STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the rates, terms, and conditions for retail customers of THE DETROIT EDISON COMPANY to choose an alternative electric supplier. /	Case No. U-12489

MICHIGAN PUBLIC SERVICE COMMISSION STAFF'S REPLIES TO EXCEPTIONS

The Staff files the following replies to the exceptions filed by Energy Michigan.

I. PFD Issue # 6 Load Profiling (RAST Section 27.2)

In response, Staff believes that EM's proposal, stated at page 8 of its exceptions, for the Commission to commence a proceeding to develop load profiling system may be the best way to resolve the various issues and concerns that have been raised by parties on this subject matter and to reconcile the appropriate pricing of this service.

II. EM PFD Issue # 8: New Detroit Edison Metering, System Use and Power Factor Charges (RAST Sections 8.7 and 8.8)

During the course of this proceeding the issue of whether various RAST charges may be changed or modified has arisen. EM filed exceptions regarding the elimination of metering requirement for 20 -300 kW customers and the adoption of an energy charge in lieu of the approved system use charge, increased meter charges, and other matters (See EM Exceptions pp.9-14).

As EM points out, these issues revolve around the proper interpretation of PA 141. The fundamental question is whether PA 141 freezes the level of Detroit Edison's RAST charges that have been previously approved by the Commission. The most directly pertinent Sections of PA 141 which apply to this issue are Sections 10b (1) and (2). These sections read as follows:

> Sec. 10d. (1) Unless otherwise reduced by the commission under subsection (4), the commission shall establish the residential rates for each electric utility with 1,000,000 or more retail customers in this state as of May 1, 2000 that will result in a 5% rate reduction from the rates that were authorized or in effect on May 1, 2000. <u>Notwithstanding any other provision of law or commission order</u>, rates for each electric utility with 1,000,000 or more retail customers established under this subsection become effective on the effective date of the amendatory act that added this section and remain in effect until December 31, 2003 and <u>all other electric retail rates of an electric utility with 1,000,000 or more retail customers authorized or in effect as of May 1, 2000 shall remain in effect until December 31, 2003, unless otherwise reduced by the commission under subsection (4).</u>
>
> (2) On and after December 31, 2003, rates for an electric utility with 1,000,000 or more retail customers in this state as of May 1,2000 shall not be increased until the earlier of December 31, 2013 or until the commission determines, after notice and hearing, that the utility meets the market test under section 10f and has completed the transmission expansion provided for in the plan required under section 10v. <u>The rates for commercial or manufacturing customers of an electric utility with 1,000,000 or more retail customers with annual peak demands of less than 15 kilowatts shall not be increased before January 1, 2005</u>. There shall be no cost shifting from customers with capped rates to customers without capped rates as a result of this section. <u>In no event shall residential rates be increased before January 1, 2006 above the rates established under subsection (1)</u>.

(Emphasis Added.)

Detroit Edison's current RAST tariff was approved by the Commission and placed into effect prior to the May 1, 2000. As indicated on Detroit Edison's RAST tariff sheet, the RAST was effective for service rendered on and after March 8, 1999 under the authority of order of the Michigan Public Service Commission in Case No. U-11452 dated March 8, 1999. The legality of the Commission's prior approval of Detroit Edison's RAST is covered by the general language in Sec.10a (5) of PA141. This section reads:

> (5) The orders issued by the commission before the effective date of the amendatory act that added this section that allow customers of an electric utility to choose an alternative electric supplier, including orders that determine and authorize recovery of net stranded costs and implementation costs and that confirm any voluntary commitments of electric utilities, are in compliance with this act and enforceable by the commission. An electric utility that has not had voluntary commitments to provide customer choice previously approved by orders of the commission shall file a restructuring plan to allow customers to choose an alternative electric supplier no later than the date ordered by the commission. The plan shall propose a methodology to determine the electric utility's net stranded costs and implementation costs.

(Emphasis Added)

Given that the Detroit Edison RAST was approved and in effect prior to May 1, 2000, we need to focus on the last sentence in section 10d(1). The first phrase in this sentence states "Notwithstanding any other provision of law or commission order." This phrase indicates that the subsequent language cannot be departed from due to any other provision of law or commission order. Continuing, the first half of the last sentence relates to those retail rates that are reduced by the 5% as describe in the first sentence of the section. The last half of the second sentence relates to all other retail rates of Detroit Edison. This last portion reads as follows:

> ....all other electric retail rates of an electric utility with 1,000,000 or more retail customers authorized or in effect as of May 1, 2000 shall remain in effect until December 31, 2003, unless otherwise reduced by the commission under subsection (4).

According to this language, all of Detroit Edison's other electric retail rates, including the RAST, authorized or in effect prior to May 1, 2000 shall remain in effect until December 31, 2003. Based on this language, Staff believes that the Detroit Edison RAST are now frozen pursuant to the operation of 10d (1) and may not be changed until after the dates specified and more fully defined in Section 10d (2) of PA 141. Section 10d (2) (see above) specifically indicates that rates shall not be <u>increased</u> until certain specified conditions or dates have been achieved.

The question arises as to whether a change in the structure of prices is permissible given the PA 141 freeze. Some would argue that a change in price structure can be adopted if the change does not increase the total revenue received from a rate or tariff class. Staff believes that such an interpretation stretches the law as written. As written the law does not deal with the revenue requirements of the rate classes per se but with the specific rates in effect as of May 1, 2000.

In theory, a change in price structure might occur if the price changes could be shown to not violate the freeze imposed by PA 141. Practically speaking such changes might be designed to maintain revenue neutrality for the rate or tariff class as a whole but will likely impact individual customers in ways that can increase rates for some and decrease rates for others.

Given this discussion does this mean that Detroit Edison's proposal to change the manner for recovery of the system use charge is not possible until after the freeze expires? Staff believes that there may be ways to at least partially implement the change from a demand charge to an energy charge for the system use charge and not violate the spirit of PA 141. First, customers could be given the option of selecting their preferred method of being charged for system use. They could select an energy or demand charge, as they desire. Such a choice would align with the "customer choice" concept.

Another possible approach would be to have Detroit Edison determine the RAST billing using both the demand and energy charge approaches and issue a billing representative of the lower for the period of the freeze. This could be accomplished through a billing credit or some other such billing mechanism.

Regarding the issue of the appropriate charges for the metering requirement, PA 141 would appear to foreclose collection of costs increases during the period of the freeze. (Whether the customer might agree to those increases is a matter not addressed herein). However, the costs of any additional metering are a cost of implementing PA 141 and would be subject to the provision of Sec.10a (1) and (5) which permits full recovery of such costs. And ultimately such metering costs should be borne by those customers requesting or requiring service that requires the use of said meters if we are to avoid subsidizing one group of customers over the others. Deferral of such costs may be one option given the nature of PA 141.

Respectfully Submitted,

MICHIGAN PUBLIC SERVICE COMMISSION STAFF

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DATED: October 16, 2001

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For retail customers of THE DETROIT EDISON
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_____________________________________/

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PROOF OF SERVICE

STATE OF MICHIGAN)
) ss
COUNTY OF INGHAM)

Mishelle R. Pagels, being first duly sworn, deposes and says that on October 16, 2001, she served a copy of Michigan Public Service Commission Staff's Replies to Exceptions upon the following parties by email and depositing the same in a United States postal depository enclosed in an envelope bearing postage fully prepaid, plainly addressed as follows:

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Mishelle R. Pagels

Subscribed and sworn to before me
this 16th day of October, 2001.

Tina L. Bibbs, Notary Public
Ingham County, Michigan
My Commission Expires: 11/13/03