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February 11, 2002

Ms. Dorothy Wideman
Executive Secretary
Michigan Public Service Commission
6545 Mercantile Way
Lansing, MI 48911

Dear Ms. Wideman:

Re: MPSC Case No. U-12639

I am enclosing for filing an original and 4 copies of the Attorney General's Answer to Petition for Clarification and Rehearing of The Detroit Edison Company. I am also enclosing a proof of service. In addition, a copy of this filing is being submitted electronically pursuant to the instructions in the Commission's notice of hearing

Sincerely,

Donald E. Erickson

Donald E. Erickson
Assistant Attorney General

c All Parties
U-12639

PROOF OF SERVICE - U-12639

The undersigned certifies that a copy of the Attorney General's Answer to Petition for Clarification and Rehearing of The Detroit Edison Company was served upon the parties listed below by mailing the same to them at their respective addresses with first class postage fully prepaid thereon, or by State Interdepartmental mail as indicated, on the 11th day of February, 2002.

Lois E. Gruesbeck

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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 MPSC No. U-12639

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Attorney General's Answer to
Petition for Clarification and Rehearing of The Detroit Edison Company

Pursuant to 1992 AACS, R 460.17403, Attorney General Jennifer M. Granholm (Attorney General) files the following answer to the petition for clarification and rehearing filed by The Detroit Edison Company (DECo or the Company). In answer to DECo, the Attorney General says:

1. The MPSC's standards for considering petitions for rehearing have been repeatedly stated in the following language:

> Rule 403 of the Commission's Rules of Practice and Procedure of 1992 AACS, R 460.17403, provides that an application for rehearing may be based on claims of error, newly discovered evidence, facts or circumstances arising after the hearing, or unintended consequences resulting from compliance with the order. An application for rehearing is not merely another opportunity for a party to argue a position or to express disagreement with the Commission's decision. Unless a party can show the decision to be incorrect or improper because of errors, newly discovered evidence, or unintended consequences of the decision, the Commission will not grant a rehearing.
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> *In re Michigan Consolidated Gas Co,* MPSC Case No. U-10744 (Order Denying Rehearing dated February 5, 1996), and *In re Consumers Energy Co* MPSC Case No. U-11225-R (Order Denying Rehearing dated March 14, 2000).

2. DECo's petition requests the MPSC to provide certain clarifications to its Opinion and Order dated December 20, 2001, to take official notice of certain external developments, and to reconsider "a number of issues."

3. The requested "clarifications" identified on pages 2-3 of DECo's petition are not truly clarifications. Without benefit of any further evidentiary records or briefs, DECo is requesting advance rulings concerning a decision on page 14 of the December 20 Opinion and Order to defer some issues "to the case where the transition charges for 2001 will be calculated" and a decision on page 20 that "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."

4. The Attorney General contends that the deferral on page 14 and the decision on page 20 of the December 20 Opinion and Order accurately present what the Commission wished to say about its intent. DECo does not identify any error in those statements or any unintended consequences flowing from them. Therefore, pages 2-3 of DECo's petition do not satisfy the standards for rehearing.

5. Pages 3-6 of DECo's petition present so-called newly discovered evidence and request the MPSC to take official notice of that evidence. What DECo describes is not newly discovered evidence relating to the period previously under consideration in this case. DECo describes subsequent events.

6. The MPSC has recognized the need to reach finality in its decisions -- *In re The Detroit Edison Co,* MPSC Case Nos. U-10102 & U-10671 (Order dated September 27, 1994), and *In re The Detroit Edison Co,* MPSC Case No. U-11337 (Opinion dated January 14, 1998).

Therefore, the subsequent circumstances described by DECo's petition should be left to review in future proceedings required by the December 20 Opinion and Order in this case.

7. Pages 7-8 of DECo's petition argue that the December 20 Opinion and Order has the effect of permitting retail access customers to bypass securitization charges, and Deco argues that the basis for the offsetting credit is not clear.

8. No customer avoids the securitization charge or the securitization tax charge. The revenue from securitization charges and securitization tax charges is being credited as required by Act 142, so there is no bypass. The basis for the offsetting credit is clear from the order in U-12478 as well as from the December 20 order. DECo has received the proceeds from its issuance of securitization bonds, and DECo is also recovering so-called stranded (qualifying) costs via base rates and transition charges. The purpose of the offsetting credits is to avoid charging customers twice for those costs. DECo is not being prejudiced because it has received the bond proceeds, and customers are being protected from paying costs via base rates or transition charges and via securitization charges and securitization tax charges.

9. Page 9 of DECo's petition requests the MPSC to rule now that even if in the future the MPSC concludes there are "stranded benefits," then bundled customers should not receive any related credits. Page 32 of the December 20 order defers a decision on this issue to a future case when the Commission will address stranded benefits. On rehearing, it is not appropriate to ignore the reality that DECo is recovering stranded costs from bundled customers via base rates. If DECo has future stranded benefits, all customers should receive credits in proportion to the corresponding stranded costs recovered from them, whether via base rates, transition charges, or securitization charges.

10. DECo argues that giving stranded benefit credits would amount to retroactive ratemaking. The simple answer is that MCL 460.10a(1) and (10) require netting, and statutes can have retroactive effect.

Relief Requested

For the reasons stated above, Attorney General Jennifer M. Granholm requests the Michigan Public Service Commission to deny the Petition for Clarification and Rehearing of The Detroit Edison Company.

Respectfully submitted,

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