

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application
of THE DETROIT EDISON COMPANY to Case No. U-12966
unbundle its retail electric rates. BOH Docket No. 2001-1172
_____/ PREHEARING CONFERENCE

Proceedings had in the above-entitled
matter before Barbara A. Stump, J.D., Administrative
Law Judge, at the Michigan Public Service Commission,
6545 Mercantile Way, Lansing, Michigan, on Thursday,
August 23, 2001.

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Appearing on behalf of the Commission Staff

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1 MR. ERICKSON: Donald E. Erickson appearing
2 on behalf of Attorney General Jennifer M. Granholm.

3 MR. NICKERSON: Michael Nickerson,
4 Assistant Attorney General, appearing this morning for
5 Steven Hughey, who represents the Michigan Public Service
6 Commission Staff.

7 JUDGE STUMP: Thank you.

8 The first thing we have are petitions to
9 intervene that have been filed by Energy Michigan, ABATE,
10 Exelon, National Energy Marketers Association, and, of
11 course, a notice of intervention by the Attorney General.
12 Are there any objections to any of the interventions?

13 MR. CHRISTINIDIS: Your Honor, the company
14 doesn't object to the interventions but does not
15 necessarily agree with all the conclusions and statements
16 made in those petitions to intervene.

17 JUDGE STUMP: All right. All of the
18 interventions will be granted.

19 And then National Energy Marketers
20 Association also filed a motion to practice pro hac vice.
21 Would you like to address that?

22 MR. OGINSKY: Yes, your Honor.

23 National Energy Marketers Association filed
24 the motion pro hac vice on behalf of Craig Goodman and
25 Stacey Rantala. Rantala is spelled R-a-n-t-a-l-a. I'd

1 like to request that you grant that motion at this time.

2 JUDGE STUMP: Any objection to that?

3 MR. CHRISTINIDIS: No objection, your
4 Honor.

5 JUDGE STUMP: All right, that motion will
6 be granted.

7 All right. Next we have the motion to
8 reject application and order refiling that was jointly
9 filed by basically all of the intervenors except the
10 Attorney General.

11 What I would really like to do first,
12 though, is have Detroit Edison explain to me exactly what
13 the company is proposing to do so that my understanding of
14 what I have read -- and I've gone through it a few times
15 -- is correct. And then we can go to the motion and you
16 can tell me why that is not acceptable.

17 MR. CHRISTINIDIS: Well, your Honor, it
18 seems to me that the most prudent thing to do is to just
19 take a look at what the statute requires. As we have read
20 the statute, it requires two things: It requires the
21 filing of an application within one year of the enactment
22 of P.A. 141, and it requires that that application contain
23 some kind of proposal to unbundle commercial and
24 industrial rate schedules and separately identify discrete
25 services and charge for those discrete services.

1 Frankly, I think that the mere fact that
2 Detroit Edison has a retail access service tariff that's
3 been approved effectively unbundles the company's rates
4 sufficient to meet the very vague terms of this statute.
5 So in other words, the fact that this retail access
6 service tariff talks about what it is that a person would
7 be purchasing from Detroit Edison in the event they
8 decided to purchase the actual electric energy from
9 another provider effectively does that separation that the
10 statute contemplates.

11 JUDGE STUMP: But you're not proposing to
12 put that -- to lay that out in customer bills?

13 MR. CHRISTINIDIS: We are proposing to in
14 customer bills indicate what would be the charge that they
15 would incur should they decide to go to retail access.

16 JUDGE STUMP: And you're proposing to do
17 that through a message insert in bills to customers?

18 MR. CHRISTINIDIS: That's correct, your
19 Honor.

20 JUDGE STUMP: Okay. So the bills -- it's
21 my understanding the bills would look the same, and then
22 you would have this message that's inserted with the
23 information that you just described, correct?

24 MR. CHRISTINIDIS: That's generally the
25 case, yes.

1 JUDGE STUMP: Okay. All right, that's what
2 I wanted to be clear on. Okay, thank you.

3 Mr. Schneidewind, are you going to address
4 the motion?

5 MR. SCHNEIDEWIND: Yes, your Honor, I am.

6 I think the questions that you have asked
7 and the responses very nicely frame both our position and
8 I think that the motion ought to prevail.

9 The statute says, and I would quote, that
10 no later than one year from the effective date of the
11 amendatory act adding this section, "each electric utility
12 shall file an application to unbundle its existing
13 commercial and industrial rate schedules and separately
14 identify and charge for their discrete services." That's
15 the requirement of law.

16 Detroit Edison, I think very candidly, has
17 said, and they've provided examples in their application,
18 that their notion of compliance would be to send the
19 customer the exact same retail bill that they have
20 received and at the bottom of the bill, in the example
21 they provided, would be one sentence or so that says if
22 you were on open access, your charge for open access
23 distribution or service would be X dollars, and that's it.
24 That's the total notion of compliance from Detroit Edison,
25 and they included as an exhibit Attachment A to their

1 application, and I can simply read what they would
2 propose, is that at the bottom of the bill it would say,
3 "For customers considering participation in Detroit
4 Edison's Customer Choice Program the total charge" -- the
5 word "total" -- "for the Detroit Edison distribution
6 service is \$5.95 per month plus 3.5 cents per kilowatt-
7 hour." That plus the normal bill that you get is their
8 notion of compliance.

9 Well, it doesn't separate the existing
10 charge into discrete services. It does not separately
11 identify those charges. And as Mr. Christinidis said, it
12 certainly leaves the customer to make some computations.

13 JUDGE STUMP: That's what I'm wondering.
14 It occurred to me, are customers going to have to do some
15 kind of calculation?

16 MR. SCHNEIDEWIND: Absolutely, your Honor.
17 What they would have to do in theory -- and I don't think
18 this is compliance -- but what they would have to do would
19 definitely be to say all right, my bill from Detroit
20 Edison is \$500. Edison is telling me that under open
21 access the charge would be a certain amount per month plus
22 a certain amount per kilowatt-hour. So now what I have to
23 do is I have to multiply the kilowatt-hours by this charge
24 to get a number, I have to add the customer charge. Then,
25 according to Edison, I should take that and subtract that

1 from the total retail charge and that would give me in
2 theory the cost of generation, and then I would take the
3 cost of generation and I would compare that with a bid
4 that I'd received from somebody else or I would say that's
5 the costs that I have to beat.

6 Well, No. 1, that's a lot of calculations.

7 So certainly it doesn't give the customer the specific
8 items. There should be like an item for generation, one
9 item for generation on their retail bill that they'd look
10 at and they'd say it's X cents per kilowatt-hour; I
11 compare that with the competition, which is X cents.
12 Bingo, I know whether I should go into open access.

13 By the Edison standards, you're making a
14 lot of computations. So, you know, that's problem No. 1.

15 Problem No. 2 is it really isn't at all
16 clear that the open access charges are going to be
17 comparable to or represent the same elements of service
18 that are contained in a person's retail rate. You know,
19 it may be that there's a different level of service. It
20 may be that there's an additional meter charge. It may be
21 that there are different, you know, requirements that your
22 service under retail would be categorized one way, under
23 open access another. There's really no way to tell.
24 There's no way to tell at all with this filing.

25 So, No. 1, the customer has to make a lot

1 of computations. No. 2, the customer may or may not be
2 comparing apples to apples; then when they go out and take
3 this concocted number and go to an open access provider
4 and say, "Gee, I think my generation from Edison is X,
5 what's your charge?" and the competitor may say, "Well, my
6 charge is Y, but it's not the same thing," there's no way
7 to know that.

8 And finally, your Honor, let's really put
9 the skunk on the table here. Why do we want unbundling?
10 Why did the law go to all this trouble? The reason is the
11 law wanted to stop discrimination. There was the feeling,
12 and I have to tell your Honor we strongly believe, that
13 Edison's retail access filing has probably overstated
14 charges or at the very least has charges for distribution
15 service that are more than would be paid by a retail
16 customer.

17 Why do you have unbundling? The goal of
18 unbundling, the great policy goal there, is to have one
19 set of charges which says for every customer in the Edison
20 territory there's a certain charge for generation and
21 specific charges for distribution and metering and
22 customer service that either a retail customer could have
23 or an open access customer could select. In other words,
24 it prevents discrimination, because under Edison's notion
25 you have the open access customer paying this one tariff

1 charge, and mixed into the bill are charges for the retail
2 customer for the same services that may be different.

3 The law really wanted to prevent that, and
4 the way to do it is to have only one set of charges. It's
5 like a menu in a restaurant, a la carte menu. In the
6 whole state every customer can go to that a la carte menu
7 and say the main course -- let's call that the generation
8 -- is five dollars, and, you know, salad, which we'll call
9 transmission, and dessert, which we'll call distribution,
10 is three dollars and two dollars, and if I want to be a
11 retail customer I'll pay the three and the two and the
12 five, and if I want to be an open access customer I just
13 pay the three and the two.

14 What does this do? It prevents
15 discrimination against open access. It means the open
16 access customer pays exactly the same amount for
17 distribution, and whatever transmission is left in there,
18 as the retail customer, and then you don't have the
19 lawyers wrangling about we're being discriminated against.

20 Your Honor, that's really the reason
21 unbundling is in the statute. It's to prevent
22 discrimination. But you can see that with the Edison
23 means of complying you never have the ability to have
24 every single customer, open access or retail, pay the same
25 thing, the same charges for distribution, metering, and

1 all these other little services. Unless you have
2 unbundling, unless there's just one menu for every
3 customer that they select from at the same prices, you
4 have the potential for discrimination, and really that's
5 why this provision is in the statute. It's meant to
6 eliminate discrimination. But it's also clear that Edison
7 hasn't complied with it.

8 So, you know, in conclusion, what we're
9 saying is that the Edison filing does not even facieally
10 comply with the requirement of the statute, which is that
11 the service be separated into discrete elements and the
12 customer be charged for discrete elements. The Edison
13 filing arguably doesn't even do the separation, and it
14 most certainly doesn't set forth -- for instance, after
15 the Edison filing, you know, does a retail customer really
16 see the charge and pay the charge for each little element
17 of service, and the answer is no.

18 JUDGE STUMP: So in your view, then, a
19 fully unbundled billing format, the bill would literally
20 have all of these discrete charges listed as opposed to --
21 for example, I'm looking at my Consumers Energy. Last
22 night I got out my Consumers Energy electric bill to see
23 how that played out, and so instead of merely saying or
24 stating on the bill, as is done now, total electric, 420
25 kilowatt-hours at such-and-such a price, total amount, we

1 would have all of these discrete -- these components of
2 total electric service.

3 MR. SCHNEIDEWIND: That's correct. And
4 let's make two observations to that, your Honor.

5 The first is that when Consumers came in
6 with their unbundling filing, that's pretty much what
7 they're proposing to do and they said they could do it.

8 But you're absolutely right. And what
9 would that let you do? And let's go to the punch line
10 here and why this is so important. Let's say they did
11 comply with the unbundling and instead of the bill you're
12 describing, you got a bill that said generation service is
13 five cents a kilowatt-hour times your number of kilowatt-
14 hours, distribution service is three cents, some balancing
15 functions that they have -- you know, load following, X, Y
16 and Z cents.

17 With that information, if you had it on
18 your bill, two things could be done that are beneficial to
19 you, the customer. No. 1 is, you take that generation
20 charge and you just walk over to the competitor who wants
21 your business to sell you power and say, "My price from
22 Edison is five cents; what are you going to charge me on
23 the same basis?" And they can come back with an apples-
24 to-apples quote.

25 The second benefit is if you decide --

1 let's say you're paying five cents and that competitor
2 offers four, and you say, "Great, we got a deal." Then
3 the competitor is supplying you energy at four cents and
4 you know that the other charges are not going to change.
5 When you go to the competitor and buy generation from
6 them, the other little elements on that bill should stay
7 exactly the same. And that's the second protection and
8 the second benefit of unbundling.

9 JUDGE STUMP: So it's only the cost of
10 generation that would vary?

11 MR. SCHNEIDEWIND: The cost of generation
12 would be split out. And another thing could happen here.

13 Someday down the road, for instance, there are some of
14 these services that when you ship power into a system, the
15 utility, for instance, follows the load and sort of
16 balances from moment to moment what you're bringing in
17 versus what is used. These are called ancillary services.

18 Someday there's going to be a competitive
19 market for those, too. So if you see those things split
20 out, separate services in the distribution function,
21 someday competition will develop for those, and then
22 instead of just going to generation, you're going to go to
23 one of the load-following services or the balancing
24 function and say, "Gee, I think I'd like to get a
25 competitive bid on that, too." And someday -- and it

1 won't be long -- you'll be able to do that.

2 So by setting this menu out today, it will
3 stimulate competition for the rest of the menu items, not
4 just the one generation piece, and that's really, I think,
5 the hope in the statute as well, is that someday then
6 you'll have that specific charge and the competitor,
7 instead of saying just, "I want to sell you generation,"
8 will be saying, "Gee, I'd like to get your business on
9 those other little elements too." Without unbundling, how
10 would you ever do that? The answer is you can't.

11 So this is a device to prevent
12 discrimination, to make cost comparisons easier, and to
13 stimulate competition for these other pieces of the menu,
14 these other items on that menu that someday should become
15 competitive. So those are all the benefits. The Edison
16 approach frustrates that.

17 It should be said Consumers was able to
18 make a filing that splits these things out. Edison has
19 chosen not to. You know, really on the face of it,
20 there's really no question this is not compliance with the
21 statute.

22 Edison in its response repeatedly says --
23 you know, the gist of what they're saying is the statute's
24 stupid, it's not practical, it shouldn't be done, it's a
25 waste of time, it's a waste of money. Well, you know,

1 we're lawyers here. That's what the statute says. I
2 don't think it's a waste of money, but even if I did, it's
3 the law, and they have not complied with the law. I think
4 it's a wise law, but the fact remains they have not
5 complied with the law.

6 JUDGE STUMP: All right, thank you.

7 Mr. Strong, did you want to make any
8 comments?

9 MR. STRONG: Your Honor, I just want to
10 sort of emphasize one aspect of what I think was the
11 intent of the Legislature, and the intent of the
12 Legislature was to try to create a system where people
13 could stay with Detroit Edison or any other utility or
14 they could move off and buy power from a third party, and
15 I think that was the whole intent. You have bundled
16 service over here, you have choice on the other side, and
17 in order to make the choice meaningful, you have to have
18 information that is provided by the utility in a
19 meaningful manner that makes it very clear as to what the
20 costs are as you stay here or as you move over to choice,
21 and that's why the Legislature said let's unbundle the
22 rates, let's provide information to the customer that will
23 allow them to meaningfully exercise their right to choice.

24 And under Edison's approach, they haven't
25 provided that. They haven't provided information with

1 respect to what the transmission costs are. Yes, it's not
2 something that they're going to receive, but it's
3 information that ought to be provided to the customers so
4 that they can meaningfully exercise their right to stay
5 with Detroit Edison or move off to some other third party.

6 So consequently, I think what we have to
7 have is a filing that provides information in a very
8 specific and what I will call simplified manner to
9 customers to allow them to meaningfully exercise their
10 right to choice as granted by the Legislature, and
11 Edison's filing does not do that.

12 Thank you.

13 JUDGE STUMP: All right, thank you.

14 Mr. Oginsky?

15 MR. OGINSKY: Yes. For the sake of
16 brevity, your Honor, I'll basically concur with the
17 comments of counsel for Energy Michigan and ABATE and just
18 say that the statute is clear. Edison is supposed to file
19 unbundled rates that separately identify and charge for
20 its discrete services. It hasn't done that, and to foster
21 the ability of customers to make educated decisions about
22 from whom they buy their electric supply, its discrete
23 services should be set out and charged in their bills. It
24 hasn't made any application to do that, so Exelon, of
25 course, fully supports the joint motion.

1 That's what I have to say, your Honor.

2 JUDGE STUMP: Thank you.

3 Mr. Erickson, do you have a position?

4 MR. ERICKSON: Yes, your Honor.

5 Briefly, I think what we have to do is
6 decide whether or not we're going to go forward on the
7 application as it is or reject the application and require
8 Edison to make another filing, and I think the key thing
9 is we have to decide what does the law require us to do,
10 and it seems to me there are at least three statutes that
11 we ought to look at: Section 10, which describes the
12 purposes of Act 141, one of which is to promote
13 competition; Section 10(b)(1) under which this case has
14 been filed, and it has its terms and conditions; and then
15 it appears that Detroit Edison is saying that the
16 Commission ought to adopt the approach that it's proposing
17 because of Section 10(d)(1) primarily, it seems, the rate
18 freeze.

19 And although the Attorney General didn't
20 sign the motion to reject explicitly, the Attorney
21 General's interventions took the position that it doesn't
22 make a lot of sense to go forward with this application if
23 we're not going to come up with separate tariffs, separate
24 rates, distinct services with distinct rates. If we can't
25 because of 10(d)(1), so be it. The Legislature seems to

1 have set up something.

2 But as I indicated in the notice of
3 intervention, I believe that we can come up with separate
4 tariffs and separate rates and distinct services without
5 changing rates in violation of 10(d)(1), and I think
6 that's really where it comes down to, because it doesn't
7 appear to me that if you look at 10(b)(1) in any
8 meaningful way, that Detroit Edison's application proposes
9 to unbundle, set up distinct services with distinct rates,
10 and I think that's what we should be doing unless you
11 conclude that we can't do it because of 10(d)(1).

12 It seems to me when we look at the overall
13 stated purpose of promoting competition, compliance with
14 10(b)(1) is a crucial part of that promoting of
15 competition, the idea being to provide information to
16 customers to make discrete choice selections.

17 I have nothing further.

18 JUDGE STUMP: Thank you.

19 Mr. Nickerson?

20 MR. NICKERSON: Staff has filed a response,
21 your Honor, concurring in the joint motion. In Staff's
22 view, the Edison filing does not comply with Act 141 and
23 should be rejected.

24 JUDGE STUMP: All right, thank you.

25 Mr. Christinidis.

1 MR. CHRISTINIDIS: Thank you, your Honor.

2 Let me just start with the assertion that
3 Detroit Edison likewise wants to make sure that customers
4 are given useful information. I think these parties are
5 stuck in this sort of dogmatic adherence to what their
6 expectations were about what Detroit Edison had to file.

7 Detroit Edison's filing clearly provides
8 the most useful information for retail access customers to
9 utilize in order to shop. The dilemma we face is if we do
10 kind of a -- it's a somewhat subtle distinction, but if
11 you simply go through and try to break out our 30 tariffs
12 that have hundreds of possible rate computations or rate
13 possibilities within them, it can be done. What the
14 result is, though, are rates that won't match up with the
15 retail access tariff rates. Therefore, customers will
16 truly be comparing apples to oranges when they go to shop
17 for another power supplier.

18 If you try to fix that apples-to-oranges
19 problem and try to incorporate the RAST tariff into the
20 already bundled regulated rates, what you wind up with is
21 at best lots of individual customers having a change in
22 their rates, which violates what I think is a pretty
23 important part of the purpose of the Act, which was to
24 provide that five-percent rate reduction for customers and
25 a rate freeze.

1 That's the dilemma we're facing. We are
2 trying to provide the most useful information.

3 JUDGE STUMP: But why is that going to
4 happen? If all you're going to do is separate the
5 service, total electric service, into all these individual
6 components, why should that cause any increase or decrease
7 in anybody's rates?

8 MR. CHRISTINIDIS: Again, the distinction
9 is subtle. If you just do what you just said, which is
10 just simply look at the rates in a vacuum, the existing
11 rates, and break it out, no rate changes will take place.

12 However, the rates won't match up with the retail access
13 rates, so customers won't understand -- it won't be
14 meaningful to them. They'll wind up with a rate that
15 says, "I'll pay Detroit Edison \$30 for delivery service
16 under my bundled rate, and I'll pay them forty if I go to
17 retail access," or something like that. That's not useful
18 for shopping. That's exactly the problem that these
19 gentlemen here indicated they wanted to avoid.

20 Now, if you try to incorporate what's going
21 to be the RAST, the retail access tariff, and factor that
22 into the bundled rates, what happens is because there are
23 different kinds of components in the RAST tariff -- for
24 instance, there's a service charge, I think, of \$5.95 or
25 something in that range -- the existing bundled tariffs in

1 many cases don't have that service charge. So when you
2 try to squeeze that into and make sense of it for a
3 customer and then you try to charge it, what it winds up
4 doing is creating a change in their rates, which the Act
5 specifically prohibits.

6 That's the dilemma we're in. We are
7 attempting, Detroit Edison is attempting to do the right
8 thing here.

9 Mr. Schneidewind's description of the
10 calculation problem is frankly wrong. It's as simple as
11 this, your Honor: Detroit Edison's bill, say, you know,
12 the total bill, is a hundred dollars for a bundled
13 customers. What we are proposing to tell them is, "Your
14 delivery charge, if you choose to go to retail access
15 service, will continue to be \$30." So all the customer
16 has to do is to take his total of a hundred, the delivery
17 charge he's going to pay of thirty, and subtract that.
18 He'll get the \$70 and he'll know what he'll have to go out
19 into the market and shop for. If a supplier can come in
20 and say, "I'll do it for sixty-five," well, then it's
21 economic. If the supplier says, "I can't do it for less
22 than eighty," it's not economic. It's really that simple.
23 That's what we're attempting to do.

24 Mr. Schneidewind can't point to a single
25 place in this statute that talks about what the discrete

1 services are that we're supposed to break out for him.

2 If you look at -- you mentioned the
3 Consumers filing. That's one filing of the utilities.
4 There are several other filings of Wisconsin utilities and
5 others that do exactly what Detroit Edison is doing, by
6 simply breaking it into a delivery service and a bulk
7 power service, because frankly, that's all the customer is
8 ever going to see or want to know about. And if they're
9 sophisticated enough to be their own alternative electric
10 supplier, they'll know how to figure out what the
11 transmission part is.

12 The bottom line here, your Honor, is we're
13 doing exactly what they're asking. What they don't
14 realize is what they're asking for are rate increases for
15 other customers in order to accomplish what they want to
16 do.

17 MR. SCHNEIDEWIND: Your Honor, may I
18 respond?

19 JUDGE STUMP: I don't think he's finished
20 yet.

21 MR. CHRISTINIDIS: And frankly, your Honor,
22 that subtlety that I talked about earlier exists with
23 Consumers as well. Apparently what they have done, as
24 it's been represented to me, is that they have simply done
25 the first scenario. They've simply broken out their

1 rates, but that rate won't match up with their retail
2 access service rate, and they're not billing what they've
3 broken out.

4 I think fundamentally, though, your Honor,
5 what we have to do is go back to the statute and see,
6 because one of the first questions we have to ask is, did
7 Detroit Edison meet what the statute required it to do.
8 And the answer is clearly yes.

9 The statute has only two requirements. It
10 only requires that we file an application and that it
11 discuss some kind of proposal. The statute says
12 absolutely nothing about what unbundling means, what
13 discrete means, what services means. It doesn't mandate
14 when these discrete services when they're broken out have
15 to be charged to customers. The only time period that's
16 mentioned in the statute is when the application has to be
17 filed, and there's no dispute on this record that Detroit
18 Edison has filed the application in a timely manner.

19 There simply cannot be shown to be a
20 violation of the statute. They may disagree with what we
21 filed, and presumably that's what we're here today to talk
22 about, although, frankly, the statute doesn't say we have
23 to have a hearing to discuss this matter either. The
24 Commission decided that's what they want to do. None of
25 that is statutory and none of it was violated.

1 JUDGE STUMP: I have another question.

2 MR. CHRISTINIDIS: I'd be happy to answer
3 it.

4 JUDGE STUMP: On the bill message it says,
5 "For customers considering participation in the Detroit
6 Edison Customer Choice Program the total charge for the
7 Detroit Edison distribution service is \$5.95 per month
8 plus 3.50 cents per kilowatt-hour." What about the other
9 charges that Mr. Schneidewind referred to -- for example,
10 generation? You're just talking about distribution here.

11 MR. CHRISTINIDIS: That charge can be
12 determined, like I said, by taking the total bill and
13 subtracting what you would calculate here, which is the
14 5.95 plus the 3.50 cents per kilowatt-hour. And frankly,
15 we could calculate that amount too if in fact --

16 JUDGE STUMP: Do you think customers are
17 going to understand this, residential customers?

18 MR. CHRISTINIDIS: Well, again, the statute
19 doesn't require us to do anything for residential
20 customers, your Honor, but my answer to your question
21 would be yes, I think they would.

22 JUDGE STUMP: Okay. Anything else?

23 MR. CHRISTINIDIS: If it's a matter of
24 improving what the language is here, that's something that
25 we're willing to consider. They pose an entirely

1 different problem that's statutorily very tricky to deal
2 with, and frankly, we don't know how to deal with other
3 than the way we've done it.

4 JUDGE STUMP: All right, thank you.

5 MR. CHRISTINIDIS: Thank you, your Honor.

6 JUDGE STUMP: Any final comments?

7 MR. SCHNEIDEWIND: Just briefly, your
8 Honor.

9 First of all, in fact, in contradiction to
10 what Mr. Christinidis said, the statute does require
11 something other than an application be filed. It says
12 that these schedules will separately -- first of all,
13 separately identify these elements -- and then clearly
14 Edison does not separately identify each specific element
15 -- and it will separately charge for each element.

16 Why is "separately charge for" very
17 important? Because once again the customer may want to
18 buy a service in the competitive market other than just
19 generation someday, and unless you separately charge for
20 those other items, the customer never has the chance to
21 cost compare those items. That's frustrating.

22 The second point is Mr. Christinidis has
23 made kind of an interesting assertion, which is, "Gee, if
24 we do this, the charges won't so-called match up between
25 open access and retail." How do we know? I guess we've

1 got to take his word for it unless he files. No offense,
2 but I'm not willing to do that, and that's not what the
3 law intends, that we simply take Edison's word for the
4 fact that, gee, there's a problem, forget it. I don't
5 think that's what this process is about, at least as I
6 understand it. It's about putting the facts on the table
7 and then making that decision.

8 So my conclusion is that unless we see the
9 details, we don't know; and then unless there is a
10 separate identification of each charge and the ability to
11 charge for each element separately, the clear purpose and
12 obvious purpose of the statute has been frustrated.

13 JUDGE STUMP: All right, thank you.

14 Final comment?

15 MR. CHRISTINIDIS: Briefly, your Honor.

16 We have filed an affidavit supporting what
17 we've proposed here. I understand that Mr. Schneidewind
18 may have whatever his agenda is to put forth here at the
19 Commission, but the bottom line is we have supported our
20 proposal, the Commission has seen fit to create this case
21 so that he can address whatever issues he thinks are out
22 there, when in fact the Commission didn't even have the
23 obligation to file this case. So to assert that he has
24 any process rights other than what the Commission decides
25 to give him is simply wrong statutorily.

1 Additionally, while he asserts that that's
2 what the statute says about the rate schedules, he can't
3 cite one portion of this statute that says Detroit Edison
4 has to file rate schedules. It says we have to file an
5 application. If the Commission decides to conduct a
6 contested case to address issues, then we can address them
7 in the case.

8 There's a difference between violating the
9 statute and violating what Mr. Schneidewind's expectation
10 was. The statute does not say anywhere that we had to
11 file rate schedules or separately break out those rate
12 schedules with our application. It says nothing about
13 what time any of this has to occur or take place.

14 Now, it would make sense, and Detroit
15 Edison agrees that it makes sense, to do that as
16 contemporaneously with the opening of retail access as
17 possible. That's what we're here to do. That's what our
18 filing does, and that's what pushes this program forward.

19 If you want to get involved in discussing the kinds of
20 minutiae that aren't statutorily required that Mr.
21 Schneidewind wants to address, then it's going to take
22 longer, it's going to cause confusion, and the program
23 will be delayed.

24 JUDGE STUMP: All right. Anything else?

25 MR. ERICKSON: Your Honor, two

1 observations.

2 I was a bit confused by a couple of Mr.
3 Christinidis' remarks, because at one point it appeared to
4 me he said that if you simply break out the charges from
5 total electric service, it won't increase rates. He said
6 that that's not useful and won't match the ROA tariff and
7 so we'll have to increase rates. I'm not sure how there's
8 going to be a rate increase result from the process.

9 The other point that I would make is Mr.
10 Christinidis said that Section 10(b)(1) does not require
11 the filing of rate schedules, and literally that statute
12 doesn't contain any reference to rate schedules but it
13 says there shall be separate charges, and in the context
14 of all of the other regulation of Detroit Edison, Detroit
15 Edison can only charge rates after it has filed an MPSC-
16 approved tariff.

17 So if the 10(b)(1) means anything that
18 there shall be separate charges, obviously unless 10(b)(1)
19 was intended to impose charges without tariffs as other
20 statutes require, then I think that really that does refer
21 to rate schedules.

22 MR. SCHNEIDEWIND: Your Honor, the
23 statute's very clear. It says the utility will file an
24 application to unbundle its rate schedules, the commercial
25 and industrial rate schedules, and separately identify and

1 charge for their discrete services. That's all I have to
2 say.

3 JUDGE STUMP: All right, thank you.

4 I'm ready to make my ruling. I'm going to
5 grant the motion to reject application and order refiling.

6 After reviewing all this, and in particular
7 Section 10(b)(2), that section clearly requires that each
8 electric utility shall file an application to unbundle its
9 existing commercial and industrial rate schedules and
10 separately identify and charge for the discrete services.

11 However, in reviewing the company's
12 application and the sample bill attachments, I don't
13 believe that the application complies with the
14 requirements of Section 10(b)(2). Instead, it's my
15 understanding that the company proposes to continue its
16 current bundled billing format for retail service and then
17 to simply include the bill message to customers.

18 The company has argued that if it
19 completely unbundles its existing rates, it will result in
20 some individual customers seeing an increase or a decrease
21 in their bills, which then would violate the rate freeze
22 provisions of Act 141. However, I'm not persuaded that
23 even assuming that would happen, it relieves Detroit
24 Edison of its obligation to comply with Section 10(b)(2)
25 of the Act.

1 It's my view that rather than taking it
2 upon itself to file an application that does not comply
3 with that section, the company should have submitted an
4 application in compliance with Section 10(b)(2) and then
5 left the issue of whether it conflicts with other
6 provisions of the Act to the Commission's determination.
7 I mean that certainly could have been an issue or would be
8 an issue in the case.

9 Therefore, for these reasons and all the
10 reasons stated by the moving parties, I'm going to
11 recommend that the Commission dismiss this application and
12 order the company to file a new application that complies
13 with Section 10(b)(2) of the Act.

14 Because my ruling recommends dismissal, I
15 will have to prepare a written PFD and issue it, and, of
16 course, you'll have an opportunity to file exceptions and
17 replies to that PFD, and I will try to do that as soon as
18 possible.

19 MR. CHRISTINIDIS: Thank you, your Honor.

20 MR. NICKERSON: Thank you, your Honor.

21 MR. ERICKSON: Your Honor, I have one point
22 of clarification for the transcript.

23 I referred several times to Section
24 10(b)(1). I should have been referring to 10(b)(2).

25 JUDGE STUMP: Okay.

1 MR. CHRISTINIDIS: Your Honor, before we go
2 off the record, there is the matter of the affidavits of
3 publication and proofs of service that the Commission
4 ordered us to file.

5 JUDGE STUMP: Oh.

6 MR. CHRISTINIDIS: I can tell you that the
7 proof of service on all of the cities, villages, et
8 cetera, in our service area was accomplished. Likewise,
9 the affidavits are generally in order. There is one
10 little glitch, however. There was a clerical error in the
11 Flint Journal's affidavit of publication. They are in the
12 process of overnighting us a corrected affidavit, which
13 we'll submit to the Commission forthwith when we receive
14 it. But other than that, the service appears to be in
15 order.

16 JUDGE STUMP: All right, thank you. I'll
17 accept those.

18 (Document(s) handed to Judge Stump by Mr.
19 Christinidis.)

20 JUDGE STUMP: Is there anything else this
21 morning?

22 All right. Thank you.

23 (At 9:50 a.m., the hearing was concluded
24 and the record was closed.)

25

C E R T I F I C A T E

I, Evelyn R. Merrill, do hereby certify that I reported stenographically the foregoing proceedings had in the within-entitled matter, being Case No. U-12966 before Barbara A. Stump, J.D., Administrative Law Judge, at the Michigan Public Service Commission, 6545 Mercantile Way, Lansing, Michigan, on Thursday, August 23, 2001; and that the foregoing transcript constitutes a true and correct transcript of my said stenographic notes.



Dated: August 23, 2001