UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

DIVISION OF
CORPORATION FINANCE

January 25, 2018

Scott H. Kimpel
Hunton & Williams LLP
skimpel@hunton.com

Re: DTE Energy Company

Dear Mr. Kimpel:

This letter is in regard to your correspondence dated January 25, 2018 concerning the shareholder proposal (the "Proposal") submitted to DTE Energy Company (the "Company") by the Arkay Foundation et al. (the "Proponents") for inclusion in the Company's proxy materials for its upcoming annual meeting of security holders. Your letter indicates that the Proponents have withdrawn the Proposal and that the Company therefore withdraws its January 8, 2018 request for a no-action letter from the Division. Because the matter is now moot, we will have no further comment.

Copies of all of the correspondence related to this matter will be made available on our website at http://www.sec.gov/divisions/corpfin/cf-noaction/14a-8.shtml. For your reference, a brief discussion of the Division's informal procedures regarding shareholder proposals is also available at the same website address.

Sincerely,

Kasey L. Robinson
Attorney-Adviser

cc: Lila Holzman
As You Sow
lholzman@asyousow.org

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FILE NO: 55788.000041

January 25, 2018

VIA EMAIL (shareholderproposals@sec.gov)

U.S. Securities and Exchange Commission
Division of Corporation Finance
Office of Chief Counsel
100 F Street, N.E.
Washington, D.C. 20549

Re: DTE Energy Company
Shareholder Proposal Submitted By As You Sow
Securities Exchange Act of 1934 – Rule 14a-8

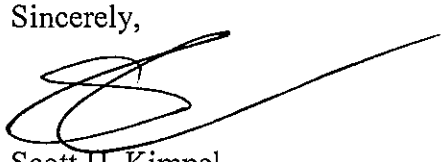
Ladies and Gentlemen:

In a letter dated January 8, 2018, we requested that the staff of the Division of Corporation Finance concur that DTE Energy Company (the "Company") could exclude from its proxy statement and form of proxy for its 2018 Annual Meeting of Shareholders (the "2018 Proxy Materials") a shareholder proposal and statements in support thereof (the "Proposal") received by the Company from As You Sow on behalf of Kalpana Raina, John B. Mason and Linda C. Mason, Arkay Foundation and Paul R. Rudd Revocable Trust (the "Proponents").

Enclosed as Exhibit A is a letter from As You Sow dated January 19, 2018, which was received by the Company via email, withdrawing the Proposal on behalf of the Proponents. In reliance thereon, we hereby withdraw the January 8, 2018 no-action request relating to the Company's ability to exclude the Proposal from the 2018 Proxy Materials pursuant to Rule 14a-8 under the Securities Exchange Act of 1934.

Please do not hesitate to contact me at (202) 955-1524, or by email at skimpel@hunton.com, if you have any questions regarding this matter.

Sincerely,



Scott H. Kimpel

Enclosures

cc: Timothy Kraepel, Director – Legal (Securities, Finance & Governance), DTE Energy Company (via email)
As You Sow (via overnight delivery)

EXHIBIT A

AS YOU SOW

1611 Telegraph Ave, Suite 1450
Oakland, CA 94612

www.asyousow.org
BUILDING A SAFE, JUST, AND SUSTAINABLE WORLD SINCE 1992

January 19, 2018

Daniel Richards
Senior Attorney
DTE Energy
One Energy Plaza
Detroit, Michigan 48226

Re: Withdrawal of 2018 Methane Reporting Shareholder Proposal

Dear Mr. Richards:

As You Sow appreciates the constructive dialogue we have had regarding methane disclosures at DTE Energy and the methane proposal we filed with the company this year on behalf of four shareholders. The proposal outlines growing shareholder concern about methane emissions, including fugitive methane emissions, and the growing associated climate and regulatory risks. In order to make informed investment decisions, investors require specific, quantitative disclosures about the Company's methane emissions and the actions the company is taking to address those emissions.

Following *As You Sow's* submission of the 2018 methane disclosure proposal, and subsequent discussions with the company, *As You Sow* and DTE Energy have agreed to the following actions:

1. ***As You Sow Action.*** In exchange for the DTE Energy actions listed below, *As You Sow* agrees to withdraw its shareholder proposal filed on behalf of shareholders Arkay Foundation, Kalpana Raina, Paul R. Rudd Revocable Trust, and John B and Linda C Mason, and agrees that such proposal need not appear in the Company's definitive proxy statement for DTE's 2018 annual meeting.

2. **Company Actions.** DTE Energy agrees to publish on its website, by the third quarter of 2018, the following disclosures that are intended to help provide investors and stakeholders with information about how DTE Energy is managing and mitigating its methane emissions.

    a. A detailed description of methane leak detection and monitoring technologies used, including specifically where (or on what systems) they are used.
    b. The frequency with which pipelines are monitored and with what monitoring equipment, including a discussion of how risk impacts monitoring frequency or technologies used, and how risk levels are determined.
    c. Leak repair timeframes and prioritization methodologies beyond regulatory compliance, including for non-hazardous (Type 3) leaks.
    d. Leak-prone pipeline replacement plans including timeframe, prioritization methodologies, timeline or other constraints.
    e. Practices and technologies being implemented to prevent and reduce emissions as repair and replacement work is being done, from blowdowns (venting, flaring), or associated with other routine operations.

AS YOU SOW

f. The Company's methane emissions intensity rate across natural gas operations, including a discussion of how this emissions intensity is calculated (EPA emissions factors, direct measurements, etc.)

3. DTE Energy further agrees to develop a quantitative methane emissions intensity reduction target based on the outcome of the Company's rate case and the EPA Methane Challenge Program's progress.

This agreement will become effective on the date the last party below executes this agreement.

AS YOU SOW:

Danielle R. Fugere
President and General Counsel
As You Sow

1/24/18
Date

COMPANY:

Daniel Richards
Expert Attorney
DTE Energy

1/23/2018
Date

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January 8, 2018

VIA EMAIL (shareholderproposals@sec.gov)

U.S. Securities and Exchange Commission
Division of Corporation Finance
Office of Chief Counsel
100 F Street, N.E.
Washington, D.C. 20549

Re: DTE Energy Company
Shareholder Proposal Submitted By As You Sow
Securities Exchange Act of 1934 – Rule 14a-8

Dear Ladies and Gentlemen:

I am writing on behalf of DTE Energy Company, a Michigan corporation ("DTE" or the "Company"), pursuant to Rule 14a-8(j) promulgated under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), to inform you that the Company intends to omit from its proxy statement and form of proxy for its 2018 Annual Meeting of Shareholders (the "2018 Proxy Materials") a shareholder proposal regarding methane emissions (the "Proposal"), submitted by As You Sow on behalf of Kalpana Raina ("Raina"), John B. Mason and Linda C. Mason ("Masons"), Arkay Foundation ("Arkay") and Paul R. Rudd Revocable Trust ("Rudd"; together with Raina, Masons and Arkay, the "Proponents"). We respectfully request that the Staff of the Division of Corporation Finance (the "Staff") of the Securities and Exchange Commission (the "Commission") concur with the Company's view that, for the reasons stated below, the Company may exclude the Proposal from the 2018 Proxy Materials.

In accordance with Section C of Staff Legal Bulletin No. 14D (Nov. 7, 2008) ("SLB 14D"), the Company is emailing this letter and its exhibits to the Staff at shareholderproposals@sec.gov. This letter is being sent to the Staff fewer than 80 calendar days before the Company intends to file its definitive 2018 Proxy Materials with the Commission and accordingly, as described below, to the extent necessary, the Company requests that the Staff waive the 80-day requirement with respect to this letter.

Rule 14a-8(k) and Section E of SLB 14D provide that shareholder proponents are required to send companies a copy of any correspondence that the shareholder proponent elects to submit to the Commission or the Staff. Accordingly, the Company is taking this

opportunity to inform the Proponents that if they submit correspondence to the Commission or the Staff with respect to the Proposal, a copy of that correspondence should concurrently be furnished to the undersigned.

The Proposal

The Proposal states:

> RESOLVED: As You Sow requests the company report annually to shareholders (at reasonable cost, omitting proprietary information), and using quantitative indicators, the company's actions beyond regulatory requirements to monitor and minimize methane leakage, including adopting a quantitative methane intensity reduction target for its operations.

A copy of the Proposal, supporting information and all related correspondence is attached hereto as Exhibit A.

Basis for Exclusion

As discussed in more detail below, the Company respectfully requests that the Staff concur in its view that the Proposal may be excluded from the 2018 Proxy Materials pursuant to:

(i) Rule 14a-8(b) and Rule 14a-8(f)(1) because the Proponents failed to establish the requisite eligibility to submit the Proposal; and

(ii) Rule 14a-8(i)(7) because the Proposal relates to the Company's ordinary business operations.

Analysis

I. The Proposal May Be Excluded Under Rule 14a-8(b) And Rule 14a-8(f)(1) Because The Proponents Failed To Establish The Requisite Eligibility To Submit The Proposal.

A. Background

The Proponents submitted to the Company the Proposal regarding methane emissions in a letter dated November 16, 2017, which was received by the Company via regular mail on November 21, 2017. The Company reviewed its stock records, which did not indicate that As You Sow or any Proponent was the record owner of sufficient shares to satisfy the requirements of Rule 14a-8(b) of the Exchange Act. The Proponents did not otherwise provide valid proof of ownership from the record holders of the stock. The submission also included documentation from each Proponent purporting to grant As You Sow the authority to act as their proxies, but such documentation did not comply with Staff Legal Bulletin No. 14I (Nov. 1, 2017) ("SLB 14I").

Accordingly, on December 4, 2017, within 14 days of the date the Company received the Proposal, the Company sent the Proponents a letter via overnight mail notifying them of these procedural deficiencies, as required by Rule 14a-8(f) (the "Deficiency Notice"). In the Deficiency Notice, the Company informed the Proponents of the requirements of Rule 14a-8 and how to cure the procedural deficiencies. Specifically, the Deficiency Notice stated:

- the ownership requirements of Rule 14a-8(b);
- that, according to the Company's stock records, the Proponents were not record owners of sufficient shares;
- the type of statement or documentation necessary to demonstrate beneficial ownership under Rule 14a-8(b), including the requirement for the statement to verify that each Proponent continuously held the requisite number of Company shares for the one-year period preceding and including November 16, 2017, the date the Proposal was submitted;
- that the Proponents must submit verification of their ownership of the requisite number of Company shares from the record owner of those shares;
- that to be a record holder, a broker or bank must be a DTC participant and provided the DTC website address at which the Proponents could confirm whether a particular broker or bank was a DTC participant;

- that the Proponents are required under Rule 14a-8(b) to provide a statement of their intent to continue ownership of the required number of shares through the date of the Company's 2018 Annual Meeting of Shareholders;

- that the Proponents must submit proxy documentation describing their delegation of authority to As You Sow in compliance with SLB 14I;

- that adequate proof of ownership and adequate proof of authority for As You Sow to act as proxy was required from each Proponent whom As You Sow intends to represent;

- that the Proponents' response had to be postmarked or transmitted electronically no later than 14 days from the date of receipt of the Deficiency Notice; and

- that a copy of the shareholder proposal rules set forth in Rule 14a-8, Staff Legal Bulletin No. 14F (Oct. 18, 2011) ("SLB 14F") and SLB 14I were enclosed.

Shipping records from overnight courier service UPS confirm delivery of the Deficiency Notice to As You Sow on December 6, 2017. In a series of subsequent emails to the Company and the undersigned as its counsel, As You Sow provided additional evidence of ownership and grants of authority on behalf of the Proponents.[1] However, as discussed in more detail below, this additional evidence still failed to provide the Company with the requisite proof of ownership satisfying the eligibility requirements of Rule 14a-8(b) and the requisite proof of authority for As You Sow to act as proxy under SLB 14I.

B. Analysis

The Company may exclude the Proposal under Rule 14a-8(f)(1) because the Proponents failed to substantiate their eligibility to submit the Proposal under Rule 14a-8(b). Rule 14a-8(f) provides that a company may exclude a shareholder proposal if the proponent fails to provide evidence of eligibility under Rule 14a-8, including the beneficial ownership requirements of Rule 14a-8(b), so long as the company timely notifies the proponent of the problem and the proponent fails to correct the deficiency within the required time. Rule 14a-8(b)(1) provides, in part, that "[i]n order to be eligible to submit a proposal, [a shareholder]

[1] As part of this correspondence, As You Sow confirmed that a fifth proponent, the Lutra Living Trust, was withdrawing its similar proposal.

must have continuously held at least $2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the meeting for at least one year by the date [the shareholder] submit[s] the proposal." Staff Legal Bulletin No. 14 (Jul. 13, 2001) ("SLB 14") specifies that when the shareholder is not the registered holder, the shareholder "is responsible for proving his or her eligibility to submit a proposal to the company," which the shareholder may do by one of the two ways provided in Rule 14a-8(b)(2). *See* Section C.1.c, SLB 14.

As the Staff stated in SLB 14F, "the requirements of Rule 14a-8(b) are highly prescriptive." Where a proponent comes close to complying with a procedural requirement but fails to comply fully, therefore, the Staff has been unwilling to allow a proposal to avoid exclusion based on substantial compliance or a good faith effort. For example, the Staff has permitted exclusion of the following proposals:

- A proposal that contained 504 words, exceeding Rule 14a-8(d)'s 500-word limit by four words. *See Intel Corp.* (Mar. 8, 2010).

- A proposal that was submitted to the company one day after the deadline imposed by Rule 14a-8(e)(2). *See Chevron Corp.* (Mar. 4, 2015).

- A proposal submitted by a proponent who provided proof of ownership 15 days after receiving a timely deficiency letter from the company, which was one day after the deadline imposed by Rule 14a-8(f). *See Comcast Corp.* (Mar. 5, 2014).

- A proposal accompanied by proof of continuous ownership covering one day less than the full one-year period preceding the date of submission of the proposal as required by Rule 14a-8(b). *See PepsiCo. Inc.* (Jan. 10, 2013).

- A proposal accompanied by a written statement of the proponent's intent "to continue to own General Electric common stock through the date of" the annual meeting, without specifying that it would continue to own the requisite amount. *See General Electric Company* (Jan. 30, 2012).[2]

[2] *See also Yahoo! Inc.* (Mar. 24, 2011); *Cisco Systems, Inc.* (July 11 , 2011); *J.D. Systems, Inc.* (Mar. 30, 2011); *Amazon.com, Inc.* (Mar. 29, 2011); *Alcoa Inc.* (Feb. 18, 2009); *Qwest Communications International, Inc.* (Feb. 28, 2008); *Occidental Petroleum Corp.* (Nov. 21, 2007); *General Motors Corp.* (Apr. 5, 2007); *Yahoo!*

The Proponents here were required to provide proof of ownership from the record owners of their shares. Nevertheless, the revised proof of ownership submitted on behalf of Raina, Masons and Rudd do not confirm one-year continuous ownership of the requisite amount of shares for the one-year period preceding and including November 16, 2017. Indeed, SLB 14F provides model language to demonstrate such ownership, and both this language and the full text of SLB 14F were included in the Deficiency Notice transmitted to the Proponents.

Rather than conform to the requirements of the rule or the guidance in SLB 14F, each of Raina, Masons and Rudd's respective ownership statements simply state that they held their shares "for at least 13 months." Using a measurement date of November 16, 2017, it is possible to hold shares "for at least 13 months" and fall short of the one-year period required by Rule 14a-8(b). For example, a holding period of November 30, 2016, to November 16, 2017, would encompass "13 months," but not equate to a full year for purposes of the rule.[3] Thus, Raina, Masons and Rudd have not demonstrated sufficient ownership under Rule 14a-8(b).

Moreover, each of the Proponents' purported grants of authority to As You Sow are defective under SLB 14I. Specifically, SLB 14I states that the Staff "would expect this documentation to:

- identify the shareholder-proponent and the person or entity selected as proxy;
- identify the company to which the proposal is directed;
- identify the annual or special meeting for which the proposal is submitted;
- identify the specific proposal to be submitted (e.g., proposal to lower the threshold for calling a special meeting from 25% to 10%); and
- be signed and dated by the shareholder."

Inc. (Mar. 29, 2007); *CSK Auto Corp.* (Jan. 29, 2007); *Motorola, Inc.* (Jan. 10, 2005); *Johnson & Johnson* (Jan. 3, 2005); *Agilent Technologies* (Nov. 19, 2004); *Intel Corp.* (Jan. 29, 2004); *Moody's Corp.* (Mar. 7, 2002).

[3] The 13 months would be November 2016, December 2016, January 2017, February 2017, March 2017, April 2017, May 2017, June 2017, July 2017, August 2017, September 2017, October 2017 and November 2017.

The Deficiency Notice transmitted to the Proponents includes both this language and the full text of SLB 14I. Nevertheless, the grants of authority from the Proponents do not identify the "annual or special meeting for which the proposal is submitted," referring ambiguously instead only to "the 2018 proxy statement." Thus, none of the Proponents has provided valid evidence of As You Sow's authority to act as a proxy on their behalf under SLB 14I.

As discussed above, the requirements of Rule 14a-8(b) are highly prescriptive, and the Staff has consistently found that substantial compliance or a good faith effort to comply with the requirements is insufficient to avoid exclusion of a proposal. Indeed, by requiring companies to notify shareholders of procedural deficiencies and offer them an opportunity to cure, the rule provides a mechanism that prevents the exclusion of an otherwise eligible proposal that contains a deficiency resulting from the shareholder's oversight or inadvertence. Where, as in this case, proponents are informed of a deficiency and fail to take the required action, there is no basis in either the language or policy of Rule 14a-8 for ignoring the deficiency.

The Company provided timely and proper notice of the deficiencies to the Proponents and provided an opportunity for them to cure the deficiencies in ownership and proof of authority. The Proponents in many cases submitted revised paperwork to the Company after receipt of the Company's Deficiency Notice; nevertheless, the Proponents failed to properly cure these deficiencies. Rule 14a-8(f)(1) provides that, if a shareholder proponent fails to satisfy the eligibility or procedural requirements of Rule 14a-8, the company may exclude the proposal if the company notifies the proponent of the deficiency within 14 days of receipt of the proposal and the proponent then fails to correct the deficiency within 14 days of receipt of the company's notice. The Staff also has consistently granted no-action relief pursuant to Rule 14a-8(b) and Rule 14a-8(f)(1) when insufficient proof of ownership is submitted by a proponent. *See, e.g., AT&T Inc.* (Dec. 2, 2014), *Devon Energy Corp.* (Mar. 13, 2015), *Andrea Electronics Corp.* (July 16, 2014) and *Johnson & Johnson* (Mar. 2, 2012). As You Sow regularly submits shareholder proposals to publicly traded companies and should be aware of the technical requirements of Rule 14a-8.[4] Accordingly, the Company believes the Proposal may properly be excluded from the 2018 Proxy Materials pursuant to Rule 14a-8(b) and Rule

[4] Based on data compiled by Proxy Monitor, since 2007 shareholder proposals submitted by As You Sow have appeared in 46 different proxy statements at Fortune 250 companies. This statistic does not capture proposals submitted to other public companies outside the Fortune 250 or proposals that were properly excluded under Rule 14a-8 on the basis of a Staff no-action letter.

14a-8(f)(1).

II. The Proposal May Be Excluded Under Rule 14a-8(i)(7) Because It Deals With Matters Relating To The Company's Ordinary Business Operations.

A. Rule 14a-8(i)(7)

Rule 14a-8(i)(7) permits a company to exclude from its proxy materials a shareholder proposal that "deals with a matter relating to the company's ordinary business operations." In the Commission's release accompanying the 1998 amendments to Rule 14a-8, the Commission stated that the general underlying policy of the ordinary business exclusion is "to confine the resolution of ordinary business problems to management and the board of directors, since it is impracticable for shareholders to decide how to solve such problems at an annual shareholders meeting." Exchange Act Release No. 40018 (May 21, 1998) (the "1998 Release"). In the 1998 Release, the Commission identified two central considerations that underlie the ordinary business exclusion. The first is that "[c]ertain tasks are so fundamental to management's ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight." The second consideration relates to "the degree to which the proposal seeks to 'micro-manage' the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment."

As explained in the 1998 Release, under the first consideration, a proposal that raises matters that are "so fundamental to management's ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight" may be excluded, unless the proposal raises social policy issues that are sufficiently significant to transcend day-to-day business matters. A proposal being framed in the form of a request for a report does not change the nature of the proposal. The Staff has stated that a proposal requesting the dissemination of a report may be excludable under Rule 14a-8(i)(7) if the substance of the report is within the ordinary business of the issuer. *See* Exchange Act Release No. 20091 (Aug. 16, 1983).

B. The Proposal relates to the Company's choice of technologies and processes.

The Proposal may be excluded from the 2018 Proxy Materials because it relates to the Company's choice of technologies and processes used in the operation and maintenance of the Company's natural gas pipeline infrastructure. Although styled as a request to produce a

report, the Proposal seeks to influence the Company's choice of technologies and processes used to monitor and reduce methane leakage from its natural gas pipeline infrastructure. The Proposal addresses "methane leaks from DTE Energy's aging infrastructure" and discusses specific processes or technologies for monitoring and minimizing methane leakage, including "technology allowing increased frequency and accuracy of [methane leakage] monitoring" and "replac[ing] leak prone pipeline," as an alternative to "DTE's 25-year plan to upgrade its leak-prone pipeline inventory," which the Proponents opine "falls far short of the urgent action needed." Specifically, the Proposal requests that the Company publish an annual report, using quantitative indicators, describing the Company's "actions beyond regulatory requirements to monitor and minimize methane leakage, including adopting a quantitative methane intensity reduction target for its operations." The Supporting Statement also requests that the report specifically include a description of its methane reduction program including "[l]eak detection and repair, in terms of facilities monitored, and frequency and *technology used*[, a]mount of methane emissions reduced annually (and how emissions are calculated) [and] Company plans to *replace leak prone pipeline or implement other emission reduction practices*" (emphasis added).

The Company is a diversified energy company involved in the development and management of energy-related businesses and services nationwide. Its operating units include an electric utility serving 2.2 million customers in Southeastern Michigan and a natural gas utility serving 1.3 million customers in Michigan. The gas segment of the Company's business consists principally of DTE Gas, a natural gas utility engaged in the purchase, storage, transportation, distribution and sale of natural gas to residential, commercial and industrial customers throughout Michigan and the sale of storage and transportation capacity. As a provider of natural gas services, decisions relating to the operation and maintenance of the Company's natural gas pipelines, including the specific technologies and processes used to monitor and minimize methane leakage from its pipeline infrastructure, are fundamental to the Company's day-to-day business operations and are both impractical and too complex to be subject to direct shareholder oversight.

The operation and maintenance of DTE Gas's distribution system, which includes approximately 19,000 miles of distribution mains, approximately 1,149,000 service pipelines and approximately 1,297,000 active meters, and DTE Gas's approximately 2,000 miles of transmission pipelines that deliver natural gas to the distribution districts and interconnect DTE Gas storage fields with the sources of supply and the market areas are complex processes that require the assessment of myriad of operational, technical, scientific, logistical, financial, legal, policy and regulatory factors. The considerations involving the choice of methane

emission technology are based upon complex business considerations that are outside of the knowledge and expertise of shareholders. As a group, shareholders are not in the position to make informed judgments regarding particular methane emission technologies that would best suit the needs of the Company and its shareholders. Company management, not shareholders, have the necessary skills, knowledge, expertise and resources available to make these informed decisions.

Management's decision-making is further complicated by the fact that the Company's activities are subject to the regulatory jurisdiction of various agencies at the federal, state and local level, including but not limited to the Michigan Public Service Commission ("MPSC") and the Federal Energy Regulatory Commission ("FERC"). For example, the MPSC regulates DTE Gas's rates, recovery of certain costs, including the costs of regulatory assets, conditions of service, accounting and operating-related matters. DTE Gas also is subject to the requirements of other regulatory agencies with respect to safety, the environment and health. Because of the breadth and complexity of the regulatory environment and its impact on the Company's operations and finances, shareholders are not, as a practical matter, in a position to provide oversight for the Company's dealings with its regulators, let alone be able to provide an informed judgment regarding the impacts of specific technology and resource decisions on the Company.

The general policy underlying the ordinary business exclusion is "to confine the resolution of ordinary business problems to management and the board of directors, since it is impracticable for shareholders to decide how to solve such problems at an annual shareholders meeting." 1998 Release. Accordingly, on numerous occasions, the Staff has concurred in the exclusion of shareholder proposals under Rule 14a-8(i)(7) because the proposals related to a company's choice of technologies for use in its operations. *See, e.g., Dominion Resources, Inc.* (Feb. 14, 2014) (concurring in the exclusion of a proposal requesting an energy company's board to appoint a team to review the risks it faced under its solar generation development plans, including a review of other U.S. programs, and to develop a report detailing risks and benefits from increased solar generation because the "proposal concerns the company's choice of technologies for use in its operations"); *FirstEnergy Corp.* (Mar. 8, 2013) (concurring in the exclusion of a proposal requesting a report on actions the company is taking or could take to diversify the company's energy resources to include increased energy efficiency and renewable energy resources, noting that proposals "that concern a company's choice of technologies for use in its operations are generally excludable under [R]ule 14a-8(i)(7)"); *AT&T Inc.* (Feb. 13, 2012) (concurring in the exclusion of a proposal requesting a cable and internet provider to publish a report disclosing actions it was taking to address the

inefficient consumption of electricity by its set-top boxes, including the company's efforts to accelerate the development and deployment of new energy efficient set-top boxes); *CSX Corp.* (Jan. 24, 2011) (concurring in the exclusion of a proposal requesting the company develop a kit that would allow it to convert the majority of its locomotive fleet to a more efficient system); *WPS Resources Corp.* (Feb. 16, 2001) (concurring in the exclusion of a proposal requesting an energy company develop new co-generation facilities and improve energy efficiency because the proposal related to the "choice of technologies"); *Union Pacific Corp.* (Dec. 16, 1996) (concurring in the exclusion of a proposal requesting a report on the status of research and development of a new safety system for railroads on the basis that the development and adaption of new technology for the company's operations constituted ordinary business operations); *Applied Digital Solutions, Inc.* (Apr. 25, 2006) (concurring in the exclusion of a proposal requesting a report on the harm the continued sale and use of radio frequency identification chips could have to the public's privacy, personal safety and financial security as ordinary business related to the company's product development); *International Business Machines Corp.* (Jan. 6, 2005) (concurring in the exclusion of a proposal requesting the company employ specific technological requirements in its software as it related to IBM's ordinary business operations).

This Proposal, like the proposals described above, seeks to involve shareholders in decisions relating to the Company's choice of technologies and processes used to monitor and reduce methane leakage from its natural gas pipeline infrastructure. These decisions, which are fundamental to management's ability to run the Company on a day-to-day basis, are based on highly technical and complex matters. Company management, not shareholders, have the necessary skills, knowledge, expertise and resources available to make these informed decisions.

C. The Proposal seeks to micro-manage the Company.

The Company has invested significant time and resources in determining how best to operate and maintain its natural gas pipeline infrastructure to meet or exceed all federal, state and local guidelines for safety, inspections and operations of its pipeline system in Michigan. As disclosed in the Company's 2016-2017 Corporate Citizenship Report, the Company maintains the safety and reliability of its natural gas pipeline system through a comprehensive program of inspections, maintenance and upgrades. The Company has completed all required inspections of its transmission pipelines and voluntarily expanded its program to inspect three times more transmission pipeline miles than required by regulation. The Company also surveys nearly 10,000 miles of pipeline annually, verifying there are no natural gas leaks in

the system that serves its customers. In its gas storage operations, the Company maintains storage wells in adherence with strict state standards and specifications to protect public health and safety. The Company uses remote data monitoring and on-site inspections to continuously monitor the performance of each well and performs regular corrosion assessments and pressure testing as well as annual groundwater monitoring to detect and address any methane leakage.[5]

Moreover, over the next 25 years, DTE Gas is upgrading gas mains and service lines to advanced plastic materials, to maintain safe and reliable service for its customers. The Company upgraded 100 miles of main in 2016 and 290 miles of service lines. The Company plans to modernize another 140 miles of main and 320 miles of service lines annually now through 2021.[6] Consequently, the Company is investing significant resources to help fund the ongoing modernization of its pipeline infrastructure. As disclosed in the Company's 2016 Annual Report on Form 10-K, DTE Gas's capital investments over the 2017-2021 period are estimated at $1.8 billion, including $1.0 billion for base infrastructure and $700 million for gas main renewal, meter move out and pipeline integrity programs. DTE Gas also has sought regulatory approval in general rate case filings for base infrastructure capital expenditures consistent with prior ratemaking treatment.[7]

In addition, the Company is a founding partner in the U.S. Environmental Protection Agency's ("EPA") Natural Gas STAR Methane Challenge Program. Methane Challenge Program partners, including the Company, transparently report systematic and comprehensive actions to reduce methane emissions. The Company has committed to using best management practices to reduce methane emissions from its gas operations over the next five years.[8] The Company's commitments are publicly available on the EPA's website.

The Proposal, however, seeks to micro-manage the Company by replacing management's judgments on complex operational and business decisions and strategies with those favored by the Proponents. Indeed, the Proposal recognizes that the Company has a 25-

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[5] *See* DTE Energy, 2016-2017 Corporate Citizenship Report, *available at* https://newlook.dteenergy.com/wps/wcm/connect/dte-web/dte-pages/ccr/home.

[6] *See* DTE Energy, 2016-2017 Corporate Citizenship Report, *available at* https://newlook.dteenergy.com/wps/wcm/connect/dte-web/dte-pages/ccr/home.

[7] *See* DTE Energy Annual Report (2017), *available at* http://ir.dteenergy.com/phoenix.zhtml?c=68233&p=irol-sec.

[8] *See* DTE Energy, 2016-2017 Corporate Citizenship Report, *available at* https://newlook.dteenergy.com/wps/wcm/connect/dte-web/dte-pages/ccr/home.

year plan to upgrade its pipeline infrastructure to, among other things, address methane leakage in its pipelines; however, the Proposal opines that "DTE's 25-year plan to upgrade its leak-prone pipeline inventory falls far short of the urgent action needed to protect shareholders." Instead, the Proposal would require the Company to develop and adopt a quantitative methane reduction target and new technologies and processes for monitoring and minimizing methane leakage from its pipeline infrastructure. The Proposal also effectively requires the Company to take "actions *beyond* regulatory requirements to monitor and minimize methane leakage" (emphasis added).

The Proposal, therefore, would require management to take a number of specific actions and make a number of calculations, including an evaluation and prioritization of competing business and strategic interests, in order to develop a "quantitative methane intensity reduction target for its operations" and then develop and evaluate a plan for achieving such a target. Setting a particular methane reduction target involves complex operational decisions and involves the work of myriad professionals and experts across varied disciplines who carefully study, among other things, scientific advancements, new technologies, the Company's operations and capital structure, capital expenditures and regulatory requirements and compliance. In order to set a realistic, meaningful target, the Company also would be required to analyze and evaluate the technologies that it currently uses as compared to alternative available technologies and consider what steps would be required to implement changes in this area. Business judgments must then be made about the strategic allocation of resources among these different strategies. Thus, such evaluation would require detailed knowledge of the Company's operations and the regulatory requirements to which it is subject, as well as specialized expertise in technical, scientific, financial and business matters. In addition, any consideration of investments in alternative technologies to reduce methane leakage beyond existing requirements would include regulatory cost-recovery considerations. The breadth and depth of the analyses and decisions relating to the Company's operation and maintenance of its natural gas pipeline infrastructure, including decisions to prioritize certain types of efforts over others, require complex and detailed decision-making that is beyond the ability of shareholders to make an informed decision. These are precisely the types of complex considerations that fall within the expertise of the Company's management and very much outside that of its shareholders.

The degree to which the Proposal seeks to micro-manage the Company's methane reduction strategy is demonstrated by the number of specific actions and calculations that implementation of the Proposal would entail, requiring compilation and analysis of numerous data points. Specifically, the Proposal requires that the Company (i) adopt a quantitative

methane intensity reduction target for its operations, (ii) publish an annual report, using quantitative indicators, discussing the Company's actions beyond regulatory requirements to monitor and minimize methane leakage and (iii) report on the Company's "[l]eak detection and repair, in terms of facilities monitored, and frequency and technology used[, a]mount of methane emissions reduced annually (and how emissions are calculated) [and] Company plans to replace leak prone pipeline or implement other emission reduction practices." The additional detail requested by the Proposal above and beyond what the Company has already publicly disclosed on its methane leak detection and reduction efforts would not provide meaningful information to shareholders, but would simply result in the disclosure of minor and technical information about this narrowly-focused program.

In *Apple, Inc.* (Dec. 21, 2017), the Staff permitted the exclusion of a proposal requesting that the company prepare a report that evaluates the potential for the company to achieve, by a fixed date, net-zero emissions of greenhouse gases for its operations. In Apple's letter to the Staff, the company argued that it invested significant time and resources on its emissions strategy and that "implementation of the Proposal would involve replacing management's judgments on complex operational and business decisions and strategies with those favored by the Proponent." In granting no-action relief, the Staff noted that "the Proposal seeks to micromanage the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment." *See also Deere & Co.* (Dec. 27, 2017) (same); *Apple, Inc.* (Dec. 5, 2016) (concurring in the exclusion of a proposal requesting that the company generate a feasible plan for the company to reach a net-zero greenhouse gas emission status for all aspects of its business because the "proposal seeks to micromanage the company by probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment").

Similar to the above-described proposals, Company management has devoted significant time and resources to implement its own efforts toward monitoring and minimizing methane leakage after a thorough analysis of a variety of considerations. The Proposal would involve replacing management's judgements on complex operational and business decisions and strategies with those favored by the Proponents and would fundamentally interfere with the Company's ability to operate its highly complex business. The Company has highly trained specialists that evaluate the Company's operation and maintenance of its natural gas pipeline infrastructure, including the Company's strategy to monitor and minimize methane leakage, and the suitability of available technologies to assist in that goal. These decisions relating to the appropriate means by which to achieve this goal are at the core of matters

involving the Company's business and operations, are extremely complex and are beyond the ability of shareholders, as a group, to make informed judgments. This is precisely the type of micro-management that the Commission sought to avoid with Rule 14a-8(i)(7).

C. The Proposal does not focus on a significant policy issue.

The Company does not believe that the Proposal focuses on a significant policy issue that transcends the Company's ordinary business or its day-to-day operations. The fact that the Proposal discusses environmental matters does not remove it from the scope of Rule 14a-8(i)(7) because the environmental goals of the Proposal are secondary to the Proposal's efforts to micro-manage the Company's processes and operations to achieve specific objectives. The Proposal focuses on the narrow topic of leak detection and reduction efforts of the singular substance of methane in the Company's pipeline system and not on a broader social policy issue. In addition, the Proposal discusses certain non-environmental aspects of methane leakage from natural gas pipelines. For example, the Proposal focuses on "DTE Energy's aging pipeline infrastructure," the "long term interests of shareholders," "long term value creation," "[l]eaked methane [as] a loss of product, representing 30 billion dollars of lost revenue for industry," state-level "regulatory risk" relating to potential methane regulations and "[m]ethane leaks [as] a safety hazard."

The Staff has allowed the exclusion of proposals if their overall focus is not on a significant policy issue or other matter that is outside of ordinary business. For example, in *Apple, Inc.* (Dec. 21, 2017) and *Deere & Co.* (Dec. 27, 2017), the Staff allowed for the exclusion under Rule 14a-8(i)(7) of proposals addressing greenhouse gas emissions because the proposals sought to interfere with the companies' ordinary business operations on a day-to-day basis. *See also Apple, Inc.* (Dec. 5, 2016) (same); *Deere & Co.* (Dec. 5, 2016) (same); *FirstEnergy Corp.* (Mar. 8, 2013) (concurring in the exclusion of a proposal calling for the company to generate a report explaining "actions the company is taking or could take to reduce risk throughout its energy portfolio by diversifying the company's energy resources to include increased energy efficiency and renewable energy resource"); *Exxon Mobil Corp.* (Mar. 6, 2012) (concurring in the exclusion of a proposal requesting a report on the possible short and long term risks to the company's finances and operations posed by the environmental, social and economic challenges associated with the oil sands because the proposal "addresses the 'economic challenges' associated with the oil sands and does not, in our view, focus on a significant policy issue"); *Dominion Resources, Inc.* (Feb. 3, 2011) (concurring in the exclusion of a proposal relating to the use of alternative energy because the proposal related, in part, to the company's choice of technologies for use in its operations);

JPMorgan Chase & Co. (Mar. 12, 2010) (concurring in the exclusion of a proposal requesting the adoption of a policy barring future financing of companies engaged in a particular practice impacting the environment because the proposal addressed "matters beyond the environmental impact of JPMorgan Chase's project finance decisions").

Consistent with the foregoing precedent, the Proposal requests a report involving matters that are core to the Company's day-to-day business and operations, and the Proposal does not focus on a significant policy issue that transcends the Company's ordinary business or its day-to-day operations. Accordingly, the Company believes the Proposal may be excluded from the 2018 Proxy Materials pursuant to Rule 14a-8(i)(7).

III. Request for Waiver Under Rule 14a-8(j)(1).

The Company further requests that the Staff waive the 80-day filing requirement set forth in Rule 14a-(j)(1) for good cause. Rule 14a-8(j)(1) requires that, if a company "intends to exclude a proposal from its proxy materials, it must file its reasons with the Commission no later than 80 calendar days before it files its definitive proxy statement and form of proxy with the Commission." However, Rule 14a-8(j)(l) allows the Staff, in its discretion, to permit a company to make its submission later than 80 days before the filing of its definitive proxy statement if the company demonstrates good cause for missing the deadline.

The Company believes that it has good cause for its failure to make its no-action letter request within the 80-day period. Good cause for a waiver exists because the Company has, through a series of ongoing conversations with As You Sow, proactively attempted to reach a mutually agreeable resolution such that the Proponents would formally withdraw the Proposal, obviating any need for the formal exclusion process under Rule 14a-8 that is the subject of this letter. These efforts transpired over a prolonged period of time, but ultimately did not bear fruit despite the best efforts of all involved. As a result of the Company's multiple attempts to reach a mutually agreeable resolution with the Proponents, and based on the Company's belief that a withdrawal would be forthcoming, the Company's request to the Staff has also been delayed.

We believe both that the 80-day requirement under Rule 14a-8(j) does not apply where the eligibility requirements of Rule 14a-8(b) have not been met[9] and that, even if the 80-day

[9] See, *e.g.*, *Captec Net Lease Realty*, Inc. (May 4, 2000) (80-day requirement not applied where proponent failed to establish his eligibility to submit a proposal).

requirement were applicable, the Company had good cause for the delayed submission. Accordingly, we believe that the Company has "good cause" for its inability to meet the 80-day requirement, and we respectfully request that the Staff waive the 80-day requirement with respect to this letter.

Conclusion

For the foregoing reasons, the Company respectfully requests your confirmation that the Staff will not recommend any enforcement action to the Commission if the Company excludes the Proposal from the 2018 Proxy Materials.

Please do not hesitate to contact me at (202) 955-1524, or by email at skimpel@hunton.com, if you have any questions or require any additional information regarding this matter.

Sincerely,

Scott H. Kimpel

Enclosures

cc: Timothy Kraepel, Director – Legal (Securities, Finance & Governance), DTE Energy Company (via email)
As You Sow (via overnight delivery)

EXHIBIT A

AS YOU SOW

1611 Telegraph Ave, Suite 1450
Oakland, CA 94612

www.asyousow.org
BUILDING A SAFE, JUST, AND SUSTAINABLE WORLD SINCE 1992

November 16, 2017

Lisa A. Muschong
VP, Corporate Secretary, and Chief of Staff
DTE Energy
One Energy Plaza
Detroit, Michigan 48226-1279

Dear Ms. Muschong:

As You Sow is co-filing a shareholder proposal on behalf of Kalpana Raina, Paul R. Rudd Revocable Trust, John B and Linda C Mason, and Lutra Living Trust (collectively, the "Proponents"), shareholders of DTE Energy stock, in order to protect the shareholders' right to raise this issue in the proxy statement. The Proponents are submitting the enclosed shareholder proposal for inclusion in the 2018 proxy statement, in accordance with Rule 14a-8 of the General Rules and Regulations of the Securities Exchange Act of 1934.

As You Sow also represents the lead filer of this proposal, Arkay Foundation.

Letters from the Proponents authorizing As You Sow to act on their behalf are enclosed. A representative of the lead filer will attend the stockholders' meeting to move the resolution as required.

Sincerely,

Lila Holzman

Lila Holzman
Energy Program Manager
lholzman@asyousow.org

Enclosures

- Shareholder Proposale
- Kalpana Raina Authorizatione
- Lutra Living Trust Authorizatione
- Paul R. Rudd Revocable Trust Authorizatione
- John B and Linda C Mason Authorizatione

WHEREAS:

The long term interests of shareholders are best served by companies that operate their businesses in a sustainable manner, focused on long term value creation. This is particularly important in the context of climate change.

Methane is the main chemical component of natural gas. Methane emissions are a significant contributor to climate change, with a global warming impact roughly 86 times that of carbon dioxide over a 20 year period according to the IPCC. Methane leaks from DTE Energy's aging infrastructure create significant climate risk at a time when global warming concerns are growing among the public and regulators. Importantly, research indicates that methane leaks of only 3.2 percent across the entire natural gas supply chain -- from production through distribution -- could fully erase the climate benefits of replacing coal with gas. Leaked methane is also a loss of product, representing 30 billion dollars of lost revenue for industry (3 percent of gas produced) according to a 2015 Rhodium Group study.

DTE's methane leaks expose the company to climate change related regulatory risk. In recent years state-level regulations on methane emissions have become increasingly stringent. States like California and Massachusetts now require local distribution companies to submit plans to achieve methane emissions reductions from actions like leak-prone pipeline replacement, and other states are likely to follow.

Methane leaks are also a safety hazard. DTE's aging pipeline infrastructure puts its over 1.3 million gas customers at risk of becoming victims of a catastrophic explosion. Recently, 1,500 residents had to evacuate their homes in the middle of the night due to a crash that ruptured a DTE natural gas line, causing an explosion and fire. Between 2005 and 2015, the Pipeline and Hazardous Materials Safety Administration reports that the nation's natural gas distribution system was responsible for incidents resulting in 118 fatalities and 553 injuries.

DTE's 25-year plan to upgrade its leak-prone pipeline inventory falls far short of the urgent action needed to protect shareholders from material climate and regulatory risk and the risk of catastrophic explosions. Further, the company has not adequately disclosed information as to its leak detection, quantification, or mitigation practices to address shareholder concerns. Despite available, cost-effective technology allowing increased frequency and accuracy of monitoring, DTE has not provided details on needed improvements in its leak detection and monitoring or other methane emissions reduction practices.

RESOLVED: As You Sow requests the company report annually to shareholders (at reasonable cost, omitting proprietary information), and using quantitative indicators, the company's actions beyond regulatory requirements to monitor and minimize methane leakage, including adopting a quantitative methane intensity reduction target for its operations.

SUPPORTING STATEMENT: Investors request the report specifically include a description of its methane reduction program including:

- Leak detection and repair, in terms of facilities monitored, and frequency and technology usede
- Amount of methane emissions reduced annually (and how emissions are calculated)e
- Company plans to replace leak prone pipeline or implement other emission reduction practicese

October 19, 2017

Andrew Behar
CEO
As You Sow
1611 Telegraph Ave., Ste. 1450
Oakland, CA 94612

Re: Authorization to File Shareholder Resolution

Dear Andrew Behar,

As of October 11, 2017, the undersigned, Kalpana Raina (the "Stockholder") authorizes As You Sow to file or cofile a shareholder resolution on Stockholder's behalf with DTE Energy, and that it be included in the 2018 proxy statement, in accordance with Rule 14-a8 of the General Rules and Regulations of the Securities and Exchange Act of 1934.

The Stockholder has continuously owned over $2,000 worth of DTE Energy stock, with voting rights, for over a year. The Stockholder intends to hold the required amount of stock through the date of the company's annual meeting in 2018.

The Stockholder gives As You Sow the authority to deal on the Stockholder's behalf with any and all aspects of the shareholder resolution, including designating another entity as lead filer and representative of the shareholder. The Stockholder understands that the Stockholder's name may appear on the company's proxy statement as the filer of the aforementioned resolution, and that the media may mention the Stockholder's name related to the resolution.

Sincerely,

Kalpana Raina

Kalpana Raina

October 25, 2017

Andrew Behar
CEO
As You Sow Foundation
1611 Telegraph Ave., Ste. 1450
Oakland, CA 94612

Re: Authorization to File Shareholder Resolution

Dear Andrew Behar,

As of October 25, 2017, the undersigned, Lutra Living Trust (the "Stockholder") authorizes As You Sow to file or cofile a shareholder resolution on Stockholder's behalf with DTE Energy, and that it be included in the 2018 proxy statement, in accordance with Rule 14-a8 of the General Rules and Regulations of the Securities and Exchange Act of 1934.

The Stockholder has continuously owned over $2,000 worth of DTE Energy stock, with voting rights, for over a year. The Stockholder intends to hold the required amount of stock through the date of the company's annual meeting in 2018.

The Stockholder gives As You Sow the authority to deal on the Stockholder's behalf with any and all aspects of the shareholder resolution, including designating another entity as lead filer and representative of the shareholder. The Stockholder understands that the Stockholder's name may appear on the company's proxy statement as the filer of the aforementioned resolution, and that the media may mention the Stockholder's name related to the resolution.

Sincerely,

Jeffrey W. Colin, POA
Lutra Living Trust
c/o Baker Street Advisors, LLC
455 Market Street, 23rd Floor
San Francisco, CA 94105

AS YOU SOW

November 8, 2017

Andrew Behar
CEO
As You Sow
1611 Telegraph Ave., Ste. 1450
Oakland, CA 94612

Re: Authorization to File Shareholder Resolution

Dear Andrew Behar,

As of November 8, 2017, the undersigned, Paul R. Rudd Revocable Trust (the "Stockholder") authorizes As You Sow to file or cofile a shareholder resolution on Stockholder's behalf with DTE Energy Company, and that it be included in the 2018 proxy statement, in accordance with Rule 14-a8 of the General Rules and Regulations of the Securities and Exchange Act of 1934.

The Stockholder has continuously owned over $2,000 worth of DTE Energy Company stock, with voting rights, for over a year. The Stockholder intends to hold the required amount of stock through the date of the company's annual meeting in 2018.

The Stockholder gives As You Sow the authority to deal on the Stockholder's behalf with any and all aspects of the shareholder resolution, including designating another entity as lead filer and representative of the shareholder. The Stockholder understands that the Stockholder's name may appear on the company's proxy statement as the filer of the aforementioned resolution, and that the media may mention the Stockholder's name related to the resolution.

Sincerely,

Paul R. Rudd
Trustee
Paul R. Rudd Revocable Trust

November 9, 2017

Andrew Behar, CEO
As You Sow Foundation
1611 Telegraph Ave., Ste. 1450
Oakland, CA 94612

Re: Authorization to File Shareholder Resolution

Dear Andrew Behar,

As of November 9, 2017, we authorize As You Sow to file or cofile a shareholder resolution on our behalf with DTE Energy, relating to fugitive methane emissions, and that it be included in the 2018 proxy statement, in accordance with Rule 14-a8 of the General Rules and Regulations of the Securities and Exchange Act of 1934.

We have continuously owned over $2,000 worth of DTE Energy stock, with voting rights, for over a year. We intend to hold the stock through the date of the company's annual meeting in 2018.

We give As You Sow the authority to deal on our behalf with any and all aspects of the shareholder resolution. We understand that the company may send us information about this resolution, and that the media may mention our names related to the resolution; we will alert As You Sow in either case. We confirm that our names may appear on the company's proxy statement as the filer of the aforementioned resolution.

Sincerely,

John B Mason

Linda C Mason

AS YOU SOW

1611 Telegraph Ave, Suite 1450
Oakland, CA 94612

www.asyousow.org
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November 16, 2017

Lisa A. Muschong
VP, Corporate Secretary, and Chief of Staff
DTE Energy
One Energy Plaza
Detroit, Michigan 48226-1279

Dear Ms. Muschong:

As You Sow is filing a shareholder proposal on behalf of Arkay Foundation ("Proponent"), a shareholder of DTE Energy stock, in order to protect the shareholder's right to raise this issue in the proxy statement. The Proponent is submitting the enclosed shareholder proposal for inclusion in the 2018 proxy statement, in accordance with Rule 14a-8 of the General Rules and Regulations of the Securities Exchange Act of 1934.

A letter from Arkay Foundation authorizing As You Sow to act on its behalf is enclosed. A representative of the Proponent will attend the stockholders' meeting to move the resolution as required.

We are optimistic that a dialogue with the company can result in resolution of the Proponent's concerns.

Sincerely,

Lila Holzman

Lila Holzman
Energy Program Manager
lholzman@asyousow.org

Enclosures

- Shareholder Proposal
- Arkay Foundation Authorization

WHEREAS:

The long term interests of shareholders are best served by companies that operate their businesses in a sustainable manner, focused on long term value creation. This is particularly important in the context of climate change.

Methane is the main chemical component of natural gas. Methane emissions are a significant contributor to climate change, with a global warming impact roughly 86 times that of carbon dioxide over a 20 year period according to the IPCC. Methane leaks from DTE Energy's aging infrastructure create significant climate risk at a time when global warming concerns are growing among the public and regulators. Importantly, research indicates that methane leaks of only 3.2 percent across the entire natural gas supply chain -- from production through distribution -- could fully erase the climate benefits of replacing coal with gas. Leaked methane is also a loss of product, representing 30 billion dollars of lost revenue for industry (3 percent of gas produced) according to a 2015 Rhodium Group study.

DTE's methane leaks expose the company to climate change related regulatory risk. In recent years state-level regulations on methane emissions have become increasingly stringent. States like California and Massachusetts now require local distribution companies to submit plans to achieve methane emissions reductions from actions like leak-prone pipeline replacement, and other states are likely to follow.

Methane leaks are also a safety hazard. DTE's aging pipeline infrastructure puts its over 1.3 million gas customers at risk of becoming victims of a catastrophic explosion. Recently, 1,500 residents had to evacuate their homes in the middle of the night due to a crash that ruptured a DTE natural gas line, causing an explosion and fire. Between 2005 and 2015, the Pipeline and Hazardous Materials Safety Administration reports that the nation's natural gas distribution system was responsible for incidents resulting in 118 fatalities and 553 injuries.

DTE's 25-year plan to upgrade its leak-prone pipeline inventory falls far short of the urgent action needed to protect shareholders from material climate and regulatory risk and the risk of catastrophic explosions. Further, the company has not adequately disclosed information as to its leak detection, quantification, or mitigation practices to address shareholder concerns. Despite available, cost-effective technology allowing increased frequency and accuracy of monitoring, DTE has not provided details on needed improvements in its leak detection and monitoring or other methane emissions reduction practices.

RESOLVED: As You Sow requests the company report annually to shareholders (at reasonable cost, omitting proprietary information), and using quantitative indicators, the company's actions beyond regulatory requirements to monitor and minimize methane leakage, including adopting a quantitative methane intensity reduction target for its operations.

SUPPORTING STATEMENT: Investors request the report specifically include a description of its methane reduction program including:

- Leak detection and repair, in terms of facilities monitored, and frequency and technology usede
- Amount of methane emissions reduced annually (and how emissions are calculated)e
- Company plans to replace leak prone pipeline or implement other emission reduction practicese

THE ARKAY FOUNDATION

127 University Avenue
Berkeley, California 94710
tel: 510.841.4025
fax: 510.841.4093
email: info@arkayfoundation.org

October 24, 2017

Andrew Behar
CEO
As You Sow
1611 Telegraph Ave., Ste. 1450
Oakland, CA 94612

Re: Authorization to File Shareholder Resolution

Dear Andrew Behar,

As of October 24, 2017, the undersigned, Arkay Foundation (the "Stockholder") authorizes As You Sow to file or cofile a shareholder resolution on Stockholder's behalf with DTE Energy, and that it be included in the 2018 proxy statement, in accordance with Rule 14-a8 of the General Rules and Regulations of the Securities and Exchange Act of 1934.

The Stockholder has continuously owned over $2,000 worth of DTE Energy stock, with voting rights, for over a year. The Stockholder intends to hold the required amount of stock through the date of the company's annual meeting in 2018.

The Stockholder gives As You Sow the authority to deal on the Stockholder's behalf with any and all aspects of the shareholder resolution, including designating another entity as lead filer and representative of the shareholder. The Stockholder understands that the Stockholder's name may appear on the company's proxy statement as the filer of the aforementioned resolution, and that the media may mention the Stockholder's name related to the resolution.

Sincerely,

Harald Leventhal
CFO
Arkay Foundation

HUNTON& WILLIAMS

HUNTON & WILLIAMS LLP
2200 PENNSYLVANIA AVENUE, NW
WASHINGTON, D.C. 20037-1701

TEL 202 • 955 • 1500
FAX 202 • 778 • 2201

SCOTT H. KIMPEL
DIRECT DIAL: 202 • 955 • 1524
EMAIL: SKimpel@hunton.com

December 4, 2017

FILE NO: 55788.41

VIA OVERNIGHT DELIVERY

Ms. Liza Holzman
Energy Program Manager
As You Sow
1611 Telegraph Ave., Suite 1450
Oakland, CA 94612

Dear Ms. Holzman:

I am writing on behalf of our client, DTE Energy Company (the "Company"), which on November 21, 2017, received the shareholder proposal regarding methane emissions at the Company (the "Submission") you submitted on behalf of Kalpana Raina, Paul R. Rudd Revocable Trust, John B. and Linda C. Mason, the Lutra Living Trust and the Arkay Foundation (each, an "Investor"; collectively, the "Investors"). The Submission contains certain procedural deficiencies that SEC regulations require the Company to bring to your attention.

Rule 14a-8(b) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), provides that stockholder proponents must submit sufficient proof of their continuous ownership of at least $2,000 in market value, or 1%, of a company's shares entitled to vote on the proposal for at least one year as of the date the stockholder proposal was submitted. The Company's stock records do not indicate that you or any Investor are the record owner of sufficient shares to satisfy this requirement. In addition, to date we have not received adequate proof that you or any Investor have satisfied Rule 14a-8's ownership requirements as of the date that the Submission was submitted to the Company.

To remedy these defects, you must obtain proof of ownership verifying continuous ownership by each Investor of the required number of Company shares for the one-year period preceding and including November 16, 2017, the date the Submission was submitted to the Company. As explained in Rule 14a-8(b) and in SEC staff guidance, sufficient proof must be in the form of:

> (l)ea written statement from the "record" holder of each Investor's shares (usually ae broker or a bank) verifying that each such Investor continuously held the requirede

number of Company shares for the one-year period preceding and including November 16, 2017; or

(2)eif any Investors have filed with the SEC a Schedule 13D, Schedule 13G, Form 3,e Form 4 or Form 5, or amendments to those documents or updated forms, reflectinge their ownership of the required number of Company shares as of or before the date one which the one-year eligibility period begins, a copy of the schedule and/or form, ande statement that such Investors continuously held the required number of Companye shares for the one-year period.e

If you intend to demonstrate ownership by submitting a written statement from the "record" holder ofan Investor's shares as set forth in (1) above, please note that most large U.S. brokers and banks deposit their customers' securities with, and hold those securities through, the Depository Trust Company ("DTC"), a registered clearing agency that acts as a securities depository. DTC is also known through the account name of Cede & Co. Under SEC Staff Legal Bulletin No. 14F, only DTC participants are viewed as record holders of securities that are deposited at DTC. You can confirm whether a broker or bank is a DTC participant by asking the broker or bank or by checking DTC's participant list, which is available at http://www.dtcc.com/~/media/Files/Downloads/client-center/DTC/alpha.ashx. In these situations, stockholders need to obtain proof of ownership from the DTC participant through which the securities are held, as follows:

(1)eIf an Investor's broker or bank is a DTC participant, then you need to submit ae written statement from the Investor's broker or bank verifying that such Investore continuously held the required number of Company shares for the one-year periode preceding and including November 16, 2017.e

(2)eIf an Investor's broker or bank is not a DTC participant, then you need to submite proof of ownership from the DTC participant through which the shares are helde verifying that the Investor continuously held the required number of Company sharese for the: one-year period preceding and including November 16, 2017. You should bee able to find out the identity of the DTC participant by asking the Investor's broker or bank. If the broker is an introducing broker, you may also be able to learn the identitye and telephone number of the DTC participant through an Investor's accounte statements, because the clearing broker identified on the account statements wille generally be a DTC participant. If the DTC participant that holds an Investor's sharese is not able to confirm an Investor's individual holdings but is able to confirm thee holdings of your broker or bank, then you need to satisfy the proof of ownershipe requirements by obtaining and submitting two proof of ownership statements verifyinge

> that, for the one-year period preceding and including November 16, 2017, the required number of Company shares were continuously held: (i) one from an Investor's broker or bank confirming the Investor's ownership, and (ii) the other from the DTC participant confirming the broker or bank's ownership.

Moreover, as discussed above, under Rule 14a-8(b) of the Exchange Act, a stockholder must have continuously held at least $2,000 in market value, or 1%, of the Company's securities entitled to vote on the proposal for at least one year as of the date the proposal was submitted to the Company *and* must provide to the Company a written statement of the stockholder's intent to continue ownership of the required number of shares through the date of the Company's 2018 Annual Meeting of Stockholders. We remind you that any revised proof of ownership must include a written statement that the affected Investor intends to continue holding the required number of Company shares through the date of the Company's 2018 Annual Meeting of Shareholders.

We also call your attention to Staff Legal Bulletin No. 14I, issued by the SEC Staff on November 1, 2017, and in particular its discussion of "Proposals submitted on behalf of shareholders". In particular, Staff Legal Bulletin No. 14I notes:

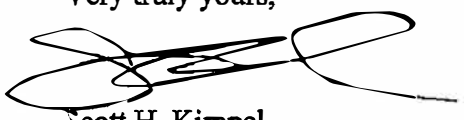
> the staff will look to whether the shareholders who submit a proposal by proxy provide documentation describing the shareholder's delegation of authority to the proxy. In general, we would expect this documentation to:
>
> - identify the shareholder-proponent and the person or entity selected as proxy;o
> - identify the company to which the proposal is directed;o
> - identify the annual or special meeting for which the proposal is submitted;o
> - identify the specific proposal to be submitted (e.g., proposal to lower the thresholdo for calling a special meeting from 25% to 10%); ando
> - be signed and dated by the shareholder.o

Because many of the Investors purported to grant you their proxies before November 1, 2017, their proxy documentation does not comply in full with Staff Legal Bulletin No. 14I. For example, many of the prior purported proxies do not clearly identify the proposal to which they relate. To remedy these defects, we encourage you to read the staff legal bulletin carefully and submit revised proxy documentation from each Investor whose prior proxy does not comply in full with Staff Legal Bulletin No. 14I.

In closing, adequate proof of ownership and adequate proof of authority for you to act as proxy is required from each Investor whom you intend to represent. Please note that the SEC's rules require your response to this letter be postmarked or transmitted electronically to

me no later than 14 calendar days from the date you receive this letter. For your reference, I enclose a copy of Rule 14a-8, Staff Legal Bulletin No. 14F and Staff Legal Bulletin No. 14I.

Very truly yours,



Scott H. Kimpel

Enclosures

Appendix A
Rule 14a-8

Title 17: Commodity and Securities Exchanges
PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

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§240.14a-8 Shareholder proposals.

This section addresses when a company must include a shareholder's proposal in its proxy statement and identify the proposal in its form of proxy when the company holds an annual or special meeting of shareholders. In summary, in order to have your shareholder proposal included on a company's proxy card, and included along with any supporting statement in its proxy statement, you must be eligible and follow certain procedures. Under a few specific circumstances, the company is permitted to exclude your proposal, but only after submitting its reasons to the Commission. We structured this section in a question-and-answer format so that it is easier to understand. The references to "you" are to a shareholder seeking to submit the proposal.

(a)o*Question 1:* What is a proposal? A shareholder proposal is your recommendation or requirement that the companyo and/or its board of directors take action, which you intend to present at a meeting of the company's shareholders. Your proposal should state as clearly as possible the course of action that you believe the company should follow. If your proposal is placed on the company's proxy card, the company must also provide in the form of proxy means for shareholders to specify by boxes a choice between approval or disapproval, or abstention. Unless otherwise indicated, the word "proposal" as used in this section refers both to your proposal, and to your corresponding statement in support of your proposal (if any).

(b)o*Question 2:* Who is eligible to submit a proposal, and how do I demonstrate to the company that I am eligible? (1) In order to be eligible to submit a proposal, you must have continuously held at least $2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the meeting for at least one year by the date you submit the proposal. You must continue to hold those securities through the date of the meeting.

(2)df you are the registered holder of your securities, which means that your name appears in the company's records as ao shareholder, the company can verify your eligibility on its own, although you will still have to provide the company with a written statement that you intend to continue to hold the securities through the date of the meeting of shareholders. However, if like many shareholders you are not a registered holder, the company likely does not know that you are a shareholder, or how many shares you own. In this case, at the time you submit your proposal, you must prove your eligibility to the company in one of two ways:

(i)dThe first way is to submit to the company a written statement from the "record" holder of your securities (usually a brokero or bank) verifying that, at the time you submitted your proposal, you continuously held the securities for at least one year. You must also include your own written statement that you intend to continue to hold the securities through the date of the meeting of shareholders; or

(ii)dThe second way to prove ownership applies only if you have filed a Schedule 13D (§240.13d-101), Schedule 13Go (§240.13d-102), Form 3 (§249.103 of this chapter), Form 4 (§249.104 of this chapter) and/or Form 5 (§249.105 of this chapter),o or amendments to those documents or updated forms, reflecting your ownership of the shares as of or before the date on whicho the one-year eligibility period begins. If you have filed one of these documents with the SEC, you may demonstrate youro eligibility by submitting to the company:o

(A)oA copy of the schedule and/or form, and any subsequent amendments reporting a change in your ownership level;o

(B) Your written statement that you continuously held the required number of shares for the one-year period as of the date of the statement; and

(C)dYour written statement that you intend to continue ownership of the shares through the date of the company's annual oro special meeting.

(c)o*Question 3:* How many proposals may I submit? Each shareholder may submit no more than one proposal to ao company for a particular shareholders' meeting.

(d)s*Question 4:* How long can my proposal be? The proposal, including any accompanying supporting statement, may nots exceed 500 words.

(e)s*Question 5:* What is the deadline for submitting a proposal? (1) If you are submitting your proposal for the company'ss annual meeting, you can in most cases find the deadline in last year's proxy statement. However, if the company did not hold an annual meeting last year, or has changed the date of its meeting for this year more than 30 days from last year's meeting, you can usually find the deadline in one of the company's quarterly reports on Form 10-Q (§249.308a of this chapter), or in shareholder reports of investment companies under §270.30d-1 of this chapter of the Investment Company Act of 1940. In order to avoid controversy, shareholders should submit their proposals by means, including electronic means, that permit them to prove the date of delivery.

(2) The deadline is calculated in the following manner if the proposal is submitted for a regularly scheduled annual meeting.s The proposal must be received at the company's principal executive offices not less than 120 calendar days before the date of the company's proxy statement released to shareholders in connection with the previous year's annual meeting. However, if the company did not hold an annual meeting the previous year, or if the date of this year's annual meeting has been changed by more than 30 days from the date of the previous year's meeting, then the deadline is a reasonable time before the company begins to print and send its proxy materials.

(3)sIf you are submitting your proposal for a meeting of shareholders other than a regularly scheduled annual meeting, thes deadline is a reasonable time before the company begins to print and send its proxy materials.

(f)s*Question 6:* What if I fail to follow one of the eligibility or procedural requirements explained in answers to Questions 1s through 4 of this section? (1) The company may exclude your proposal, but only after it has notified you of the problem, and you have failed adequately to correct it. Within 14 calendar days of receiving your proposal, the company must notify you in writing of any procedural or eligibility deficiencies, as well as of the time frame for your response. Your response must be postmarked, or transmitted electronically, no later than 14 days from the date you received the company's notification. A company need not provide you such notice of a deficiency if the deficiency cannot be remedied, such as if you fail to submit a proposal by the company's properly determined deadline. If the company intends to exclude the proposal, it will later have to make a submission under §240.14a-8 and provide you with a copy under Question 10 below, §240.14a-8(j).

(2)sIf you fail in your promise to hold the required number of securities through the date of the meeting of shareholders,s then the company will be permitted to exclude all of your proposals from its proxy materials for any meeting held in the following two calendar years.

(g)s*Question 7:* Who has the burden of persuading the Commission or its staff that my proposal can be excluded? Excepts as otherwise noted, the burden is on the company to demonstrate that it is entitled to exclude a proposal.

(h)s*Question 8:* Must I appear personally at the shareholders' meeting to present the proposal? (1) Either you, or yours representative who is qualified under state law to present the proposal on your behalf, must attend the meeting to present the proposal. Whether you attend the meeting yourself or send a qualified representative to the meeting in your place, you should make sure that you, or your representative, follow the proper state law procedures for attending the meeting and/or presenting your proposal.

(2)sIf the company holds its shareholder meeting in whole or in part via electronic media, and the company permits you ors your representative to present your proposal via such media, then you may appear through electronic media rather than traveling to the meeting to appear in person.

(3)sIf you or your qualified representative fail to appear and present the proposal, without good cause, the company will bes permitted to exclude all of your proposals from its proxy materials for any meetings held in the following two calendar years.

(i)s*Question 9:* If I have complied with the procedural requirements, on what other bases may a company rely to exclude mys proposal? (1) Improper under state law: If the proposal is not a proper subject for action by shareholders under the laws of the jurisdiction of the company's organization;

NOTE TO PARAGRAPH (i)(1): Depending on the subject matter, some proposals are not considered proper under state law if they would be binding on the company if approved by shareholders. In our experience, most proposals that are cast as recommendations or requests that the board of directors take specified action are proper under state law. Accordingly, we will assume that a proposal drafted as a recommendation or suggestion is proper unless the company demonstrates otherwise.

(2)s*Violation of law:* If the proposal would, if implemented, cause the company to violate any state, federal, or foreign law tos which it is subject;

NOTE TO PARAGRAPH (i)(2): We will not apply this basis for exclusion to permit exclusion of a proposal on grounds that it would violate foreign law if compliance with the foreign law would result in a violation of any state or federal law.

(3)d*Violation of proxy rules:* If the proposal or supporting statement is contrary to any of the Commission's proxy rules,o including §240.14a-9, which prohibits materially false or misleading statements in proxy soliciting materials;

(4)d*Personal grievance; special interest:* If the proposal relates to the redress of a personal claim or grievance against theo company or any other person, or if it is designed to result in a benefit to you, or to further a personal interest, which is not shared by the other shareholders at large;

(5)d*Relevance:* If the proposal relates to operations which account for less than 5 percent of the company's total assets ato the end of its most recent fiscal year, and for less than 5 percent of its net earnings and gross sales for its most recent fiscal year, and is not otherwise significantly related to the company's business;

(6)o*Absence of power/authority:* If the company would lack the power or authority to implement the proposal;o

(7)d*Management functions:* If the proposal deals with a matter relating to the company's ordinary business operations;o

(8)d*Director elections:* If the proposal:o

(i)dWould disqualify a nominee who is standing for election;o

(ii)dWould remove a director from office before his or her term expired;o

(iii)dQuestions the competence, business judgment, or character of one or more nominees or directors;o

(iv)dSeeks to include a specific individual in the company's proxy materials for election to the board of directors; or

(v)dOtherwise could affect the outcome of the upcoming election of directors.o

(9)d*Conflicts with company's proposal:* If the proposal directly conflicts with one of the company's own proposals to beo submitted to shareholders at the same meeting;

NOTE TO PARAGRAPH (i)(9): A company's submission to the Commission under this section should specify the points of conflict with the company's proposal.

(10)d*Substantially implemented:* If the company has already substantially implemented the proposal;o

NOTE TO PARAGRAPH (i)(10): A company may exclude a shareholder proposal that would provide an advisory vote or seek future advisory votes to approve the compensation of executives as disclosed pursuant to Item 402 of Regulation S-K (§229.402 of this chapter) or any successor to Item 402 (a "say-on-pay vote") or that relates to the frequency of say-on-pay votes, provided that in the most recent shareholder vote required by §240.14a-21(b) of this chapter a single year (*i.e.*, one, two, or three years) received approval of a majority of votes cast on the matter and the company has adopted a policy on the frequency of say-on-pay votes that is consistent with the choice of the majority of votes cast in the most recent shareholder vote required by §240.14a-21(b) of this chapter.

(11)d*Duplication:* If the proposal substantially duplicates another proposal previously submitted to the company by anothero proponent that will be included in the company's proxy materials for the same meeting;

(12)d*Resubmissions:* If the proposal deals with substantially the same subject matter as another proposal or proposals thato has or have been previously included in the company's proxy materials within the preceding 5 calendar years, a company may exclude it from its proxy materials for any meeting held within 3 calendar years of the last time it was included if the proposal received:

(i)dLess than 3% of the vote if proposed once within the preceding 5 calendar years;o

(ii)dLess than 6% of the vote on its last submission to shareholders if proposed twice previously within the preceding 5o calendar years; or

(iii)dLess than 10% of the vote on its last submission to shareholders if proposed three times or more previously within theo preceding 5 calendar years; and

(13)d*Specific amount of dividends:* If the proposal relates to specific amounts of cash or stock dividends.o

(j) *Question 10:* What procedures must the company follow if it intends to exclude my proposal? (1) If the company intendso to exclude a proposal from its proxy materials, it must file its reasons with the Commission no later than 80 calendar days before it files its definitive proxy statement and form of proxy with the Commission. The company must simultaneously provide you with a copy of its submission. The Commission staff may permit the company to make its submission later than 80 days before the company files its definitive proxy statement and form of proxy, if the company demonstrates good cause for missing the deadline.

(2)sThe company must file six paper copies of the following:s

(i)sThe proposal;s

(ii)sAn explanation of why the company believes that it may exclude the proposal, which should, if possible, refer to thes most recent applicable authority, such as prior Division letters issued under the rule; and

(iii)sA supporting opinion of counsel when such reasons are based on matters of state or foreign law.s

(k) *Question 11:* May I submit my own statement to the Commission responding to the company's arguments?

Yes, you may submit a response, but it is not required. You should try to submit any response to us, with a copy to the company, as soon as possible after the company makes its submission. This way, the Commission staff will have time to consider fully your submission before it issues its response. You should submit six paper copies of your response.

(l)s*Question 12:* If the company includes my shareholder proposal in its proxy materials, what information about me must its include along with the proposal itself?

(1)sThe company's proxy statement must include your name and address, as well as the number of the company's votings securities that you hold. However, instead of providing that information, the company may instead include a statement that it will provide the information to shareholders promptly upon receiving an oral or written request.

(2)sThe company is not responsible for the contents of your proposal or supporting statement.s

(m)s*Question 13:* What can I do if the company includes in its proxy statement reasons why it believes shareholders shoulds not vote in favor of my proposal, and I disagree with some of its statements?

(1)sThe company may elect to include in its proxy statement reasons why it believes shareholders should vote against yours proposal. The company is allowed to make arguments reflecting its own point of view, just as you may express your own point of view in your proposal's supporting statement.

(2)sHowever, if you believe that the company's opposition to your proposal contains materially false or misleadings statements that may violate our anti-fraud rule, §240.14a-9, you should promptly send to the Commission staff and the company a letter explaining the reasons for your view, along with a copy of the company's statements opposing your proposal. To the extent possible, your letter should include specific factual information demonstrating the inaccuracy of the company's claims. Time permitting, you may wish to try to work out your differences with the company by yourself before contacting the Commission staff.

(3)sWe require the company to send you a copy of its statements opposing your proposal before it sends its proxys materials, so that you may bring to our attention any materially false or misleading statements, under the following timeframes:

(i)sIf our no-action response requires that you make revisions to your proposal or supporting statement as a condition tos requiring the company to include it in its proxy materials, then the company must provide you with a copy of its opposition statements no later than 5 calendar days after the company receives a copy of your revised proposal; or

(ii)sIn all other cases, the company must provide you with a copy of its opposition statements no later than 30 calendars days before its files definitive copies of its proxy statement and form of proxy under §240.14a-6.

[63 FR 29119, May 28, 1998; 63 FR 50622, 50623, Sept. 22, 1998, as amended at 72 FR 4168, Jan. 29, 2007; 72 FR 70456, Dec. 11, 2007; 73 FR 977, Jan. 4, 2008; 76 FR 6045, Feb. 2, 2011; 75 FR 56782, Sept. 16, 2010]

Appendix B
Staff Legal Bulletins

U.S. Securities and Exchange Commission

Division of Corporation Finance
Securities and Exchange Commission

Shareholder Proposals

Staff Legal Bulletin No. 14F (CF)

Action: Publication of CF Staff Legal Bulletin

Date: October 18, 2011

Summary: This staff legal bulletin provides information for companies and shareholders regarding Rule 14a-8 under the Securities Exchange Act of 1934.

Supplementary Information: The statements in this bulletin represent the views of the Division of Corporation Finance (the "Division"). This bulletin is not a rule, regulation or statement of the Securities and Exchange Commission (the "Commission"). Further, the Commission has neither approved nor disapproved its content.

Contacts: For further information, please contact the Division's Office of Chief Counsel by calling (202) 551-3500 or by submitting a web-based request form at https://www.sec.gov/forms/corp_fin_interpretive.

A. The purpose of this bulletin

This bulletin is part of a continuing effort by the Division to provide guidance on important issues arising under Exchange Act Rule 14a-8. Specifically, this bulletin contains information regarding:

- a Brokers and banks that constitute "record" holders under Rule 14a-8(b)(2)(i) for purposes of verifying whether a beneficial owner isa eligible to submit a proposal under Rule 14a-8;a
- a Common errors shareholders can avoid when submitting proof ofa ownership to companies;a
- a The submission of revised proposals;a
- a Procedures for withdrawing no-action requests regarding proposalsa submitted by multiple proponents; anda
- a The Division's new process for transmitting Rule 14a-8 no-actiona responses by email.a

You can find additional guidance regarding Rule 14a-8 in the following bulletins that are available on the Commission's website: SLB No. 14, SLB No. 14A, SLB No. 14B, SLB No. 14C, SLB No. 14D and SLB No. 14E.

B. The types of brokers and banks that constitute "record" holders under Rule 14a-8(b)(2)(i) for purposes of verifying whether a beneficial owner is eligible to submit a proposal under Rule 14a-8

1. Eligibility to submit a proposal under Rule 14a-8

To be eligible to submit a shareholder proposal, a shareholder must have continuously held at least $2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the shareholder meeting for at least one year as of the date the shareholder submits the proposal. The shareholder must also continue to hold the required amount of securities through the date of the meeting and must provide the company with a written statement of intent to do so.[1]

The steps that a shareholder must take to verify his or her eligibility to submit a proposal depend on how the shareholder owns the securities. There are two types of security holders in the U.S.: registered owners and beneficial owners.[2] Registered owners have a direct relationship with the issuer because their ownership of shares is listed on the records maintained by the issuer or its transfer agent. If a shareholder is a registered owner, the company can independently confirm that the shareholder's holdings satisfy Rule 14a-8(b)'s eligibility requirement.

The vast majority of investors in shares issued by U.S. companies, however, are beneficial owners, which means that they hold their securities in book-entry form through a securities intermediary, such as a broker or a bank. Beneficial owners are sometimes referred to as "street name" holders. Rule 14a-8(b)(2)(i) provides that a beneficial owner can provide proof of ownership to support his or her eligibility to submit a proposal by submitting a written statement "from the 'record' holder of [the] securities (usually a broker or bank)," verifying that, at the time the proposal was submitted, the shareholder held the required amount of securities continuously for at least one year.[3]

2. The role of the Depository Trust Company

Most large U.S. brokers and banks deposit their customers' securities with, and hold those securities through, the Depository Trust Company ("DTC"), a registered clearing agency acting as a securities depository. Such brokers and banks are often referred to as "participants" in DTC.[4] The names of these DTC participants, however, do not appear as the registered owners of the securities deposited with DTC on the list of shareholders maintained by the company or, more typically, by its transfer agent. Rather, DTC's nominee, Cede & Co., appears on the shareholder list as the sole registered owner of securities deposited with DTC by the DTC participants. A company can request from DTC a "securities position listing" as of a specified date, which identifies the DTC participants having a position in the company's securities and the number of securities held by each DTC participant on that date.[5]

3. Brokers and banks that constitute "record" holders under Rule 14a-8(b)(2)(i) for purposes of verifying whether a beneficial owner is eligible to submit a proposal under Rule 14a-8

In *The Hain Celestial Group, Inc.* (Oct. 1, 2008), we took the position that an introducing broker could be considered a "record" holder for purposes of Rule 14a-8(b)(2)(i). An introducing broker is a broker that engages in sales and other activities involving customer contact, such as opening customer accounts and accepting customer orders, but is not permitted to maintain custody of customer funds and securities.[6] Instead, an introducing broker engages another broker, known as a "clearing broker," to hold custody of client funds and securities, to clear and execute customer trades, and to handle other functions such as issuing confirmations of customer trades and customer account statements. Clearing brokers generally are DTC participants; introducing brokers generally are not. As introducing brokers generally are not DTC participants, and therefore typically do not appear on DTC's securities position listing, *Hain Celestial* has required companies to

accept proof of ownership letters from brokers in cases where, unlike the positions of registered owners and brokers and banks that are DTC participants, the company is unable to verify the positions against its own or its transfer agent's records or against DTC's securities position listing.

In light of questions we have received following two recent court cases relating to proof of ownership under Rule 14a-8[7] and in light of the Commission's discussion of registered and beneficial owners in the Proxy Mechanics Concept Release, we have reconsidered our views as to what types of brokers and banks should be considered "record" holders under Rule 14a-8(b)(2)(i). Because of the transparency of DTC participants' positions in a company's securities, we will take the view going forward that, for Rule 14a-8(b)(2)(i) purposes, only DTC participants should be viewed as "record" holders of securities that are deposited at DTC. As a result, we will no longer follow *Hain Celestial*.

We believe that taking this approach as to who constitutes a "record" holder for purposes of Rule 14a-8(b)(2)(i) will provide greater certainty to beneficial owners and companies. We also note that this approach is consistent with Exchange Act Rule 12g5-1 and a 1988 staff no-action letter addressing that rule,[8] under which brokers and banks that are DTC participants are considered to be the record holders of securities on deposit with DTC when calculating the number of record holders for purposes of Sections 12(g) and 15(d) of the Exchange Act.

Companies have occasionally expressed the view that, because DTC's nominee, Cede & Co., appears on the shareholder list as the sole registered owner of securities deposited with DTC by the DTC participants, only DTC or Cede & Co. should be viewed as the "record" holder of the securities held on deposit at DTC for purposes of Rule 14a-8(b)(2)(i). We have never interpreted the rule to require a shareholder to obtain a proof of ownership letter from DTC or Cede & Co., and nothing in this guidance should be construed as changing that view.

How can a shareholder determine whether his or her broker or bank is a DTC participant?

Shareholders and companies can confirm whether a particular broker or bank is a DTC participant by checking DTC's participant list, which is currently available on the Internet at http://www.dtcc.com/~/media/Files/Downloads/client-center/DTC/alpha.ashx.

What if a shareholder's broker or bank is not on DTC's participant list?

The shareholder will need to obtain proof of ownership from the DTC participant through which the securities are held. The shareholder should be able to find out who this DTC participant is by asking the shareholder's broker or bank.[9]

If the DTC participant knows the shareholder's broker or bank's holdings, but does not know the shareholder's holdings, a shareholder could satisfy Rule 14a-8(b)(2)(i) by obtaining and submitting two proof of ownership statements verifying that, at the time the proposal was submitted, the required amount of securities were continuously held for at least one year – one from the shareholder's broker or bank confirming the shareholder's ownership, and the other from the DTC participant confirming the broker or bank's ownership.

How will the staff process no-action requests that argue for exclusion on the basis that the shareholder's proof of ownership is not from a DTC

participant?

The staff will grant no-action relief to a company on the basis that the shareholder's proof of ownership is not from a DTC participant only if the company's notice of defect describes the required proof of ownership in a manner that is consistent with the guidance contained in this bulletin. Under Rule 14a-8(f)(1), the shareholder will have an opportunity to obtain the requisite proof of ownership after receiving the notice of defect.

C. Common errors shareholders can avoid when submitting proof of ownership to companies

In this section, we describe two common errors shareholders make when submitting proof of ownership for purposes of Rule 14a-8(b)(2), and we provide guidance on how to avoid these errors.

First, Rule 14a-8(b) requires a shareholder to provide proof of ownership that he or she has "continuously held at least $2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the meeting for at least one year by the date you submit the proposal" (emphasis added).[10] We note that many proof of ownership letters do nota satisfy this requirement because they do not verify the shareholder's beneficial ownership for the entire one-year period preceding and including the date the proposal is submitted. In some cases, the letter speaks as of a date *before* the date the proposal is submitted, thereby leaving a gap between the date of the verification and the date the proposal is submitted. In other cases, the letter speaks as of a date *after* the date the proposal was submitted but covers a period of only one year, thus failing to verify the shareholder's beneficial ownership over the required full one-year period preceding the date of the proposal's submission.

Second, many letters fail to confirm continuous ownership of the securities. This can occur when a broker or bank submits a letter that confirms the shareholder's beneficial ownership only as of a specified date but omits any reference to continuous ownership for a one-year period.

We recognize that the requirements of Rule 14a-8(b) are highly prescriptive and can cause inconvenience for shareholders when submitting proposals. Although our administration of Rule 14a-8(b) is constrained by the terms of the rule, we believe that shareholders can avoid the two errors highlighted above by arranging to have their broker or bank provide the required verification of ownership as of the date they plan to submit the proposal using the following format:

> "As of [date the proposal is submitted], [name of shareholder] held, and has held continuously for at least one year, [number of securities] shares of [company name] [class of securities]."[11]

As discussed above, a shareholder may also need to provide a separate written statement from the DTC participant through which the shareholder's securities are held if the shareholder's broker or bank is not a DTC participant.

D. The submission of revised proposals

On occasion, a shareholder will revise a proposal after submitting it to a company. This section addresses questions we have received regarding revisions to a proposal or supporting statement.

1. A shareholder submits a timely proposal. The shareholder then submits a revised proposal before the company's deadline for receiving proposals. Must the company accept the revisions?

Yes. In this situation, we believe the revised proposal serves as a replacement of the initial proposal. By submitting a revised proposal, the shareholder has effectively withdrawn the initial proposal. Therefore, the shareholder is not in violation of the one-proposal limitation in Rule 14a-8(c).[12] If the company intends to submit a no-action request, it must do so with respect to the revised proposal.

We recognize that in Question and Answer E.2 of SLB No. 14, we indicated that if a shareholder makes revisions to a proposal before the company submits its no-action request, the company can choose whether to accept the revisions. However, this guidance has led some companies to believe that, in cases where shareholders attempt to make changes to an initial proposal, the company is free to ignore such revisions even if the revised proposal is submitted before the company's deadline for receiving shareholder proposals. We are revising our guidance on this issue to make clear that a company may not ignore a revised proposal in this situation.[13]

2. A shareholder submits a timely proposal. After the deadline for receiving proposals, the shareholder submits a revised proposal. Must the company accept the revisions?

No. If a shareholder submits revisions to a proposal after the deadline for receiving proposals under Rule 14a-8(e), the company is not required to accept the revisions. However, if the company does not accept the revisions, it must treat the revised proposal as a second proposal and submit a notice stating its intention to exclude the revised proposal, as required by Rule 14a-8(j). The company's notice may cite Rule 14a-8(e) as the reason for excluding the revised proposal. If the company does not accept the revisions and intends to exclude the initial proposal, it would also need to submit its reasons for excluding the initial proposal.

3. If a shareholder submits a revised proposal, as of which date must the shareholder prove his or her share ownership?

A shareholder must prove ownership as of the date the original proposal is submitted. When the Commission has discussed revisions to proposals,[14] ito has not suggested that a revision triggers a requirement to provide proof of ownership a second time. As outlined in Rule 14a-8(b), proving ownership includes providing a written statement that the shareholder intends to continue to hold the securities through the date of the shareholder meeting. Rule 14a-8(f)(2) provides that if the shareholder "fails in [his or her] promise to hold the required number of securities through the date of the meeting of shareholders, then the company will be permitted to exclude all of [the same shareholder's] proposals from its proxy materials for any meeting held in the following two calendar years." With these provisions in mind, we do not interpret Rule 14a-8 as requiring additional proof of ownership when a shareholder submits a revised proposal.[15]

E. Procedures for withdrawing no-action requests for proposals submitted by multiple proponents

We have previously addressed the requirements for withdrawing a Rule 14a-8 no-action request in SLB Nos. 14 and 14C. SLB No. 14 notes that a company should include with a withdrawal letter documentation demonstrating that a shareholder has withdrawn the proposal. In cases where a proposal submitted by multiple shareholders is withdrawn, SLB No. 14C states that, if each shareholder has designated a lead individual to act

on its behalf and the company is able to demonstrate that the individual is authorized to act on behalf of all of the proponents, the company need only provide a letter from that lead individual indicating that the lead individual is withdrawing the proposal on behalf of all of the proponents.

Because there is no relief granted by the staff in cases where a no-action request is withdrawn following the withdrawal of the related proposal, we recognize that the threshold for withdrawing a no-action request need not be overly burdensome. Going forward, we will process a withdrawal request if the company provides a letter from the lead filer that includes a representation that the lead filer is authorized to withdraw the proposal on behalf of each proponent identified in the company's no-action request.[16]

F. Use of email to transmit our Rule 14a-8 no-action responses to companies and proponents

To date, the Division has transmitted copies of our Rule 14a-8 no-action responses, including copies of the correspondence we have received in connection with such requests, by U.S. mail to companies and proponents. We also post our response and the related correspondence to the Commission's website shortly after issuance of our response.

In order to accelerate delivery of staff responses to companies and proponents, and to reduce our copying and postage costs, going forward, we intend to transmit our Rule 14a-8 no-action responses by email to companies and proponents. We therefore encourage both companies and proponents to include email contact information in any correspondence to each other and to us. We will use U.S. mail to transmit our no-action response to any company or proponent for which we do not have email contact information.

Given the availability of our responses and the related correspondence on the Commission's website and the requirement under Rule 14a-8 for companies and proponents to copy each other on correspondence submitted to the Commission, we believe it is unnecessary to transmit copies of the related correspondence along with our no-action response. Therefore, we intend to transmit only our staff response and not the correspondence we receive from the parties. We will continue to post to the Commission's website copies of this correspondence at the same time that we post our staff no-action response.

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[1] *See* Rule 14a-8(b).

[2] For an explanation of the types of share ownership in the U.S., see Concept Release on U.S. Proxy System, Release No. 34-62495 (July 14, 2010) [75 FR 42982] ("Proxy Mechanics Concept Release"), at Section II.A. The term "beneficial owner" does not have a uniform meaning under the federal securities laws. It has a different meaning in this bulletin as compared to "beneficial owner" and "beneficial ownership" in Sections 13 and 16 of the Exchange Act. Our use of the term in this bulletin is not intended to suggest that registered owners are not beneficial owners for purposes of those Exchange Act provisions. *See* Proposed Amendments to Rule 14a-8 under the Securities Exchange Act of 1934 Relating to Proposals by Security Holders, Release No. 34-12598 (July 7, 1976) [41 FR 29982], at n.2 ("The term 'beneficial owner' when used in the context of the proxy rules, and in light of the purposes of those rules, may be interpreted to have a broader meaning than it would for certain other purpose[s] under the federal securities laws, such as reporting pursuant to the Williams Act.").

[3] If a shareholder has filed a Schedule 13D, Schedule 13G, Form 3, Form 4a or Form 5 reflecting ownership of the required amount of shares, thea shareholder may instead prove ownership by submitting a copy of sucha filings and providing the additional information that is described in Rulea 14a-8(b)(2)(ii).a

[4] DTC holds the deposited securities in "fungible bulk," meaning that there are no specifically identifiable shares directly owned by the DTC participants. Rather, each DTC participant holds a pro rata interest or position in the aggregate number of shares of a particular issuer held at DTC. Correspondingly, each customer of a DTC participant – such as an individual investor – owns a pro rata interest in the shares in which the DTC participant has a pro rata interest. *See* Proxy Mechanics Concept Release, at Section II.B.2.a.

[5] *See* Exchange Act Rule 17Ad-8.

[6] *See* Net Capital Rule, Release No. 34-31511 (Nov. 24, 1992) [57 FR 56973] ("Net Capital Rule Release"), at Section II.C.

[7] *See KBR Inc. v. Chevedden*, Civil Action No. H-11-0196, 2011 U.S. Dist. LEXIS 36431, 2011 WL 1463611 (S.D. Tex. Apr. 4, 2011); *Apache Corp. v. Chevedden,* 696 F. Supp. 2d 723 (S.D. Tex. 2010). In both cases, the court concluded that a securities intermediary was not a record holder for purposes of Rule 14a-8(b) because it did not appear on a list of the company's non-objecting beneficial owners or on any DTC securities position listing, nor was the intermediary a DTC participant.

[8] *Techne Corp.* (Sept. 20, 1988).

[9] In addition, if the shareholder's broker is an introducing broker, the shareholder's account statements should include the clearing broker's identity and telephone number. *See* Net Capital Rule Release, at Section II.C.(iii). The clearing broker will generally be a DTC participant.a

[10] For purposes of Rule 14a-8(b), the submission date of a proposal willa generally precede the company's receipt date of the proposal, absent the use of electronic or other means of same-day delivery.

[11] This format is acceptable for purposes of Rule 14a-8(b), but it is not mandatory or exclusive.

[12] As such, it is not appropriate for a company to send a notice of defect for multiple proposals under Rule 14a-8(c) upon receiving a revised proposal.

[13] This position will apply to all proposals submitted after an initial proposal but before the company's deadline for receiving proposals, regardless of whether they are explicitly labeled as "revisions" to an initial proposal, unless the shareholder affirmatively indicates an intent to submit a second, *additional* proposal for inclusion in the company's proxy materials. In that case, the company must send the shareholder a notice of defect pursuant to Rule 14a-8(f)(1) if it intends to exclude either proposal from its proxy materials in reliance on Rule 14a-8(c). In light of this guidance, with respect to proposals or revisions received before a company's deadline for submission, we will no longer follow *Layne Christensen Co.* (Mar. 21, 2011) and other prior staff no-action letters in which we took the view that a proposal would violate the Rule 14a-8(c) one-proposal limitation if such proposal is submitted to a company after the company has either submitted a Rule 14a-8 no-action request to exclude an earlier proposal submitted by

the same proponent or notified the proponent that the earlier proposal was excludable under the rule.

[14] *See, e.g.*, Adoption of Amendments Relating to Proposals by Security Holders, Release No. 34-12999 (Nov. 22, 1976) [41 FR 52994].

[15] Because the relevant date for proving ownership under Rule 14a-8(b) is the date the proposal is submitted, a proponent who does not adequately prove ownership in connection with a proposal is not permitted to submit another proposal for the same meeting on a later date.

[16] Nothing in this staff position has any effect on the status of any shareholder proposal that is not withdrawn by the proponent or its authorized representative.

http://www.sec.gov/interps/legal/cfslb14f.htm

Division of Corporation Finance
Securities and Exchange Commission

Shareholder Proposals

Staff Legal Bulletin No. 14I (CF)

Action: Publication of CF Staff Legal Bulletin

Date: November 1, 2017

Summary: This staff legal bulletin provides information for companies and shareholders regarding Rule 14a-8 under the Securities Exchange Act of 1934.

Supplementary Information: The statements in this bulletin represent the views of the Division of Corporation Finance (the "Division"). This bulletin is not a rule, regulation or statement of the Securities and Exchange Commission (the "Commission"). Further, the Commission has neither approved nor disapproved its content.

Contacts: For further information, please contact the Division's Office of Chief Counsel by submitting a web-based request form at https://www.sec.gov/forms/corp_fin_interpretive.

A. The purpose of this bulletin

This bulletin is part of a continuing effort by the Division to provide guidance on important issues arising under Exchange Act Rule 14a-8. Specifically, this bulletin contains information about the Division's views on:

- a the scope and application of Rule 14a-8(i)(7);a
- a the scope and application of Rule 14a-8(i)(5);a
- a proposals submitted on behalf of shareholders; anda
- a the use of graphs and images consistent with Rule 14a-8(d).a

You can find additional guidance about Rule 14a-8 in the following bulletins that are available on the Commission's website: SLB No. 14, SLB No. 14A, SLB No. 14B, SLB No. 14C, SLB No. 14D, SLB No. 14E, SLB No. 14F, SLB No. 14G and SLB No. 14H.

B. Rule 14a-8(i)(7)

1. Background

Rule 14a-8(i)(7), the "ordinary business" exception, is one of the substantive bases for exclusion of a shareholder proposal in Rule 14a-8. It permits a company to exclude a proposal that "deals with a matter relating to the company's ordinary business operations." The purpose of the exception is "to confine the resolution of ordinary business problems to management and the board of directors, since it is impracticable for shareholders to decide how to solve such problems at an annual shareholders meeting."[1]

2. The Division's application of Rule 14a-8(i)(7)

The Commission has stated that the policy underlying the "ordinary business" exception rests on two central considerations.[2] The first relates to the proposal's subject matter; the second, the degree to which the proposal "micromanages" the company. Under the first consideration, proposals that raise matters that are "so fundamental to management's ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight" may be excluded, unless such a proposal focuses on policy issues that are sufficiently significant because they transcend ordinary business and would be appropriate for a shareholder vote.[3] Whether the significant policy exception applies depends, in part, on the connection between the significant policy issue and the company's business operations.[4]

At issue in many Rule 14a-8(i)(7) no-action requests is whether a proposal that addresses ordinary business matters nonetheless focuses on a policy issue that is sufficiently significant. These determinations often raise difficult judgment calls that the Division believes are in the first instance matters that the board of directors is generally in a better position to determine. A board of directors, acting as steward with fiduciary duties to a company's shareholders, generally has significant duties of loyalty and care in overseeing management and the strategic direction of the company. A board acting in this capacity and with the knowledge of the company's business and the implications for a particular proposal on that company's business is well situated to analyze, determine and explain whether a particular issue is sufficiently significant because the matter transcends ordinary business and would be appropriate for a shareholder vote.

Accordingly, going forward, we would expect a company's no-action request to include a discussion that reflects the board's analysis of the particular policy issue raised and its significance. That explanation would be most helpful if it detailed the specific processes employed by the board to ensure that its conclusions are well-informed and well-reasoned. We believe that a well-developed discussion of the board's analysis of these matters will greatly assist the staff with its review of no-action requests under Rule 14a-8(i)(7).

C. Rule 14a-8(i)(5)

1. Background

Rule 14a-8(i)(5), the "economic relevance" exception, is one of the substantive bases for exclusion of a shareholder proposal in Rule 14a-8. It permits a company to exclude a proposal that "relates to operations which account for less than 5 percent of the company's total assets at the end of its most recent fiscal year, and for less than 5 percent of its net earnings and gross sales for its most recent fiscal year, and is not otherwise significantly related to the company's business."

2. History of Rule 14a-8(i)(5)

Prior to adoption of the current version of the exclusion in Rule 14a-8(i)(5), the rule permitted companies to omit any proposal that "deals with a matter that is not significantly related to the issuer's business." In proposing changes to that version of the rule in 1982, the Commission noted that the staff's practice had been to agree with exclusion of proposals that bore no economic relationship to a company's business, but that "where the proposal has reflected social or ethical issues, rather than economic concerns, raised by the issuer's business, and the issuer conducts any such business, no matter how small, the staff has not issued a no-action letter with respect to the omission of the proposal."[5] The

Commission stated that this interpretation of the rule may have "unduly limit[ed] the exclusion," and proposed adopting the economic tests that appear in the rule today.[6] In adopting the rule, the Commission characterized it as relating "to proposals concerning the functioning of the economic business of an issuer and not to such matters as shareholders' rights, e.g., cumulative voting."[7]

Shortly after the 1983 amendments, however, the District Court for the District of Columbia in *Lovenheim v. Iroquois Brands, Ltd.*, 618 F. Supp. 554 (D.D.C. 1985) preliminarily enjoined a company from excluding a proposal regarding sales of a product line that represented only 0.05% of assets, $79,000 in sales and a net loss of ($3,121), compared to the company's total assets of $78 million, annual revenues of $141 million and net earnings of $6 million. The court based its decision to grant the injunction "in light of the ethical and social significance" of the proposal and on "the fact that it implicates significant levels of sales." Since that time, the Division has interpreted *Lovenheim* in a manner that has significantly narrowed the scope of Rule 14a-8(i)(5).

3. The Division's application of Rule 14a-8(i)(5)

Over the years, the Division has only infrequently agreed with exclusion under the "economic relevance" exception. Under its historical application, the Division has not agreed with exclusion under Rule 14a-8(i)(5), even where a proposal has related to operations that accounted for less than 5% of total assets, net earnings and gross sales, where the company conducted business, no matter how small, related to the issue raised in the proposal. The Division's analysis has not focused on a proposal's significance to the company's business. As a result, the Division's analysis has been similar to its analysis prior to 1983, with which the Commission expressed concern.

That analysis simply considered whether a company conducted any amount of business related to the issue in the proposal and whether that issue was of broad social or ethical concern. We believe the Division's application of Rule 14a-8(i)(5) has unduly limited the exclusion's availability because it has not fully considered the second prong of the rule as amended in 1982 – the question of whether the proposal "deals with a matter that is not significantly related to the issuer's business" and is therefore excludable. Accordingly, going forward, the Division's analysis will focus, as the rule directs, on a proposal's significance to the company's business when it otherwise relates to operations that account for less than 5% of total assets, net earnings and gross sales. Under this framework, proposals that raise issues of social or ethical significance may be included or excluded, notwithstanding their importance in the abstract, based on the application and analysis of each of the factors of Rule 14a-8(i)(5) in determining the proposal's relevance to the company's business.

Because the test only allows exclusion when the matter is not "otherwise significantly related to the company," we view the analysis as dependent upon the particular circumstances of the company to which the proposal is submitted. That is, a matter significant to one company may not be significant to another. On the other hand, we would generally view substantive governance matters to be significantly related to almost all companies.

Where a proposal's significance to a company's business is not apparent on its face, a proposal may be excludable unless the proponent demonstrates that it is "otherwise significantly related to the company's business."[8] For example, the proponent can provide information demonstrating that the proposal "may have a significant impact on other segments of the issuer's business or subject the issuer to significant contingent liabilities."[9] The proponent could continue to raise social or ethical issues in its arguments,

but it would need to tie those to a significant effect on the company's business. The mere possibility of reputational or economic harm will not preclude no-action relief. In evaluating significance, the staff will consider the proposal in light of the "total mix" of information about the issuer.

As with the "ordinary business" exception in Rule 14a-8(i)(7), determining whether a proposal is "otherwise significantly related to the company's business" can raise difficult judgment calls. Similarly, we believe that the board of directors is generally in a better position to determine these matters in the first instance. A board acting with the knowledge of the company's business and the implications for a particular proposal on that company's business is better situated than the staff to determine whether a particular proposal is "otherwise significantly related to the company's business." Accordingly, we would expect a company's Rule 14a-8(i)(5) no-action request to include a discussion that reflects the board's analysis of the proposal's significance to the company. That explanation would be most helpful if it detailed the specific processes employed by the board to ensure that its conclusions are well-informed and well-reasoned.

In addition, the Division's analysis of whether a proposal is "otherwise significantly related" under Rule 14a-8(i)(5) has historically been informed by its analysis under the "ordinary business" exception, Rule 14a-8(i)(7). As a result, the availability or unavailability of Rule 14a-8(i)(7) has been largely determinative of the availability or unavailability of Rule 14a-8(i)(5). Going forward, the Division will no longer look to its analysis under Rule 14a-8(i)(7) when evaluating arguments under Rule 14a-8(i)(5). In our view, applying separate analytical frameworks will ensure that each basis for exclusion serves its intended purpose.

We believe the approach going forward is more appropriately rooted in the intended purpose and language of Rule 14a-8(i)(5), and better helps companies, proponents and the staff determine whether a proposal is "otherwise significantly related to the company's business."

D. Proposals submitted on behalf of shareholders

While Rule 14a-8 does not address shareholders' ability to submit proposals through a representative, shareholders frequently elect to do so, a practice commonly referred to as "proposal by proxy." The Division has been, and continues to be, of the view that a shareholder's submission by proxy is consistent with Rule 14a-8.[10]

The Division is nevertheless mindful of challenges and concerns that proposals by proxy may present. For example, there may be questions about whether the eligibility requirements of Rule 14a-8(b) have been satisfied. There have also been concerns raised that shareholders may not know that proposals are being submitted on their behalf. In light of these challenges and concerns, and to help the staff and companies better evaluate whether the eligibility requirements of Rule 14a-8(b) have been satisfied, going forward, the staff will look to whether the shareholders who submit a proposal by proxy provide documentation describing the shareholder's delegation of authority to the proxy.[11] In general, we would expect this documentation to:

- •h identify the shareholder-proponent and the person or entity selectedh as proxy;h
- •h identify the company to which the proposal is directed;h
- •h identify the annual or special meeting for which the proposal ish submitted;h

- a identify the specific proposal to be submitted (e.g., proposal to lowera the threshold for calling a special meeting from 25% to 10%); anda
- a be signed and dated by the shareholder.a

We believe this documentation will help alleviate concerns about proposals by proxy, and will also help companies and the staff better evaluate whether the eligibility requirements of Rule 14a-8(b) have been satisfied in connection with a proposal's submission by proxy. Where this information is not provided, there may be a basis to exclude the proposal under Rule 14a-8(b).[12]

E. Rule 14a-8(d)

1. Background

Rule 14a-8(d) is one of the procedural bases for exclusion of a shareholder proposal in Rule 14a-8. It provides that a "proposal, including any accompanying supporting statement, may not exceed 500 words."

2. The use of images in shareholder proposals

Questions have recently arisen concerning the application of Rule 14a-8(d) to proposals that include graphs and/or images.[13] In two recent no-action decisions,[14] the Division expressed the view that the use of "500 words" and absence of express reference to graphics or images in Rule 14a-8(d) do not prohibit the inclusion of graphs and/or images in proposals.[15] Just as companies include graphics that are not expressly permitted under the disclosure rules, the Division is of the view that Rule 14a-8(d) does not preclude shareholders from using graphics to convey information about their proposals.[16]

The Division recognizes the potential for abuse in this area. The Division believes, however, that these potential abuses can be addressed through other provisions of Rule 14a-8. For example, exclusion of graphs and/or images would be appropriate under Rule 14a-8(i)(3) where they:

- a make the proposal materially false or misleading;a
- a render the proposal so inherently vague or indefinite that neither thea stockholders voting on the proposal, nor the company ina implementing it, would be able to determine with any reasonablea certainty exactly what actions or measures the proposal requires;a
- a directly or indirectly impugn character, integrity or personala reputation, or directly or indirectly make charges concerninga improper, illegal, or immoral conduct or association, without factuala foundation; ora
- a are irrelevant to a consideration of the subject matter of the proposal,a such that there is a strong likelihood that a reasonable shareholdera would be uncertain as to the matter on which he or she is beinga asked to vote.[17]a

Exclusion would also be appropriate under Rule 14a-8(d) if the total number of words in a proposal, including words in the graphics, exceeds 500.

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[1] Release No. 34-40018 (May 21, 1998).

[2] *Id.*

[3] *Id.*

[4] *See* Staff Legal Bulletin No. 14H (Oct. 22, 2015), *citing* Staff Legal Bulletin No. 14E (Oct. 27, 2009) (stating that a proposal generally will not be excludable "as long as a sufficient nexus exists between the nature of the proposal and the company").

[5] Release No. 34-19135 (Oct. 14, 1982).

[6] *Id.*

[7] Release No. 34-20091 (Aug. 16, 1983).

[8] Proponents bear the burden of demonstrating that a proposal is "otherwise significantly related to the company's business." *See* Release No. 34-39093 (Sep. 18, 1997), *citing* Release No. 34-19135.

[9] Release No. 34-19135.

[10] We view a shareholder's ability to submit a proposal by proxy as largely a function of state agency law provided it is consistent with Rule 14a-8.

[11] This guidance applies only to proposals submitted by proxy after the date on which this staff legal bulletin is published.

[12] Companies that intend to seek exclusion under Rule 14a-8(b) based on a shareholder's failure to provide some or all of this information must notify the proponent of the specific defect(s) within 14 calendar days of receiving the proposal so that the proponent has an opportunity to cure the defect. *See* Rule 14a-8(f)(1).

[13] Rule 14a-8(d) is intended to limit the amount of space a shareholder proposal may occupy in a company's proxy statement. *See* Release No. 34-12999 (Nov. 22, 1976).

[14] *General Electric Co.* (Feb. 3, 2017, *recon. granted* Feb. 23, 2017); *General Electric Co.* (Feb. 23, 2016).

[15] These decisions were consistent with a longstanding Division position. *See Ferrofluidics Corp.* (Sep. 18, 1992).

[16] Companies should not minimize or otherwise diminish the appearance of a shareholder's graphic. For example, if the company includes its own graphics in its proxy statement, it should give similar prominence to a shareholder's graphics. If a company's proxy statement appears in black and white, however, the shareholder proposal and accompanying graphics may also appear in black and white.

[17] *See General Electric Co.* (Feb. 23, 2017).

http://www.sec.gov/interps/legal/cfslb14i.htm

From: iShip_Services@iship.com
To: Kelley, JaVonda
Subject: Delivery Notification
Date: Wednesday, December 06, 2017 5:45:40 PM

The shipment to As You Sow has been delivered.

==========

SHIPMENT SUMMARY

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SENDER

Hunton & Williams LLP

Washington, DC 20037

RECIPIENT

As You Sow
Ms. Liza Holzman
OAKLAND, CA 94612-2102 US

SHIPPED THROUGH

Hunton & Williams
202-955-1827e

CARRIER & SERVICE

UPS Next Day Air

SHIPMENT TRACKING & REFERENCE

Tracking No.: ***
Shipment ID: ***
Client Matter #: ***
User ID: ***

SHIP DATE

Monday, December 4, 2017

DELIVERY DATE

Wed 06 Dec 2017 01:29 PM

MESSAGE FROM SENDER

==========

TRACKING INFORMATION

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To get complete tracking information, click the following link:

https://iship.com/trackit/track.aspx?t=1&Track=***

==========

QUESTIONS OR CONCERNS ABOUT THIS SHIPMENT?

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If you have questions regarding this shipment, have the carrier tracking number ready and then contact UPS directly:

1-800-PICK-UPS (1-800-742-5877)e

*** FISMA & OMB Memorandum M-07-16

Or contact the facility listed in the SHIPPED THROUGH section above.

==========
DO NOT REPLY DIRECTLY TO THIS E-MAIL
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Questions or Comments about the iShip service?
mailto:info@iship.com

Need technical support for the iShip service?
mailto:support@iship.com

****
On-line shipping and tracking services brought to you by iShip(r).
Shipping Insight.(r)
Want to use iShip for your corporate shipping? Visit http://iship.com.

Wednesday, December 6, 2017 02:45 PM Pacific Standard Time

Kimpel, Scott H.

From: Austin Wilson <awilson@asyousow.org>
Sent: Thursday, December 07, 2017 1:51 PM
To: Kimpel, Scott H.
Cc: Lila Holzman; Barbara.Tuckfield@dteenergy.com; John.Dermody@dteenergy.com
Subject: RE: Shareholder Proposal
Attachments: Mason - Schwab Ownership Letter - 171129.pdf; proof.pdf; Arkay Shareholder Resolution - DTE.PDF

Mr. Kimpel,

We are in receipt of your letter dated Dec. 4, 2017. Please be advised that proof of share ownership for each Investor had been provided to DTE Energy prior to that date.

Sufficient authorization from Arkay Foundation and Kalpana Raina will be provided shortly.

Best,

Austin Wilson
Environmental Health Program Manager
As You Sow
1611 Telegraph Ave., Ste. 1450
Oakland, CA 94612
(510)e735-8149 (direct line) | (415) 717-0638 (cell)e
Fax: (510) 735-8143e
Skype: Austin.leigh.wilsone
awilson@asyousow.org | www.asyousow.orge

~Building a Safe, Just, and Sustainable World since 1992~

From: Austin Wilson
Sent: Wednesday, November 29, 2017 4:16 PM
To: 'Barbara.Tuckfield@dteenergy.com' <Barbara.Tuckfield@dteenergy.com>; 'John.Dermody@dteenergy.com' <John.Dermody@dteenergy.com>
Cc: Lila Holzman <lholzman@asyousow.org>
Subject: RE: Shareholder Proposal

Ms. Tuckfield,

Finally, As You Sow is withdrawing the co-filing that we submitted on behalf of Lutra Living Trust.

Best,

Austin Wilson
Environmental Health Program Manager
As You Sow
1611 Telegraph Ave., Ste. 1450
Oakland, CA 94612
(510)e735-8149 (direct line) | (415) 717-0638 (cell)e

Fax: (510) 735-8143
Skype: Austin.leigh.wilson
awilson@asyousow.org | www.asyousow.org

~Building a Safe, Just, and Sustainable World since 1992~

From: Austin Wilson
Sent: Wednesday, November 29, 2017 4:15 PM
To: 'Barbara.Tuckfield@dteenergy.com' <Barbara.Tuckfield@dteenergy.com>; 'John.Dermody@dteenergy.com' <John.Dermody@dteenergy.com>
Cc: Lila Holzman <lholzman@asyousow.org>
Subject: RE: Shareholder Proposal

Ms. Tuckfield,

Please find attached proof of share ownership for John and Linda Mason.

Best,

Austin Wilson
Environmental Health Program Manager
As You Sow
1611 Telegraph Ave., Ste. 1450
Oakland, CA 94612
(510)735-8149 (direct line) | (415) 717-0638 (cell)o
Fax: (510) 735-8143o
Skype: Austin.leigh.wilsono
awilson@asyousow.org | www.asyousow.orgo

~Building a Safe, Just, and Sustainable World since 1992~

From: Austin Wilson
Sent: Tuesday, November 28, 2017 11:01 AM
To: 'Barbara.Tuckfield@dteenergy.com' <Barbara.Tuckfield@dteenergy.com>; 'John.Dermody@dteenergy.com' <John.Dermody@dteenergy.com>
Cc: Lila Holzman <lholzman@asyousow.org>
Subject: RE: Shareholder Proposal

Ms. Tuckfield,

Please find attached proof of share ownership for Kalpana Raina and Paul R. Rudd Revocable Trust.

Best,

Austin Wilson
Environmental Health Program Manager
As You Sow
1611 Telegraph Ave., Ste. 1450
Oakland, CA 94612
(510)735-8149 (direct line) | (415) 717-0638 (cell)o
Fax: (510) 735-8143o
Skype: Austin.leigh.wilsono

awilson@asyousow.org | www.asyousow.org

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From: Austin Wilson
Sent: Monday, November 20, 2017 5:01 PM
To: Barbara.Tuckfield@dteenergy.com; John.Dermody@dteenergy.com
Cc: Lila Holzman <lholzman@asyousow.org>
Subject: RE: Shareholder Proposal

Ms. Tuckfield,

Please find attached proof of share ownership for Arkay Foundation. A physical copy will not be sent unless requested.

Proof of share ownership for the co-filers will be forwarded under separate cover.

Best,

Austin Wilson
Environmental Health Program Manager
As You Sow
1611 Telegraph Ave., Ste. 1450
Oakland, CA 94612
(510)e735-8149 (direct line) | (415) 717-0638 (cell)e
Fax: (510) 735-8143e
Skype: Austin.leigh.wilsone
awilson@asyousow.org | www.asyousow.orge

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From: Lila Holzman
Sent: Thursday, November 16, 2017 4:23 PM
To: Barbara.Tuckfield@dteenergy.com; John.Dermody@dteenergy.com
Cc: Austin Wilson <awilson@asyousow.org>
Subject: Shareholder Proposal

Ms. Tuckfield,

Please find attached two letters from As You Sow, containing a shareholder proposal filed for inclusion in the 2018 proxy statement. Copies have been sent via FedEx 2-Day. Proof of share ownership will be sent under separate cover. Please forward to the Corporate Secretary.

Best,
Lila

Lila Holzman
Energy Program Manager
As You Sow
1611 Telegraph Ave., Ste. 1450
Oakland, CA 94612
(510)e735-8153 (direct line) | (415) 483-9533 (cell)e
Skype: Lila.Holzmane

charles SCHWAB

11/24/17

Kalpana Raina:

Charles Schwab & Co., a DTC participant, acts as the custodian for Kalpana Raina. As of the date of this letter, Kalpana Raina held, and has held continuously for at least 13 months, 27 shares of DTE Energy common stock.

Best Regards,

Tina Vanderlin

~~Relationship Specialist | ACT Premier~~ West 1

Charles Schwab & Co., Inc.

Advisor Services

Advisor Family Office
P.O. Box 628290
Orlando, FL 62829

November 29, 2017

John B Mason & Linda C Mason, Community Property
117 E Louisa St # 547
Seattle WA 98102

Verification of Account Position

Charles Schwab & Co., a DTC participant, acts as the custodian for John B Mason & Linda C Mason, Community Property. As of the date of this letter, John B Mason & Linda C Mason held, and has held continuously for at least 13 months the following:

118 shares of Dominion Energy Inc. cusip 25746U109

116 shares of DTE Energy Company. cusip 233331107

89 shares of Entergy Corp. cusip 29364G103

235 shares of Mondolez Intl. cusip 609207105

Thank you for investing with Schwab. We appreciate your business and look forward to serving the needs of you and your investment advisor.

Best Regards,

James Aboltin

Service Relationship Manager

charles SCHWAB

November 20, 2017

ARKAY FOUNDATION
127 UNIVERSITY AVENUE
BERKELEY, CA 94710

Account #: ****-***
Questions: Please call Schwab Alliance at 1-800-515-2157.

DTE Energy Company

We're writing to confirm information about the account listed above, which Charles Schwab & Co., Inc. holds as custodian. This account holds 155 shares of DTE Energy Company (DTE) common stock. These shares have been held in the account continuously from acquisition on June 23, 2014 up to and including November 20, 2017.These shares are held at Depository Trust Company under the nominee name of Charles Schwab & Co., Inc., which serves as custodian for the registration listed above.

Sincerely,

Aaron Goodman

Aaron Goodman
Sr Specialist, Institutional
2423 E Lincoln Dr
Phoenix, AZ 85016-1215

Kimpel, Scott H.

From: Kimpel, Scott H.
Sent: Thursday, December 07, 2017 5:28 PM
To: Austin Wilson
Cc: Lila Holzman
Subject: RE: Shareholder Proposal

Thank you for your note, Mr. Wilson. Going forward, please send all communications concerning your proposal to me. Doing so will ensure that nothing gets lots in transit.

You may recall from DTE's proxy statement that the corporate secretary is designated as the point of contact concerning shareholder proposals, and in any event, the personnel in the investor relations department do not typically handle documentation around proposals.

Could I trouble you to send me the proof of ownership for Paul R. Rudd Revocable Trust? The Company does not have a record of receiving it.

And do I understand from your emails below that the Lutra Living Trust is no longer a co-proponent?

Sincerely,

HUNTON& WILLIAMS

Scott H. Kimpel
Partner
skimpel@hunton.com
p 202.955.1524
bio | vCard

Hunton & Williams LLP
2200 Pennsylvania Avenue, NW
Washington, DC 20037
hunton.com

From: Austin Wilson [mailto:awilson@asyousow.org]
Sent: Thursday, December 07, 2017 1:51 PM
To: Kimpel, Scott H.
Cc: Lila Holzman; Barbara.Tuckfield@dteenergy.com; John.Dermody@dteenergy.com
Subject: RE: Shareholder Proposal

Mr. Kimpel,

We are in receipt of your letter dated Dec. 4, 2017. Please be advised that proof of share ownership for each Investor had been provided to DTE Energy prior to that date.

Sufficient authorization from Arkay Foundation and Kalpana Raina will be provided shortly.

Best,

Austin Wilson
Environmental Health Program Manager

As You Sow
1611 Telegraph Ave., Ste. 1450
Oakland, CA 94612
(510)a735-8149 (direct line) | (415) 717-0638 (cell)a
Fax: (510) 735-8143a
Skype: Austin.leigh.wilsona
awilson@asyousow.org | www.asyousow.orga

~Building a Safe, Just, and Sustainable World since 1992~

From: Austin Wilson
Sent: Wednesday, November 29, 2017 4:16 PM
To: 'Barbara.Tuckfield@dteenergy.com' <Barbara.Tuckfield@dteenergy.com>; 'John.Dermody@dteenergy.com' <John.Dermody@dteenergy.com>
Cc: Lila Holzman <lholzman@asyousow.org>
Subject: RE: Shareholder Proposal

Ms. Tuckfield,

Finally, As You Sow is withdrawing the co-filing that we submitted on behalf of Lutra Living Trust.

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Cc: Lila Holzman <lholzman@asyousow.org>
Subject: RE: Shareholder Proposal

Ms. Tuckfield,

Please find attached proof of share ownership for John and Linda Mason.

Best,

Austin Wilson
Environmental Health Program Manager
As You Sow
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Cc: Lila Holzman <lholzman@asyousow.org>
Subject: RE: Shareholder Proposal

Ms. Tuckfield,

Please find attached proof of share ownership for Kalpana Raina and Paul R. Rudd Revocable Trust.

Best,

Austin Wilson
Environmental Health Program Manager
As You Sow
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Oakland, CA 94612
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Subject: RE: Shareholder Proposal

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From: Lila Holzman
Sent: Thursday, November 16, 2017 4:23 PM
To: Barbara.Tuckfield@dteenergy.com; John.Dermody@dteenergy.com
Cc: Austin Wilson <awilson@asyousow.org>
Subject: Shareholder Proposal

Ms. Tuckfield,

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Best,
Lila

Lila Holzman
Energy Program Manager
As You Sow
1611 Telegraph Ave., Ste. 1450
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(510)e735-8153 (direct line) | (415) 483-9533 (cell)e
Skype: Lila.Holzmane
lholzman@asyousow.org | www.asyousow.orge

Kimpel, Scott H.

From: Austin Wilson <awilson@asyousow.org>
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To: Kimpel, Scott H.
Cc: Lila Holzman
Subject: RE: Shareholder Proposal
Attachments: proof.pdf

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Subject: RE: Shareholder Proposal

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Cc: Lila Holzman <lholzman@asyousow.org>
Subject: RE: Shareholder Proposal

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Please find attached proof of share ownership for Kalpana Raina and Paul R. Rudd Revocable Trust.

Best,

Austin Wilson
Environmental Health Program Manager
As You Sow
1611 Telegraph Ave., Ste. 1450

Oakland, CA 94612
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Fax: (510) 735-8143o
Skype: Austin.leigh.wilsono
awilson@asyousow.org | www.asyousow.orgo

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To: Barbara.Tuckfield@dteenergy.com; John.Dermody@dteenergy.com
Cc: Lila Holzman <lholzman@asyousow.org>
Subject: RE: Shareholder Proposal

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Fax: (510) 735-8143o
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awilson@asyousow.org | www.asyousow.orgo

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From: Lila Holzman
Sent: Thursday, November 16, 2017 4:23 PM
To: Barbara.Tuckfield@dteenergy.com; John.Dermody@dteenergy.com
Cc: Austin Wilson <awilson@asyousow.org>
Subject: Shareholder Proposal

Ms. Tuckfield,

Please find attached two letters from As You Sow, containing a shareholder proposal filed for inclusion in the 2018 proxy statement. Copies have been sent via FedEx 2-Day. Proof of share ownership will be sent under separate cover. Please forward to the Corporate Secretary.

Best,
Lila

Lila Holzman
Energy Program Manager

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(510) 735-8153 (direct line) | (415) 483-9533 (cell)
Skype: Lila.Holzman
lholzman@asyousow.org | www.asyousow.org

charles SCHWAB

11/24/17

Paul R. Rudd Revocable Trust:

Charles Schwab & Co., a DTC participant, acts as the custodian for Paul R. Rudd Revocable Trust. As of the date of this letter, Paul R. Rudd Revocable Trust held, and has held continuously for at least 13 months, 71 shares of DTE Energy common stock.

Best Regards,

Tina Vanderlin

Relationship Specialist | ACT Premier West 1
Charles Schwab & Co., Inc.

Kimpel, Scott H.

From: Austin Wilson <awilson@asyousow.org>
Sent: Friday, December 15, 2017 2:44 PM
To: Kimpel, Scott H.
Cc: Lila Holzman
Subject: RE: Shareholder Proposal
Attachments: DTE Energy - AYS Authorization, 11.02.2017.pdf

Mr. Kimpel,

Please find attached authorization for Arkay Foundation.

Best,

Austin Wilson
Environmental Health Program Manager
As You Sow
1611 Telegraph Ave., Ste. 1450
Oakland, CA 94612
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Sincerely,

HUNTON& WILLIAMS

Scott H. Kimpel
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Subject: RE: Shareholder Proposal

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Subject: RE: Shareholder Proposal

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Fax: (510) 735-8143
Skype: Austin.leigh.wilson
awilson@asyousow.org | www.asyousow.org

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From: Lila Holzman
Sent: Thursday, November 16, 2017 4:23 PM
To: Barbara.Tuckfield@dteenergy.com; John.Dermody@dteenergy.com
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Subject: Shareholder Proposal

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Arkay Foundation

127 University Avenue
Berkeley, California 94710
tel: 510.841.4025
fax: 510.841.4093
email: info@arkayfoundation.org

November 2, 2017

Andrew Behar
CEO
As You Sow
1611 Telegraph Ave., Ste. 1450
Oakland, CA 94612

Re: Authorization to File Shareholder Resolution

Dear Andrew Behar,

The undersigned, Arkay Foundation (the "Stockholder") authorizes As You Sow to file or cofile a shareholder resolution on Stockholder's behalf with DTE Energy relating to fugitive methane emissions, and that it be included in the 2018 proxy statement, in accordance with Rule 14-a8 of the General Rules and Regulations of the Securities and Exchange Act of 1934.

The Stockholder has continuously owned over $2,000 worth of DTE Energy stock, with voting rights, for over a year. The Stockholder intends to hold the required amount of stock through the date of the company's annual meeting in 2018.

The Stockholder gives As You Sow the authority to deal on the Stockholder's behalf with any and all aspects of the shareholder resolution, including designating another entity as lead filer and representative of the shareholder. The Stockholder understands that the Stockholder's name may appear on the company's proxy statement as the filer of the aforementioned resolution, and that the media may mention the Stockholder's name related to the resolution.

Sincerely,

Harald Leventhal
CFO
Arkay Foundation

Kimpel, Scott H.

From: Austin Wilson <awilson@asyousow.org>
Sent: Monday, December 18, 2017 2:39 PM
To: Kimpel, Scott H.
Cc: Lila Holzman
Subject: RE: Shareholder Proposal
Attachments: DTE Auth v2 Kalpana Raina.pdf

Mr. Kimpel,

Please find attached authorization from Kalpana Raina. Please confirm that there are no remaining deficiencies with our submissions.

Best,

Austin Wilson
Environmental Health Program Manager
As You Sow
1611 Telegraph Ave., Ste. 1450
Oakland, CA 94612
(510) 735-8149 (direct line) | (415) 717-0638 (cell)
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From: Austin Wilson
Sent: Wednesday, November 29, 2017 4:16 PM
To: 'Barbara.Tuckfield@dteenergy.com' <Barbara.Tuckfield@dteenergy.com>; 'John.Dermody@dteenergy.com' <John.Dermody@dteenergy.com>
Cc: Lila Holzman <lholzman@asyousow.org>
Subject: RE: Shareholder Proposal

Ms. Tuckfield,

Finally, As You Sow is withdrawing the co-filing that we submitted on behalf of Lutra Living Trust.

Best,

Austin Wilson
Environmental Health Program Manager
As You Sow
1611 Telegraph Ave., Ste. 1450
Oakland, CA 94612

(510)o735-8149 (direct line) | (415) 717-0638 (cell)o
Fax: (510) 735-8143o
Skype: Austin.leigh.wilsono
awilson@asyousow.org | www.asyousow.orgo

~Building a Safe, Just, and Sustainable World since 1992~

From: Austin Wilson
Sent: Wednesday, November 29, 2017 4:15 PM
To: 'Barbara.Tuckfield@dteenergy.com' <Barbara.Tuckfield@dteenergy.com>; 'John.Dermody@dteenergy.com' <John.Dermody@dteenergy.com>
Cc: Lila Holzman <lholzman@asyousow.org>
Subject: RE: Shareholder Proposal

Ms. Tuckfield,

Please find attached proof of share ownership for John and Linda Mason.

Best,

Austin Wilson
Environmental Health Program Manager
As You Sow
1611 Telegraph Ave., Ste. 1450
Oakland, CA 94612
(510)o735-8149 (direct line) | (415) 717-0638 (cell)o
Fax: (510) 735-8143o
Skype: Austin.leigh.wilsono
awilson@asyousow.org | www.asyousow.orgo

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From: Austin Wilson
Sent: Tuesday, November 28, 2017 11:01 AM
To: 'Barbara.Tuckfield@dteenergy.com' <Barbara.Tuckfield@dteenergy.com>; 'John.Dermody@dteenergy.com' <John.Dermody@dteenergy.com>
Cc: Lila Holzman <lholzman@asyousow.org>
Subject: RE: Shareholder Proposal

Ms. Tuckfield,

Please find attached proof of share ownership for Kalpana Raina and Paul R. Rudd Revocable Trust.

Best,

Austin Wilson
Environmental Health Program Manager
As You Sow
1611 Telegraph Ave., Ste. 1450
Oakland, CA 94612
(510)o735-8149 (direct line) | (415) 717-0638 (cell)o
Fax: (510) 735-8143o

Skype: Austin.leigh.wilson
awilson@asyousow.org | www.asyousow.org

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From: Austin Wilson
Sent: Monday, November 20, 2017 5:01 PM
To: Barbara.Tuckfield@dteenergy.com; John.Dermody@dteenergy.com
Cc: Lila Holzman <lholzman@asyousow.org>
Subject: RE: Shareholder Proposal

Ms. Tuckfield,

Please find attached proof of share ownership for Arkay Foundation. A physical copy will not be sent unless requested.

Proof of share ownership for the co-filers will be forwarded under separate cover.

Best,

Austin Wilson
Environmental Health Program Manager
As You Sow
1611 Telegraph Ave., Ste. 1450
Oakland, CA 94612
(510)e735-8149 (direct line) | (415) 717-0638 (cell)e
Fax: (510) 735-8143e
Skype: Austin.leigh.wilsone
awilson@asyousow.org | www.asyousow.orge

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From: Lila Holzman
Sent: Thursday, November 16, 2017 4:23 PM
To: Barbara.Tuckfield@dteenergy.com; John.Dermody@dteenergy.com
Cc: Austin Wilson <awilson@asyousow.org>
Subject: Shareholder Proposal

Ms. Tuckfield,

Please find attached two letters from As You Sow, containing a shareholder proposal filed for inclusion in the 2018 proxy statement. Copies have been sent via FedEx 2-Day. Proof of share ownership will be sent under separate cover. Please forward to the Corporate Secretary.

Best,
Lila

Lila Holzman
Energy Program Manager
As You Sow
1611 Telegraph Ave., Ste. 1450
Oakland, CA 94612
(510)e735-8153 (direct line) | (415) 483-9533 (cell)e

November 2, 2017

Andrew Behar
CEO
As You Sow
1611 Telegraph Ave., Ste. 1450
Oakland, CA 94612

Re: Authorization to File Shareholder Resolution

Dear Andrew Behar,

The undersigned, Kalpana Raina (the "Stockholder") authorizes As You Sow to file or cofile a shareholder resolution on Stockholder's behalf with DTE Energy, relating to methane emissions, and that it be included in the 2018 proxy statement, in accordance with Rule 14-a8 of the General Rules and Regulations of the Securities and Exchange Act of 1934.

The Stockholder has continuously owned over $2,000 worth of DTE Energy stock, with voting rights, for over a year. The Stockholder intends to hold the required amount of stock through the date of the company's annual meeting in 2018.

The Stockholder gives As You Sow the authority to deal on the Stockholder's behalf with any and all aspects of the shareholder resolution, including designating another entity as lead filer and representative of the shareholder. The Stockholder understands that the Stockholder's name may appear on the company's proxy statement as the filer of the aforementioned resolution, and that the media may mention the Stockholder's name related to the resolution.

Sincerely,

Kalpana Raina

Kalpana Raina