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July 14, 2006

VIA ELECTRONIC CASE FILING

Ms. Mary Jo Kunkle
Executive Secretary
Michigan Public Service Commission
6545 Mercantile Way
Lansing, Michigan 48909-7721

Re: MPSC Case No. U-14702

Dear Ms. Kunkle:

Enclosed for filing is the Exceptions of the Association of Businesses Advocating Tariff Equity together with a Proof of Service.

Very truly yours,

CLARK HILL PLC

Robert A. W. Strong
Digitally signed by
Robert A.W. Strong
DN: cn = Robert A.
W. Strong, c = US, o
= Clark Hill
Date: 2006.07.14
14:26:42 -0400

Robert A. W. Strong

cc w/enc: ALJ Nickerson
Parties of Record
/ag

5188634v.1 07411/058110

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of The Detroit Edison Company)
COMPANY for authority to implement a power supply cost) Case No. U-14702
recovery plan in its rate schedules for 2006 metered jurisdictional)
sales of electricity)

**EXCEPTIONS OF THE
ASSOCIATION OF BUSINESSES ADVOCATING TARIFF EQUITY**

The Association of Businesses Advocating Tariff Equity ("ABATE"), by its attorneys, Clark Hill PLC, files these Exceptions in accordance with the schedule established by the Michigan Public Service Commission ("Commission").

EXCEPTION #1:

ABATE Takes Exception To The ALJ's Finding, PFD p. 19, That Sulfur Dioxide Emission Allowances Should Be Included In The PSCR Costs.

The ALJ's conclusion is based upon language contained in MCL 460.6j(6). That language states, in pertinent part, as follows:

"In evaluating the decisions underlying the power supply cost recovery plan, the commission shall consider the cost and availability of electrical generation available to the utility;"

The ALJ states that he ". . . finds that the term cost is not directly linked in the statute to the cost of fuel but linked to the availability of electric generation. This language defeats the AG's argument that they are not booked costs for fuel burned. Further, the ALJ finds that these expenses due to the nature of volatility and direct application on alternative availability of electric generation are more appropriate for a PSCR plan and PSCR reconciliation cases than rate cases." PFD, p. 19.

There can be no doubt that MCL 460.6j(1) provides very specific definitions of the PSCR clause and PCR factor. This is in contrast to the more general language contained in MCL 460.6j(6) cited by the ALJ. MCL 8.3 *et seq.*, sets forth the rules of statutory construction. One of these rules is that where there are general and specific provisions within the same act, that the specific provisions control. *Bannon v City of Saginaw*, 120 Mich App 307 (1982), *affirmed*, 420 Mich 376, *rehearing denied* (1984); *William's Delight Corp v Harris*, 87 Mich App 202 (1978). Accordingly, the ALJ cannot base a decision to recommend sulfur dioxide emission allowances be included in the PSCR clause based upon the more general provisions of MCL 460.6j(6) because that would overrule the express language contained in MCL 460.6j(1).

EXCEPTION #2:

ABATE Takes Exception To The Finding, PFD p. 20, That The Cost Of Magnesium Hydroxide Boiler Additives Should Be Included In The PSCR Clause, PFD, p. 20

The ALJ rejects the testimony of Mr. Walter who recommended that the estimated \$1.87 million boiler additive expense should be treated as an O&M expense and excluded from Edison's projected PSCR cost. 5 TR. 601-605. He was persuaded that this expense should be included in the PSCR clause because one of the benefits is to reduce the overall cost of fuel by reducing the amount of high sulfur eastern coal needed in the coal blend, as well as reducing O&M expense. PFD, p. 20-21.

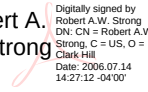
This expense is not a cost of fuel burned and represents a cost of handling the coal after Edison has received it. Thus, it should be excluded from Edison's PSCR expense. This is not to say that this is not a legitimate O&M expense, and ABATE recommends that the Commission indicate that it should be included within O&M expenses under review in Edison's current general rate case, U-14838.

RELIEF

WHEREFORE, ABATE requests the Commission to exclude the expenses related to sulfur dioxide emissions allowances and magnesium hydroxide from the PSCR clause.

Respectfully submitted,

CLARK HILL PLC

By:  Robert A.
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Robert A.W. Strong (P27724)
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255 S. Old Woodward Avenue, Third Floor
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Dated: July 14, 2006

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STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of The Detroit Edison Company)
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

PROOF OF SERVICE

STATE OF MICHIGAN)
)
COUNTY OF OAKLAND)

Robert A.W. Strong, being first duly sworn, deposes and says that he did cause to be filed electronically the Exceptions of the Association of Businesses Advocating Tariff Equity and Proof of Service in the above docket on the persons identified on the attached service list on July 14, 2006.

Robert A.W. Strong
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US, o = Clark Hill PLLC
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Robert A.W. Strong

Subscribed and sworn to before me
this 14th day of July, 2006.

Gloria A. Walsh
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Gloria A. Walsh, Notary Public
Macomb County, MI, acting in Oakland County, MI
My Commission expires: 8/03/2011

SERVICE LIST
MPSC Case No. U-14702

Administrative Law Judge

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