STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the Matter of the Application of The Detroit Edison Company for certain determinations pursuant to Sections 32(c) and (d) of the Public Utility Holding Company Act of 1935 and for accounting approval for the transfer of certain assets.	)))))))	Case No. U-12266

PETITION TO INTERVENE AND DEMAND FOR HEARING
OF THE ASSOCIATION OF BUSINESSES ADVOCATING TARIFF EQUITY

The Association of Businesses Advocating Tariff Equity ("ABATE"), by its attorneys, Clark Hill P.L.C., hereby petitions to intervene in the above captioned proceeding and requests the Michigan Public Service Commission ("Commission") to not issue an *ex parte* order but rather to set this matter for hearing and in support thereof states as follows:

I

ABATE is a voluntary association of large industrial businesses which are located in and doing business in the State of Michigan. The purposes of ABATE are to appear before the Commission, the Federal Energy Regulatory Commission ("FERC") and other regulatory and legislative bodies having jurisdiction over public utilities and natural gas pipelines, to advocate the adoption of utility and energy rates, terms and conditions of service and other tariffs or contracts governing utility and energy services which are just and reasonable, nondiscriminatory, nonpreferential, equitable and based on the cost of providing service to each class of utility customer. ABATE has been formed for the express purpose of participating in regulatory and legislative proceedings to protect the interests of businesses in connection with energy and utility matters. Members of ABATE consume substantial quantities of electricity and natural gas and in Michigan alone their combined gas and electric bills exceed $1.5 billion annually. As large gas and electric customers, ABATE members are vitally interested in achieving increased economic efficiencies for gas and electric utilities and new electricity sourcing options which allow ABATE members to more effectively compete in the worldwide economy.

II

The current members of ABATE are: ABTco, Inc., A Louisiana - Pacific Company; BASF Corporation; The Budd Company; Cargill; DaimlerChrysler Corporation; Eaton Corporation; Edward C. Levy Company; Elf Atochem North America, Inc.; Ervin Industries, Inc.; Escanaba Paper, A Mead Company; Ford Motor Company; General Motors Corporation; Holnam, Incorporated; Martin Marietta Magnesia Specialties, Inc.; Masco Corporation; MascoTech, Inc.; National Steel Corporation - Great Lakes Division; Pharmacia & Upjohn; Quanex Corporation; Solutia, Inc.; Steelcase, Inc. and Warner-Lambert-Parke-Davis.

III

ABATE has frequently intervened in various The Detroit Edison Company ("Edison") cases, including its last general rate, depreciation, PSCR plan, and PSCR reconciliation cases. ABATE is also pursuing a complaint against Edison to reduce the retail rates all customers pay for electricity.

IV

ABATE submits that its members have a substantial interest in this proceeding because it can fundamentally affect the way in which Edison sells its assets and the subsequent offset to stranded costs. Upon information and belief, the allegations in Paragraph 11 of Edison's Application are incorrect because the transaction described in the Application will actually increase the rates to be paid by Edison's customers. This is because Edison has not maximized the value of the unit and, correspondingly, has not maximized the offset to stranded costs through a sale of this unit.

The valuation method proposed by Edison is fundamentally flawed because it depends upon affidavits from employees of Edison which have every reason to be biased in Edison's favor. There is no showing by a market test what the value of this unit is and, upon information and belief, there are companies that are willing to pay more than twice book value for the opportunity to commercially develop this unit. There is no attempt to value this unit through the services of an independent appraiser who, in all probability, would have used a discounted cash flow model to determine the value of the plant given the capital costs associated to bring the plant into full commercial operation. Instead, there is a two page affidavit with no back up. Either a market sale approach or an independent appraiser are needed to ensure that the maximum value of the unit is received or imputed to Edison in order to reduce stranded costs.

Even if this unit were sold to Edison's affiliate, Edison has made no commitment that the difference between the net book value and the sales price would be used to offset Edison's prudently incurred stranded and implementation costs. Without such a commitment, no sale should be approved.

The Commission should also consider the implications of setting the precedent of allowing Edison to sell one of its units to a utility affiliate. This sale will not result in the creation of an independent and open competitive market for generation. Instead, a valuable generating asset located in Michigan will remain under an umbrella that is ultimately controlled by DTE Energy. Based upon the Application filed by Edison, there is no way the Commission can conclude that the sale of the unit benefits consumers as compared to other alternatives. Consequently, the requirements of Section 32(c) of PUCHA have not been met. 15 USCS § 792 5(c).

The Commission should be very careful in considering Edison's request. If the Commission approves this private sale to an affiliate what is there to prevent more and more private sales? ABATE assumes that these sales would be at levels above book value but that should not be the test for approval of a sale to an affiliate. The proper test, if these sales are to be allowed at all, is whether the utility took all reasonable steps to realize the maximum value of the asset. The pleading filed by Edison requests the Commission to establish a very low standard for this and future asset sales and *ex parte* approval should be rejected.

Finally, the timing of Edison's request is suspect. Again, Edison requests the regulators to act quickly in order to allow the capacity to come on line before summer. The Commission's deliberations should not be rushed based upon time deadlines created by Edison. The Commission has encountered this problem before and put Edison on notice that filings must be timely. See the most recent discussion of timing of these requests in Order, Case No. U-11954, dated June 10, 1999. Therefore, the Commission should carefully consider all of the ramifications of this case and not be rushed to judgment.

The above reasons and policies require the Commission to fully analyze this transaction and the implications it has for future potential asset sales. This can only be done in a contested case after broad notice of this important policy decision requested from the Commission.

V

ABATE respectfully submits that because its members could be substantially affected by the sale of River Rouge Unit 1, it should be permitted to intervene in this proceeding and be given the opportunity to cross-examine witnesses, to present witnesses on its behalf, if necessary, and generally to advocate its position with respect to all issues presented as a full party to this proceeding.

VI

ABATE reserves the right to take new and different positions if, and when, this case proceeds to full hearings and following a review of the utility testimony filed in this case and responses to discovery.

WHEREFORE, ABATE requests that the Commission grant ABATE's Petition to Intervene in and be treated as a full party hereto. ABATE also requests that the Commission set this matter for hearing.

Respectfully submitted,

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