

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the Matter of the Application of)
THE DETROIT EDISON COMPANY for) Case No. U-12478
a Financing Order)
_____)

Energy Michigan Reply Brief

Eric J. Schneidewind
Varnum, Riddering, Schmidt & Howlett, LLP
Counsel for Energy Michigan
201 N. Washington Square, Suite 810
Lansing, Michigan

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REPLY BRIEF OF ENERGY MICHIGAN

This Reply Brief responds to certain issues contained in the Initial Briefs of Detroit Edison Company (Edison), the MPSC Staff and the Attorney General (AG). Failure to discuss or reply to other issues or positions raised by these parties or any other parties should not be construed as agreement with those issues or positions.

I. INTRODUCTION AND SUMMARY OF POSITION

A. Before 2002 The Edison Securitization Plan Will Make Electric Choice Service At Least .375 ¢ /kWh Less Competitive Than Sales Service For All Classes of Service

1. Securitization Charge Impact

Before 2002 an Edison bundled sales customer will be charged a uniform securitization charge of about .5 ¢ /kWh as a separate line item on their bill. That securitization charge will be offset by an equal .5 ¢ /kWh reduction in the base rates paid by all bundled sales customer classes. The result: no rate increase for bundled sales customers.

Electric Choice (EC) customers will be assessed the higher of their bid transition charge or the securitization charge of about .5 ¢ /kWh. EC customers who bid less than .5 ¢ /kWh will have a rate increase. Edison has admitted that, in fact, their proposal will raise rates for some EC customers in the period before 2002.

2. Rate Reduction Impact

Bundled sales customers will receive a 5% rate reduction averaging about .375 ¢ /kWh.¹

However, EC customers will receive no rate reduction instead of the .375 ¢ /kWh average reduction received by bundled sales customers.

It is not disputed that prior to 2002 the net result of the Edison securitization plan is that EC service is less competitive by an average of .375 ¢ /kWh for all EC customers and even more for EC customers who bid less than .5 ¢ /kWh.

B. Starting January 1, 2002: Securitization Makes All Classes of EC Service at Least .875 ¢ kWh Less Competitive Than Sales Service

1. Securitization Charge Impact

For bundled sales customers the results (after January 1, 2002) are the same as described above prior to 2002: securitization charge increases of .5 ¢ /kWh are offset by base rate decreases of .5 ¢ /kWh.

For EC customers the story is different. A securitization charge of about .5 ¢ / kWh will appear as a line item on EC customer bills. There is no credit or base rate reduction to offset this charge. This makes EC service .5 ¢ /kWh more expensive and less competitive than sales service.

¹ A 5 % rate reduction for all Edison retail customers cost \$189 million (Sasek, 3 Tr 462) ÷ 50 million Mwh of annual sales = average reduction of .375 ¢ /kWh. Note that .375 ¢ equals about 10% of current generation costs. Thus, an EC marketer would have to offer generation service at a price of 10% lower than current market rates just to offer the same total price as that provided to bundled sales customers.

Also, Edison proposes to assess an equal securitization charge for residential, commercial and industrial EC and sales customers. An equal securitization charge bills large high load factor customers too much for service! To the extent an equal charge allocates an increased amount of stranded generation cost to industrial customers, that increase will actually be paid by EC customers unlike securitization charges to bundled sales customers which are offset by an equivalent rate decrease. Thus, to the extent an equal securitization charge reallocates generation costs in a way that is different than the allocation method used in current Edison rate designs, the negative consequences of that reallocation will fall on EC customers with high load factors. An equal securitization charge will make EC service more expensive and less competitive in relation to bundled sales service for large high load factor customers.

During hearings a telling and unrebutted point was made by Edison's own witness Gerald Sasek. There is more than a 10% difference in line losses alone between residential and transmission voltage industrial customers. *3 Tr 494-95*. Based on this unrebutted testimony, the imposition of equal securitization charges either bill the industrial customer 10% too much or the residential customers 10% too little. Both of these results are patently unfair and competition stifling.

2. Rate Reduction Impact

Bundled sales customers continue to receive 5% net rate reductions which average .375 ¢ /kWh.

EC customers will receive no rate reduction after January 1, 2002. EC service will still be an average of .375 ¢ /kWh more expensive and less competitive than bundled sales rates.

C. The Edison Securitization Proposal Violates PA 141

1. EC Rates Are Increased in Violation of PA 141, Sec.10d(1).
 - a. Since EC customers will pay a securitization charge which is not offset by equal base rate reductions, they are subjected to a rate increase which is a violation of 2000 PA 141, Sec.10d(1).
 - b. Prior to 2002, EC customers are charged the higher of their bid transition charge or the .5 ¢ securitization charge. There are some EC participants who bid less than .5 ¢ /kWh and they will have a rate increase if Edison's proposal is adopted. This too is a violation of PA 141, Sec.10d(1).
 - c. Equal securitization charges increase generation costs allocated to large high load factor customers. These increased charges are offset for bundled sales but not offset for EC customers. Unless the securitization charge for EC customers is totally offset, equal securitization charges cause a rate increase for large high load factor customers which violates PA 141, Sec.10d(1).
2. Costs Are Reallocated Between Customer Classes in Violation of PA 141, Sec.10d(5)
 - a. ABATE and Energy Michigan testimony is unrefuted that use of equal securitization charges will allocate securitized generation costs to open access EC customers in a way that is different than contained in Edison's last rate case U-10102. This is a violation of 2000 PA 141, Sec.10d(5).
 - b. Edison allocates all Fermi related securitization costs to retail (bundled sales and EC) customers and none to wholesale or interchange sales. This allocation differs from Case U-10102 which allocated a portion of Fermi costs to wholesale. This is a violation of PA 141, Sec.10d(5).

D. Edison Has Attempted to Manipulate State and Federal Jurisdictions by Implementing

Transmission Rate Increases That Will Destroy Competition

In FERC Docket ER003295, Edison's ITC affiliate obtained approval to raise transmission rates from \$93 million to \$138 million largely to cover costs of transmission assets transferred from State to federal jurisdiction. Edison will bill none of the increases to existing bundled sales customers. However, customers leaving bundled service for EC service will pay significantly increased transmission rates. *See FERC Docket ER 003295, decided September 28, 2000 (the FERC ITC Order) and testimony of James Padgett, 3 Tr 550-51.*

The rate increases approved in the FERC ITC Order will make EC service less competitive with bundled sales service. The issue is germane to this docket because the Commission can and should preserve the competitive balance between sales and EC service by using securitization savings to offset the ITC increases.

E. There is a Reasonable, Lawful and Easily Implemented Solution to These Problems

Energy Michigan proposes four steps which would correct the problems described above and still allow securitization to proceed:

1. Securitization Charges

a. Through 2001, the EC customer securitization charge should be completely offset with a reduction or credit just as is done for bundled sales customers. The net result would be revenue neutral just as it is for bundled sales customers.

b. Starting January 1, 2002 Edison will charge EC customers a net transition charge to collect all net stranded costs. As separate billing items, the EC customer should be charged a class specific securitization charge and the equivalent amount should be subtracted from the net transition charge. The result is that Edison would collect all securitization costs and EC customers would pay full stranded costs.

For example, if net stranded costs were .6 ¢ /kWh and included all Edison generating facilities including Fermi and the securitization SQC charge were .5 ¢ /kWh, the EC bill would show a transition charge of .6 ¢ /kWh, an SQC charge of .5 ¢ /kWh and an offset to the transition charge of .5 ¢ /kWh. The net result would be an EC customer cost of .6 ¢ /kWh for transition and securitization.

2. Net Rate Reductions

a. Through 2001: The Commission should Order that EC customers through 2001 receive the same dollar per kilowatt hour reduction as bundled sales customers using excess securitization savings as allowed by PA 141, Sec.10d(5) or recognizing that the funding requested by Edison to reduce bundled rates will cover equal dollars per kilowatt reductions for any customer switching to EC service.

b. Starting 2002: Starting January 1, 2002 the EC stranded costs and transition charges should be reduced an average of .375 ¢ /kWh to reflect the fact that the 5% sales rate reduction also made all Edison bundled sales rates .375¢ /kWh more competitive than market rates thereby reducing stranded costs.

3. As part of the decision in this case, the Commission should direct Edison to file securitization charges within two weeks which are calculated for each customer class on the same 75/25 12 CP basis used in the last Edison rate Case U-10102. Parties should be given one week to comment and the rates would be finalized by the Commission in one week. This 28 day process will not delay securitization because it can proceed during and in parallel with the 30 day accelerated appeal process authorized in PA 142, Sec.10i(2)(8).

4. The Commission should direct Edison to use its proposed \$15 million securitization reserve fund to fund EC rate reductions which would offset transmission rate increases to EC customers which were approved in the FERC ITC Order.

Conclusion

The Energy Michigan plan described above will collect legitimate securitization costs and avoid violations of 2000 PA 141, Sec.10d(1) (rate increases) and 10d(5) (reallocation of costs). Most important of all, these concepts will preserve fair competition between Detroit Edison bundled service and EC service.

II. DETAILED DISCUSSION OF OPEN ACCESS ISSUES IN INITIAL BRIEFS

A. Energy Michigan's Proposal to Reduce EC Rates by the Same Dollars Per Kilowatt as Residential Bundled Sales Rates

1. Before 2002

a. Edison Position

Edison makes only one argument, which is unsupported by evidence, against the Energy Michigan proposal to reduce EC rates by the same average .375 ¢ /kWh as bundled sales rates:

Edison claims Energy Michigan wants a subsidized rate decrease for EC customers which is greater than the 5% residential decrease. *Edison Brief, p. 42, 43-44.*

b. Energy Michigan Reply

2000 PA 141 contains language allowing use of securitization savings to produce further rate reductions or "...to reduce the level of any charges authorized by the Commission to recover an electric utility's stranded costs." *Sec. 10d(5)*. Energy Michigan witness Polich proposed that the EC reductions needed to achieve parity

with bundled sales rates should take the form of reduced transition charges. The Commission is expressly given the authority to reduce transition charges under the PA 141 language quoted above. The Energy Michigan proposal to equalize rate reductions between sales and EC customers is entirely consistent with the spirit and letter of Sec. 10d(5). *3 Tr 571-73*.

It is extremely ironic that Edison has characterized the request of EC retailers to obtain reductions which are equal to bundled sales customers as a "subsidy" when Edison itself is before this Commission requesting permission to implement a program of ratepayer guaranteed loans which provide it with below market interest rates not available to its competitors. It is no secret that Edison lobbied to obtain passage of PA 142. Edison should not be allowed to use securitization savings to lower sales rates, thus protecting itself from market forces while denying EC customers equal protection under the same law.

Energy Michigan seeks no subsidy or reallocation of cost responsibility. Energy Michigan believes, and the record of these proceedings reflect, that Edison's securitization proposal, if adopted, would create subsidies that inappropriately favor sales service over competitive service. Energy Michigan seeks to avoid the erection of barriers to competition and customer choice.

Exhibit 2 of the Energy Michigan Initial Brief demonstrates that PA 141 and 142 were introduced after completion of the fourth bid cycle for EC service. As a result, those bidding for EC service did not know, and could not have known, the changes imposed by PA 141 and PA 142. According to Exhibit 1 of the Energy Michigan Brief, PA 141 was a significant surprise to industry participants. Even if EC retailers should have protected themselves it would be unfair to deny EC customers the benefits of a legally mandated rate reduction when EC customers are paying the same securitization charges as bundled sales customers.

2. Equal Reductions from 2002 - 2015

a. Edison Position and Energy Michigan Reply

Edison does not address Mr. Polich's contention that starting 2002, EC and bundled sales economics can be equalized if the transition charges applicable to all EC customer classes (or any class receiving a rate reduction) are calculated incorporating the reduced costs of generation to serve that class which were made possible by securitization. *3 Tr 567*.

In other words, if bundled sales generation costs are lowered from 5 ¢ to 4.6 ¢ /kWh by securitization, transition charges calculated for EC customers should be reduced by a corresponding .4 ¢ /kWh to reflect the lower costs and increased competitiveness of bundled sales generation serving the residential class.

3. The Energy Michigan Proposal to Reduce EC Rates by the Same Dollars Per Kilowatt as Bundled Sales Rates Is Unrebutted

No party in this case has rebutted Mr. Polich's testimony supporting equal dollars per kilowatt reductions for EC customers. Therefore, the record is devoid of any evidence to support rejection of Mr. Polich's even handed proposal which was supported by testimony. In contrast, adoption of Edison's proposal would be unsupported by evidence and thus would constitute reversible error. *MCL 24.285*.

A final Order of an agency must be supported by competent, material and substantial evidence on the whole record. *Attorney General v PSC No.2*, Mich App 82, 88 (1999). Under this test, substantial evidence means "more than a scintilla but less than a preponderance." *McBride v Pontiac School District (On Rem)*. 218 Mich App 113, 12 (1996). Furthermore, it does not matter if more evidence supports the contrary position. In other words, it does not matter "which way the evidence preponderates, but only whether the

position adopted by the agency is supported by evidence from which legitimate and supportable inferences were drawn”. *Id.*

If there is no evidence at all to support Edison’s opposition to Mr. Polich’s proposal, the Edison position must be rejected.

Conclusion Regarding Equal Reductions

The discussion in Edison's Brief of Energy Michigan’s proposal to reduce EC rates by the same amount as bundled sales reductions through securitization contains a fatal flaw: Edison did not introduce evidence on the record to refute Mr. Polich’s testimony that equal reductions are necessary to avoid creating an unfair and competition - stifling rate tilt between bundled sales rates and EC service. No Edison evidence on the record contradicts the testimony of Mr. Polich, a thoroughly seasoned rate making professional, who has concluded that an equalization of securitization rate reductions between EC and bundled sales is necessary to make EC economics workable. Mr. Polich’s evidence stands uncontradicted that the Edison program of unequal rate reductions would frustrate implementation of EC service and that Mr. Polich’s reasonable solution is needed to fix the problem.

B. The Need to Offset EC Transition Charges by the Same Amount as EC Securitization Charges

1. Before 2002

a. Edison Position

Understandably, the Edison Brief does not dwell on the Company's indefensible proposal to charge EC customers the higher of SQC securitization charges or bid transition charges prior to 2002.

b. Energy Michigan Reply

There is no evidence of record (rebuttal or otherwise) to refute Mr. Polich's testimony that:

i. Edison's proposal to charge EC customers the higher of bid transition charges or SQC securitization charges would cause rate increases for EC customers who bid less than the approved SQC charge. *3 Tr 563-64*. Two Edison witnesses (Padgett and Sasek) even agreed that some Edison EC customers will get a rate increase. *3 Tr 552, 3 Tr 505*.

ii. EC bidders had no way of knowing that the law would change and include securitization charges which, unless offset in the same amount as for bundled sales customers would unfairly deny them the benefits of securitization while allocating such costs to them. *3 Tr 563-64*.

iii. The way to fix this problem is to offset EC bid transition charges by the same dollars per kilowatt hour as bundled sales base rate are reduced to offset SQC charges. *Id.*

Note that MPSC Staff has supported Mr. Polich's position by agreeing that no EC customer should pay an SQC charge in addition to a bid transition charge. *Staff Brief, p. 23*.

2. 2002 - 2015

a. Energy Michigan Position

Energy Michigan witness Polich testified that starting 2002 Edison will charge EC customers a securitization charge and that the securitization charge must be offset by a corresponding reduction from transition charges just as Edison proposes to offset the bundled sales securitization charge with a reduction in base rates. *3 Tr 566 -67*.

b. The Edison Position On This Issue Is Missing In Action

Edison seems to ignore the issue of how EC customer securitization charges will be handled starting 2002. Edison did not produce any rebuttal testimony to contradict Mr. Polich's position on this issue. Edison did not discuss this issue in their Initial Brief other than to complain generally of EC marketer desires for subsidies (Edison Brief, p. 43) or that Mr. Polich's proposals are complex. *Id*, p. 44.

c. There is No Evidence of Record Opposing Mr. Polich

Edison has presented no rebuttal to the Polich proposal to offset EC securitization charges with transition charge reductions starting 2002. Edison has presented no argument in its Brief on the merits of this issue. Mr. Polich's point stands: the Edison proposal is anti-competitive and violates 2000 PA 141, Sec. 10d(1) by increasing EC rates without an equal offset.

Since Mr. Polich's position is logical and unrebutted, and Edison presented no alternative, the Energy Michigan position must be adopted per MCL 24.285 as described in II, A. 3. above.

C. Reply to Edison, AG and PSC Staff Support for Equal Securitization Charges

1. Edison and Staff Positions

The Staff supports the use of equal securitization charges based on the fact that they are simple, efficient and easier to reconcile. *Staff Brief*, p. 22. The Attorney General makes no mention of equal securitization charges in her Brief. The Edison Brief supports equal securitization charges on the grounds that they simplify true up and auditing and are easier to administer. *Edison Brief*, p. 49-50.

Edison also makes three remarkable claims 1) that industrial customers will not be harmed by equal securitization charges because their rates are frozen or reduced and; 2) that EC marketers are not hurt because they pay the same per kWh total as before securitization, and 3) current rate design for electric customers includes a uniform transition charge decided in U-11290, so a uniform securitization charge does not reallocate costs. *Id*, p. 50.

Finally, Edison claims that its witness Sasek rebutted the claims of ABATE witness Selecky and Energy Michigan witness Polich that equal securitization charges would reallocate customer costs in violation of PA 141, Sec.10d(5). *Edison Brief*, p. 50.

2. Energy Michigan Reply

a. Equal Securitization Charges Reallocate Costs Which Are Actually Paid

Both ABATE witness Selecky (2 Tr 127) and Energy Michigan witness Polich (3 Tr 569-71) have shown beyond all doubt that an equal securitization charge reallocates generation costs between classes. This is true because Fermi costs were allocated to all classes of customers most recently in Case U-10102 on a 75/25 basis. *Polich*, 3 Tr 571. The Edison securitization plan allocates Fermi securitization costs 100% on energy.

Unlike bundled sales customers, EC customers actually pay SQC charges with no offset under the Edison plan. *Id*. Thus, the EC customer actually pays the misallocated SQC charges for Fermi costs which are more as percentage and a higher dollar amount for a large high load factor customer than would be the case if Fermi related securitization costs were allocated on a 75/25 basis.

Because these excessive securitization charges are actually paid by large EC customers, they are a rate increase compared to bundled sales rates where the SQC charges are offset. *Polich*, 3 Tr 570. Thus, Edison has turned equal securitization

charges into an anti-competitive program that will discourage large customers from participating in EC service and economically punish those who already are..

Note EC marketers are hurt by this program before 2002 because EC service is billed the higher of bid transition charges or SQC charges. If the SQC charges are higher than a bid, the EC marketer or its client will be hurt because they actually pay the higher SQC charge.

b. Current Edison rates do not contain uniform transition charges.

Edison also claims that current utility rates contain uniform transition charges per rulings in Case U-11290 so a new uniform securitization charge is not a reallocation of costs. *Edison Brief, p. 50.*

This argument is ridiculous on its face. The Commission ruled in Case U-11290 that the transition charges described in its Orders were mere estimates which are subject to wild fluctuation and must be determined after netting and true up. *Order of the Commission, U-11290, et al, February 18, 1998, p. 7-8.* Thus, there is no uniform transition charge in place for any current EC customer nor has one been ordered. *Id.*

c. Equal Securitization Charges Change EC Economics!

Mr. Polich showed that equal securitization charges create incentives for large high load factor customers to not participate in EC service because equal securitization charges change EC economics by producing rate increases for high load factor customers. These EC increases make Edison bundled rates artificially more competitive. *3 Tr 570.* Mr. Polich explained how particularly damaging is the use of equal securitization charges which cannot be cost justified when it is a known fact that the line losses alone should account for rate differences (about 10% according to

witness Sasek at 3 Tr 444-45) between residential and large industrial customers. Ignoring these line loss differentials produces a clear cut reallocation of cost and is contrary to any known principal of cost based rate making. 3 Tr 571.

d. Equal Securitization Charges Cause Prohibited Rate Increases!

Edison's Brief claims that since industrial rates are frozen there is no rate increase from equal securitization charges. *Edison Brief, p. 49-50.* On the contrary, Mr. Polich has testified that use of equal securitization charges which are not offset by equal reductions will in fact create a rate increase for high load customers while the rate freeze mandated by PA 141, Sec.10d(5) is supposed to be in effect. *3 Tr 569-71.* This testimony and conclusion was not contradicted by Edison evidence of record in this case. There is no testimony rebutting Mr. Polich's contention that the Edison equal securitization charges will create a rate increase after 2001 for high load factor EC customers.

e. Development of Class Specific Securitization Charges Based on 75/25 12-CP Methodology Will Not Delay This Case!

Edison's own witness Sasek admitted that implementation of class specific securitization charges based on 75/25 12-CP methodology will not delay this case. *3 Tr 495-96.*

The Commission can issue an Order in this matter which adopts the same 75/25 12-CP method of allocating securitization costs as was used in Edison's last rate case U-10102. Edison would then be given two weeks to file class specific securitization charges complying with the Order. Parties could have one week to comment and the Commission would have one week for approval. This 28 day process would be accomplished in the time frame allowed by PA 141, Sec.10i(2)(8) for review by the Court of Appeals.

D. Allocating Securitization Costs To All Sales (Reduces SQC Charge 10%!)

Background

Allocating securitization costs to all Edison sales would reduce SQC charges by more than 10% based on year 2000 sales data. *Energy Michigan Brief, Exhibit I-20, p. 2 of 2*. The number of Mwh used to allocate sales would increase from about 50,000 Gwh to 56,000 Gwh if wholesale and interchange transactions were included. *Id.*

Energy Michigan witness Polich proposed that securitization costs be allocated to all Edison sales including wholesale, retail, inadvertent energy flows, energy interchanges and ancillary services. *3 Tr 441-42, Energy Michigan Brief, p. 18-19.*

1. Edison Position

a. Edison's Brief makes two arguments, unsupported by evidence against the Energy Michigan proposal:

i. Mr. Polich did not provide the details of how Edison would implement allocation of securitization costs to non-retail rates.

ii. Mr. Polich fails to explain how the securitization costs would be recovered from wholesale and interchange transactions. *Edison Brief, p. 41.*

b. Edison introduced no rebuttal to Mr. Polich's proposal. Also, Edison has not discussed Mr. Polich's opposition to a potential Edison exclusion of new customers served after June 5, 2000 from securitization charges.

2. Energy Michigan Reply

a. Spreading securitization costs over all sales.

i. How to do it

Securitization bond and tax charges can be recovered through a two step process incorporating Mr. Polich's proposals:

1) Use the last Edison cost of service study for generation to allocate securitization costs to the various classes including wholesale. Note, wholesale sales were a category identified in that study. Then divide the allocated securitization costs by the projected Mwh of sales to develop SQC charges.

2) Establish the market price for each wholesale or interchange transaction. Draft and use sales confirmations or bills for each transaction which separate the agreed upon price into two categories: 1) an SQC charge (tax and bond) and 2) the balance of the agreed upon rate. SQC charges collected from wholesale customers would be treated the same way as retail SQC collections.

If projected wholesale (or retail) sales are not achieved, Edison's true up process can be used to recover any shortfall.

Adoption of this position could reduce securitization charges by 10%.

ii. Failure to include wholesale sales is a violation of PA 141

Note that Edison's proposal to allocate 100% of Fermi securitized costs to retail customers results in a reallocation of cost prohibited by PA 141, Sec. 10d(5). Because a portion of Fermi costs were formerly allocated to

wholesale customers a 100% allocation to retail is a change prohibited by PA 141.

- b. Customers served after June 5, 2000 should not be exempted from securitization charges.

Since Edison has not rebutted or even discussed Mr. Polich's proposal that new customers receiving service after June 5, 2000 be assessed SQC charges, the Commission should adopt Mr. Polich's proposal to charge an SQC to such customers.

E. Edison's Proposed \$15 Million/Year Reserve Fund Should Be Used to Offset the Unwarranted ITC Rate Increases

1. Edison position

Edison proposed to use \$15 million per year of securitization savings to create a "qualified cost" reserve fund. *Edison Brief*, p. 25.

2. Energy Michigan position

Detroit Edison applied for and received approval to transfer transmission assets to its affiliate International Transmission Company. *FERC Docket E00-86-000*. Edison also sought and obtained FERC approval to raise rates for its transmission assets to cover a revenue requirement increase from \$93 million to \$138 million. *3 Tr 550-51*. Existing bundled sales customers are exempted from the rate increase but new EC customers and bundled sales customers switching to EC service will experience transmission charge increases of almost 50%. *ABATE Emergency Application, U-12579*. Edison does not propose State jurisdictional rate reductions to offset these federal rate increases.

Edison's actions are a cynical attempt to discourage and disrupt competitive EC service through imposition of uneconomical and discriminatory transmission charges in violation of PA 141, Sec. 10(2)(a).

Under PA 141, Sec.10d(5) where securitization savings are greater than needed to fund a 5% rate reduction and the Low Income and Energy Efficiency Fund, the Commission has been given authority to allocate such monies to further rate reductions or to reduce stranded charges.

Energy Michigan requests the Commission to use this authority to reduce EC rates in an amount equal to the ITC increase on EC customers or their transmission service. The source of funds should be the \$15 million of savings per year proposed to be used by Edison for a Qualified Cost Reserve Fund.

It should also be noted that Edison's securitization plan will produce \$50 million per year of excess revenues after 2006 because the Low Income and Energy Efficiency Fund will be fully funded at that time. These funds could be used for EC rate reductions.

Conclusion

Edison should not be allowed to destroy competition by transferring transmission assets from State to federal jurisdictions, raising federal rates while refusing to lower MPSC jurisdictional rates and targeting those rate increases to EC service. This is a clear violation of PA 141, Sec.10(2)(a) which requires that the Commission ensure that all retail customers have a true choice of electric suppliers. The Commission can stop this scheme by using securitization savings to offset federal transmission rate increases with State level rate reductions to EC customers.

F. Reply to Edison Request to Securitize 5% Rate Reduction and Uncertain Implementation Costs

1. 5% Rate Reduction

a. Edison position.

Edison claims that it needs to securitize the 5% residential rate reduction granted to customers June 12, 2000 through securitization because:

i. The Public Service Commission forced the rate reduction into effect before securitization could occur;

ii. The legislature intended that securitization and the 5% residential rate reduction would be contemporaneous and avoid unfunded reductions;

iii. The 5% residential reduction is a Qualified Cost; and

iv. Edison's financial health would be hurt if it is not allowed to recover the 5% reduction through securitization or after rate caps are removed as a regulatory asset. *Edison Brief, p. 56-62.*

2. Energy Michigan Reply

Edison misreads PA 141, Sec.10d(4) which provides, in pertinent part, “...any savings resulting from securitization shall be used to reduce electric rates...” *Emphasis supplied.* The clear language of that section allows securitization in an amount necessary to produce savings equal to or greater than a residential rate reduction but it does not allow the reduction itself to be securitized. *Staff Brief, p. 15. Energy Michigan Brief, p. 20 (testimony of Richard Polich, 3 Tr 562).*

Edison tries to convince the Commission that multiple legislative references to rates in effect May 1, 2000 in Sections of PA 141 that discuss both rate reductions and securitization

mean that those two events should occur simultaneously. Edison conveniently ignores the fact that the May 1, 2000 references are merely used to identify a date in the Act for use as a reference point for rate levels which were to be reduced as specified in the Act.

PA 141, Sec.(10d(1) and (4)) are linked by provisions to achieve 5% rate reductions from levels prevailing at the date (May 1, 2000) specified in the statute. Without the May 1, 2000 reference point, the legislature and reader would be uncertain regarding the effect of the mandated reductions since Edison's rates vary considerably from month to month due to the operation of adjustment clauses, etc. (For example, a 5% reduction for rates in effect May 1, 2000 would be a different amount than 5% of the rates in effect December 1999). Use of a common date as a reference point eliminates that uncertainty but does not link the two provisions of statute for any other reason.

Edison's last two arguments are linked. Both plead that failure to securitize the 5% residential reduction will result in economic hardships to Edison. Edison claims that it would be unlikely to collect these costs in a competitive market. *Edison Brief, p. 59-60.*

Edison fails to mention that evidence of record in Case U-11495 caused the Administrative Law Judge to conclude that Detroit Edison had excess earnings of more than \$100 million per year. *PDF, Case U-11495.* This conclusion is supported by the Order of the Commission in Case U-11726 which found excess earnings that could be used to reduce stranded costs. Nowhere does Detroit Edison discuss or attempt to prove that failure to recover the 5% rate reduction will push its earnings below authorized levels.

In addition, ABATE pointed out that securitizing the 5% rate reduction provides no net benefit to Edison's rate payers and does nothing but increase securitization charges. *ABATE Brief, p. 13.* For these reasons Edison's arguments should be rejected.

3. Implementation Costs

a. Edison position

Edison's plan to securitize 1999 and 2000 Customer Choice Implementation Costs (CCIC) as well as Customer Choice advertising is based upon an argument that these costs fit within the statutory definition of "Qualified Costs" and therefore Edison should be allowed recovery. *Edison Brief*, p. 54-56.

b. Energy Michigan Reply

i. Implementation costs

Energy Michigan, Staff witness Stojic and ABATE witness Selecky all made virtually the same point. Detroit Edison's claimed CCIC have not been approved by the PSC in the case of 1999 CCIC expenditures and have not even been fully expended in the case of year 2000 implementation costs and Customer Choice advertising costs.

The year 2000 figures are mere estimates of Detroit Edison which could change at any time. *Energy Michigan Brief*, p. 23-24. Mr. Polich proved this point with regard to one category of Edison implementation costs: the costs associated with metering of customers. Mr. Polich pointed out that if Detroit Edison's mandatory threshold for metering were raised (i.e., the number of customers using demand meters was lowered), the number of meters would drop and implementation costs associated with metering would drop as well. *Polich*, 3 Tr 561-62. On the stand, Edison's own witness VanHaerents confirmed that Edison has now asked to raise the threshold for metering well above levels even contemplated by Mr. Polich. 2 Tr 366. This incident merely illustrates that Edison's implementation cost estimates are subject to change and should not be securitized until a final figure is available and approved by the Commission for recovery. *Energy Michigan Brief*, *Id.* The need for caution is heightened by the fact that securitization bonding can not be reversed and overestimates of monies bonded cannot be refunded to customers

if it is found that Edison's estimated costs are incorrect. *Staff witness Stojic, 3 Tr 612-13.*

- ii. Regulatory asset treatment should be denied

Finally, Staff concludes and Energy Michigan agrees that Edison should not be granted regulatory asset treatment of these implementation costs nor for costs of 5% rate reduction. In the case of implementation costs, Staff would not consider regulatory asset treatment until such costs had been approved by the Commission. *Staff Brief, p. 15.*

G. Securitization Charges and Transition Charges Should be Billed Directly to Customers Now Instead of Waiting until January 1, 2002

1. Edison Position

Edison opposes Mr. Polich's proposal to bill EC customers for all securitization charges and transition charges now instead of billing these charges both to retailers and customers through 2001 and billing the charges only to customers after January 1, 2002. Edison claims that the Polich proposal is a simple attempt to shift bid cost responsibility from retailers to customers. Edison also claims the Polich proposal will produce unspecified burdens and complexities. *Edison Brief, p. 42.*

2. Energy Michigan Reply

Mr. Polich supported his proposal with testimony demonstrating that billing securitization and transition costs to retailers now and shifting the billings to customers in 2002 would create confusion, billing problems for retailers and likely increase implementation costs. *3 Tr 563-68.* These practical considerations, presented by a person who must deal with them on a day to day basis are a powerful argument when coupled with

the fact that the change proposed by Mr. Polich must be implemented in any event as of January 1, 2002. If the change must be made, why not do it now and both save money and avoid customer confusion?

Edison presented no testimony rebutting Mr. Polich's conclusions. *Edison Brief, p. 42.* Other than a few offhand remarks impugning Mr. Polich's motives, Edison comes up short on substance to refute Mr. Polich's proposal.

The reasonableness of Mr. Polich's proposal, as well as the implementation cost savings and elimination of customer confusion should persuade the Commission to adopt his proposal to start billing customers immediately for securitization and transition charges. Edison has offered no evidence whatsoever to oppose this conclusion.

H. The Edison Draft Order Should Be Rejected

1. Edison Position

Edison claims that adoption of their proposed financing Order would ensure the lowest securitization charges. *Edison Brief, p. 63.*

2. Energy Michigan Reply

Nowhere in its discussion of PA 142 or other issues does Edison cite a legal requirement that the Order issued by the Commission be drafted in a form dictated by Edison.

As noted in the Energy Michigan Brief, the draft Order presented by Dr. Hiller merely embodies the Edison's position on securitization. *Energy Michigan Brief, p. 29-30.* Requesting adoption of the Edison draft Order is tantamount to Edison requesting that the Commission adopt its entire position without modification or rejection of any component.

Adoption of the entire Edison position without modification may enhance bond ratings but the Energy Michigan Brief has shown that it would also completely destroy competition, raise costs unreasonably and violate statutory prohibitions against cost reallocation and rate increases. Since the Edison securitization plan must be modified, the Edison Order becomes relatively useless and should be rejected.

I. Bid Deposits on EC Service Should Be Returned

1. Edison Position

Energy Michigan witness Polich proposed that bid deposits for EC service be returned on the grounds that PA 141 has changed the economics of such service in a way that could not have been predicted by the MPSC retailers or customers bidding for such capacity. *3 Tr 573.*

Edison opposes Mr. Polich's recommendation on the grounds that bundled sales customers will benefit from use of forfeited EC deposits to reduce stranded costs. *Edison Brief, p. 43.*

2. Energy Michigan Reply

Mr. Polich testified that when a law changes the economic basis upon which decisions are made, financial commitments made on the basis of inaccurate assumptions should be terminated since the assumptions were changed for reasons beyond the control of the bidders. *3 Tr 573.*

If Edison's securitization proposal is not amended substantially, EC service will become uneconomical in Michigan. To hold EC customer deposits when a new law and actions by Edison have made EC service uneconomical would be unjust and unreasonable. A small windfall benefit to bundled sales customers is no reason to inflict undeserved economic harm on other customer classes.

J. Annual True Ups

1. Edison Position

Quarterly or even monthly true ups are possible under the initial testimony of Edison witnesses Sasek and Hiller. *3 Tr 458 and 2 Tr 181.*

2. Edison Position on Brief

The Edison Brief never discusses Mr. Polich's opposition to true ups that are more frequent than annually or the evidence that support his concerns.

3. Energy Michigan Reply

Energy Michigan witness Polich testified in support of his proposal that Edison be required to use only annual true up proceedings citing the fluctuation in transition charges which could be caused by more frequent true ups. *3 Tr 568.* Mr. Polich supported his recommendation with facts demonstrating the financial harm resulting from more frequent true ups.

It appears that Edison has not disagreed with the Energy Michigan position that true ups should be made on an annual basis until the last year of bonding. Therefore Mr. Polich's recommendations should be adopted.

If Edison disagrees on Reply, the Commission should recognize the weight of the evidence presented by Mr. Polich showing that quarterly or monthly true ups would produce unacceptable volatility in securitization charges. *Id.*

III. CONCLUSION AND PRAYER FOR RELIEF

A. Conclusion

Detroit Edison has proposed a securitization plan which would destroy the Electric Choice program.

1. Edison proposes to reduce all bundled sales rates by an average of .375 ¢ /kWh and give no reductions to any class of EC service. Unequal reductions will discourage participation in EC service. This difference alone is equal to about 10% of generation cost and would eliminate participation in EC service in the current electric markets.

2. Edison's bundled sales customers are charged a securitization fee but their sales rates are reduced by an equivalent amount leaving them with no rate increase from securitization. Prior to 2002 EC customers are charged the higher of bid transition charges or SQC charges. The EC customers who bid less than the SQC charge will get a rate increase. Starting January 1, 2002 EC customers would pay a securitization fee but have no corresponding reduction. This is tantamount to a .5 ¢ /kWh EC rate increase with no promise of a corresponding offset. This increase will make EC service .5 ¢ /kWh more expensive and therefore less competitive for all customer classes on the Edison system.

3. Edison proposes to recover securitization costs as an equal charge for all customer classes. Other jurisdictions, such as Illinois Power, have recovered securitization charges which are different for each class, a method that charges some high load factor customers .26 ¢ /kWh and some residential customers 1.07 ¢ /kWh. *6 Tr 844*. This evidence illustrates the magnitude of the legitimate cost based rate differences hidden by equal securitization charges. This evidence also illustrates the amount of economic damage that can occur through application of equal securitization charges.

In reality, equal securitization charges are a device to increase EC rates for high load

factor customers who dare to leave bundled sales service. The rate increase for large high load factor customers inherent in equal securitization charges will surely discourage their participation in EC service. Based on the Edison request for .5 ¢ securitization charges, the unjustified rate increase impact could equal .2 ¢ -.3 ¢ /kWh for high load factor customers.

4. Edison affiliate ITC proposes to implement transmission rate increases of 50% on customers who switch to EC service while bundled sales customers get no increase. Edison will not use excess securitization savings to offset these increases.

Conclusion

Collectively, these anti-competitive aspects of the Edison securitization program would make EC service uneconomic for the foreseeable future. Surely the Commission will not allow Edison to turn securitization into an anti-competitive tool to destroy competition.

B. Prayer for Relief

WHEREFORE, Energy Michigan respectfully requests that the Commission:

1. Adjust EC transition rates for the impact of securitization as follows:

a. Prior to 2002

i. Reduce all EC transition bid charges by the same amount in dollars per kilowatt hour as all bundled service rates are reduced; and

ii. Subtract an amount equal to approved SQC charges from the EC bid transition charges.

b. 2002 through 2015

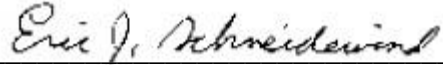
- i. Reduce future EC transition charges (or give reductions after 2007 if there are no transition charges) by the same average net rate reductions in dollars per kilowatt hours as are implemented for sales customers, and
 - ii. Reduce EC transition charges (including use of credits after 2007 as necessary) by an amount equal to the non-bypassable securitization bond and tax (SQC) charges billed to EC service.
2. Develop and assign different SQC charges for each customer class by allocating securitization costs and charges on the same 75/25 - 12 CP basis as used in Edison's last rate Case U-10102.
3. Allocate securitization costs to all Edison sales including wholesale, interchange and ancillary sales.
4. Use Edison's proposed securitization reserve fund contributions to reduce EC rates in an amount equal to discriminatory ITC rate increases.
5. Collect securitization and transition charges directly from EC customers starting immediately through 2015.
6. Determine that the Year 2000 5% residential rate reduction costs and 1999 and 2000 EC implementation costs are not Qualified Costs which may be securitized. Also deny regulatory asset treatment for these costs at this time.
7. True up securitization charges on an annual basis.
8. Require that Edison accept the modifications to its application described above and any other changes Ordered by the Commission as a condition of Commission approval of the overall securitization Order.

9. Reject the draft Order in this case proposed by Edison.

Respectfully submitted,

VARNUM, RIDDERING, SCHMIDT & HOWLETTLLP
Attorneys for Energy Michigan

October 23, 2000



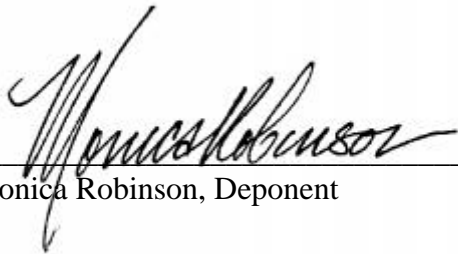
Eric J. Schneidewind (P20037)
The Victor Center, Suite 810
201 N. Washington Square
Lansing, Michigan 48933
(517) 482-6237

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the Matter of the Application of THE DETROIT EDISON COMPANY for a Financing Order <hr/>)))))	Case No. U-12478
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PROOF OF SERVICE

Monica Robinson, duly sworn, deposes and says that on this 23rd day of October 2000 she served Energy Michigan's Reply Brief upon those individuals listed on the attached distribution list by regular mail and e-mail at their last known addresses.



Monica Robinson, Deponent

Subscribed and sworn to before me
this 23rd day of October, 2000.



Rebecca Grenawalt, Notary Public
Ingham County, Michigan
My Commission Expires: July 12, 2001

Distribution List

Hon. Daniel E. Nickerson, Jr.
Michigan Public Service Commission
6545 Mercantile Way
P.O. Box 30221
Lansing, MI 48909

Bruce Maters
Jon. Christinidis
Detroit Edison
2000 2nd Avenue
Detroit, MI 48226-1279

Donald Erickson
6520 Mercantile Way, Suite 2
P.O. Box 30128
Lansing, MI 48909

Bob Strong
ABATE
255 S. Woodward Avenue, 3rd Fl
Birmingham, MI 48009

Larry G. Watterworth
Stephen Hughey
Assistant Attorneys General
Public Service Commission
6545 Mercantile Way, Suite 15
Lansing, MI 48911

Michel Hiser
Michigan Public Service Commission
6535 Mercantile Way
P.O. Box 30221
Lansing, MI 48909

Michael S. Ashton
Fraser, Trebilcock, Davis & Foster, P.C.
1000 Michigan National Tower
Lansing, MI 48933

Brian Coyer
Knaggs, Harter, King & Brake, P.C.
1375 S. Washington Avenue, Suite 300
Lansing, MI 48910

Ronald Bloomberg
Loomis, Ewert, Parsley, Davis & Gotting
232 S. Capitol Avenue, Suite 1000
Lansing, MI 48933

Stewart A. Binke
Howard & Howard
The Phoenix Building
222 N. Washington Square, Suite 5000
Lansing, MI 48933

Don L. Keskey
Knaggs, Harter, Brake & Schneider, P.C.
1375 S. Washington Avenue, Suite 300
Lansing, MI 48910

John M. Dempsey
Mike Calebrese
Dickinson Wright
215 S. Washington Square, Suite 200
Lansing, MI 48933

David E. S. Marvin
Fraser, Trebilcock, Davis & Foster, P.C.
1000 Michigan National Tower
Lansing, MI 48933

John C. Shea
Consumers Energy Company
212 W. Michigan Avenue
Lansing, MI 49201

Richard VanderVeen, III
Bay Windpower, LLC
2505 Robinson Road, SE
East Grand Rapids, MI 49506