

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.

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Case No. U-12892

**REPLIES TO EXCEPTIONS OF THE  
MICHIGAN PUBLIC SERVICE COMMISSION STAFF**

The Michigan Public Service Commission Staff ("Staff"), by its counsel, Patricia S. Barone, Assistant Attorney General, files the following brief responding to the brief of the Detroit Edison Company ("Edison"). Staff opposes Edison's position that the Administrative Law Judge ("ALJ") incorrectly concluded that Edison's recovery of the implementation costs should be conditional.

Staff agrees with the ALJ that the conditions existing at the time that the Commission issued its order in Case Nos. U-11955 and U-11956 still exist. Edison's argument would seem to presume that costs incurred in implementing open access must, by statute, be recovered by the utility. However, any costs recovered by the utility from its ratepayers must be found by the Commission to be just and reasonable. MCL 460.557(4). The purpose of Act 141 is to promote and provide competitive alternatives to customers for the supply of their electricity. In order to carry out this purpose, the Act allows the utility to collect the costs of making the transition from being the sole supplier of electricity to its customers to a system whereby the customer may choose an alternate electric supplier. But, the recovery of these costs must be viewed within the context that any rate charged by the utility must be just and reasonable.

The issue in this case is whether the Commission has legal authority to defer issues for final consideration until a later proceeding. In making that determination, it is necessary to review the purpose of the statute being implemented. A determination must be made to assess whether delaying a final decision regarding recovery of implementation costs interferes with the purpose of the statute. Staff submits that it does not because, as in Case Nos. U-11955 and U-11956, very little retail open access has occurred. Therefore, delaying a final assessment of whether the costs incurred by the utility are reasonable and prudent simply delays the determination until a point in time when the assessment can be made with more information available.

Furthermore, the Commission has taken this approach in past implementation cost cases, and the utility has not demonstrated circumstances to be different from the conditions present in this case with respect to open access. Therefore, the ALJ was correct in following this past precedent set by the Commission.

The Staff urges the Commission to adopt the findings of its witness, Ms. Katsarelas, for the reasons stated herein and in Staff's testimony and briefs.

Respectfully submitted,

**MICHIGAN PUBLIC SERVICE  
COMMISSION STAFF**

A handwritten signature in cursive script, reading "Patricia S. Barone".

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Dated: November 27, 2001

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BOH No. 2001-435

**PROOF OF SERVICE**

STATE OF MICHIGAN     )  
                                      )  
COUNTY OF INGHAM     )

Linda Andreas, being first duly sworn, deposes and says that on **November 27, 2001**, she served a true copy of **Replies to Exceptions of the Michigan Public Service Commission Staff** upon the following parties via electronic filing, e-mail, and by depositing the same in a United States postal depository enclosed in an envelope bearing postage fully prepaid, plainly addressed as follows:

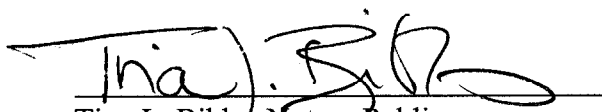
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Linda Andreas

Subscribed and sworn to before me  
this 27th day of November, 2001.

  
Tina L. Bibbs, Notary Public  
Ingham County, Michigan  
My Commission Expires: 11/13/2003