

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the rates, terms, and)
conditions for retail customers of)
THE DETROIT EDISON COMPANY for)
to choose an alternative electric supplier.)
_____)

Case No. U-12489

ENERGY MICHIGAN, INC. REPLY BRIEF

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ENERGY MICHIGAN, INC. REPLY BRIEF

I. INTRODUCTION

This Brief is submitted in reply to the Initial Briefs of Detroit Edison Company (Edison or Detroit Edison), Michigan Public Service Commission Staff (Staff or MPSC Staff), CMS MS&T Michigan, LLC, et al (CMS), the Association of Businesses Advocating Tariff Equity (ABATE) and Exelon Energy (Exelon). Failure to reply to all of the issues raised by the aforesaid parties or issues raised by any other party should not be construed as agreement with the issues or positions raised by those parties.

This Reply Brief will be divided into three sections:

- II. A discussion of the position of parties to this matter on 12 major issues presented in the Energy Michigan Initial Brief.
- III. The revised (yet again!!) Retail Access Service Tariff (RAST) attached to the Edison Initial Brief will be reviewed and comments made on each section where Energy Michigan disagrees with the initial or revised Edison position.
- IV. Remaining miscellaneous issues raised by other parties in their Initial Briefs will be discussed.

II. REPLY TO DETROIT EDISON, MPSC STAFF AND ABATE REGARDING 12 MAJOR ISSUES RAISED BY ENERGY MICHIGAN

This portion of the Energy Michigan Brief discusses the position taken in the Initial Briefs of Edison and other parties to this matter regarding the 12 major tariff issues raised by the Energy Michigan Initial Brief.

Issue #1: Format of the Edison RAST Filing

A. Edison Position

The Edison Brief addresses 11 major issues of concern to the Company and contains an attached RAST document in the form proposed by the Company November 30, 2000 but revised to incorporate some of the changes suggested by parties to this case. *Edison Brief*, p. 5. Like the RAST submitted November 30, 2000, the RAST attached to the Edison Brief has not been black-lined to show Edison's numerous other revisions to the RAST currently in effect. In other words, there is no way to tell the difference between the currently effective RAST and the document attached to the Edison Brief except as to changes proposed by other parties and agreed to by Edison.

It is hard to imagine a more confusing presentation. The confusion is heightened by the fact that the Edison Brief does not affirmatively support or reference the scores of changes which Edison made to the currently effective RAST document and which are literally hidden in the document attached to the Edison Brief.

B. Energy Michigan Reply

The only way to make sense out of this unintelligible group of Edison RAST filings is to go back to a format which compares and discusses changes Edison has made to the currently effective RAST on a section by section basis. This arduous process is necessitated by Edison which has elected to file RAST documents which do not illustrate or support proposed changes with argument.

Given the confusing Edison format it is critical that the Commission consider and rule on each change proposed by Edison to the RAST and make approval or rejection a matter of deliberate decision rather than a result of inaction.

Energy Michigan Issues #2, 4, 7, 9: Electric Choice Service to Low Voltage Customers:

#2) Load Profiling

#4) Edison's Proposed Rate Increases to Low Voltage Customers

#7) Telemetry Requirements for Small Meters

#9) Imbalance Charges for Load Profiling.

A. Edison's Proposals Will Destroy the Market for Electric Choice Service to Low Voltage Customers

Electric Choice service to relatively small (500 kW demand or less) secondary voltage customers is one of the few success stories for Electric Choice in the Edison territory. Edison low voltage customers can save money and receive reliable service through Electric Choice participation.

How ironic then, that the Edison RAST filing contains provisions which clearly destroy the economics of low voltage Electric Choice service!

Unless the Edison low voltage proposals covering new meter charges, higher system use charges, unworkable load profiling and unaffordable telemetry requirements are revised, the one feasible area for Electric Choice service in the Edison territory will be eliminated.

The comprehensiveness of Edison's efforts to ruin low voltage Electric Choice economics is illustrated by Edison's position in the U-12639 stranded cost case. In that case, Edison witness Falletich has proposed to add surcharges of 1.7 ¢ to 1.9 ¢ to the bills of all secondary voltage customers. *Falletich Direct Testimony, p. 7*. These changes would erode Electric Choice economics

to low voltage commercial customers by 14% - 18%. *Id.*, p. 9. Let there be no doubt then that Edison's overall position in this and other Electric Choice implementation cases will be to obtain RAST changes that deprive low voltage customers of any potential savings from Electric Choice.

B. Edison Position

The Edison Brief and attachment describe some but not all the aspects of Edison's assault on low voltage Electric Choice service.

1. Edison's revised RAST Sec. 8.7 eliminates the current right of all low voltage customers with demands greater than 20 kW to receive demand metering at no increase to the current \$5.95/month service charge. Under the new RAST, customers above 300 kW would have to pay increased charges of \$36-\$48 per month per meter which could cause rate increases of 33% for a customer with 23 kW of demand. *Edison Brief*, p. 17. *See Exhibit I-7, p. 2 of 2.*

2. Edison's revisions force all customers with demand below 300 kW to use a new system use charge based on energy used rather than customer demand. *Edison Brief*, p. 18-19. It is no accident that the revised charge for system use will cause large rate increases for the small business type customers who had been switching to Electric Choice service. Customers with a load factor as low as 21% would have a 19% rate increase and customers with a 32% load factor would see rates increase 82%. These increases violate the rate freeze requirements of 2000 PA 141, Sec.10d(1). *See Exhibit I-7, p. 1 of 2.*

3. Edison's new power factor and power loss charges are extremely complicated, may mask rate increases and are different than charge structures used for sales customers. These changes are not even discussed in the Edison Brief. The new Edison charges are an invitation to unpoliced abuse. *Energy Michigan Brief*, p. 15-16.

None of these rate increase provisions proposed in the initial Edison case were highlighted or shown in the RAST attached to its Brief.

4. Edison claims its new load profile system will fairly apportion load and cost responsibility to small customers without the need for demand meters. *Edison Brief, p. 15-16*. But, the proposed Detroit Edison load profiling system is structured so that AES power suppliers would always be out of balance and therefore be subjected to huge imbalance penalties with no way to correct the imbalances before or during delivery. *Energy Michigan Brief, p. 6-7*. Also, the Edison load profile system cannot detect AES efforts to manage load to reduce on peak use. As a result, small Electric Choice customers could never benefit from time of day rates or interruptible service. *Id, p. 8*

Detroit Edison indicates a revised position on load profiling which could accept a load leading type system advocated by Energy Michigan and MPSC Staff. However, Edison provides no details and insists that such a service would have to be mandatory presumably for all customers below 300 kW. *Edison Brief, p. 16*. This is tantamount to saying all customers below 300 kW would have to abandon demand metering and use the new energy based system use charge which causes large increases for most business type customers. This is not a feasible solution to the load profiling problem.

5. Detroit Edison requires all customers with demand meters (currently as low as 20 kW) to install telemetry from their meters to Edison headquarters to track power use. Telemetry for small customers is really not needed because demand can be tracked by conventional manual meter reads. In any event, these small customers can't be isolated from the system if they are out of balance. On the other hand, both Detroit Edison and Energy Michigan witnesses agree that the requirement to install telephone lines or other telemetry on meters and Edison has greatly delayed Electric Choice enrollment and will cause immense problems in the future when small customer enrollment greatly expands. *Energy Michigan Brief, p. 23-24, Newbold Rebuttal, 2 Tr 124*.

C. Energy Michigan Reply

The Commission needs to adopt a comprehensive plan for low voltage customers that will work smoothly and efficiently and also preserve current economics which encourage Electric Choice.

1. For low voltage customers greater than 20 kW demand:

a. Keep the current metering and system use charge structure. Customers should continue to receive demand meters at no additional charge and their energy use should continue to be billed at the existing \$3.42/kW rate thus preserving the same economics and rates that exist today. *Energy Michigan Brief, p. 13-15.* The new Edison meter and 3.01 ¢ /kWh system use charge as well as Staff's 2.88 ¢ /kWh system use charge cause large rate increases for low voltage customers above 20 kW and should be rejected as rate increases in violation of 2000 PA 141, Sec. 10d(1).

2. For customers less than 20 kW:

A new system of estimating demand is required for those customers of less than 20 kW who have no demand meters. Since the Edison load profiling system will not work, a load leading system similar to that used by Consumers Energy was proposed by Energy Michigan witness Polich and MPSC Staff witness Bailey. *Energy Michigan Brief, p. 7-9.* A load leading profiling system estimates the use of customers before the fact. System use charges would be paid at the current rate of \$3.42/kW for peak demand established by the Edison profiles. AESs or their suppliers who deliver the amount of power dictated by Edison would be allowed to settle imbalances at the end of the month at the rate of \$50/Mwh if actual use deviated from Edison profiles. *Energy Michigan Brief, p. 28-29.* Suppliers who deliberately or accidentally failed to follow the Edison required load profiles would be subject to fairly harsh penalties on a daily basis pursuant to OATT Schedule 4 which requires daily imbalances to be cashed out at the greater of 110% of incremental cost or \$100/Mwh. This

system of imbalance penalties was supported by witness Polich and in the Energy Michigan Brief. *2 Tr 272 and Brief, p. 27-28.*

3. Energy Michigan proposes that the requirement for telemetry be eliminated for customers with demand of 1000 kW and below. Energy Michigan has demonstrated that Detroit Edison could adequately track and bill the amount of power deliveries and system use charges incurred without telemetry for small customers through use of manual meter reads as is currently being done. *Energy Michigan Brief, p. 23-24, RAST Sec. 2.9. Elimination of the small customer telemetry requirements in RAST Sec. 2.9 will lower customer cost, reduce enrollment delays and complexity and squarely place the responsibility for staying within balance on the alternate supplier or their marketer.*

4. The below 20 kW customers subject to load profiling should have the option to use load managed service. This can be accomplished by requiring the load leading profiles to be developed for managed loads such as time of day or interruptible service. Without these options, small Electric Choice customers will not be able to receive the same rate reductions which are available to bundled residential sales customers under the new interruptible service Rate R-14 approved in Case U-12820 on May 15, 2001.

Conclusion

Energy Michigan testimony has outlined a comprehensive solution for low voltage Choice customers. Metering and system use charges for these customers should be left as is. Edison's changes cause rate increases prohibited by PA 141. A new load leading system similar to that used by Consumers can allow the small, under 20 kW customer without a demand meter to receive affordable service without installation of demand meters. The profiles provided should include interruptible service options. Elimination of the telemetry requirement for all customers with less than 1000 kW of demand will speed enrollment, reduce costs and allow Electric Choice to work in a low voltage market.

The cost of a load leading load profile service can be recovered through the existing Edison system use and customer service charges. *Energy Michigan Brief, p. 8.*

Issue #3: Speeding Enrollment

A. Edison Position

Edison objects to the 15 day enrollment processing deadline proposed by Energy Michigan because, “The retail access program must reach a level of maturity before a utility’s performance can be realistically and fairly measured.” *Edison Brief, p. 20.* Edison also claims that much of the enrollment activities are not entirely in Edison’s control. Edison proposes that it be responsible for meeting time deadlines related to time between Edison receiving enrollment requests to site ready status minus required customer activity such as telemeter installation. *Edison Brief, p. 20-22.* ABATE, however, agrees that Edison should be limited to a 15 day time frame for commencement of service after enrollment. *ABATE Brief, p. 18.*

MPSC Staff have proposed penalties for failure of utilities to read meters on schedule and Staff had also proposed penalties relating to a customer’s portion of the bill where there is failure to accomplish scheduled meter reads. *Staff Brief, p. 21-22.*

B. Energy Michigan Reply

Energy Michigan believes that a 15 day enrollment deadline is appropriate despite Edison’s objections. Elimination of the requirement to install telemetry for customers smaller than 1000 kW would remove the largest barrier to completion of timely enrollment. *See Newbold testimony 2 Tr 124, RAST Sec. 2.9.1.* Use of a mandatory 15 day time frame without the requirement to install telecommunications links would be accompanied by a requirement that if the 15 day deadline were not met, EC service should commence on a date certain, 15 days after enrollment, when the AES power supplier would deliver power to the Edison system and the customer would begin to receive

a credit for EC service whether or not Edison had completed all of its enrollment requirements. *Energy Michigan Brief, p. 10.* This combined approach removes technical barriers to service, places the remaining tasks within the control of Edison and provides a logical fallback if Edison does not meet these goals. This comprehensive approach should be adopted.

Issue #5: Return to Service RAST Sec. 5.4

A. Edison Position

Edison has not changed its basic position supporting its new RAST Sec. 5.4 which requires returning customers to stay on Edison service for 12 months or return for three months or less at market price rates. *Edison Brief, p. 8-11.*

B. Energy Michigan Reply

The Detroit Edison Brief and Rebuttal merely avoid or misrepresent Mr. Polich's basic proposal: if adequate summer transmission capacity is not available then EC service should be able to return to bundled service for as little as three months on 15 day notice. Edison has forgotten the alternative side of the Polich proposal: if adequate summer transmission capacity is available, Edison could apply its proposed return to service provisions. *Energy Michigan Brief, p. 19-20.*

Edison has not been able to contradict Mr. Polich's evidence showing that during the summer of 2000, adequate transmission capacity was not available, that this situation could recur and that transmission capacity shortages are largely within the control of utilities. The Edison rebuttal focuses on the summer of 2001 when it is claimed transmission capacity is available but Edison was unable to show that such capacity was owned by any alternate supplier or entity serving the Michigan retail market.

There must be a return to service mechanism which does two things: 1) rewards utilities for

making available adequate summer transmission capacity to serve the Electric Choice market. Mr. Polich's version of this reward would be to allow the utilities to impose fairly harsh return to service standards which guarantee that utilities do not have to serve a market under circumstances that allow gaming of price. 2) Choice customers and providers, however, should not be subject to harsh return to service requirements when utilities have acted to hoard transmission capacity and thus force customers off Electric Choice service.

Mr. Polich recognized both of these legitimate goals and proposed that Edison receive approval for their preferred return to service conditions if the Electric Choice market gets access to adequate transmission capacity. This fair compromise should be adopted.

Issue #6: Edison Credit Requirements RAST Sec. 12 and 23.3

A. Edison Position

Edison's position on credit requirements has changed very slightly. Edison now agrees with Energy Michigan that an Alternate Electric Supplier does not need to comply with detailed credit requirements. *Edison Brief*, p. 7. This is because Commission decisions have mandated that customers will directly pay their own transition charges and AES entities typically do not purchase other expensive services from utilities such as transmission. Since AES entities do not have expensive purchases from Edison there is no need for credit.

Edison's position does not resolve the issue of onerous credit requirements imposed on transmission purchasing by marketers supplying the Edison system. Edison has not changed its position that these marketing entities must be subjected to credit requirements which are approximately \$30,000/MW for summer back up energy and \$2,000/MW for non-summer months. Note that RAST Sec. 23.3 mandates that marketers must purchase emergency summer back up from Edison's affiliate, ITC. It is this unjustified mandate to purchase back up service which the Commission overruled in Case U-12272. These excessive requirements are arguably federal and

therefore not in the power of Edison to enforce. *Polich, 2 Tr 307, Energy Michigan Brief, p. 21.* Excessive credit requirements are a burden on Electric Choice economics. *Id.* The insertion of federal credit requirements into a state tariff is a perfect example of why the marketer role should be removed from the RAST. *See Issues #11 below.*

B. Staff and Energy Michigan Solution

The MPSC Staff proposed to soften these requirements by waiving all credit requirements after 24 months of full and timely payment to Detroit Edison for services provided. *Exhibit S-18, p. 20 of 37, Sec. 12.3.*

Mr. Polich's proposal, however, is still the best solution. For transmission purchasing marketers supplying energy to an AES two changes are required:

1. No credit should be required for emergency energy service on a mandatory basis since the Commission decided in Case U-12272 that Detroit Edison cannot require parties to purchase emergency backup service.
2. Mr. Polich proposes that a marketer serving the Edison Electric Choice market satisfy transmission related credit requirements by posting \$5,000/MW of capacity based upon a cost of \$100/MW plus 50 hours of imbalances at FERC rates. *Energy Michigan Brief, p. 21.* After 12 months of consistent good credit history these requirements should be waived. *Id.*

The Polich credit requirements are based upon a rational calculation of financial exposure and, more important, allow the transmission marketer customer to establish good credit after a known period of time. This part of the proposal is consistent with Staff's philosophy. Edison's philosophy is to impose an exceedingly harsh credit requirement and never allow this requirement to be lessened despite good payment history. Edison should grant transmission customers the same privilege it grants its own bundled sales customers:

waiving credit requirements after a period of good credit history.

Issue #8: Curtailment RAST Sec. 10.1

A. Edison Position

Edison has retained its initial position that Electric Choice customers should be subject to curtailment before non-retail access, firm and interruptible customers. *RAST Sec. 10.1*. Edison's only modification of this position is to add language ensuring that this discriminatory curtailment would be accomplished only to maintain system integrity and not for economic reasons. The fundamental discrimination of curtailing or cutting off Electric Choice customers before system, firm and system interruptible customers is retained. *Edison Brief, Exhibit A-2, Sec. 10.1, p. 18 of 37*. Energy Michigan viewed as potentially positive an offer by Edison rebuttal witness Benskey to discuss a solution to the problems identified by Energy Michigan: Mr. Benskey's position has not been pursued by Edison.

B. Energy Michigan Reply

Mr. Polich's rational, comprehensive approach to curtailment is based on existing utility practice and should be adopted:

1. No bundled sales customer or Electric Choice would be interrupted unless Edison invoked its Emergency Electric Procedures to protect system integrity. Under these procedures, customers are treated on a non-discriminatory basis and curtailments are by area rather than by customer.
2. Alternate energy suppliers or their marketer capacity providers who are perceived to be in imbalance would be notified and given time to correct or verify the imbalance problem before their loads were curtailed. AESs that failed to provide sufficient power would be at

risk of losing their license.

3. Electric Choice power providers would be given two hours to come back into balance before penalties were imposed. This is the same framework utilized by utilities among themselves.

4, Finally, imbalances which did not threaten system integrity would be punished through imposing existing OATT scheduling imbalance penalties. Curtailment or interruption would be only invoked when power was insufficient throughout the relevant area. *Energy Michigan Brief, p. 26-27.*

Edison rebuttal witnesses criticized Mr. Polich for attempting to shift liability from Electric Choice marketers to utilities, but it should be noted that Mr. Polich's proposals are virtually the same framework utilized by utilities among themselves. In other words, Mr. Polich is proposing that Electric Choice power providers be subject to the same, not more or less, penalties and requirements as electric utilities. This fair, balanced approach should be adopted.

Issue #10: Return of Bid Deposits RAST Sec. 32.13

A. Edison Position

Edison has revised its position to support returning bid deposits for successful bids which remain unused through December 31, 2001. Under the new Edison proposal, deposits for unused EC capacity would be returned to the bidder by March 31, 2002 and no interest would be paid.

B. Energy Michigan Reply

Commencement of Electric Choice service has been delayed in large part due to Edison's actions. *See Issue #3 above.* Edison's enrollment delays have been documented in the MPSC. Mr.

Polich's testimony on return to service has also documented the actions of utilities hoarding transmission capacity which prevented commencement of EC service during the summer of 2000 and thereafter. *Energy Michigan Brief, p. 19*. Based upon these actions, it is fair that Edison return the bid deposits that could not be used since Electric Choice could not be commenced.

It would also be fair to require that Edison pay interest to the customer receiving deposit monies. *Energy Michigan Brief, p. 30*. If interest is not paid to the customer, Detroit Edison will get the interest and experience an undeserved windfall. It makes no sense to allow Detroit Edison to keep interest on deposits when the money rightfully belongs to the customer or entity that paid the deposit and was prevented from commencing Electric Choice service on a timely basis. Customers should receive both their bid deposit and interest on those deposits.

Issue #11: Inclusion of Marketer Issues in the RAST

A. Edison Position

Edison's position has evolved considerably on this issue. Edison's Brief admits that the Commission has little control or jurisdiction over many of the relationships between a marketer and Detroit Edison which are governed by the FERC. *Edison Brief, p. 3-4*. Edison claims that the material regarding marketers is included merely to explain their role. *Id.*

However, Edison defends its decision to require an AES - marketer notice. *D, p. 6*. But Edison opposes including all contracts in the RAST and agreed to Staff oversight of the contracts which are required. *Id, p. 7*. Also, Edison used RAST, Sec. 23.3 to illegally mandate marketer purchases of emergency energy power in violation of MPSC Order U-12272.

Finally, Edison indicates flexibility regarding how to cover the marketer material presented in Sec. 23-31 of the initially filed RAST. *Edison Brief, p. 6*.

B. Energy Michigan Position

Energy Michigan has proposed that references and provisions in the RAST covering marketers be deleted. *Energy Michigan Brief, p. 31*. Except for a definition of the word “marketer” there is no need to include or discuss marketers or marketer issues in the RAST. *See Energy Michigan Brief, p. 32-34*. In the alternative, language should be included in the RAST clearly explaining that marketers are subject to the jurisdiction of FERC and that any RAST requirements on marketers would change to track future changes in FERC requirements.

Issue #12: Edison Proposal to Defer RAST Implementation 120 Days After Approval

A. Edison Position

Edison did not brief this issue despite having presented testimony on the record.

B. Energy Michigan Position

Energy Michigan remains convinced that a 120 day delay for implementation of the RAST will push the effective date of the new RAST into 2002, thus delaying the start of an expanded Electric Choice program. *See Energy Michigan Brief, p. 32-34*. Note that if the Electric Choice advertising program kicks off a promotion in late 2001, much of this money will be wasted if the Electric Choice program is not ready to commence in the wake of a high profile advertising program

III. DETAILED REPLY TO DETROIT EDISON REVISED RAST (EXHIBIT A-2)
WHICH INCORPORATES SOME CHANGES SUGGESTED BY
OTHER PARTIES TO THIS MATTER

RAST Sections where there is disagreement will be discussed in the order contained in Edison’s latest RAST filing which is attached to their Brief. The language needed to implement the Energy

Michigan position is contained in the revised RAST attached to the Initial Brief of Energy Michigan.

A. RAST Subsection 1.1: The Customer Role

See discussion of issue #11 above. While Detroit Edison agrees that the jurisdiction of the MPSC regarding marketers is very limited, it has not presented a position which translates this view into concrete revisions of the RAST. *Edison Brief, p. 6-8.* Energy Michigan continues to believe that virtually all references to marketers in this tariff should be removed with the exception of a definition of the term “marketer”. *See Energy Michigan Brief, Attachment 1.*

B. RAST Subsection 1.2: The Alternative Supplier Role

Energy Michigan has proposed to revise this section to eliminate the Edison requirement that the AES take title to power. There is no legal requirement in PA 141 that an AES take title to power. Subsection 1.2 as written by Edison would prevent a customer from contracting directly with an electric marketer and requesting the AES to merely perform scheduling functions. *Energy Michigan Brief, p. 35.*

Edison has presented no reasons in its Brief to support its revision of Subsection 1.2. Moreover the Edison rebuttal of Mr. Polich merely contained statements from witness Newbold regarding his beliefs about the intent of PA 141 that the AES be the only entity to make a retail sale to end use customers but provided no citations, legal authority or other support for the Edison position. *Newbold Rebuttal, 2 Tr 134.*

In view of Edison’s lack of support for their position restricting customer contracting and AES activity, that position should be rejected and the Energy Michigan position adopted.

C. RAST Subsection 1.3: The Marketer Role

See discussion in II., Issue #11 above.

D. RAST Subsection 1.4: Definitions

1. “Customer”

Mr. Polich proposed to simplify the definition of customer as “an end user of power and retail customer on the Detroit Edison distribution system.” This simplified language is consistent with RAST Subsection 1.1. *Energy Michigan Brief, p. 36.*

Edison has presented no substantive reasons in its Brief or rebuttal to reject this greatly simplified definition of “customer”. Therefore the Polich position should be adopted.

2. “Customer Service Capacity”

The term “Customer Service Capacity” is the term used to define the amount of capacity which the customer will pay for each month.

Mr. Polich deleted language in the Edison definition which would define Customer Service Capacity based on both the amount of power which can be transmitted over the meter and an associated transformer. The Polich definition included limits on the amount of power that could be transmitted to the customer over the Edison distribution system. *Energy Michigan Brief, p. 37.* Under the Edison definition a customer would be charged for 100 MW of capacity each month if that amount could be delivered over the customer’s meter and transformer even though the Edison distribution system could only bring 80 MW to the customer. The Polich definition charges for 100 MW of Customer Service Capacity only if 100 MW can actually be delivered through the entire Edison distribution system to the customer.

Since Edison has provided no cogent reason for their position, it should be rejected.

3. “Demand Conversion Table”

Edison defines “demand conversion table” as a table that converts kWh consumption to demand in kW such as might be necessary for load profiling. It also references specific tables used by Edison to make such conversions. *RAST, Sec. 1.4*. Mr. Polich removed reference to the current Edison demand conversion tables which measure demand on an instantaneous basis rather than over some specified period of time and therefore can exaggerate demand levels causing increased customer bills. *2 Tr 286, Energy Michigan Brief, p. 38*.

Edison’s attempt to rebut Mr. Polich’s position contained no objective reasons for their opposition. *Newbold Rebuttal, 2 Tr 136*. In light of Edison’s failure to adequately rebut Mr. Polich’s position, and Edison’s failure to deal with this issue in their Brief, the Polich position should be adopted and Edison’s references to demand tables should be deleted.

4. “Distribution Point of Receipt”

Mr. Polich removed this definition since it is duplicated elsewhere in the RAST. *Energy Michigan Brief, p. 38*.

While Detroit Edison rebuttal testimony opposed Mr. Polich’s change they offered no reasons for their opposition on rebuttal or in their Brief. *Newbold Rebuttal, 2 Tr 136*. Therefore, Mr. Polich’s position should be adopted.

5. “Marketer”

Mr. Polich revised the definition of marketer to include only entities that take title to

power and have FERC authorization to market energy services. Edison language which restricts marketer activity is excluded. *Energy Michigan Brief, p. 39-40. See Energy Michigan marked up RAST, Energy Michigan Brief, Attachment 1.*

Edison's objections to the Polich language are not persuasive. See II, Issue#11 for discussion of the reasons to exclude more detailed discussion of marketer and the role of marketer in this tariff. It should be kept in mind that Edison's detailed treatment of marketer issues has the effect of defining marketer activity in a way not mandated by PA 141. Edison RAST provisions establishing marketer credit requirements (RAST, Sec. 12) obligate marketers to buy emergency backup and impose tagging requirements (RAST Subsection 25.6). There is no good reason for this Commission to define marketer activity. This is a FERC role. Therefore the Edison definition of marketer should be rejected.

Edison's Brief is ambivalent regarding including marketer issues. *Edison Brief, p. 6-7.* Energy Michigan does not share this ambivalence. All references to the marketer role, except those contained in a definition or "marketer" should be deleted from the RAST.

E. RAST Section 2: Terms of Service

Energy Michigan has requested language changes which would allow an AES to arrange power delivery as discussed in Subsection 1.2. *Polich, 2 Tr 287.* Edison declined to make those changes in the RAST attached to their Brief.

The impact of this position is that Edison unilaterally decided to use language in the RAST which will prevent an AES entity from acting as a broker or marketer of power rather than a retailer who buys power from a separate marketer entity. Edison's Rebuttal produced no objective reasons supporting this restrictive position. *Newbold Rebuttal, 2 Tr 137.* Edison's Brief ignored the issue.

Absent objective reasons for a position which restricts and damages AES activities, the

Edison position should be rejected and Energy Michigan's language revisions to Subsection 2.1 should be adopted.

F. Subsection 2.2: Delivery of Power

Edison's revised tariff submitted with their Brief resolves Energy Michigan's concerns regarding this section.

G. Subsection 2.3: Customer Eligibility

Energy Michigan proposed revisions to Subsection 2.3 which ensure that Detroit Edison cannot require customer payment of past due amounts which are in dispute or subject to litigation as a condition to eligibility for ROA service. *Energy Michigan Brief, p. 41.*

Edison opposes the Energy Michigan revisions on the grounds that a customer must pay all past due amounts even if such amounts are subject to billing practice disputes as authorized by the Commission. *Newbold Rebuttal, 2 Tr 138.* The Edison Brief was silent on this issue.

The Commission should adopt the Energy Michigan revisions to RAST 2.3 which merely prevent Edison from denying ROA service for a failure to pay customer bills which are legitimately in dispute before the Commission.

H. Subsection 2.4: Specifying an AES

Energy Michigan proposed revising Subsection 2.4 to allow more than one wholesale supplier to serve a RAST customer account to a customer location. *Polich, 2 Tr 287, Energy Michigan Brief, p. 42.* Note that the Energy Michigan position does not say that there can be more than one Alternate Electric Supplier per account but rather that the Alternate Electric Supplier to an account can use more than one wholesale supplier of power as sources for one customer account.

The Edison language in RAST 2.4 clearly prohibits more than one wholesale supplier being used by an Alternate Electric Supplier at a customer location. This is tantamount to saying that a General Motors or a Chrysler factory site may never use more than one wholesale provider.

Edison has produced no reasons for prohibiting multiple wholesale suppliers to an AES serving a large site but did not revise the RAST submitted May 4, 2001 to accommodate multiple wholesale suppliers.

Based upon Edison's lack of policy reasons for denying the use of more than one wholesale supplier by an AES entity to serve a location or customer account, the Energy Michigan revisions to 2.4 should be adopted.

I. Subsection 2.5 (B): Change of AES

Edison revisions to RAST 2.5 in their May 4, 2001 filing are acceptable.

J. Subsection 2.6.2: Combination of Multiple Metered Loads and 2.6.3: Cost of Rewiring to Combine Meters

Energy Michigan concerns regarding these sections have been satisfactorily addressed by Edison in their May 4, 2001 tariff filing.

K. Subsection 2.7: Multiple Meters at Residential Locations

After Edison's revision of Subsection 2.7 contained in their May 4, 2001 filing, one issue remains. As written, the tariff requires monthly meter charges for each individual meter serving a residential location. Also, interruptible rates are not allowed to be made available under EC service.

The Edison position charging extra for the meters necessary to monitor interruptible or load

managed service and the prohibition against such service are anti-competitive. Edison has received approval for a new R-14 load interruption service to bundled sales customers which does not use separate metering. *See MPSC Order U-12820, May 15, 2001.* However, Edison will not make this service available to competitors. *Energy Michigan Brief, Attachment 2, Edison discovery response EMDE-8.49.* Thus, Edison will have the means to offer interruptible service and avoid extra meter charges but will deny those same options to its competitors.

At the very least, the Commission should adopt Mr. Polich's recommended modifications of RAST 2.7 which would prohibit additional charges for the meters necessary to monitor interruption. The RAST prohibition against interruptible Electric Choice rates should be deleted and interruptible service programs thus made available for all customers. As an alternative, Edison should allow AES entities to use any interruption system or require Edison to verify AES interruption with sampling, etc. as recommended by witnesses Vail and Polich. *Vail, 2 Tr 252-56, Polich, 2 Tr 273. Energy Michigan Brief, p. 45.*

L. Subsections 2.8.2 through 2.10: Metering

The Sec. II. discussion of Issue #2, 4, 7 and 9 contains a thorough review of the Energy Michigan position on low voltage metering issues.

In summary, Edison has attempted to eliminate the current right of low voltage customers above 20 KVa demand to have demand meters installed at no additional cost. This request has two undesirable consequences:

1. Under the new Edison RAST 2.8.2, customers from 20 KVa through 300 KVa are not allowed to install any demand meters and must therefore use Edison's new energy based system use charge of 3.01 ¢ /kWh which causes huge rate increases for the higher load factor customers who were likely to switch to Electric Choice service. This is an unauthorized rate increase in violation of 2000 PA 141, Sec. 10d(1).

2. Customers above 300 KV demand who formerly received demand meters as part of their service at a charge of \$5.95/month will pay \$36 to \$48 charges for demand meters under the new Edison RAST. This is an unauthorized rate increase clearly in violation of PA 141 10d(1) and therefore should be summarily rejected.

Energy Michigan also agrees with Staff's proposed amendments to Sec. 2.9.4 penalizing Edison for failure to read meters and Sec. 2.9.2 absolving the customer of any penalty for non-performance of a telecommunication service provider. *Energy Michigan Brief, p. 45.*

The RAST attached to Edison's Initial Brief modifies Sec. 2.8.4 (Sub. 1 and Sub. 2 as well) to add language stating that Edison will "attempt" to contact the customer or visit the customer site within five business days to install a customer enclosure to which Edison must route a required telephone line. Edison also commits to "schedule a visit to a site" within 10 days of being notified that required phone lines are installed and properly terminated. *Edison RAST submitted May 4, 2001.*

Edison's "commitments" are extremely tentative and they require Edison to visit a site but not to actually install and test metering. Two changes are necessary:

1. As recommended above, the requirement for telemetry at sites of 1,000 KW and below should be eliminated to reduce complexity and burdens on both Edison and its customers.
2. Once enrollment has been validated, Edison must be required to actually visit the site within five business days, not just contact the customer and to actually install required metering within 10 days. The only exception to this time frame would be where the customer telemetry (for customers above 1,000 kW) is not properly installed.

Edison's unwillingness to make firm commitments regarding metering installations is the best possible evidence of the need to eliminate telemetry requirements for customers with demand below 1,000 KW and then insist on rapid follow through on the larger installations above 1000 KW.

M. Subsection 2.8.1: Meter Costs

The RAST attached to Edison's Initial Brief does not respond to Mr. Polich's recommendation that Sec. 2.8.1 include language ensuring that any meter changes or meter installations required by Edison are at Edison's cost, not the customers cost. *Energy Michigan Brief, p. 46, 2 Tr 288.*

Edison's position in this case demonstrates the need for the Energy Michigan changes. The current Edison RAST requires demand meters for all Electric Choice customers. The current RAST monthly charges for low voltage customers are \$5.95/month. *See current RAST Sec. 6.8 and 6.9.* No extra meter charge is required where EC customers above 20 KVa switch to demand meters. Thus, the Edison proposal to charge extra for low voltage demand meters is a prohibited rate increase per PA 141 Sec.10d(1).

In its revisions to RAST Sec. 2.8, Edison attempts to deny demand meters to customers of less than 300 kW and for those customers greater than 300 kW new, higher charges are required in Sec. 8.7 in clear violation of PA 141, Sec. 10d(1).

The RAST at 2.8.1 should be revised to clearly state that the status quo regarding energy metering costs be preserved and that where demand meters are required they shall be at Edison's cost.

N. Subsection 2.9.1: Mandatory Data Links to Meters and Access to Customer Data

The revised language in RAST 2.9.2 submitted by Edison as an attachment to their Initial

Brief is not responsive to four Energy Michigan proposals:

1. Electronic telemetry links for customer loads of less than 1,000 KW should be an option rather than mandatory (see II., Issue # 2, 4, 7, and 9above).
2. Sec. 2.9.1 references meter reading through use of “analog telephone service”. Energy Michigan has proposed that the phrase “electronic telecommunication links” be used to allow a broader range of service including cell phones, etc. *Polich, 2 Tr 284-90. Energy Michigan Brief, p. 47-48.*
3. Edison ought to allow an AES to have direct access to meter data through the same means as Detroit Edison without further documentation or permission from the customer. *Energy Michigan Brief, p. 47.*

While Edison did not adopt Mr. Polich’s proposal to allow an AES the same access to customer data as is provided Detroit Edison it has not provided compelling reasons for rejecting this proposal. Edison’s vague concerns regarding security issues are not accompanied by details. *Energy Michigan Brief, p. 48.* It is clear, however, that by denying AES equal access to customer data Edison forces the AES to incur duplicate and unnecessary expenses to serve its own customer who must pay twice for the same data, once to Edison for compiling the data and then a second time to an AES for compiling duplicate data. *See Newbold Rebuttal, 2 Tr 142.*

So long as the customer permits access to its own data, the Edison system should be structured so that the AES can use data which has already been compiled. This procedure avoids waste, duplication and unnecessary expense.

4. The Energy Michigan proposal to make telemetry optional to customers below 1,000 kW is discussed in II, Issue # 2, 4, 7 and 9 above.

O. Subsection 2.9.4: Date of AES Switch

There is agreement on this issue which was implemented by the Edison tariff filed May 4, 2001.

P. Subsection 2.10.4: Liability for Meter Errors

Detroit Edison's revised Sec. 2.10 submitted May 4, 2001 fails to respond to Energy Michigan's key objection to this section: Edison liability for meter errors should include the cost of imbalance penalties payable to Edison or its ITC affiliate or extra power supply costs caused by inaccurate Edison meters. The RAST language proposed by Edison limits Edison's liability to adjusting charges for Edison services such as system use so that the volume is based on accurate data. *Energy Michigan Brief, p. 45-46.*

In summary, the Edison position on liability allows its own inaccurate meters to cause thousands or hundreds of thousands of dollars of extra imbalance or power supply costs because the AES could not balance properly with inaccurate meter data. Many of those costs would be imposed on an AES by Edison's own affiliate ITC as imbalance penalties or by Edison under a load profile system with monthly reconciliations. Edison's May 4, 1002 RAST language would exclude liability for these penalty fees. The Edison Brief does not discuss this issue.

The only fair means of addressing the costs caused by Edison meter errors is to subject Edison to the same imbalance penalty structure which Edison subsidiary ITC imposes on an AES. Under the OATT, if a customer delivers too little power, ITC will charge 110% of market cost. Edison should be required to do the same in relation to extra costs incurred by an AES due to Edison meter failure. *Energy Michigan Brief, p. 45-46, 2 Tr 288.* The Energy Michigan modifications to RAST Subsection 2.10.4 accomplish this result.

Q. Section 4: Availability of Service

The RAST language submitted May 4, 2001 still contains an unnecessary discussion of the bid process which will be terminated December 31, 2001.

Far more dangerous, the RAST attached to Edison's Brief contains language proposed by Staff which establishes a "default" transition charge of .5 ¢ /kWh effective January 1, 2002 if the Commission has not established an alternate amount in Case U-12639 as of that date.

The Energy Michigan Brief in this case opposed the concept of a default transition charge in general and specifically opposed the Staff default charge of .5 ¢ on the grounds that the assumed charge could be extremely inaccurate and damaging depending on market economics in early 2002. In the market, as of Spring 2001, a .5 ¢ transition charge would be unaffordable for most Electric Choice service on the Detroit Edison system. Implementation of a .5 ¢ default transition charge, if the Commission has not reached a decision in Case U-12639, could literally destroy the Electric Choice market and has no factual basis. *Energy Michigan Brief, p. 49.*

By far the safest course is to utilize other language in redrafted Sec. 4 which provides for a transition charge "as established by the Commission" and exclude any reference to a "default" transition charge at .5 ¢ or any other level which is factually unsupported.

Since the .5 ¢ charge was not supported by any competent testimony, there is no basis for this rate in any event. Given the lack of evidentiary support for a .5 ¢ transition default transition charge, the concept of a default transition charge and specific numbers should be rejected.

R. Sec. 5: Return to Service

This issue is discussed in II, Issue # 5above.

S. Subsection 5.2: Initiation of Retail Access Service

The Edison RAST attached to Edison's Brief has been revised as suggested by Energy Michigan to provide that EC service can be initiated by means other than writing.

T. Sec. 6: Billing and Payment

Energy Michigan recommended striking most of the language in RAST Subsection 6.1 which describes Detroit Edison's complete billing option. Those changes have been made by Detroit Edison.

U. Subsection 6.2 and 6.4: Disconnection and Payment of Amounts Due Prior to Enrollment

The versions of Subsections 6.2 and 6.4 in the RAST attached to Edison's Brief do not address Mr. Polich's concern that customers in arrears on their bill will not be charged for late payments (Sec. 6.2) or be subject to disconnection (6.4) if the arrearages are matters in dispute. *Polich, 2 Tr 291.*

Edison did modify Subsection 6.4 to make disconnection subject to Edison's own rules and regulation Sec. 2.5 but that revision does not clearly prohibit disconnection where a billing dispute has been brought to the MPSC for example. The Polich revision should be adopted which accomplishes this purpose. The Commission should clarify that Electric Choice customers have the same right to receive service during a billing dispute with Edison that is granted to sales customers.

V. Payment of Customer Bills By AES

Detroit Edison has addressed Energy Michigan concerns that a customer designate a third party as their agent to receive Detroit Edison bills.

W. Subsection 7.2: Distribution Contract Capacity

Existing RAST Subsection 7.2 establishes required distribution contract amounts for capacity customers with on site generation as the amount sufficient to meet the maximum requirements for that location without the on site generation operating.

However, Energy Michigan witness Polich testified that in some cases, the total power requirement of the customer is more than can be delivered by Edison through existing substations. In those cases, the distribution contract capacity should be limited to the maximum amount of power that Edison could deliver. *2 Tr 292, Energy Michigan Brief, p. 53.*

This issue is important because if a customer has maximum on site demand of 100 MW but Edison can only deliver 80 MW through existing substations under the Edison proposal, the customer would be required to pay system use charges on all 100 MW including 20 MW of capacity that is not available to is. This is not equitable and could result in large overcharges.

The Polich revisions to RAST Subsection 7.2 should be adopted.

X. Sec. 8: Rates and Charges

1. Subsection 8.2.2: Calculating Maximum Demand

The new Detroit Edison Subsection. 8.2.2 sets forth a method to calculate system use charges for customers with energy meters by multiplying their new energy based system use charge (rather than the existing demand based charge) times the customer's energy consumption in kWh.

Energy Michigan witness Polich testified that this method of calculating maximum demand would have to be revised if load profiling were used to establish demand and system use was billed on demand under the existing \$3.42/kW rate as recommended by Energy Michigan. *2 Tr 292.* Mr. Polich's revised Subsection 8.2.2 accomplishes this task.

Edison did not revise Subsection 8.2.2 in the RAST attached to their Brief so the language in 8.2.2 is clearly inappropriate if the Commission adopts a new load profiling system and chooses to retain demand based system use charges for load profile customers as recommended in II., Issue #2, 4 6 and 9 above.

If demand based system use charges are retained by the Commission, the Polich method of calculating charges set forth in Sec. 8.2.2 must be adopted. *Energy Michigan Brief, p. 53; Polich 2, Tr 292.*

2. Subsection 8.7 (System Use Charges), 8.7 (Metering Charges) and 8.8 (Power Factor)

See discussion in II, Issue # 2, 4, 7 and 9 above.

Y. Sec. 9: Liability and Exclusions

RAST Sec. 9.1 and 9.3 submitted May 4, 2001 still retain provisions which broadly exclude Detroit Edison liability relating to the subject matter of the RAST including exclusion of liability for loss of use, interest charges and ability to operate full capacity, lost profits or claims of customer's customers.

2000 PA 141, Sec.10c(1)(c) contains language which provides that an electric utility be required to make a customer or marketer whole for harm caused by an electric utility. Edison's broad exclusions from liability in RAST Sec. 9.1 and 9.3 conflict with PA 141 and good public policy.

For these reasons, the Commission should adopt Mr. Polich's recommendations that Sec. 9.1 and 9.3 be stricken. *Polich 2 Tr 293, Energy Michigan Brief, p. 55.*

Edison's only argument against the Polich proposal is that it places unreasonable burdens on

the electric provider. *Newbold Rebuttal*, 2 Tr 147-48. However, Mr. Newbold's arguments have no substantive basis and are directly contradicted by provisions of law, e.g. PA 141, Sec.10c(1)(c).

Z. Sec. 10.1: Insufficient Supply

See discussion in II, Issue # 8 above.

AA. Subsection 11.2: AES Failure to Pay Edison

Edison has not revised RAST Sec. 11 in response to Mr. Polich's proposal that:

The specific means of discontinuing service for failure to pay, including written notice 15 days prior to the date of discontinuance, be set forth in the rule.

Edison did refuse to rewrite Subsection 11.4 which allows Edison to terminate EC customer service for failure of its AES or marketer to cure problems. *Energy Michigan Brief*, p. 56. As written, the rule would allow Edison to deprive a customer of service due to actions of the customer's AES or marketer over which the customer has no control. Sec. 11.2 should be rejected or modified as recommended by Mr. Polich to at least exclude actions by the marketer as a justification for terminating AES service to a customer. *Polich 2 Tr 293-94; Energy Michigan Brief*, p. 56-57.

BB. Sec. 12: Credit Worthiness

See discussion in II, Issue # 6 above.

CC. Sec. 13: Electronic Data Interchange

Detroit Edison has not revised Sec. 13 (electronic business transactions) to allow an AES to

conduct all business with its customers on an electronic basis, nor to use industry standard electronic data interchange for transactions between Detroit Edison and Alternate Electric Suppliers. *See RAST Sec. 13 attached to Edison Initial Brief.* Edison did revise Sec. 13 to require Alternate Electric Suppliers transacting business with Edison, paying monies to Detroit Edison pursuant to an electronic funds transfer to the Edison account be specified in a Commission approved tariff. The condition of Commission approval was added in the May 4, 2001 Edison Initial Brief filing.

Energy Michigan continues to believe that guidance is needed to ensure that an AES can conduct all business with customers on an electronic basis, if approved by the customer and that use of electronic data interchange should be mandated on a generic basis so as to not prevent use of new technologies. *Energy Michigan Brief, p. 57.*

DD. Sec. 14: Conditions Precedent to Customer Enrollment

Sec. 14, even as modified by the Edison filing of May 4, 2001, still contains numerous unnecessary conditions precedent which have been or could be used by Detroit Edison to prevent an AES from initiating enrollment. These requirements have lead to significant delays in the past. *Polich, 2 Tr 294.* Edison's defense of the continued use of electric supplier notices (Sec. 14.4 and 14.5) is greatly weakened by the fact that the AES enrollment form already contains most of the required information and would have been submitted by the AES when it attempted to enroll customers in the first place. *Energy Michigan Brief, p. 58.*

Sec. 14.2, 14.4 and 14.5 should be deleted as unnecessary and unreasonable as they impose burdensome conditions on EC customer enrollment.

EE. Subsection 15.2: Conditions Precedent for Serving Customers

1. The current RAST conditions precedent for customer service include a seemingly reasonable requirement that all required customer metering equipment be in place and

functioning properly (Subsection 15.2). However, as Mr. Polich has explained, use of mandatory processing deadlines should allow EC service to commence 15 days after enrollment whether or not required metering has been installed. After 15 days, AES entities would deliver power to the Edison system and customers taking service from that AES would be credited with billing reductions. Also, note that elimination of telemetry for customers with less than 1,000 KW of capacity would give Edison the ability to meet the 15 day standard. Thus, Sec. 15.2 should be deleted. *Polich, 2 Tr 295, Energy Michigan Brief, p. 58.*

2. Edison has modified Sec. 15.3 to delete reference to enforcement of local laws or regulations which could include franchising requirements, etc. Energy Michigan agrees with this change.

FF. Subsection 16: Complete Billing

Edison in its filing of May 4, 2001 has retained billing rates for “complete billing” service even though it modified RAST Sec. 6 to delete reference to complete billing services. Thus, the Edison tariff at Sec. 16 retains a description of “complete” billing service offered in competition with non-regulated providers. This is an inappropriate competitive advantage to Edison because its customers see Edison billing charges set forth in a tariff but must obtain this same information from various private providers. References to pricing for competitive complete billing services should be stricken from Subsection 16.1 as recommended by Energy Michigan. *Energy Michigan Brief, p. 51.*

GG. Sec. 17 and 31: Dispute Resolution

The dispute resolution procedures for AES entities (Sec. 17) and marketers (Sec. 31) were not revised by the RAST filing attached to the Edison Brief. These procedures use the American Arbitration Association as a first step if Edison and the EC party to the dispute cannot resolve the

issue between themselves.

Energy Michigan continues to favor the Consumers Energy dispute resolution approach which allows Company and AES or marketer to attempt to resolve disputes and then refers these matters to the MPSC. *Polich, 2 Tr 295, Energy Michigan Brief, p. 59-60.*

While Edison defends its dispute resolution process on the grounds that the parties must first attempt to use the Public Service Commission, that use would be restricted to formal complaints and excludes informal resolution that often takes place and limits the MPSC role to those matters within the exclusive jurisdiction of the agency. *See Newbold Rebuttal, 2 Tr 149.*

Edison's restricted role for the Commission should be rejected and a dispute resolution process along the lines used by Consumers should be adopted as set forth in the Energy Michigan tariff proposal.

HH. Sec. 19: Real Power Losses

See discussion in II, Issue # 2, 4, 7 and 9 above.

IV. DISCUSSION OF MISCELLANEOUS ISSUES

A. Staff Proposal re Mandatory Purchase of Emergency Energy Service

Energy Michigan continues to support Staff's proposed Subsections 23.3 and 25.8 provisions that eliminate the requirement to purchase emergency energy service. Detroit Edison's RAST submission attached to their Initial Brief did not incorporate Staff's position. Note that the MPSC in Case U-12272 has already decided that Edison may not require the purchase of emergency energy service. Therefore, Subsections 23.3. and 25.8 must be revised as proposed by Staff.

B. Staff Proposal to Revisit ROA Tariffs in Three Years

1. MPSC Staff has proposed that the Commission revisit the ROA tariff in at least three years or sooner in the event that open access participation does not develop in any meaningful fashion. Staff has also proposed that transmission owners operating in Michigan be required to file and maintain their open access tariff (OATT) with the Commission. *Staff Brief, p. 5.*

2. Energy Michigan Reply

Energy Michigan supports the Staff proposals for review of the RAST in three years and filing of OATTs with the Commission.

C. CMS / MST Proposal

1. CMS / MST Proposal

CMS has rightly observed that Edison's supplier handbook and the various agreements Edison requires of Electric Choice participants are not approved by the Commission and have often been revised with no regulatory approval or oversight. *CMS Brief, p. 4.*

2. Energy Michigan Reply

Energy Michigan certainly concurs that Edison's agreements may contain objectionable rates, terms and conditions that have not been subject to regulatory approval.

Energy Michigan strongly supports a proposal that interested stakeholders work

together on a collaborative basis to reach agreement on any changes and then seek Commission approval before implementing changes. Another key point made by CMS, to which Energy Michigan agrees, is that all such changes should be approved by the Commission.

D. CMS / MST Proposal That All Marketers Seeking to Supply Retail Load in Michigan Demonstrate Ownership or Purchase of Electricity From Generating Resources Including Appropriate Reserve Margins Dedicated for Retail Load

1. CMS / MST Proposal

Throughout its Brief, CMS / MST repeatedly urges that all marketers supplying retail load in Michigan demonstrate ownership or purchase of electricity from generating resources including appropriate reserve margins dedicated for the retail load. *CMS Brief, p. 3, 11, 13, etc.*

2. Energy Michigan Reply

The CMS / MST proposals are unreasonably rigid in terms of specifying a reserve margin established by a local utility and requiring either generating capacity dedicated to retail load and located in Michigan or if located outside accompanied by firm transmission service “with flow gate rights, if applicable into Michigan”. *CMS Brief, p. 11.*

CMS’s highly specific and prescriptive recommendations appear to favor entities owning or affiliated with entities owning generating capacity inside Michigan. Clearly other economic alternatives exist to procure generating capacity. AES entities should be allowed to determine the best way to serve a market and the risk for failure to produce adequate or reliable capacity should fall upon marketers and AES entities for supplying the market. The Commission should therefore reject the CMS proposal which attempts to inject a

complicated and difficult set of requirements into the Electric Choice market.

V. CONCLUSION AND PRAYER FOR RELIEF

WHEREFORE, Energy Michigan respectfully requests that the Commission:

1. Reject the Edison proposed RAST modified yet again May 4, 2001: it is drafted and has been amended so many times that it is impossible to tell new matter from existing matter;
2. Not adopt the Staff revised tariff contained in S-18 because it also incorporates language and provisions from the Edison draft RAST which have been changed by Edison without Commission permission. The individual Staff recommendations listed in Exhibit S-17 and S-19 should be ruled upon;
3. Adopt Attachment 1 to the Energy Michigan Brief (Case Exhibit I-6), the redlined RAST which clearly sets forth changes proposed by Energy Michigan; or
4. Adopt the 12 major issue proposals set forth by Energy Michigan in its Initial Brief and the remaining RAST issues proposed by Energy Michigan in IV. of its Brief and III. of this Reply Brief.

Respectfully submitted,

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