

In the matter of the application of)
THE DETROIT EDISON COMPANY)
to recover implementation costs for the)
period ended December 31, 2000.)
)

In its October 24, 2000 Order in Case Nos. U-11955 and U-11956, the Commission explicitly held that the incurrence of the implementation costs for activities that proved to be

ineffective, inefficient or unworkable may not entitle a utility to recover the costs of those activities. The Commission stated:

“If subsequent events revealed that costs were incurred for projects or systems that ultimately proved to be ineffective, inefficient or unworkable or otherwise impede the progress to retail open access, the Commission reserves the right to undertake another review of those costs and may foreclose their recovery.”

October 24, 2000 Order, Case Nos. U-11955 and U-11956, pp. 4-5.

ABATE requests the Commission to continue this policy of making the recovery of the expenses addressed in this proceeding conditional utilizing the standard that the Commission developed in the prior order quoted above. This policy was recently reaffirmed by the Commission in Case No. U-12358.

In Case No. U-12358, which involved the treatment of implementation costs for the 12-month period ended December 31, 1999 for Consumers Energy Company (“Consumers”), the Administrative Law Judge (“ALJ”) rejected ABATE’s recommendation that the collection of these expenses be made conditional. The Commission reversed the ALJ and held that the collection of the expenses should be made conditional:

“The Commission finds that its prior decisions on this issue are not irrelevant and that they should have been heeded by the ALJ. In reserving the right to undertake another review of implementation costs at issue in Cases Nos. U-11955, U-11956, and U-12359, the Commission observed:

‘Because very little retail open access load is currently being served, it is difficult for the Commission to judge the effectiveness of Consumers’ and Detroit Edison’s implementation programs at this time. The Commission notes, however, that it expects Consumers and Detroit Edison to file information in their 2000 and 2001 true-up cases from which the Commission can determine the effectiveness of the implementation costs that the companies seek to recover.’

October 24, 2000 order, Cases Nos. U-11955 and U-11956, p. 5.

The reasons for the Commission to reserve judgment in Cases Nos. U-11955, U-11956, and U-12359 still remain. Therefore, the Commission agrees with ABATE that the Commission should indicate in its final order in this proceeding that it again reserves the right to undertake another review of Consumers' 1999 implementation expenditures."

July 11, 2001 Order, Case No. U-12358, p. 10.

Given the language of these orders and there being nothing in the record to demonstrate that this policy should change, ABATE urges that the recovery of these expenses be made conditional.

In addition, on information and belief, some of the expenses that were included in the implementation costs are related to a computer system software which has subsequently been scrapped as unusable. If this is indeed the case, then it is indeed necessary to make cost recovery conditional. The Commission may also want to impose a mandatory obligation on the utilities to report when implementation activities prove to be ineffective and the relates cost.

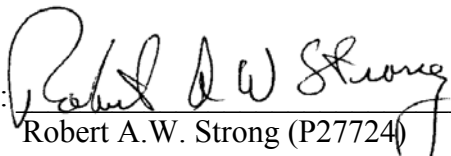
II.

RELIEF

WHEREFORE, ABATE requests the Commission to enter an order adopting the Staff's recommended disallowance and finding that cost recovery of the implementation costs is conditional as provided for in the Commission's prior orders.

Respectfully submitted,

CLARK HILL P.L.C.

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Dated: October 12, 2001

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

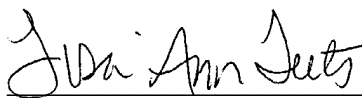
In the matter of the application of)
THE DETROIT EDISON COMPANY)
to recover implementation costs for the)
period ended December 31, 2000.)
_____)

Case No. U-12892
BOH Case No. U-2001-435

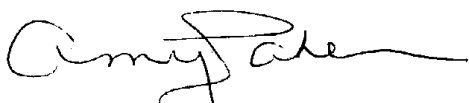
PROOF OF SERVICE

STATE OF MICHIGAN)
)
COUNTY OF OAKLAND)

Lisa Ann Teets, being first duly sworn, deposes and says that she filed electronically and served a copy of "The Initial Brief of The Association of Businesses Advocating Tariff Equity's " in the above dockets on the persons identified on the attached service list by depositing the same, on October 12, 2001, in the United States mail in the City of Birmingham, Michigan with first-class postage thereon fully paid.



Lisa Ann Teets



Notary Public, Oakland County, Michigan
My Commission Expires: 01/16/02

SERVICE LIST

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