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January 26, 2001

Ms. Dorothy Wideman
Executive Secretary
Michigan Public Service Commission
6545 Mercantile Way, Ste. 7
Lansing, MI 48911

Re: Case No. U-12657
Midwest Restructuring Plan
Midwest Objection to WVPA Petition to Intervene

Dear Ms. Wideman:

Enclosed please find original and four copies of Midwest Energy Cooperative Objection to Wabash Valley Power Association, Inc. Petition to Intervene. Also enclosed is Proof of Service upon the Parties of Record.

If there are any questions or comments, do not hesitate to contact me.

Sincerely,

DYKEMA GOSSETT PLLC



Albert Ernst

AE/jmb

Enclosures

cc: Jon Bellgowan
Mark Stallons
John Miner
Michael Nickerson
Ron Bloomberg
Judge Nickerson
Dan Blair

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STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of Midwest Energy Cooperative's)
compliance filing relative to the restructuring plan)
required by 2000 PA 141 and the Commission's)
June 19, 2000 opinion and order in Case No. U-12464.)
_____)

Case No. U-12657

MIDWEST ENERGY COOPERATIVE
OBJECTION TO
WABASH VALLEY POWER ASSOCIATION, INC. PETITION TO INTERVENE

Midwest Energy Cooperative ("Midwest") respectfully requests that the Michigan Public Service Commission ("Commission") deny Wabash Valley Power Association, Inc.'s ("Wabash Valley") January 22, 2001 petition to intervene.

At issue is whether Wabash Valley's status as a *transmission provider* entitles it to intervene in this docket. Stated alternatively, at issue is whether an entity that is *not* an electric consumer, *not* a utility being restructured, *not* an alternative electric supplier and *not* an entity mentioned in 2000 PA 141, has standing to participate in this docket. Midwest suggests that Wabash Valley does *not* have the requisite standing.

Standing determinations in Commission proceedings are predicated on meeting the oft-cited two-pronged test announced by the United States Supreme Court in *Association of Data Processing Services Organization, Inc. v Camp*, 397 US 150, 90 S Ct 827; 25 L Ed 2d 184 (1970). The test requires that a party show (i) it will suffer an injury in fact (the injury in fact test) *and* (ii) the interests damaged are within the zone of interests to be protected by the statute or constitutional provision in question (the zone of interests test). Both parts of the two pronged test must be satisfied.

Wabash Valley does not satisfy the injury in fact test. According to Wabash Valley's petition, it does not own transmission lines but it has certain transmission rights (§4). Wabash Valley's sole attempt to satisfy the injury in fact test is contained in §6 of its petition when it states that it "may suffer injury if the outcome of this case does not provide for . . . reasonable coordination between Midwest and Wabash [Valley] with regards to providing the customer with access to electricity for retail direct access service". Wabash Valley's claim is akin to words without meaning. For direct access to work, there will have to be coordination on a number of fronts, but each of those fronts does not entitle affected entities to intervene in this docket. Thus, for example, electronic data interface or EDI will be necessary but that does not mean that EDI providers have standing. Computer equipment, telecommunications providers, *etc.*, coordination will be necessary for open access but that does not mean that IBM, Apple Computers or Ameritech meet the injury in fact test. Simply stated, Wabash Valley's status as a transmission provider does not entitle it to participate in this docket.

Wabash Valley does not satisfy the zone of interests test, *i.e.*, the so-called interests damaged are not within the zone of interests to be protected by the statute or constitutional provision in question. The last part of the test should be stressed – "protected by the statute or constitutional provision in question". Wabash Valley's petition does not reference any "statute or constitutional provision in question". The obvious statute at issue is 2000 PA 141. Wabash Valley does not even waive a flag at this key statute. Nowhere does 2000 PA 141 purport to protect the interests of transmission providers.

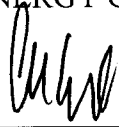
It is interesting to note that in other rural electric cooperative dockets, the Commission Staff has suggested that portions of the restructuring filings referencing the provision of transmission service be deleted. Yet, Wabash Valley comes to the Commission in this docket and

suggests that its status as a transmission provider entitles it to participate in this case. Wabash Valley's petition to intervene should be denied.

WHEREFORE, Midwest Energy Cooperative respectfully requests that Wabash Valley's petition to intervene be denied.

Respectfully submitted,

MIDWEST ENERGY COOPERATIVE

By: 

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Dated: January 26, 2001

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STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of Midwest Energy Cooperative's)
compliance filing relative to the restructuring plan)
required by 2000 PA 141 and the Commission's)
June 19, 2000 opinion and order in Case No. U-12464.)
_____)

Case No. U-12657

PROOF OF SERVICE

STATE OF MICHIGAN)
) ss.
COUNTY OF INGHAM)

Jeanne M. Beachnau, being first duly sworn, deposes and says that on the 26th day of January, 2001, she caused to be served upon Mr. Michael Nickerson, Assistant Attorney General, 6545 Mercantile Way, Suite 15, Lansing, MI 48911 and Mr. Ronald Bloomberg, Loomis Ewert 232 S. Capitol Avenue, Ste. 1000, Lansing, MI 48933, copies of Midwest Energy Cooperative Objection to Wabash Valley Power Association, Inc. Petition to Intervene by United States First Class Mail and electronic mail.



Jeanne M. Beachnau

Subscribed and sworn to before me
this 26th day of January, 2001



Amy L. DeBruler, Notary Public
Eaton, Acting in Ingham County, Michigan
My commission expires: 12/03/03