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July 14, 2006

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

Re: In the matter of the application of The Detroit Edison Company for the authority  
to implement a Power Supply Cost Recovery Plan in its rate schedules for 2006  
metered jurisdictional sales of electricity  
MPSC Case No. U-14702

Dear Ms. Kunkle:

Attached for electronic filing is The Detroit Edison Company's Exceptions in the above-referenced case. Also attached is a Proof of Service.

Very truly yours,  
Jon P.  
Christinidis

Digitally signed by Jon P. Christinidis  
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JPC/kbt  
Attachments  
cc: Service List

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

|                                              |   |                    |
|----------------------------------------------|---|--------------------|
| In the matter of the application of          | ) |                    |
| THE DETROIT EDISON COMPANY                   | ) |                    |
| For authority to implement a power supply    | ) |                    |
| Cost recovery plan in its rate schedules for | ) | Case No. U-14702   |
| 2006 metered jurisdictional sales of         | ) | (Paperless E-file) |
| <u>electricity.</u>                          | ) |                    |

**THE DETROIT EDISON COMPANY'S EXCEPTIONS**

**I.**

**INTRODUCTION**

**A. Brief History of Proceedings and Description of Detroit Edison PSCR Plan**

On September 30, 2005 The Detroit Edison Company (hereinafter "Detroit Edison", "Company" or "Applicant") filed its 2006 power supply cost recovery (hereinafter "PSCR") plan, seeking approval to include a PSCR Factor of 4.99 mills per kWh in the bills of residential customers whose rates were subject to the 2000 PA 141 rate caps during 2005 and a PSCR Factor of 8.29 mills per kWh in the bills of Commercial and Industrial (hereinafter "C&I") customers whose rates were not subject to rate caps during 2005, both subject to a contingent factor matrix. The Plan also included a five-year forecast along with testimony and exhibits of the Company's witnesses for purposes of complying with 1982 PA 304.

After a determination to conduct an expedited hearing on a temporary PSCR factor pursuant to MCL 460.6j(8), on December 22, 2005 the Commission authorized the Company to implement temporary power supply cost recovery factors for bills rendered beginning with the January 2006 billing month, consistent with the proposal of the Commission Staff and the expiration of residential customer rate caps, on a service-rendered basis. On a temporary basis,

the Commission denied Detroit Edison's request to include the projected 2005 PSCR underrecovery associated with C&I customers and an Electric Choice contingency factor matrix and ordered the temporary implementation of the following PSCR factors:

|                    |                                    |
|--------------------|------------------------------------|
| 0.38 mills per kWh | January-March 2006                 |
| 7.00 mills per kWh | April-June 2006                    |
| 7.98 mills per kWh | July-September 2006                |
| 2.15 mills per kWh | October-December 2006 <sup>1</sup> |

**B. June 30th Proposal for Decision ("PFD")**

The vast majority of Detroit Edison's evidentiary presentation in this proceeding stands without opposing Staff or intervenor testimony or other opposing evidence. Further, no party elicited any information whatsoever to draw into question the reasonableness and prudence of Detroit Edison's 2006 PSCR Plan and five-year forecast. The PFD properly concluded that Sulfur Dioxide ("SO<sub>2</sub>") Emission Allowance expense and Magnesium Hydroxide ("Mg(OH)<sub>2</sub>") expense should be recovered through the PSCR process now (and in the amounts requested by the Company) and in the future. Thus, with few exceptions, the ALJ properly recommended approval of Detroit Edison's reasonable and prudent 2006 PSCR Plan and five year forecast in its entirety along with the factors summarized in Attachment B.<sup>2</sup>

However, the PFD explicitly declined to accept three (3) discrete elements of Detroit Edison's 2006 PSCR Plan; (1) the creation of an Electric Choice contingency factor matrix (PFD pp. 6-8); (2) the inclusion of the Company's significant \$100+ million 2005 PSCR Reconciliation underrecovery in the 2006 PSCR Plan (PFD pp. 8-10); and (3) the use of regulatory asset and liability accounts for Financial Transmission Rights ("FTRs") "mark-to-

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<sup>1</sup> MPSC Case No. U-14702 Order dated December 22, 2005 p. 7 and Exhibit A.

<sup>2</sup> The ALJ explained that "The Commission in its December 22, 2005 Temporary Order ordered a 0.5 mills/kWh reduction to Detroit Edison's PSCR factor. *Detroit Edison urges the Commission to permit it authority to reverse the effects of the 0.5 mills/kWh reduction. Staff concurs with Detroit Edison's request. The ALJ recommends that the Commission consider Detroit Edison's request.*" (PFD p. 24) (emphasis added) Staff recommended that Detroit Edison's Attachment B (excluding the matrix adder) be approved. (Staff Reply Brief p. 3)

market” accounting (PFD pp. 10-14). Based upon the likely timing of a Commission order in this proceeding and other PSCR proceedings, along with the corresponding inability to effectively bill and recover charges associated with an Electric Choice contingency factor matrix and 2005 PSCR Reconciliation underrecovery in 2006, Detroit Edison believes that continued pursuit of these matters in this docket would be unproductive. Similarly, with respect to the use of regulatory asset and liability accounts for the mark-to-market accounting treatment of FTRs, the Company will not continue its pursuit of this issue in this case and will simply have two sets of books, one for SEC reporting and one for MPSC reporting. However, the Company specifically reserves, and does not waive, its right to raise, support and otherwise pursue these issues in future PSCR (and other) proceedings.

In addition, the PFD notes, but fails to rule upon two (2) important issues. The PFD identifies the Company’s request and the Staff’s agreement that future PSCR under/over recoveries should be “rolled over” into the next PSCR Plan proceeding and that Mercury (Hg) Emission Allowance expense should be included in future PSCR expense. (PFD pp. 8, 17) It is the PFD’s failure to address these matters to which Detroit Edison takes exception.

## **II.**

### **EXCEPTIONS**

#### **A. Exception No. 1 – Mercury Emission Allowance Expense Should be Included for Recovery in the PSCR Process**

In ultimately recommending approval of the inclusion of SO<sub>2</sub> Emission Allowance expense in the Company’s PSCR process, the ALJ initially recognized that the Company is also requesting inclusion of Mercury (Hg) Emission Allowance expense in its PSCR process. (PFD p. 17) However, the ALJ, perhaps inadvertently, did not specifically rule on the Company’s Mercury Emissions Allowance request. Thus, Detroit Edison must take exception to the ALJ’s

omission and reiterate its request to include Mercury Emission Allowance expense for recovery in the PSCR process. The rationale for the inclusion of Mercury Emission Allowance expense in the PSCR process is virtually identical to the rationale for including SO<sub>2</sub> Emission Allowance expense.

The PSCR statute, MCL 460.6j, provides in relevant part:

“‘Power supply cost recovery clause’ means a clause in the electric rates or rate schedules of a utility which permits the monthly adjustment of rates for power supply to allow the utility to recover the booked costs, including transportation costs, reclamation costs, and disposal and reprocessing costs, of fuel burned by the utility for electric generation and the booked costs of purchased and net interchanged power transactions by the utility incurred under reasonable and prudent policies and practices.” MCL 460.6j(1)(a)

In general, the Company is requesting the inclusion of Mercury (Hg) emission allowance expense and incremental SO<sub>2</sub> emission allowance expense in the PSCR process because this expense is an integral part of the booked cost of fuel burned for generation and an integral part of the fuel procurement and generation decision-making process. (4T 433-435) There is no contrary evidence in this record. The Mercury emission allowance expense would be the actual annual Mercury emission allowance expense that the Company projects that it will begin to incur in 2010.

Of course, fundamentally, the fuel procurement and utilization analysis must take into consideration the need to comply with the federal Clean Air Act. The Company has determined that the least cost method of Clean Air Act compliance as it relates to SO<sub>2</sub>, is accomplished by some combination of SO<sub>2</sub> emission allowance utilization and the utilization of lower sulfur, but more expensive, coals. (4T 433-434) Thus, “[i]n effect, SO<sub>2</sub> emission allowances are a component of the ‘as burned’ booked cost of coal” (4T 434; Accord Testimony of Kenneth D. Johnston 4T 501-507 explaining, inter alia, that the Commission has determined that similar

DNR emissions permit fees constitute a booked cost of fuel for purposes of MCL 460.6j and permitted recovery through Consumers Energy's PSCR process; See also MPSC Case No. U-10335, Order dated May 10, 1994 p. 67; MPSC Case No. U-10445 Order dated August 18, 1994, p. 9) The same analysis will apply to Mercury emission compliance when it becomes regulated in the 2010 timeframe.

In addition, the amount of purchased power utilized to serve the Company's electric load, as well as the amount of generation utilized to make third party wholesale power sales will impact the level of both Mercury and SO<sub>2</sub> emissions allowances required for Detroit Edison to comply with the Clean Air Act. Mr. Byron explained that, all other factors being equal, additional utilization of purchased power to serve electric load reduces the number of SO<sub>2</sub> emission allowances required. Conversely, increased third party wholesale electric sales (utilizing Detroit Edison coal-fired generation) increases the amount of SO<sub>2</sub> emission allowances necessary to comply with the Clean Air Act. (4T 434) As Mr. Byron aptly concluded:

"Clearly, tight integration and optimization among fuel types, purchase power, interconnection sales, and SO<sub>2</sub> emission allowances is required. Furthermore, SO<sub>2</sub> emission allowance cost will shift based on system conditions, fuel prices and purchase power costs. For these reasons the Company believes the PSCR process is an appropriate regulatory mechanism to collectively review these costs and provide for their recovery. Just like NO<sub>x</sub> emission allowances, SO<sub>2</sub> emission allowances are used up or 'burned' in the process of burning fuel for electric generation. NO<sub>x</sub> emission allowance expenses are included in PSCR costs and SO<sub>2</sub> emission allowance expense should also." (4T 434-435)

The analysis is the same for Mercury emission allowances, although the allowance expenses will not arise until 2010.<sup>3</sup> In 2005 the Environmental Protection Agency (EPA) issued the first ever federal rule to permanently cap and reduce mercury emissions from coal-fired power plants. As Mr. Byron explained:

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<sup>3</sup> The Company is requesting authority in this proceeding to include Mercury emission allowance expense in the PSCR process. However, the Company presently expects no material Mercury emission allowance expenses until the 2010 timeframe.

“The Clean Air Mercury Rule establishes ‘standards of performance’ limiting mercury emissions from new and existing coal-fired power plants and creates a market-based cap-and-trade program that will reduce nationwide utility emissions of mercury in two distinct phases. The first phase cap is 38 tons. EPA has set the State of Michigan allocation budget for Phase 1 (2010-2017) at 1.303 tons. In the second phase, starting in 2018, coal-fired power plants will be subject to a reduced cap, which will reduce emissions to 15 tons upon full implementation. The Michigan budget for Phase 2 is 0.514 tons. The Clean Air Mercury Rule includes a model cap-and-trade program that states can adopt to achieve and maintain their mercury emissions budgets. States may join the trading program by adopting the model trading rule in state regulations, or they may adopt regulations that mirror the necessary components of the model trading rule. The projection of Hg emission allowance expense is based on the trading model. The emission budgets are permanent, regardless of growth in the electric sector...The State has not completed its State-specific rule making which will define the emission requirements. The Company has assumed an allocation of 1,236 pounds.” (4T 436-437)

Approximately 70% of Detroit Edison’s generation capacity is coal-fired. (4T 414) These emission allowance expenses are an integral part of the booked cost of fuel burned for generation and an integral part of the fuel procurement and generation decision-making process. Thus, the Commission should approve the inclusion of these emission allowance expenses for recovery through the PSCR process.

The Company has set forth its projected SO<sub>2</sub> and Mercury emission allowance expenses for 2006 in Exhibit Nos. A-8 and A-9, respectively. The Company’s Technological Specialist – Environmental Strategies, William C. Rogers explained that Detroit Edison has followed a reasonable and prudent flexible air emissions management plan that includes installation of flue gas desulfurization systems (also known as “scrubbers”)<sup>4</sup> on some Detroit Edison coal-fired generation units in combination with prudent and reasonable management of the Company’s SO<sub>2</sub> emission allowance inventory, based on the market for those allowances. (5T 624-626) At

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<sup>4</sup> Scrubbers can require approximately 3 years to install and require significant plant outages that limit the availability of less expensive coal-fired generation for a time. (5T 626)

present, if the Commission approves the inclusion of Mercury emission allowance expense there are no expenses (or credits) for Mercury emission allowances.

**B. Future PSCR Under/Over Recoveries Should be “Rolled Over” into the Next PSCR Plan Proceeding**

Here again, the ALJ initially recognizes Detroit Edison’s request for future “rollover” authority but appears to have inadvertently failed to rule on the request. The PFD states:

“Even though Staff does not support Detroit Edison’s request in this case at this time, Staff does support Detroit Edison’s request and supports granting ratemaking authority to Detroit Edison to reflect prior year over/under recoveries in future plan cases. Staff recommends approval of Detroit Edison’s proposed methodology for recovery of all over or underrecoveries in future plan years beginning with its 2007 plan case. Staff further recommends that in its 2007 case filing the requested roll-in should be limited to its 2006 costs only and not include its 2004 or 2005 over or underrecoveries.” (PFD pp. 8-9)

Thus, Detroit Edison is compelled to take exception the ALJ’s omission and again request that future PSCR under/overrecoveries be “rolled over” into the next PSCR Plan proceeding.

The Company proposed an under/overrecovery “rollover” mechanism, in part, to address the significant electric customer load volatility associated with Electric Choice. This new load volatility represents a systemic upward shift in power supply risk for Detroit Edison and the effects of that new risk are clear and present in this proceeding. Mr. Johnston summarized the circumstances and justification succinctly:

“Now that a customer has the opportunity to choose its supplier of electricity, a under recovery ‘rollover’ mechanism would provide more immediate and accurate cost signals to customers, will facilitate proper economic decisions and will serve to apply the credits and surcharges to the customers that actually caused the over (under) collection to occur. The contingent matrix mechanism proposed by the Company in this proceeding would provide similar benefits and additionally act to mitigate or eliminate PSCR under recoveries. The present reality in Michigan is that (1) customer loads are uncertain, (2) Electric Choice customers aren’t required to notify Detroit Edison when they will return to Detroit Edison service until months after Detroit Edison’s PSCR plan must be filed with the Commission, (3) customers may choose to receive their electricity supply from alternative electric suppliers with less than a one-month notice to Detroit

Edison unless they have recently returned from Electric Choice and have committed to stay with the Company for 12 months, (4) a new locational marginal pricing (LMP) energy market began in April 2005, and (5) all of the old operational issues remain. Thus, power supply planning is a much more difficult and dynamic process than in the past. New mechanisms are necessary to address this increasing system uncertainty.” (5T 644-645)

Mr. Johnston also demonstrated the real and significant impacts that the Company has already experienced with regard to the interplay between the PSCR process and Electric Choice. He explained that subsequent to the November 23, 2004 Order in the Company’s main electric rate case, approximately 2,500 GWh of Electric Choice load returned to Detroit Edison full service. However, Detroit Edison had already been required to file its 2005 PSCR Plan (Case No. U-14275) in September 2004 pursuant to Act 304. (4T 509-510) Planning for the 2005 PSCR Plan took place over the course of several weeks prior to the September 2004 PSCR Plan filings. This timing conundrum and the volatility associated with Electric Choice resulted in a substantial amount of the \$100+ million 2005 PSCR Reconciliation underrecovery that will be addressed in Case No. U-14275-R. The conundrum remains as Staff appears to acknowledge through its recommendation to permit over and underrecovery “rollovers” beginning with the Company’s 2007 PSCR Plan case.

The Company’s goal is to match revenues with expenses as accurately as possible. Mr. Johnston confirmed that:

“Because the penalty for collecting revenues in excess of expense is payment of interest at 11%, there is clearly no incentive for the Company to bill a PSCR factor greater than what is absolutely necessary.”<sup>5</sup> (4T 510)

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<sup>5</sup> MCL 460.6j(16) provides, in pertinent part: “If the commission orders refunds or credits pursuant to subsection (14), or additional charges to customers pursuant to subsection (15), in its final order in a power supply cost reconciliation, the refunds, credits, or additional charges shall include interest...The commission shall determine a rate of interest for excess recoveries, refunds, and credits equal to the greater of the average short-term borrowing rate available to the utility during the appropriate period, or the authorized rate of return on the common stock of the utility during that same period...” The Company’s presently authorized rate of return on common equity is 11%. (MPSC Case No. U-13808 Order dated November 23, 2004 p. 42)

Thus, there are ample statutory protections in place and the Commission should approve the Company's request that future PSCR under/overrecoveries be "rolled over" into the next PSCR Plan proceeding.

### **III.**

#### **CONCLUSION AND REQUEST FOR RELIEF**

Detroit Edison's 2006 PSCR Plan case, which includes its forecast of power supply costs through the year 2010, was largely un rebutted. Likewise, neither the PFD nor any party presented any substantial evidence or argument to dispute the reasonableness and prudence of implementing a future annual under/over collection "rollover" or including Mercury Emission allowances in Detroit Edison's PSCR process. In part, because the Commission's December 22, 2005 Temporary Order adopted quarterly PSCR factors and a 0.5 mills/kWh reduction (which the PFD recommends that the Commission consider eliminating), the Company is undercollected for the 2006 PSCR plan year as evidenced by the Company's filed 45 day reports.

In order to collect the PSCR costs that the Company has supported in this case, it will be necessary to continue with quarterly factors and reverse the effects of the Commission's 0.5 mills/kWh reduction. The Company's proposal for making this necessary correction is shown on Attachment B (excluding the contingency matrix adder). Therefore, the Commission should adopt the PFD's recommendation to approve Detroit Edison's 2006 PSCR Plan and five-year forecast (the Commission need not make any determination with respect to the Company's requested Electric Choice Contingency Factor Matrix for 2006 and request for a 2005 PSCR Reconciliation "rollover" because the passage of time has rendered them unworkable) and specifically approve:

- 1) The PSCR billing factors for 2006 as shown on Attachment B, excluding the contingency matrix adder (***See attached***);
- 2) The rollover of future year under/over collections into future PSCR Plan cases; and
- 3) The inclusion of incremental SO<sub>2</sub> emission allowance expense, Hg emission allowance expense, and Mg(OH)<sub>2</sub> fuel additive expense into the PSCR mechanism;

THE DETROIT EDISON COMPANY

Jon P.  
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Dated: July 14, 2006

**MPSC Case No. U-14702**  
**Detroit Edison Initial Brief**  
**Attachment B**  
**Page 1 of 1**

**2006 Power Supply Cost Recovery Factors**

| Line No. | Quarter            | (a)                       | (b)                                                                                                      | (c)            | (d)            | (e)            | (f)            | (g)            |  |
|----------|--------------------|---------------------------|----------------------------------------------------------------------------------------------------------|----------------|----------------|----------------|----------------|----------------|--|
|          |                    | Base Factor<br>(Exh. S-1) | Correction Factor for 0.5 mills/kWh arbitrary reduction (1)<br>Final Order Issued for Implementation in: |                |                |                |                |                |  |
|          |                    |                           | July                                                                                                     | August         | September      | October        | November       | December       |  |
| 1        | January - March    | 0.88 mills/kWh            |                                                                                                          |                |                |                |                |                |  |
| 2        | April - June       | 7.50 mills/kWh            |                                                                                                          |                |                |                |                |                |  |
| 3        | July - September   | 8.48 mills/kWh            | 0.50 mills/kWh                                                                                           | 0.70 mills/kWh | 1.00 mills/kWh |                |                |                |  |
| 4        | October - December | 2.65 mills/kWh            | 0.50 mills/kWh                                                                                           | 0.70 mills/kWh | 1.00 mills/kWh | 1.50 mills/kWh | 2.50 mills/kWh | 5.50 mills/kWh |  |
| 5        | Levelized          | 4.99 mills/kWh            |                                                                                                          |                |                |                |                |                |  |

(1) (Months temporary Order in effect) \* (0.5 mills/kWh)  
Months Final Order in effect

2006 PSCR Factors:

Residential Billing Factor = Base Factor (col. a) + Final Order Adj. Factor (col. b - g, as applicable) + Matrix Adder (Exh. A-18, col. h - 4.99 mills/kWh)

C&I Billing Factor = Base Factor (col. a) + Final Order Adj. Factor (col. b - g, as applicable) + Matrix Adder (Exh. A-18, col. h - 4.99 mills/kWh) + 2005 Undercollection Factor ( Exh. A-18, col. k)

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the Matter of the Application of )  
The Detroit Edison Company for Authority )  
to Implement a Power Supply Cost )  
Recovery Plan in its Rate Schedules )  
for 2006 Metered Jurisdictional Sales )  
of Electricity )

Case No. U-14702  
(Paperless)

**PROOF OF SERVICE**

STATE OF MICHIGAN )  
 ) ss.  
COUNTY OF WAYNE )

Jennifer Evans, being duly sworn, deposes and says that on the 14<sup>th</sup> day of July, 2006, a copy of The Detroit Edison Company's Exceptions in the above-captioned matter was filed with the Commission and served upon the persons on the attached service list via e-mail and first class mail.

Jennifer Evans

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Jennifer Evans

Subscribed and sworn to before  
me this 14<sup>th</sup> day of July, 2006

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Notary Public

**MPSC Case No. U-14702**  
**PAPERLESS CASE - ELECTRONIC SERVICE ONLY**  
**April 2006**  
**SERVICE LIST**

**ADMINISTRATIVE LAW JUDGE**

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