

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of	)	Docket No. 2001-1172
THE DETROIT EDISON COMPANY	)	Agency No. U-12966
to unbundle its retail electric rates	)	Agency: Public Service Commission
_____	)	Case Type: Electric Rates

ASSOCIATION OF BUSINESSES ADVOCATING TARIFF EQUITY’S
REPLY TO EXCEPTIONS

The Association of Businesses Advocating Tariff Equity (“ABATE”), by its attorneys, Clark Hill P.L.C., hereby files a Reply to the Exceptions filed by The Detroit Edison Company (“Edison”) in accordance with the schedule set forth by the Michigan Public Service Commission (“Commission”).

I

INTRODUCTION

This case involves statutory interpretation and a determination of whether Edison’s filing comports with the law. The objective of this proceeding should be to allow customers to understand what they are paying for each discrete service and to allow them to make a easy determination of whether it is in their best interest to participate in the retail open access program offered by Edison. For the reasons outlined in greater detail below, Edison has not met the statutory burden and its argument is flawed because it attempts to create a statutory conflict where none exists.

II

ARGUMENT

A. Sections 10b(2) and 10d(1) Can Be Harmonized.

Section 10d(1) of 2000 PA 141 (“Act 141”) provides for a mandatory five percent (5%) residential rate decrease from the levels authorized or in effect on May 1, 2000 and a rate freeze

for all other customers at the levels authorized or in effect on that date subject to any further reductions related to securitization savings. Section 10b(2) requires each major utility to “. . . file an application with the Commission to unbundled its existing commercial and industrial rate schedules and separately identify and charge for their discrete services. . . .” Edison argues that any unbundling of its rates will necessarily require rate changes in violation of Section 10d and that Edison’s current bundled rates meet the requirements in Section 10d.

As noted by the Administrative Law Judge (“ALJ”) in her Proposal for Decision (“PFD”) a statute must be read in its entirety such that all parts are harmonious and consistent and that any interpretation of a statute that renders any part surplusage must be avoided. PFD, pp. 5-6. Sections 10d and 10b can be harmonized simply by requiring Edison to refile its case based upon an accurate and up-to-date cost of service study which is used to assign cost responsibility for each discrete service and the difference between the sum of the total cost for each discrete service and the rates that were in effect on May 1, 2000, as adjusted for the securitization rate cuts, should be labeled either as a “regulatory charge” or a “regulatory credit”. The only rate change should be to Edison’s RAST rates to reflect the updated cost of service study. One of the objectives of Act 141 is to create competitive markets but in providing customers with choice it is only reasonable to assume that the legislature intended that the charges paid by open access customers would be based upon an accurate and current cost of service study.

B. Edison’s New Filing Should Accurately Reflect All Charges And Allow Customers To Determine Whether It Is In Their Best Interest To Participate In Open Access.

Edison claims that the ALJ erred when she found that Edison’s proposal does not identify a charge for each discrete services. Nothing can be further from the truth. In fact, Edison’s proposal is simply to continue to use the bundled rates. Moreover, Edison said it would not provide any information on the transmission charges even though these charges would be paid to

the International Transmission Company by Edison. Edison's argument that it does not have to disclose this information because the services are being provided by a separate entity, however Edison knows exactly what portion of the total charges is represented by the cost of transmission. Given the goals of Act 141 and that one of the principal facets of the Act was to provide the opportunity for open access to all customers on and after January 1, 2002, it is essential that Edison list this information on customer bills.

The simple truth is that forcing customers to run down information erects a barrier to participation in open access. Even if the transmission cost information is provided by an alternative electric supplier, the information in the eyes of customers will not have the same quality as if it had been provided by the utility.

If Edison truly wanted to make its open access program work and be "user friendly" then it would simplify the math that customers will have to deal with in making a decision to participate in open access. Edison should be directed to make a filing which clearly outlines the transmission and distribution charges that would have to be paid by customers participating in open access and the "price to beat" or if one prefers, "the shopping credit". Obviously, the price to beat would be the difference between the total for transmission, distribution and nonbypassable charges less any credits and the current price paid by that customer.

The Commission must require that Edison give its customers simple and accurate information that will allow them to easily exercise their new right to choose a generation supplier other than Edison. To do otherwise is anticompetitive and will further reduce the effectiveness of open access service as an alternative to continued utility service.

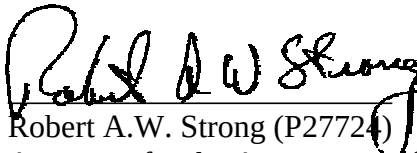
III

RELIEF

WHEREFORE, ABATE requests the Commission to deny Edison's exceptions, require it to refile using an up-to-date cost of service study which generates charges for each discrete service and either a regulatory charge or credit representing the difference between cost base charges and the rates customers are currently paying and provide Edison with direction that it show two charges (net of nonbypassable charges and credits) on the bill that would allow customers to know what the regulated cost of participating in open access and the price to beat or shopping credit.

Respectfully submitted,

CLARK HILL P.L.C.

By: 

Robert A.W. Strong (P27724)
Attorneys for the Association of Businesses
Advocating Tariff Equity
255 S. Old Woodward Avenue, Third Floor
Birmingham, Michigan 48009
248/642-9692

Dated: September 24, 2001

**STATE OF MICHIGAN
DEPARTMENT OF CONSUMERS AND INDUSTRY SERVICES
BUREAU OF HEARINGS**

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

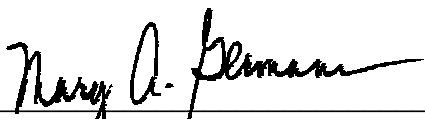
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Agency No. U-12966
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Case Type: Electric Rates

PROOF OF SERVICE

STATE OF MICHIGAN)
)
COUNTY OF OAKLAND)

Lisa Ann Teets, being first duly sworn, deposes and says that she filed electronically Reply to Exceptions of the Association of Businesses Advocating Tariff Equity in the above docket on the person identified on the attached service list by depositing the same on September 24, 2001, in the United States mail in the City of Birmingham, Michigan with first-class postage thereon fully paid.

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Notary Public, Macomb County, Michigan
My Commission Expires October 21, 2005

SERVICE LIST
MPSC CASE NO. U-12966

Administrative Law Judge

Honorable George Schankler
611 West Ottawa Street
Ottawa State Office Building
2nd Floor
P.O. Box 30695
Lansing, Michigan 48909-8195
george.schankler@cis.state.mi.us

**Attorney for the Michigan Public Service
Commission Staff**

Steven D. Hughey, Esq.
Assistant Attorney General
Public Service Commission
6545 Mercantile Way
Suite 15
Lansing, Michigan 48911

Attorney for Energy Michigan

Eric J. Schneidewind, Esq.
Varnum, Riddering, Schmidt & Howlett LLP
The Victor Center
201 North Washington Square
Suite 810
Lansing, Michigan 48933
ejschneidewind@vrsh.com

Attorney for Detroit Edison

Jon P. Christinidis, Esq.
The Detroit Edison Company
2000 Second Avenue
688 WCB
Detroit, Michigan 48226-1297
mpscfilings@dteenergy.com
matersb@dteenergy.com
christinidisj@detroitdison.com

Attorneys for the Attorney General

J. Peter Lark, Esq.
Donald E. Erickson, Esq.
Assistant Attorneys General
Special Litigation Division
Michigan Attorney General Office
6520 Mercantile Way
Suite 2
P.O. Box 30218
Lansing, Michigan 48909
ericksond@ag.state.mi.us

**Attorneys for Exelon Energy Company and
National Energy Marketers Association**

John M. Dempsey, Esq.
215 South Washington Square
Suite 200
Lansing, Michigan 48933
jdempsey@dickinson-wright.com

Craig C. Goodman, Esq., President
Stacey L. Rantala, Esq.
National Energy Marketers Association
3333 K Street, N.W.
Suite 425
Washington, DC 20007