

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL



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JENNIFER MULHERN GRANHOLM
ATTORNEY GENERAL

April 30, 1999

Ms. Dorothy Wideman
Executive Secretary
Michigan Public Service Commission
6545 Mercantile Way
Lansing, MI 48911

Dear Ms. Wideman:

Re: MPSC Case No. U-11956

I am enclosing for filing an original and 4 copies of the Notice of Intervention by Attorney General Jennifer M. Granholm. I am also enclosing a proof of service. In addition, a copy of this filing is being submitted electronically pursuant to the instructions in the Commission's notice of hearing

Sincerely,

Donald E. Erickson
Assistant Attorney General

c All Parties
sld/cases/U-11956

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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

_____/

Notice of Intervention
by Attorney General Jennifer M. Granholm

Now comes Attorney General Jennifer M. Granholm and gives notice of her intervention as a party and of her appearance in this proceeding. In response to the application filed by The Detroit Edison Company (DECo or the Company) and the notice of hearing issued by the Michigan Public Service Commission (MPSC or Commission), the Attorney General says:

I. Statement of Interest

1. She is the duly elected and qualified Attorney General of the State of Michigan and holds such office by virtue of and pursuant to Const 1963, art 5, § 21, and by mandate of the qualified electorate of the State of Michigan, and she is head of the Department of Attorney General created by the Executive Organization Act, 1965 PA 380, ch 3; MCL 16.150; MSA 3.29(5), and The State of Michigan is a body politic established under the Constitution of the United States and admitted into the Union by act of Congress under date of January 26, 1837.

2. The Attorney General intervenes and appears in this proceeding for and on behalf of the People of the State of Michigan and for and on behalf of the State of Michigan, its departments, commissions and agencies, as customers and ratepayers of DECo. DECo has approximately 1.9 million ratepayers. The interest of these ratepayers is a public one, being common among virtually all electric ratepayers in DECo's service area. The State of Michigan is a substantial user of and ratepayer for DECo's electricity services.

3. The Attorney General's intervention and appearance in this proceeding are authorized by both the statutory and common law of Michigan. MCL 14.28; MSA 3.181 provides in pertinent part:

"... the attorney general . . . may, when in [her] own judgment the interests of the state require it, intervene in and appear for the people of this state in any other court or tribunal, in any cause or matter, civil or criminal, in which the people of this state may be a party or interested."

The Attorney General has the right to intervene in any administrative proceeding when the Attorney General, in her own discretion, deems it in the public interest to do so. *People v O'Hara*, 278 Mich 281; 270 NW 298 (1936), and *Gremore v People's Community Hospital Authority*, 8 Mich App 56; 153 NW2d 377 (1967).

Furthermore, when the Attorney General deems it in the public interest to do so, she may intervene in any administrative proceeding at any stage of that proceeding. *Attorney General v Liquor Control Comm*, 65 Mich App 88; 237 NW2d 196 (1975).

4. The Attorney General, in her judgment, has determined that the interests of both the State and the People of the State of Michigan require her to intervene in this proceeding on their behalf. This proceeding will directly affect the State and a large number of the People of this State who are customers of DECo. The State and correspondingly the taxpayers of this State pay significant amounts for

utility service for the State in the conduct of the People's affairs. In addition, the People of this State who are customers of DECo also pay large sums for utility service for their homes and businesses. Any action taken in this proceeding will directly affect both the economy of the state and the general well-being of all of the citizens and residents of this State.

II. Statement of Positions

5. The Attorney General takes the position that this true-up proceeding should not be conducted in two phases as proposed by DECo.

6. The Attorney General takes the position that DECo has the burden of proving it actually and reasonably and prudently incurred \$14 million in electric restructuring implementation costs during 1998 and in the first quarter of 1999.

7. The Attorney General takes the position that under the MPSC's prior orders in Case Nos. U-11290 and U-11454 it would be unreasonable for the Commission to approve either recovery of or a projection of \$100 million for "planned expenditures for the 1999-2001 period related to the implementation of customer choice" as proposed by DECo.

8. Assuming only for the sake of argument DECo is entitled to recover \$14 million in implementation costs, the Attorney General takes the positions (a) that the MPSC's prior orders concerning costs of implementing the transition to open access transmission service do not provide any lawful basis for charging implementation costs to customers who continue to take bundled electrical sales service, (b) that recovery of the alleged implementation costs should be allocated to customers in a manner and over periods which will equitably minimize the cost per customer, and / or (c) that revenues actually received from rates designed to recover

reasonably and prudently incurred implementation costs should be ultimately reconciled with the actual costs.

9. The Attorney General takes the position that it is premature to address recovery of customer education costs under the CHOICE program because DECo has not been ordered to pay any such costs.

10. The Attorney General takes the position that it is premature to address any aspect of possible future costs such as automated meter reading system costs, new systems costs needed to meet requirements at the MEPCC, ISO participation costs, transmission system upgrade costs, and employee transition costs.

11. The Attorney General takes the position that automated meter reading system costs, new systems costs needed to meet requirements at the MEPCC, ISO participation costs, transmission system upgrade costs, and employee transition costs may or may not qualify as costs related to the restructuring of the electric industry, but that such issues should be addressed in a concrete, not an abstract, context.

12. The Attorney General takes the position that the MPSC should audit and verify DECo's claimed implementation costs and should hold hearings in this case to examine those cost for reasonableness and prudence. Therefore, the Attorney General supports ABATE's motion for a Staff audit of alleged implementation costs before reviewing and determining recovery of such costs.

13. The Attorney General takes the position that if DECo's recovery of: (a) stranded costs for regulatory assets, nuclear plant capital costs, and capacity charges from purchase power agreement, (b) implementation costs, and (c) employee retraining costs plus market prices will not yield material net savings for customers when compared with DECo's bundled, cost-of-service electric rates, then the MPSC should not continue to implement open access service and / or should not approve recovery of implementation costs.

14. That Attorney General takes the position that the MPSC should adopt a policy under which the true-up of future stranded cost recoveries will include a reconciliation and allocation of the actual revenues recovered from both sales and open access customers for the so-called stranded costs previously identified by the Commission.

15. The Attorney General takes the position that DECo's actual recovery of stranded costs should be adjusted to reflect increases in the total number of kWh delivered to sales and open access customers which have not been included in the calculation of base rates or open access transition charges.

16. The Attorney General takes the position that DECo's stranded costs should be reduced to reflect DECo's accounting balances as of the revised open access implementation date approved by the Commission.

17. The Attorney General takes the position that the MPSC should adopt a policy that total stranded costs recovered will be limited by the use of actual market price information for the applicable future periods through the end of 2007.

18. The Attorney General takes the position that the MPSC should adopt a policy for future true-up cases which requires the reduction of stranded cost recovery by recognizing any financial benefits arising out of deregulating generating plant assets and/or power purchase agreements.

19. The Attorney General takes the position that future true-ups should adjust stranded cost recovery to reflect an obligation to mitigate stranded costs.

20. The Attorney General takes the position that as long as stranded costs do not exceed any amount by which DECo's actual achieved rate of return on equity exceeds the MPSC-authorized rate of return for the same period DECo should not be allowed any recovery for stranded costs, implementation costs, and/or employee retraining costs.

Relief Requested

WHEREFORE, Attorney General Jennifer M. Granholm requests the Michigan Public Service Commission to:

- A. Enter her Notice of Intervention upon the official record of the captioned proceeding and treat her as a party for all purposes;
- B. Conduct proceedings in this case in a manner consistent with prior MPSC orders and the Administrative Procedures Act; and
- C. Grant the ratepayers of The Detroit Edison Company such further and additional relief as the facts and circumstances show to be appropriate.

Respectfully submitted,

JENNIFER M. GRANHOLM
Attorney General

J. Peter Lark (P26970)
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Dated: April 30, 1999
sld/cases/U-11956

PROOF OF SERVICE

MPSC Case No. U-11956

The undersigned certifies that a copy of the **Notice of Intervention by Attorney General Jennifer M. Granholm** was served upon the parties listed below by mailing the same to them at their respective addresses with first class postage fully prepaid thereon, or by State Interdepartmental mail as indicated, on the 30th day of April, 1999.



Christina M. Pearce

Administrative Law Judge:

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[I. D. Mail]

The Detroit Edison Company (DECo):

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[I.D. MAIL]

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Michigan South Central Power Agency
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