Schedule B5.4; DTE-Bellini, 6 Tr 3118-3119, Ex. A-12 Schedule B5.5; ABATE-York, 6 Tr 3347-3361, Ex. AB-2; ABATE-Dauphinais, 6 Tr 3370-3373; Staff-DeCooman, 6 Tr 5050-5055, 5063-5068, Ex. S-10.0, S-10.1, S-10.2; Staff-Kindschy, 6 Tr 5178-5187, Ex. S-16.0, S-16.2, S-16.3, S-16.4, S-16.5, S-16.6)***

With the help of Mr. Coppola, the Attorney General analyzed the Company's forecasted capital expenditures by major department or functional area and has identified more reasonable expenditure levels that the Commission should adopt.

As noted in Mr. Coppola's testimony, in projecting adjusted capital expenditures for 2024 and 2025, where applicable he applied an inflation factor to the historical cost base in order to reflect inflationary cost pressure that the Company may face in those years. The inflation factors are 2.4% for 2024 and 2.2% for 2025. These rates reflect the Consumer Price Index-Urban forecast presented in the February 2024 Blue Chip Report.[23]

## A. Distribution Plant

***(DISTRIBUTION PLANT: DTE-Hill, 6 Tr 3034-3087, DTE-Bennett, 6 Tr 1948-2001, DTE Steudle, 6 Tr 2962-3019, Ex. A-12 Schedule B5.4, Ex. A-23 Schedule M4)***

DTE forecasts nearly $4.8 billion in capital expenditures for Distribution Plant for the three years 2023 to 2025.[24] The Attorney General has identified certain capital expenditure reductions applicable to several capital programs and projects.

<u>1. Emergent Replacements</u>

In his direct testimony, Mr. Coppola provides a summary of the Company's forecasted capital expenditures for three categories of Emergent Replacement Programs: Storm-related, Non-Storm, and Substation Reactive.

> The total amount of capital expenditures for 2022 for these three programs was $484.7 million. The Company has forecasted $531.3 million in capital expenditures for 2023, $492.6 million for 2024, and $506.9 million for 2025. The 2024 amount was reduced by $20.8 million and the 2025 amount was reduced by $21.4 million for expected reductions in emergent capital spending from the anticipated benefit of strategic capital spending.[25]

[23] Ex. AG-2 includes the February 2024 Blue Chip Report.
[24] Ex. A-12, Sched. B5.4, p 1.
[25] 6 Tr 3599.

However, as pointed out in Mr. Coppola's testimony, DTE arrived at its forecasted level of expenditures for emergent replacement programs by applying retroactive inflation adjustments to historical amounts from 2018 to 2022 and labeling them normalization adjustments.[26] It then applied forecasted inflation factors for 2023, 2024, and 2025 to the adjusted five-year average cost base to determine the forecasted capital expenditures for the forecasted bridge periods and projected test year. The AG does not agree with that approach. DTE is simply compounding inflationary increases on top of inflationary increases that already occurred in the historical years. The Commission should not accept this brazen attempt to inflate forecasted capital expenditures by increasing the base on which forecasted costs are calculated.

While the AG agrees with the five-year normalization approach to forecast capital expenditures for future years, it should be done using actual capital expenditures from prior years, not by recasting numbers with additional assumed costs for prior year inflation. If any inflation was experienced in those prior years, it is reflected in the actual amounts. It is simply an unsupported fabrication to inflate historical costs to arrive at an adjusted historical base and to then further inflate those costs for future years with projected inflation factors. Additionally, the future inflation rates used by the Company to calculate forecasted Emergent Replacements capital expenditures for 2023, 2024, and 2025 are blended inflation rates consisting of both the CPI and the Company's internal forecasted wage increases. As discussed

[26] Ex. A-12, Sched. B5.4, p. 3.

in more detail in the O&M Expense - Inflation Adjustment section, the Commission has previously rejected the use of blended inflation rates.

Mr. Coppola's testimony recommends specific adjustments to DTE's forecasted capital expenditures for emergent capital programs.[27] That testimony is incorporated herein by reference.

In his rebuttal, Mr. Hill reiterates DTE's practice of adjusting and escalating historical costs with inflationary factors experienced in those historical periods, and then applying additional inflationary factors for forecasted periods.[28] Mr. Miller implies that this practice has been previously accepted by the Commission. Although the Commission accepted this approach with regard to emergent capital expenditures in Case U-20836, *it has not been accepted for other capital expenditures or O&M expenses*.

The Company's practice of adjusting historical actual costs for historical inflation is being applied inconsistently throughout the rate case, with certain costs adjusted through this unorthodox approach and other costs not following the same methodology when forecasting future costs.[29] For example, the Company does not adjust all distribution historical capital expenditures, none of the non-distribution capital expenditures (such as generation or information technology), and none of the O&M historical costs.

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[27] 6 Tr 3602-03.
[28] 6 Tr 3065-68.
[29] Ex. AG-56, pp. 1-2.

Although in recent rate cases the Commission has been persuaded to follow this selective and unconventional approach, it should not do so again in this rate case or in the future.

DTE's proposals to add additional inflation to past expenditures is also a violation of the Uniform System of Accounts.[30] Electric Plant Instruction No. 2 of the FERC-approved Uniform System of Accounts requires that the Company record all electric plant included in the accounts at the cost incurred by the utility. By increasing historical actual costs by adding historical inflation, the Company is modifying the actual costs for purpose of estimating future costs, which are then included in the projected rate base on which the Company will earn a return. This practice invalidates the requirement that historical costs remain at the actual cost incurred both for accounting and ratemaking. Although actual costs will eventually be recorded to the accounting ledgers, modifying the historical costs for purposes of ratemaking, under the (incorrect and self-serving) pretense that historical costs that already reflect the inflation experienced in those years would have increased further in future years, serves only to artificially inflate projections at the direct expense of ratepayers.

This was explored further in discovery requests to the Company and the responses uniformly undercut Mr. Hill's rebuttal and DTE's position on escalating historical costs with inflationary factors.

[30] Ex. AG-56, pp. 3-4.

When asked to provide any evidence from other state jurisdictions where the use of constant dollar adjustments to historical costs is an accepted ratemaking methodology, DTE could not.[31] When asked to provide any evidence that the practices and cost analytical tools of the Department of Defense have any relevancy in ratemaking in Michigan (as posited by Mr. Hill in his rebuttal), DTE could not.[32] When asked to provide any evidence that historical costs incurred in 2018 through 2022 increased by the inflation factors in subsequent years, DTE could not.[33]

On page 10 of his rebuttal then, DTE witness Hill discussed Mr. Coppola's argument that DTE did not perform an analysis to include significant distribution capital investments savings offsets, disagreeing with that conclusion and pointing to several places in his testimony and exhibits where he argues that the analysis is shown.[34] When asked about this further in discovery, however, it becomes clear that this is no accurate.

In reviewing the responses to discovery requests 5.206a and b, it is apparent that the Company is improperly conflating capital expenditure reductions from strategic capital expenditures and tree trimming costs, with efficiency costs savings that prior year Emergent Projects should have created.[35] This is validated by the fact that, although in Case U-20836 the Company included the same strategic capex cost savings in its Exhibit A-12, Schedule B5.4, the Commission still stated in its

[31] Ex. AG-56, p. 5.
[32] Ex. AG-56, p. 6.
[33] Ex. AG-56, p. 7.
[34] 6 Tr 3071.
[35] Ex. AG-56, pp. 8-10.

November 8, 2022 order that the Company had not met the cost savings requirement, as noted below:

> In the future, however, if authorized strategic capital expenditures are reasonably and prudently spent by the company, as opposed to underspent, the Commission would be open to reconsidering this method of averaging for determining capital expenditures for emergent replacements, including the use of weighed [sic] averages that place more value on expenditures in recent years. The Commission is also interested in, and finds appropriate, the ALJ's recommendation that DTE Electric be required to present further evidence in its next general rate case on the effect of the company's capital investments over recent years on productivity benefits and any continued need for inflationary adjustments to historical data in this cost category for emergent replacements in the future. PFD, p. 151. The Commission lastly reiterates that emergent replacements and strategic capital are two different investment categories with two separate intended purposes and two separate buckets of authorized expenditures that should not be treated as one. In other words, shifting resources between emergent replacements and strategic capital should not be a normal course of action.[36]

Beginning on page 74 of the December 1, 2023 order in Case U-21297, the Commission noted,

> The ALJ quoted the [U-20836] November 18 order, where the Commission found that DTE Electric should 'present further evidence in its next general rate case on the effect of the company's capital investments over recent years on productivity benefits and any continued need for inflationary adjustments to historical data in this cost category for emergent replacements in the future.' PFD, p. 202 (quoting the November 18 order, p. 63). The ALJ found that the company presented no evidence addressing this language from the prior order. PFD, p. 203. As was discussed in the November 18 order, the ALJ found that DTE Electric has made significant capital investments in recent years in distribution system technology that may have productivity benefits that offset some or all inflationary pressures. The ALJ noted the adjustment called "emergent replacement reduction based on strategic spend," but could not conclude that this addressed the inflation offset issue since no meaningful analysis of the issue was provided by DTE Electric. On that basis, the ALJ recommended that the Attorney General's proposed reductions be approved, finding that the Attorney General's "recommendation to use a five-year average without the inflation-normalization adjustment provides a better,

[36] U-20836 November 18, 2022 Order, p. 63.

> more reasonable estimate of what DTE's 2021 costs would have been under a variety of emergent conditions." PFD, p. 204.
>
> …
>
> The Commission rejects the Attorney General's inflationary adjustment and finds that DTE Electric has computed the historic average in a manner consistent with Case Nos. U-20836 and U-20561. See, November 18 order, p. 63; May 8 order, p. 86. Regarding the inflationary adjustment, the Commission acknowledges that this case was filed only two months after issuance of the November 18 order. However, the directives from that order still stand and the Commission anticipates an analysis of the offsetting effects of significant distribution capital investments on inflationary pressures for this cost category in the company's next filed rate case. Additionally, in light of the fact that anomalous weather is becoming the norm, the Commission agrees with the ALJ's decision to incorporate all five years in the average. PFD, p. 204. As the company notes, 2023 was another anomalous year.[37]

As stated in Mr. Coppola's testimony, in the current rate case the Company still did not comply with the Commission's directive from the last three rate cases.

Accordingly, The AG recommends that the Commission remove $24,526,000 for 2024 and $28,557,000 for 2025 from the Company's forecasted capital expenditures.

2. Customer Connections and New Load Growth

Customer Connections and Load Growth Projects

Beginning on page 20 of his direct testimony, Mr. Coppola provides an assessment of forecasted capital expenditures for customer connections and load growth projects and then recommends specific adjustments.[38] That testimony is incorporated herein in its entirety.

[37] U-21297 December 1, 2023 Order, pp. 74-76.
[38] 6 Tr 3603-07.

In rebuttal, Mr. Hill disagreed with Mr. Coppola's testimony and recommendations regarding customer connections and load growth projects.[39] Similar to the above, he disagreed with Mr. Coppola's proposed disallowances related to DTE's inclusion of historic inflation adjustments. Mr. Hill continues to argue that the Company should be allowed to add historical inflation on top of historical expenditures.

In the current rate case, the Company expanded the use of inflation adjustments to historical costs to other type of capital expenditures, as noted above and as noted in Mr. Coppola's testimony. The Commission has not previously addressed this issue and in the past has approved the AG's approach of using actual historical costs without historical inflation adjustments.[40] DTE was asked about this in follow up discovery and in response, the Company points to DR 1.26c, which contains some language from the U-21297 order.[41] However, that reference response pertains to *surge savings* and not Customer Connections etc., and as such is irrelevant to the discussion and should be disregarded.

In response to discovery request AGDE-5.208, Mr. Hill indirectly affirms that his projections do not take into consideration any future economic activities that affect customer connections.[42] Mr. Coppola's use of future housing starts is a superior approach because it creates a link to a factor that drives customer connections.

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[39] 6 Tr 3076-80.
[40] *See, e.g.*, U-21297 December 1, 2023 Order, pp. 78-81.
[41] Ex. AG-56, pp. 11-12.
[42] Ex. AG-56, p. 13.

Based on the above and Mr. Coppola's testimony, the AG recommends that the Commission remove the difference of $14,453,000 from the Company's forecasted 2024 capital expenditures and increase the 2025 forecasted capital expenditures by $3,405,000.

UMR Expenditures

Beginning on page 24 of his direct testimony, Mr. Coppola provides an assessment of Utility Make Ready (UMR) capital expenditures for customer connections and then recommends specific adjustments.[43] As noted, these forecasted amounts are based on the premise that more customers, both residential and non-residential, will buy electric vehicles and will require modifications and additions to their electrical facilities to accommodate Level 2 and faster chargers. That testimony is incorporated herein in its entirety.

Beginning on page 7 of her rebuttal, Company witness Bennett discusses various parties' viewpoints on the EV forecast presented by the Company that was used for planning in this case.[44] Beginning on the bottom of page 8 of her rebuttal, Ms. Bennett touches on Mr. Coppola's characterization of the EV market, taking issue with his argument that the market for EVs is less than that projected by DTE and that therefore DTE need not make certain investments to accommodate future growth in EVs.

[43] 6 Tr 3607-09.
[44] 6 Tr 1996.

Ms. Bennett was asked about this further in discovery.[45] The underlying issue, which is still clear even after DTE's responses, is that the numbers DTE is basing its requested increases in spending on are unreliable and unverified forecasts. For example, MEIU witness Sherman's forecast, which was cited by Ms. Bennett, "suggests EVs could make up 30%-56% of new vehicle sales by 2032."[46] That is an extremely wide divergence and a sales rate at one end of that range vs. the other would make for a much different picture for electric utilities.

Simply stated, DTE has not put forth the rigorous, supported data to show that EV sales are likely to experience such large increases as to justify an increase of close to 200% in net capital expenditures over 2022 actual net Utility Make Ready capital expenditures. In her own rebuttal, Ms. Bennett admits that EV adoption is growing at a slower pace than prior projections[47] and notes that the Energy Information Administration (EIA) projects that 16% of new vehicle sales will be electric by 2032, well below DTE's forecast of 22% by 2028. Accordingly, there is not ample testimony on the record to saddle customers with additional costs for such unsupported forecasts. The Commission should reject DTE's forecasts on this topic and adopt Mr. Coppola's proposed capital disallowances for 2024 and 2025 related to the EV Charging Forward Program.

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[45] Ex. AG-49, pp. 1-2.
[46] 6 Tr 2000.
[47] 6 Tr 1998.

Based on the above and Mr. Coppola's testimony, the AG recommends that the Commission remove the difference of $3,734,000 for 2024 and $10,173,000 for 2025 from the Company's forecasted capital expenditures.

3. Relocations

Beginning on page 26 of his direct testimony, Mr. Coppola provides an assessment of forecasted capital expenditures regarding relocation projects and then recommends specific adjustments.[48] That testimony is incorporated herein in its entirety.

In rebuttal, DTE witness Hill disagrees with Mr. Coppola's recommended disallowance related to the I-375 relocation project.[49] When asked about this disagreement further in discovery,[50] the Company's responses and attachments show that there are no definitive plans and construction timelines for the I-375 project. The revised capital expenditures now proposed by DTEE shows that it would be premature to include any of the capital expenditures in rate base in this rate case. If the Company incurs any capital expenditures in 2024 or 2025, it can recover them in the next rate case if found to be reasonable and prudently incurred. (DR AGDE-5.209a, 5.209b with two attachments)

Based on the above and Mr. Coppola's testimony, the AG recommends that the Commission remove the $25 million for 2024 and the $8 million for 2025 from the Company's forecasted capital expenditures.

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[48] 6 Tr 3609-11.
[49] 6 Tr 3082-84.
[50] Ex. AG-57, pp. 1-2.

4. Electric System Equipment

Beginning on page 28 of his direct testimony, Mr. Coppola provides an assessment of proposed capital expenditures for electric system equipment and then recommends specific adjustments.[51] That testimony is incorporated herein in its entirety.

Mr. Hill touched on this in his rebuttal, which is part of the above discussion about adding additional inflation to historic expenditures.[52] As noted above, DTE's offhand references to surge savings are inapt and the Commission should continue its approval of the AG's approach of using actual historical costs without historical inflation adjustments.[53]

Based on the above and Mr. Coppola's testimony, the AG recommends that the Commission remove the $3,153,000 for 2024 and $3,456,000 for 2025 from the Company's forecasted capital expenditures.

5. General Plant, Tools, Equipment & Miscellaneous Items

Beginning on page 29 of his direct testimony, Mr. Coppola provides an assessment of proposed capital expenditures for General Plant, Tools, Equipment & Miscellaneous Items and then recommends specific adjustments.[54] That testimony is incorporated herein in its entirety.

[51] 6 Tr 3611-12.
[52] 6 Tr 3076-79.
[53] *See, e.g.*, U-21297 December 1, 2023 Order, pp. 78-81.
[54] 6 Tr 3612-13.

Mr. Hill also touched on this in his rebuttal, which is part of the above discussion about adding additional inflation to historic expenditures.[55] As noted above, DTE's offhand references to surge savings are inapt and the Commission should continue its approval of the AG's approach of using actual historical costs without historical inflation adjustments.[56]

Based on all of the above and Mr. Coppola's testimony, the AG recommends that the Commission remove the $1,758,000 for 2024 and $1,862,000 for 2025 from the Company's forecasted capital expenditures.

6. Portable Generators

Beginning on page 31 of his direct testimony, Mr. Coppola provides an assessment of proposed capital expenditures for supplying portable generators to certain customers and then recommends specific adjustments.[57] That testimony is incorporated herein in its entirety.

In rebuttal, DTE witness Hill disagrees with Mr. Coppola's recommended disallowance related to portable generators.[58] When asked about this disagreement further in discovery,[59] the Company's responses and attachments show that DTE's program to provide backup portable generators is not well defined, with conflicting information provided in testimony versus discovery responses on the 48-hour waiting period. It is unknown whether the Company is able to provide backup generator power 24 hours per day, given DTE's reluctance to answer the questions posed by the

[55] 6 Tr 3076-79.
[56] *See, e.g.*, U-21297 December 1, 2023 Order, pp. 78-81.
[57] 6 Tr 3614-15.
[58] 6 Tr 3084-86.
[59] Ex. AG-58.

AG. Ultimately, the cost for this backup generator program should not be recoverable in rates because customers are already paying for the cost of electricity service that the Company is failing to provide.

Based on the above and Mr. Coppola's testimony, the AG recommends that the Commission remove the $4.5 million from the Company's forecasted capital expenditures for 2024.

7. Tree Trimming Prioritization Model and Cost Savings

Beginning on page 33 of his direct testimony, Mr. Coppola provides an assessment of proposed capital expenditures related to the tree trimming surge program and the risk prioritization model and then recommends specific adjustments.[60] That testimony is incorporated herein in its entirety.

In rebuttal, DTE witness Steudle disagrees with Mr. Coppola's recommended capital disallowances related to the Tree Trim Risk Prioritization model.[61] A review of her rebuttal and some follow up discovery requests show that Ms. Steudle seems to be either intentionally or unintentionally lost in semantics/playing language games in an attempt to avoid fulling addressing the AG's questions.[62] An NPV cost benefit model is similar or equivalent to a cost/benefit analysis (CBA). If the Company had been forthcoming, it could have easily pointed to or provided a copy of the CBA that had been performed. Instead, it chose to avoid or deflect the request by focusing on semantics and not substance. The LiDAR system is part of the Tree Trim Risk

[60] 6 Tr 3616-17.
[61] 6 Tr 3006-12.
[62] Ex. AG-60, pp. 10-11.

Prioritization model. If the Company had been cooperative, it would have provided the CBA that included the LiDAR system.

Similarly, with regard to AGDE-5.218b, the Company again initially avoided responding to the substance of the request in AGDE-4.166c about supporting the 5% cost savings.[63] The reference to the source of the 5% provided in response to 5.218b shows that in the White Paper included with DR MNSDE-13.32, that the 5% is an assumption made by the Company with no substantiative basis. In summary, there is no evidence in the record in this case that the capital expenditures for the LiDAR system included in the Tree Trim Risk Prioritization model are economically justified.

Based on the above and Mr. Coppola's testimony, in total for the tree trimming related programs, the AG recommends that the Commission remove $3,078,000 for 2022, $3,824,000 for 2023, $66,900,000 for 2024, and $59,600,000 for 2025. The O&M portion of the savings will be addressed in the Operations and Maintenance section.

8. Electric Distribution 2023 Projects Underspent

Beginning on page 34 of his direct testimony, Mr. Coppola provides a discussion regarding the amount of forecasted 2023 capital expenditures in the distribution area that DTE underspent and then recommends specific adjustments.[64] That testimony is incorporated herein in its entirety.

[63] Ex. AG-60, pp. 12-20.
[64] 6 Tr 3617-18.

In rebuttal, DTE witness Hill notes Mr. Coppola's recommendation regarding 2023 projects underspend, agreeing that the disallowance is reasonable and prudent.[65]

Based on the above and Mr. Coppola's testimony, the AG recommends that the Commission remove the $25,202,000 from rate base in this rate case. The Commission has previously ruled that underspent amounts included in projected rate base should be removed, and DTE should not be earning a return or receive revenue to cover depreciation expense for costs that it did not incur.

## B. Power Generation – Fossil Fuel Plant Projects

***(POWER GENERATION: DTE-Guillaumin, 6 Tr 1601-1605, 1618, 1633, 1692-1724, Ex. A-12 Schedule B5.1, Ex. A-13 Schedule C5.5, Ex. A-34 Schedule Y2)***

On page 3 of Exhibit A-12, Schedule B5.1, the Company forecasted Routine capital expenditures in the Power Generation area of $274 million for 2023, $273.8 million for 2024, and $192.4 million for 2025. The AG identified two adjustments, which are discussed below.

1. Greenwood and Belle River Plants

Beginning on page 35 of his direct testimony, Mr. Coppola provides discussion on the Company's forecasted capital expenditures for the Greenwood and Belle River Plants and his proposed adjustments.[66] That testimony is incorporated herein in its entirety.

[65] 6 Tr 3086-87.
[66] 6 Tr 3618-20.

In rebuttal, DTE witness Ms. Guillaumin disagrees with Mr. Coppola's discussion and proposed adjustments.[67] In her rebuttal testimony, Ms. Guillaumin expands on her direct testimony and brings in new information not previously disclosed. Her responses to follow up discovery show this problem.[68] In 5.195b, she also admits that the additional major maintenance projects are unusual, given that such projects are done every 3-5 years.[69] The reference to her direct testimony does not provide sufficient information to justify the additional planned projects.

Also in rebuttal, Ms. Guillamin argued that replacement of the low-pressure turbines is routine maintenance, despite the infrequent rate at which that occurs and the significant cost.[70] The Company has included projects with costs of $20 million in routine projects. This is highly unusual and skews the historical and projected project average costs.

The Company was asked about this further in rebuttal.[71] Although steam turbine replacements may be common in the industry, it does not justify the Company's practice of including major maintenance projects in routine capital expenditures. The problem that Ms. Guillaumin claims is caused by Mr. Coppola's forecasted capital expenditures for routine projects for the projected test year is of DTE's own making, by misclassifying large cost projects within routine projects.

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[67] 6 Tr 1721-24.
[68] Ex. AG-53, pp. 4-5
[69] Ex. AG-53, p. 5.
[70] 6 Tr 1723-24.
[71] Ex. AG-54.

Therefore, the AG recommends that the Commission remove $8,585,000 in 2024 and $8,223,000 for 2025 from the Company's forecasted capital expenditures for the Greenwood Plant and $13,270,000 for 2024 related to the Belle River plant.

2. Power Generation 2023 Projects Underspent

On page 37 of his direct testimony, Mr. Coppola provides discussion on the amount of forecasted 2023 capital expenditures in the fossil generation area that DTE underspent.[72] That testimony is incorporated herein in its entirety.

DTE did not provide rebuttal to this testimony.

Therefore, the AG recommends that the difference of $3,951,000 should be removed from rate base in this rate case. The Company should not be earning a return or receive revenue to recover depreciation expense for costs that it did not incur.

## C. Nuclear Generation – Capital Projects

***(NUCLEAR GENERATION: DTE-Davis, 6 Tr 1808-1812, 1849-1857, 1865, 1882-1914, DTE-Uzenski, 6 Tr 1567-68, Ex. A-12 Schedule B5.3, Ex. A-47 Schedule LL1, LL2; Staff-Kindschy, 6 Tr 5181-5186, Ex. S-16.3, Ex. S-16.6)***

On page 1 of Exhibit A-12, Schedule B5.3, the Company forecasted capital expenditures in the Nuclear Generation area of $266.7 million for 2023, $184.8 million for 2024, and $215.9 million for 2025. The capital expenditures include both routine and non-routine projects, plus the cost of nuclear fuel. The AG identified several adjustments, which are discussed below.

[72] 6 Tr 3620.

1. Security System Computer

On page 38 of his direct testimony, Mr. Coppola provides discussion on the forecasted capital expenditures for the security computer system and his recommended adjustments.[73] That testimony is incorporated herein in its entirety.

In rebuttal, DTE witness Mr. Davis states that the Company approved the security computer project in stages.[74] However, as repeated in 5.176a and b, the request to the Company was to provide the *total* initial project cost and the final project cost, along with full explanations and justifications of project cost variances.[75] The Company failed to do so, and instead provided an initial cost estimate and a second cost estimate with the total final cost exceeding the initial cost estimate. Contrary to Mr. Davis' claim, it is not a reasonable practice to initiate a project based only on an initial partial cost estimate and later add to that initial estimate, because the total cost of the project is unknown. It is imprudent for management to approve and initiate a project without knowing what the total estimated cost of the project will be, because it leaves the project cost open-ended and subject to cost overruns without any cost control.

Therefore, the AG recommends that the Commission remove $9,197,000 from the Company's forecasted 2024 capital expenditures and the remainder of $19,033,000 from 2023 and prior years, for total removal of $28,230,000.

2. Plant Radio System

[73] 6 Tr 3621-23.
[74] 6 Tr 1896-1900.
[75] Ex. AG-50, pp. 3-8.

On page 40 of his direct testimony, Mr. Coppola provides discussion on the forecasted capital expenditures for the plant radio system replacement project and his recommended adjustments.[76] That testimony is incorporated herein in its entirety.

In rebuttal, DTE witness Mr. Davis also states that the Company approved the plant radio system project in stages.[77] When asked about this further in discovery,[78] the Company made similar claims as it did with the security computer system. Like the above, the claims that the Company included costs for these projects in the prior rate cases and that contingency costs were not included does not resolve the problem of cost overruns or take away from the responsibility of the AG to perform a prudency review of the costs incurred for the two projects. DTE's rebuttal on this issue is misleading and should be disregarded.

Therefore, the AG recommends that the Commission remove $12,830,000 from this rate case, with $1,498,000 removed from the Company's forecasted 2024 capital expenditures and the remaining amount of $11,332,000 from 2023 and prior years.

3. Nuclear Fuel

On page 42 of his direct testimony, Mr. Coppola provides discussion on the forecasted capital expenditures for nuclear fuel costs and his recommended adjustments.[79] That testimony is incorporated herein in its entirety.

[76] 6 Tr 3623-25.
[77] 6 Tr 1898-1901.
[78] Ex. AG-50, pp. 9-13.
[79] 6 Tr 3623-25.

In his rebuttal testimony, Mr. Davis disagrees with Mr. Coppola's recommended adjustments.[80] In response to discovery requests, Mr. Davis confirms that the $135 million forecasted fuel cost for 2025 is the highest amount forecasted since 2018.[81] This information combined with the analysis performed in Mr. Coppola's testimony confirms Mr. Coppola's claim that the Company has overstated the forecasted cost for nuclear fuel.

Therefore, the AG recommends that the Commission remove $20,017,000 from the Company's forecasted capital expenditures for 2025.

4. Nuclear Capital Projects

On page 44 of his direct testimony, Mr. Coppola provides discussion on the forecasted capital expenditures for various large nuclear plant projects and his recommended adjustments.[82] That testimony is incorporated herein in its entirety.

In his rebuttal testimony, Mr. Davis disagrees with Mr. Coppola's recommended adjustments.[83] In response to discovery requests, Mr. Davis makes a semantics argument about the word "phase" as used by Mr. Coppola in his testimony.[84] He seems to allude to some formal process for large projects, such as the construction of a nuclear plant, instead of individual projects that may also be of significant size. In response to the DR, he admits by example that the nuclear projects also go through the same phases defined by Mr. Coppola, to which Mr. Davis

[80] 6 Tr 1907-14.
[81] Ex. AG-50, p. 21.
[82] 6 Tr 3627-29.
[83] 6 Tr 1902-05.
[84] Ex. AG-50, pp. 14-18.

did not respond in the discovery requests made by the AG.[85] Obtaining bids is also a phase of a project. Therefore, Mr. Davis's rebuttal testimony and responses are simply excuses to avoid providing the information requested.

Also in testimony, Ms. Uzenski claims that disallowing projects not completed by the end of the projected test year will not make any difference to the revenue requirement in this rate case because the Company has calculated AFUDC to offset the impact on the revenue requirement of including the cost of those projects in rate base.[86] Although the impact on revenue requirement is almost entirely offset by AFUDC, those projects should still be removed from rate base if they will not be completed by the end of the test year, because they will not be used and useful. The Commission has made this determination in other recent rate cases. As shown on page 2 of AGDE-5.175, the AG would agree that a reduction to AFUDC of $12,392,000 should also be made if those projects are removed from rate base, as recommended by the AG.[87]

Therefore, the AG recommends that the Commission remove capital expenditures of $58,039,000 for 2024 and $56,311,000 for 2025 from the Company's forecasted capital expenditures.

## D. Information Technology Projects

***(IT PROJECTS: DTE-Sharma, 6 Tr 2030-2037, 2158-2159, 2165-2172, 2176-2179, Ex. A-12 Schedule B5.7, B5.71, Ex. A-13 Schedule C3; DTE-Hatsios, 6 Tr 2194-2195, 2236, 2280, 23065-2313, Ex. A-12 Schedule B5.7.3; Staff-Rogers, 6 Tr 5110-5118, Ex. S-15.1, S-15.3, S-15.4, S-15.5, S-15.6)***

[85] Ex. AG-50, p. 14.
[86] 6 Tr 1567-68.
[87] Ex. AG-50, pp. 1-2.

Beginning on page 46 of his testimony, Mr. Coppola discusses adjustments to capital expenditures for IT projects that are proposed by DTE witnesses Michael Hatsios and Pankaj Sharma.[88] That testimony is incorporated here in its entirety.

As noted, Mr. Hatsios focuses on Customer Service-related projects and Mr. Sharma on other IT projects.

With regard to Mr. Hatsios – the Customer Service IT projects of $3 million and greater included in Exhibit A-12, Schedule B5.7.3, the Company identified certain projects with capital expenditures included in 2024 and 2025 where no work has yet been started or the project is in the early phase of development. This is the case for the four projects on lines 4, 11, 15, and 18 of Schedule B5.7.3. It is premature to include the forecasted capital expenditures for these projects in rate base and therefore the AG recommends that the Commission remove the $5,750,000 and the $15,393,000 from the Company's forecasted capital expenditures for 2024 and 2025, respectively.

In rebuttal, Mr. Hatsios disagreed with certain of Mr. Coppola's conclusions and recommendations.[89] However, when asked about his rebuttal further in discovery, the Company's answers support Mr. Coppola's conclusions that cost recovery for these projects would be premature.[90] Although in his rebuttal, he tries

[88] 6 Tr 3629-33.
[89] 6 Tr 2305-13.
[90] Ex. AG-55, pp. 1-2.

to portray the projects as being further along, in response to discovery requests 5.198a and b, Mr. Hatsios confirms that Mr. Coppola's testimony is correct.[91]

DR 5.199 to 5.201: In response to additional discovery requests asking about his rebuttal on the Rider 17-MIGP, Residential, And Small Commercial & Industrial Project, the the 2025 Advances Analytics Use Case Project, and the TOD deferred expenses, Mr. Hatsios confirmed that the information contained in Mr. Coppola's testimony is correct.[92] His attempts to embellish the facts to DTE's favor in his rebuttal should be disregarded by the Commission.

Accordingly, the Commission should remove the $5,750,000 and the $15,393,000 from the Company's forecasted capital expenditures for 2024 and 2025, respectively.

With regard to Mr. Sharma – the IT projects in Exhibit A-12, Schedule B5.7.1, the Company failed to provide adequate information on project phases and related timelines. In Schedule B5.7.1, there are two projects with capital expenditures in excess of $3 million, specifically the Cloud Health and Safety Project and Enhanced Document Management Capability Projects. It is not possible to determine what phase those projects are currently in or whether they will be completed by the end of the projected test year and be used and useful. Therefore, the AG recommends that the Commission remove the $1,218,000 for 2024 and $2,958,000 for 2025 from the Company's forecasted capital expenditures.

[91] Ex. AG-55, pp. 1-2.
[92] Ex. AG-55, pp. 3-5.

In rebuttal, DTE witness Sharma disagreed with Mr. Coppola's capital disallowances for certain IT projects and capital expenditure underspend.[93] DTE was asked about this further in follow up discovery. First, DTE's response to AGDE-5.212 shows that Mr. Sharma did not make a reasonable effort to obtain clarification to the discovery questions posed by the AG, to make sure that answers provided were responsive to the questions asked.[94] Second, the response to AGDE-5.213 confirms that the information previously provided to the AG and used in Mr. Coppola's testimony was accurate.[95] Accordingly, Mr. Sharma's claims in rebuttal that Mr. Coppola used incomplete information and incomplete comparisons for his analysis should be rejected. Mr. Coppola and the Attorney General do their due diligence in examining DTE's proposals and to the extent DTE takes shortcuts in responding to discovery and/or fails to provide complete information, that is a problem of the Company's own making.

As laid out in testimony by Mr. Coppola, discovery showed that for 2023 the Company incurred actual capital expenditures of $127,456,000, $34,854,000 less than what DTE forecasted for the year in Ex. A-12, Sched. B5.7. Therefore, that $34,854,000 should be removed from rate base in this rate case because DTE should not be earning a return or receive revenue to recover depreciation expense for costs that it did not incur.

[93] 6 Tr 2176-79.
[94] Ex. AG-59, p. 1.
[95] Ex. AG-59, p. 2.

## E. Corporate Capital Projects

***(CORPORATE CAPITAL PROJECTS: DTE-Uzenski, 6 Tr 1564-1568, Ex. A-12, Sched. B5.8)***

Beginning on page 50 of his testimony, Mr. Coppola discusses proposed adjustments to capital expenditures for corporate and vehicle transportation areas.[96] That testimony is incorporated here in its entirety, by reference, and includes proposed removal of amounts from capital expenditures related to renovations undertaken at DTE's headquarters, 9 projects that are in the early stage of development and premature to include in rate base, and vehicles and equipment supporting electrical operations.

As to the renovation projects, Ms. Uzenski disagreed in rebuttal with Mr. Coppola's capital expenditure disallowance recommendations.[97] When asked about this further in discovery, DTE's response[98] shows indecision on the part of the Company and an incoherent, rapidly changing employee work strategy. The frequent changes in strategy, which has no discernable, stated end goal, is increasing costs. Customers should not pay for the Company's missteps in managing its workforce and related workspace and furniture requirements.

As to the projects that are premature to include in this case, as noted in a previous section, Ms. Uzenski claims that disallowing projects not completed by the end of the projected test year will not make any difference to the revenue requirement in this rate case because the Company has calculated AFUDC to offset the impact on

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[96] 6 Tr 3633-37.
[97] 6 Tr 1566-67.
[98] Ex. AG-61, p. 2.

the revenue requirement of including the cost of those projects in rate base.[99] The AG reiterates, that though the impact on revenue requirement be almost entirely offset by AFUDC, those projects should still be removed from rate base if they will not be completed by the end of the test year, because they will not be used and useful. The Commission has made this determination in other recent rate cases and that is proper ratemaking procedure.

Finally, also in rebuttal Ms. Uzenski disagreed with certain of Mr. Coppola's capital expenditure disallowances related to vehicle fleet expenditures.[100] Specifically, she disagreed with Mr. Coppola's methodology, arguing that DTE's forecast methodology is more reasonable.[101] When asked about this further in discovery, DTE's response[102] confirms that the Company did not provide justification for the year over year increase in vehicle capital expenditures. The reference to a prioritization model is meaningless unless it is accompanied by specific justification. Accordingly, Ms. Uzenski's rebuttal on this topic should be disregarded.

Accordingly, the Attorney General continues to recommend 1) that the Commission remove $6,265,000 for 2023 and $8,000,000 for 2024 from the capital expenditures forecasted by the Company for renovations at DTE's headquarters, 2) remove $24,600,000 from the Company's forecasted capital expenditures for 2025 related to the 9 projects in early stages of development, and 3) remove $4,564,000 for 2024 and $8,187,000 for 2025 related to DTE's transportation fleet.

[99] 6 Tr 1567-68.
[100] 6 Tr 1564-65.
[101] 6 Tr 1564-66.
[102] Ex. AG-61, p. 1.

## F. EV Charging Forward Program

***(EV CHARGING FORWARD PROGRAM: DTE-Bennett, 6 Tr 1921-1930, 1992-2003, Ex. A-49 Schedule NN1, NN2)***

Beginning on page 54 of his direct testimony, Mr. Coppola provides discussion on and his assessment of the Company's proposed spending plans for its EV Charging Forward Program.[103] He compares this discussion to his testimony on the Utility Make Ready capital expenditures and proposes reductions to DTE's forecasted capital expenditures to more closely align with industry trends. All of his testimony is incorporated herein in its entirety.

In rebuttal, DTE witness Bennett disagrees with Mr. Coppola's characterization of the EV market and his proposed capital disallowances.[104] She argues that the Company's projections regarding EVs are reasonable and therefore DTE's recommendation to reduce the EV Charging Forward capital spend by 45% based on a slower EV adoption expectation should be rejected.

This was fully addressed above in the Utility Make Ready discussion, and the AG maintains her position that DTE's presentation is not sufficient to ask customers to bear these costs. DTE has not put forth the rigorous, supported data to show that EV sales are likely to experience such large increases as to justify its proposals and nothing in Ms. Bennett's discussion adequately rebuts Mr. Coppola's direct testimony.

[103] 6 Tr 3637-38.
[104] 6 Tr 1998-2001.

Accordingly, the AG continues to recommend that the Commission reduce the forecasted capital expenditures in Schedule B5.9 by 45% for 2024 and 2025.[105] This means a reduction in capital expenditures of $6,979,000 for 2024 and $2,295,000 for 2025. The lower amounts included in rate base will protect customers from the Company's potential underspending on the program. However, if the Company were to exceed those amounts, it can request recovery for the additional amount in the next rate case.

## G. Capital Expenditures Adjustments – Summary

***(CAPITAL EXPENDITURES: DTE-Uzenski, 6 Tr 1517-1534, Ex. A-12 Schedule B5, B5.8; DTE-Guillaumin, 6 Tr 1586, 1594-1596, 1601-1605, 1620, 1633-1635, 1692-1706, 1721-1729, 1734-1741, Ex. A-12 Schedule B5.1; DTE-Milo, 6 Tr 1757-1762, Ex. A-12 Schedule B5.2; DTE-Davis, 6 Tr 1807-1809, 1814-1817, 1821-1854, 1882-1907, Ex. A-12 Schedule B5.3, Ex. A-47 Schedule LL1; DTE-Bennett, 6 Tr 2000, Ex. A-49 Schedule NN2; DTE-Sharma, 6 Tr 2029-2042, Ex. A-12 Schedule B5.7, B5.7.1; DTE-Hatsios, 6 Tr 2305-2306, 2325-2326, Ex. A-12 Schedule B5.7.3; DTE-Villadsen, 6 Tr 2445, Ex. A-14 Schedule D5.18; DTE-Farrell, 6 Tr 2664, 2708, Ex. A-12 Schedule B5.6; DTE-Hill, 6 Tr 3050-3054, 3065-3067, Ex. A-12 Schedule B5.4; DTE-Bellini, 6 Tr 3118-3119, Ex. A-12 Schedule B5.5; ABATE-York, 6 Tr 3347-3361, Ex. AB-2; ABATE-Dauphinais, 6 Tr 3370-3373; Staff-DeCooman, 6 Tr 5050-5055, 5063-5068, Ex. S-10.0, S-10.1, S-10.2; Staff-Kindschy, 6 Tr 5178-5187, Ex. S-16.0, S-16.2, S-16.3, S-16.4, S-16.5, S-16.6)***

The chart below summarizes the AG's proposed reductions in capital expenditures in those areas where the level of capital expenditures presented by the Company is excessive, unnecessary, or unsupported.

[105] Make Ready reductions of $13.9 million from the Company's forecasted net UMR of $30.68 million for 2024 and 2025 = 45%.

| Summary of AG Disallowed Capital Expenditures | | |
|---|---|---|
| | | Amount (millions) |
| Distribution Operations | $ | 688 |
| Power Generation | | 34 |
| Nuclear Operations | | 175 |
| Customer Service/IT | | 60 |
| Corproate Facilities | | 52 |
| EV Program | | 9 |
| **Total** | **$** | **1,018** |

Based on Mr. Coppola's analysis and testimony, the Commission should reduce the Company's proposed capital expenditures by $1,018 million and average rate base by $783.9 million, including an adjustment of $25.7 million to working capital. Exhibit AG-18 provides additional details and calculations of these amounts.

## IV. CAPITAL STRUCTURE AND RATE OF RETURN

***(CAPITAL STRUCTURE: DTE-Villadsen, 6 Tr 2401-2540, Ex. A-14 Schedule D5.4, D5.8, D5.12, D5.14, Ex. A-39 Schedule DD8; DTE-Lepczyk, 6 Tr 2549-2553, 2564, Ex. A-12 Schedule B5; DTE-Vanglider, 6 Tr 2809-2815, Ex. A-14 Schedule D1, D1.1; ABATE-Walters, 6 Tr 3445, 3483, Ex. AB-5)***
***(ROE: DTE-Villadsen, 6 Tr 2401-2540, Ex. A-39 Schedule DD1, DD10, DD12; ABATE-Walters, 6 Tr 3422-3427)***

Recommended Capital Structure

The AG's recommended capital structure is shown on page 1 of Exhibit AG-26. Lines 1 and 3 of the exhibit show the projected long-term debt and common equity permanent capital of the Company for the test period ending December 2025. The permanent capital balances in this exhibit reflect a 50%/50% capital structure, which are the same percentages reflected in Company Exhibit A-14, Schedule D1. The result is a capital structure with 50% common equity and 50% long term debt, which reflects the capital percentages approved by the Commission in the Company's last general rate case, U-21297.

Return on Equity and Overall Return on Capital

As shown in Exhibit AG-26 and based on the work of Mr. Coppola, the Attorney General recommends an overall return on capital of 5.67%, which includes a return on common equity of 9.85%. For Long Term Debt, Mr. Coppola utilized the 4.24% rate determined by Mr. Lepczyk.[106] For Short Term Debt and Deferred Taxes, Mr. Coppola utilized the cost rates recommended by Company witness Lepczyk and for JDITC, he utilized the long-term debt and common equity rates applicable to this case.[107]

In his direct testimony, Mr. Coppola explained the development of the overall cost of capital that is included in Exhibit AG-26.

> To develop the overall cost of capital on line 11, column (f), I have first developed the percentage weighting of each capital component in column (d) by dividing the individual capital balances in column (b) by the total of all capital components in that column. Next, I have multiplied the weightings in column (d) by the cost rates in column (e) to arrive at the values in column (f). The total of the individual values in column (f) is the total cost of capital of 5.67%.
>
> Regarding the pretax weighted cost of capital on line 11, column (h), I have multiplied each cost component in column (f) by the conversion factors in column (g). These conversion factors are included to reflect the impact of income and other taxes paid by the Company for calculation of the pretax weighted cost of 7.02% in column (h).[108]

[106] 6 Tr 3657.
[107] 6 Tr 3657.
[108] 6 Tr 3657-58.

Accordingly, the AG recommends that the Commission set the overall cost of capital at 5.67%.

Cost of Common Equity

In his direct testimony, Mr. Coppola discusses at length his development and determination of the cost of common equity for the Company.[109] The Commission has addressed this topic extensively in all recent rate cases.

After discussing the general principles that he considered in determining the cost of common equity for the Company, specifically the principles of the Hope and Bluefield cases,[110] Mr. Coppola discusses his development of the cost of equity in Exhibit AG-27.[111] The AG incorporates that discussion here by reference.

Mr. Coppola then moves on to discuss the development of his proxy group of peer companies:

> As reflected on Exhibit AG-33, to develop my peer group, I started with the 38 electric utility companies followed by the Value Line Investment Survey. From this group of companies, I removed six companies due to size considerations, which includes Duke, Exelon, Nextera, and Southern Company (much larger companies), as well as two smaller companies with annual revenues at $1.0 billion or less (MGE Energy and Unitil). Next, I removed three companies whose dividends are not growing and two other companies, Fortis (a Canadian company) and Sempra Energy due to its foreign investments. Three other companies that I removed are Hawaiian Electric, Eversourse Energy, and Edison International. These companies face higher risks due to wildfire liabilities and the construction of off-shore wind electric generating facilities. Two other companies I eliminated are Otter Tail and Nextera Energy. Nextera (parent of Florida Power & Light) was removed due its growing non-utility investments primarily in the power generation business, which is currently more than 40% of the company's total Property Plant & Equipment assets, and its high-risk profile due to severe hurricanes. Otter Tail was removed because its operating income from non-utility operations are now 75% of the total

[109] 6 Tr 3658-59.
[110] 6 Tr 3658-59.
[111] 6 Tr 3659.

> company income. Its plastics and manufacturing businesses have grown significantly and its business profile no longer meets that of a typical peer utility. Several other companies I disqualified are involved in M&A activity or reorganizations, or are companies facing earnings growth challenges.[112]

The result of Mr. Coppola's work is a proxy group of ten companies shown in Exhibits AG-28 and AG-29, all of which have growing earnings and dividends and are comparable to DTE.

Mr. Coppola's group of 10 peer companies differs from the Company's peer group. The Company's electric peer group as presented by Dr. Villadsen has 25 electric companies.[113] This group includes eight of the companies in Mr. Coppola's peer group, plus: (a) five companies Mr. Coppola removed due to size considerations; (b) four companies (American Electric Power, ALLETE, CenterPoint Energy, and WEC Energy Group), which Mr. Coppola excluded due to reorganization / M&A considerations; (c) a number of companies (OGE Energy, Pinnacle West, Evergy, and Entergy), which Mr. Coppola removed due to growth challenges or other irregularities; and (d) Edison International, due to uninsured wildfire risk and thus dividend risk.[114]

Edison International has taken after-tax charges to earnings of $3.8 billion for wildfire and mudslide damages in 2021.[115] Many of the companies in Dr. Villadsen's peer group have extraordinary and unique risks or uncertainties and should not be included in the group of peer companies.

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[112] 6 Tr 3660-61, internal citations omitted.
[113] 6 Tr 2431.
[114] 6 Tr 3661.
[115] *See* Edison International 2021 Form 10-K, p. 10.

Mr. Coppola also provided his assessment of Dr. Villadsen's screening criteria for the development of her peer group. Specifically, Dr. Villadsen specifies five criteria. Three of these requirements include (a) investment grade status; (b) a market capitalization of at least $300 million ; and (c) the availability of sufficient data for estimation. Most of the companies followed by Value Line meet these criteria and therefore the use of these criteria by Dr. Villadsen accomplishes little if anything different to select a proper peer group.

Her fourth criterion is that the peer company "must pay dividends with no dividend cuts in three years." Again, most utility companies meet this criterion. Her fifth criterion is that the peer company "cannot have engaged in substantial merger, acquisition or divestiture activity for three years." In this regard, it is worth noting that two of her peer companies (American Electric Power and CenterPoint Energy) have been looking to sell assets for some time to bolster their balance sheets and reduce risk. These potential transactions can affect the stock price.

Dr. Villadsen's peer group selection process does not reflect sufficient rigor, often failing to follow even her own criteria. The net result is that certain high-risk companies, as well as poorly matched companies, are included in her peer group to provide an unreliable cost of equity capital.

For the above reasons, the Commission should reject the Company's proposed peer groups and the cost of equity capital derived from those groups of companies.

*Methodology Used to Develop Cost of Common Equity*

In his direct testimony, Mr. Coppola uses three approaches, along with the principals of *Hope* and *Bluefield*, to determine an appropriate cost of equity in this case. Mr. Coppola use the Discounted Cash Flow (DCF) Approach,[116] the Capital Asset Pricing Model (CAPM) Approach,[117] and the Utility Risk Premium Approach.[118] Not only have these methodologies been accepted by the Commission in prior cases, but they are generally accepted by regulatory commissions in other jurisdictions around the country. In his testimony Mr. Coppola discussed each of these approaches and explained how they differ from the approaches used by Dr. Villadsen.[119] Rather than rewrite Mr. Coppola's testimony here, that section is incorporated by reference, in its entirety, with some highlights below. This section includes discussion on recent economic and interest rate environment changes for DTE,[120] ROE rates other regulatory commissions granted in 2022 and 2023,[121] and why a reduction in DTE's ROE to 9.85% would not have an impact on the Company's debt ratings.[122]

*Discounted Cash Flow Approach*

Mr. Coppola's DCF approach is summarized in Exhibit AG-28 and on pages 80 and 81 of his direct testimony and results in an ROE of 9.26% for the proxy group. DTE presents "simple" DCF study results of 11.2% for the electric peer group as shown on page 38 of Dr. Villadsen's testimony.

[116] 6 Tr 3663-69.
[117] 6 Tr 3669-73.
[118] 6 Tr 3673-75.
[119] 6 Tr 3663-75.
[120] 6 Tr 3675-76.
[121] 6 Tr 3676-77.
[122] 6 Tr 3678-79.

DTE's methodology to arrive at its "Simple" DCF results relies upon numerous erroneous approaches,[123] including a novel approach that is not used by almost any commission in the country. Dr. Villadsen uses the After-Tax Weighted Cost of Capital (ATWACC) approach that the Company has advocated in several of its recent rate cases.[124] As the AG has noted in previous cases, DTE's approach starts with a normal DCF analysis and runs the results through an ATWACC process to derive a higher cost of common equity. DTE's process is further explained on pages 82-85 of Mr. Coppola's direct testimony.[125]

The ATWACC approach produces skewed, artificially inflated results due to the high stock market to book ratios in the utility industry as a result of low interest rates and other factors. This is a major flaw of the ATWACC approach that, if embraced by regulatory commissions, would lead to inflated ROEs being awarded in rate cases. In this case, the Commission should recognize the inherent circularity of the ATWACC process. For example, if the ATWACC approach was to become universally embraced by regulatory commissions, the ROEs awarded in regulatory proceedings would increase. These inflated ROEs would result in higher utility earnings, higher stock prices, and higher market to book ratios for utility common stocks. The subsequent calculated ROEs in new rate cases under the ATWACC method would then produce even higher awarded ROEs because the ATWACC would use the higher stock market equity capitalization.

[123] 6 Tr 3664-68.
[124] 6 Tr 3665-68.
[125] 6 Tr 3665-68.

It is likely because of this cost-inflating circularity and the complexity of the methodology that the ATWACC approach has not been embraced in the utility industry. In fact, DTE witnesses could not identify any instances where the methodology has been accepted by state regulatory commissions. In past cases, the only instances DTE could identify where the methodology has been used were (1) property taxation disputes in Colorado; (2) Florida's regulation of small water companies; (3) a valuation dispute before the FERC; (4) revenue adequacy hearings for railroads, and (5) a revenue adequacy hearing involving Alabama Power related to its special rate RSE. There are no known cases where a state regulatory commission in the United States has endorsed the ATWACC approach in setting the cost of common equity in a general rate case proceeding. Therefore, the Commission should disregard the ATWACC approach to calculating the DCF cost of common equity.

Finally, Mr. Coppola discusses the results of the DCF analysis that he performed:

> The DCF analysis relies upon financial market information for the dividend yield portion of the equation. It also relies upon judgments of growth prospects of security analysts, which influence the beliefs of investors. I will point out that the forecasted growth rates in my proxy group include some high growth rates, which in some cases are between 6% and 7%. While these earnings growth rates may materialize in the short term, they may not be sustainable long-term growth rates for electric utilities given that customer and revenue growth continue to be barely in low single digits. As such, the results of the DCF analysis in some cases reflect a return on equity rate that is somewhat higher than what investors currently expect in the long term. Nevertheless, I place a fairly high degree of reliability in the DCF results when considered in conjunction with the results of other approaches to determining the cost of common equity.[126]

[126] 6 Tr 3668-69.

*Capital Asset Pricing Model*

Exhibit AG-29 and Mr. Coppola's direct testimony at pages 86-90 explain the results of the CAPM approach.[127] Using this CAPM approach, Mr. Coppola calculates an ROE rate of 10.57% for the proxy group average.[128] Mr. Coppola then comments on Dr. Villadsen's calculations of CAPM and explains the problems with her analysis.[129] As discussed, DTE's CAPM and ECAPM results have all been determined using the "Hamada approach with leveraged betas," which leads to inflated and erroneous results.[130] The table provided on page 89 of Mr. Coppola's testimony shows Dr. Villadsen's results adjusted to remove the impact of the leveraged betas, eventually providing a mid-point of 10.60%.[131]

DTE's various methods used to calculate the cost of equity capital are inventive, highly unconventional and not generally accepted. Based upon that and the reasons presented in Mr. Coppola's testimony, the Commission should reject these alternative approaches, which clearly reflect an attempt by DTE and Dr. Villadsen to inflate the Company's true cost of common equity.

Finally, Mr. Coppola assessed the CAPM approach, finding that it can be useful in assessing the relative risk of different stocks or portfolios of stocks.[132] However, he concluded that the CAPM approach should be given much less weight than the DCF approach in determining the cost of common equity, because the key

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[127] 6 Tr 3669-73.
[128] 6 Tr 3671.
[129] 6 Tr 3671-72.
[130] 6 Tr 3671.
[131] 6 Tr 3672.
[132] 6 Tr 3672-73.

issue with CAPM is that is assumes that the entire risk of a stock can be measured by the "Beta" component and as such the only risk an investor faces is created by fluctuations in the overall market.[133] In actuality, investors take into consideration company-specific factors in assessing the risk of each particular security.

*Utility Risk Premium Model*

Exhibit AG-30 and Mr. Coppola's direct testimony at pages 90-91 explain the results of the Utility Risk Premium approach.[134] Using this Utility Risk Premium approach results in an ROE rate of 10.1%.[135] In this context, Mr. Coppola analyzed the economic and interest rate environment in recent years for DTE and explained that the Michigan economy has generally recovered from the 2020 recession caused by the Covid-19 pandemic, thanks in part to the accommodative stance of the U.S. Federal Reserve Bank during 2020 and 2021 by reducing interest rates. He notes that more recently inflation became a concern and to combat that, the Federal Reserve increased short term interest rates. However, inflation in late 2023 and so far in 2024 has fallen, and sentiment is fairly universal that the Federal Reserve will soon begin to cut short-term interest rates. This should result in falling long-term interest rates, which will benefit the Company with lower financing costs and lower the cost of equity capital.

Mr. Coppola points out that DTE's access to capital has remained strong as witnessed by its issuance in February 2024 of $500 million of new 10-year long-term

[133] 6 Tr 3672-73.
[134] 6 Tr 3673-74.
[135] 6 Tr 3675.

debt at a rate of 5.2% and $500 million of 2-year debt at 4.85%.[136] DTE's senior secured debt ratings are A/Aa3 and its commercial paper program is rated P-1 (highest) by Moody's Investor Service. Also, the Company's parent, DTE Energy, accessed the capital markets in February 2024, issuing approximately $800 million of 5-year long-term debt at a rate of 4.875%.[137]

For its part, DTE does not provide any utility risk premium analysis. Dr. Villadsen does provide testimony on a "risk premium approach." Beginning on page 38 of her testimony, Witness Villadsen states that she compared the authorized ROEs from electric utility rate case decisions from 1990 to 2023 to 20-year U.S. Treasury bonds.[138] According to her testimony, she ran a regression analysis with this data and observed that ROE rates have fallen more slowly than treasury bonds. Based on her model results, she concluded that an ROE of 10.5% for electric utilities would be appropriate, based on her reliance on the 20-year forecasted U.S. Treasury rate of approximately 4.30%.

What is troubling about this analysis is that it lacks any comparison of actual returns achieved on utility common stocks (via price appreciation and dividends) to treasury bonds, and suggests that treasury bond yields are the primary driver in ROE decisions by regulators. This analysis has no validity as a tool to determine the ROE to be established in rate proceedings. Regulators approach the serious business of establishing an ROE based on many factors and often exercise "gradualism" in the

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[136] *See* DTE Energy 1st quarter Form 10-Q filed with the SEC.
[137] *See* Forms FWP dated February 12, 2024 and April 29, 2024 filed with the SEC.
[138] 6 Tr 2439.

process as well. Accordingly, the Commission should give this analysis no weight in this case.

In rebuttal, Dr. Villadsen provides pages and pages[139] discussing the ROEs proposed by Staff and intervenors and where she believes they fall short. After following up with Dr. Villadsen through additional discovery, the AG provides brief discussion here on a few of the arguments she makes in rebuttal.

First, in the table on page 9 of her rebuttal, Dr. Villadsen shows "modified" ROE rates as compared to what other parties filed.[140] Clearly these "modified" rates were calculated by Dr. Villadsen using her preferred methodologies and do not represent corrections of errors in the calculations of the ROE rate by the various parties. When asked about this in discovery, Dr. Villadsen framed the modifications as "reasonable adjustments," but made no attempt to answer the question as posed, indicating that there are no errors in the calculations of other parties.[141] Obviously, any party can subjectively "modify" the ROEs of the other parties based on their own preferred methodologies and predilections. Doing so adds nothing substantive to the discussion and should be disregarded by the Commission.

Dr. Villadsen's response to AGDE-5.233 shows her reluctance to accede to even a well-known fact, specifically that lower interest rates lead to lower ROE rates given that the U.S. Treasury rate used in the calculation of the CAPM and other ROE methods would decline with the Federal Reserve reduction in interest rates.[142] Her

[139] 6 Tr 2490-540.
[140] 6 Tr 2495.
[141] Ex. AG-62, p. 1.
[142] Ex. AG-62, p. 2.

response, although in the negative, is superseded by her explanation. This unwillingness to engage with objective facts on even the most basic of levels undercuts Dr. Villadsen's testimony and credibility.

Also in her rebuttal testimony, Dr Villadsen criticizes Mr. Coppola's use of a 50% weight for the DCF model.[143] In response to AGDE-5.234a, she effectively confirms that Mr. Coppola has consistently used the DCF method to calculate the cost of equity capital, again undercutting her critique.[144]

Finally, in response to AGDE-5.234b, when still being asked about Mr. Coppola's calculation of ROE and the propriety of using the DCF model over other methods, she veers off track and starts discussing stock buy backs and options instead of focusing on the key components of the DCF method, which includes dividends yield and long terms earnings growth as opposed to temporary items such as share buybacks.[145] Dr. Villadsen's responses avoid straight answers, are designed to mislead, and are all geared toward propping up and insupportably huge ROE.

The AG's positions on this topic are clear, as are those of the other parties to this case, and Dr. Villadsen's discussion in rebuttal does not add anything substantive to the argument or otherwise undercut the AG's position.

*Conclusion*

Mr. Coppola summarized his conclusions regarding the appropriate ROE in this case in Exhibit AG-27. The range of returns for the industry peer groups is from

[143] 6 Tr 2498.
[144] Ex. AG-62, p. 3.
[145] Ex. AG-62, p. 4.

9.26% at the low end using the DCF approach and 10.57% at the high end using the CAPM approach.[146] After weighting the various approaches, Mr. Coppola calculated a weighted return on equity of 9.80% for the average industry peer group.[147] Mr. Coppola, however, explained that he is recommending a higher ROE rate of 9.85% based on a DTE Electric specific analysis:

> … I give more weight to the DCF method as a more reliable approach to estimating the cost of equity for utilities, which in my analysis is 9.18%. In this regard, on line 4 of Exhibit AG-27, I calculated a weighted return on equity of the three methodologies using a 50% weight for DCF and 25% for each of the other two methods. The result is a weighted return on equity of 9.80%. To this base cost of equity capital I added an additional premium adjustment of 5 basis points, to arrive at a recommended ROE rate of 9.85% for this rate case. The additional 5 basis points provide an added cushion to the ROE rate, should interest rates fall slower than anticipated.
>
> Michigan utilities currently enjoy some of the highest ROE rates among utilities in the country. As shown in Exhibit AG-31, ROE rates granted to Michigan utilities in 2022 and 2023 are at the highest end of the range among most utilities in the country and well above the national average rate and the Midwest average of 9.50%. In prior rate cases, the Commission has expressed a desire to gradually reduce those ROEs. This rate case provides an opportunity for the Commission to do so by setting the Company's ROE rate at 9.85%.[148]

As noted, Mr. Coppola developed, and the Attorney General recommends, an ROE of 9.85% in this case as a reasonable, fair, and gradual transition to the true cost of equity.

[146] 6 Tr 3682.
[147] 6 Tr 3682.
[148] 6 Tr 3682-83.

The Commission should not be concerned that establishing an authorized ROE of 9.85% in this case will lead to the impairment of the Company's ability to access capital markets. In his testimony Mr. Coppola explains:

> In recent general rate case proceedings, the Commission seems to have been persuaded by the applicants' arguments that they should receive an ROE rate of 10% or higher to ensure the financial soundness of the business and to maintain its strong ability to attract capital in addition to being compensated for risk. Pages 1 and 2 of Exhibit AG-31 show several utilities that have accessed the capital markets at competitive interest rates since receiving an ROE substantially below 9.9% as well as below the average rate of 9.50%.
>
> Similarly, there is no evidence equity investors have abandoned utilities that have been granted ROEs below 10%. On the contrary, stock investors continue to migrate to utility stocks recognizing that authorized ROEs are still above the true cost of equity. Exhibit AG-39 shows the market to book ratios for each of the peer group companies, and many of these companies have received rate orders during the past few years reflecting ROEs ranging from 7.85% (Ameren-Illinois in 2022) to 9.9% (CMS Energy in 2023). Yet this group of companies has an average ratio of Market to Book common equity value of more than 1.6 times book value, indicating that utilities are earning returns above the investor expected cost of equity on book value.
>
> This information is provided to dispel the myth that the Company must receive an ROE rate above the industry average or it will face dire consequences in the financial markets.
>
> The fact that the Company needs to raise capital because of a large capital investment program to upgrade its infrastructure and for other purposes is not unique to DTE Electric. Other electric and gas utilities face the same issues and are able to raise capital with ROEs at or below my proposed 9.85%. Therefore, this issue is another "red herring."[149]

Finally, Mr. Coppola also calculated that if the Commission grants a 9.9% ROE in this case versus his recommended 9.85% ROE, the Commission is adding an

[149] 6 Tr 3678-79.

additional $6.4 million in costs to customers annually.[150] Accordingly, the Attorney General recommends an ROE of no more than 9.85% in this case.

## V. ADJUSTED OPERATING INCOME (OPERATIONS AND MAINTENANCE EXPENSES)

***(O&M EXPENSES: DTE-Uzenski, 6 Tr 1484-1487, 1491, 1493, 1496-1498, 1501, 1511, 1513, 1516-1517, 1562-1563, 1579, Ex. A-3 Schedule C1.1, C14, Ex. A-13 Schedule C1, C5, C5.6.2, C5.10, Ex. A-37 Schedule BB1; DTE-Guilaumin, 6 Tr 1706-1716, Ex. A-13 Schedule C5.1, C5.5; DTE-Milo, 6 Tr 1763-1765 Ex. A-13 Schedule C5.2 DTE-Davis, 6 Tr 1854-1858, 1866-1869, 1877, Ex. A-13 Schedule C5.3, C5.16, C5.17; DTE-Kryscynski, Ex. A-13 Schedule C5.6, Ex. A-43 Schedule HH3; DTE-Andahazy, Ex. A-12 Schedule B5.4.8; DTE-Bennett, 6 Tr 1984-1988, Ex. A-13 Schedule C5.9, C5.9.2; DTE-Sharma, 6 Tr 2029-2030, 2168-2169, Ex. A-13 Schedule C5.13; DTE-Hatsios, 6 Tr 2195-2196, 2204, 2208, 2233, 2289-2290, 2299, Ex. A-12 Schedule B5.7.3, Ex. A-13 Schedule C5.7, Ex. A-24 Schedule N5; DTE-Farrell, 6 Tr 2689-2690, 2694, 2700; DTE-Maroun, 6 Tr 2758, 2765-2766, 2772-2774, Ex. A-16 Schedule F1.5; DTE-Steudle, 6 Tr 2982-2983, 2987, 3003, 3019-3020, Ex. A-13 Schedule C5.6, Ex. A-22 Schedule L1; DTE-Bellini, 6 Tr 3117-3118, 3134-3135, 3160-3164, Ex. A-13 Schedule C5.6, Ex. A-40 Schedule EE2; Staff-McMillan-Sepkoski, 6 Tr 4926-4928, Ex. S-7.4, S7.5; Staff-Schreur, Ex. S-3 Schedule C-5; Staff-Rogers, 6 Tr 5110-5112, 5117, 5123-5126, Ex. S-15.1, S-15.5; Staff- Duell, 6 Tr 5147-5148; Staff-Kindschy, 6 Tr 5185-5186, 5188-5189, Ex. S-16.7)***

In his direct testimony, Mr. Coppola, addresses several Operations and Maintenance (O&M) Expense reduction recommendations.[151] DTE has projected O&M expenses of $1.267 billion during the test year.[152] That represents a $43 million, or 3.5%, increase over historical level. As Mr. Coppola points out, there are offsetting changes that should be noted.

> Cost reductions of approximately $108 million are reflected in the projected test year, primarily from the closing of three power plants ($31 million), lower nuclear expenses ($47 million), the removal and deferral of pension expense, and lower OPEB expenses ($30 million). Offsetting these expense reductions

[150] 6 Tr 3683.
[151] 6 Tr 3683-707.
[152] 6 Tr 3683.

is $87 million of forecasted inflation cost increases for wages and other expenses.[153]

Mr. Coppola's analysis identified $123.5 million of expense reductions, which are summarized in Ex. AG-37 and which the AG adopts here.

**A. Inflation Adjustment**

***(INFLATION ADJUSTMENT: DTE-Davis, 6 Tr 1865-1866, Ex. A-13 Schedule C5.3; DTE-Foley, 2 Tr 66-176, DTE-Hill, 6 Tr 3065-3070, 3076-3080, Ex. A-12 Schedule B5.4)***

In testimony, Mr. Coppola recommended adjustments to the inflation and merit increases to O&M expenses proposed by DTE in this case.[154] That testimony is incorporated here, in its entirety.

The pertinent problem is that DTE used a form of blended inflation based partially upon projected CPI rates with a 16% weighting, and a 3% wage inflation rate with an 84% weighting.[155] Those blended rates are 3.20% for 2023, 2.90% for 2024, and 2.90% for 2025. The use of a "blended rate" inclusive of wage increases has been rejected in recent general rate cases and the Commission should do so again in this rate case. Instead, the Commission has previously adopted the use of the CPI-Urban area inflation rates to forecast future cost increases when warranted. As discussed under the Capital Expenditures section, the AG used a forecasted CPI rate of 2.4% for 2024 and 2.2% for 2025. Exhibit AG-38 shows, and Mr. Coppola's testimony explains,[156] the recalculation of inflation at CPI rates applied to 2023 costs.

[153] 6 Tr 3684.
[154] 6 Tr 3684-86.
[155] Ex. A-13, Sched. C5.15.
[156] 6 Tr 3685.

In rebuttal, DTE witness Foley disagreed with Mr. Coppola's and ABATE's proposed rejection of DTE's proposal to use blended inflation rates.[157] Specifically, Mr. Foley claims that it is not accurate for Mr. Coppola to state that in previous rate cases the Commission has rejected the use of blended inflation rates.[158] However, pages 183-186 of the U-20561 Commission Order provide a clear, historical perspective on the Commission rejection of the blended inflation rates.[159] Additionally, in response to follow up discovery, Mr. Foley agreed that in Case U-21297 the Commission approved overall inflation rates proposed by the Company *without* stating that it was approving blended inflation rates.[160] In Case Nos. U-20836 and U-21297, the AG agreed to the Company's proposed overall inflation rates *but made it clear in Mr. Coppola's testimony and briefing that it was not agreeing to blended rates.*[161]

On page 38 of his rebuttal testimony then, Mr. Foley needlessly takes issue with the use of the Blue Chip Report used by Mr. Coppola for the forecasted CPI rates.[162] In response to another discovery request, he admits that the inflation rates used by Mr. Coppola are the same rates used by the Company.[163] In his testimony and response to discovery request 5.194b, Mr. Foley claims that the Commission "implicitly" approved S&P/IHS Markit as a specific source for the inflation rates.[164]

[157] 2 Tr 174-76.
[158] 2 Tr 174.
[159] *See* U-20561 Commission Order dates May 8, 2020, pp. 183-86.
[160] Ex. AG-53, p. 1.
[161] *See, e.g.*, U-21297 Attorney General Initial Brief, pp. 15-16.
[162] 2 Tr 175.
[163] Ex. AG-53, p. 2
[164] Ex. AG-53, p. 3

This is not true. The Commission made reference to that source but did not *approve* it as the official source to be used in future cases. The Blue Chip Report is a similarly authoritative source for forecasted inflation rates as S&P/IHS Markit, and accordingly this is a non-issue.

Accordingly, the AG recommends that the Commission reduce the Company's O&M expense by $14.6 million for the updated inflation adjustments for 2024 and 2025.

## B. Steam Generation Expenses

***(STEAM GENERATION EXPENSES: DTE-Guillaumin, 6 Tr 1588-1593, 1601-1605, 1618-1619, 1633, 1643, 1658-1723, 1764, Ex. A-6 Schedule F1, A-12 Schedule B5.1, A-13 Schedule C5.1; DTE-Wisniewski, 6 Tr 2846)***

In his direct testimony, Mr. Coppola discusses DTE's forecasted O&M Expenses for steam power generation for the projected test year.[165] Rather than reproducing that testimony here, it is incorporated in its entirety, by reference. The pertinent part is that, based on more recent expense information provided by the Company in discovery, the Company's forecasted O&M expense in the Steam Power Generation area for the projected test year is excessive. The actual normalized expense for 2023 is $183.0 million, or approximately $30 million lower than in 2022, which the Company used as a basis to forecast the projected test year expense. Mr. Coppola's updated forecast is $21.9 million lower than the Company's forecasted amount of $213.4 million.[166]

[165] 6 Tr 3686-87.
[166] Ex. AG-39.

DTE does not appear to have provided any rebuttal testimony on this topic and therefore, Mr. Coppola's testimony stands unrebutted.

Mr. Coppola's updated O&M expense reflects a more accurate forecast of the projected test year expense for Steam Generation due to recent cost reductions and power plant retirements undertaken by the Company. Therefore, the AG recommends that the Commission reduce the Company's forecasted O&M expense by $21.9 million.

## C. Voluntary Separation Program

***(VOLUNTARY SEPARATION PROGRAM: DTE-Fix, 6 Tr 2911-2914)***

In his direct testimony, Mr. Coppola discusses DTE's Voluntary Separation Incentive Plan, which it offered to certain employees in January of 2024.[167] Rather than reproducing that testimony here, it is incorporated in its entirety, by reference. The pertinent part is that the cost reductions created by the employees who accepted the plan will further reduce O&M Expense in the projected test year. Mr. Coppola's conservative estimation, which the AG adopts, is $10.1 million in cost savings that should be removed from DTE's forecasted O&M expense for the projected test year.

In rebuttal, DTE witness Mr. Fix disagreed with Mr. Coppola's discussion and calculations.[168] The AG asked the Company about this further in follow-up discovery. The discovery responses and related attachments received confirm that the Company has performed detailed calculations about the cost savings it plans to achieve in 2025,

[167] 6 Tr 3687-88.
[168] 6 Tr 2911-14.

net of any employee replacements.[169] This information dispels the claim that the information is too preliminary to include in the cost savings in the projected test year. To not include at least half of the next savings in the calculation of the revenue requirement in this rate case would result in a windfall to the Company. As to the cost to achieve the savings, the Company will retain the net savings for all of 2024 and half of the net savings from 2025 to offset the costs to achieve the savings (i.e. employee termination incentive payments).

Again, DTE's estimation of labor and benefit cost savings that will be achieved during the projected test year is $20.3 million. Those are real and significant and should be included in the projected test year as a reduction of future O&M expenses. Conservatively, the AG included only half, or $10.1 million, as a reduction to the O&M expense for the projected test year, which the Commission should adopt.

### D. Tree Trimming Cost Savings

***(TREE TRIMMING COST SAVINGS: DTE-Uzenski, 6 Tr 1575-1579; DTE-Steudle, 6 Tr 3000-3020)***

In his direct testimony, Mr. Coppola discusses cost savings DTE will recognize in the projected test year as a result of the tree trimming surge program and accelerated tree trimming.[170] Rather than reproducing that testimony here, it is incorporated in its entirety, by reference. The pertinent part is that there will be significant O&M cost savings achieved as a result of the surge program spending.

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[169] *See* Ex. AG-52 and related Confidential attachments.
[170] 6 Tr 3688-89.

The reduction in costs is shown on line 4 of Exhibit AG-40. The $17.6 million matches the information for O&M cost savings provided by the Company in response to discovery request AGDE-4.167. Subtracting the $8.8 million benefit already included by the Company in Exhibit A-13, Schedule C5.6, results in an additional savings of $8.8 million, which the Company did not include in its O&M expense for the projected test year.

In rebuttal, DTE witness Steudle discusses Mr. Coppola's analyses and calculations.[171] Ms. Steudle disagrees with the tree trimming cost savings information provided *by the Company to the AG*, claiming that the source of the information was not as accurate as another source from the Reliability model.[172] In response to discovery requests 5.215 a and b,[173] the Company admits to providing conflicting information and cannot validate that the lower cost savings from the Reliability Model are more accurate than the Tree Trim model. As shown in discovery request 5.216 and accompanying discovery requests DR U-20836 AGDE-8.261, DR U-21297 AGDE-4.120, and DR U-21534 AGDE-4.167. the AG simply asked for the tree trimming cost savings. If the Company cannot accurately determine which source is more accurate, that is a problem of its own making. The Company should not be allowed to change sources of information and make internal "corrections" in late stages of these proceedings, which prevents the AG from doing full discovery to validate the new information.

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[171] 6 Tr 3019-20.
[172] 6 Tr 3003-07.
[173] Ex. AG-60, pp. 1-2.

Accordingly, the AG recommends that the Commission remove the $8.8 million in additional cost savings from DTE's forecasted O&M Expense.

## E. Credit/Debit Card Merchant Fees

***(CREDIT/DEBIT CARD MERCHANT FEES: DTE-Bennett, 6 Tr 1979-1983, 2016-2017, Ex. A-13 Schedule C5.7.1)***

In his direct testimony, Mr. Coppola discusses proposed changes to DTE's credit/debit card payment program and adjustments to related O&M expense.[174] Rather than reproducing that testimony here, it is incorporated in its entirety, by reference. The pertinent point is that there are better methods for DTE to manage merchant fees related to credit card use, and those methods should be implemented.

In rebuttal, DTE witness Bennett responded to Mr. Coppola's discussion on credit/debit card merchant fees.[175] She disagreed with Mr. Coppola, arguing that DTE has "implemented mitigation policies to decrease non-residential merchant fees" and that business customers also appreciated the flexibility and convenience of choosing a card payment transaction. Further, she opined that "facilitating credit card use for small business is a meaningful part of maintaining business customer satisfaction and financial flexibility."

Ms. Bennett was asked about this further in discovery.[176] In response to one request, DTE clarified that its 2023 actual merchant fee expenses were $4.053 million

[174] 6 Tr 3689-91.
[175] 6 Tr 2016-17.
[176] Ex. AG-49, pp. 3-4.

and that its forecast in the projected test year is $4.09 million.[177] This projected increase directly refutes Ms. Bennett's supposition that DTE's mitigation efforts are decreasing non-residential merchant fees.

In a second request, when asked why all customers should bear the costs for businesses that use credit cards, Ms. Bennett simply repeated a portion of her rebuttal wherein she averred that businesses appreciate the flexibility of using credit cards.[178] In no way does this address the AG's question of *why* DTE feels these costs for a certain set of customers should be borne by the entire customer base.

DTE's argument that business customers appreciate the flexibility and convenience of using a credit card is unsupported by any citation or other customer-centric case study. Giving non-residential customers the option of paying a fee associated with a credit card payment or using a fee-free method such as EFT is a small nudge DTE should utilize to reduce costs. Those customers that truly value the "flexibility and convenience" of using a credit card can continue to do so, while those customers that want to save the fees can utilize the other option. Setting up an auto-withdrawal from a bank account is no more complicated than setting up a recurring payment that goes on a credit card. This is a commonsense measure that the Commission should adopt.

With the large escalation in merchant fees in recent years, more businesses, from restaurants to retail shops, are imposing a convenience fee when customers pay for goods and services with a credit card. For the projected test year, the Company

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[177] Ex. AG-49, p. 3.
[178] Ex. AG-49, p. 4.

forecasted $8,822,000 in merchant fees pertaining to residential customers and $3,474,000 for non-residential customers, for a total forecasted expense of $12,296,000. This is a significant amount and should be addressed.

Beginning in 2024, Consumers Energy reimposed a convenience fee for all customers, both residential and non-residential, who want to use a credit card. This is a step that DTE should evaluate in the coming months and address accordingly. For this case, the Attorney General continues to recommend that the Commission disallow recovery of the $3,474,000 of merchant fees pertaining to non-residential customers so that the Company can take appropriate actions to avoid those costs beginning with the projected test year in this rate case.

### F. Uncollectible Accounts Expense

***(UNCOLLECTIBLE ACCOUNTS EXPENSE: DTE-Sparks, 6 Tr 2374-2376, 2382-2383, Ex. A-13 Schedule C5.8)***

In his direct testimony, Mr. Coppola discusses DTE's proposed $50.9 million expense for uncollectible accounts for the projected test year, along with Mr. Coppola's proposed approach and projected amount of $47.0 million.[179] Rather than reproducing that testimony here, it is incorporated in its entirety, by reference.

In rebuttal, DTE agrees with Mr. Coppola's methodology.[180]

[179] 6 Tr 3692-93.
[180] 6 Tr 2382-83.

Based on that discussion and analysis, the AG recommends that the Commission reduce the Company's forecasted O&M expense by $3.9 million and set the expense level for uncollectible accounts expense at $47.0 million.

## G. Injuries and Damages

***(INJURIES AND DAMAGES: DTE-Ex. A-13, Sched. C5.10)***

In his direct testimony, Mr. Coppola discusses his disagreement with DTE's forecasted $18.4 million for injuries and damages for the projected test year.[181] Rather than reproducing that testimony here, it is incorporated in its entirety, by reference. The pertinent point is that DTE used stale information to develop is forecasted expense, and when updating the information a more appropriate forecast is $15.577 million.

DTE did not provide rebuttal on this topic and accordingly Mr. Coppola's testimony and recommendation remain unrebutted.

Based on that discussion and analysis, the AG recommends that the Commission reduce the Company's forecasted O&M expense for Injuries and Damages by $2.863 million and adopt an Injuries and Damages expense amount of $15.557 million for the projected test year.

[181] 6 Tr 3694.

## H. Active Employee Health Care Expense

***(ACTIVE EMPLOYEE HEALTHCARE: DTE-Hooper 6 Tr 2927-2940, 2948-2951, Ex. A-13 Schedule C5.11, C5.11.3)***

In his direct testimony, Mr. Coppola discusses DTE's forecasted increase in active employee health care expenses between 2022 and the future test year and provides his own forecast.[182] Rather than reproducing that testimony here, it is incorporated in its entirety, by reference.

In rebuttal, DTE witness Hooper partially disagrees with Mr. Coppola's forecast for this expense.[183] Mr. Hooper takes issue with Mr. Coppola's rejection of DTE's proposed Constant Dollar normalization and with Mr. Coppola's use of 2017 through 2022 to calculate the relevant annual percent change. Ultimately, Mr. Hooper agrees in part with Mr. Coppola, stating that the "only correction that needs to made to AG Witness Coppola's projection is to reflect the updated five-year average of annual changes in Active Healthcare costs of 5.11%, as developed on Exhibit A-36, Schedule AA5."[184]

As the AG has made clear in the past and as the Commission has agreed, the "constant dollar averaging" DTE likes is simply a process that increases actual historical costs in a way that is divorced from reality. It adds inflationary costs to historical costs, which already include inflationary pressure, thereby doubling down in a blatant attempt to abuse the projected test year method.

[182] 6 Tr 3695-96.
[183] 6 Tr 2948-51.
[184] 6 Tr 2951.

Second, the AG used the 2017 to 2022 data that was provided by DTE in its rate case filing.[185] Normally, the AG would agree with Mr. Hooper's assertions that the 2023 actual healthcare expense should be used, along with the 5.11% average rate of increase from 2019 to 2023 and the $1.837 million adjustment proposed on page 7, line 11 of Mr. Hooper's rebuttal testimony.[186] However, in this rate case that adjustment is unwarranted. The Company undertook a significant workforce reduction in 2024, which in addition to reducing labor costs also reduced employee benefits, such as healthcare costs. As shown on pages 3-5 of Exhibit AG-45, in response to AGDE-1.23d-e, the Company identified $5.8 million of employee benefit savings in the 2025 projected test year. A large portion of this amount pertains to healthcare costs. Page 3 of the attachment to AGDE-5.191a included in Exhibit AG-1.52 CONF confirms that there are significant cost savings pertaining to healthcare costs in the projected test year. As reported in AGDE-1.23e,[187] the Company did not include any of those cost savings in its projected test year exhibits.

As a result, using the lower rate of increase of 3.33% proposed by Mr. Coppola provides a more reasonable forecast of healthcare expense for 2025 than the amount proposed by Mr. Hooper in either his direct or rebuttal testimony. Therefore, no adjustments to the expense disallowance of $3.136 million recommended by Mr. Coppola are necessary and the AG recommends that the Commission adopt that disallowance.

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[185] Ex. A-13, Sched. C5.11.3.
[186] 6 Tr 2951.
[187] Ex. AG-45.

## I. Supplemental Savings Plan

***(SSP: DTE-Fix, 6 Tr 2862-2864, 2909-2911, Ex. A-13 Schedule C5.11)***

In his direct testimony, Mr. Coppola discusses his disagreement with DTE's inclusion of $3.2 million for its supplemental savings plan (SSP).[188] Rather than reproducing that testimony here, it is incorporated in its entirety, by reference. The pertinent point is that this benefit plan is for a very limited number of highly paid employees. Customers should not pay for costs that benefit only a select few employees by including these costs in forecasted O&M expense.

In rebuttal, Mr. Fix disagreed with Mr. Coppola's discussion and analysis.[189] After a recap of some of his direct testimony, Mr. Fix notes his disagreement with Mr. Coppola's recommended disallowance because it "overlooks the fact that the benefits provided through the SSP are exactly the same as those provided within the Company's Qualified Savings Plan."[190] He then cites to several past rate cases, from 2007 and 2017, respectively, for support for his claims.

The fact remains that these costs are clearly for DTE employees at the "Director" level and above, meaning they are for a select subset of very highly paid employees. In his rebuttal, Mr. Fix argues that the SSP "allows employees whose annual earnings or contributions exceed the limits prescribed by the [IRS] to continue to accrue benefits they would have accrued in the qualified Employee Savings Plan."[191] The fact that these employees earn so much money that they are not eligible

[188] 6 Tr 3696-97.
[189] 6 Tr 2909-11.
[190] 6 Tr 2910.
[191] 6 Tr 2909-10.

for the Employee Savings Plan shows the similarity in this expense to DTE's Supplemental Retirement Plan, which the Commission has previously rejected. Additionally, as the Commission itself in U-18255 pointed out, the acronyms for some of these expenses continually change, making it hard to track, and there is insufficient detail provided to the Commission and to intervenors.[192] Therefore, any past "approval" by the Commission should not be afforded any weight in this instance, where the specifics of the requested recovery are inconsistent.

Based on that discussion and analysis, the AG recommends that the Commission remove the $3.2 million for the Supplemental Savings Plan from the Company's forecasted O&M expense.

### J. Private Corporate Jet Travel Costs

***(Exhibit AG-47 includes DR AGDG-1.24.)***

In his direct testimony, Mr. Coppola discusses his disagreement with DTE's inclusion of corporate jet travel costs in O&M expense for the projected test year.[193] Rather than reproducing that testimony here, it is incorporated in its entirety, by reference. The pertinent point is that these costs pertain to investor and board of director matters that do not directly benefit customers but instead may benefit shareholders. Although commercial flights may be less convenient, they are less costly and less impactful on the environment relative to the emissions of private jets for the few individuals that they carry. In 2020, DTE Energy announced its goal of

[192] U-18255 April 18, 2018 Order, p. 52.
[193] 6 Tr 3697-98.

achieving net zero emissions by 2050. Private jet travel is certainly counter to that goal.

DTE did not provide rebuttal on this issue and therefore Mr. Coppola's testimony remains unrebutted.

Based on that discussion and analysis, the AG recommends that the Commission remove the $258,000 of costs that the Company reported it included in the projected test year.

## K. Incentive Compensation Expense

***(INCENTIVE COMPENSATION EXPENSE: DTE-Fix, 6 Tr 2875-2896, 2900-2904, Ex. A-3 Schedule C19, Ex. A-21 Schedule K6; ABATE-York, 6 Tr 3343-3346, Ex. A-21 Schedule K-6)***

In direct testimony, Mr. Coppola provides a summary of DTE's incentive pay plans and the amount of expense DTE seeks to recover in this rate case.[194] In total, DTE looks to recover $59.5 million of employee incentive payments.[195] Based upon the information provided on page 39 of the direct testimony of Company witness Mr. Fix, $8.8 million pertains to the Annual Incentive Plan (AIP), $30.3 million to the Rewarding Employees Plan (REP), and $20.4 million pertains to the Long-Term Incentive Plan (LTIP).[196]

As the AG has argued in past cases and as Mr. Coppola notes again here in direct testimony, the three incentive plans proposed by the Company are too heavily skewed toward measures that directly benefit shareholders as opposed to customers.

[194] 6 Tr 3699-706.
[195] 6 Tr 3699.
[196] 6 Tr 3699.

Additionally, the customer benefits presented by the Company are based on a faulty premise of historical cost savings and an expectation that future targets of performance will be achieved. Mr. Coppola provides further, extensive discussion on the shortcomings of the Company's proposal in his testimony.[197]

On page 39 of his direct testimony,[198] Mr. Fix included a table showing the components of the incentive compensation expense that the Company has included in the O&M expense for the projected test year. For the reasons described in Mr. Coppola's past testimony and his testimony in this case, the AG recommends that the Commission remove the entire $39.2 million related to financial performance measures. Regarding the portion of incentive compensation relating to operating measures, the AG is cognizant of the fact that in recent cases the Commission has allowed recovery of a portion of the short-term incentive pay related to operating performance measures for DTEE and Consumers Energy. In that vein, the AG recommends that the Commission allow recovery of that portion of incentive compensation expense that the Company has identified pertaining to operating performance measures.

In Exhibit AG-21, Mr. Coppola calculated the percentage of non-financial metrics achieved at target or better over the past five years ending in 2023. The overall percentage achieved by the three organizations over the five-year period is approximately 47.4%. The total amount of incentive compensation calculated by the Company at target for operating measures relating to the incentive compensation

[197] 6 Tr 3701-05.
[198] 6 Tr 2889.

plans is $20,271,000, as shown in Table 3 on page 39 of Mr. Fix's direct testimony.[199] As stated earlier, on average over the past five years, the Company has only been able to achieve approximately 47.4% of performance measures at target or better. Therefore, the AG recommends the Commission only approve recovery of compensation expense for 47.4% of the $20,271,000, or $9,608,000, and disallow recovery of the remaining $10,663,000 for the operational metrics. This amount plus the $39,232,000 disallowance related to financial metrics, results in a total disallowance of $49,895,000 of the $59.5 million of incentive compensation expense proposed by the Company in this case.

In rebuttal, Mr. Fix disagreed with Mr. Coppola's discussion and calculation regarding DTE's Incentive Compensation expense.[200] However, when asked about it further in discovery, the Company's responses confirm that the approach and calculations used by Mr. Coppola to arrive at the correct amount of allowable incentive compensation approved by the Commission in DTE's most recent rate cases.[201] The reference to U-18999 is stale and has been superseded by more resent Commission orders, and therefore Mr. Fix's rebuttal should be rejected.

Based on the above and Mr. Coppola's testimony, the AG recommends that the Commission allow recovery of 47.4% of the $20,271,000, or $9,608,000, and disallow recovery of the remaining $10,663,000 for the operational metrics. This amount, plus the $39,232,000 disallowance related to financial metrics, results in a total

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[199] 6 Tr 2889.
[200] 6 Tr 2901-03.
[201] Ex. AG-51, pp. 1-2.

disallowance of $49,895,000 of the $59.5 million of incentive compensation expense proposed by the Company in this case.

In addition, as discussed in the Working Capital section of Mr. Coppola's testimony and shown in Exhibits AG-20 and AG-44, the Commission needs to remove $1,358,000 of negative amortization expense from excess compensation expense paid in the 2023 projected test year in Case No. U-20836. Therefore, the total reduction in incentive compensation expense is $51,253,000.

### Total Adjustments

As outlined above and in her witness' testimony, the AG recommends total reductions to O&M expenses of $123.5 million. The adjustments are summarized in Ex. AG-20 and the below table.

| Summary of O&M Expense Reductions | Amount ($Millions) |
|---|---|
| Inflation Adjustments | $ 14.6 |
| Steam Generation Expense | 21.9 |
| Voluntary Separation Program | 10.1 |
| Tree Trimming Surge Savings | 8.8 |
| Merchant Credit Card Fees | 3.5 |
| Uncollectible Accounts Expense | 3.8 |
| Injuries & Damages Expense | 2.9 |
| Active Health Care | 3.1 |
| Supplemental Savings Plan | 3.2 |
| Corporate Aircraft | 0.3 |
| Employee Incentive Compensation | 51.3 |
| Total Reduction | $ 123.5 |

## VI. OTHER ISSUES

### A. WORKING CAPITAL

**(*WORKING CAPITAL: DTE-Uzenski, 6 Tr 1480, 1568-1574, Ex. A-2 Schedule B4, Ex. A-12 Schedule B4; DTE-Hatsios, 6 Tr 2305-2306, 2312-2313, DTE-Steudle, 3009-3011*)**

In direct testimony, Mr. Coppola notes that DTE has proposed $1.295 billion of working capital in this rate case[202] and recommends three adjustments that reduce the forecasted Working Capital amount by $25.7 million.

The first adjustment is to eliminate DTE's regulatory asset of $9.9 million related to its Ludington power generating facility shown on line 27 of Exhibit A-12, Schedule B4. The second adjustment pertains to the Company's regulatory asset for the Incentive Compensation Deferral shown in Exhibit A-12, Schedule B4. This item is shown on line 41 of the exhibit as a $3.9 million asset. Instead, as explained in Mr. Coppola's testimony, a $6.1 million average liability (not an asset) should be established in the Working Capital projection. This reduces the average Working Capital balance by $10.0 million. The third adjustment pertains to the regulatory assets for the deferral of costs for the Time of Day (TOD) implementation program. The adjustment amount reduces Working Capital by $5.8 million, as discussed in testimony. Those adjustments are fully explained on pages 56-65 of Mr. Coppola's testimony.[203] That testimony is incorporated here in its entirety.

[202] 6 Tr 3639-40.
[203] 6 Tr 3639-48.

On pages 9-11 of her rebuttal, Ms. Uzenski argues against Mr. Coppola's proposed removal of the Ludington Plant regulatory asset from working capital.[204] She was asked about this further in follow up discovery. The response to AGDE-5.227 shows that the Company is not willing to admit to refunding the return on disallowed Ludington deferred costs.[205] It would be difficult for the Commission to disallow prior earned returns in the future, without the Company claiming prohibitive retroactive ratemaking. Therefore, the AG's recommendation to remove those costs from rate base and provide a future return on the allowed base costs is the appropriate treatment of those deferred costs.

As for the incentive compensation regulatory asset, starting on page 12 of her rebuttal testimony, Ms. Uzenski still argues for inclusion of a deferred amount of incentive compensation for 2022 and 2023.[206] She argues that Mr. Coppola's calculations include two "flaws," specifically "the amount he uses on Exhibit AG-20 in column (b)," and that Mr. Coppola's calculation failed to recognize "gradients in [DTE's] performance" as to whether or not the Company's performance Targets were met.[207]

Ms. Uzenski was asked about these assertions in follow up discovery requests. In response to those requests, Ms. Uzenski generally admits that the calculation performed by Mr. Coppola conforms to the methodology approved by the Commission.[208] However, the Company erroneously continues to claim that an

[204] 6 Tr 1568-70.
[205] Ex. AG-61, p. 3.
[206] 6 Tr 1570-74.
[207] 6 Tr 1571-73.
[208] Ex. AG-61, pp. 4-6.

alternative approach and calculation performed by the Company should be accepted by the Commission, by introducing the idea of actual results achieved. As discussed in Mr. Coppola's direct testimony, the actual results calculated by the Company, although not clearly shown in the Company's exhibits, use the results of certain performance measures over 100% to compensate for underperformance in other measures. This is not the methodology accepted by the Commission in prior rate cases and should be rejected. At this point it is clear that DTE is attempting more and more mathematical gymnastics to try to justify this spending. The Commission should reject these forced attempts and take the more straightforward approach that it has recently adopted.

As for the TOD Implementation Program, in rebuttal DTE witness Hatsios disagreed with Mr. Coppola's recommendation, arguing that because costs projected in U-21297 and in the current case are similar, the Commission should reject the AG's proposed disallowance.[209]

The similarities between costs included in U-21297 and in this rate case are irrelevant. Mr. Coppola's testimony[210] makes it clear that, despite the Attorney General's best efforts during the discovery phase of this case, DTE failed to provide itemized, detailed data that could be considered support for its forecasted costs. An almost threefold increase from 2022 incurred costs to 2023 forecasted costs, for the addition of customer service representatives, needs to be supported by more than just

[209] 6 Tr 2312-13.
[210] 6 Tr 3646-47.

a few vague references to major cost categories.[211] Accordingly, the Commission should remove the $5,784,000 of working capital for the TOD program and the $1,693,000 of amortization expense from the Company's forecasted amounts for the projected test year.

In summary, the AG recommends that the Commission accept the total adjustments of $25,684,000 to the Working Capital amount for the projected test year as laid out in Mr. Coppola's testimony and reduce the Company's forecasted Working Capital amount for the projected test year by this amount.

*Regulatory Asset for Deferred Tree Trimming Costs*

Also in the Working Capital section of his testimony, Mr. Coppola identified another regulatory asset for deferred tree trimming costs, which DTE did not include in working capital but on which it separately calculated a return for inclusion in the revenue requirement. Specifically, in Exhibit A-11, Schedule A1.1, the Company calculated a return of $18,786,000 on an average balance of $204,108,000 of deferred costs for the Tree Trimming Surge program.

The AG disagrees with the deferred balance amount and the calculation of the return. There are two problems with the amounts included in Exhibit A-11, Schedule A1.1. First, the Company included $87.0 million of additional tree trimming surge costs in 2025 on the presumption that its previously forecasted surge costs are insufficient to complete the surge program and that it needs an additional $110 million between 2025 and 2026 to finish the program. The second problem is the

[211] Exhibit AG-22 includes DR AGDE-4.156a with attachment.

Company's use of a rate of return of 9.20% on the deferred amount, which is the Company's long-term permanent capital pre-tax rate of return in this rate case. The Commission has repeatedly ruled that the appropriate interest rate to apply to the deferred tree trimming costs is the short-term interest rate. In rate case after rate case, the Company does not seem to want to accept that decision and repeatedly proposes the permanent capital rate of return or the overall pre-tax rate of return, instead of the short-term debt rate, in clear violation of the Commission's orders on this matter. Pages 66-73 of Mr. Coppola's testimony contain more details on these issues and are incorporated here, by reference.[212]

In rebuttal, DTE witness Steudle disagrees with Mr. Coppola's discussion and recommendation.[213] In her rebuttal testimony, Ms. Steudle tries to characterize the amount spent on capitalized tree trimming costs as not being part of the surge program. However, the responses to AGE-5.219a, 5.220, and 5.221 show that all the costs in one form or another are all related to tree trimming or removal work.[214]

With regard to the low retention rate of enrollees in the Detroit Tree Academy, the response to AGDE-5.223b does not address why the 30% retention rate should be considered an acceptable standard.[215] Such a low and unacceptable retention rate should not justify continuing the program at the expense of ratepayers.

The Company has not made a compelling and convincing case that increasing the amount to be spent on the surge program by $87 million in 2025 and an additional

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[212] 6 Tr 3649-56.
[213] 6 Tr 3009-11.
[214] Ex. AG-60, pp. 21-25.
[215] Ex. AG-60, p. 26.

$23 million in 2026 to be charged to O&M expense is advantageous to customers. The evidence points to no significant reductions in power outages caused by trees and vegetation, and instead to significant cost overruns with contractors and other ineffective support programs. Therefore, the AG recommends that the Commission reject the Company's proposed increase of $87.0 million in deferred costs in 2025 for the surge program.

Additionally, the Commission should remind the Company once more that the appropriate interest rate to be applied to the deferred costs under the Tree Trimming Surge program is the short-term debt interest rate, which in this rate case is 5.76%, according to page 1 of Exhibit A-14, Schedule D1. The lower interest rate and the removal of the $87.0 million from the average deferred balance, results in a return on the deferred tree trimming costs of $9,900,000, as calculated in Exhibit AG-25. This amount is $8,886,000 lower than the $18,786,000 forecasted by the Company. Therefore, the AG recommends that the Commission remove the $8,886,000 from the Company's proposed revenue requirement in this rate case.

Furthermore, the AG recommends that the Commission remove the $3,078,000 in capital expenditures for 2022 and the $3,824,000 for 2023 pertaining to the Tree Trim Risk Prioritization model because the Company did not perform a cost/benefit analysis and did not justify that the model and related expenditures are economically beneficial to customers.

## B. DEPRECIATION EXPENSE

The AG proposes an adjustment to depreciation expense for the projected test year. As a result of the reductions in capital expenditures proposed above and the impact on capital additions included in rate base, Mr. Coppola calculated a reduction in depreciation expense of $40,788,000. The calculation of this amount is shown in Exhibit AG-18 and is based on the same depreciation rates used by the Company on page 2 of Exhibit A-13, Schedule C6. The AG recommends that the Commission reduce the depreciation expense proposed by the Company for the projected test year by $40,788,000.

## C. PROPERTY TAX EXPENSE

***(PROPERTY TAX EXPENSE: DTE-Wisniewski, 6 Tr 2828-2837, 2843-2844, Ex. A-3 Schedule C7, Ex. A-13 Schedule C1, C7; ABATE-York, 6 Tr 3361)***

In Exhibit AG-18, Mr. Coppola identified the adjustments to be made to the Company's proposed capital expenditures. Those reductions lower the amount of property tax expense that the Company will incur during the projected test year. On the same exhibit, Mr. Coppola calculated the reduction in property tax expense of $12,261,000. The AG recommends that the Commission reduce the Company's property tax expense by this amount for the projected test year.

In rebuttal, DTE witness Wisniewski disagrees with Mr. Coppola's calculation and recommendation. She argues that the Company's calculations are correct.[216] In follow up discovery,[217] DTE confirmed that the Company expenses its property tax

[216] 6 Tr 2844.
[217] Ex. AG-63.

liability over a two-year period, with the total liability of each year being expensed at 39% the current year and 61% the subsequent year. In his calculation of property tax adjustments pertaining to capital expenditure disallowances, in Exhibit AG-18 Mr. Coppola only applied the adjustments to capital expenditures prior to 2025 and excluded 2025 capital expenditure disallowances from the calculations. Therefore, Mr. Coppola correctly captures the two-year cumulative expense that would affect the projected test year property tax expense.

Accordingly, the AG continues to recommend that the Commission reduce the Company's property tax expense by $12,261,000 for the projected test year.

## VII. ADJUSTMENTS TO REVENUE DEFICIENCY

Exhibit AG-48 summarizes the adjustments to rate base and operating income. The net result is a revised revenue deficiency of $139.5 million, which is a reduction of $316.9 million from the Company's requested level of $456.4 million. The AG recommends that the Commission adopt these adjustments and issue an order granting rate relief to the Company in an amount not exceeding $139.5 million.

### Paul Alvarez and Dennis Stephens

Along with Mr. Coppola, Paul Alvarez and Dennis Stephens provided expert witness testimony on behalf of the AG, along with Michigan Environmental Council and the Natural Resources Defense Council (MEC-NRDC). Their testimony focuses on the financial, policy, and regulatory issues of DTE's electric distribution system and how those issues relate to unnecessary, premature, and/or cost-ineffective capital spending. Mr. Alvarez and Mr. Stephens specifically focus on DTE's proposed spending based on the Company's modeling and its proposed infrastructure recovery mechanism (IRM). Their testimony works in concert and is best considered together. The AG addresses both of their testimonies here, in turn, and otherwise notes her agreement with the arguments and recommendations put forth in the briefing of MEC-NRDC. She reserves the right to continue discussing these matters in other pleadings in this case.

**Paul Alvarez**

Mr. Alvarez leads the Wired Group, a consultancy on matters of utility regulatory proceedings with more than two decades of experience in the field.[218]

Overview[219]

Mr. Alvarez's testimony examines issues with sky-rocketing costs and the reliability of DTE's service. He states that his testimony "is designed to illuminate multiple regulatory opportunities for improving performance and governing capital spending at DTE by balancing reliability and readiness objectives with affordability."[220]

Recommendations

Ultimately, Mr. Alvarez provided, and the AG adopts here, the following recommendations for the Commission to adopt in this case:

1. Require DTE to slow the rate of capital spending and assess the benefits of its vegetation management program relative to strategic capital spending aimed at improving reliability.

2. Reject the Company's request to extend and expand the IRM.

[218] 6 Tr 3916-18.
[219] 6 Tr 3919-23.
[220] 6 Tr 3921.

3. Regarding DTE's capitalization of vegetation management costs (other than Surge securitization), require DTE to itemize the costs, assess their impact to ratepayers, and support its practice in the next rate case.

4. Reject the Company's request to earn a return on the Enhanced Tree Trim Program (ETTP) Surge regulatory asset.

5. Reject the Company's request to increase ETTP spending in 2026.

6. As the Company approaches the end of the ETTP Surge, require DTE to continue annual tree trim reporting and order an independent audit of the state of DTE's overhead line rights of way every five years, commencing in 2025 or 2026.

7. Recognize DTE's Global Prioritization and Reliability Models are unreliable.

8. Reject the Company's fiber-optic data communications cable deployment plan and disallow all proposed bridge and test year spending for Grid Automation Telecommunications; and

9. Require DTE in its next rate case, if it proposed further spending on the Grid Automation Telecommunications program, to present a make versus buy analysis of alternatives and a tool to identify appropriate alternatives.

Rather that repeat or reproduce portions of Mr. Alvarez's testimony, the entirety of his testimony is incorporated here, by reference.[221]

Rebuttal to Mr. Alvarez

In rebuttal, numerous DTE witnesses provided testimony disagreeing with portions of Mr. Alvarez's testimony. This included witnesses Bennett, Hartwick, Kryscynski, Lepczyk, and Steudle. MEC-NRDC spent significant time during cross examination unraveling DTE's rebuttal and laying bare its many shortcomings and blatant contradictions. The Attorney General relies upon that discussion and argument, as well as MEC-NRDC's analyses and arguments laid out in briefing, in

[221] 6 Tr 3914-80.

support of Mr. Alvarez's testimony and positions. The Commission should see through DTE's self-serving rebuttal as the Company's attempt to prop up the unsupportable levels of spending presented in its direct testimony.

Conclusion

For the reasons laid out above and in Mr. Alvarez's direct testimony and exhibits, the AG recommends that the ALJ recommend, and the Commission adopt, Mr. Alvarez's proposals. The AG also notes her concurrence with the discussion, analyses, arguments, and recommendations as laid out in MNSC's briefing.

**Dennis Stephens**

Mr. Dennis Stephens is an independent consultant who often works with the Wired Group. He also has decades of experience in the regulatory field, specifically in electric and gas distribution operations, planning, technologies, asset management, and performance measurement.[222]

Overview

Mr. Stephens examined the distribution capital spending proposed by DTE in the instant proceeding, described as strategic capital programs in the Company's 2023 Distribution Grid Plan ("DGP") and DTE's related proposal to extend and expand its IRM. His testimony examined the strategic capital programs described in the Company's 2023 DGP and associated requests for cost recovery, specifically from technical and financial perspectives. Pages 5-6 of Mr. Stephens' direct testimony

[222] 6 Tr 3984-86.

provide a summary of the spending categories that he examined, along with his recommendations for each item.[223]

Rather that repeat or reproduce portions of Mr. Stephens' testimony, the entirety of his testimony is incorporated here, by reference.[224]

Mr. Stephens' testimony is broken down by spending category, as listed below, with associated recommendations.

1. 4.8 kV Hardening Program
   a. Switch program to DLPD wire removal only.
   b. Reject $73.3 million in excess 2024 spending.
   c. Reduce test year spending to $43.2 million (disallowing $81.8 million) to accommodate switch to DPLD.

2. 4.8 kV Conversion Program (incl. Detroit and Pontiac)
   a. Require DTE to provide support for its preferred pace of voltage conversions, including assessment of rate impact and value of benefits of Conversions to ratepayers.
   b. Require DTE to support large Conversion projects ($10 million or more) before proceeding with the project.
   c. Reject Conversion spend in 2026 and 2027 IRM.

3. Pole and Pole Top Maintenance & Modernization Program
   a. Require DTE to assess reliability difference between PTM and PTMM circuits using historical data to prevent conflating tree trim benefits and to calculate the value of reliability improvements relative to the costs of new pole top construction and inspection standards.
   b. Reduce test year spending by $57.6 million to maintain spending at level approved in U-21297 for 2024 ($63.45 million).
   c. Reject PTMM spend in 2026 and 2027 IRM.

4. Subtransmission Redesign & Rebuild Program
   a. Reject approval for any new projects in this discretionary program until DTE presents an appropriate evaluation framework indicating value to customers in excess of project costs.
   b. Require DTE to support large Substation R&R projects ($10 million or more) before proceeding with the project.

[223] 6 Tr 3988-89.
[224] 6 Tr 3984-4030.

c. For 3 projects DTE will place into service in 2024 and 2025, disallow $28.14 million.
d. Reject Subtransmission redesign and rebuild spend in 2026 and 2027 IRM.

5. Distribution Automation Program
   a. Require DTE to support future projects with circuit-specific benefit-cost analyses.
   b. Reduce test year spending by $101.2 million to maintain spend level approved in U-21297 for 2024 ($24.5 million).
   c. Reject Distribution Automation spend in 2026 and 2027 IRM.

6. Strategic and Service Drop OH-UG Pilots
   a. Discontinue pilot (program).
   b. Reject 2024 ($15.6 million) and test year ($16.02 million) spending.

7. Breaker & URD Replacement
   a. Reject proposed spend in 2026 and 2027 IRM.

As noted in his testimony, Mr. Stephens' analyses and recommendations are premised on an examination of distribution capital spending and identifying the large swaths of DTE's requests that are discretionary, i.e. if the capital is not spent, customers will still have safe and reliable service. This is the angle from which the Commission should approach Mr. Alvarez's and Mr. Stephens' examinations and is critical for maintaining some semblance of affordability for ratepayers.

Rebuttal to Mr. Stephens

In rebuttal, numerous DTE witnesses provided testimony disagreeing with portions of Mr. Stephens' testimony. This included witnesses Bennett, Deol, Elliott Andahazy, Foley, Hartwick, and Kryscynski. MEC-NRDC spent significant time during cross examination unraveling DTE's rebuttal and laying bare its many shortcomings and blatant contradictions. The Attorney General relies upon that discussion and argument, as well as MEC-NRDC's analyses and arguments laid out in briefing, in support of Mr. Stephens' testimony and positions. The Commission should see through DTE's self-serving rebuttal as the Company's attempt to prop up the unsupportable levels of spending presented in its direct testimony.

Conclusion

Ultimately, it is clear that DTE is not adequately, reasonably, or prudently using benefit-cost analyses to examine the myriad capital programs it is proposing in this rate case. DTE's calculations of benefits and reliability improvements are subjective, self-serving affairs that are not supported by the objective data. The unprecedented increases in capital spending in recent years have not improved DTE's reliability performance, underscoring the importance examining these issues from a new angle and not continuing the spiral of granting DTE unchecked ratepayer dollars for its ballooning capital programs.

For the reasons laid out above and in Mr. Stephens' direct testimony and exhibits, the AG recommends that the ALJ recommend, and the Commission adopt, Mr. Stephens' proposals in full as much more reasonable levels of spending that are likely to have the same effect on safety and reliability. The AG also notes her concurrence with the discussion, analyses, arguments, and recommendations as laid out in MNSC's briefing.

## VIII. CONCLUSION AND RELIEF SOUGHT

For the reasons stated above in this brief, in her expert witnesses' direct testimony, and in her exhibits, the Attorney General recommends that the Commission adopt her adjustments and recommendations.

Respectfully submitted,

Dana Nessel
Attorney General

Joel B. King

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**PROOF OF SERVICE - U-21534**

The undersigned certifies that a copy of the ***Attorney General's Initial Brief*** was served upon the parties listed below by e-mailing the same to them at their respective e-mail addresses on the 3rd day of October 2024.

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