

Detroit Edison



A DTE Energy Company

January 31, 2000

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Ms. Dorothy Wideman
Executive Secretary
Michigan Public Service Commission
6545 Mercantile Way
Lansing, Michigan 48909-7721

Re: MPSC Case No. U-12266

Dear Ms. Wideman:

Please find enclosed for filing with the Commission an original and four copies of The Detroit Edison Company's Objection **PG&E's** Petition to Intervene and Proof of Service regarding the above referenced matter.

Very truly yours,

Bruce R. Maters

BRM:gg
Enclosure

cc: Service List

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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-I 2266

**OBJECTION OF THE DETROIT EDISON
COMPANY TO PG&E'S PETITION TO
INTERVENE AND REQUEST FOR HEARING**

THE DETROIT EDISON COMPANY ("Edison"), pursuant to the Commission's Rules of Practice and Procedure, files this Objection to PG&E Corporation's January 25, 2000 Petition to Intervene and Request for Hearing and in support says as follows:

1. On January 25, 2000, PG&E Corporation ("PG&E") filed a Petition for Leave to Intervene and Request for Hearing in this proceeding, alleging that it is one of the nation's largest natural gas and electricity suppliers providing competitive wholesale and retail energy services, energy trading and electric generation. According to its Petition, PG&E has a "strong" interest in expanding its services to customers in Michigan (§ 1) PG&E is not a customer of Edison. Edison did not receive a copy of the Petition until Friday, January 28, 2000.

2. In determining whether a party has standing in contested cases before it, the Commission applies a "two-prong" test. This test requires a party to demonstrate that: 1) it will suffer an "injury in fact," and 2) the interests it seeks

to promote are within the “zone of interests” to be protected by the statute or constitutional guarantee in question (see Association of Data Processing Service, Inc. v Camp, 397 U.S. 150, 90 S Ct 827; 25 L Ed 2d 184 (1970); Drake v The Detroit Edison Company, 453 F Sup 1123 (WDMich, 1978)). Edison submits that **PG&E** cannot satisfy either prong of this test for standing in this case.

3. The ultimate issue in this case is whether, consistent with **Section 32(c) and (d)** of the Public Utility Holding Company Act of 1935 (“PUHCA”), transfer of the River Rouge **1** Unit to an Edison affiliate will benefit customers, be in the public interest and not violate state law so that it may obtain “eligible facility” status as an Exempt Wholesale Generator under PUHCA. **PG&E's** Petition does not allege that it will suffer any particular injury if it is not allowed to participate in this case. **PG&E** alleges only that the proposed transfer price for the Rouge Unit may not be reasonable (§ 7) and that transfer of the facility to an affiliate may not be the only alternative for operation of the facility by Summer 2000 (§8). **PG&E** also makes a vague, undefined allegation that approval of Edison’s Application “will send the message that Michigan is not committed to the development of a competitive market.” (§9)

4. These allegations are insufficient to support a finding that **PG&E** will suffer an “injury in fact,” if it is not allowed to participate in this proceeding. **PG&E** has based its interest solely on a mischaracterization of the scope of this proceeding and the threat that approval of the Rouge 1 transfer may result in some conjectural future injury. The Commission has consistently held that claims of speculative, future injury will not satisfy the “injury in fact” standard.

(Re: Mercury Exploration Company, Case No. U-10636; PSC Lexis 272 (1994);
Re: CMS Gas Transmission Co., Case No. U-9852, PSC Lexis 261 (1991))

5. **PG&E** has failed to satisfy the second prong of the Commission's standing test by failing to identify a sufficient interest within a "zone of interests" to be protected in this proceeding. **PG&E's** general allegations are that it is a competitor of Edison and that it wants to expand its operation in Michigan. The Commission has held that competitive interests are not within the "zone of interests" to be protected under the Commission's ratemaking statutes. (see Re: Mercury Exploration Co., supra). **PG&E** did not identify any large users of electricity within Edison's service territory which it claims to represent.

6. **PG&E** has not alleged that it has a particular expertise or perspective that would assist the Commission in reaching a decision in this case, or that an important public interest would be served by granting it discretionary intervention. Indeed, Edison finds it curious in the least that **PG&E**, as a potential supplier in the electric retail access program, would oppose the addition of new generating capacity within Michigan to service wholesale retail access load. Similarly, what possible reason could **PG&E** have to contest the transfer price of the Rouge 1 unit except to prevent or delay the Rouge 1 capacity from reaching the Michigan market or inflate the price of energy in the Michigan market?

7. In fact, Edison submits that the real purpose behind **PG&E's** interest in this case is to further its own competitive position, and that any perceived benefit derived from participation by **PG&E** in this proceeding will be outweighed by the delay, expense and unnecessary administrative burdens

accompanying its involvement (see Re: Michigan Consolidated Gas Co., Case No. U-9138, PSC **Lexis** 332 (1988)). Therefore, **PG&E** should not be granted discretionary intervention.

8. Finally, the various issues raised by **PG&E** in its Petition concerning the need for a hearing in this case have been addressed by Edison in its response to the Petitions to Intervene and Requests for Hearing filed by Energy Michigan, Inc., the Association of Businesses Advocating Tariff Equity and the Attorney General. Edison incorporates by reference herein that response. Suffice it to say, the relief requested in Edison's Application will not result in an increase in rates and therefore, under MCL **460.6a**, a hearing is not required.

WHEREFORE, The Detroit Edison Company respectfully requests the Commission deny **PG&E** Corporation's Petition to Intervene and Request for Hearing filed in this proceeding.

Respectfully submitted,

THE DETROIT EDISON COMPANY

A handwritten signature in dark ink, reading "Bruce R. Maters", is written over a horizontal line.

Bruce R. Maters (**P28080**)
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Dated: January 31, 2000

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STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

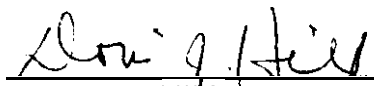
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Case No. U-12266

PROOF OF SERVICE

STATE OF MICHIGAN)
) SS
COUNTY OF WAYNE)

DORIS J. HILL, being duly sworn, deposes and says that on the 31st day of January, **2000** she served a copy of **THE DETROIT EDISON COMPANY'S Objection to PG&E Corporation's Petition to Intervene and Request for Hearing and this Proof of Service**, upon the parties listed on the attached Service List attached via e-mail and by depositing into the mail receptacle located in Detroit, Michigan



DORIS J. HILL

Subscribed and sworn to before
me this 31st day of January, 2000



SHERIN M. SHEHAN
Notary Public, Wayne County, MI
My Commission Expires 07-21-03.