

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. Jurmu
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
Brian A. Kaser
Robert E. McFarland
Stephen J. Lowney
Kenneth T. Brooks
Patricia A. Calore
Michael J. Bommarito
Jean G. Shtokal
Glen A. Schmiede
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
Alan G. Gilchrist
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
Bruce A. Vande Vusse
Anne M. Seuryneck
Richard L. Hillman
Alan T. Rogalski
Andrea J. Hool
Steven L. Owen
John M. Naber
Francis J. O'Donnell
Rebecca S. Davies
Barbara J. Oyer
Claire V. Groen
Jennifer Kildea Dewane
John P. Nicolucci
Michael D. Homier
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Benjamin J. Price
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Pamela C. Dausman
Terrence G. Quinn
Jacqueline E. Bayley
Ethan E. Rii
Dana M. Bennett
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June 17, 2004

Hand Delivery

Ms. Mary Jo Kunkle
Executive Secretary
Michigan Public Service Commission
6545 Mercantile Way
Lansing, MI 48909

Dear Ms. Kunkle:

**RE: In the matter, on the Commission's own motion, to establish the Michigan
Renewables Energy Program
(MPSC Case No. U-12915)**

Enclosed for filing are an original and four copies of The Detroit Edison Company's Petition for Rehearing and Clarification, along with a Proof of Service. Also enclosed is an extra copy of each document to be stamped and returned with our courier.

Please contact me if you have any questions.

Very truly yours,

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

Stephen J. Rhodes

/mkr

Enclosures

cc: Parties of Record

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STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission's own motion,)
to establish the **MICHIGAN REVNEWABLES**)
ENERGY PROGRAM.)
_____)

Case No. U-12915

THE DETROIT EDISON COMPANY'S PETITION
FOR REHEARING AND CLARIFICATION

THE DETROIT EDISON COMPANY
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(517) 371-8100

Dated: June 17, 2004

INTRODUCTION

On May 18, 2004, the Commission issued an Opinion and Order that ordered, as relevant to this petition, “that regulated utilities with more than 250,000 customers in Michigan other than Consumers Energy Company shall issue requests for proposals no later than August 16, 2004” (Opinion and Order, p 12). The Detroit Edison Company (‘Edison’) plainly falls within the scope of the order; however, the requirements of the order are unclear. Therefore, Edison moves for rehearing and clarification.

STANDARD OF REVIEW

Rule 403 of the Commission’s Rules of Practice and Procedure, R 460.17403 provides:

“(1) A petition for rehearing after a decision or order of the commission shall be filed with the commission within 30 days after service of the decision or order of the commission unless otherwise specified by statute. A petition for rehearing based on a claim of error shall specify all findings of fact and conclusions of law claimed to be erroneous with a brief statement of the basis of the error. A petition for rehearing based on a claim of newly discovered evidence, on facts or circumstances arising subsequent to the close of the record, or on unintended consequences resulting from compliance with the decision or order shall specifically set forth the matters relied upon. The petition shall be accompanied by proof of service on all other parties to the proceeding.”

DISCUSSION

Edison does not file this motion to be confrontational, but instead seeks to be cooperative by avoiding any error or unintended consequences. As indicated above, the Commission’s ordering language is unclear. The Commission’s additional statements do not clarify the Commission’s meaning. The Commission stated:

“The Commission, in keeping with the findings in Case No. U-13843, [focusing on Consumers Energy Company] hereby orders all remaining regulated utilities with more than 250,000 customers in Michigan to issue requests for proposals for renewable energy programs, in accordance with the Staff’s recommendations by August 16, 2004” (Opinion and Order, p 11, footnote omitted).

The Commission further stated in its findings:

“d. Regulated utilities with more than 250,000 customers in Michigan should issue requests for proposals for renewable energy resources or for agreements with the third-party suppliers who provide green power turnkey operations.” (Opinion and Order, p 12).

Edison interprets the Commission as ordering Edison to issue investigatory requests for proposals (RFPs). Such an interpretation seems appropriate because the green power market is still developing, Edison does not know what will be proposed, and the appetite of Edison’s customers for renewable energy will be driven largely by price.

Similarly, Edison interprets the Commission as not ordering Edison to necessarily make any purchase(s) of “renewable energy resources,” “green power turnkey operations” or anything else that is proposed in response to the RFPs. Again, this interpretation seems appropriate because Edison does not know what will be proposed in response to Edison’s RFPs. Edison hopes for the best, but recognizes the possibility that all responses could be unacceptable because, for example, they involve excessive expense. Edison’s interpretation is also in accordance with the prerogative of Edison’s management to reject unacceptable proposals. Union Carbide v Public Service Comm, 431 Mich 135, 162; 428 NW2d 322 (1988).

Edison intends to proceed in accordance with its interpretation of the Commission's Opinion and Order. Edison requests clarification so that Edison can be assured that it is proceeding in accordance with what the Commission envisions.

CONCLUSION AND RELIEF

Rehearing is appropriate because the Commission's order is unclear, and therefore could be interpreted as involving error or producing unintended consequences. Therefore, Edison respectfully requests that the Commission issue an order clarifying that Edison's interpretation of the Commission's May 18, 2004 Opinion and Order is correct.

Respectfully submitted,

Dated: June 17, 2004

By: _____
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STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission's own motion,)
to establish the **MICHIGAN RENEWABLES**)
ENERGY PROGRAM.)
_____)

Case No. U-12915

CERTIFICATE OF SERVICE

STATE OF MICHIGAN)
) ss
COUNTY OF INGHAM)

Stephen J. Rhodes, being duly sworn, deposes and says that he is an employee of Foster, Swift, Collins & Smith, P.C., and that on June 17, 2004, a copy of The Detroit Edison Company's Petition for Rehearing and Clarification, and Proof of Service, were served upon:

See Attached Service List

Service was accomplished via electronic mail and by depositing same in a United States Postal Service mail depository, enclosed in envelopes bearing first-class postage, fully prepaid, and properly addressed.

Stephen J. Rhodes

**MPSC Case Nos. U-12915 and U-13843
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