

STATE OF MICHIGAN
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
FOR THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of)
DTE Gas Company for approval of a)
Gas Cost Recovery Plan, 5-year)
Forecast and Monthly GCR Factor for)
the 12 months ending March 31, 2024)

Case No. U-21271

NOTICE OF AMENDED PROPOSAL FOR DECISION

The attached **Amended Proposal for Decision** is being issued and served on all parties of record in the above matter on June 17, 2024.

Exceptions, if any, must be filed with the Michigan Public Service Commission, 7109 West Saginaw, Lansing, Michigan 48917, and served on all other parties of record **on or before July 5, 2024**, or within such further period as may be authorized for filing Exceptions. If Exceptions are filed, replies thereto may be filed **on or before July 19, 2024**.

At the expiration of the period for filing Exceptions, an Order of the Commission will be issued in conformity with the attached Proposal for Decision and will become effective unless exceptions are filed seasonably or unless the Proposal for Decision is reviewed by action of the Commission. To be seasonably filed, Exceptions must reach the Commission on or before the date they are due.

MICHIGAN OFFICE OF ADMINISTRATIVE
HEARINGS AND RULES
For the Michigan Public Service Commission

Sally L.
Wallace

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June 17, 2024
Lansing, Michigan

Sally L. Wallace
Administrative Law Judge

STATE OF MICHIGAN
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
FOR THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of DTE Gas)
Company for approval of a Gas Cost)
Recovery Plan, 5-year forecast, and Monthly)
GCR Factor for the 12 months ending)
March 31, 2024.)

Case No. U-21271

AMENDED¹ PROPOSAL FOR DECISION

I.

PROCEDURAL HISTORY

On December 16, 2022, DTE Gas Company (DTE Gas) filed an application, along with supporting testimony and exhibits, requesting approval of its Gas Cost Recovery (GCR) plan and monthly GCR factor for the 12 months ended on March 31, 2024, as well as a review of the company's five-year plan.

Pursuant to due notice, a prehearing conference was conducted by ALJ Katherine E. Talbot on February 14, 2023,² at which Commission Staff (Staff) appeared and petitions to intervene filed by the Residential Customer Group and Retail Energy Supply Association were granted. The Attorney General's notice of intervention

¹ This amendment changes the year range on page 38 of this Proposal for Decision (Section V. Conclusion, (1), from 2020-2021 to 2023-2024.

² This case was reassigned to ALJ Sally L. Wallace on January 10, 2024.

was also acknowledged. A consensus schedule for the remainder of the proceedings was established, and on February 15, 2023, a Protective Order was entered.

On October 3, 2023, Staff and the Attorney General filed direct testimony and exhibits, and on November 7, 2023, DTE Gas filed rebuttal testimony and exhibits. An evidentiary hearing was held on December 20, 2023, at which all testimony was bound into the record and exhibits admitted, without the need for witnesses to appear for cross-examination. DTE Gas, Staff, and the Attorney General filed briefs on February 6, 2024, and the same parties filed reply briefs on March 5, 2024. The record in this case is comprised of 295 pages of testimony and 56 exhibits admitted into evidence.

II.

OVERVIEW OF THE RECORD

A. DTE Gas

DTE Gas filed the direct and rebuttal testimony of five witnesses.

1. Joseph P. Madigan

Mr. Madigan, Senior Gas Supply and Planning Analyst for DTE Gas,³ presented the company's GCR plan for the April 1, 2023, through March 31, 2024, plan year.

Mr. Madigan testified that the company's gas supply is based on a mix of fixed-priced supply, where the cost of gas is known in advance, and index-priced supply, where price is uncertain until delivery.⁴ For fixed-price supply, Mr. Madigan stated that the company purchases gas using volume cost averaging (VCA), the same method DTE Gas has employed since 2010.⁵ Mr. Madigan explained that:

³ Mr. Madigan's direct testimony is transcribed at 2 Tr 20-80.

⁴ 2 Tr 26.

⁵ *Id.* at 27; Exhibit A-7.

In general, DTE Gas will fix the price of its future supply requirements over a two year period prior to the start of delivery during the GCR Period. For the 2023-24 GCR year, DTE Gas bought 75% of the projected requirements ratably between January 2021 and December 2022 (approximately 3% each month). This program results in the price of 75% of DTE Gas's supply requirements being known prior to the start of the GCR Period.⁶

Mr. Madigan testified that DTE Gas conducted a review of its VCA fixed-price purchasing (FPP) program, the results of which confirmed the company's opinion that the VCA method, with 75% FPP coverage, is a reasonable and prudent approach to securing fixed price supply.⁷ Further, Mr. Madigan discussed the objectives of a FPP program including mitigating price volatility, allowing participation when market prices are lower, protecting customers from increased prices, and using an understandable approach to securing supply that does not rely on speculation. Mr. Madigan opined that the VCA method achieves those objectives.⁸

Next, Mr. Madigan reviewed the New York Mercantile Exchange (NYMEX) back test, which compares the VCA FPP method to the index method. As shown in Exhibit A-25, over the twenty-year period evaluated, customers paid, or would have paid, about \$24 more annually under the VCA method compared to index purchasing. However, according to Mr. Madigan, "gas price fluctuations, or price uncertainty, which is synonymous with price volatility, over the 20-year period was only 14% under the VCA Method, which was significantly less than the Index Method volatility of 32%[.]"⁹ Mr.

⁶ 2 Tr 27-28.

⁷ *Id.* at 28.

⁸ 2 Tr 29-32.

⁹ 2 Tr 33.

Madigan concluded that the NYMEX back test showed a reasonable trade-off between slightly higher gas costs (i.e., 6%) and significantly reduced-price volatility.¹⁰

In addition to the NYMEX back test, the company performed two additional tests: (1) a Fixed Price Program Analysis – Future NYMEX Projection – 95% Confidence Interval; and (2) the Frequency Distribution of Historical NYMEX prices analysis, the results of which are shown in Graph 1 at 2 Tr 36, and Graph 2 at 2 Tr 39.¹¹ According to Mr. Madigan, the first test demonstrated that “the fact that the potential cost (risk) exposure of a price increase is greater than the potential cost savings (opportunity) from a price decrease[,]” which was confirmed by the historical analysis of NYMEX prices.¹²

Mr. Madigan stated:

[H]istory has shown that 50% of the time prices ran up as much as \$10.83 from the median price but only dropped from the median price by as much as \$2.02. The average price above the median was \$4.70 (\$1.64 above median) and the average price below the median was \$2.23 (\$0.84 below median), which shows on average that price run ups were 1.95 times greater than price drops ($\$1.64/\$0.84 = 1.95$). Thus, compared to the median price, higher prices occurred an equal amount of the time as lower prices, but the cost impact was 1.95 times greater for the higher prices than the lower prices. The fixed price program helps protect the customer from this upside risk of higher gas prices, which historically have 1.95 times greater cost impact than lower prices relative to the median.¹³

Mr. Madigan concluded that the benefits of DTE Gas’s VCA and FPP purchasing strategies include both price certainty, as well as avoiding potentially steep price increases. He further opined that the 75% FPP level is reasonable and prudent because customers assume only 25% of the price risk of during the plan year, “which is an

¹⁰ 2 Tr 34.

¹¹ These additional tests were performed in response to the April 23, 2015, Commission Order in Case No. U-17332, p. 5.

¹² 2 Tr 38.

¹³ 2 Tr 39.

acceptable and reasonable level of price risk or uncertainty based on operational constraints and the customers' inherent risk-adverse nature.”¹⁴ He added:

As the level of fixed-price coverage is reduced from the 75% level, there is an equal and offsetting increase in the level of price risk or uncertainty. Under the 75% VCA Method, if prices rise over time, customers are rewarded through protection from the rising prices. However, if prices fall over time, customers risk paying more than they would have under a fixed-price-coverage ratio less than 75%. The greater risk to DTE Gas's customers is the risk of rising prices because they typically have a fixed amount of non-discretionary income to spend on a natural gas utility bill, and customers would ultimately be more financially burdened with higher bills as opposed to steady or somewhat lower bills. Using the 75% ratio strikes the appropriate balance between protecting customers against rising prices and allowing them to participate in any price decrease.¹⁵

Accordingly, Mr. Madigan testified that DTE Gas purchased 75% of its gas requirements for the plan year, as shown in Exhibit A-10, using the guidelines set forth in Section 6 of Exhibit A-7. He further noted that the VCA FPP method is the same one first approved in the September 28, 2010, Order in Case No. U-16146, which was subsequently approved in later GCR plan cases.¹⁶

Next, Mr. Madigan presented and discussed the five-year forecast of gas prices as shown in Exhibit A-8, noting that the company plans to purchase approximately 50,000 dekatherms (Dth) per month from its affiliate, DTE Gas Gathering (MGAT), as shown in Exhibit A-10, along with 15.9 Bcf from its affiliate DTE Energy Trading, as shown in Exhibit A-28.¹⁷

Turning to pipeline reservation charges, supplier of last resort (SOLR) calculation, and pipeline portfolio changes, Mr. Madigan testified that DTE Gas

¹⁴ 2 Tr 41.

¹⁵ 2 Tr 41-42.

¹⁶ *Id.* at 43.

¹⁷ 2 Tr 47

“maintains a portfolio of 400 MDth/day of firm transportation contracts for the winter operating season and 325 MDth/day for the summer storage injection season to meet supply requirements for normal weather, colder than normal weather, design day, and supplier of last resort[,]” at a cost of \$61 million for the 2023-2024 plan year.¹⁸ Mr. Madigan emphasized that other sources of supply such as spot market (citygate) purchases, interruptible contracts, or interstate capacity release do not offer the level of reliability of supply that firm transportation capacity provides.¹⁹

Next, Mr. Madigan discussed the NEXUS pipeline contract, Commission approvals thereof, and the status of recent negotiations with NEXUS.²⁰ And, he provided an overview of Exhibit A-10, which reflects the total volumes and purchase costs for gas, exclusive of transportation costs, and Exhibit A-11, which shows expected transportation costs of \$64 million. In total, as set forth in Exhibit A-12, DTE Gas projects total costs for gas supply of \$641 million for the plan year.²¹

Lastly, Mr. Madigan discussed the company’s plans to purchase responsibly sourced gas (RSG). According to him:

RSG is natural gas that has been verified by a third party to have met specified environmental targets during production. There are multiple certifications available that verify an array of environmental and social attributes. Because of the Company’s commitment to reduce greenhouse gas emissions, only certifications that verify lower methane-emitting natural gas production will be considered for its own RSG purchases. Lower methane intensity natural gas releases less methane into the atmosphere at the source of production or drilling. Methane is a powerful greenhouse gas when released directly to the atmosphere and is considered approximately 25 times more impactful than CO2 emissions.²²

¹⁸ 2 Tr 49.

¹⁹ 2 Tr 55-56.

²⁰ 2 Tr 59-62.

²¹ 2 Tr 63-64.

²² 2 Tr 66-67.

Mr. Madigan pointed to a press release issued on June 24, 2020, outlining the company's commitment to reduce greenhouse gas emissions throughout its own operations and from suppliers of natural gas. Mr. Madigan emphasized the importance of climate change as "one of the defining public policy issues of our time," stating that DTE is taking a holistic approach to addressing greenhouse gas reductions for the company, suppliers, and customers.²³

Mr. Madigan discussed the global Net Zero climate initiative, explaining how the company's acquisition of RSG aligns with the objectives of that initiative and with DTE Gas's decarbonization efforts, "solidifying our position as an environmental, social and governance (ESG) leader."²⁴ Regarding benefits to customers from the purchase of RSG, Mr. Madigan explained:

Reducing methane intensity of our supply portfolio through the purchase of RSG for a modest premium benefits the Company's customers by reducing the direct methane emissions occurring at the point of production and thereby reducing the impact of those avoided emissions on climate change, which impacts all of the Company's customers. At a \$0.045/MMBtu premium, 4,000,000 Dth RSG costs \$180,000 and avoids approximately 18,400 metric tons CO₂ equivalent (CO₂e) from being released to the atmosphere, for approximately \$10/metric ton CO₂e. This cost per metric ton CO₂e compares favorably to known carbon markets such as Regional Greenhouse Gas Initiative, California Cap-and-Trade Program, and the Western Climate Initiative. In addition, purchasing RSG from suppliers will encourage other suppliers to develop similar certified RSG products, increasing the overall supply of RSG in the market. This will result in additional RSG being brought to Michigan by other utilities and Alternative Gas Suppliers, thereby reducing the impact of climate change on the Company's customers even more.²⁵

Mr. Madigan described DTE Gas's interactions with industry peers and others, testifying to the "wide range of both familiarity and planning in this emerging [RSG]

²³ 2 Tr 67.

²⁴ 2 Tr 69.

²⁵ 2 Tr 69-70.

space.” According to him, one common theme that appeared was the need for certification and validation, adding: “The other utilities typically did not want to speculate on which certification to choose as this is the beginning stages of the market, but felt that as the market matured and developed, some certifications may become more common than others.”²⁶

Mr. Madigan testified that DTE Gas agrees with the need for certification and validation of RSG, and he presented Table 4 at 2 Tr 72, which illustrates four different approaches to certification. He explained that in order to better understand the status of the RSG industry, the company issued a request for information (RFI), which included a solicitation for the purchase of up to 2.0 Bcf of gas.²⁷ The RFI resulted in the purchase of 1,134,200 Dth of RSG at a total cost of \$7,858,562, including the commodity cost of \$7,821,754 and an RSG premium of \$36,808.²⁸ For this GCR plan period, Mr. Madigan testified that DTE Gas is forecasting the purchase of 4,000,000 Dth of RSG gas including a premium of \$0.045 per Dth, for a total RSG premium of \$180,000.²⁹ However, Mr. Madigan requested guidance from the Commission “on the integration of RSG into the portfolio as the Company continues to develop a robust RSG procurement strategy.”³⁰

²⁶ 2 Tr 71.

²⁷ Mr. Madigan explained that the RFI included the possibility of a gas purchase because “[w]ithout indicating the intention to potentially execute, suppliers would not have been incentivized to respond.” 2 Tr 76.

²⁸ 2 Tr 73, 77; Exhibits A-32 and A-33.

²⁹ 2 Tr 79-80.

³⁰ 2 Tr 78.

2. Lucien Bratu

Mr. Bratu, a Senior Gas Supply & Planning Analyst in Gas Supply and Planning for DTE Gas, provided an overview of the company's five-year operational plan as well as its operational plan for this GCR period.³¹ Specifically, Mr. Bratu described the company's normal weather operating plan, colder and warmer than normal operating plans, storage plan and gas customer choice (GCC) and GCR storage allocation, design day and minimum storage balances to meet peak day requirements, and other operational requirements.

3. Timothy J. Krysinski

Mr. Krysinski, a Principal Project Manager in DTE Gas's Regulatory Affairs Gas Strategy group,³² provided an overview of certain federal regulatory issues that may affect DTE Gas. He also described actions that the company has taken related to interstate pipelines that could affect the cost of gas. With respect to the latter, Mr. Krysinski discussed a general rate case filed by ANR Pipeline Company and the settlement in that case; an ongoing rate case proceeding of Panhandle Eastern Pipeline Company; and the prefiling settlement reached in the Great Lakes Gas Transmission Limited case.³³ Mr. Krysinski also discussed forecasted transportation rates for several interstate pipelines that supply gas to the company.³⁴

³¹ Mr. Bratu's direct and rebuttal testimony are transcribed at 2 Tr 98-136

³² Mr. Krysinski's direct testimony is transcribed at 2 Tr 139-157.

³³ 2 Tr 142.

³⁴ *Id.*

4. Andrea R. Hardy,

Ms. Hardy a Principal Project Manager within Regulatory Affairs for DTE Energy Corporate Services,³⁵ provided the calculation of DTE Gas's monthly GCR factor, and she discussed the contingency factor and implementation, the administration of the supplier of last resort (SOLR) reservation charge, and the five-year forecast of the cost of gas. Ms. Hardy testified that DTE Gas proposes a maximum GCR factor of \$4.21 per Mcf for the 2023-2024 plan year, as shown in Exhibit A-20.

5. George H. Chapel

Mr. Chapel, Manager, Market Forecasting for DTE Gas,³⁶ provided the company's gas demand forecast for the next five years. Mr. Chapel testified that that plan period sales for GCR and GCC customers are forecasted to be 156 billion cubic feet (Bcf) and that sales are projected to decrease slightly over the next five years. Mr. Chapel also addressed DTE Gas's customer count forecasting method and results, GCC customers forecast over the next five years, and the company's assumptions related to energy efficiency programs.

B. Staff

Nyrhe U. Royal, a Public Utilities Engineer Specialist with the Commission, provided Staff's review of DTE Gas's GCR plan, requested base GCR factor, and SOLR reservation charge for both GCR and GCC customers. Ms. Royal testified that Staff examined the company's filing to determine consistency with past Commission Orders; to identify what DTE Gas was requesting that the Commission approve; to distinguish

³⁵ Ms. Hardy's direct and rebuttal testimony are transcribed at 2 Tr 160-176.

³⁶ Mr. Chapel's revised direct testimony is transcribed at 2 Tr 180-200. His rebuttal testimony is transcribed at 2 Tr 290-294.

between known and projected costs; and to evaluate the reasonableness and prudence of the plan.³⁷

Ms. Royal discussed past Commission approvals of the company's VCA method, contingency factor mechanism, simplified contingent factor matrix, and SOLR reservation charge. She concluded that DTE Gas did not present any new issues with respect to these aspects of the company's GCR plan, and therefore, the plan should be approved, except for the company's proposal to include a \$180,000 premium for RSG. According to Ms. Royal, because Michigan does not have a carbon market or an emissions reduction goal, and because there is no federal mandate, the premium should be disallowed. However, if the Commission determines that the purchase of RSG may be reasonable, the Commission should issue a warning pursuant to MCL 460.6h(7) (Section 7 warning) indicating that the costs for the RSG premium may not be recoverable absent more support in the company's GCR reconciliation.³⁸

C. Attorney General

Sebastian Coppola, an independent business consultant with expertise in utilities and utility regulation, testified on behalf of the Attorney General.³⁹ As addressed in more detail below, Mr. Coppola testified that DTE Gas's proposed GCR factor of \$4.21 was overstated due to an incorrect sales forecast. He also took issue with what he described as the company's failure to minimize the cost of gas by overreliance on firm transportation capacity rather than citygate purchases. Lastly, Mr. Coppola recommended that the Commission find that RSG premiums are not reasonable or are

³⁷ 2 Tr 208.

³⁸ 2 Tr 226-227.

³⁹ Mr. Coppola's direct testimony is transcribed at 2 Tr 232-262. His qualifications and experience can be found at 2 Tr 263-287.

not recoverable as part of an Act 304 proceeding, and issue a Section 7 warning to that effect.

D. Rebuttal

Rebuttal testimony is addressed in more detail in Section IV.

Mr. Chapel responded to Mr. Coppola's claims regarding the company's sales forecast, testifying that Mr. Coppola's conclusion was based on information that was not available to the company when it filed its case. Ms. Hardy responded to Mr. Coppola's testimony regarding a recalculation of the GCR factor based on his updated sales forecast.

Mr. Madigan and Mr. Bratu addressed Mr. Coppola's claims regarding the reasonableness and prudence of the company's FPP strategy, and Mr. Madigan responded to Staff's and the Attorney General's concerns regarding RSG.

III.

LEGAL STANDARDS

Pursuant to 1982 PA 304 (Act 304), the Commission has the authority to "incorporate a gas cost recovery clause in the rates or rate schedule of a gas utility." To implement its GCR clause, a gas utility must annually file a gas cost recovery plan for a 12-month period that includes a proposed gas cost recovery factor and a five-year forecast of its customers' gas requirements and the company's plans to meet those requirements. After reviewing the projections and proposals for the plan year under several factors enumerated in MCL 460.6h(6), including the volume, cost, and reliability of supplies, and whether the utility has taken appropriate legal and regulatory steps to minimize the cost of gas, the Commission determines whether the decisions underlying

the plan are reasonable and prudent. The Commission then issues a Final Order that may “approve, disapprove, or amend the gas recovery plan accordingly.” In addition, the 5-year forecast is evaluated for a determination of whether future recovery of certain costs is, based on present evidence, unlikely (Section 7 warning).

IV.

DISCUSSION

DTE Gas argues the Commission should approve the company’s GCR Plan for the 2023- 2024 plan year as reasonable and prudent, and the 5-year forecast should be accepted without any Section 7 warnings.

Staff generally supports DTE Gas’s plan, GCR factor, and five-year forecast but asserts the Commission should warn the company that costs associated with RSG may be disallowed. The Attorney General contests three issues, including RSG, which are addressed in detail below.

A. Uncontested Matters

The parties did not dispute the company’s normal, colder than normal, and warmer than normal operating plans; design day and storage operating plans; SOLR charges; the company’s actions related to federal regulatory issues; DTE Gas’s proposed simplified contingent factor mechanism, or the company’s total projected gas costs. These aspects of DTE Gas’s GCR plan should therefore be approved.

B. GCR Factor

Relying on Mr. Coppola’s testimony and certain discovery responses, the Attorney General argues that the company’s proposed GCR factor of \$4.21 was overstated by approximately \$0.16, based on an updated sales forecast. The Attorney

General contends that because the regression analysis used in DTE Gas's forecasting model included sales from August 2020 through July 2022, which were impacted by pandemic-related reductions in usage, the sales forecast was understated.⁴⁰ The Attorney General disputes the company's claim that its forecast was reasonable because it was based on the data DTE Gas had available at the time it was preparing its case, noting:

Simply pushing a review to a GCR Reconciliation, as advocated by Mr. Chapel, is inappropriate and unhelpful in this context. When utilities are presented with outlier data, as is clear in this case, the proper course of action is to normalize that data to the extent possible, to arrive at the best forecast. Ignoring updated data during the pendency of a case, simply because it was not initially available, should be rejected.⁴¹

Acknowledging that, because of the schedule in this case, the GCR plan year will likely have ended by the time a Final Order is issued, the Attorney General nevertheless asserts that "the Commission should direct the Company to make necessary adjustments to the forecasting model in future years to exclude or compensate for the decline in gas sales per customer due to Covid-19 during the 2020 to 2021 period."⁴²

In response, DTE Gas maintains that its GCR forecasting method and GCR factor were reasonable, reiterating that the information Mr. Coppola used was actual sales data for 2023, which was not available in August 2022, when DTE Gas was preparing its filing. DTE Gas adds that the forecasting method the company used has been consistently approved by the Commission, and the Attorney General fails to take into account other factors, like weather and natural disasters, that can impact actual

⁴⁰ Attorney General brief, 5.

⁴¹ Attorney General brief, 7.

⁴² Attorney General brief, 8-9.

sales. Lastly, DTE Gas points out that the GCR factor proposed is the maximum factor and that the company adjusts its factor to account for deviations from its forecast.

The PFD agrees with the company that its GCR factor was reasonable and prudent when it was presented in this plan case. While the Attorney General insists that DTE Gas should have updated its forecast and factor in August 2023, and that the company should have adjusted its regression model to recognize the anomalous, Covid-related sales from 2021 and 2022, the Attorney General fails to address the fact that, as Mr. Chapel testified, there are other dynamics at work that can significantly impact sales:

It is interesting to note that while Mr. Coppola makes his forecast recommendation using updated consumption data. He does not, however, take into consideration the most recent weather data. There is every indication that due to the very warm 2023 weather up to date, an updated normal weather assumption will almost certainly lead to lower demand forecasts. The first quarter of 2023 was the 4th warmest first quarter in Detroit since 1951 and would ultimately lead to lower sales forecasts. Should Mr. Coppola recommend updating the sales forecast for customer behavior based on data through August 2023, then it only stands to reason that he would recommend updating the sales forecast for the weather experienced through August 2023, as well.⁴³

Ms. Hardy also testified that in updating the sales forecast, Mr. Coppola omitted certain components:

If sales were to be adjusted for Witness Coppola's proposal, additional volumes of purchased gas would be necessary. Additional gas sales and purchases would result in, at a minimum, adjustments to the jurisdictional rate, the cost and volume of storage, the volume of Lost and Unaccounted For and Company Use gas, and unbilled volume balances. All of these components would need to be updated before a new GCR factor could be calculated.⁴⁴

⁴³ 2 Tr 293.

⁴⁴ 2 Tr 175; Exhibit A-39.

In response to Ms. Hardy's rebuttal, the Attorney General points to a discovery response wherein "Ms. Hardy admitted that she did not perform her own calculations and confirmed that natural gas prices in 2023 declined from the NYMEX forecasted prices that the Company used to price some of its gas supply used to calculate the GCR Factor in this Plan."⁴⁵

The Attorney General does not address Ms. Hardy's rebuttal that his calculations did not include adjustments to certain other items (adjustments to the jurisdictional rate, the cost and volume of storage, the volume of LAUF and Company Use gas), nor does she acknowledge that under the Act 304 statutory scheme, specifically MCL 460.6j(15), it is in the company's interest to manage its GCR factor to avoid over-collecting from its customers.⁴⁶ Accordingly, the Attorney General's recommendation to direct DTE Gas to modify its GCR factor should be rejected.⁴⁷ However, this PFD agrees with the Attorney General that in the company's next GCR plan case, DTE Gas should discuss how it adjusted its forecasting model to account for reduced sales in 2021 and 2022 or explain why it was not necessary to do so.

⁴⁵ Attorney General brief, 8, citing Exhibit AG-16, p. 1. This PFD notes that although Ms. Hardy confirmed that gas prices had declined since the company developed its GCR factor, there is nothing in Exhibit AG-16 that indicates whether Ms. Hardy did or did not recalculate the GCR factor to include the additional adjustments discussed in her testimony.

⁴⁶ In addressing over-recoveries: "The commission shall determine a rate of interest . . . equal to the greater of the average short-term borrowing rate available to the gas utility during the appropriate period, or the authorized rate of return on the common stock of the gas utility during that same period. The commission shall determine a rate of interest for insufficient recoveries and additional charges equal to the average short-term borrowing rate available to the gas utility during the appropriate period." (Emphasis supplied).

⁴⁷ As the Attorney General acknowledges, the GCR plan year has ended; thus, this issue is moot.

C. Gas Purchasing Strategy

As set out in detail above, Mr. Madigan provided extensive testimony describing and justifying the company's VCA and FPP strategies. Mr. Coppola took issue with the company's overreliance on firm transportation. Quoting the April 8, 2021, Order in Case No. U-20543, Mr. Coppola testified that "[i]n conjunction with the issue of high pipeline capacity costs incurred by the DTE Gas, which the Attorney General raised", the Commission directed DTE Gas to show that "the company has taken steps to minimize the cost of gas, including efforts to renegotiate contracts, and will look to comparisons with other long-term supply options as informative as to whether this particular contract adheres to the requirements of the Code of Conduct."⁴⁸ Mr. Coppola noted that the NEXUS pipeline contract was referenced in the Order, opining that the Commission's directive was much broader "and includes the excessive amount of firm transportation capacity contracted by the Company versus using additional Citygate purchases."⁴⁹

Mr. Coppola pointed out that that Mr. Madigan cited two issues with purchasing gas at the MichCon Citygate: (1) interruptible transportation; and (2) storage withdrawals.⁵⁰ According to Mr. Coppola, Mr. Madigan's testimony implies that "Citygate purchases use interruptible transportation[,]" however in a discovery response, Mr. Madigan stated that gas flowing to MichCon Citygate is at risk of being cut upstream without sufficient notice to allow the company to secure additional supply. Mr. Coppola described this response as "even more perplexing," because "it makes assumptions about the reliability of Citygate purchases that are unsupported by any evidence.

⁴⁸ 2 Tr 241-242, quoting Order, p. 7.

⁴⁹ 2 Tr 242.

⁵⁰ *Id.* citing 2 Tr 56-58.

Mr. Madigan presents no evidence that Citygate purchases contracted weeks or months ahead of the gas delivery date under firm contracts with suppliers who hold capacity on the interstate pipelines are any less reliable than gas supply delivered through pipelines with whom the Company has contracted firm transportation capacity.”⁵¹ Mr. Coppola added that DTE Gas also assumes, without evidence, that if supply is cut, the company will have to rely on marketers to secure replacement gas, and they may not prioritize DTE Gas over other customers.⁵²

Regarding the company’s concerns about storage, Mr. Coppola surmised that DTE Gas “assumes that Citygate purchases may entail the use of gas already stored in the Company’s storage fields under off-system storage contracts by marketers or suppliers.”⁵³ According to him:

The Company’s argument seems to be that this is not new gas supply coming into the DTE Gas system. It is difficult to understand the logic of the Company’s argument here and why having gas supply already in storage for the same marketers or suppliers who could readily deliver the purchased gas supply from the Company’s storage fields is a bad thing.

Mr. Madigan’s testimony is illogical given that gas marketers and other third-party suppliers, like the Company, hold firm transportation on the interstate pipelines delivering gas to the Company’s Citygate and have gas in storage in the market area within the Company’s storage system to supply their Citygate sales obligations. Mr. Madigan’s testimony and responses to discovery demonstrate a propensity to reach conclusions without a disciplined approach to analyze the use of Citygate purchases.⁵⁴

Next, Mr. Coppola criticized Mr. Madigan’s reference to gas supply restrictions and a significant price spike in February 2021, which was the result of winter storm Uri.

⁵¹ 2 Tr 243; Exhibit AG-4.

⁵² 2 Tr 243.

⁵³ *Id.*

⁵⁴ 2 Tr 243-244.

He explained that “[t]he wider use of citygate purchases should not be avoided because of temporary price spikes if the Company uses sound gas supply strategies.”⁵⁵

Lastly, Mr. Coppola discussed gas supply strategies used by Consumers Gas, a comparable-sized utility to DTE Gas. Mr. Coppola pointed to Exhibit AG-5, which covers the 2018-2019 plan year for both Consumers Gas and DTE Gas, testifying that on average, the company purchased approximately 29% of its gas supply at its citygate, with much less purchased in the winter months, while Consumers Gas purchased about 55% of its gas supply from citygate.⁵⁶ Mr. Coppola quoted extensively from testimony by a Consumers Gas witness in Case No. U-20541 that discusses “CECo’s strategy of using citygate gas purchases as a beneficial strategy to reduce pipeline fixed costs and lower the overall cost of gas supply with acceptable gas supply reliability and resiliency.”⁵⁷ Mr. Coppola highlighted additional testimony from Case No. U-21269, Consumers’ 2023-2024 GCR plan case, that estimated that Consumers Gas has saved its customers over \$36 million per year by reducing firm transportation from 85% to 47% of supply.⁵⁸ Mr. Coppola also pointed to DTE Electric’s reliance on citygate purchases for fuel for the company’s gas plants.⁵⁹

In addition to his concerns about DTE Gas’s reliance on firm transportation, Mr. Coppola raised issues with the length of the company’s contracts with various gas pipelines, noting that most of the contracts are for 15 years or more.⁶⁰ As such, Mr. Coppola opined that DTE Gas has limited ability to find less costly options. And

⁵⁵ 2 Tr 244.

⁵⁶ 2 Tr

⁵⁷ 2 Tr 246, 247-248.

⁵⁸ 2 Tr 248-249.

⁵⁹ *Id.* at 249.

⁶⁰ 2 Tr 250; Exhibit A-9.

Mr. Coppola referenced Mr. Krynski's testimony regarding rate cases filed by several pipeline companies noting, "the cost of pipeline capacity is increasing significantly and is likely to continue to increase further in coming years[.]" further positing that "[t]his is an opportune time for the Company to evaluate other options to reduce the cost of pipeline capacity and lower the overall cost of gas supply for GCR customers."⁶¹

Mr. Coppola therefore recommended that:

. . . the Commission direct the Company to specifically make a concerted effort to more thoroughly and adequately evaluate how it can lower the cost of its gas supply through the use of larger volumes of Citygate purchases and shed a significant portion of firm and costly interstate pipeline transportation capacity. The Company should do its in-depth research and present this analysis and course of action in the GCR plan case following the Commission order in this plan case. Part of that research should include discussions with Consumers Energy and an evaluation of how Consumers has been able to reduce the cost of firm pipeline capacity while making higher purchases of reliable Citygate gas supply from various suppliers. If the Company fails to perform such an in-depth analysis and presentation, the Commission should make it clear that disallowances of a portion of gas supply costs are likely to ensue.⁶²

In rebuttal, Mr. Madigan disputed Mr. Coppola's interpretation of the Commission's Order in Case No. U-20543, testifying that the quoted language "references 'this specific contract' and 'the Code of Conduct' which references the (formerly) affiliate nature of the NEXUS contract," and does not include a directive that DTE Gas make changes to its transportation capacity or that the company include more citygate purchases.⁶³ Mr. Madigan added that the Commission has approved DTE Gas's purchasing strategies as reasonable and prudent, and "[Mr. Coppola's] myopic

⁶¹ 2 Tr 251.

⁶² 2 Tr 251-252.

⁶³ 2 Tr 83-84.

view of sourcing gas, without any consideration of reliability and diversity of supply, should not convince the Commission to change its position from prior cases.”⁶⁴

Next, Mr. Madigan reviewed the company’s three-step approach to purchasing firm capacity when pipeline contracts expire, explaining that in addition to cost, DTE Gas considers operational requirements and diversity of supply in deciding whether to contract for pipeline capacity. He added that as the SOLR for GCC customers, DTE Gas must be able to supply gas to both GCC and GCR customers at any time, observing that over the past decade, the company has seen a clear migration of customers from GCC to GCR, thus supporting the decision to have 400 MDth/day of firm capacity in winter to ensure reliable service to all customers.⁶⁵

Next, Mr. Madigan addressed Mr. Coppola’s claim that “Mr. Madigan presents no evidence that Citygate purchases . . . are any less reliable than gas supply delivered through pipelines with whom the Company has contracted firm transportation capacity,” testifying that he had never made such a claim and therefore did not need to provide support. According to Mr. Madigan, “What I have stated is the Company cannot take a chance on purchasing citygate supply and potentially risk system reliability and deliverability to GCR customers by gas getting cut upstream by purchasing from suppliers that potentially have interruptible transportation.”⁶⁶ He reiterated his discovery response in Exhibit AG-4, discussing the advantages of holding firm transportation in the event that supply is cut, adding that relying on gas in storage, as Mr. Coppola suggested, is problematic, repeating his testimony that stored gas is already considered

⁶⁴ *Id.* at 84.

⁶⁵ 2 Tr 85.

⁶⁶ 2 Tr 86.

part of the company's system, and therefore, does not contribute to supply or reliability. Mr. Madigan further explained that gas stored for third parties is already contracted for and cannot be relied upon to serve GCR customers.⁶⁷

In response to Mr. Coppola's recommendation that DTE Gas use a gas supply strategy similar to that employed by Consumers Gas, Mr. Madigan testified that although the two companies operate in the same state, they represent "significantly different areas of operations and different internal assets at their disposal. Therefore, the two companies are using different strategies and philosophies to ensure safe and reliable gas supply for their customers."⁶⁸

Next, Mr. Madigan recalled Mr. Coppola's reference to Case No. U-20233, a Consumers Gas GCR plan case wherein the Commission found Consumers Gas's reliance on citygate purchases not unduly risky, despite the Attorney General's concerns. Mr. Madigan responded by quoting the October 22, 2022, Order in Case No. U-20816, page 14:

[T]he Commission does not find it useful to compare DTE Gas's actions and choices to Consumers' actions and choices, as suggested by the Attorney General. To do so would require the record to contain highly detailed presentations from both companies and an analysis to be performed that would include an exhaustive comparison of the differences and similarities between the two companies and their business practices and choices. Such a presentation and analysis is neither required by statute nor practicable.

Mr. Bratu also responded to Mr. Coppola's testimony, focusing his rebuttal on several instances in past proceedings where Mr. Coppola made the same comparisons to Consumers' gas supply strategies. Quoting Mr. Coppola's testimony, and the

⁶⁷ 2 Tr 87.

⁶⁸ 2 Tr 88.

Commission's findings in Case Nos. U-20543, U-20816, and U-21064, Mr. Bratu concluded that: "All of the above examples show that DTE continues to make reasonable and prudent decisions in regard to its gas supply purchases by not aligning its practices with those of Consumers Energy, as Mr. Coppola recommends."⁶⁹

Mr. Bratu testified that Consumers Gas and DTE Gas have important differences "in terms of geographical coverage, assets at their disposal, pipeline interconnects, interconnections with other utilities, customer density across service areas and customers profile." Mr. Bratu explained the differences between the two gas utilities including: (1) Consumers' gas service territory is compact and contained whereas DTE Gas's service territory is much more spread out and fragmented, "which makes it much harder to maintain and control the pressure in its transmission and distribution systems"; (2) Consumers' transportation-only (EUT) customers, who generally require large volumes of gas, are located in that company's service area, whereas DTE Gas's EUT customers are spread across the state, in some cases located on the edge of the company's service territory, making the delivery of large amounts of gas more challenging; (3) the interstate pipelines and interconnections for Consumers Gas are more evenly distributed across that company's service area, making it easier to "shift[] large quantities of gas from one end of its system to the other"; and (4) Consumers has much more storage available for GCR and GCC customers than DTE Gas does. Thus, Consumers manages its system in a much different manner than DTE Gas does.⁷⁰

Consistent with the foregoing, Mr. Bratu posited:

⁶⁹ *Id.* at 129, 127-129.

⁷⁰ 2 Tr 130-131.

All of the above makes purchasing large quantities of gas at MichCon citygate much more suitable for Consumers Energy because the gas doesn't have to be transported internally over large distances to its customers, as opposed to DTE Gas which has to transport large quantities of gas internally across large distances, sometimes across the entire state, to deliver it to its customers.

Therefore, in order to ensure safe, reliable, and reasonable natural gas services to their customers, the methods, principles, and strategies that the two companies use are also different.⁷¹

Mr. Bratu reiterated that cost is not the only factor the company considers, averring that: "Cutting costs without considering risks could hinder the Company's ability to serve its customers with sufficient safe and reliable natural gas exactly at those times when the customers are needing it the most[.]"⁷² referencing the Statewide Energy Assessment (SEA) issued by the Commission after the fire at the Ray Storage Facility in January 2019. Mr. Bratu highlighted the fact that the Commission directed Michigan utilities to consider both diversity of supply and more diversified peak day plans.⁷³ Mr. Bratu testified that directing the company to rely more on citygate purchases would be contrary to the recommendations in the SEA.

The company's brief relies on the testimony of its witnesses. The Attorney General likewise summarizes Mr. Coppola's testimony. Responding to the company's rebuttal, the Attorney General argues that although the Commission's directive in Case No. U-21543 "clearly" applied to all pipeline capacity costs, "the U-20543 semantics argument is perhaps ultimately irrelevant; this is an ongoing issue for DTE's customers, the AG urges the Commission to direct DTE to take steps to examine the ways that customers might save money (and present those findings to the Commission and

⁷¹ 2 Tr 131; Figure 1.

⁷² 2 Tr 133; Exhibit A-37.

⁷³ 2 Tr 133-134; citing page 102 of the SEA.

interested stakeholders), and DTE has not presented any compelling reasons for its intransigence on this issue.”⁷⁴

Next, the Attorney General asserts that Mr. Madigan’s rebuttal testimony on the approach that DTE Gas takes to ensure reasonableness and prudence of transportation capacity “is information the Company has presented in past cases and provides no actual analysis or quantitative evidence, as sought by the AG and asked for by the Commission, of DTE attempts to investigate this issue and lower gas costs.”⁷⁵ As for Mr. Madigan’s claim that price is not the only factor DTE Gas considers in acquiring transportation capacity, the Attorney General characterizes this argument as “a red herring” because Mr. Coppola never testified that cost is or should be the sole factor in evaluating ways to reduce gas costs.⁷⁶ Further, the Attorney General argues that DTE Gas relies on the claim that Mr. Madigan’s position was not that firm transportation is more reliable than citygate purchases from marketers or suppliers, while at the same time arguing that citygate purchases are unreliable.

Turning to Mr. Bratu’s rebuttal, the Attorney General notes that when asked in discovery about displacement of some of its firm capacity with citygate purchases delivered by the same pipelines, as Consumers does, DTE Gas responded that:

While that plan could be physically possible it is not feasible for DTE because it is increasing the risk of supply disruptions by adding intermediaries in the supply chain vs. DTE buying the gas directly and bringing it into its system through firm transportation contracts.⁷⁷

⁷⁴ Attorney General brief, 10-11.

⁷⁵ *Id.* at 13.

⁷⁶ Attorney General brief, 14.

⁷⁷ Attorney General brief, 17; Exhibit AG-12.

According to the Attorney General, this response “shows that the obstacles that Mr. Bratu raises in the underlying testimony are predominantly excuses for not wanting to undertake a serious evaluation of an alternative gas supply strategy that would almost certainly result in lower gas supply costs for customers.”⁷⁸

Concerning EUT customers and interstate pipeline interconnections, the Attorney General notes that Mr. Bratu implied that DTE Gas purchases and delivers natural gas to EUT customers, suggesting a difference between the company and Consumers Gas. However, in discovery, the company confirmed that DTE Gas does not purchase supply for these customers; instead, transportation-only customers purchase directly from producers who deliver gas to the MichCon citygates through interstate pipelines.⁷⁹ She added:

In another example, with regard to the interconnects with interstate pipelines and the differences in geographical “spread” between DTE’s and Consumers’ system, Mr. Bratu was asked to provide evidence for his claims. Rather than attempt to address the question, in AGDG-2.48a, Mr. Bratu confuses the wording of the question, in the process ignoring his own rebuttal testimony and failing to provide any evidence to support his argument. This is another example of the Company creating obstacles to a full examination of this issue.⁸⁰

The Attorney General continues, citing several additional instances in discovery where DTE Gas provided incomplete information, purposefully misconstrued questions or testimony, or provided responses without evidentiary support.⁸¹ In summary, the Attorney General maintains that:

⁷⁸ Attorney General brief, 17-18.

⁷⁹ Attorney General brief, 18; Exhibit AG-12, pp. 2-3.

⁸⁰ Attorney General brief, 18, Exhibit AG-12, p. 4.

⁸¹ Attorney General brief, 19-21; Exhibit AG-13.

DTE's testimony and associated responses have refused to acknowledge that its current practice of making citygate purchases during peak demand periods has not resulted in any shortfall in gas supply. This is a key point that must be understood and acknowledged, because it dispels the risks and fears that the Company raises without foundation. The response that more reliance on citygate purchases would lessen diversity of supply is simply false. It again shows a lack of understanding of gas supply dynamics. Marketers and other gas suppliers source their gas supply from diverse gas basins in North America and often from additional gas basins than those accessed by the Company through its gas purchasing. The gas supply delivered to Michigan, whether transported on pipeline capacity owned by the Company or owned by marketers and other gas suppliers does not reduce diversity of supply – on the contrary it enhances it. The key difference is that marketers and other gas suppliers having multiple customers for the pipeline capacity can make more efficient use of the capacity than the Company can by owning the same capacity. Therefore, marketers and other gas suppliers are often able to deliver reliable gas supply at a total cost lower than what the Company incurs.⁸²

In reply, DTE Gas argues that however the language in Case No. U-20543 is interpreted, “the Commission *did not order the Company to increase its citygate purchases.*”⁸³ The company also cites the October 12, 2023, Order in Case No. U-21064 page 10, wherein, in response to essentially the same recommendation from the Attorney General as presented here, the Commission found:

The Commission agrees with the ALJ. The Commission finds that DTE Gas's customers “benefit from regional diversity of supply with increased supply reliability and mitigated price risk.” 3 Tr 68. As DTE Gas has provided that the renewal of its contract was “the most reasonable and prudent means to ensure reliable transportation services to its customers”, the Commission does not believe that DTE Gas failed to lower its cost of gas supply. PFD, p. 24.⁸⁴

The company argues that the Attorney General's request that DTE Gas engage in a more thorough investigation of its gas supply strategy, “is unsupported,

⁸² Attorney General brief, 22-23.

⁸³ DTE Gas reply, 7.

⁸⁴ *Id.*

inappropriate and not necessary.”⁸⁵ DTE Gas maintains that it has “put forth a case that establishes its decisions were reasonable and prudent” adding that Staff and the Commission have “validated that DTE Gas’s purchasing decisions have been reasonable and prudent, and since the Company has not deviated from those well vetted processes, the Company has met its burden.”⁸⁶ DTE Gas reiterates Mr. Madigan’s testimony on the process the company uses to determine a reasonable and prudent approach to securing gas supply, noting that the Attorney General’s focus on cost appears to ignore the company’s operational needs, and the importance of securing reliable gas supplies as the SOLR.⁸⁷

Next, DTE Gas argues that comparing the company to other Michigan gas utilities is inappropriate given the operational differences among utilities, as the Commission has previously determined with respect to a comparison of DTE Gas to Consumers Gas.⁸⁸ DTE Gas also criticizes the Attorney General’s reliance on certain discovery responses to support her position, arguing that the responses discussed in her initial brief are incomplete and do not in fact undermine the company’s position that its supply strategy is reasonable and prudent.⁸⁹

This PFD finds the Attorney General’s position persuasive. First, the PFD agrees that the language in Case No. U-20543 does apply to all pipeline capacity purchases, not just the NEXUS pipeline, as the heading (“Total Interstate Pipeline Contract Cost”) to that section of the Order indicates. While that part of the Order does address the

⁸⁵ *Id.* at 8.

⁸⁶ *Id.*

⁸⁷ *Id.* at 9.

⁸⁸ DTE Reply, 10-11.

⁸⁹ *Id.* at 11-15.

NEXUS pipeline, specifically in discussing Code of Conduct concerns, the Commission nevertheless reiterated that “DTE Gas is under a continuing duty to support its long-term contracts[.]”⁹⁰ The Order also agreed with the PFD that a Section 7 warning regarding a more complete evaluation of the company’s supply strategy was not necessary; however, it did not explicitly address the recommendation that the company provide a more thorough evaluation of its level of firm pipeline capacity. Nevertheless, DTE Gas did provide some additional information on this issue, but most of what the company filed was the same information presented in previous cases.

Second, although the PFD agrees with DTE Gas that comparisons to Consumers Gas are inapt, as the Commission has previously found, the company’s support for 75% FPP coverage is again lacking. According to Mr. Madigan, as related above, DTE Gas customers pay approximately \$24 more per year in pipeline capacity costs at the 75% FPP level. In exchange, customers have a high level of commodity price assurance compared to citygate purchasing. In addition, the company asserts that its FPP strategy provides diversity of supply and a greater degree of reliability than citygate purchases.

Although Mr. Madigan testified that: “As the level of fixed-price coverage is reduced from the 75% level, there is an equal and offsetting increase in the level of price risk or uncertainty,” adding that the remaining 25% level of price risk during the plan year “is an acceptable and reasonable level of price risk or uncertainty based on operational constraints and the customers’ inherent risk-adverse nature,”⁹¹ the company provides no evidence to support this claim as the Attorney General points out:

⁹⁰ Order, p. 6.

⁹¹ 2 Tr 41.

The argument appears to be that, for month to month budgeting purposes, DTE's customers would prefer to have more consistent bills, rather than paying less over the course of their lives. The AG pushes back on this sentiment, arguing that it is wholly subjective and that the "graphs" and other data DTE presents in this case are unconvincing. Frankly, the AG posits that, if presented with the facts about DTE's process, more than likely the majority of customers would prefer to have the 6% (by DTE's calculations – that number may well be higher) back in their bank accounts, rather than a smoother bill pattern. DTE's protestations that "[w]ithout some method of managing price uncertainty, DTE Gas's customers could be exposed to unlimited price risk" is misleading and should be rejected. The AG has never advocated that DTE ditch all of its longerterm contracts, only that the company should decrease its percentage of fixed price deals to a more reasonable level, such as Consumers has been able to achieve.⁹²

Thus, the PFD agrees that DTE Gas has failed to provide evidence that the 75% FPP level, as opposed to some other percentage, is the appropriate FPP amount.

Turning to diversity of supply and reliability, the PFD agrees with the Attorney General's claim that the marketers and suppliers that hold firm capacity on pipelines are drawing from diverse supply sources, and that the difference between DTE Gas's firm transportation capacity and that of marketers or suppliers "is that marketers and other gas suppliers having multiple customers for the pipeline capacity can make more efficient use of the capacity than the Company can by owning the same capacity."⁹³ The PFD also finds persuasive the Attorney General's argument that DTE Gas has failed to demonstrate that citygate purchases are less reliable than firm transportation. Lastly, the PFD agrees with the Attorney General that "[c]ontinuing to do things simply because that is how they have been done in the past, without consideration of how periodic adjustments might help customers, is an expensive proposition for ratepayers who are

⁹² Attorney General reply, 7-8.

⁹³ Attorney General brief, 23.

unable to switch to a different supplier because they are part of a captive customer base.”⁹⁴

Consistent with the foregoing findings, this PFD finds that the company should be directed to provide a more complete and comprehensive evaluation of its gas supply strategy in its next GCR plan case. To avoid a situation where the Attorney General or other party objects to the type of study that DTE Gas presents, the company should consult with Staff, the Attorney General, and other interested parties to determine how this analysis should be performed.

D. Responsibly Sourced Gas Premium

Staff and the Attorney General raised concerns about the company’s plan to include RSG premium costs in its GCR plan and reconciliation. Ms. Royal made alternative recommendations with respect to the RSG premium: (1) based on the information provided by DTE Gas and the fact that Michigan does not have a carbon market or an emissions reduction mandate, Staff recommends that the RSG premium be rejected and the costs of the gas be reviewed in the reconciliation; or (2) if the Commission believes the RSG proposal has merit, the Commission should caution DTE Gas under Section 7, that the cost of the premium may not be recoverable unless the company provides a more complete and robust justification for the recovery of the premium.⁹⁵

Ms. Royal further noted that two other gas utility companies, Consumers Gas and SEMCO Energy Gas Company, have requested approval of certified natural gas

⁹⁴ *Id.* at 16.

⁹⁵ 2 Tr 226-227.

premiums as part of their respective GCR plan cases. Ms. Royal testified that in its initial brief in Case No. U-21062, Consumers withdrew its request, and the Commission had not issued an Order in SEMCO's plan case, Case No. U-21277, at the time she filed testimony in the instant proceeding.⁹⁶ Ms. Royal observed that DTE Gas's RSG proposal is quite similar to the certified natural gas proposals made by SEMCO and Consumers Gas. As such, she emphasized the need for uniformity in the treatment of RSC and certified natural gas.⁹⁷

Mr. Coppola testified that there are two main issues with the purchase of RSG. First, Mr. Coppola questioned the reasonableness of the imposition of costs associated with the company's goal of reducing greenhouse gas emissions on customers and suppliers. Mr. Coppola explained that DTE has set a corporate goal of net zero emissions by 2050 and a goal of a 35% reduction in emissions by customers, using a 2005 baseline. According to Mr. Coppola:

The Company has not shared what the level of greenhouse gas emissions were in 2005, how much in emission volumes the 35% reduction represents, how it plans to achieve that goal, how RSG fits into the plan, or how much it will contribute to the total reduction. In response to discovery, the Company stated that the forecasted purchases of 4,000,000 Dth of RSG would reduce CO2 emissions by 1% of the emissions along the natural value stream. However, it is not clear what the value stream includes. Also, asked to identify how much these gas purchases would reduce the Company's total carbon footprint, the Company did not provide an answer. Therefore, the Company has put forth bits and pieces of information with little to no substance to allow an adequate assessment of whether the proposal to purchase RSG will make a significant contribution to the Company's total greenhouse gas reduction goals by 2050.⁹⁸

⁹⁶ *Id.* at 227. On December 1, 2023, the Commission issued an Order approving a settlement agreement in Case No. U-21277.

⁹⁷ 2 Tr 227-228.

⁹⁸ 2 Tr 254-255.

Citing Mr. Madigan's testimony on the emerging nature of certified RSG driven by industry groups, Mr. Coppola opined that the gas industry can establish standards that producers, transporters, and distributors must comply with, without requiring that a separate premium be paid. He analogized this proposal to the International Standard of Organization (ISO) standards that automotive parts and equipment suppliers must comply with in order to operate in that industry.⁹⁹

Next, Mr. Coppola discussed provisions in the Inflation Reduction Act (IRA) that levy a charge on certain methane producers that are required to report their greenhouse gas emissions, as well as new Environmental Protection Agency (EPA) regulations intended to reduce emissions for natural gas producers. According to him, these new initiatives could render RSG certification unnecessary.¹⁰⁰ He further noted that if DTE Gas were to replace 50% of its supply with RSG, the cost of the premium would be \$3.3 million, and \$6.6 million if 100% of gas supply were RSG.

Mr. Coppola also questioned several statements made by Mr. Madigan including why producers have different standards for RSG, the possibility that the methane intensity of non-RSG is the same as RSG, and how the purchase of RSG will benefit customers.

Discussing his second concern with RSG, Mr. Coppola quoted MCL 460.6h(6) stating that:

[T]he language . . . from Act 304 . . . does not mention paying premiums above the base cost of natural gas. More importantly, the law states that the Commission must determine whether the utility has taken all appropriate legal and regulatory actions to minimize the cost of purchased

⁹⁹ 2 Tr 255-256.

¹⁰⁰ *Id.* at 256-257.

gas. The payment of RSG premiums would not result in the Company minimizing the cost of purchased gas when gas supply is available that has a lower cost. Any “other relevant factors” would need to be relevant to the volume and cost of gas purchases.¹⁰¹

Lastly, citing a discovery response contained in Exhibit AG-8, Mr. Coppola questioned why, given the large number of unknowns about certified RSG, the company has decided to pilot a program to purchase RSG. According to Mr. Coppola, “the solution is not to plunge into a program that entails paying premiums for gas cost, but to wait for the market to sort itself out and avoid paying additional costs for gas supply.”¹⁰²

In rebuttal, Mr. Madigan first testified that the amount of CO₂-equivalent reduction to the company’s carbon footprint will depend on where the company sources RSG, and will be reported in the appropriate reconciliation, also pointing to the company’s sustainability report contained in Exhibit A-34.¹⁰³ He disputed Mr. Coppola’s claim that DTE Gas is imposing its RSG standard on producers, noting that RSG is not being certified and supplied solely due to the company’s interest, emphasizing: “if the Company chooses to procure RSG then there currently is an associated premium, which, again, is an industry-wide approach not specific to DTE alone.”¹⁰⁴

Mr. Madigan disagreed with Mr. Coppola’s calculation of the total cost of RSG premiums, testifying that at this point, DTE Gas is not contemplating purchasing even 50% of its gas from RSG suppliers. In response to Mr. Coppola’s claim that RSG premiums are not recoverable under Act 304, Mr. Madigan pointed to Section 14, MCL 460.6h(14), which provides that excess costs that are incurred consistent with the GCR

¹⁰¹ *Id.* at 260.

¹⁰² 2 Tr 261.

¹⁰³ 2 Tr 91.

¹⁰⁴ *Id.* at 92.

plan are recoverable if those costs are reasonable and prudent. According to him: “The Company believes that the benefits of bringing lower emission natural gas into the state of Michigan outweigh the relatively small premiums paid by the Company and is a reasonable and prudent cost.”¹⁰⁵

In response to Ms. Royal’s testimony that the RSG proposal should be rejected because there is no state emissions reduction goal, Mr. Madigan pointed to the October 12, 2023 Order in Case No. U-20898, page 27, which, in the context of pilot programs, describes Michigan’s decarbonization efforts as “economy-wide,” addressing greenhouse gas emissions associated with the generation and delivery of energy both upstream and downstream of the utility. Mr. Madigan also cited Governor Whitmer’s 2020 Executive Directive, which discussed the goal of economy-wide carbon neutrality by 2050 with an interim goal of a 28% reduction in greenhouse gas emissions by 2028.¹⁰⁶

In its brief, DTE Gas relies on Mr. Madigan’s testimony, reiterating that its plan to purchase 4,000,000 Dth of RSG during the plan period, at a premium of \$180,000, is reasonable and prudent. Staff similarly relies on Ms. Royal’s testimony, highlighting the determination in the October 12, 2023, Order in Case No. U-21064, wherein the Commission found that a Section 7 warning regarding the RSG premium should be issued, based on the lack of support for the proposal in the record in that proceeding.¹⁰⁷

The Attorney General points out that Mr. Madigan’s testimony, explaining that DTE Gas will provide more information on carbon reductions associated with RSG in

¹⁰⁵ *Id.* at 91, 92.

¹⁰⁶ 2 Tr 95.

¹⁰⁷ Order, p. 17.

the reconciliation, is inapposite, because the company does not provide any estimate of benefits customers might realize from the purchase of RSG.¹⁰⁸ The Attorney General further points out that the corporate sustainability report presented in rebuttal (Exhibit A-34) does not address greenhouse gas reductions that are expected from RSG, and the remainder of Mr. Madigan's rebuttal, "does not add anything to the discussion and merely underscores the lack of information the Company has provided in this case and the overall lack of information possessed by DTE." DTE Gas's reply brief provides no further argument on this issue. In its reply brief, Staff reasserts that:

Without any Federal or State level requirement requiring responsibly sourced or certified natural gas, the "cost minimization" requirements of MCL 460.6h(3) and (6) must trump any Company environmental, social, and governance (ESG) goals the utility has set for itself. As always, the commodity portion of any RSG purchased (not including the premium) will be reviewed for reasonableness in the reconciliation.

Staff continues to argue that the RSG premium should be rejected as part of the company's GCR plan, or, in the alternative, that the Commission again issue a Section 7 warning that the costs of the premium may be disallowed absent more support in the reconciliation.

The PFD finds that DTE Gas's proposed RSG "pilot" should be rejected, and any premiums associated with the purchase of RSG should be disallowed in the reconciliation, for the reasons expressed by Staff and the Attorney General. As Mr. Coppola testified, the company's presentation was devoid of detail on, or quantification of, purported customer benefits from the purchase of RSG. Further, the PFD finds persuasive the Attorney General's claims that: "DTE's RSG proposal is premature given

¹⁰⁸Attorney General brief, 25-26.

the current state of the issue within the natural gas industry, the lack of industry standards for all participants to adhere to as part of routine business operations, and recent legislative and EPA initiatives on methane reductions in gas production.”¹⁰⁹

The Attorney General Section cites Section 6 of Act 304, MCL 460.6h(6) in asserting that the recovery of RSG premiums under the act is not permissible. DTE Gas counters that under Section 14, “excess” costs, like the RSG premium, are recoverable if they are reasonable and prudent. This PFD agrees with DTE Gas that RSG costs, including the premium, are recoverable; however, it also finds that the applicable portion of the statute is MCL 460.6h(3) which provides:

In order to implement the gas cost recovery clause established pursuant to subsection (2), a utility annually shall file, pursuant to procedures established by the commission, if any, a complete gas cost recovery plan describing the expected sources and volumes of its gas supply and changes in the cost of gas anticipated over a future 12-month period specified by the commission and requesting for each of those 12 months a specific gas cost recovery factor. . . . The plan shall describe all major contracts and gas supply arrangements entered into by the utility for obtaining gas during the specified 12-month period. The description of the major contracts and arrangements shall include the price of the gas, the duration of the contract or arrangement, and an explanation or description of any other term or provision as required by the commission. The plan shall also include the gas utility's evaluation of the reasonableness and prudence of its decisions to obtain gas in the manner described in the plan, in light of the major alternative gas supplies available to the utility, and an explanation of the legal and regulatory actions taken by the utility to minimize the cost of gas purchased by the utility.

The PFD finds that RSG, and any associated premium(s), are a “term or provision” of certain “gas supply . . . arrangements” that may be entered into by the utility. As such, under the broad language of Section 3, RSG premiums may be included

¹⁰⁹ Attorney General brief, 27.
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in the plan and may be recoverable if the Commission finds such premiums reasonable and prudent.

In sum, this PFD finds that while RSG premiums are recoverable under Act 304, based on the record in this proceeding the company's proposal to include RSG as part of its gas supply should be denied.

V.

CONCLUSION

(1) Except for the company's RSG premium proposal, DTE Gas's GCR plan for 2023-2024¹¹⁰ is reasonable and prudent and should be approved.

(2) DTE Gas should be authorized to implement a maximum GCR factor of \$4.21 per Mcf, which may be adjusted consistent with the simplified contingent factor mechanism shown in Exhibit A-23.

(3) DTE Gas should be authorized to include a SOLR charge of \$0.40 per Mcf for GCR customers and a reservation charge of \$0.27 per Mcf for GCC customers to be reflected in the company's monthly billings.

(4) DTE Gas should be directed to provide more insight into its decision to rely extensively on firm gas supply in its next GCR plan case. The company's analysis should focus on whether the FPP coverage ratio of 75% is reasonable under various scenarios, including increased pipeline transportation costs, and it should include an evaluation of potential savings for various FPP coverage ratios for winter versus summer months. In developing its analysis, DTE Gas should consult with the Attorney General and other interested parties on an appropriate approach.

¹¹⁰ Amended from Proposal for Decision issued on June 14, 2024, which incorrectly stated "2020-2021".
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(5) DTE Gas's request to recovery premium costs associated with RSG should be denied. In the alternative the Commission should issue a Section 7 warning indicating that premium costs for RSG may not be recoverable absent more evidence that the costs are reasonable and prudent.

MICHIGAN OFFICE OF ADMINISTRATIVE
HEARINGS AND RULES
For the Michigan Public Service Commission

Sally L.
Wallace

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Sally L. Wallace
Administrative Law Judge

Issued and Served:
June 17, 2024