STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of **CONSUMERS ENERGY COMPANY** for authority to recover implementation costs, for approval of stranded costs true-up methodology, and for other relief. ______________________________________/	Case No. **U-11955**
In the matter of the application of **THE DETROIT EDISON COMPANY** for authority to recover retail access program implementation costs and for approval of a true-up mechanism in connection with the recovery of stranded costs. ______________________________________	Case No. **U-11956**

REPLY BRIEF OF THE
MICHIGAN PUBLIC SERVICE COMMISSION STAFF

In its Initial Brief, the Michigan Public Service Commission Staff (Staff) addressed the pertinent issues' regarding the requests of Detroit Edison and Consumers Energy for approval of retail access implementation costs, and approval of a true-up methodology for recovery of stranded costs.

Staff incorporates the comments and recommendations made in its Initial Brief in this reply brief. The following reply brief clarifies Staffs position and responds to pertinent issues raised in the initial briefs filed by the other parties in this case.[2]

---

[1] In its Initial Brief, Staff inadvertently failed to identify Mr. Thomas S. Stanton as a witness who provided testimony on behalf of the Staff. (See pg. 3 of Staffs Initial Brief. Mr. Stanton's testimony can be found at 4 Tr 387 to 42 1.)

[2] Initial briefs were filed by Detroit Edison, Consumers Energy, ABATE, the Attorney General, the Michigan Petroleum Association and Michigan Association of Convenience Stores, the Michigan Independent Power Producers Association, and Energy Michigan.

IMPLEMENTATION COSTS

Costs Incurred

In reply to the assertions made by DECo (Initial Brief, pg. 5) and CECo (Initial Brief, pg. 22) that all implementation costs were prudently incurred and hence, recoverable, Staff notes that what the companies really seek is double recovery of these costs. As the record indicates, both companies are enjoying healthy earning levels. In addition, the record clearly shows that many of the costs were not incremental resulting from the direct access program, but resulted from shifting personnel from one function to another.

Furthermore, since the base rates set by the Commission already provide adequate operating and maintenance charges, the companies' argument that they are incurring incremental costs associated with the direct access program rings hollow. (See Staffs Initial Brief, pg. 10.)

Staff believes the adjustments to the companies' implementation costs it recommended in its testimony and initial brief (pgs.10- 12) are appropriate and should be adopted by the Commission.

Method of Recovery

In reply to the assertions made by Edison (Initial Brief, pg. 69) and Consumers (Initial Brief, pg. 19) that all customers should pay a charge for implementation costs, Staff points out this approach contradicts the Commission's June 5, 1997 order in Case No. U-l 1290 which clearly indicates that customers that choose to remain full service customers should not pay for implementation. The order states:

> "In 2002, all remaining customers will be afforded the option of choosing an alternative supplier for power generation. Customers not electing this option may retain total service from their host utility." (p. 7).

* * *

> "Stranded cost recovery is an important element of electric restructuring and is needed to protect the interests not only of the utility, but also of those who wish to remain traditional sales customers of the serving utility." (p. 12).
>
> * * *
>
> "In the process of implementing customer choice, the Commission is committed to ensuring that customers who choose to remain sales customers of the existing utility are not harmed by the change." (p. 12).
>
> * * *
>
> "If some customers choose to leave [full] sales service to participate in direct access and are not required to pay an appropriate transition charge to cover their proportionate share of these cost items, the fixed costs will necessarily be borne by the remaining sales customers or by the utility and its shareholders. It would not be equitable to increase rates for remaining customers to pay for costs associated with customers who choose direct access." (p. 12).
>
> * * *
>
> The previous analysis [of stranded costs] holds even more forcefully with respect to these items [employee retraining costs and specific costs of implementing the direct access system]. These are costs that would not be incurred absent a direct access program. Consequently, it would be inappropriate to require all of these costs to be borne by those customers who did not wish to participate in direct access." (pp. 12-13).

Staff continues to recommend that any implementation costs approved by the Commission be borne by customers who choose to participate in direct access.

TRUE-UP METHODOLOGY

Overview

The Commission should use extreme caution when addressing the true-up process. The utilities have placed before the Commission a process based on complex spreadsheet models, replete with estimates, forecasts, guesses and computational details which tax the resources of those persons not totally conversant with the process of obtaining or creating the input data, performing complex calculations and analyzing results.

Staff believes the power to control this complex process outlined by the utilities lies, and will always remain, with the parties in control of the data – Detroit Edison and Consumers

Energy. Staff believes it is incumbent on the Commission to simplify the process while retaining the needed flexibility to address future events. The required simplification is embodied in the approach presented by the Staff.

Market Price of Power

In its Initial Brief (pp. 13-16), Staff proposed that the Commission "address the method it will use to establish a market price for the 1999 true-up case, keeping in mind the possibility of improving that method in future years as the competitive marketplace begins to establish itself and more accurate and complete market price data becomes available." In order to accurately establish a market clearing price (MCP) for use in annual true-up cases, Staff recommended that prices in power supply agreements on file with the Commission will need to be augmented with actual billing determinants and all data sources will need to be rectified in order to insure that the same reference point is being used for all estimates. The reference point Staff recommended is "the full price of all generation services delivered to a representative mix of Michigan retail open access customers." That means adjusting prices to account for all delivery and ancillary services charges. In addition, Staff recommended that the Commission continue to monitor various price indexes consulted by Staff witness, Mr. Carlson (5 Tr 815-816). Staff noted that the Commission could use price indexes "strictly as a point of reference and comparison, or to create a blended average market price of power." If a blended average is to be used, Staff (Initial Brief, p. 16) recommended 70% weighting for power supply agreements filed with the Commission, and 10 percent each for the three indexes Mr. Carlson reviewed in his testimony. Staff (Initial Brief, p. 17) recommended that the Commission "adopt a methodology for determining the market price of power".

Consumers Energy (Initial Brief, pp. 27-29) proposes that the Commission employ an "average wholesale market price" when determining the market clearing price.

Detroit Edison (Initial Brief, p. 46) proposes that an "average slice" of its total resource supply portfolio should be used to determine the MCP. Edison (Initial Brief, pp. 48, 50) proposes to offer an "average slice" of its resource portfolio for sale to competitive suppliers, and suggests that the sale price should be included in the Commission's determination of MCP. Furthermore, Edison (Initial Brief, p. 43) claims that once the Commission has determined the difference in MCP, between the initial estimate and actual, then no additional "netting" is needed. Edison (Initial Brief, p. 5 1), like Staff, proposes that the Commission decide on the method that will be used to determine MCP. Edison points out that the MCP estimate it used in its initial stranded cost calculations was "on an output rather than a sales basis" (that is, on a wholesale rather than retail basis.)

The Attorney General (Initial Brief, p. 44) recommends that the Commission reject the Consumers and Edison proposals to use sources other than retail prices as the basis for calculating MCP. ABATE (Initial Brief, pp. 19-2 1) also supports use of retail prices for calculating MCP and rejects the Consumers and Edison proposals, and ABATE (Initial Brief, pp. 23-26) supports procedures for netting stranded benefits and mitigating stranded costs.

Energy Michigan (Initial Brief, pp. 6, 34-36) supports Staffs method of calculating the MCP, using actual retail open access power sales agreement prices and making adjustments to account for variations in load factors and line losses. MIPPA (Initial Brief, pp. 3-4, S-9) supports use of a wholesale price for calculating the MCP, and recommended using data from the Cinergy or NYMEX futures markets. MIPPA (Initial Brief, p. 10) rejects Edison's proposal to sell an "average slice" of its generating capacity.

Staff does not support the utility proposals. Staff believes that actual retail open access contract prices can be used to determine the market clearing price, as long as adjustments are included to account for load factors, line losses, and ancillary services. The parties offer a variety of proposals about prices to use for MCP analysis; wholesale versus retail. These differences underscore the need to determine both how the MCP will be calculated, and whether and how to adjust the calculated MCP to reflect the appropriate wholesale or retail market needed in order to evaluate stranded costs.

Metering and Billing

Staff recommended that the Commission postpone any decision on the status of metering and billing in the competitive environment, until better information is available about the costs and benefits of various regulatory approaches to metering and billing (4 Tr 411).

Both Consumers (Initial Brief, pp. 30-33) and Edison (Initial Brief pp. 96-l 13) propose that the Commission should allow the distribution companies to maintain their monopoly on metering and billing functions. Both companies assert there are economies of scale in centralized billing and metering services, and raise safety, technical, security, and liability concerns about competition in this service function. Both companies contend that billing and metering services represent a very small portion of customer costs (3%), and therefore offer only trivial opportunities for savings due to competition.

ABATE (Initial Brief, p. 27) recommends that the Commission establish a task force, headed by the Staff, which would investigate competitive metering and billing, and "present its findings in the next true-up case." Energy Michigan (Initial Brief, pp. 2, 8- 10) supports competition in metering, and the use of industry standards for equipment and installations. As an alternative to open competition with respect to metering and billing functions, Energy Michigan requests that utility metering systems “allow unrestricted dial-in or Internet access at no charge to customers or their marketing providers. …” Energy Michigan states that Detroit Edison uses proprietary metering equipment, improperly restricting access to the data customers and marketers need. Energy Michigan proposes that an advisory group be established, including representatives of utilities, customers, marketers, and MPSC Staff, “to develop new standards to ensure utilization of uniform data and equipment standards.”

Staff understands that metering and billing, in and of themselves, may not offer the potential for large customer savings. However, Staff anticipates that metering and billing technologies will enable large cost saving opportunities. Emerging information and control technologies utilize meters and billing as critically important customer interfaces. Metering and billing could easily become a vital locus of data exchange and systems control between customer and supplier. Competitive suppliers might offer a whole range of technologies and services using a variety of new metering technologies. It would be inappropriate to restrict access to those potential innovations and additional customer choices simply because the metering and billing, per se, do not appear on the surface to offer much opportunity for savings.

For the time being, Staff believes it is sufficient for the Commission to allow Consumers and Edison to meter and bill for all the services they provide. The companies should continue to allow competitors and customers to install their own additional metering equipment, if they so desire, and should make available at no cost the metering data collected by the companies, that competitors and customers need. If the utilities believe they are entitled to recover extraordinary costs associated with the provision of such data, they should account for that in implementation costs, in future true-up cases. Staff believes that industry standards will emerge in the coming years that may provide opportunities for further unbundling of the metering and billing function.

In the meantime, competitors and customers may demonstrate potential customer benefits of competitive metering and billing services, and the Commission can continue to investigate options for regulating those functions.

Staff continues to support its recommendation that the Commission postpone a decision on metering and billing. Staff believes that it might be helpful to establish a task force or advisory group on metering and billing issues, but cautions against requiring any final recommendations or forcing decisions on these issues by the time of the next true-up case.

Conclusion

Staff respectfully requests that the Commission adopt Staffs proposed modifications to the implementation costs Detroit Edison and Consumers Energy seek to recover. Staff further requests that the Commission adopt Staffs recommendations for a true-up methodology for recovery of stranded costs.

Respectfully submitted,

MICHIGAN PUBLIC SERVICE COMMISSION STAFF

Steven D. Hughey (P32203)
Assistant Attorney General
Public Service Division
6545 Mercantile Way, Suite 15
Lansing, MI 48911
Telephone: (5 17) 241-6680

DATED: February 11, 2000
11955-56/RB

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of
CONSUMERS ENERGY COMPANY
for authority to recover implementation
costs, for approval of stranded costs true-up
methodology, and for other relief.

Case No. U-l 1955

In the matter of the application of
THE DETROIT EDISON COMPANY
for authority to recover retail access
program implementation costs and for
approval of a true-up mechanism in connection
with the recovery of stranded costs.
/

Case No. **U-l 1956**

PROOF OF SERVICE

STATE OF MICHIGAN)
) **SS**
COUNTY OF INGHAM)

TINA L. BIBBS, being first duly sworn, deposes and says that on **February 11, 2000,** she served a true copy of **REPLY BRIEF OF THE MICHIGAN PUBLIC SERVICE COMMISSION STAFF** upon the parties listed on the attached Service List by depositing the same in a United States postal depository enclosed in an envelope bearing postage fully prepaid, **and via e-mail as** listed on the attached Service List.

Tina L. Bibbs
TINA L. BIBBS

Subscribed and sworn to before me

this **11th** day of **Februarv, 2000.**

Carol Ann Dane
Car01 Ann Dane, Notary Public
Eaton County, Michigan
My Commission Expires: **7-23-2000**

MPSC Case Nos. U-11955 and U-11956
SERVICE LIST

Attys for CECo JON R. ROBINSON H. RICHARD CHAMBERS Consumers Energy Company 212 W. Michigan Avenue Jackson, MI 49201 E-mail: jrrobinson@cmsenergy.com; hrchambers@cmsenergy.com; sbdalton@cmsenergy.com	**Atty for DECo** BRUCE R. MATERS The Detroit Edison Company 2000 Second Avenue, 688 WCB Detroit, MI 48228 E-mail: matersb@detroitedison.com
Atty for ABATE RODERICK S. COY STEWART BINKE Clark Hill P.L.C. 255 S. Old Woodward, 3rd Floor Birmingham, MI 48009 E-mail: sbinke@clarkhill.com; rcoy@clarkhill.com jtselecky@consultbai.com	**Atty for Energy Michigan** ERIC J. SCHNEIDEWIND Varnurn, Riddering, Schmidt & Howlett The Victor Center, Ste. 810 201 N. Washington Square Lansing, MI 48933 E-mail: ejschneidewind@vrsh.com
Atty for MIPPA RONALD E. RUSSELL Russell & Russell, P.C. 525 Okemos Street, Ste. B Mason, MI 48854 E-mail: rrussell@enstarenergy.com	**Attys for MPPA, et al** DON L. KESKEY BRIAN COYER Knaggs, Harter, Brake & Schneider, P.C. 1375 S. Washington Ave., Ste. 300 Lansing, MI 489 10 E-mail: khblaw@voyager.net
Attys for Michigan Power Limited Partnership, *et al* MICHAEL S. ASHTON DAVID E.S. MARVIN THOMAS J. WATERS Fraser, Trebilcock, Davis & Foster, P.C. 1000 Michigan National Tower Lansing, MI 48933 E-mail: mashton@ftdf.com; dmarvin@ftdf.com; twaters@ftdf.com	**Atty for National Energy Marketers Association** JOHN M. DEMPSEY Dickinson, Wright 215 S. Washington Square, Ste. 200 Lansing, MI 48933 E-mail: jdempsey@dickinson-wright.com
Atty for Attorney General DONALD E. ERICKSON Special Litigation Division 6520 Mercantile Way, Suite 2 P.O. Box 30218 Lansing, MI 48909 E-mail: ericksond@ag.state.mi.us	JAMES N. RIGAS Administrative Law Judge Michigan Public Service Commission 6545 Mercantile Way, Suite 14 Lansing, MI 48909 E-mail: james.n.rigas@cis.state.mi.us