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February 12, 2002

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

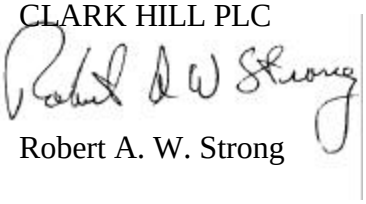
Re: MPSC Case No. U-12639

Dear Ms. Wideman:

Enclosed are an original and four (4) copies of the Answer of Association of Businesses Advocating Tariff Equity to Petitions for Clarification and Rehearing with a proof of service on the parties of record in the above docket.

Very truly yours,

CLARK HILL PLC



Robert A. W. Strong

RAWS/lat
Enclosures

cc: Honorable Daniel J. Nickerson (w/Enclosures)
Parties of Record (w/Enclosures)

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STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission's own motion, to implement the provisions of Section 10a(10) of 2000 PA 141.	))))	Case No. U-12639

ANSWER OF ASSOCIATION OF BUSINESSES ADVOATING TARIFF EQUITY TO PETITIONS FOR CLARIFICATION AND REHEARING

The Association of Businesses Advocating Tariff Equity ("ABATE") by its attorneys, Clark Hill, P.L.C., pursuant to Rule 404(2) of the Rules of Practice and Procedure before the Michigan Public Service Commission ("Commission" or "MPSC") (1992 AACS R 460.17403(2)) files its Answer to the petitions for clarification and rehearing filed by certain of the parties in this proceeding.

I

ARGUMENT

A. ANSWER TO CONSUMERS ENERGY COMPANY ("CONSUMERS").

In paragraphs 2 and 3 of its Petition, Consumers appears to be asking that the Commission totally throw open the scope of the matters that can be addressed in the true-up case to be filed in 2002 related to the years 2000 and 2001. ABATE submits that the scope is relatively narrow in that the Commission stated on page 14 of its December 20, 2001 Order in this case that it ". . . defers the issues of refining the methodology, and recalculating net stranded costs for 2000, . . . ", to the 2002 case. Similarly, on page 20 of the same order, the Commission stated that: "[t]he utilities are free to offer and support adjustments,

consistent with the methodology adopted in this order, for calculating the stranded cost charges or credits for 2001." (emphasis added). Finally, on page 21 of its order, the Commission simply stated that parties could address in greater detail in future cases the granting of credits to customers and the rollover of the stranded benefits to later years. Again, the issues are limited.

In summary, to the extent that Consumers seeks to increase the scope of the true-up case beyond the narrow items identified by the Commission in this December 20 Order, then ABATE opposes such an interpretation and requests the Commission to indicate that the scope of the proceeding will be limited.

B. ANSWER TO THE DETROIT EDISON COMPANY ("EDISON").

In its petition, Edison is essentially arguing that there should be major changes to the methodology approved by the Commission on December 20, 2001. As support, it requests the Commission to take official notice of the fact that the wholesale prices for electricity have dropped below the levels of those seen last summer. As a result, Edison argues that the number of customers participating in open access in 2002 will increase far beyond the levels in any previous projections. There is no citation to record evidence or an affidavit in support of Edison's speculation regarding the number of customers moving to open access. Instead, Edison points to a price drop but does not tell the Commission whether this power can even be delivered to customers in Michigan.

Edison then argues that a reduced revenue flow will cause Edison to incur "significant added financing requirements to offset the revenue losses." Edison Petition, p.5. Again, this is simply further speculation with no support on the record. Next, Edison argues that a timely determination and billing would increase "price efficiency" such that a new procedure is necessary. Id. Tellingly, Edison's

speculation is not supported by any evidence whatsoever.

Although the Commission granted the utilities authority for deferred accounting, Edison wants to reduce the "lag" between the time it supposedly will incur stranded costs and the time they are billed to customers. According to Edison for these reasons, the Commission should adopt a procedure "under which Edison may initiate an expedited proceeding to allow for the updating and refining of its net stranded costs based on the fixed cost revenue deficiency model adopted by the Commission for the purpose of estimating the net stranded costs to be incurred in 2002." The fundamental change being sought by Edison is found in the phrase "***estimating*** the net stranded costs" which means that Edison is requesting the Commission to abandon methodology that is founded on the principle of determining actual stranded costs and instead, move to a system which estimates stranded costs and then relies upon the reconciliation settle all accounts. (emphasis added).

Edison's proposal should be rejected by the Commission for a number of reasons. First, Edison is using short-term data as a means of justifying change to a long-term program. Edison's proposed change is being supported by data that could completely change tomorrow due to changes in the future market. Consequently, this "new evidence" does not justify a major change.

Second, the one thing that we know about estimating stranded costs is that the estimate will not be equal to the actual experience. Therefore, estimating stranded costs could serve as a dampening factor in the market place if those costs are estimated at a too high a level and the surcharges reflect that estimate. Therefore, this method necessarily involves imprecise and false price signals.

Third, a methodology based upon estimates will add unnecessary and contentious issues to these

proceedings. Each year, experts will have to make estimates, which surely will be challenged by others. This is a wasteful, time consuming and an expensive process.

Fourth, the process being requested by Edison is too vague to be adopted. Edison states that it wants to be able to initiate expedited proceedings with apparently no limitation on how many proceedings may be initiated in one year. In fact, Edison did not even indicate whether these proceedings would be conducted as contested case proceedings under the Administrative Procedures Act of Michigan, as amended. Just how expedited are these hearings to be? There are so many outstanding questions that this request cannot be granted.

In summary, there is no justification for moving away from the Commission's methodology approved in its order that is designed to identify ***actual*** stranded costs that have been incurred by a utility to a methodology based on estimates. The utility is protected from "lag" because it has the authority for deferred accounting. The use of estimates only complicates matters and adds another degree of contentiousness that will be avoided by using the methodology adopted by the Commission.

The next matter raised by Edison is a late request to allow Edison to fund the securitization credit from the securitization savings. Edison states that unless it is allowed to do, customers can effectively bypass the nonbypassable securitization charge. Edison's argument ignores the possibility that there are indeed, stranded benefits in 2000. ABATE's presentation demonstrated that the stranded benefits far exceeded any stranded costs such that they more than offset the securitization charges. The offset could be justified on this basis alone.

Edison also claims that the Commission has misinterpreted Act 141 with respect to collection of

implementation costs. The Commission has repeatedly said that it will provide for deferred cost accounting for those costs deemed to be collectible from customers. It has also imposed a condition that in order for those costs to be collected in the future that they must provide benefits to customers in the form of a workable open access program. Edison claims that collection is mandated by statute but Act 141 is not so restrictive such that it precludes the Commission from imposing an additional requirement with respect to cost collection. Moreover, the requirement that the expenses must actually result in something that is useful to customers is simply a matter of normal utility ratemaking. For example, Edison's Greenwood plant had been included in rate base after a finding that its costs were reasonable and prudently incurred. Later, however, as circumstances changed, a portion of the cost of the plant was removed from rate base because it was no longer useful given the number of times the plant was actually dispatched. See, Final Opinion and Order (Enrico Fermi 2), Case No. U-7660, April 1, 1986, p. 77. Consequently, Edison is asking for special treatment in this proceeding which the Commission should not grant. The Commission's approach to implementation expenses is both reasonable and lawful.

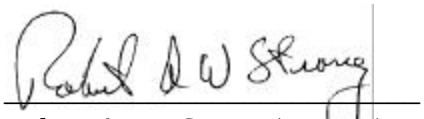
II

RELIEF

WHEREFORE, ABATE requests the Commission, to the extent that it finds that Consumers' Petition meets the requirements of Rule 404, to find that the scope of the matters that can be addressed in the true-up case is narrow and limited to the matters specifically addressed by the Commission in its December Order and ABATE requests the Commission to deny Edison's Petition in its entirety and grant such other relief as is just and necessary

Respectfully submitted,

CLARK HILL P.L.C.

By: 

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Dated: February 12, 2002

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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PROOF OF SERVICE

STATE OF MICHIGAN)
)
COUNTY OF OAKLAND)

Lisa Ann Teets, being duly sworn, deposes and says that she filed electronically a copy of the "Answer of Association of Businesses Advocating Tariff Equity to Petitions for Clarification and Rehearing" in the above docket on the persons identified on the attached service list by electronic mail on February 12, 2002.

Lisa Ann Teets

Notary Public, Oakland County, Michigan
My Commission Expires July 11, 2004

SERVICE LIST

MPSC Case No. U-12639

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