

The Detroit Edison Company
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Detroit Edison



A DTE Energy Company

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September 13, 2001

Ms. Dorothy Wideman
Executive Secretary
Michigan Public Service Commission
6545 Mercantile Way
Lansing, Michigan 48909-7721

Re: **MPSC Case No. U-12966**

Dear Ms. Wideman:

Please find enclosed an original and four copies of The Detroit Edison Company's Exceptions to Proposal For Decision along with proof of service.

Very truly yours,



Bruce R. Maters

BRM/dj
Enclosures

cc: Service List

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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

EXCEPTIONS TO PROPOSAL FOR DECISION

THE DETROIT EDISON COMPANY ("Edison" or "Company") files these Exceptions to the Proposal for Decision (PFD) issued by Administrative Law Judge Barbara A. Stump ("ALJ") on August 30, 2001 pursuant to the schedule set forth in the PFD.

The PFD issued by the ALJ on August 30, 2001 recommended the dismissal of an Application filed by Edison on June 4, 2001 to unbundle its retail electric rates pursuant to Section 10b(2) of 2000 PA 141 ("Act 141"). At the prehearing conference set for this matter, the ALJ granted a joint motion filed by several of the parties to the case requesting that the Company's Application be dismissed for failure to meet the requirements of Section 10b(2) of Act 141. Edison hereby files the following Exceptions to the PFD.

I

**THE ALJ ERRED BY FINDING THAT EDISON FAILED TO
MEET THE REQUIREMENTS OF SECTION 10b(2) OF ACT 141.**

Section 10b(2) of Act 141 requires electric utilities to file an application no later than one year from the effective date of the Act to unbundle existing commercial and industrial electric rate schedules to separately identify and charge for discrete services.

In addition, Act 141 states the Commission may order electric utilities to file an application to unbundle existing residential rate schedules and the Commission may allow the unbundled residential rates to be expressed in residential billings as percentages to simplify the billing.

Section 10d(1) of Act 141 establishes certain rate freezes and caps for electric customers of the Company such that electric rates: 1) are frozen for residential customers through December 31, 2003 and capped through December 31, 2005; 2) are frozen for small commercial and manufacturing customer (less than 15kw) through December 31, 2003 and capped through December 31, 2004; and 3) are frozen for large manufacturing and commercial customers through December 31, 2003. Given the rate freeze provisions of Act 141 and further, the five 5% rate reductions which are now in place for all customers, the Company stated in its Application that any complete unbundling of customer bills beyond the unbundling already contemplated through implementation of the Company's Retail Access Service Tariff (RAST), would violate the rate freeze provision in Act 141.

The Commission has authorized a RAST which establishes actual unbundled electric distribution charges for each retail access customer. The only remaining discrete retail electric service offered by Edison is bulk power (generation and transmission service) supply. Edison has proposed in this case to provide the necessary information for the customer to determine its bulk power supply costs for comparison with market prices. Transmission is not a discrete service being directly offered by Edison, but rather is a service that the retail choice customer may elect from a transmission provider or through a marketer. It has never been the Company's intention

to attempt the complex task of identifying separate transmission charges, including ancillary services, on a customer's retail electric bill. Transmission service is governed by FERC-approved tariffs and will not be offered directly by Edison to retail access customers. To the extent Edison purchases transmission services to procure power for its retail customers, it may be appropriate to separate those charges from bulk power supply costs for recovery from customers (e.g. in a PSCR proceeding) in a manner similar to the recovery of gas transmission costs included in GCR clauses. In any event, the Company's proposal in combination with an approved RAST unbundles the Company's retail rates.

Edison believes that it is constrained from incorporating RAST charges directly in its full service bundled tariffs because in doing so, individual customers may see an increase or decrease in their bills from bills based on existing bundled tariffs. For example, incorporation of RAST secondary pricing (which includes a service charge and an energy-based charge), into existing tariffs which may not have a service charge, or which may have a service charge at a different level than the RAST, would result in individual customers receiving a price increase or decrease from existing bundled tariffs. Likewise, the incorporation of the RAST primary voltage charges into existing primary voltage unbundled tariffs with different maximum demand charges would require rates to be redesigned to maintain class revenue neutrality. Again, the introduction of these RAST charges would result in individual customers seeing an increase or decrease in their bills compared to existing tariffs. The inclusion of *an average* delivery charge would preserve the price freeze and 5% rate reduction mandated by Act 141 on a individual customer basis, but it would result in customers

receiving an incorrect price signal for delivery service. The delivery charge in the unbundled tariffs would be different than the delivery charge under the RAST.

It is Edison's belief that the legislative intent of Act 141 is to give customers a clear indication of the charges they will continue to pay for regulated delivery service from the Company under the retail access program. Armed with this knowledge, customers will then be able to evaluate offers from alternative electric suppliers.¹ In an effort to harmonize and give effect to each of the various parts of Act 141, specifically Section 10d(1) requiring a rate reduction and freeze with Section 10b(2) requiring the unbundling of rates, Edison proposed the use of an informative bill message to allow customers to determine their respective retail access "shopping credit." As stated in its Application, Edison's proposal is not confusing, causes less manipulation of the existing billing system (and is therefore less expensive), and works for all customers.

Long-accepted rules of statutory construction require that a statute must be read in its entirety such that all parts produce a harmonious and consistent enactment of the whole. An interpretation that renders any part "surplusage or nugatory" must be avoided. Altman v Meridian Twp. 439 Mich 623, 635; 487 NW2d 155 (1992); In re MCI Telecommunications Complaint, 460 Mich 396, 413; 596 NW2d 164 (1999). See also Preston v Department of Treasury, 190 Mich 491 (1991) lv den 439 Mich 987 and Wills v Iron County Bd. of Canvassers, 183 Mich App 797; 455 NW2d 405 (1990).

¹For most utilities in the State, rates needed to be unbundled between those components of service that would continue to be provided by a regulated utility and those that would be available in the emerging retail electric marketplace. As a result of having had customer choice programs since 1999, the rates for Edison and Consumers Energy have already been unbundled. This initial unbundling was accomplished for Edison through Commission approval of the Company's RAST which established the delivery or distribution component of retail access service. (MPSC Case No. U-11452)

Edison's proposal promotes continuity between the various requirements of Act 141. As described above, the RAST contains various pricing provisions (e.g. service charge, energy charge and demand charge). However, many of Edison's existing bundled rates have only some of these components, or have ones that are at a different price level than the RAST charge. Thus, unbundling in the manner contemplated by the ALJ would result in individual customers or sub-classes of customers receiving a price increase or decrease. It would be very difficult to incorporate RAST charges within existing bundled tariffs and maintain customer revenue neutrality. Doing so would violate the price freeze and 5% rate reduction mandated by Section 10d(1) of Act 141, and it would result in customers receiving improper pricing signals for electric delivery service. This, as a serious matter of regulatory policy, cannot be ignored. In its response to the joint motion filed by several parties to this case, Edison submitted the Affidavit of Edward E. Falletich describing the difficulty of the unbundling of rates.

The ALJ when issuing her PFD, simply did not address the competing parts of Act 141. Thus, the Commission is now faced with the same quandary as Edison: implement one part of Act 141 to the detriment of another, or develop a compromise that produces an harmonious and consistent interpretation of the whole statute while creating charges that enable customers to calculate their actual savings under electric choice. Therefore, Edison requests that the Commission make a determination whether Act 141 permits Edison to identify and charge for unbundled services if the result is that individual customers will see their bills increased or decreased.

II.

THE ALJ ERRED IN DETERMINING THAT EDISON'S PROPOSAL DOES NOT IDENTIFY AND CHARGE FOR DISCRETE SERVICES

Existing retail access programs provide only two truly discrete services: delivery service and bulk electric energy. Full service bundled customers receive these services on a regulated basis. Retail access customers receive delivery service on a regulated basis and bulk electric energy service on an unregulated basis. Edison's proposal for large commercial and industrial customers is to present the charges for regulated service and to quantify those charges on the customer's monthly bill. This represents an unbundling and, contrary to the ALJ's conclusion, quantifies the monthly cost of distribution service for larger customers. The underlying premise of the PFD - - that customers should not have to perform any calculations - - is unrealistic and ignores the language of Act 141.

Nevertheless, the proposal contained in Edison's Application is to calculate and quantify the delivery charge for commercial and industrial customers based on the RAST. However, Act 141 also clearly contemplates the need for customers to perform their own analyses and computations because it specifically provides that the components of distribution service and bulk electric energy service for residential customers' can be expressed on a percentage basis. MCL 460.10b(2)² In order to determine an estimate of the cost of distribution service for purposes of shopping for electric energy service, residential customers would clearly have to perform a calculation multiplying their total bill by the percentage determined to reflect their

²"The Commission may allow the unbundled rates to be expressed on residential billings in terms of percentages in order to simplify residential billing." (MCL 460.10b(2))

distribution service component. Therefore, a fundamental underlying assumption of the PFD is in error.

WHEREFORE, The Detroit Edison Company respectfully requests that the Commission reject the PFD and, reinstate the Company's Application in this docket.

Respectfully submitted:

THE DETROIT EDISON COMPANY

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Dated: September 13, 2001

In the matter of the application of
THE DETROIT EDISON COMPANY
to unbundle its retail electric rates

CHRISTINA R. JACOBSON
NOTARY PUBLIC WAYNE CO., MI
MY COMMISSION EXPIRES Mar 10, 2008

MPSC Case No: U-12966
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