INTERNATIONAL TRANSMISSION COMPANY

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John H. Flynn
Vice President & General Counsel

June 29, 2001

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

Re: MPSC Case No. U-12780 & U-12781

Dear Ms. Wideman:

Enclosed please find an original and four copies of the International Transmission Company's Initial Brief along with proof of service.

Very truly yours,

John H. Flynn/

John H. Flynn

JHF/dj
Enclosures

cc: Hon. James N. Rigas
Administrative Law Judge
Parties of Record

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, for certain approvals in connection with 2000 PA 141 Section 10v.	))))))	Case No. U-12780
In the matter of the application of INTERNATIONAL TRANSMISSION COMPANY, CONSUMERS ENERGY COMPANY AND GREAT LAKES ENERGY COOPERATIVE.	)))))	Case No. U-12781

BRIEF OF APPLICANT
THE INTERNATIONAL TRANSMISSION COMPANY

HISTORY OF PROCEEDING

Section 10v of the Customer Choice and Electric Reliability Act (2000 PA 141) requires electric utilities serving more than 100,000 retail customers in the State of Michigan to file by January 1, 2001, a Joint Plan with the Commission detailing measures to expand by June 5, 2002, the available transmission capability by at least 2000 megawatts over the available transmission capability in place on January 1, 2000. The complete text of Section 10v is as follows:

> Sec. 10v. (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.
>
> (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 benefiting 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.
>
> (4) If an electric utility or an affiliate that is the owner of the transmission assets is denied cost recovery of the reasonable and prudent costs expended to implement the joint plan, then the electric utility or affiliate shall have no further obligation to implement the joint plan. If an electric utility or its affiliate is subsequently granted cost recovery, then the obligation to implement the original joint plan is required. If cost recovery of the reasonable and prudent costs of implementing the joint plan is denied, an electric utility or its affiliate shall develop a new joint plan as provided under this section.

Although an extensive effort among all of the impacted electric utilities was conducted, the electric utilities were unable to agree upon a joint plan to meet the requirements of the Act. Three utilities, Consumers Energy, Great Lakes Energy Cooperative, and International Transmission Company, on behalf of the Detroit Edison Company, agreed upon a plan and on December 28, 2000, filed a Joint Report detailing the actions required to accomplish the 2000 megawatt expansion, including identifying the additional facilities required, proposed schedule for accomplishing the actions, the cost of the actions, and the proposed rate making treatment for the costs. This application was docketed as Case No. U-12781.

Also, on December 28, the plan of Indiana Michigan Power Company, doing business as American Electric Power [AEP] filed its plan, which was docketed as Case No. U-12780. On January 8, 2001 the Michigan Public Service Commission issued a notice of hearing in accordance with Section 10v setting the initial hearing for February 7, 2001. Interventions or Notices of Appearance were filed by Ontario Power Generation Inc. (OPGI), Dynegy Inc., First Power LLC, Midland Co-Generation Venture LLP (Midland), Exelon Energy, Inc., the Michigan Public Service Commission Staff (Staff), the Association of Businesses Advocating Tariff Equity (ABATE), Energy Michigan (EM), and PG&E National Energy Group (PG&E).

On February 7, 2001, the initial hearing was held at the offices of the Michigan Public Service Commission, 6545 Mercantile Way, Lansing, MI. At that hearing the interventions of EM, OPGI, First Power LLC, Dynegy Inc., ABATE, Exelon Energy, PG&E and Midland were granted. At the hearing it was determined that the applicants would submit by February 9, 2001, the names of a potential independent expert for use by the Staff. On February 16, 2001 the Staff, after reviewing the material provided, submitted its recommendation to the Commission as to the selection of Power Technologies Inc., as an expert to be utilized by the Staff. In addition, at the February 7 hearing a schedule was set for the conduct of the case.

On May 30, 2001, the appointed day for the presentation of witness for purposes of cross-examination, a motion was heard to extend the time so that settlement discussions could continue. After discussion a consensus developed in which it was agreed that the hearing should be continued to June 6, 2001, at which time if a joint proposal could not be developed, cross-examination would begin.

On June 6, the hearing was resumed pursuant to adjournment, at which point AEP entered a stipulation into the record that it would not contest in this proceeding the testimonies of Messer, Vitez, Sparks, Celio, Blecker and Dauphinais to the extent that they urged that the second Dumont transformer should be included in the joint plan approved by the Commission, and that AEP would unilaterally stipulate to the Joint Report filed by ITC, CMS, and the Great Lakes and withdraw the testimony of its witness, Mr. Pasternak. After some discussion it was agreed that all testimony and exhibits presented by all parties would be bound into the record without objection, except for the withdrawn testimony of Mr. Pasternak and three further exhibits, A-14, A-15, and I-16 could be developed and offered through limited cross-examination of AEP's witness Dennis W. Bethel. At the close of cross-examination of Mr. Bethel on June 6, 2001 the hearing was concluded and the record closed.

PRELIMINARY STATEMENT

The fundamental difference between the Joint Report filed by ITC, CMS, and Great Lakes, and the now withdrawn AEP report was the installation of the second Dumont Transformer. ITC believes that AEP is to be commended for its willingness to review the input of the independent witness, the interviewers, the Staff, and the other Applicants and step forward to go ahead with the construction of the Dumont Transformer. ITC believes that AEP has identified a significant deficiency with the Alliance RTO's tariff in that it apparently lacks the structure and incentives necessary to promote the construction of new, badly needed, transmission facilities. It appears clear, that the requirements of Section 10v have been met by all Applicants. It is also clear that the Commission, in light of the numerous uncertainties surrounding the installation of all the needed upgrades, must provide some clear definition for the cost recovery methodology. Joint Plan actions authorized and taken and facilities installed to meet the requirements of Section 10v which are not recovered through FERC transmission rates must have a clear assurance of recovery.

SECTION 10v IS SATISFIED

The proposed Joint Report now sponsored by all Applicants as the Joint Plan under Section 10v, clearly identifies the necessary upgrades required to meet the Section 10v requirement of increasing by at least 2000 megawatts the available transmission capability over the available transmission capability in place as of January 1, 2000. No party contests the adequacy of the upgrades proposed, although EM witness, David A. Blecker, raises an issue with regard to ITC's Ontario Interface. The essence of that issue an objection to the market rules in Ontario. Accordingly, under Section 10v [2], it is, at most, an action required of an out-of-state transmission owning entity, which is necessary to accommodate the actions described in the Joint Plan. ITC owns only two interconnections with out-of-state entities: the First Energy interconnection and the Hydro One interconnection. Accordingly, ITC's efforts to upgrade interconnections must, of necessity, focus on its available facilities. ITC, as noted in the rebuttal testimony of Mr. Vitez, is working aggressively to open the Ontario market. But, such an out-of-state issue does not preclude a finding by the Commission that the requirements of Section 10v have been satisfied. The Act specifically provides in Section 10v (2) that this is not the case.

ASSURANCE OF RECOVERY

The now adopted Joint Report provides in Section IX, Ratemaking Treatment, the following:

> Each transmission owner shall independently evaluate the need and be responsible for making any regulatory filings necessary for recovery of expenditures related to this joint plan of transmission capability expansion. Such filings shall be made to the appropriate regulatory agency having jurisdiction over the facilities at issue.
>
> It is intended that the transmission related costs of the transmission capability expansion plan shall be recovered through each respective Company's Open Access Transmission Tariffs [OATT] on file at the FERC. As specified in Section 10v of PA 141, each Transmission Owner expects that the Commission will ensure that the utilities remain whole for any prudent expenditures necessary which are made in response to Section 10v of PA 141 for which recovery is not allowed through the FERC OATT.
>
> Section 10v provides for cost recovery as follows:
>
> (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. <u>The commission shall authorize recovery from benefiting 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</u>. (Emphasis added.)

It is clear that what is contemplated is recovery for "actions taken" and "facilities installed" to meet the upgrade requirements that are not recovered through FERC transmission rates. The Alliance RTO and its transmission tariff are scheduled to become effective on December 15, 2001. That tariff is subject to change as are the tariffs of the several Alliance members which are inputs into the RTO tariff and revenue distribution methodology [Bethel, re-cross page 247-248]. In addition, the record is clear from the cross-examination of AEP witness Bethel, and Exhibits A-14 and A-15 that there are some approximate 916 megawatts of <u>confirmed</u> reservations which would utilize the Dumont transformer at a price not to exceed $1,420.00 per megawatt month, for one year. Such confirmed reservations are considered contracts [Bethel cross-examination, page 228-229 and Exhibit A 15, A-16].

Accordingly, ITC believes the record is clear that there is sufficient potential load to utilize the transformer and under normal circumstances to provide appropriate recovery of the cost of that transformer within the first year. ITC recognizes that because of the identified issues in the Alliance RTO tariff that AEP is concerned that it will not be the beneficiary of these funds. Accordingly, it is ITC's position that for all parties the Commission should adopt the proposed ratemaking procedure set forth in the joint plan and provide a schedule which takes into account a reasonable time period during which the numerous uncertainties of recovery, e.g., AEP Rate, Alliance RTO Rate and revenue distribution expected use of facilities, etc., can become more clear.

CONCLUSION

For the reasons set forth above, the International Transmission Company respectfully requests that the Commission approve the Joint Report filed by ITC, Consumers Energy and Great Lakes Energy, as the Joint Plan required by the Act; find that the requirements of Section 10v of Act 141 have been fulfilled, and establish a schedule to review the recovery of costs by the Applicants. Use patterns will change and projecting results now, based on not yet implemented tariffs, and historic patterns of trade is both unnecessary and likely, incorrect. The Commission should provide a clear definition of the required showing for recovery as set forth in Section 10v and set filing dates of not sooner than December 31, 2004.

Respectfully submitted,

INTERNATIONAL TRANSMISSION COMPANY

By ______________________________

John H. Flynn (P25263)
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Dated: June 29, 2001

STATE OF MICHIGAN

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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
In the matter of the application of **INTERNATIONAL TRANSMISSION COMPANY,** **CONSUMERS ENERGY COMPANY,** and **GREAT LAKES ENERGY COOPERATIVE.** for certain approvals in connection with 2000 PA 141 Section 10v.	)	Case No. U-12781

PROOF OF SERVICE

STATE OF MICHIGAN)
) SS.
COUNTY OF WAYNE)

DORIS J. HILL-SHAVERS, being first duly sworn, deposes and says that on the 29th day of June, 2001, a copy of the **INTERNATIONAL TRANSMISSION COMPANY'S INITIAL BRIEF** was served upon the parties listed on the attached Service List by electronic mail, and first class mail.

Doris J. Hill-Shavers

DORIS J. HILL-SHAVERS

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

Christina Jacobson

CHRISTINA R. JACOBSON
NOTARY PUBLIC WAYNE CO., MI
MY COMMISSION EXPIRES Mar 10, 2005

MPSC Case Nos: U-12780/U-12781

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(As of March 8, 2001)

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