

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the Matter of the Application of)
THE DETROIT EDISON COMPANY for)
a Financing Order)
_____)

Case No. U-12478

INITIAL BRIEF OF ENERGY MICHIGAN

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This Brief is filed on behalf of Energy Michigan, Inc. (Energy Michigan) by its attorneys Varnum, Riddering, Schmidt & Howlett, LLP pursuant to the schedule adopted by the parties.

I. INTRODUCTION AND SUMMARY OF POSITION

A. Introduction

1. The Promise of Securitization

Under traditional rate of return regulation utility customers pay the cost of capital for generation. Securitization was touted by its proponents during the legislative process for PA 141 as a method of reducing utility’s cost of capital paid by utility customers through its rates. Utilities would issue bonds to refinance generation costs at lower interest rates. Non-bypassable bond debt service and tax costs would be added to each customer’s bill but would be offset by an equivalent credit, thus avoiding rate increases to any customer. In the case of Detroit Edison Company (Edison) the interest savings from securitization would be used to provide 5% rate reductions for all customers. In theory, all customers would get a 5% reduction and no customer rates would be raised.

2. The Reality of Securitization for Edison’s Electric Choice Customers: Financial

Problems.

a. The proposed Edison securitization plan could severely damage Customer Electric Choice (EC) service economics thus frustrating the competition which was a major purpose for passage of PA 141 and PA 142. Although the Edison securitization plan provides an average of $.375 \text{ ¢ /kWh}$ of reductions to all bundled sales customers, incredibly it provides no reductions to EC customers. The result is that EC service is $.375 \text{ ¢ /kWh}$ less competitive in comparison to bundled utility service. Thus, the proposed Edison securitization plan would provide a $.375 \text{ ¢ kWh}$ “rate tilt” against competition that was unintended by the Michigan legislature.¹

b. Bond debt service and tax payment charges (the SQC charge) estimated at about $.5 \text{ ¢ / kWh}$ for bundled sales customers are offset by equivalent $.5 \text{ ¢ /kWh}$ base rate reductions for all retail bundled sales customers, resulting in no rate increase. The Edison securitization plan assesses the same $.5 \text{ ¢ /kWh}$ non-bypassable SQC charges to all EC customers but does not provide for an offsetting $.5 \text{ ¢ kWh}$ base rate reduction. Thus, another rate tilt amounting to $.5 \text{ ¢ /kWh}$ is added to the $.375 \text{ ¢ /kWh}$ rate tilt mentioned above and handicaps EC service even further.

In summary, under the proposed Edison securitization plan, EC customers would pay for securitization bonds but would be denied the rate reductions and offsetting credits totaling $.875 \text{ ¢ /kWh}$ ($.375 \text{ ¢}$ reduction and $.5 \text{ ¢ / kWh}$ SQC offset).²

c. The securitization bond and tax charges are equal for all bundled and EC

¹ Note that a difference of $.375 \text{ ¢ /kWh}$ is 5% (\$189 million) of the total bundled sales to residential, commercial and industrial customers per Sasek, 3 Tr 462 (\$189 million ÷ 50 million Mwh of sales = $.375 \text{ ¢ / kWh}$) but would be about 10% of generation costs. Thus an EC marketer would have to offer generation service at a cost 10% lower than Edison’s current sales generation rates just to offer the same total price.

² A difference of $.875 \text{ ¢ /kWh}$ would be more than 20% of generation costs. An EC marketer would have to offer generation service at a cost more than 20% lower than Edison’s current sales generation rates to be competitive.

customers and are allocated on the basis of energy only, despite the fact that previous Edison rate cases have allocated generation costs on the basis of only 25% to energy with 75% of costs allocated to demand. Also, different line loss characteristics between customer classes mean that an equal securitization charge overcharges an industrial transmission voltage customer by at least 10% or undercharges residential customers by 10%. The Edison proposal for equal securitization charges is not based on sound public policy and raises costs for the very large high load factor customers who are likely to switch to EC service. Since these equal securitization charges are not offset by base rate reductions (as is the case for bundled sales customers) the result is a rate increase for high load factor customers switching to EC service. Cost based SQC charges should be as much as 60% lower for large, high load factor customers than residential customers. This justified difference equals a .3 ¢ /kWh rate increase (60% x .5 ¢ SQC charge) for the large customer switching to EC service.

Edison refuses to implement class specific SQC charges despite the fact that its own witness admitted that such charges could be implemented if Edison were so Ordered by the Commission.

d. Finally, the Edison securitization proposal does not allocate any securitization costs to about 6,000 Gwh of wholesale and interchange transactions thus over allocating costs to retail customers by at least 10%.

3. Administrative Problems

The Edison securitization plan creates administrative problems for EC customers including:

a. Instead of billing customers directly for both transition charges and securitization charges before and after January 1, 2002 , the EC marketer will be

billed for bid transition charges and the customer will be billed for securitization charges before 2002. Starting 2002, the customer is billed for both charges.

b. Edison leaves the door open for quarterly or even monthly true ups which would result in variations in securitization charges of 30% between months, a chaotic result.

4. The Edison Proposal Contains Legal Difficulties:

a. The Edison proposal increases rates for EC customers and reallocates costs between classes in violation of PA 141.

b. The legal fast track process for appeal of a Commission decision in this matter could result in Edison's acceptance of securitization approval with Edison rejection and legal delay of Commission decisions designed to protect EC customers from discrimination or ensure economic soundness of securitization.

c. The 67 page draft Order proposed by Edison is a mere recitation of Edison's legal position. If Edison's position is rejected in any respect, this proposed Order would have to be substantially revised.

5. The Edison Securitization Proposal Frustrates the Intent of 2000 PA 141 to Ensure a Choice of Electric Providers for All Customers and to Foster Electric Competition. *2000 PA 141, Sec.10(2)(a)(b).*

The Edison securitization proposal is so tilted against EC customers that EC service would be uneconomical in comparison with bundled sales service. Thus, the intent of the Michigan Legislature to foster competition and achieve electric choice would be frustrated.

The Edison proposal clearly assigns securitization costs in a way that reallocates costs responsibility between customer classes in violation of PA 141, Sec.10d(5). If approved by the Commission, this reallocation would constitute reversible error that could jeopardize the entire securitization program.

B. Summary of Energy Michigan Position

If the Commission really wants securitization and competition it can modify the Edison securitization as proposed by Energy Michigan to achieve competition and rate reductions with no financial damage to Edison.

1. Adjusting Electric Choice Rates for Securitization Savings and for Bond and Tax Charges.

a. Prior to January 1, 2002

(1). EC bid transition charges should be offset by the same amount in dollars per kilowatt hour as the SQC Charge assessed to EC participants. The net effect would be zero just as for bundled sales customers.

(2) In addition, Edison should reduce all EC bid charges for the first four EC bid phases completed prior to passage of PA 141 by the same net amount in dollars per kilowatt hour as bundled service rates are reduced.

b. January 1, 2002 through 2015

(1) EC transition charges should be reduced in an amount exactly equal to the non-bypassable securitization bond and tax (SQC) charges. The net effect would be zero just as for bundled sales customers.

(2) In addition, Edison's proposed 5% bundled sales rate reductions should be given to EC customers by calculating reduced stranded costs and reducing EC transition charges for the affected EC customer class. For example, this would appear on EC customer bills the same dollar per kilowatt hour transition charge reduction for any EC customers as was given to bundled sales customers in addition to the offset in (1) above for securitization charges on EC bills. If transition charges end in 2007, credits against other EC charges should be used through 2015.

2. Securitization charges should be different for each class. The allocation of securitization costs should be on the same 75% demand, 25% energy - 12 CP basis as in Edison's last rate Case U-10102 rather than the equal securitization charges allocated 100% on energy proposed by Edison. This will prevent discriminatory rate increases and reallocation of generation costs between rate classes.

3. Edison should be required to allocate securitization costs to all sales including wholesale, interchange, ancillary services rather than just retail bundled and retail access sales. The net effect of this action will be a 10% reduction in SQC charges. *See Exhibit 2.* New customers receiving service after June 5, 2000 should not be exempted from securitization charges.

4. Edison should not be allowed to securitize costs related to the Year 2000 5% residential rate reductions or estimated or unapproved 1999 and 2000 EC implementation costs.

a. 5% rate reduction

Edison has requested to securitize the costs of the Year 2000 residential rate reduction of 5%. Edison should not be allowed to securitize these costs because the

costs do not meet the statutory test for “qualified costs” set forth in PA 141 since Edison’s securitization program will produce savings equal to or greater than the amount necessary to fund a 5% residential rate reduction without securitizing the actual 5% reduction. Also, securitization of the 5% reduction would actually increase customer costs.

- b. Projected implementation costs should not be securitized.

Edison proposes to securitize EC implementation costs for 1999, 2000 and proposed Customer Choice Education Program costs. These costs should not be securitized because they are estimated, have not been approved by the Michigan Public Service Commission and in several cases may not be actually expended. Thus, these costs are not known and are not measurable at this time. Given these uncertainties and the fact that once securitization bonding has occurred that it cannot be refunded, it would be unwise and imprudent of the Commission to approve securitization for speculative and dubious customer choice implementation costs.

5. Administrative issues

- a. Prior to January 1, 2002 EC customers should be billed directly for bid transition charges, securitization charges and securitization reductions in one net charge rather than Edison's arbitrary and burdensome plan to bill transition charges to the marketer and securitization charges to the customer through 2001 2002 and then bill both charges to the customer starting 2002.

- b. The true up of securitization charge receipts should be required to take place on an annual basis to prevent significant fluctuations in SQC charges which would occur with quarterly or monthly true ups.

6. Legal issues

a. EC customer issues regarding offsetting credits for securitization bond and tax charges as well as the means to flow net securitization reductions through to open access customers in the calculation of transition charges must be decided in this case and acceptance of these decisions by Edison must be made a condition of the overall securitization Order.

b. The Edison proposed draft Order does not form an appropriate basis upon which to form the Commission's decision. The Edison draft Order should be rejected as a mere recitation of the Edison case which would require extensive revision by the Commission if even one element of Edison's complex position were rejected or modified.

DETAILED DISCUSSION OF ISSUES

II. SECURITIZATION ECONOMIC ISSUES AFFECTING EC SERVICE

A. Adjusting EC Rates for Securitization

There are two basic issues regarding adjustment of customer rates for securitization:

- Ensuring that securitization bond and tax related (SQC) charges are offset by equivalent credits or reductions for both bundled sales and open access customers to produce a revenue neutral effect.

As proposed by Edison, bundled sales customers would pay a securitization charge of about .5 ¢ /kWh and receive a base rate reduction of .5 ¢ /kWh for a net effect of zero. EC customers before 2002 pay the higher of their bid transition charge or the

securitization fee of .5 ¢ /kWh. *Exhibit I-22*. Thus, if the securitization charge is higher than the bid transition charge (e.g. securitization fee of .5 ¢ /and bid transition charge of .3 ¢) not all of the securitization charge is offset (e.g. .5 ¢ -.3 ¢ = .2 ¢ net offset). Thus, some EC customers will experience a net rate increase under Edison's proposal.

EC customers starting 2002 pay a securitization charge of .5 ¢ /kWh and receive no offset for a net increase of .5 ¢ /kWh. This makes EC service .5 ¢ /kWh less competitive with bundled sales service.

- Ensuring that bundled sales customers and Electric Choice program customers in the same class get the same rate reductions in dollars per kilowatt hour.

Edison proposes bundled sales net rate reductions of 5% or an average of about .375 ¢ /kWh for all classes with no corresponding reductions for any EC customers. While .375 ¢ /kWh may appear to be a minor amount, it represents about 10% of the cost of generation and would make EC service uneconomical in competition with Edison's bundled sales service. This Edison proposal makes EC services another .375 ¢ /kWh less competitive with sales service in addition to the .5 ¢ /kWh impact described above for a total rate tilt of .875 ¢ /kWh.

1. Assuring that EC customers receive credit or reductions equaling the securitization bond and tax related charges.

- a. Prior to 2002

- (1) Edison position

Edison proposes to charge EC customers a full SQC charge and

makes no direct mention of offsets or reductions such as those given to sales customers. *Sasek, 3 Tr 464-65*. Edison discovery contains the statement that, “Open access customers would pay the higher of the SQC charge or the minimum bid charge.” *Exhibit I-22*.

Edison admits that some EC customers bid less than the proposed SQC charge (Padgett, 3 Tr 552-53; Sasek, 3 Tr 505), thus it is uncontested that some EC customer rates will be increased by this Edison proposal.

(2) Energy Michigan position

Energy Michigan witness Richard Polich testified that Detroit Edison plan to charge the higher of the SQC or transition bid prior to 2002 can amount to a rate increase where the bid amount is less than the SQC charge. For example, if the SQC charge is .5 ¢ /kWh and the amount bid is .4 ¢ /kWh, Edison’s position would result in a rate increase for EC customers or their retailers of .1 ¢ /kWh. Mr. Polich also points out that EC bidders had no way of knowing that after four bid cycles PA 141 and 142 would pass, and further that these new laws would contain a securitization concept. These laws have profoundly changed EC economics after the time period which customers or retailers made bid for and received rights to capacity. *3 Tr 563-4*.

Mr. Polich’s solution is that, like the Consumers Energy proposal in Case U-12505, Edison should charge EC bidders no more than bid transition charges through 2001 during the EC phase in period. This solution can be accomplished by subtracting the SQC charge from the bid amount and using negative charges where the SQC charge exceeds the bid amount. *Id.* This proposal will preserve the economics upon which EC bidders depended when they made their bids and generate the required SQC revenue. Like the

Consumers proposal, to the extent an under recovery of transition or EC charges occur, these amounts could be deferred and collected through the true up process for both types of charges.

b. January 1, 2002-2007

(1) Edison position

Edison retail bundled sales base rates will be reduced in an amount equal to the SQC charge to produce zero increase. *Sasek, 3 Tr 464-65.*

Edison made no proposal to reduce EC charges to offset SQC charges billed to EC customers regarding the period after December 31, 2001.

(2) Energy Michigan position

Energy Michigan witness Polich addressed this problem by proposing that an amount equal to the SQC charges billed to EC customers be subtracted from EC transition charges starting 2002. *3 Tr 567.* Billing EC customers for securitization charges, then subtracting an equal amount from their authorized transition charges will give EC customers the same type of offset treatment as bundled sales customers who will receive reductions in their bundled sales rates which equal all directly billed securitization related charges.

The Commission is required under PA 141 to allocate approved securitization and transition charges in a manner that does not result in reallocation of cost responsibility. *PA 141, Sec.10d(5).* Mr. Polich's proposal to require reductions in EC transition charges before and after December 31,

2001 which equal the non-bypassable SQC charges imposed on the EC customers is entirely consistent with the letter and intent of PA 141, Sec.10d(5). This solution will preserve the current competitive relationship between EC and bundled sales rates and prevent a shift of stranded costs from bundled sales customers to EC customers.

c. After 2007

After 2007, if stranded cost recovery ends, SQC charge offsets should be reflected in negative charges or credits through 2015 or the end of securitization bond recovery. *3 Tr 567.*

2. Assuring Net Rate Reductions for EC Customers Which Are Equal to Bundled Sales Net Rate Reductions Produced by Securitization.

a. Prior to 2002

(1) Edison position

Edison has committed to use the vast majority of securitization savings to reduce bundled sales rates by 5%. It is expected that a 5% bundled sales rate reduction will produce an average reduction of .375 ¢ /kWh for all bundled sales rate classes. There are no net rate reductions for any EC customers. *Exhibit I-26.*

(2) Energy Michigan position

Energy Michigan witness Polich proposed that securitization savings also be utilized to provide the same reduction in dollars per kilowatt hour for

EC customers as are given bundled sales rate customers. Mr. Polich's proposed reduction is justified by the fact that prior to 2002, retail access participants made bids for transition charges based on a comparison of retail rates with open access rates. Because PA 141 mandates bundled sales rate reductions, EC service is less competitive. Mr. Polich testified that the bids offered for EC service prior to 2002 would have been correspondingly lower if bidders had been aware that sales rates would be reduced by 5%. 3 Tr 571-73. Note that PA 141 which mandated the 5% reductions, was introduced by Governor Engler on May 3, 2000 and passed after the first four bid cycles were completed on March 20, 2000. See Brief, Exhibit 1.

Edison's stranded costs are lowered by securitization because securitization savings are used to lower all bundled sales rates by an average of .375 ¢ /kWh in relation to market price. Because all bundled rates are lower in relation to market price, a reduction in bid transition charges for all EC service is also warranted. *Id.* Mr. Polich proposed to accomplish these reductions before 2002 by subtracting the equivalent of the .375 ¢ /kWh bundled sales reductions in dollars per kilowatt hour (not as a percentage) from EC bid transition charges. *Id.*

Legal Authority

PA 141, Sec.10d(5) grants authority to the Commission to reduce transition charges with securitization savings to achieve this equitable result. "...[S]ecuritization savings greater than those used to achieve the 5% rate reduction under subsection 1 [the residential reduction] shall be allocated by the Commission to further rate reductions or to reduce the level of any charges authorized by the Commission to recover an electric utility's stranded costs. 2000 PA 141, Sec.10d(5), *emphasis supplied.* The Commission can use this legal authority to reduce EC bid transition charges by the same dollars per kilowatt amount as

bundled sales service under two alternative theories:

Alt. 1: The record shows that Edison's projected securitization savings exceed the amount needed for a 5% residential rate reduction by \$189 million and exceed the amount needed for a 5% rate reduction for all current retail customers by at least \$65 million. *Sasek, 3 Tr 459-63*. These funds which are greater than needed for a 5% residential bundled rate reduction may be used pursuant to PA 141, Sec.10d(5) to reduce EC transition charges by an average of .375 ¢ /kWh in order to preserve competitive neutrality between bundled sales and EC service.

Alt. 2: The record shows that \$189 million of the \$254 million in securitization savings are sufficient to reduce all current retail kWh deliveries by 5% or approximately .375 ¢ kWh. *Id.* There were no current EC sales on the Edison system at the time Mr. Sasek's testimony was filed. Thus, if sales customers migrate to EC status, the same \$189 million will be sufficient to achieve an average .375 ¢ /kWh reduction for both bundled sales and EC service because the number of kilowatts is the same. Given the evidence presented by Mr. Polich, the Commission can and should interpret the mandate of PA 141, Sec.10d(1) and 10d(5) and (6) for a 5% reduction as a mandate to reduce all customer rates by an average of .375 ¢ /kWh and to continue providing the same reduction to EC customers if and when such customers leave bundled sales for EC service.

b. January 1, 2002 through 2015

(1) Edison position

There will be no rate reductions for EC customers. *Exhibit I-26*.

(2) Energy Michigan position

On January 1, 2002 transition charges for EC service should be reduced to reflect any net reductions produced by securitization. The transition cost for an EC customer would be calculated incorporating the reduced total cost of generation made possible by securitization for each affected customer class. *Polich, 3 Tr 567*. Thus, if EC stranded cost transition charges were .5 ¢ /kWh before securitization and securitization savings were .375 ¢ /kWh, the new EC transition charge should be .125 ¢ /kWh.

The Commission is empowered to implement such deductions or reductions in the level of any charges authorized to collect stranded costs by the Commission per PA 141, Sec.10d(5) as discussed in II.A.2.a. above. Also, 2000 PA 141 at Sec.10(2) clearly states that the purposes of the Act include (a) ensuring electric choice for all customers and (b) encouraging and fostering competition. Such a use of securitization savings would be necessary and justified through the 2015 term of securitization bonds in order to make securitization competitively neutral for both retail bundled sales and EC customers.

Conversely, if the Commission were not to approve changes to assume competitive neutrality between bundled and EC rates, the clear legislative direction provided by Sec. 10 of (1) and (6) to foster competition would be ill-served. If competition is to be encouraged, competitive neutrality must be preserved.

After 2007 if stranded cost recovery ends, a securitization reduction could be reflected in negative charges or credits. *Id.*

B. Deposits

The Commission should cancel deposit requirements related to Cycles 1-4 of the EC phase in program through 2001. Cancellation would remove economic penalties for bidders who do not find it economic to participate. This change is justified by the fact that participants bidding for EC capacity in bid Cycles 1-4 could not have known that the retail rates for that service would be reduced by PA 141 and that competition with bundled sales service would be made less economic. *3 Tr 573.*

C. Allocation of Securitization Charges Between Classes

1. Edison position

Edison witness Sasek proposed that securitization bond and tax charges be collected on an equal per kWh basis from all bundled sales and EC customer classes. *3 Tr 462-65.*

2. Energy Michigan position

Bundled sales customers will not be affected by equal securitization charges. All bundled customers will be assessed charges which equal about $.5 \text{ ¢ /kWh}$ in 2002 and are offset by equal base rate reductions of about $.5 \text{ ¢ /kWh}$. *Id.*

In contrast, EC customers will be affected by equal securitization charges. The $.5 \text{ ¢ /kWh}$ EC charges in 2002 will not be offset by base rate reductions. *Id and I-26.* EC transmission voltage customers will pay the same $.5 \text{ ¢ /kWh}$ as residential EC customers despite the obvious difference in their service usage, costs of service including line losses and patterns of use. *Polich, 3 Tr 569-71.*

With equal securitization charges, customers with high load factors pay more for securitized generation assets than they currently pay under bundled tariffs because bundled

generation costs were allocated among Edison customers partly on energy demand and partly on energy consumption. *Id.* The “75/25” methodology previously used by the Commission in Edison’s last rate case results in a high load factor customer like an industrial user paying less for generation per kWh than a low load factor such as a residential customer. Edison’s proposal for equal securitization charges across all classes has the effect of making Edison bundled rates artificially more competitive for high load factor customers by increasing the generation cost allocated to EC high load factor customers to a level greater than for high load factor customer remaining on bundled sales rates. *Id.* Edison’s securitization proposal, if approved by the Commission, would effectively reallocate utility securitization costs among customer classes in violation of the clear direction provided in 2000 PA 141, Sec.10d(5) that cost responsibility must not be reallocated among customer classes.

Equal securitization charges also have the effect of a rate increase for certain open access customers. Current Edison bundled sales rates contain significant differences in the allocation of generation costs between the large high load factor customers and residential customers. Including line losses associated with delivery of the power, cost differences of over 60% could be justified. *Polich, 570.* Line losses alone account for a 10% difference between residential and industrial customers. *Sasek, 3 Tr 494-95.* Since residential customers take service at a much lower voltage than the industrial customer, it takes more power to supply 1 kWh of low voltage service than 1 kWh of transmission voltage. If retail access charges are the same for residential and industrial customers, the industrial customer has paid at least 10% too much or the residential customer is paying at least 10% too little. This also violates the Sec.10d(2) prohibition against commercial and industrial rate increases.

In the past, Edison has supported class specific charges for transition costs. *3 Tr 487, 502-03.* If specific transition charges are justifiable for each customer class, then different SQC charges are reasonable as well.

There is no practical barrier to implementation of class specific SQC charges. Edison’s

own witness admitted that different SQC charges can be implemented for each class if the Commission so Orders. Sasek, 3 Tr 495-96.

The solution here is fairly simple, the method of securitization cost allocation and development of SQC charges should include all the same factors such as line losses, amount of generation resources used during peak period and the 75/25 rule for distribution of the cost recovery between energy and demand charges which were applied in Edison's most recent rate case U-10102. Id., 571. This solution complies with the mandate of PA 141, Sec.10d(5) to avoid cost reallocation because the solution uses the rate allocation methodologies which are the basis for existing Edison rates.

D. Collection of Securitization Costs From All Electric Transactions

1. Collection from all sales (reduces the SQC charge by 10%)

a. Edison position

Edison proposes to collect securitization bond and related taxes from all retail bundled service and EC service rates for customers located within Edison's service territory as of June 5, 2000. 3 Tr 462-63. Wholesale, interchange and other transactions are not included.

b. Energy Michigan position

Energy Michigan witness Polich has testified that securitization costs should be allocated to all electric sales including wholesale, retail, inadvertent energy flows, and interchange. 3 Tr 570, 583-85. Since the Commission would simply allocate securitization costs to all sales, issues regarding Commission authority to mandate charges on non-jurisdictional sales are not a concern. In addition, sales associated

with ancillary services in Edison's open access transmission tariff (OATT) should also be credited with contribution to securitization costs. *Id.* Allocating securitization costs over a larger number of kilowatt hours would lower the securitization and bond charges assessed to each kWh.

The un rebutted evidence shows that Edison's total sales including interchange, wholesale and ancillary services were estimated at 49,935 Gwh to develop the Year 2000 SQC charge. *Sasek, Exhibit A-14, line 32.* Edison's forecasted Year 2000 sales including wholesale and interchange is 56,038 Gwh. *Brief, Exhibit 2, Exhibit I-20, p. 2 of 2.*

This difference of 6,000 Gwh between total Edison retail sales and total sales including wholesale and interchange could produce an SQC charge reduction of over 10%. Inclusion of interchange sales is important because if the current MECs agreement between Consumers and Edison expires at the end of 2000, interchange transactions are likely to become wholesale sales and will generate excessive non-jurisdictional profits to Edison unless securitization costs are allocated to these sales.

Edison will use securitization to reduce its cost of production and sell into the wholesale market without including securitization costs in the price. This strategy will increase Edison's margin on each unit of wholesale power by failing to allocate reasonable costs to that power.

2. Edison's exemption from SQC charges for new customers added after June 5, 2000.

Edison witness Sasek made the following statement in his Direct Testimony, "The SQC charge will be recovered from all present and future customers of the Company, or its successor, who are located within the Company's existing service territory as of June 5, 2000." *Sasek, 3 Tr 462-63, emphasis supplied.* No reason was given for Mr. Sasek's

position that customers located in Edison's service territory after June 5, 2000 should be exempted from the SQC charge.

Energy Michigan witness Polich believes that Mr. Sasek's testimony can be read as excluding new customers of Detroit Edison who take service after June 5, 2000 from the payment of SQC charges. If that is the case, Mr. Polich believes the Commission should reject Mr. Sasek's recommendations for two reasons: First, Mr. Sasek has given no reason to justify his recommendation to discriminate among customers. Second, new customers, as well as existing customers, derive benefits from securitization in the form of rate decreases and thus should pay their fair share of securitization costs. *3 Tr 571*.

Since there has been no Edison rebuttal to Mr. Polich's testimony, the Commission should clarify that all Edison customers are required to pay SQC charges, including any new customers taking service after June 5, 2000.

E. Exclusions From Securitization

1. Edison should not be allowed to securitize the Year 2000 5% residential rate reduction.

a. Edison position

Edison witness VanHaerents proposed that Edison be allowed to securitize the estimated cost of providing a 5% rate reduction to residential customers during the Year 2000. *VanHaerents, 2 Tr 337*. On both his Direct and Rebuttal, Mr. VanHaerents claimed that the cost of the Year 2000 rate reduction is a "qualified cost" as contemplated by PA 142 specifically because the reduction is part of restructuring costs and those costs are defined as "qualified costs" under the legislation. *VanHaerents Rebuttal, 2 Tr 345-47*.

Mr. VanHaerents claimed that if the 5% reduction is not securitized, Edison will be forced to incur a write off and requests in the alternative that Edison be granted accounting treatment to record the 5% residential reduction as a regulatory asset and collect those costs at a later time. *Id.*

b. Intervenor position

Energy Michigan witness Polich opposes securitization of the 5% residential reduction. Mr. Polich testified that Edison's savings from securitization will be greater than the amount needed to fund a 5% residential rate reduction and that given this fact, PA 141, Sec.10d(4) does not allow use of securitization to finance the residential portion of the rate reductions. *Polich, 3 Tr 562.*

Staff witness George Stojic testified that Edison's proposal also does not meet the statutory test outlined in Sec.10d(4) of PA 141. Mr. Stojic contends that that statute only requires the Commission to permit securitization in an amount necessary to produce savings equal to or greater than a 5% residential rate reduction, not that the reduction itself be securitized. Given this interpretation, Mr. Stojic does not believe that the 5% residential rate reduction is a "qualified cost" that can be securitized. *Stojic, 3 Tr 613-14.*

ABATE witness Selecky also opposed securitization of the 5% residential rate reduction because it increases customer costs and as it has not been found to be a regulatory asset at this time, it cannot be securitized because it is not a "qualified cost" as required by PA 142. *Selecky, 2 Tr 112.*

The weight of the evidence in this case supports a conclusion that the 5% residential rate reductions ordered by PA 141 for the Year 200 are not a "qualified cost" within the meaning of PA 142. The reduction has not been found to be a

regulatory asset and since securitization will produce reductions greater than required to implement a 5% residential reduction, Sec.10d(4) of PA 141 does not require further securitization.

2. The 5% Residential Rate Reduction Should Not Be Treated As a Regulatory Asset.

Edison's requested rulings for treatment of the residential reduction as a regulatory asset is clearly a backdoor attempt to "qualify" these costs for future securitization. If the Commission grants Edison's request, it will then be faced with future application for securitization of the 5% reduction based upon the language of PA 142, Sec.10h(g) which defines qualified costs as a "...electric utility's regulatory assets...". The Commission should reject Edison's request for accounting treatment defining or treating residential rate reductions as a regulatory asset.

Adoption of Edison's position would effectively reduce the economic benefit customers receive from the 5% rate reduction because customers would pay for the "regulatory asset" treatment of Edison's implementation costs. Detroit Edison complains about increased costs due to implementation of the residential rate reduction but fails to mention its excess earnings and the phase out of other cost items which legitimately could lead to rate reductions were it not for the PA 141 rate freeze. In any event, it appears that Edison has more than enough excess earnings to offset any revenue shortfalls related to the Yeast 2000 residential reduction. *See PFD in Case U-11495.*

3. 1999 and 2000 Customer Choice Implementation Costs Should Not Be Securitized.

a. Edison position

Edison has proposed to securitize customer choice implementation costs (CCIC) for the Year 1999 which have not been approved by the Commission and

Edison's estimate of Year 2000 costs as well as estimated CCIC advertising costs. *VanHaerents*, 2 Tr 334. Edison relies on 2000 PA 141 definition of "qualified costs" which includes "Retail Open Access Implementation costs". *Id.* *Sec.10h(g) VanHaerents Rebuttal*, 2 Tr 349-53. In the face of opposition, Edison witness VanHaerents claims that Edison is willing to update its estimates of Year 2000 costs at frequent intervals. *Id.* Edison also defends collection of CHOICE advertising costs because the Commission is required to fund such expenses (PA 141, Sec.10r(2)) and because such costs cannot be recovered directly from customers during a rate freeze or in a competitive market. In the alternative, Edison requests that it be allowed to record these costs as a regulatory asset and recover them later. *Id.*

b. Intervenor position

Energy Michigan witness Polich opposed Edison's recovery of implementation costs on the grounds that these costs are mere estimates which are likely to change. *Polich*, 3 Tr 561-62. Mr. Polich provided a specific and telling example. At the time of writing, Detroit Edison required customer choice participants to install demand meters if they had a demand of 20 kW or less. Mr. Polich noted that this requirement could change to a much higher level (100 kW) thus eliminating the need for a significant number of meters which would produce a corresponding reduction in EC implementation costs. Mr. Polich also noted that the implementation costs should be recovered in the distribution rates as Edison charges to all customers and that such recovery could be implemented as soon as existing rate caps expire. *Id.*

On cross, Edison witness VanHaerents confirmed that Edison has requested to eliminate demand meters for customers with less than 300 kW of demand. 2 Tr 366. Since meter related costs such as computer processing and data acquisition are a significant part of EC implementation costs, Edison's estimated CCIC costs are sure to be overstated in this area. This sort of program change which will reduce

CCIC costs confirms the wisdom of Mr. Polich's position that the Commission should refuse to securitize estimated or unapproved CCIC costs.

Staff witness Stojic made many of the same points testifying that the implementation cost items requested by Edison are projected not actual and, like Mr. Polich, noted that securitization bonding of expenses cannot be reversed and money cannot be refunded to customers if it is found that Edison's estimated costs are incorrect. Given this inability to correct errors of estimation, the wise course is for Edison to obtain final Commission approval for sums of money actually expended and then approach the Commission in the future for additional securitization of these expenses as necessary. *3 Tr 612-13.*

ABATE witness Selecky also opposed Edison's proposal to securitize CCIC costs on the grounds that there is no net benefit to customers from securitizing these expenses and that no implementation costs have been approved by the Commission as of this date, thus the costs are fairly speculative. *Id., Tr 617-19.*

Conclusion

The Commission should reject Edison's request to securitize customer choice implementation costs and advertising costs at this time. The costs presented by Edison are mere estimates which may change substantially depending on Edison's future metering requirements and other implementation costs. Also, previous Edison requests have been opposed by MPSC Staff and it is unlikely that the full amount of these requests will be approved by the Commission. Given the inability to reverse securitization bonding and correct estimation errors, it would be imprudent to proceed with bonding until implementation costs are both final and approved by the Commission.

4. Regulatory Asset Accounting Treatment Should Be Rejected. For Unapproved CCIC

Implementation

Finally, the Commission should not grant accounting treatment of implementation costs at this time as regulatory assets. As noted in II.E.2. above, this decision by the Commission is tantamount to guaranteeing that Edison can securitize such costs at a later time.

F. Conclusion: Why a Few Tenths of a Cent per Kilowatt Hour Are Important

As of June 12, 2000 Edison's bundled sales residential customers got a 5% reduction and EC residential customers got no reduction. When securitization bonding is implemented, all Edison bundled retail rates will drop 5% or an average of .375 ¢ /kWh and no EC rates will be reduced. *Exhibit I-26*. Net effect: EC service is made .375 ¢ /kWh less competitive.

As soon as securitization bonding is effective, sales customers and EC customers pay a .5 ¢ /kWh SQC charge. This charge is offset by a .5 ¢ /kWh base rate reduction for sales customers but no reduction for EC customers. Net effect: EC service is made .5 ¢ /kWh less competitive.

Together, these charges make EC service .875 ¢ /kWh less competitive!

Why the fuss about a .875 ¢ /kWh difference? There are two answers: First, a .875 ¢ /kWh difference can become a significant competitive issue in the current high priced electric market. Customers typically make buying decisions on increments even smaller than .1 ¢ /kWh. Note that .875 ¢ / kWh is more than 20% of typical generation costs which run about 4 ¢ /kWh. If EC customers do not receive this reduction, EC marketers have to lower their price 20% merely to stay even with sales service and would have no margin. A .875 ¢ /kWh price differential between EC service and sales service will ruin EC economics and would not foster competition as directed by PA 141.

EC customers will also be affected by equal securitization charges. Their .5 ¢ /kWh of securitization charges will not be completely offset by transition cost reductions before 2002 if they bid less than .5 ¢ or by base rate reductions after 2001. *Exhibit I-26*. Transmission voltage EC customers will pay the same .5 ¢ /kWh as residential customers. *Id.* In Illinois, where securitization charges were developed for each class, the residential charge was 1.07 ¢ but the industrial charge was .63 ¢ and the high load factor industrial charge was .26 ¢. *Selecky, 2 Tr 126*. Differences of this magnitude could produce major negative economic impacts for large customers even with the Edison securitization charges which are smaller than the Illinois charges.

III. ADMINISTRATIVE ISSUES

A. Annual True Up

Edison's Revised Testimony proposes that true ups be accomplished not less than annually until one year before the end of securitization and then not less than quarterly. *Sasek, 3 Tr 458; Hiller, 2 Tr 181*. The position of Edison does not preclude quarterly and monthly true ups before the last year of securitization.

Energy Michigan witness Polich has proposed that Edison be required to use only annual true up proceedings as opposed to quarterly or monthly true ups.

Mr. Polich explained that when Edison bills securitization charges directly to customers starting 2002, frequent and large changes in the securitization charges could create a source of customer confusion and could change customer economics from month to month or quarter to quarter. *Polich, 3 Tr 568*. These changes in securitization charges could be as high as 29% from month to month or 30% from the highest to lowest month. *Id.*

Given the potential impact of changes in Edison's sales volumes which can equal almost 30% between highest and lowest months and the corresponding impact on open access economics, Energy

Michigan recommends that Edison be directed to perform true ups no more than one time per year until the last year when more frequent true ups may be necessary.

B. Billing EC Customers for Transition Charges Prior to January 1, 2002

Edison has proposed to bill EC securitization charges prior to January 1, 2002 by charging the higher of the transition bid charge or securitization (SQC) charge. The customer would pay the SQC charge and the retailer/marketer would pay the transition charge. *Polich, 3 Tr 564, I-26*. Thus, if Edison only bills the higher of these two charges it must reconcile charges on two separate bills: the EC customer bill and the EC marketer bill. *Id.* For the period starting January 1, 2002 Edison will change this system and bill EC customers directly for both transition charges and securitization charges.

Thus, Edison proposes to use two different billing methodologies in the future. *Id.* The method of billing the marketer for transition charges and billing the customer for securitization charges would last 9-10 months until the end of 2001. *Id.* Then in 2002 a new system of billing the customer directly for both securitization and transition charges would be implemented through 2015. *Id, 567.*

Mr. Polich proposes that the Commission require Edison to bill transition and securitization charges directly to the EC customer (instead of billing one charge to the marketer/retailer and one charge to the customer through 2001). *3 Tr 564*. Specifically, before 2002 Edison should bill the EC customer for the SQC charge. Then Edison should subtract the amount of the SQC charge from the bid transition charge and bill this amount (or credit if it is a negative number) to the EC customer. The customer would receive one bill directly from Edison for both securitization and transition charges and would remit one payment to Edison for both charges.

Unless Mr. Polich's suggestion is adopted, Edison will bill retailers/marketers for transition charges and bill the EC customer for securitization through 2001, then change the system and bill EC

customer directly for the same charges from 2002-2015. This needless change will cause complication and create a source of confusion that can easily be eliminated by adopting Mr. Polich's proposal to implement securitization "from day one" by directly billing EC customers for both charges and continue the practice through 2007.

The tariff language change necessary to implement Mr. Polich's proposal is detailed in his testimony at 3 Tr 566-67.

If Edison is going to have to change its billing system in 2002, why not do so now?

IV. LEGAL ISSUES

A. All Securitization Issues Must Be Finalized in This Case

This Brief has shown that the securitization proposals of Edison are extremely disadvantageous to EC customers. The Edison direct case outlines and advocates a securitization program which will assess a non-bypassable securitization bond and related tax charge to all bundled sales and EC kilowatt hours. The Edison position goes on to detail how those securitization charges will be offset by credits or reductions for all bundled sales customers and how all bundled sales customers will receive a net 5% reduction from securitization savings.

Edison fails to provide any indication of how securitization charges will be offset for EC customers and opposes EC customers receiving credits equivalent on a dollar per kilowatt basis to the 5% overall reduction afforded to bundled sales customers.

Unless the Commission clearly specifies the means by which EC transition charges will be reduced to offset securitization charges and also clearly specifies how securitization net savings will be granted to EC customers for the same dollars per kilowatt hour as to bundled sales customers, the Commission may fatally injure the entire EC competitive program.

Without clear direction, Edison has every incentive to obtain and accelerate a decision on the financial aspects of its one sided securitization proposal, pursue accelerated review through the court system and begin early implementation of a program which would literally wreck EC economics. Meanwhile, Edison could appeal any modifications of its securitization plan which make the program feasible for EC service. The Commission or the courts would then be forced to consider the mechanics of assuring EC competitiveness in a series of cases which most assuredly would not be decided in the rapid time frame of the current case. Edison would be free to pursue a course of delay and obstruction or downright opposition to cases assuring EC competitiveness. This obstruction would prevent final resolution of matters necessary to assure competitive equality until years of appeals have passed.

The Commission should adopt the position advocated by Energy Michigan to provide EC credits and rate reductions equivalent to those granted bundled sales customers and then make these provisions of its Order mandatory by requiring Edison to accept the entire Order including such provisions as a condition of obtaining any benefits of the Order at all. This course of action was used in Case U-11726. *Detroit Edison Fermi 2 Opinion and Order, December 28, 1998, p. 32.*

If Edison is allowed to pick and choose the portions of a securitization Order that it will enforce or, worse yet, defer consideration of or simply resist the adjustments necessary to place EC programs on a competitively neutral basis with bundled sales, a period of years will pass before these adjustments can be made. That time delay may well prove fatal to the entire purpose behind PA 141 and 142: achieving fair competition.

B. Edison's Proposed Draft Implementation Order

Edison witness Hiller sponsored Exhibit A-1 which is 67 pages of draft language in the form of a proposed Order in this matter. The draft Order embodies the Edison position on securitization.

If the Edison draft Order is used, the Commission and parties to this case would have to

thoroughly review each and every page, paragraph and sentence to conform the Order with the actual decision of the Commission to the extent the Commission departs in any respect whatsoever from the Consumers direct case. The potential for error using the Edison draft Order is exceedingly great and is not counterbalanced by any substantial benefits. Edison's draft Order should be rejected.

V. 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 January 1, 2002
 - (1) Reduce all EC transition bid charges by the same amount in dollars per kilowatt hour as all bundled service rates are reduced; and
 - (2) Subtract an amount equal to approved SQC charges from the EC bid transition charges.
 - b. 2002 through 2015
 - (1) Reduce future EC transition charges by the same average reductions in dollars per kilowatt hours as are implemented for sales customers, and
 - (2) 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. Collect securitization and transition charges directly from EC customers starting immediately through 20 15.
5. 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.
6. True up securitization charges on an annual basis.
7. 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.
8. Reject the draft Order in this case proposed by Edison.

Respectfully submitted,

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REPORT NO. 86, VOLUME 39

WEDNESDAY, MAY 3, 2000

ENGLER PUSHES 5 PERCENT PHONE, ELECTRIC RATE CUT

Like it or not, there is now alive legislation on the table to restructure the electric industry and to rewrite the telecommunications act, and bills are scheduled for a fast train to Governor John Engler's desk. The bills would provide 5 percent rate cuts to electric and telephone customers and more authority to the Public Service Commission to oversee the markets.

The new fast-paced plan is suddenly in place because Mr. Engler proposed the legislation and is pushing for its passage by both chambers prior to their June summer recess.

Mr. Engler put out his plan Wednesday, calling a halt to House and Senate committee meetings on telecommunications, to stop the "logjam" that was holding up current legislation on both utility issues.

The key to the proposal for both telecommunications, on which state regulations expire January 1, and electric utilities, which has been addressed by the PSC but ruled non-binding by the courts, is competition, Mr. Engler said. "Michigan's overriding goal must be to put in choice for those who want it and protection for those who don't," he said. "The rate cuts give customers what they deserve and a taste of what competition will bring."

Also key is moving the bills as a unitary package, he said. "The approach is a whole proposal, not a partial proposal," Mr. Engler said.

While he said he would be willing to discuss changes, such discussions would only be with a consensus of various interests behind those changes. And so far proposed changes appear few.

Mr. Engler said he decided to act now on electric as well as telecommunications because it was becoming obvious that the former could not be resolved through the normal legislative process. "The complexity of this issue precludes resolution of this issue," he said. "Legislators can't agree; the PSC can't act; the bottom line is Michigan is failing behind."

And he said the weather forecasts for a hot summer put more of a point on the need for action. The state has about a 5 percent margin of excess generating capacity, while experts say it should be closer to 15 percent.

"With legislative certainty these companies will construct power plants in Michigan," he said of potential competitors to Consumers Energy and Detroit Edison. "I believe the failure to act would lead to brownouts or worse.. No action is the worst of both worlds: high prices and low supply."

The proposal got cautious support from a number of quarters, including some of the most vociferous opponents of legislation previously aired.

Rep. **Maryanne** Middaugh (R-Paw Paw), chair of the House Energy and Technology Committee, called the governor's proposals interesting but refrained from extensive comment until she has

	<u>Actual 1999</u>	<u>Forecast 2000</u>
Domestic (page 304*)	14064	13917
Commercial (page 304.1*)	19547	19316
Industrial (page 304.1*)	15647	16351
MPSC Special Contract	212	
Other		
Municipal (page 304.2*)	347	
Wholesale Firm (page 31 1*)	143	
Wholesale Non-Firm (page 31 1*)	<u>2104</u>	
Subtotal	2594	<u>2612</u>
Interchange (page 311 .1*)	<u>3455</u>	<u>3842</u>
Total	55519	56038

* 1999 MPSC Form P-527 reference page.