LOOMIS, EWERT, PARSLEY, DAVIS & GOTTING

A PROFESSIONAL CORPORATION
232 SOUTH CAPITOL AVENUE, SUITE 1000
LANSING, MICHIGAN 48933-1525
TELEPHONE: (517) 482-2400 FACSIMILE: (517) 482-7227

June 29, 2001

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

HAND DELIVERY
(e-file)

Re: Indiana Michigan Power Company for Approvals in Connection with 2000 PA 142, Section 10v, MPSC Case No. U-12780
International Transmission Company, Consumers Energy Company, and Great Lakes Energy Cooperative, MPSC Case No. U-12781

Dear Ms. Wideman:

Enclosed for filing is an original and four (4) copies of Initial Brief of Indiana Michigan Power Company. Also enclosed is an original Proof of Service. An electronic version of this is also being filed.

Very truly yours,

LOOMIS, EWERT, PARSLEY,
DAVIS & GOTTING, P.C.

Ronald W. Bloomberg

Ronald W. Bloomberg

RWB/blp
enclosure

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * *

In the matter of the application of
INDIANA MICHIGAN POWER COMPANY,
d/b/a AMERICAN ELECTRIC POWER, Case No. U-12780
for certain approvals in connection with
2000 PA 141 Section 10v.

In the matter of the application of
INTERNATIONAL TRANSMISSION COMPANY, Case No. U-12781
CONSUMERS ENERGY COMPANY, and
GREAT LAKES ENERGY COOPERATIVE.
______________________________________/

INITIAL BRIEF OF INDIANA MICHIGAN POWER COMPANY

I. HISTORY OF PROCEEDINGS

Section 10v of 2000 PA 141 provides that electric utilities serving more than 100,000 customers in Michigan shall file, by January 1, 2001, a joint plan to permanently expand, by June 5, 2002, the available transmission capacity by at least 2000 megawatts over the amount in place as of January 1, 2000. If the utilities are unable to agree upon a joint plan, the Commission is required to conduct a hearing to establish a plan.

On December 28, 2000, Indiana Michigan Power Company, doing business as American Electric Power ("AEP"), filed an application, in Case No. U-12780, seeking approvals associated with the plan that it proposed. Also, on December 28, 2000, (i) International Transmission Company ("ITC"), on behalf of The Detroit Edison Company ("Detroit Edison"), (ii) Consumers Energy Company ("Consumers"), (iii) and Great Lakes Energy Cooperative ("Great Lakes"), filed a joint application in Case No. U-12781, seeking approvals associated with the plan that they propose. On January 4, 2001, the Michigan Public Service Commission ("Commission") issued its order and notice of hearing requiring AEP, ITC, Consumers and Great Lakes to publish a notice of hearing in newspapers of general circulation in their respective service territories and scheduling a prehearing conference for February 7, 2001.

Pursuant to the notice of hearing, a prehearing conference in these matters was held before Administrative Law Judge James N. Rigas on February 7, 2001. At the perhearing conference, the Commission Staff ("Staff") entered its appearance. Petitions to intervene had been filed on behalf of: Association for Businesses Advocating Tariff Equity ("ABATE"), Energy Michigan, Exelon Energy, Inc., Midland Cogeneration Venture, First Power L.L.C., PG&E National Energy Group, Dynergy, Inc. and Ontario Power Generation, Inc. These petitions were granted. At the prehearing conference, the parties reached an agreement as to the procedure to be employed for the selection of a consultant to assist the Staff in connection with the positions to be taken in this case and set a schedule for further proceedings.

Subsequent to the prehearing conference, AEP, Consumers, ITC, and Great Lakes filed recommendations regarding an independent consultant for the Staff. On February 16, 2001, Staff counsel forwarded a recommendation to the Commission for the employment of an independent consultant. On March 2, 2001, Staff filed a work scope proposal from Power Technologies, Inc., the independent consultant. On March 16, 2001, AEP, Consumers, ITC, and Great Lakes each filed testimony and exhibits. On April 25, 2001, ABATE, Energy Michigan and the Staff filed direct testimony and exhibits. On May 18, 2001, Consumers, ITC, AEP, Energy Michigan and ABATE filed rebuttal testimony.

The evidentiary hearing continued on June 6, 2001. At the commencement of the hearing, counsel of AEP stated:

> ". . . AEP will not contest in this proceeding. . .that the second Dumont transformer should be included in the joint plan approved by the Commission.

AEP will at this time unilaterally stipulate to the joint report filed by the other utilities. . .

* * *

AEP believes that as part of the approval of the joint plan in this case, the Commission must assure AEP and the other utilities, as provided in Section 10v, that if their investments are not recovered from FERC-approved rates, then recovery will come from those Michigan retail customers benefitting from those improvements." (3 Tr 39)

Following various discussions, the parties unanimously agreed (3 Tr 43-44) to stipulate to the binding in, without cross-examination, of the pre-filed testimony of all the witnesses (except Mr. Pasternack, whose testimony was withdrawn) and to the receipt into evidence of the pre-filed exhibits and several additional documents (marked as Exhibits A-14, A-15 and I-16), subject to the opportunity to ask Mr. Bethel questions on Exhibits A-14 and A-15. (3 Tr 207-209) The record consists of 251 pages of transcript and 16 exhibits.

The revised briefing schedule established at the conclusion of the hearing calls for initial briefs to be filed by June 29, 2001 and reply briefs to be filed by July 13, 2001.

II. DESCRIPTION OF APPLICANT

AEP is a corporation organized and existing under the laws of the State of Indiana with its principal offices located at 110 East Wayne Street, Fort Wayne, Indiana 46802. AEP is a wholly-owned subsidiary of American Electric Power Company, Inc., and is a public utility engaged in, among other things, the sale and distribution of electricity to over 100,000 retail customers in the State of Michigan.

III. DISCUSSION

A. The Commission should approve the measures set forth in the joint plant as meeting the provisions of MCL 460.10v.

MCL 460.10v ("Section 10v" or "§10v"), in part, provides:

"(1) Electric utilities serving more than 100,000 retail customers in this state shall file, by January 1, 2001, a joint plan with the commission detailing measures to permanently expand, within 2 years of the effective date of this section, the available transmission capability by at least 2,000 megawatts over the available transmission capability in place as of January 1, 2000.

(2) The joint plan shall detail all actions including additional facilities required, the proposed schedule for accomplishing the actions, the cost of the actions, and the proposed ratemaking treatment for the costs. The joint plan shall also identify all actions and facilities that are required of other transmission owners, including out-of-state entities, to accommodate the actions described in the joint plan."

The joint plan of all utilities serving more than 100,000 electric customers in Michigan is set forth in Exhibit A-3 ("Joint Plan"). Exhibit 2 to the Joint Plan identifies all the projects required to meet the provisions of §10v(1). No testimony of any witness was presented that the Joint Plan did not satisfy the requirements of §10v(1) or that the measures and additional facilities included in the Joint Plan were not required to satisfy § 10v. Specifically, Mr. Dauphanais (3 Tr 88), Mr. Celio (3 Tr 203) and Mr. Becker (3 Tr 53) all testified that construction of a second transformer at Dumont was required. Thus, the unrebutted and uncontradicted evidence requires a finding that the Joint Plan satisfies the provisions of §10v(1). The Commission should approve the Joint Plan as set forth in Exhibit A-3.

B. The Commission shall authorize recovery from benefitting customers of all reasonable and prudent costs incurred.

MCL 460.10v(3) provides:

"(3) The commission may order modifications to the joint plan to make it consistent with this act. If the electric utilities are unable to agree upon a joint plan to meet the requirements of this act, the commission shall conduct a hearing to establish a joint plan. The commission shall authorize recovery from benefitting customers of all reasonable and prudent costs incurred by transmission owners for authorized actions taken and facilities installed to meet the requirements of this section that are not recovered through FERC transmission rates. (Emphasis added)

Pursuant to §10v(3), the Commission must authorize recovery from benefitting customers of all reasonable and prudent costs incurred by AEP pursuant to the Joint Plan which are not recovered through FERC transmission rates. The word "shall" is mandatory. AEP requests that the

Commission in its order approving the Joint Plan establish the framework for a procedure by which the reasonable and prudent costs incurred in installing a second transformer at the Dumont Station will be recovered from benefitting customers.

The measures to be taken, and costs to be incurred, by AEP pursuant to the Joint Plan can be divided into two (2) basic groups. The first group is those actions and related $63,000,000 in costs set forth in AEP's original December 28, 2000 filing. As to such costs, AEP is not seeking in this proceeding, any cost recovery through retail rates. (3 Tr 169) AEP anticipates that such costs will be recovered via revenues from FERC wholesale transmission rates and service, plus state jurisdictional rate cases outside the scope of PA 141. Consistent therewith, revenues from FERC transmission service which is made possible by such actions should be credited first against the costs of the improvement proposed by AEP in its December 28, 2000 Application.

The improvements originally proposed by AEP did not include the second transformer at the Dumont substation. The projected cost of such modifications to AEP's original plan are estimated to be $20,050,000. Exhibit A-3, page 18. With regards to such costs, Mr. Curry testified:

> "A. If modifications were made requiring installation by AEP of projects beyond the $63 million of projects identified in AEP's Plan and the incurred costs were not recovered by AEP through FERC transmission rates, it is likely that retail ratemaking procedures would be required to ensure that all reasonable and prudent costs were recovered.
>
> Q. In this scenario, what would be your understanding regarding AEP's opportunities to recover through FERC transmission rates the costs of projects additional to those identified in AEP's Plan?
>
> A. In this scenario, unless the FERC accepts a proposal that assigns full responsibility for the costs of an upgrade to the transmission customers that require it and the Alliance Regional Transmission Organization assigns the resulting revenues to AEP, then AEP's transmission rate revenues would be insufficient to support the new facilities.

Q. In this scenario, what would be the appropriate retail ratemaking procedure to allow AEP an opportunity to recover its costs?

A. In the event that modifications would be properly made to AEP's Plan involving the completion by AEP of projects beyond the $63 million of projects identified in AEP's filed Plan and the incurred costs were not recovered through FERC transmission rates, AEP would recommend that the Commission authorize a limited-term surcharge on the monthly electric service bills of jurisdictional benefiting (sic) customers, the proceeds of which would be remitted to AEP for the specific purpose of covering the deficiency resulting from FERC rates.

Q. In this scenario, who would be the benefiting (sic) customers of additional AEP facilities?

A. In this scenario, the benefiting (sic) customers would be the jurisdictional electric service customers in the lower peninsula who benefit by the public interest goals of 2000 PA 141, Section 10, regarding customer choice and electric service reliability. If the establishment of a surcharge is precluded by rate caps for certain jurisdictional utilities by other provisions of 2000 PA 141, AEP's cost reimbursement should occur as soon as the FERC recovery deficiency is calculable with the payment to AEP authorized for deferral on the reimbursing company's books for future recovery.

Q. Would the surcharge apply to the electric service bills of AEP's Michigan jurisdictional customers?

A. Not necessarily. It is my understanding based upon Witness Pasternack's testimony that AEP's facilities are adequate to serve its Michigan internal load, and thus AEP's customers do not fall within the category of benefitting customers.

As Mr. Curry testified, the "benefitting" customers of the second Dumont transformer are the customers in the service territories of Consumers and Detroit Edison rather than AEP's customers. The Joint Report makes that point very clearly. It states:

> "The Filing Parties interpret the '*available transmission capability*' term used in Section 10v PA 141 to mean the simultaneous firm commercial capability into the lower peninsula of Michigan[1] during summer months."
>
> [1]The Michigan Electric Coordinated Systems (MECS) Control Area is the operating Control Area for the lower peninsula of Michigan, excluding American Electric Power's service territory in southwestern Michigan. The terms 'MECS' and 'lower peninsula of Michigan' are used interchangeably throughout this document. (Emphasis added) Exhibit A-3, p 4."

Thus, by its own definitions, the actions set forth in the Joint Plan are designed to increase transmission capacity into the service territories of Consumer and Detroit Edison, not AEP's. This evidence was unrebutted and uncontradicted.

The recovery of AEP's costs for the second Dumont transformer provided in § 10v should begin as soon as reasonably possible after the amount to be recovered through FERC transmission rates can be reasonably calculated and projected. Mr. Bethal testified to the currently proposed transmission rates and revenue allocation among Alliance RTO transmission members. (3 Tr 216-220) Mr. Curry testified:

> Q. In this scenario, what would be your understanding regarding AEP's opportunities to recover through FERC transmission rates the costs of projects additional to those identified in AEP's Plan?
>
> A. In this scenario, unless the FERC accepts a proposal that assigns full responsibility for the costs of an upgrade to the transmission customers that require it and the Alliance Regional Transmission Organization assigns the resulting revenues to AEP, then AEP's transmission rate revenues would be insufficient to support the new facilities.

AEP is currently in the process of preparing a filing with FERC for approval of an incremental cost transmission tariff rate or "alternative pricing" (3 Tr 225-226, 242-243), which may permit recovery of additional amounts of the cost of the second Dumont transformer. AEP proposes that it be authorized to file, within ninety (90) days after final FERC decision on such application, an application with the Commission for authority to recover its unrecovered costs of the second Dumont transformer.

Although many of the details of such cost recovery may be addressed in the later proceedings it is necessary for the Commission in its order in the instant proceeding to establish that the scope of the cost recovery proceeding shall include not only AEP's retail customers, but all benefitting customers as provided for in §10v. As shown above, the undisputed evidence is that the retail customers of both Consumers and Detroit Edison benefit from the improvement.

Recovery from all benefitting customers throughout the lower peninsula rather than only AEP's Michigan retail customers is not only mandated by the statute but is also necessary to avoid unjust and unreasonable results. In the worst case scenario without any FERC recovery, limiting the recovery of the cost of the second Dumont transformer to only AEP's approximately 100,000 customers in Michigan would result in an average charge of over $200.00 per customer. In contrast, spreading such amount over all benefitting customers would result in an average cost per customer of less than $8.00. Clearly, § 10 v (2) was not intended to force AEP's retail customers to bear the entire unrecovered cost of improvements which are not necessary for AEP to serve its Michigan internal load and which primarily benefitted retail customers of other utilities.

AEP costs not recovered through FERC rates should be authorized for recovery without delay. AEP's Michigan retail rates are not subject to the rate freeze prescribed by § 10d. With regards to any claim that § 10d precludes surcharges for benefitting customers of utilities subject to the rate freeze provisions of § 10d, Mr. Curry testified:

> "If the establishment of a surcharge is precluded by rate caps for certain jurisdictional utilities by other provisions of 2000 PA 141, AEP's cost reimbursement should occur as soon as the FERC recovery deficiency is calculable with the payment to AEP authorized for deferral on the reimbursing company's books for future recovery." (3 Tr. 170-171).

If the recovery of any of AEP's reasonably and prudently incurred cost is delayed, full recovery of such costs require that a reasonable return on such amounts to be provided to compensate for the delay. Consistent with the rate design proposed by Mr. Ruhl, AEP proposes a levelized surcharge on a fixed $/kWh basis (3Tr 154). All amounts collected should be subject to annual reconciliation and true-up.

RELIEF REQUESTED

Indiana Michigan Power Company respectfully requests that the Michigan Public Services Commission:

(1) Approve the Joint Plan as meeting the requirement of § 10v;

(2) Authorize the costs of the second Dumont transformer, to the extent not recovered through FERC transmission rates, to be recovered from all retail customers throughout the lower peninsula of Michigan benefitting from the installation thereof;

(3) Ordering that Indiana Michigan Power Company file, no later than ninety (90) days after the final action by the Federal Energy Regulatory Commission on Indiana Michigan Power Company's request for transmission rates to recover the cost of the second Dumont transformer, an application with the Michigan Public Services Commission to recover from benefitting customers all reasonable and prudent costs of the second Dumont transformer not recovered through FERC transmission rates; and

(4) Order such other relief as is just and reasonable.

Respectfully submitted,

INDIANA MICHIGAN POWER COMPANY

Ronald W. Bloomberg

By: One of Its Attorneys
Ronald W. Bloomberg (P30011)
Loomis, Ewert, Parsley, Davis
& Gotting, PC
232 S. Capitol Avenue, Suite 1000
Lansing, MI 48933
(517) 482-2400

Dated: June 29, 2001

Marc E. Lewis
Kevin Duffy
Indiana Michigan Power Company
One Summit Square
P.O. Box 60
Fort Wayne, IN 46801

S T A T E O F M I C H I G A N

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * *

In the matter of the application of **INDIANA MICHIGAN POWER COMPANY**, **d/b/a AMERICAN ELECTRIC POWER,** for certain approvals in connection with 2000 PA 141 Section 10v.	Case No. U-12780 (e-file)
In the matter of the application of **INTERNATIONAL TRANSMISSION COMPANY,** **CONSUMERS ENERGY COMPANY,** and **GREAT LAKES ENERGY COOPERATIVE**. /	Case No. U-12781 (e-file)

PROOF OF SERVICE

Brandy L. Parker employed at Loomis, Ewert, Parsley, Davis & Gotting, P.C. being duly sworn affirms that on this 29th day of June, 2001, she served a copy of the Initial Brief of Indiana Michigan Power Company upon the following persons on the attached service list via first-class mail and e-mail.

Brandy L. Parker

Brandy L. Parker

Subscribed and sworn to before me on this 29th day of June, 2001.

Edith Loomis

Edith Loomis, Notary Public
Ingham County, Michigan
My Commission expires: 12/05/2002

Service List

James N. Rigas
Administrative Law Judge
Michigan Public Service Commission
6545 Mercantile Way, Suite 14
Lansing, MI 48911
Phone: (517)-241-6060
Fax: (517)-241-6061
(e-mail) James.N.Rigas@cis.state.mi.us

MPSC Staff Attorney
David M. Gadaleto
Assistant Attorney General
6545 Mercantile Way, Suite 15
Lansing, MI 48911
Phone: (517)-334-7650
Fax: (517)-334-7655
(e-mail) gadaletod@ag.state.mi.us

MPSC Staff
Richard D. Whale
6545 Mercantile Way
P.O. Box 30221
Lansing, MI 48909
Phone: (517) 241-6074
(e-mail) richard.d.whale@cis.state.mi.us

ABATE
Robert A.W. Strong
255 S. Old Woodward Avenue
Third Floor
Birmingham, MI 48009-6179
Phone: (248) 988-5861
Fax: (248) 642-2174
(e-mail) rstrong@clarkhill.com

Consumers Energy Company
Jon R. Robinson
212 West Michigan Avenue
Jackson, MI 49201-1923
Phone: (517)-788-0698
Fax: (517)-788-0768
(e-mail) jrrobinson@cmsenergy.com

The Detroit Edison Company
Bruce R. Maters
Jon P. Christinidis
2000 Second Ave. (Rm. 688 WCB)
Detroit, MI 48226
Phone Maters: (313) 235-7481
Phone Christinidis: (313) 235-7706
Fax: (313) 235-8500
(e-mail) mpscfilings@dteenergy.com
(e-mail) matersb@dteenergy.com
(e-mail) christinidisj@dteenergy.com

Energy Michigan
Eric J. Schneidewind
The Victor Center
201 North Washington Square
Suite 810
Lansing, MI 48933
Phone: (517) 482-6237
Fax: (517) 482-6937
(e-mail) ejschneidewind@vrsh.com

Exelon Energy Company
Michael P. Calabrese
Dickinson-Wright PLLC
215 South Washington Square, Suite 200
Lansing, MI 48933
Phone: (517)-487-4763
Fax: (517)-487-4700
(e-mail) nthom@dickinson-wright.com
(e-mail) mcalabrese@dickinson-wright.com

Great Lakes Energy Cooperative
Albert Ernst
Christine Mason-Soneral
Dykema Gossett
800 Michigan National Tower
Lansing, MI 48933
Phone: (517) 374-9155
Fax: (517) 374-9191
(e-mail) aernst@dykema.com
(e-mail) cmason@dykema.com

Marc E. Lewis
Indiana Michigan Power Company
One Summit Square
P.O. Box 60
Fort Wayne, IN 46801
Phone: (219) 425-2195
Fax: (219) 425-2112
(e-mail) melewis@aep.com

International Transmission Company
John H. Flynn
2000 Second Avenue, 688 WCB
Detroit, MI 48226
Phone: (313)-235-7725
Fax: (313)-235-8500
(e-mail) mpscfilings@dteenergy.com
(e-mail) flynnj@dteenergy.com

Midland Cogeneration Venture
Michael J. Brown
Howard & Howard
222 N. Washington Square, Ste. 500
Lansing, MI 48933
Phone: (517) 377-0609
Fax: (517) 485-1568
(e-mail) mjbrown@howardandhoward.com

Ontario Power Generation, Inc.
First Power L.L.C.
Dynergy, Inc.
David E.S. Marvin
Michael S. Ashton
Fraser, Trebilcock, Davis & Foster
1000 Michigan National Tower
Lansing, MI 48933
Phone: (517) 482-5800
Fax: (517) 482-0887
(e-mail) dmarvin@ftdf.com
(e-mail) mashton@ftdf.com

PG&E National Energy Group
John M. Dempsey
215 S. Washington Square, Ste. 200
Lansing, MI 48933
Phone: (517) 487-4763
Fax: (517) 487-4700
(e-mail) jdempsey@dickinson-wright.com