



March 28, 2011

Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090
Attn: Elizabeth M. Murphy, Secretary

Re: Proposed Rule – Security Ratings
Release No. 33-9186; 34-63874
File No. S7-18-08

Ladies and Gentlemen:

DTE Energy Company (“DTE Energy”) appreciates the opportunity to offer comments in response to proposed changes to the Form S-3 eligibility requirements set forth in the above-referenced release (the “Release”) issued by the Securities and Exchange Commission (the “Commission”). The proposed changes would replace reliance on security ratings in a number of the Commission’s forms and regulations governing securities issuances, including Form S-3, with a minimum registered debt issuance threshold under which an issuer would be eligible to use Form S-3 to sell non-convertible securities if that issuer had issued for cash at least \$1 billion of non-convertible securities in registered offerings over the prior three years. As set forth in more detail below, DTE Energy believes the proposed \$1 billion historical issuance threshold is not an appropriate alternative standard for Form S-3 eligibility and believes that a number of more appropriate alternatives could be implemented.

Background

DTE Energy (NYSE: DTE) is a well-known seasoned issuer (“WKSI”) with a market capitalization of approximately \$8 billion, and is a holding company with wholly-owned, state-regulated electric and gas utility subsidiaries. DTE Energy’s largest operating subsidiary, The Detroit Edison Company (“Detroit Edison”), is engaged in the generation, purchase, distribution and sale of electricity to approximately 2.1 million customers in southeastern Michigan. For the year ended December 31, 2010, Detroit Edison generated approximately \$5 billion in operating revenue and held over \$16 billion in total assets, accounting for 58% of DTE Energy’s operating revenue and 66% of DTE Energy’s total assets. Detroit Edison independently files reports with the Commission under the Securities Exchange Act of 1934, as amended.

DTE Energy concurs with the comments of the Edison Electric Institute (“EEI”) on behalf of the electric utility industry in general, set forth in its comment letter expected to be dated March 28, 2011 in response to the Release and its comment letters dated September 5, 2008 and December 3, 2009 in response to Release No. 33-8940, which proposed substantially the same changes in 2008. As EEI indicated, it is typical in the electric utility industry for a holding company parent to issue common stock but for debt to be issued at the level of the regulated operating subsidiary. Maintaining a shelf registration statement on Form S-3 gives these operating subsidiaries significant flexibility in accessing the capital markets and permits them to issue registered debt in an efficient, cost-effective and timely fashion while continuing to provide adequate information and protection to investors.

Problems with the Proposal

Fundamentally, DTE Energy does not believe the amount of debt that a company has issued in registered offerings over any particular period of time bears much, if any, relation to the degree to which the company is well known by the investment community or closely followed by investors and analysts. Regulated utilities generally are subject to a significant amount of scrutiny, even when they are organized as operating subsidiaries of a publicly-held parent, and are generally viewed favorably by participants in the debt markets due, among other things, to the consistent nature of their businesses and regulatory structures that are generally designed to support the financial health of utility companies. The proposed changes will result in Form S-3 ineligibility for many well-regulated, closely-followed utility operating subsidiaries, including Detroit Edison.

Detroit Edison, which comprises a majority of DTE Energy’s operating revenues and total assets and files its own periodic and current reports (in addition to other required filings) with the Commission, is closely followed by analysts who cover DTE Energy and is, therefore, well known in the market. Detroit Edison historically has issued investment grade debt securities in public offerings through shelf registration statements on Form S-3. As of February 28, 2011, Detroit Edison had \$2.4 billion of outstanding non-convertible debt securities that were issued in such public offerings (out of total outstanding non-convertible debt of \$4.2 billion). However, if the proposed rules are adopted, Detroit Edison currently would be ineligible to use Form S-3 because it has issued only \$850 million of debt securities in registered offerings in the last three years. Instead, Detroit Edison would be required to use the more extensive and less flexible Form S-1 registration statement or offer debt securities through Rule 144A or Section 4(2) private offerings. There are obvious drawbacks to these approaches. Continually updating a registration statement on Form S-1 is relatively expensive and time-consuming and would limit Detroit Edison’s ability to timely respond to favorable market conditions. As a result, Detroit Edison could be forced to rely on private placements to sell its debt securities. Private placements can be more costly and do not provide the same flexibility as offerings registered on Form S-3, in part because of the limited investor pool. In addition, at times the private placement market becomes very thin and it can be difficult to place debt in that market at all.

Thus, the effect of the proposed changes on Detroit Edison will likely be to (i) increase the volume of non-registered debt offerings while decreasing access to broad, public sources of liquidity, (ii) inhibit Detroit Edison from ever meeting the historical issuance test (as private placements would not be included in the \$1 billion threshold), and (iii) increase Detroit Edison's costs for raising capital, resulting in higher incremental financing costs that Detroit Edison's rate-paying customers would be required to bear without realizing any significant benefits. Many other utility operating companies would face similar effects of the proposed changes.

In addition, the \$1 billion threshold test proposed by the Commission will have a disproportionate impact on regulated utility operating subsidiaries because of the cyclical nature of their capital needs. A utility company's capital expenditures and working capital needs may vary significantly year over year as a result of refinancings of outstanding indebtedness, infrastructure construction projects and environmental expenditures, without regard to its underlying business operations. As a result, the proposed threshold will exclude many very large, stable, high-quality issuers from the use of Form S-3 while other much less creditworthy issuers remain eligible to use Form S-3 simply because of the volume of their recent issuances, which is an illogical and unwarranted result.

Suggested Alternatives to the \$1 Billion Threshold

As outlined above, DTE Energy does not believe that establishing a threshold amount of securities that must be sold over a specified time frame in order to qualify for Form S-3 eligibility is the most effective way to address the Commission's concerns regarding the use of and reliance on credit ratings. There are several viable alternatives to the \$1 billion threshold proposed in the Release, as described below.

Aggregate Outstanding Debt. If a \$1 billion threshold concept remains, DTE Energy believes a more sensible and even-handed approach would be the amount of non-convertible securities the issuer has outstanding, rather than the amount that has been issued over a specific period of time which, as noted above, is subject to significant fluctuation by regulated utility operating subsidiaries.

Regulated Status. Due to the heavily regulated nature of the utility industry, such regulated status could serve as a basis to permit the continued use of Form S-3, either alone or in conjunction with other concepts such as:

- the status of the regulated operating subsidiary's parent as a Form S-3 eligible registrant or a WKSI;
- the regulated operating subsidiary issuing at least \$250 million of registered non-convertible securities during the preceding five years; or
- the regulated operating subsidiary having a minimum asset size (*e.g.*, \$1 billion).

It is important to note that the regulation of electric utilities includes a prohibition on the issuance of debt without the prior approval of the relevant regulator (often the state commission or, in the case of Detroit Edison, the Federal Energy Regulatory Commission). These regulated entities, including Detroit Edison, are generally issuers of high quality debt securities and have relied significantly on the current investment grade eligibility standard.

Grandfathering. DTE Energy supports the grandfathering of current Form S-3 eligible issuers, provided that grandfathering is not the sole alternative basis for continued use of Form S-3. As a result of a merger or acquisition or legislative or regulatory amendments, DTE Energy's utility holding company structure could change in the future making Detroit Edison's successor or any new subsidiary ineligible to use Form S-3. Grandfathering alone would be unduly restrictive and could result in the unfair treatment of otherwise similarly situated issuers. DTE Energy believes there are a number of strong rationales supporting continued use of Form S-3 by regulated operating subsidiaries and that grandfathering alone should be the last choice solution.

Conclusion

In conclusion, DTE Energy appreciates the Commission's efforts to comply with the direction under the Dodd-Frank Act to address the use of and reliance on credit ratings. However, we believe that the proposal set forth in the Release will have an unnecessary and negative effect on the ability of regulated operating companies, including Detroit Edison, to issue traditional corporate debt securities and that viable alternatives are available. DTE Energy believes that the alternative standards of eligibility described above would provide a bright-line standard that would be generally comparable in scope to the existing investment grade eligibility standard.

DTE Energy appreciates the opportunity to comment on this important matter. If the Commission has any questions regarding this letter, please contact Anthony G. Morrow, Manager – Legal (Securities, Finance & Governance) at (313) 235-8460.

Sincerely,

DTE ENERGY COMPANY



Patrick B. Carey
Associate General Counsel
& Assistant Corporate Secretary