

FOSTER, SWIFT, COLLINS & SMITH, P.C.

ATTORNEYS AT LAW



Walter S. Foster
1878-1961
Richard B. Foster
1908-1996
Theodore W. Swift
1928-2000
John L. Collins
1926-2001

Webb A. Smith
Allan J. Claypool
Gary J. McRay
Robert J. McCullen
Stephen I. Jurnu
William K. Fahey
Stephen O. Schultz
William R. Schulz

David H. Aldrich
Scott A. Storey
Charles A. Janssen
Charles E. Barbieri
James B. Jensen, Jr.
Scott L. Mandel
Michael D. Sanders
Sherry A. Stein
Brent A. Titus
David J. Houston
Brian A. Kaser
Robert E. McFarland
Stephen J. Lowney
Kenneth T. Brooks
Patricia A. Calore
Michael J. Bommarito
Jean G. Schtokal

Glen A. Schmiede
Michael W. Puerner
Brian G. Goodenough
Matt G. Hrebec
Mark H. Canady
Eric E. Doster
Stephen J. Rhodes
Melissa J. Jackson
Steven H. Lasher
Nancy L. Kahn
Deanna Swisher
Mark J. Burzych
Thomas R. Meagher
Douglas A. Mielock
Scott R. Forbush
Peter R. Albertins
Christopher A. Ballard

Scott A. Chernich
Donald E. Martin
Jennifer M. Van Horn
Paul J. Millenbach
Dirk H. Beckwith
Rebecca S. Davies
Anne M. Seurnyck
Barbara J. Oyer
Claire V. Groen
Joel W. Baar
Jennifer Kildea Dewane
John P. Nicolucci
Michael D. Homier
Larry R. Jensen, Jr.
Molly L. Chan
Meredith A. Jagutis
Keith A. Castora

Kirsten M. McNelly
Robert M. Hartley
Lisa A. Funkhouser
David S. Lefere
Johanna M. Novak
Emily L. Dawson
William P. Webster
Benjamin J. Price
Scott R. Lovernick
Ronald D. Richards, Jr.

Of Counsel
Thomas G. McGurrin, Jr.
Lawrence B. Lindemer
John W. Ester
David VanderHaagen
Andrea J. Hool
Steven L. Owen
John M. Naber
Richard L. Hillman
Francis J. O'Donnell
Michael G. Harrison
Dennis R. O'Connell
Allan O. Maki

Writer's Direct Phone: (517) 371-8138

August 21, 2002

Clerk of the Court
Michigan Court of Appeals
109 W. Michigan Avenue
Lansing, MI 48909



Hand Delivered

Dear Clerk:

RE: The Detroit Edison Company v Michigan Public Service Commission
Court of Appeals No. _____
(MPSC Case No. U-12892)

Enclosed please find, on behalf of Appellant The Detroit Edison Company, the following documents:

- (a) Jurisdictional Checklist;
- (b) Claim of Appeal, with attached Exhibit A-July 23, 2002 Opinion and Order;
- (c) Notice of Filing Claim of Appeal;
- (d) Affidavit that Claim of Appeal is Timely;
- (e) Statement of Attorney Concerning Transcript;
- (f) Docket Entries, and
- (g) Proof of Service

Please date stamp the extra copy of the Claim of Appeal and return the same with our courier. Also enclosed is our check in the amount of \$250.00 for the filing fee. Thank you for your assistance. If you have any questions, please call.

Very truly yours,

FOSTER, SWIFT, COLLINS & SMITH, P.C.

Stephen J. Rhodes

SJR:jkc

Enclosures

cc w/enc:

Counsel of Record
Bruce R. Maters
Jon P. Christinidis

STATE OF MICHIGAN
JUDICIAL CIRCUIT
COUNTY

JURISDICTIONAL CHECKLIST
FOR COURT OF APPEALS

CASE NO.
Trial Court/Tribunal:
MPSC Case No. U-12892
Court of Appeals:

Plaintiff name

x Appellant

The Detroit Edison Company

Defendant name

___ Appellant

V

Michigan Public Service Commission

INSTRUCTIONS: This checklist must be completed and filed with your claim of appeal.

Required Documents (All items, 1. through 6. must be filed. Check each box as you confirm each document and appropriate filing fee(s) are being filed.)

- x 1. The claim of appeal, with original signature and correct lower court number. [MCR 7.204(B)(1)]
- x 2. A filing fee of \$250.00. [MCR 7.204(B)(2)] (Where multiple lower court or tribunal numbers are involved, Court policy will dictate whether a multiple fee is required. Appellants will be advised of any insufficiency in the filing fee.)
- x 3. A copy of the order you are appealing (the order deciding the merits and not an order denying rehearing or reconsideration). [MCR 7.204(C)(1)]
- x 4. Evidence that the necessary transcript has been ordered (check only one box from a. through e. below). [MCR 7.204(C)(2)]
- x a. The complete transcript has been ordered. [MCR 7.210(B)(1)(a)] and is on file with the Michigan Public Service Commission
- ___ b. This appeal is from a probate court proceeding which does not require a complete transcript. [MCR 7.210(B)(1)(b)]
- ___ c. A motion has been filed in the lower court or tribunal for submission of the appeal on less than the complete transcript. [MCR 7.210(B)(1)(d)]
- ___ d. The parties have stipulated to submission of the appeal on less than the complete transcript. [MCR 7.210(B)(1)(e)]
- ___ e. The parties have stipulated to a statement of fact. [MCR 7.210(B)(1)(e)]
- x 5. Proof of service demonstrating that all other parties have been served. Even if a party is not an appellee, they must be served. [MCR 7.204(C)(3)]
- x 6. Docket or calendar entries from the lower court or tribunal. [MCR 7.204(C)(5)]

Finality of Order Being Appealed (Check the box that demonstrates your claim of appeal is by right. If none apply, you do not have an appeal by right.)

- ___ The claim of appeal is from a final order which, alone or with other orders already entered, disposes of all claims as to all parties.
- ___ The claim of appeal is from a post-judgment order which by law is designated as a final order. The statute, court rule, or case law establishing appeal by right as to this order is: (citation to MCR 7.203 alone is insufficient)
- x The claim of appeal is from an order which is designated by statute, court rule or case law as an order appealable by right to the Court of Appeals. The statute, court rule, or case law establishing appeal by right as to this order is: MCL 462.26; MSA 22.45

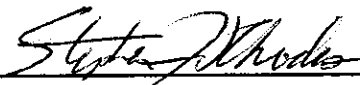
August 21, 2002

Date filed

MICHIGAN PUBLIC SERVICE
COMMISSION

AUG 23 2002

FILED

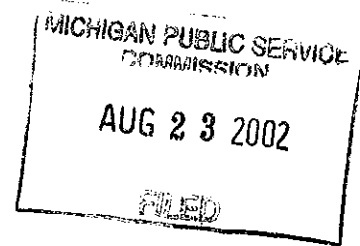


Preparer's name (type or print) Stephen J. Rhodes (P40112)

Foster, Swift, Collins & Smith, P.C.

Telephone no. 517/371-8138

STATE OF MICHIGAN
IN THE COURT OF APPEALS



THE DETROIT EDISON COMPANY

Appellant,

v

MICHIGAN PUBLIC SERVICE COMMISSION

Appellee.

Court of Appeals

No. _____

In the matter of the application of THE
DETROIT EDISON COMPANY to recover
implementation costs for the 12-month
period ended December 31, 2000.

MPSC Case No. U-12892

William K. Fahey (P27745)
Stephen J. Rhodes (P40112)
FOSTER, SWIFT, COLLINS & SMITH, P.C.
Attorneys for Appellant
THE DETROIT EDISON COMPANY
313 South Washington Square
Lansing, MI 48933-2193
(517) 371-8100

Bruce R. Maters (P28080)
Jon P. Christinidis (P47352)
THE DETROIT EDISON COMPANY
2000 Second Ave., Room 688 W C B
Detroit, MI 48226-1203
(313) 235-7481

THE DETROIT EDISON COMPANY'S
CLAIM OF APPEAL

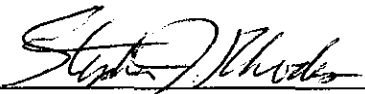
Dated: August 21, 2002

The Detroit Edison Company claims an appeal from the Opinion and Order entered on July 23, 2002 (Exhibit A), in MPSC Case No. U-12892 in the Michigan Public Service Commission by Chairman Laura Chappelle and Commissioners David A. Svanda and Robert B. Nelson.

Respectfully submitted,

FOSTER, SWIFT, COLLINS & SMITH, P.C.
Attorneys for Appellant The Detroit Edison
Company

Dated: August 21, 2002

By: 
William K. Fahey (P27745)
Stephen J. Rhodes (P40112)
313 South Washington Square
Lansing, MI 48933-2193
(517) 371-8100

THE DETROIT EDISON COMPANY
By: Bruce R. Maters (P28080)
Jon P. Christinidis (P47352)
2000 Second Ave., Room 688 W C B
Detroit, MI 48226-1203
(313) 235-7481

S:\122\SJR\EDISON\12892\CLAIM.APP

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 12-month period	)	Case No. U-12892
ended December 31, 2000.	)	

At the July 23, 2002 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Laura Chappelle, Chairman
Hon. David A. Svanda, Commissioner
Hon. Robert B. Nelson, Commissioner

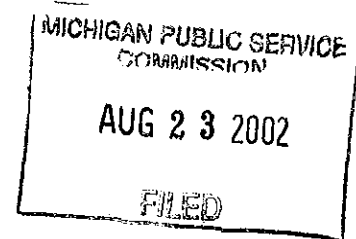
OPINION AND ORDER

On March 30, 2001, The Detroit Edison Company (Detroit Edison) filed an application seeking deferred recovery of \$28,269,326 for expenditures to implement a retail open access program made during the 12-month period ended December 31, 2000.

The Association of Businesses Advocating Tariff Equity (ABATE) and Attorney General Jennifer M. Granholm (Attorney General) filed petitions to intervene on April 9 and May 21, 2001, respectively. The Commission Staff (Staff) also participated in the proceedings.

Pursuant to due notice, a prehearing conference was conducted on May 31, 2001 by Administrative Law Judge Barbara A. Stump (ALJ). The prehearing conference was attended by Detroit Edison, ABATE, and the Staff. ABATE's intervention request was granted, but the Attorney General's intervention was deferred. Thereafter, the parties agreed to a schedule for

STATE OF MICHIGAN
IN THE COURT OF APPEALS



THE DETROIT EDISON COMPANY

Appellant,

v

MICHIGAN PUBLIC SERVICE COMMISSION

Appellee.

Court of Appeals
No. _____

In the matter of the application of THE)
DETROIT EDISON COMPANY to recover)
implementation costs for the 12-month)
period ended December 31, 2000.)

MPSC Case No. U-12892

William K. Fahey (P27745)
Stephen J. Rhodes (P40112)
FOSTER, SWIFT, COLLINS & SMITH, P.C.
Attorneys for Appellant
THE DETROIT EDISON COMPANY
313 South Washington Square
Lansing, MI 48933-2193
(517) 371-8100

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THE DETROIT EDISON COMPANY
2000 Second Ave., Room 688 W C B
Detroit, MI 48226-1203
(313) 235-7481

NOTICE OF FILING OF CLAIM OF APPEAL

Dated: August 21, 2002

NOTICE OF FILING OF CLAIM OF APPEAL

TO: All Persons Listed on the Attached Service List

PLEASE TAKE NOTICE that the attached Claim of Appeal has been filed in the Michigan Court of Appeals and the applicable filing fee paid on this date.

Respectfully submitted,

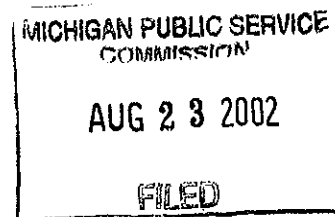
FOSTER, SWIFT, COLLINS & SMITH, P.C.
Attorneys for Appellant The Detroit Edison
Company

Dated: August 21, 2002

By: 
William K. Fahey (P27745)
Stephen J. Rhodes (P40112)
313 South Washington Square
Lansing, MI 48933-2193
(517) 371-8100

THE DETROIT EDISON COMPANY
By: Bruce R. Maters (P28080)
Jon P. Christinidis (P47352)
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STATE OF MICHIGAN
IN THE COURT OF APPEALS



THE DETROIT EDISON COMPANY

Appellant,

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No. _____

In the matter of the application of THE)
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MPSC Case No. U-12892

William K. Fahey (P27745)
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FOSTER, SWIFT, COLLINS & SMITH, P.C.
Attorneys for Appellant
THE DETROIT EDISON COMPANY
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Lansing, MI 48933-2193
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AFFIDAVIT THAT
CLAIM OF APPEAL IS TIMELY

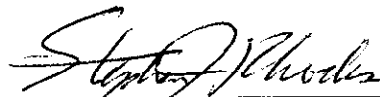
Dated: August 21, 2002

AFFIDAVIT THAT CLAIM OF APPEAL IS TIMELY

STATE OF MICHIGAN)
)
COUNTY OF INGHAM)

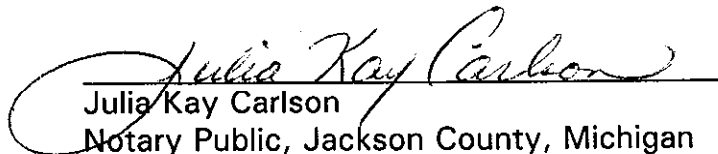
Stephen J. Rhodes of Foster, Swift, Collins & Smith, P.C., being duly sworn,
deposes and says:

1. I am one of the attorneys representing The Detroit Edison Company in this appeal.
2. On July 23, 2002, the Michigan Public Service Commission ("MPSC") issued an Opinion and Order in Case No. U-12892.
3. The Detroit Edison Company is filing a Claim of Appeal with this Court pursuant to MCL 460.59 and MCL 462.26(1), which provide for a 30-day time period to file an appeal as of right in this Court.



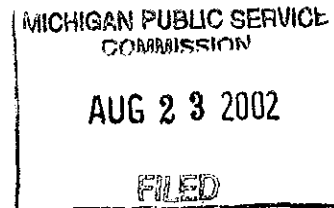
Stephen J. Rhodes

Sworn to before me and subscribed in my presence this 21st day of August, 2002.



Julia Kay Carlson
Notary Public, Jackson County, Michigan
Acting in Ingham County
My Commission Expires: 5/18/2006

STATE OF MICHIGAN
IN THE COURT OF APPEALS



THE DETROIT EDISON COMPANY

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No. _____

In the matter of the application of THE)
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MPSC Case No. U-12892

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STATEMENT OF ATTORNEY CONCERNING TRANSCRIPT

Dated: August 21, 2002

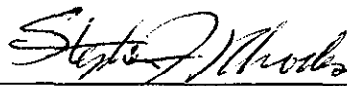
STATEMENT OF ATTORNEY CONCERNING TRANSCRIPT

There is no record to be transcribed in this case. The proceedings of the Michigan Public Service Commission in Case No. U-12892 were previously recorded, transcribed, and delivered to the Michigan Public Service Commission.

Respectfully submitted,

FOSTER, SWIFT, COLLINS & SMITH, P.C.
Attorneys for Appellant The Detroit Edison
Company

Dated: August 20, 2002

By: 
William K. Fahey (P27745)
Stephen J. Rhodes (P40112)
313 South Washington Square
Lansing, MI 48933-2193
(517) 371-8100

THE DETROIT EDISON COMPANY
By: Bruce R. Maters (P28080)
Jon P. Christinidis (P47352)
2000 Second Ave., Room 688 W C B
Detroit, MI 48226-1203
(313) 235-7481



Electronic Case Filings

Michigan Public Service Commission
Department of Consumer & Industry Services

View Case

Case U-12892: In the matter of the application of The Detroit Edison Company to recover electric restructuring implementation costs for the period ended December 31, 2000.
Industry: Electric
Company(s): The Detroit Edison Company
Open Date: 3/30/2001
Order Dates: 6/7/2001 7/3/2001 7/23/2002

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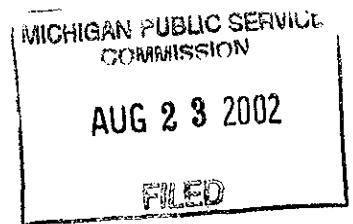
☒ Case 12892 On

**How to View
PDF Files**

Click on the Document # to view the PDF file. A document # ending with an N, is not available in electronic form. Contact the MPSC for a paper copy.

Document #	Date	Filed by	Representation	Type	Description
0031	7/23/2002			Order	Closing proceeding
0030	11/28/2001	Tomak		Memorandum	Transmittal to RAD for draft order
0029	11/27/2001	Barone	Staff	Reply to Exceptions	
0028	11/27/2001	Erickson	Attorney General of Michigan	Reply to Exceptions	
0027 N	11/16/2001	Barone	Staff	Letter	No exceptions
0026	11/15/2001	Christinidis	Detroit Edison Co.	Exceptions	
0025	11/1/2001	Stump	ALJ	PFD	
0024	10/26/2001	Smith	Detroit Edison Co.	Reply Brief	
0023	10/26/2001	Erickson	Attorney General of Michigan	Brief	
0022	10/15/2001	Barone	Staff	Brief	
0021	10/12/2001	Christinidis	Detroit Edison Co.	Brief	
0020	10/12/2001	Strong, Esq.	ABATE	Brief	
0019	10/12/2001	Erickson		Brief	Attorney General's Initial Brief
0018	9/19/2001	Flynn	Merrill & Associates, Inc.	Transcript	Volume 2, 9-13-01
0017	7/31/2001	Katsarelis	Staff	Testimony	
0016	7/3/2001	Stump	Bureau of Hearings	Order	Granting Attorney General's intervention
0015	6/28/2001	Erickson	Attorney General of Michigan	Other	Stipulation of Admission of Attorney General as an Intervenor
0014	6/6/2001	Flynn	Merrill & Associates, Inc.	Transcript	Volume 1, Prehearing of 531-01
0013	6/7/2001	Stump	Bureau of Hearings	Order	Following prehearing conference
0012	5/31/2001	Christinidis	Detroit Edison Co.	Affidavit	Of publication
0011	5/31/2001	Christinidis	Detroit Edison Co.	Proof of Service	For mailing of notice of hearing
0010	5/31/2001	Barone	Staff	Appearance	

STATE OF MICHIGAN
IN THE COURT OF APPEALS



THE DETROIT EDISON COMPANY

Appellant,

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MICHIGAN PUBLIC SERVICE COMMISSION

Appellee.

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In the matter of the application of THE)
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MPSC Case No. U-12892

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Lansing, MI 48933-2193
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PROOF OF SERVICE

Dated: August 21, 2002

PROOF OF SERVICE

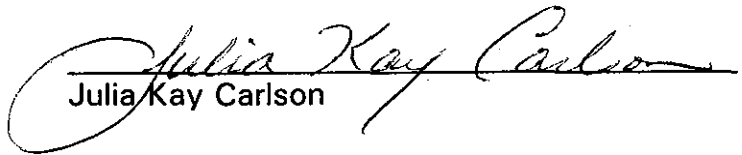
STATE OF MICHIGAN)
)
COUNTY OF INGHAM)

Julia Kay Carlson, being duly sworn, states that on August 21, 2002, on behalf of Appellant The Detroit Edison Company, she served its:

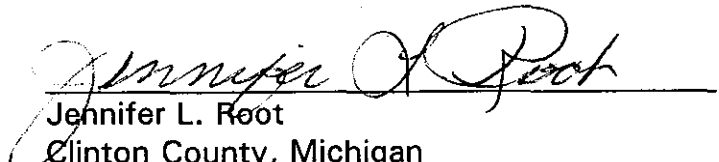
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- (b) Claim of Appeal, with attached
Exhibit A-July 23, 2002 Opinion and Order;
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- (e) Statement of Attorney Concerning Transcript;
- (f) Docket Entries, and
- (g) Proof of Service

upon those persons identified on the attached service list, by enclosing the same in sealed envelopes, with first-class postage prepaid, addressed to their respective business addresses, and depositing the same in the United States mail at Lansing, Michigan.

I declare that the statements above are true to the best of my information, knowledge and belief.


Julia Kay Carlson

Subscribed and sworn to before me this 21st day of August, 2002.


Jennifer L. Root
Clinton County, Michigan
Acting in Ingham County, Michigan
My Commission Expires: 02/08/2003