

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL



WILLIAM J. RICHARDS
Deputy Attorney General

P.O. Box 30218
LANSING, MICHIGAN 48909

JENNIFER MULHERN GRANHOLM
ATTORNEY GENERAL

February 4, 2000

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

Dear Ms. Wideman:

Re: **MPSC Case No. U-12177**

I am enclosing for filing an original and 4 copies of the "Attorney General's Response to Detroit Edison's Untimeliness Claim" along with a proof of service. Since this case has been designated as a part of the Commission's electronic filings pilot program, this cover letter, the response, and the proof of service are also being filed electronically.

In addition, please note that the address above and on the response have changed.

Sincerely,

Donald E. Erickson

Donald E. Erickson
Assistant Attorney General

c All Parties
sld/cases/U-12177

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the motion of the
ASSOCIATION OF BUSINESSES
ADVOCATING TARIFF EQUITY for the
Commission to issue an order to initiate
proceedings to show cause why public
utilities should not establish comprehensive
procedures to implement the provisions of
the Public Utility Regulatory Policies Act of
1978 or, in the alternative, to reopen Case
No. U-6798

Case No U-8869-DE

In the matter, on the Commission's own
motion, to commence a proceeding to
establish a framework for future capacity
solicitations by THE DETROIT EDISON
COMPANY from qualifying facilities as
defined by the Public Utility Regulatory
Policies Act of 1978

Case No. U-9798

In the matter of the Petition of THE
DETROIT EDISON COMPANY to establish a
revised procedure for future capacity
solicitations

MPSC Case No. U-12177

I

Attorney General's Response to Detroit Edison's Untimeliness Claim

On February 1, 2000, The Detroit Edison Company (DECo or the Company)
filed a document entitled: "The Detroit Edison Company's Reply to Comments on
Its Capacity Solicitation Proposal." Detroit Edison's reply raises an affirmative
defense that the Attorney General's petition for rehearing is untimely. In response,
Attorney General Jennifer M. Granholm says as follows:

1. On page 7 of its reply, DECo contends that the "Attorney General's Petition for Rehearing and Comments" is untimely because it was not filed with the 30-day period permitted by 1992 AACCS, R 460.17403 (Rule 403).

2. The Michigan Public Service Commission (MPSC or Commission) issued its Opinion and Order in the captioned cases on December 16, 1999.

3. Rule 403 requires the filing of any petition for rehearing within 30 days of any Commission order.

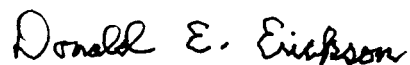
4. However, MCL 8.6; MSA 2.217 provides that in computing a period of days under statutes or administrative rules, when the last day of any period is a Saturday, Sunday or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday or legal holiday. See also, MCR 1.108.

5. The thirtieth day following December 16, 1999, fell on January 15, 2000, but that day was a Saturday. The following day (1/16 was a Sunday), and the next day (1/17) was a legal holiday (Martin Luther King Day). Therefore, the Attorney General's petition for rehearing which was filed on January 18, 2000, was timely.

6. In other words, DECo's affirmative defense must be rejected as a matter of law because the Attorney General's rehearing petition was timely.

Respectfully submitted,

Jennifer M. Granholm
Attorney General



Donald E. Erickson
Assistant Attorney General
Special Litigation Division
6520 Mercantile Way, Suite 2
P. O. Box 30218
Lansing, MI 48909

February 4, 2000.

PROOF OF SERVICE

MPSC Case Nos. U-8689-DE, U-9798, and U-12177

The undersigned certifies that a copy of the Attorney General's Response to Detroit Edison's Untimeliness Claim 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 4th day of February, 2000.



Lois E. Gruesbeck

Administrative Law Judge:

ALJ Daniel E. Nickerson, Jr.
Michigan Public Service Commission
6545 Mercantile Way, Suite 14
P.O. Box 30221
Lansing, MI 48909 [I.D. Mail]

The Detroit Edison Company:

Mr. Bruce R. Maters
Mr. Jon P. Christinidis
The Detroit Edison Company
2000 Second Avenue, 688 WCB
Detroit, MI 48226

MPSC Staff:

Mr. David A. Voges
Assistant Attorney General
Public Service Division
6545 Mercantile Way, Suite 15
Lansing, MI 48911 [ID Mail]

ABATE:

Mr. Robert A.W. Strong
Clark Hill, P.L.C.
255 S. Old Woodward Ave., Suite 301
Birmingham, MI 48009

Enerw Michigan:

Mr. Eric J. Schneidewind (P20037)
Varnum, Riddering, Schmidt &
Howlett, LLP
The Victor Center Suite 810
201 N. Washington Square
Lansing, MI 48933