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August 16, 2018

Ms. Kavita Kale
Michigan Public Service Commission
7109 W. Saginaw Hwy.
Lansing, MI 48917

RE: MPSC Docket No. U-18999

Dear Ms. Kale:

Attached herewith for filing, please find the *Retail Energy Supply Association's Replies to Exceptions* and Certificate of Service of same.

If you have any questions, please feel free to contact my office. Thank you.

Very truly yours,

Fraser Trebilcock Davis & Dunlap, P.C.



Jennifer Utter Heston

JUH/ab

Enclosures

cc: All counsel of record

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of)
DTE GAS COMPANY for authority to)
increase its rates, amend its rate schedules)
and rules governing the distribution and)
supply of natural gas, and for miscellaneous)
accounting authority)
_____)

Case No. U-18999

RETAIL ENERGY SUPPLY ASSOCIATION'S
REPLIES TO EXCEPTIONS

Dated: August 16, 2018

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TABLE OF CONTENTS

I. INTRODUCTION..... 1

II. THE ALJ CORRECTLY RECOMMENDED THAT THE COMMISSION SHOULD DIRECT DTE GAS TO IMPLEMENT A POOLING PROGRAM FOR DTE GAS’ END USE TRANSPORTATION CUSTOMERS 2

A. *Pooling is common industry practice that should be available to DTE Gas’ EUT customers 2*

B. *Pooling would benefit EUT customers through reduced costs, expanded flexibility and increased options 3*

C. *Pooling does not harm customers or adversely affect system reliability 5*

D. *Pooling provides benefits to the utility 6*

E. *Any incremental costs to implement pooling should be borne by pooling suppliers 6*

F. *Pooling should be a voluntary program for EUT customers 6*

G. *The ALJ correctly determined that RESA addressed the Commission’s concerns when the Commission last considered a pooling proposal for DTE Gas 7*

H. *RESA’s pooling proposal does not transfer DTE Gas’ storage assets to EUT suppliers 8*

I. *The ALJ’s determination that RESA’s pooling proposal would benefit EUT customers was not based on speculation 9*

J. *RESA’s pooling proposal does not produce a revenue deficiency for DTE Gas 10*

K. *DTE Gas’ sharp criticism of the ALJ’s PFD for what is clearly a typographical error is unwarranted 11*

L. *Conclusion 11*

III. CONCLUSION AND PRAYER FOR RELIEF 14

NOW COMES the Retail Energy Supply Association (“RESA”)¹, by and through its attorneys, Fraser Trebilcock Davis & Dunlap, P.C., and pursuant to the schedule adopted by Administrative Law Judge Martin D. Snider (“ALJ”), hereby respectfully submits these replies to exceptions to the ALJ’s Proposal for Decision (“PFD”) issued on July 16, 2018 on DTE Gas Company’s (“DTE Gas”) application for authority to increase its rates for the distribution of natural gas and for other relief.

I. INTRODUCTION.

On November 22, 2017, DTE Gas filed an application, testimony and exhibits seeking authority to increase its rates for the distribution of natural gas and for other relief. In its application, DTE Gas seeks to increase rates by \$85.1 million based on a test year ending September 30, 2019, plus approval of a revenue decoupling mechanism and an infrastructure recovery mechanism.

In his PFD, the ALJ correctly determined that the Commission should direct DTE Gas to implement RESA’s pooling proposal. RESA’s expert John Mehling reviewed DTE Gas’ end use transportation (“EUT”) tariffs and recommended that DTE Gas implement a pooling program for EUT customers. Pooling would permit EUT customers to be combined into groups or pools under each supplier. Mr. Mehling testified that pooling for EUT customers has been common industry practice for many years and should be made available to DTE Gas’ EUT customers. The ALJ found that RESA’s witness Mehling addressed the Commission’s

¹ The comments expressed in this filing represent the position of the Retail Energy Supply Association (RESA) as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of twenty retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at www.resausa.org.

previously stated concerns about pooling for DTE Gas and provided substantial evidence in support of how pooling would benefit DTE Gas' EUT customers.²

In its exceptions filed August 3, 2018, DTE Gas recommends that the Commission reject the ALJ's recommendation to adopt pooling. In support of its exceptions, DTE Gas made several arguments that were previously considered and rejected.

The positions advanced by DTE Gas in its exceptions are not persuasive. For the reasons discussed below, and in the ALJ's PFD, the Commission should approve RESA's pooling proposal for gas transportation customers.

II. THE ALJ CORRECTLY RECOMMENDED THAT THE COMMISSION SHOULD DIRECT DTE GAS TO IMPLEMENT A POOLING PROGRAM FOR DTE GAS' END USE TRANSPORTATION CUSTOMERS.

RESA requests that the Commission issue an order directing DTE Gas to adopt a pooling program for DTE Gas' EUT program. Pooling provides numerous benefits to EUT customers and gas transportation programs. As explained below, there are numerous reasons to adopt pooling, yet DTE Gas continues to resist. DTE Gas' arguments against pooling for transportation customers are without merit, and DTE Gas will not implement a pooling program for its EUT customers on its own initiative. Thus, for this program enhancement to occur, the Commission must direct DTE Gas to adopt pooling.

A. Pooling is common industry practice that should be available to DTE Gas' EUT customers.

As explained by RESA's witness Mr. Mehling, "Pooling is simply the grouping of transportation service customers that are all being supplied by the same supplier. It allows suppliers to make a single supply nomination to a group of customers instead of numerous

² PFD, pp. 208-210.

individuals nominations.” The EUT customers’ usage is then offset by the pool supply. Mr. Mehling testified that pooling “is an industry concept that has been in place for a few decades now.” Mr. Mehling explained:

Nicor Gas Company (“Nicor”) and Peoples Gas Light and Coke Company (“Peoples”) in Illinois are two good examples of other gas transportation markets that have similarities to DTE Gas’ transportation program and both offer pooling. They are good examples because they are also Midwest utilities. They too have monthly balancing under Nicor’s Rider 34 Supplier Firm Transportation Service without telemetry required and under Peoples’ Rider FST for Full Standby Transportation Service without telemetry required which is similar to DTE Gas. Nicor and Peoples both offer storage banks similar to DTE Gas. They are good comparisons because they have similarities in their operating systems. They are all served by multiple upstream pipelines. All have interconnects with ANR Pipeline Company. They have limited restrictions on which upstream pipelines can be utilized. All have on-system storage in addition to their upstream assets. When you analyze seventeen of the larger Midwest utilities,³ all but Consumers and DTE Gas offer pooling.⁴

Numerous other utilities offer pooling for their gas transportation programs, including SEMCO Energy Gas Company and Michigan Gas Utilities Corporation in Michigan. DTE Gas should make pooling available for its EUT customers, as well.

B. Pooling would benefit EUT customers through reduced costs, expanded flexibility and increased options.

Transportation customers benefit from pooling through reduced costs and imbalance fees, expanded flexibility, and increased supplier options. Pooling reduces costs for the supplier and ultimately the customers. Mr. Mehling testified that, “Today, because there is no pooling,

³ Nicor, Peoples, North Shore Gas, Ameren Illinois, Vectren Energy Delivery of Indiana -North, Citizens Gas Fuel Company, Vectren Energy Delivery of Indiana - South, Northern Indiana Public Service Company, Duke Energy Ohio, Vectren Energy Delivery of Ohio, Columbia Gas of Ohio, Dominion East Ohio Gas, DTE Gas Energy Company, DTE Gas Company, SEMCO Energy Gas Company, Michigan Gas Utilities, & Wisconsin Gas Company.

⁴ 2 Tr. 37, ln. 11 – 38, ln. 2.

it could require one full time scheduler or up to several schedulers to manage all of the scheduling and balancing of the supplier's customers depending on the number of customers being supplied."⁵ With pooling, a single scheduler can often manage several utilities. Rather than submit a separate nomination for each customer, in a pooled environment, the scheduler can submit one nomination for the entire pool. By reducing the overhead to accomplish the scheduling and balancing functions, then that cost savings will ultimately be passed on to the customers in the form of more competitive pricing.

Pooling also reduces balancing costs associated with DTE Gas' contracted storage gas. On page 7 of Mr. Mehling's direct testimony,⁶ Mr. Mehling provides a chart showing how imbalance fees can be reduced when customers are able to offset imbalances as part of a pool. The Commission should permit pooling suppliers to utilize offsetting imbalances to reduce these imbalance fees.

Pooling also provides expanded flexibility for EUT customers. Today, DTE Gas' EUT transportation customers are required to be standalone customers using one or more suppliers. Pooling would give customers increased flexibility by allowing them to not only remain as a standalone customer utilizing one or more suppliers but will also give them an additional option to join a supplier's pool and the benefit of sharing balancing risks with a larger group of customers.

Pooling may also increase supplier options for EUT customers. Mr. Mehling explained that there may be suppliers who do not participate in the DTE Gas EUT program because pooling is not allowed.⁷ The lack of pooling means increased administrative burdens and

⁵ 2 Tr. 38, ln. 7-10.

⁶ 2 Tr. 39.

⁷ 2 Tr. 40.

increased costs of participation, which may dissuade suppliers from participating in DTE Gas EUT program today. A pooling option may entice more suppliers to participate in DTE Gas' EUT program thereby increasing competition for the benefit of EUT customers.

Pooling would also create more storage value for transportation customers. Mr. Mehling explained that, while the total amount of storage remains the same, when storage is aggregated and managed under the pooling supplier, storage imbalances can be offset.⁸

In short, the absence of pooling for DTE Gas' EUT customers imposes unnecessary burdens and inefficiencies on gas suppliers and, thus, additional costs for suppliers and their gas transportation customers. Suppliers must input numerous gas nominations for each day, one per customer, which could be reduced to one or a few gas nominations per day if transportation customers elect a pooling option. Transportation customers benefit from pooling through reduced costs and imbalance fees, expanded flexibility, and increased supplier options. DTE Gas' gas transportation program can be more efficiently and cost-effectively managed for the betterment of all parties involved, including DTE Gas.

C. Pooling does not harm customers or adversely affect system reliability.

Pooling for EUT customers does not harm other customers. Mr. Mehling explained that pooling would not harm customers, nor would pooling adversely impact system reliability.⁹ In fact, because of pooling, there should be fewer nomination errors. More accurate nominations and balancing improves system reliability. Pooling does not relieve the supplier of the obligation to closely match supply to demand.

⁸ 2 Tr. 40-41.

⁹ 2 Tr. 41.

D. Pooling provides benefits to the utility.

Pooling also benefits the utility. Mr. Mehling testified, as follows:

The utility should see reduced administrative costs from pooling. Rather than monitor each customer account individually, the utility would be able to monitor fewer accounts that contain one or more individual pooled customer accounts. DTE Gas would need to verify fewer nominations and storage banks even though the total volumes remain the same under pooling. Pooling would also simplify the tracking of imbalance nominations. After the initial start-up costs to implement pooling, the utility should experience reduced manpower costs and lower invoicing costs.¹⁰

Thus, DTE Gas itself should see benefits from implementing pooling on its system.

E. Any incremental costs to implement pooling should be borne by pooling suppliers.

As with any new program, there will be costs to implement it. RESA is not opposed to establishing a reasonable fee to recover incremental costs reasonably incurred by DTE Gas to implement a pooling program. RESA recommends that the costs to implement and administer pooling should be borne by participating pooling suppliers. RESA supports a reasonable monthly administrative fee to compensate the utility for any actual and reasonable incremental costs incurred to implement pooling.

F. Pooling should be a voluntary program for EUT customers.

To be clear, RESA is recommending a voluntary pooling program to EUT customers. Pooling should not be mandatory. DTE Gas should permit customers and suppliers to have the option to aggregate customers into a pool. While pooling will reduce costs, and simplify the process for customers, there may be customers who prefer to keep their supply management separate. RESA proposes that the customer have the option of being aggregated into a pool or

¹⁰ 2 Tr. 41, ln. 13-19.

maintaining individual service. The customer can elect whether to remain a standalone customer or a pooled customer as part of its agreement with its supplier. The supplier would then designate the customer's decision in the customer enrollment provided to the utility. This would provide customers with even greater flexibility than they have today.

G. The ALJ correctly determined that RESA addressed the Commission's concerns when the Commission last considered a pooling proposal for DTE Gas.

DTE Gas criticizes RESA's pooling proposal as being like a pooling proposal that the Commission rejected nearly a decade ago in MPSC Case No. U-15985 and Consumers Energy Company's MPSC Case No. U-15986.¹¹ The ALJ, however, considered DTE Gas' argument and determined that it was without merit. The ALJ correctly concluded, "RESA's pooling proposal in this matter addresses the concerns raised by the Commission when it last considered and rejected a pooling proposal for Michigan Consolidated Gas DTE Gas in U-15985 . . ."¹²

RESA's pooling proposal put forth in this case addresses the concerns raised by the Commission when it last considered and rejected a pooling proposal for Michigan Consolidated Gas Company in MPSC Case No. U-15985 and Consumers Energy Company in MPSC Case No. U-15986. In its May 17, 2010 order in MPSC Case No. U-15986 and its June 3, 2010 order in MPSC Case No. U-15985, the Commission rejected pooling proposals put forth by Constellation. In its orders, the Commission determined that the pooling proposals would decrease customer flexibility and that the supplier had not shown that pooling would benefit anyone other than gas suppliers.¹³ Importantly, the Commission understood the pooling proposals put forth in those cases as mandating pooling for EUT customers. In its pooling

¹¹ DTE Gas' Exceptions, pp. 72-73.

¹² PFD, p. 208.

¹³ Order dated May 17, 2010, MPSC Case No. U-15986, p. 54; Order dated June 3, 2010, MPSC Case No. U-15985, pp. 99-100.

proposal put forward in this proceeding, RESA witness Mr. Mehling emphasized that pooling should be provided to customers as an option. Thus, the customer should decide for itself whether the benefits of pooling outweigh any potential detriments to pooling, such as reduced flexibility to switch suppliers mid-month. Additionally, RESA's witness Mr. Mehling put forward substantial testimony in this proceeding explaining how pooling would benefit EUT customers and not just their suppliers. Nearly a decade has passed since the Commission last considered a pooling proposal for EUT customers. Pooling is now the industry standard practice.

H. RESA's pooling proposal does not transfer DTE Gas' storage assets to EUT suppliers.

DTE Gas further argues that RESA's pooling proposal would transfer control of DTE Gas' assets to unregulated suppliers over which the Commission would have no oversight.¹⁴ DTE Gas' alarmist rhetoric should be rejected. RESA's pooling proposal does not transfer any assets to unregulated suppliers. DTE Gas' storage assets remain DTE Gas' storage assets. Today, the Commission does not control EUT customers or their use of DTE Gas' storage. RESA's pooling proposal merely aggregates the individual EUT customers' rights to use DTE Gas' storage. The Commission regulates the terms and conditions of DTE Gas' EUT program. There is nothing about RESA's pooling proposal that reduces the Commission's oversight over DTE Gas' EUT program or DTE Gas' storage assets.

Moreover, DTE Gas is mistaken when it argues that approving RESA's pooling proposal would constitute a taking by mandating that DTE Gas turn over its storage assets to unregulated suppliers.¹⁵ The EUT customers' access to DTE Gas storage assets would remain

¹⁴ DTE Gas' Exceptions, p. 75.

¹⁵ *Id.*, p. 76.

unchanged under RESA's pooling proposal. In a pooled environment, however, the EUT customer can elect to contribute its allocated share of the storage asset to a supplier's pool for use by the pool. If the EUT customer leaves the supplier's pool, it also leaves with its share of the storage asset. The allocation of storage assets to the customer in a pooled environment is unchanged from DTE Gas' current EUT program. DTE Gas' constitutional claims would suggest that pooling is illegal which clearly flies in the face of numerous examples of pooling programs being implemented by gas distribution companies across the United States, including Michigan.

I. The ALJ's determination that RESA's pooling proposal would benefit EUT customers was not based on speculation.

DTE Gas further asserts that RESA did not demonstrate that its pooling proposal would add any value to anyone other than suppliers. DTE Gas claims that the ALJ's determination that competition among suppliers would ensure that cost savings are passed onto EUT customers is unsupported speculation.¹⁶ DTE Gas is concerned that there is no guarantee that any benefits from pooling will be passed on to EUT customers and dismisses Mr. Mehling's example of the effects of pooling on imbalance charges as "simplistic" and failing to "demonstrate any meaningful cost savings."¹⁷

RESA put forth substantial expert witness testimony explaining how cost savings will be realized from RESA's pooling proposal and how those savings will be passed on to EUT customers. While dismissing Mr. Mehling's imbalance charges example as "simplistic", DTE Gas' Mr. Decker does not dispute the logic. Gas marketers are operating in a highly competitive environment for gas transportation customers. Competition among suppliers will ensure that

¹⁶ *Id.*, p. 74.

¹⁷ 2 Tr. 248, ln 6-8.

cost savings, including reductions in imbalance charges, are passed on to EUT customers, and DTE Gas did not provide any evidence or support to the contrary. The ALJ correctly considered the substantive evidence in this case and found that EUT customers would benefit from RESA's pooling proposal.

J. RESA's pooling proposal does not produce a revenue deficiency for DTE Gas.

DTE Gas further argues that implementing RESA's pooling proposal would require a rate increase on all other customers that must be implemented in this rate proceeding because DTE Gas is entitled to recover its revenue deficiency.¹⁸ DTE Gas' counsel is clearly confused. First, the ALJ determined that DTE Gas is experiencing a revenue sufficiency, thus there is no deficiency that must be remedied. Second, even if the Commission finds a revenue deficiency, the shift in cost recovery that the Commission Staff described as a potential effect of RESA's pooling proposal would be addressed in DTE Gas' GCR cases. The Commission Staff pointed out that if EUT customers pay less in imbalance penalties due to pooling, then there would be less revenue from EUT customers to offset DTE Gas' gas supply costs. Imbalance penalty revenues are reflected as an offset to DTE Gas' GCR costs. A potential future reduction in DTE Gas' imbalance fee revenues do not create a base rate revenue deficiency for DTE Gas.

Importantly, however, Staff did not oppose RESA's pooling proposal on this basis. Staff recognized that imbalance fees collected from EUT customers when a supplier is not truly out of balance on a pooled basis do not improve system reliability. Fees imposed under such circumstances are punitive. The reduction in imbalance fee revenue to GCR customers due to EUT suppliers being in balance on a pooled basis is appropriate.

¹⁸ DTE Gas' Exceptions, p. 75.

K. DTE Gas’ sharp criticism of the ALJ’s PFD for what is clearly a typographical error is unwarranted.

In its exceptions, DTE Gas claims that the ALJ ignored the record evidence in this case.¹⁹ In support of its position, DTE Gas criticizes the ALJ for a citation to pages 3-7 of a RESA reply brief. DTE Gas emphasizes that RESA did not file a reply brief and argues that **“the PFD’s reliance on that non-existent document is plainly unfounded.”**²⁰

The ALJ’s citation is clearly a typographical error. RESA’s explanation for how pooling would benefit EUT customers and not just their suppliers appears on pages 3-7 of RESA’s initial brief. DTE Gas’ sharp criticism of a typographical error contained in a 240+ page PFD is overly critical, unwarranted, and lacks substance.

L. Conclusion.

DTE Gas is increasingly among a minority of gas programs that do not have pooling for EUT customers. Pooling is the industry standard that should be available to Michigan transportation customers, yet DTE Gas has demonstrated an unwillingness to implement a pooling program on its own initiative. RESA recommends that the Commission issue an order directing DTE Gas to modify its tariffs to permit a pooling option for gas transportation customers. Pooling is a common industry practice that benefits competitive markets without causing harm to the utility. Specifically, DTE Gas should be required to:

- 1) Accept pooled nominations from suppliers;
- 2) Calculate and assess any load balancing charges based upon the net imbalance of a supplier’s pool;

¹⁹ DTE Gas’ Exception, pp. 73-74.

²⁰ DTE Gas’ Exception, p. 74 (emphasis in the original).

- 3) Calculate and assess any authorized and unauthorized gas usage charges based upon the net imbalance of a supplier's pool;
- 4) Calculate and assess excess pipeline costs surcharge based upon the net imbalance of a supplier's pool;
- 5) Establish the Pool Contracted Storage ("PCS") as the sum of all of the individual pool member Annual Contract Quantity ("ACQ") times 10%; and
- 6) Establish the pool monthly injection rights as the corresponding sum of the rights of the individual pool members under existing tariff limits.

The Commission should order DTE Gas to modify its EUT tariffs as follows:

In Section E1.1 of DTE Gas' tariff, the following definitions should be added:

- "Pool" or "Pooling" shall mean the grouping together of transportation customers for the purposes of netting daily and monthly imbalances, nominations, and storage balances.
- "Pool Administrator" shall mean the person or entity whom the transportation customer has authorized to take actions and make decisions on their behalf with regard to the operation of a Pool.
- "Pool Contracted Storage" (PCS) shall mean the sum of the pool member ACQs times 10% (or times the percentage of ACQ Tolerance Level when a different value is selected by the pool member).

At Section E2.2, the following statements should be added:

- If the transportation customer has authorized a Pool Administrator, the Daily Nomination submitted by the Pool Administrator will be for the Pool as a whole.

The Pool Administrator must notify the Company in writing three business days prior to the beginning of each calendar month as to which meters will be members of the Pool. A transportation customer must remain in a Pool for a period of one calendar month unless its transportation service is discontinued during that calendar month and cannot be a member of more than one Pool at any one point in time.

Original Sheet No. E-16.00 under Selection of Service Category and Rates should be amended as follows:

- For any transportation customer that is part of a Pool, any Unauthorized Gas Usage Charges will be applied to the imbalance remaining after the netting of imbalances from all Pool members. The Pool Administrator will be responsible for determining how any charges or credits remaining will be divided among Pool members. By the third working day of each month, the Company will provide the Pool Administrator with Pool member usage information from the prior month.

Original Sheet No. E-17.01 of the Unauthorized Gas Usage section should be amended as follows:

- E. For any transportation customer that is part of a Pool, any Unauthorized Gas Usage Charges will be applied to the imbalance remaining after the netting of imbalances from all Pool members. The Pool Administrator will be responsible for determining how any charges or credits remaining will be divided among Pool members. By the third working day of each month, the

Company will provide the Pool Administrator with Pool member usage information from the prior month.

The Load Balancing Storage and Charges section of First Revised Sheet No. E-18.00 should be amended as follows:

E. For any transportation customer that is part of a Pool, the \$.25 per MMBtu per Month charge plus fuel for injection, for any month-end balance of gas will be assessed based upon the gas that exceeds the Pool Contracted Storage (PCS) plus the sum of the contract storage quantities that Pool members have individually contracted for. For a Pool, for any monthly withdrawals from storage during the months of November through March will be limited to the 3% of the sum of the Pool member's ACQ. For a Pool, for any monthly injections during the months of September and October that are in excess of the sum of the Pool members ACQ times 1.43%, plus the sum of the contact storage quantities that Pool members have individually contracted for, a \$.25 per MMBtus charge, plus 1.43% retailed as fuel, will be assessed.

III. CONCLUSION AND PRAYER FOR RELIEF.

For all the reasons explained in the preceding sections of these replies to exceptions and in RESA's exceptions, RESA respectfully requests that the Commission issue an order:

1) adopting the ALJ's recommendation to direct DTE Gas to implement a pooling program for its EUT customers; and 2) directing DTE Gas to revise its postcard-format Customer Notice

Letter to gas customer choice customers to remove misleading and anti-competitive comparisons to DTE Gas' gas cost recovery charge.

Respectfully submitted,

FRASER TREBILCOCK DAVIS & DUNLAP, P.C.
ATTORNEYS FOR RETAIL ENERGY SUPPLY ASSOCIATION



Date: August 16, 2018

By: _____

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STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of)
DTE GAS COMPANY for authority to)
increase its rates, amend its rate schedules)
and rules governing the distribution and)
supply of natural gas, and for miscellaneous)
accounting authority)
_____)

Case No. U-18999

CERTIFICATE OF SERVICE

Angela R. Babbitt hereby certifies that on the 16th day of August, 2018, she served the *Retail Energy Supply Association's Replies to Exceptions* and this Certificate of Service on the persons identified on the attached service list via electronic mail.



Angela R. Babbitt

Service List for U-18999

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