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October 2, 2001

Ms. Dorothy Wideman  
Michigan Public Service Commission  
6545 Mercantile Way  
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Lansing, MI 48909

Re: Case No. U-12489

Dear Ms. Wideman:

Enclosed for filing in the above captioned matter please find the original and four copies of Exceptions of Energy Michigan to Proposal for Decision. Also enclosed is the original Proof of Service indicating service on counsel.

Please date stamp one copy of the above entitled document for my records and return it in the self-addressed stamped envelope provided.

Thank you for your assistance in this matter.

Very truly yours,

VARNUM, RIDDERING, SCHMIDT & HOWLETT LLP

A handwritten signature in cursive script that reads "Eric J. Schneidewind".

Eric J. Schneidewind

EJS/mrr

cc: ALJ  
parties

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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

Case No. U-12489

EXCEPTIONS OF ENERGY MICHIGAN, INC.

TO PROPOSAL FOR DECISION

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EXCEPTIONS OF ENERGY MICHIGAN, INC. TO PROPOSAL FOR DECISION

I. INTRODUCTION AND SUMMARY

A. Introduction

On September 11, 2001, presiding Administrative Law Judge Daniel Nickerson, (ALJ) forwarded a Proposal For Decision (PFD) in this matter to the parties of record. Pursuant to the direction of Judge Nickerson, these Exceptions of Energy Michigan, Inc. (Energy Michigan) have been filed October 2, 2001. Failure to except to additional rulings or statements in the PFD should not be construed as agreement with or acceptance of those positions.

These Exceptions are set forth below with the same issue numbers and titles used by the ALJ to the extent that the issues were addressed in the PFD.

B. Summary of Key Issues

The PFD addresses 30 tariff issues. While Energy Michigan excepts to 11 of the proposed decisions, the five issues summarized below are of critical importance to the competitive industry.

1. PFD Issue #6: Load profiling systems for energy metered customers and managed load profiles.

Currently, Choice customers below approximately 20 kW of demand are energy metered and low voltage Choice customers above approximately 20 kW are demand metered. All these customers pay the same \$5.95 / month customer charge. The ALJ adopted Edison's proposal to extend energy metering to customers up to 300 kW of demand and to use a vague load leading profile method which was discussed by Edison on rebuttal. This new concept was not recommended by Edison until numerous issues were addressed including pricing and treatment of imbalances. *2 Tr 194*.

The ALJ failed to adopt the request of Energy Michigan to establish equitable load profiling and balancing programs for energy metered Choice customers with less than 20 kW of demand who are not currently eligible for demand meters. These proposals would tell AES suppliers how much energy needed to be provided before the fact. Also, a mandate to make available load leading profiles for managed interruptible or time of day loads should be adopted.

2. PFD Issue #8: The new Edison proposal to abolish demand metering for customers between 20 kW and 300 kW, increase meter charges and increase system use charges.

The PFD adopted the new Edison proposal to deprive customers between 20 kW and 300 kW of their current right to use demand meters (which had been included in their existing service charge) and mandate a new system use charge based on kWh of energy used, not kW of estimated demand. The result is rate changes for all customers below 300 kW of demand and increased costs for customers with a load factor greater than 17%. For example, system use charges to customers with a 32% load factor are increased more than 80%!!

Also, meter charges for low voltage customers with more than 300 kW of demand are raised from \$5.95 / month to \$36 (single phase) and \$48 (three phase). Power factor charges are also changed causing rate changes to customers subject to these charges.

The rate changes adopted in the PFD should be rejected as a violation of the rate freeze in PA 141 § 10d(1).

3. PFD Issue #10: Performance standards

The PFD failed to adopt the Energy Michigan proposal for mandatory (15 day or less) processing times for Electric Choice applications. The Energy Michigan position is that Edison customers should be guaranteed by the Commission that Electric Choice service will be commenced within 15 days of application. If Choice service does not start in 15 days, the customer's AES should be able to commence power deliveries to the Edison system and the customer would be billed as though they were receiving Electric Choice service.

4. Not Covered in PFD: Edison's request for default transition charges

The PFD failed to address the request of Energy Michigan to reject new default transition charges of 1.25 ¢ /kWh proposed by Edison in the Retail Access Service Tariff (RAST) Section 4.2. These new charges become effective January 1, 2002 if the Commission does not establish a specific transition charge in Docket U-12639 before that date. The Commission should not allow Edison to unilaterally implement transition charges that have not been approved by the Commission.

5. Not Covered in PFD: Edison's request for a 120 day delay of RAST implementation

The ALJ failed to address Edison's request to delay RAST implementation until 120 days after the final order in this case has been issued. Based on Energy Michigan's objections, Edison's request for a 120 day delay should be rejected.



## II. DETAILED ENERGY MICHIGAN EXCEPTIONS TO PFD

The Exceptions of Energy Michigan to the PFD are listed below in the same order as discussed by Judge Nickerson in his September 11, 2001 PFD. All tariff references are to the RAST submitted by Detroit Edison as Exhibit A-2.

### PDF Issue #6: Load Profiling (RAST Section 27.2)

#### A. The Status Quo

Currently, Edison Electric Choice low voltage customers with demand above approximately 20 kW have been required by Edison to obtain demand meters but these meters are provided at no additional charge above the current \$5.95 / month service charge. *Polich, 2 Tr 280*. Data from these meters can be used to bill for system use on the basis of kW of demand per month and to identify and charge imbalances between actual customer use and AES power deliveries. *2 Tr 184*.

For customers below 20 kW, energy meters are used. Edison uses kWh of energy consumption data to estimate kW of demand. These estimated kW of demand are then used to determine system use charges (at the same \$3.42/kW of demand charged to customers greater than 20 kW with demand meters). Edison also uses estimates of demand to determine and charge for energy imbalances related to these energy metered customers.

#### B. The New Edison Load Trailing Load Profile Proposal Presented in Direct Testimony

Section 27.2 of the proposed RAST contains a new and troubling proposal to collect imbalance charges. Edison would stop its current practice of supplying demand meters to Choice customers between 20 and 300 kW at their current service charge of \$5.95 / month. *See Issue # 8 below*. For all Choice customers below 300 kW, the customer's Electric Choice suppliers would have to try to match customer demand and supply using their own demand meters and telemetry data

or non-metered estimates of use. Then, up to two months after service has been rendered, Edison would use meters installed on a sample of three types of customers to estimate the actual demand of energy metered customers with widely varying use patterns. Edison would then assess imbalance penalties to Choice energy suppliers based on data produced two months after actual usage. *RAST Section 27.2.* Thus, the Edison load profile methodology provides information after the fact and is called a load trailing load profile technique. The Edison sampling meters would provide estimated demand for only three customer classes: residential, commercial single phase and commercial three phase. This actual demand would be used to estimate the specific demand for the numerous specific types of customers below 300 kW. *2 Tr 185.*

C. The New Edison Load Profile Management Service Concept Discussed on Rebuttal

On rebuttal, Edison also stated that it might accept a load leading concept but identified numerous issues to be resolved including an agreement on the means to reconcile imbalances and that a charge structure for this new service be determined by the Commission. *2 Tr 194.*

D. The Energy Michigan Position

1. Choice customers above 20 kW do not need Edison's new load profiling program

Energy Michigan proposes that load profiling not be used for customers with demand above 20 kW. Those customers should continue to use Edison provided demand meters at Edison's current customer charge of \$5.95/month. The demand data produced by these meters would continue to be used to charge for system use and to detect energy imbalances.

2. Energy metered customers below 20kW

Edison's new load profiling system should be rejected for customers below 20 kW.

Energy Michigan witness Polich testified that Edison's method of estimating demand after actual use and then assessing imbalance penalties virtually assures that an AES energy supplier would be out of balance. This is because the AES has to estimate the amount of power that will be used by its customer prior to actual use based on the rate classes usage characteristics and mix of the numerous customers served. Since estimated demand data derived from Edison sampling is supplied long after actual use of an AES load and is divided into only three broad categories which do not correspond directly to any specific type of customer served by an AES, there is likely to be a mismatch between the AES before the fact estimates of power use and Edison's after the fact estimates. *Polich, 2 Tr 270-73*. In other words, if 100% of an AES customer load consists of apartments, the Edison profiles which include a broad range of customers, are unlikely to match the AES load characteristics.

As an alternative, Energy Michigan witness Polich proposed a load leading profile concept under which Edison would be required to install sampling meters for each customer rate schedule class and use the sample data to generate estimated load profiles which would be supplied to each AES on an hourly basis before electric service was used. The profiles would incorporate the specific customer mix served by the AES and would include all transmission and distribution losses. Also, since Detroit Edison currently provides interruptible residential service, load profiles for interruptible or managed AES loads would be provided on request as well. *2 Tr 273*.

This proposal is similar to the load leading profile method used by Consumers Energy and recommended by MPSC Staff. At the end of the month, Edison would compare actual power deliveries to actual consumption of the energy metered customers. If the AES power deliveries followed the estimated load profiles supplied by Edison, differences between the deliveries and actual use would be billed or credited to the appropriate party at the flat rate of \$50/Mwh. Should the AES scheduled deliveries deviate from the provided load profile, the hourly energy imbalances charges and credits would be at the much higher (at least \$100/Mwh) rates contained in Schedule 4 of the OATT. *2 Tr 272-73*. Costs of the proposed

load profile service would be covered by existing Edison system use and customer service charges. *Id*; *Energy Michigan Brief*, p. 8.

E. The PFD

The PFD apparently adopted “Edison's proposed Load Profile Management Service” discussed on rebuttal and adopted the Staff's .46 ¢ /kWh charge structure which was intended to apply to a load leading profile concept which provides profiles before energy use. *PFD*, p. 13. It is not absolutely clear if the PFD adopted the load trailing load profiling proposal presented in Edison's direct case or the broad concepts of the load leading profile methodology which were discussed but not advocated by Edison Rebuttal witness Basso. *2 Tr 194*.

Much like Mr. Polich's proposal, Staff's load leading concept rewards the AES for following the profile and penalizes the AES for failing to follow the profile. *PFD*, p. 11. The PFD rejected Mr. Polich's proposal claiming that while comprehensive, it contained no cost data. *Id.*, p. 13. Thus, the PFD appears to have adopted Edison's load leading profile concept merely discussed on rebuttal together with Staff's load leading profiling fee based on Consumers Energy costs. All of these profile systems would be used to assess energy imbalances for energy metered. customers.

F. Energy Michigan Exceptions

The Energy Michigan Exceptions to the conclusions of the ALJ which deny demand meters to customers from 20 kW through 300 kW are detailed below in Issue #8. Assuming that the Commission rejects Edison's illegal attempt to increase meter and system use charges to customers above 20 kW and allows these customers to continue using demand meters and continue paying the system use charge on a kW of demand basis, there is still need to address the proper means of determining and charging imbalances for energy metered customers below 20 kW.

If the ALJ meant to adopt Edison's direct case advocating load trailing load profiling then

Energy Michigan excepts to adoption of the unfair and technically flawed Edison load profiling system because it is constructed in such a way as to make it difficult or impossible to avoid imbalances. *See discussion of Energy Michigan position in D. above.*

However, if the ALJ meant to adopt the vague load leading concepts presented in Edison witness Basso's rebuttal, then Energy Michigan excepts to this recommendation because a great deal of work still needs to be done.

The evidence of record in this case supports implementation of a load leading concept along the lines utilized by Consumers Energy to determine imbalances for energy metered customers. *See Energy Michigan and MPSC Staff Positions.* Even Detroit Edison has stated that it is not opposed to offering a load leading concept provided that many of its concerns, including imbalance reconciliation and determination of an appropriate fee structure are addressed. *2 Tr 194.* The question remains, what charge to assess for such a service and what conditions to apply?

There is no evidentiary record supporting use of a Consumers Energy charge structure or other terms of service for a roughly comparable but not identical profile management service provided by Detroit Edison. In fact, Energy Michigan has challenged the Consumers load leading cost structure in Case U-12488 regarding the Consumers ROA tariff. *Energy Michigan Brief, U-12488, May 11, 2001, p. 11-14.* In fact, Energy Michigan witness Polich testified that the Consumers charge structure of \$0.0046/kWh made the service unaffordable. *U-12488, 2 Tr 113.*

### Recommendation

Energy Michigan recommends that for customers with less than 20 kW of demand, the current Edison system of estimating demand for balancing purposes should continue in use and the Commission should order proceedings to develop a new load leading profiling service along the lines described by Messrs. Polich, Bailey and Basso. As part of the process, an appropriate cost based charge structure for this new service should be developed and implemented.

PFD Issue # 8: New Detroit Edison Metering, System Use and Power Factor Charges

(RAST Sections 8.7 and 8.8)

A. The Status Quo

The current Electric Choice low voltage charge structure is \$3.42/kW for system use and a customer charge of \$5.95 per month.

Currently Edison low voltage customers with less than approximately 20 kW of demand are energy metered and pay for system use at \$3.42 /kW of estimated demand. Edison uses tables which convert kWh of use into kW of demand to estimate demand for these customers. Low voltage customers greater than 20 kW pay the same customer charge of \$5.95 per month and receive demand recording meters at no additional charge. They pay for system use at the same rate of \$3.42 /kW of demand based on their actual monthly demand as determined by Edison supplied demand recording meters. *Polich, 2 Tr 280, Exhibit I-7.*

B. The Edison Proposal

Edison witnesses proposed to:

1. Eliminate demand metering for all customers below 300 kW.
2. Bill for system use on an energy basis at 3.02 ¢ /kWh instead of the existing \$3.42/kW of demand.
3. Increase meter charges for low voltage customers above 300 kW to \$36 per month (single phase) or \$48 per month (three phase).
4. Implement a new charge structure for power factor.

C. The Energy Michigan Position

Energy Michigan opposed Edison's new charges as rate changes which violate PA 141, § 10d(1) because they increase or change rates for literally all affected customers:

1. The new system use charge increases costs for higher load factor customers (e.g. 80% increase for a 32% load factor customer) to levels that will make competition unaffordable. *Exhibit I-7, p. 1 of 2. See Attachment 1.*
2. New meter charges for customers with more than 300 kW of demand raise rates from \$5.95 to \$36/month single phase or \$48/month (three phase). These charges can increase customer rates by 2.7%-33.6%. *Exhibit I-7, p. 2 of 2.*
3. New power factor charges change rates for all customers who are billed directly for power factor levels. *2 Tr 292.*

D. The PFD

The PFD adopted the new Detroit Edison metering proposal which stops Edison's current practice of providing demand meters for Electric Choice customers with demand of 20 kW to 300 kW at no increased cost and increases metering charges for low voltage customers above 300 kW (from \$5.95/month to \$36/month (single phase) or \$48/month (three phase)). *PFD, p. 17.* The PFD also adopted the new Edison system use charge concept which bills for kWh used instead of per kW of metered demand but approved a rate of 2.88 ¢ /kWh proposed by PSC Staff instead of the 3.02 ¢ /kWh requested by Edison. *Id.*

The PFD failed to address Energy Michigan objections to Detroit Edison's revised power factor charges.

The ALJ based his approval of the Edison rate changes on the grounds that they were reasonable as modified by Staff. The ALJ noted Energy Michigan's objections that the Edison rate increases were prohibited by PA 141 § 10d(1) but determined that the 10d(1) provisions were superceded by Sec.10b(2) of PA 141 which allows a utility to recover all just and reasonable costs incurred in the implementation and administration of rate unbundling. *PF*D, p. 19.

E. Energy Michigan Exceptions

The ALJ erred in approving Edison's new power factor, meter and system use charges because:

1. The Edison rate changes are prohibited by PA 141 § 10d(1)

Edison's proposal to revise system use charges, metering charges and power factor charges are rate changes prohibited by PA 141 § 10d(1).

PA 141 § 10d(1) provides that,

Notwithstanding any other provision of law or Commission order, rates for each electric utility with 1 million or more retail customers established under this subsection become effective on the effective date of the amendatory act that added this section and remain in effect until December 31, 2003 and all other electric retail rates of an electric utility with 1 million or more retail customers authorized or in effect as of May 1, 2000 shall remain in effect until December 31, 2003 unless otherwise reduced by the Commission under subsection (4) [rate reductions of 5% achieved through securitization]. *Emphasis supplied.*

The testimony of Energy Michigan establishes that the Edison proposals for metering, service charges, power factor and power loss all increase rates or at the very least change rates. *2 Tr 280-82, 292-93 and 295.* Edison's own witness Bloch admitted that the



new charge structure would increase costs for higher load factor customers 2 Tr 229. This is a violation of PA 141, § 10d(1).

2. The Edison rate changes are not unbundling

None of Edison's rate charge proposals can be characterized as “costs of unbundling” which are recoverable under PA 141 § 10b(2). The unbundling docket for Detroit Edison is U-12966 and to the extent that Edison ever incurs costs to unbundle its rates and provide a more detailed breakdown of costs and services, Case U-12966 will be forum to recover such costs. In this docket, Detroit Edison has proposed to change rates for the existing Electric Choice services such as metering, system use and power factor. These changes have nothing to do with unbundling which is a process of separately identifying and charging for discrete services. *PA 141 § 10b(2)*. The revision of system use charges from a demand based system to an energy based system is a new concept but is not an unbundling concept. The new meter charges are simple rate increases.

Even if Edison's proposals related to unbundling, the Section 10d(1) freeze would prevail since it is written to apply “notwithstanding any other provision of law or Commission order.”

3. The Edison rate changes are bad public policy

From a policy perspective, the Commission should be aware that the Edison proposals cause large rate increases which will frustrate or destroy competition for the high load factor customers of less than 300 kW who are most likely to use competitive service.

Energy Michigan witness Polich has testified that under Edison's new 3.01 ¢ /kWh system use charge, all customers with load factors greater than 15.6% get rate increase. With the Staff's 2.88¢ charge adopted by the ALJ, all customers with load factors greater than

16.3% get increases. *Energy Michigan Brief, p. 15.* Energy Michigan Exhibit I-7 included below illustrates the magnitude of these increases which will surely discourage or eliminate competition. Using Edison's proposed 3.02 ¢ /kWh charge two example customers with load factors of 21% and 32% receive increases of 18.9% and 82% respectively. With the 2.88 ¢ /kWh charge adopted by the ALJ, the increases would be 15.6% and 75% respectively. *See Attachment 1.*

The proposed new metering charges of \$36 and \$48 per month for meters normally provided at the rate of \$5.95 can cause increases of 33% for smaller customers. *Exhibit A-7, p. 2 of 2.* Thus, unless rejected, these charges could prevent small customers from installing demand meters even if the Edison energy based system use charge concept were rejected.

4. Even Edison admits that changes in rate charges are a violation of PA 141 § 10d(1)

In its Exceptions to the Decision of Law Judge Stump rejecting Edison's unbundling filing, Edison has stated,

Thus, unbundling in the manner contemplated by the ALJ would result in individual customers or subclasses of customers receiving a price increase or decrease. It would be very difficult to incorporate RAST charges within existing bundled tariffs and maintain customer revenue neutrality. Doing so would violate the price freeze and 5% rate reduction mandated by Sec. 10d(1) of Act 141... *Edison Exceptions to PFD in Case U-12966, p. 5, emphasis supplied.*

F. Conclusion

The Commission should reject Edison's proposal to implement new RAST provisions which change metering, system use and power factor provisions. Metering charges for low voltage customers greater than 300 kW are increased. The new system use charge changes rates for literally all customers below 300 kW and greatly increases rates for customers with more than 17% load

factors. The new power factor provisions will change rates for all customers who are directly billed for power factor. All of these results are violations of the PA 141 § 10d(1) rate freeze and should be rejected.

PFD Issue #10: Penalties and Performance Standards

A. Positions of the Parties

1. Edison

Edison claimed that it should only be held responsible for processing failures under its own control and that the time needed by customers to install telephone telemetry services had caused delays which made any specific time frame for commencement of service unrealistic. *Gessner and Newbold Rebuttal, 2 Tr 47, 122-27, PFD, p. 22.*

2. Energy Michigan

Energy Michigan presented testimony describing the numerous problems, unpredictability and failures that have characterized the Detroit Edison Electric Choice enrollment process. *Polich, 2 Tr 240-47.* There is no evidence that these problems have been fixed. *Id, 245.* Energy Michigan witness Schlansker presented a two part solution: First, all telemetry requirements for customers with less than 1,000 kW of capacity should be waived to expedite enrollment. Required demand data to determine system use and imbalances would be obtained using Edison's existing manual read system.

Second, given elimination of customer delays to install telemetry, a deadline should be established requiring commencement of Electric Choice service if enrollment was made no less than 15 days prior to the next meter read date. If actual Choice service could not be commenced in 15 days, the AES would be allowed to deliver power to the Edison system and

the customer would obtain credit from Edison for savings.

3. MPSC Staff

Staff proposed to address delays in Electric Choice enrollment by mandating timely meter reads and providing penalties if those time frames were not met. *PFD*, p. 22.

B. The PFD

The ALJ agreed with Detroit Edison that it should be held responsible for penalty purposes for only the work under its responsibility and control. *PFD*, p. 23. The ALJ adopted a hybrid of the Staff meter read penalty provision with Edison's requested grace period of three days. The ALJ also found that the mandatory telephone telemetry link for customers under 1,000 kW should be eliminated pursuant to Energy Michigan's recommendations. *PFD*, p. 23. Thus, the PFD addressed many issues of the parties but failed to adopt the proposal of Energy Michigan that an overall 15 day deadline should be applied to Electric Choice enrollment.

C. Energy Michigan Exceptions

Energy Michigan excepts to the failure of the ALJ to adopt a 15 day performance standard for processing of Electric Choice enrollments: Edison should be penalized if it does not commence Electric Choice service on the customer's scheduled meter read day where the customer submitted an enrollment no less than 15 days prior to its next meter read date. *Energy Michigan Brief*, p. 10.

The Energy Michigan performance standard can be harmonized with the positions of other parties. Detroit Edison has claimed that an enrollment deadline will be reasonable if it is held responsible for only the enrollment work under its control. *Gessner Rebuttal*, 2 Tr 47; *Newbold Rebuttal*, 2 Tr 122-27; *PFD*, p. 21. Edison identified customer delays in installing telemetry devices as a key factor in delaying enrollment. Detroit Edison has said that it should not be held responsible

for telemetry delays. *Id.* The ALJ's adoption of a waiver of telemetry for the vast majority of Electric Choice installations resolves Edison's primary objection to processing deadlines: that much of the delay is caused by telemetry installation which is under the control of the customer not Edison. *See PFD, p. 23.* Since telemetry would not need to be installed prior to commencement of Choice service for customers with less than 1000 kW demand, Edison can be held responsible for enrollment deadlines because the remaining work to be performed in enrollment: (processing of applications and installation of required meters) is controlled by Detroit Edison.

Staff's meter read deadline requirements should be adopted to further emphasize and complement the need to provide fixed deadlines for Edison to accomplish the Choice enrollment work under its control.

With the elimination of mandatory telemetry for the vast majority of Edison Electric Choice installations and implementation of meter read deadlines, it is practical and equitable for the Commission to adopt Energy Michigan's proposal that Edison either commence actual Electric Choice service on the customer's next meter read date or provide the customer with the economic equivalent where an enrollment has been submitted no less than 15 days prior to the customer's next scheduled meter read date. If Edison cannot physically accomplish all the work to be performed during the 15 calendar day deadline, the Energy Michigan proposal requires Edison to accept power deliveries from the Choice customer's AES and revise the customer's billing to delete energy charges, thus providing the financial equivalent of Electric Choice service even if physical or paperwork requirements cannot be accomplished.

As an alternative compromise, Edison might be allowed to delay installation of telemetry for three months during which time Edison would obtain needed data by timely manual meter reads.

PFD Issue #29: Conditions Precedent (RAST Section 15)

A. PFD

The PFD adopted Sections 15.2 and 15.3 of the RAST which require that all customer metering be in place and functioning properly prior to commencement of Choice service and which allow Edison to enforce “applicable Federal, State or local law or regulations and any applicable administrative or judicial order prior to commencement of service”. *RAST Section 15.2 and 15.3; PFD, p. 33.*

B. Energy Michigan Exception

1. RAST Section 15.2: Meters

Energy Michigan recommended deletion of the Section 15.2 requirement for all metering to be functioning prior to commencement of Choice Service to be consistent with its recommendation that Electric Choice service or its financial equivalent be commenced if enrollment occurs more than 15 days prior to the next meter read date even though Edison has not actually completed all required tasks such as demand meter installations. In such cases, Edison would be required to commence the financial equivalent of ROA even if meters are not functioning service as a means of giving Edison an incentive to process Choice applications in a timely fashion. *Polich, 2 Tr 295.*

As written, RAST Section 15.2 is inconsistent with implementation of mandatory processing deadlines since Edison would be able to frustrate implementation of these deadlines merely by delaying installation of required customer Electric Choice meters. Note that eliminating the telemetry requirement for installations below 1,000 kW will go a long way toward achieving rapid implementation. *Energy Michigan Brief, p. 58.*

2. RAST Section 15.3: Enforcement of local regulations

The RAST Section 15.3 authority for Edison to enforce local and Statewide orders or regulations would include enforcement of local franchise requirements which Detroit Edison is not currently empowered to enforce. The proposed RAST Section 15.3 language would give Edison the opportunity to review court decisions including those which interpret recently enacted 2001 PA 48 (the amendment to PA 141 which declared that AES entities are not public utilities) and potentially determine if an AES was still subject to local franchise requirements.

Allowing Edison to assume the role of “policeman” is an untenable situation for Edison customers and Edison itself. Enforcement of statutes and ordinances should be left to appropriate legal authorities, not to Detroit Edison which can hardly be called an unbiased party.

PFD Issue #22: Meter Costs (RAST Section 2.8.1)

A. PFD

RAST Section 2.8.1 proposed by Edison requires that all customers receiving electric service at 4,800 volts or greater shall be required to install interval demand meters. Energy Michigan recommended that this language be clarified to ensure that meter changes or any new meter installations required by Edison are at Edison's cost, not the customer's. *Polich, 2 Tr 288; Energy Michigan Brief, p. 46.*

The ALJ declined to adopt either the Energy Michigan or Edison proposal and recommended that, “... the Commission order a revision to the metering section which clearly delineates when meter costs are the responsibility of Detroit Edison and when the costs are the responsibility of the customer.” *PFD, p. 37.*

B. Energy Michigan Exception

Energy Michigan excepts to the failure of the ALJ to adopt Energy Michigan's recommendation.

The legal principles are quite clear. The current RAST tariff structure allows Edison to require demand metering for all Choice customers but the current RAST does not allow Edison to require demand meters and then impose additional or new costs for the meters. Energy Michigan witness Polich recommended that RAST language be clarified to ensure that where meter changes were mandated by Edison, they would be at Edison's cost not the customer's. *Polich, 2 Tr 288.*

Also, where Edison requires changes in or wiring of meters, Edison should be required to pay for these changes. (This change was agreed to by Edison in Section 2.6.3 of Exhibit A-2 to the Edison Initial Brief). This is the standard that should be ordered by the Commission in a revision to the metering section. In all other cases, the existing language (not the changed language proposed by Edison in this case) of the RAST should be used which allows Choice customers to obtain required demand meters within the charge structure specified in the current tariff at no additional cost.

PFD Issue #30: Dispute Resolution RAST Section 17 (Retailers) and #31 (Marketers)

A. PFD

Edison proposed new RAST dispute resolution procedures for Alternate Electric Suppliers and marketers. These procedures incorporate use of American Arbitration Association personnel and rules. In the PFD in Case U-12488, Administrative Law Judge Rigas rejected a similar proposal for Consumers Energy. *PFD, July 30, 2001, p. 18-20.* The ALJ in this proceeding adopted Edison's dispute resolution proposal based on his finding that “there may be issues for resolution beyond the jurisdiction of the Commission in which case arbitration may be well suited.” *PFD, p. 44.*



B. Energy Michigan Exception

1. Application to marketers: RAST Section 31

Energy Michigan excepts to the finding of the ALJ which adopted use of alternate dispute resolution procedures, and in particular, the American Arbitration Association procedures. In the first place, the RAST should not be applicable to marketers for the reasons conceded by the ALJ and Detroit Edison as detailed in the remarks of the ALJ regarding the definition of the marketer / Edison relationship in the RAST. There, the Law Judge stated that Detroit Edison notes that its relationship with marketers is governed through FERC jurisdiction and not the Michigan Public Service Commission. *PFD*, p. 3. Based on these statements the ALJ concurred that it was appropriate to remove marketer provisions from the RAST. *Id.* Thus, RAST Section 31 providing dispute resolution procedures for marketers should be deleted.

2. Application to AES: RAST Section 17

Edison defends its proposed RAST Section 17 which provides AES alternate dispute resolution procedures on the grounds that parties must first attempt to use the Public Service Commission but such use would be restricted by Section 17.6 to formal complaints, would exclude informal resolution that often takes place and limits the MPSC role to those matters within the exclusive jurisdiction of the agency. See *new RAST Section 17.6 proposed by Edison.*

Energy Michigan witness Polich testified that under current Edison procedures, an AES may initiate complaints at the MPSC after Edison and the AES have attempted to resolve the matter. This approach provides for a more rapid and economic resolution of issues than use of the Arbitration Association. *2 Tr 295.*

In effect, Edison's proposal would restrict the role of the Commission in dispute resolution compared with the approach currently used by Consumers Energy and recommended by Energy Michigan. A dispute resolution framework using the Public Service Commission without restriction is less cumbersome and expensive than Edison's proposal which drastically limits the ability of the MPSC to resolve disputes. *Energy Michigan Brief, p. 60.*

### III. ISSUES WHICH WERE NOT COVERED BY THE PFD

#### A. Default Transition Charge (RAST Section 4.2)

##### 1. Position of the parties

Detroit Edison proposed new language in RAST Section 4.2 which would require all customers to pay a default transition charge of 1.25 ¢ /kWh on and after January 1, 2002 unless the Commission has adopted some other charge in U-12639. Staff proposed a .5 ¢ /kWh default transition charge unless a Commission decision has been made prior to January 1, 2002. *Bailey, Exhibit S-14.* Energy Michigan recommended that Section 4.2 be modified so that no assumed level of transition charge (Staff or Edison) be authorized. *Energy Michigan Brief, p. 49, Testimony of Richard Polich, 2 Tr 290.* Edison opposed Mr. Polich's recommendations but gave no reason. *Id., p. 50.*

##### 2. PFD

The PFD did not rule on Edison's proposed default transition charge.

##### 3. Energy Michigan Exception

If the Commission does not issue a ruling on stranded cost / transition charges in

Case U-12639 on or before December 31, 2001, Detroit Edison proposes to implement a transition charge of 1.25 ¢ /kWh. Energy Michigan specifically opposed Edison's 1.25 ¢ default transition charge in testimony and on Brief. *Polich, 2 Tr 290, Energy Michigan Brief, p. 49-50*. The potential consequences of this issue are enormous. An unjustified 1.25¢/kWh transition charge could prove fatal to open access economics. Just as damaging, the perception that such a charge would be implemented could stall open access enrollments until such time as the Commission actually issues a ruling on transition charges. Thus, this issue is of major consequence and should have been addressed by the ALJ.

Note that ALJ James Rigas rejected use of default transition charges in his PFD in Consumers Tariff Case U-12488 saying, "Transition charges should be determined by the Commission and not set at a default level without the benefit of cost analysis." *U-12488 PFD, July 30, 2001, p. 32*.

Neither the Edison 1.25 ¢ /kWh charge nor the Staff's .5 ¢ /kWh alternative are supported by competent and material evidence on this record. Only transition charges which are authorized by the Commission should be assessed to customers. *Polich, 2 Tr 290*. The Energy Michigan revisions to RAST Section 4.2 detailed in its Exhibit I-6 which delete reference to implementation of Edison's estimated 1.25 ¢ charge should be adopted .

B. The New Detroit Edison Proposal to Defer Implementation of RAST Changes for 120 Days

1. Position of the parties

In his rebuttal testimony Edison witness Gessner made a new proposal to defer implementation of changes to the RAST to a date at least 120 days after the MPSC order. *Gessner Rebuttal, 2 Tr 39*. Mr. Gessner made no attempt to differentiate simple, RAST revisions from new, complex proposals. Also, Mr. Gessner did not confirm that if Edison's own complex and damaging changes (such as new load profiling measures, energy based

system use charges and removal of metering services) were rejected, that this action by the Commission might not be viewed by Edison as a change which could not be adopted for 120 days.

Energy Michigan opposed Mr. Gessner's proposal to delay RAST changes and recommended immediate adoption of any new RAST measures with the possible exception of those measures requiring installation of new equipment (e.g. load leading profiling for managed load, etc.). For these complicated new programs a delay to 30 to 60 days may be warranted. *Energy Michigan Brief*, p. 33.

## 2. PFD

The PFD did not address Edison's request for a 120 day delay to implement RAST changes.

## 3. Energy Michigan Exception

Energy Michigan excepts to the failure of the ALJ to address and reject Edison's damaging proposal for a four month delay in implementing RAST changes. The Energy Michigan Brief points out that a 120 day delay could push implementation of changes well into the year 2002 causing "...another significant EC program delay in a long series of delays." *Energy Michigan Brief*, p. 33.

In his PFD on Consumers' proposed ROA tariff, ALJ Rigas rejected a similar request for a 120 day delay saying, "...the charges arising out of this proceeding should not give rise to a delay in the implementation of full customer choice beyond January 1, 2002 as required by Act 141." *Case U-12488, PFD, July 30, 2001, p. 39.*

Consider the consequences of Edison's proposal if the Commission adopts a

mandatory enrollment processing deadline as part of a decision in this matter issued in December 2001. Under Mr. Gessner's proposal, the new processing deadline would not be adopted until April 2002 since it changed the RAST. Mr. Gessner and Edison do not differentiate between proposals which change policies or deadlines and those proposals which might involve installation or implementation of new systems, hardware or other long lead time items.

Mr. Gessner's proposal is really a request to defer implementation of Electric Choice by four full months. If Choice is to begin on January 1, 2002, AES entities need clear and timely approval of RAST provisions well before January 1, 2002. A 120 day delay in the RAST will frustrate this goal.

Moreover, the Commission should not lose sight of the fact that Mr. Gessner's brand new proposal for delay was made as part of alleged Rebuttal and thus did not afford parties to this matter the opportunity to respond with opposing testimony or evidence.

The Commission should reject Edison's improperly presented and illogical proposal to delay implementation of RAST changes for 120 days after a Commission order is issued. Instead, as proposed by the Energy Michigan Brief, the Commission should require immediate adoption of its order in this matter with the possible exception of those measures requiring installation of new equipment. For such installations or complicated new programs, a delay of 30 to 60 days may be warranted. *Energy Michigan Brief, p. 33.*

C. Format of Edison's RAST Filing

1. Position of Energy Michigan

Edison's 34 page RAST filing was unmarked and contained no redlining to illustrate changes from the currently effective RAST. *See Case Exhibit A-2.* This proposed tariff was

accompanied by more than 100 pages of testimony which purported to justify the RAST but failed to distinguish between existing and proposed RAST provisions. It is hard to imagine a more confusing and potentially misleading format given the extreme complexity of the filing.

Energy Michigan counsel requested a redlined version of this tariff and was told none was available to illustrate the proposed changes from the current RAST. *Energy Michigan Brief, p. 5.*

Edison's RAST filing places the Commission and participants in this proceeding in an awkward position. Given the significant importance of many so-called minor changes in the RAST, the parties cannot afford to assume that all changes have been identified by Edison or that unidentified changes should be ignored.

Based upon the difficulties created by the format of the Edison filing, Energy Michigan requested that the Commission make a clear statement that any substantive changes to the current, effective RAST are not approved unless the approval is made specific in the language of the order in this matter. If such language is used and Edison believes that the order in this matter does not touch upon all substantive issues which need to be addressed, the Commission should require that parties to this proceeding be allowed to comment on the Edison position as replies to a Petition for Rehearing regarding each issue or point which Edison believes should have been addressed. *Energy Michigan Brief, p.5.*

2. PFD

The PFD did not address this issue.

3. Energy Michigan Exception

Experience with Detroit Edison's slow and frustrating implementation of Choice has shown the importance of even the minor provisions of the RAST. Edison should not be allowed to use its confusing format to create a presumption of approval for scores of hidden and unexplained changes to the current RAST.

Energy Michigan excepts to the failure of the PFD to address its concerns regarding the format of the Detroit Edison RAST filing. Specifically, Detroit Edison should have identified each and every change which it proposed to make to the current RAST tariff. Since Edison chose not to utilize a filing that would identify all changes, the Commission should not adopt the filing subject to specified revisions. Rather, the Commission should adopt positions on the issues raised in this matter and direct that Edison modify its currently effective RAST in accordance with the specific changes adopted by the Commission.

D. Late Payment Charges and Disconnection For Non-Payment: RAST Section 6.2 and 6.4

1. Position of the parties

Energy Michigan took the position regarding RAST Section 19 - Customer Eligibility that Electric Choice customers should not be forced to pay billing items in dispute as a condition of taking Electric Choice service. *RAST Section 2.3*. The ALJ agreed with this position. *PFD, p. 35-36*.

RAST Sections 6.2 and 6.4 allow Edison to bill Electric Choice customers late payment charges of 2% on all unpaid balances and to disconnect Electric Choice customers for non-payment of Edison distribution charges. Energy Michigan witness Polich proposed that RAST Section 6.2 and 6.4 also be revised, consistent with his proposed changes to Section 2.3 so that Electric Choice customers may not be disconnected or subjected to late

payment charges for portions of their Edison distribution service which are in dispute. *Polich, 2 Tr 291; Energy Michigan Brief, p. 51-52.* Edison modified Section 6.4 to make disconnection subject to Edison's own rules and regulation 2.5 but that revision does not clearly prohibit disconnection where a billing dispute has been brought to the MPSC for example.

2. PFD

This issue was not addressed in the PFD

3. Energy Michigan Exception

Energy Michigan excepts to the failure of the ALJ to address its proposal to modify RAST Section 6.2 and 6.4 (payment of arrearage and disconnection for non-payment) to assure that late payment charges and disconnection will not occur regarding amounts of Edison charges which are in dispute by the customer. These changes together with the changes recommended for Section 2.3 will comprehensibly give Electric Choice customers the same right to receive service during a billing dispute with Edison that is granted to sales customers. *Energy Michigan Reply Brief, p. 28.*

E. Edison Complete Billing Option (RAST Section 6.1 and 16.1)

1. Position of the parties

The initial tariff submission of Detroit Edison included RAST Section 6.1 which described two billing options provided by Detroit Edison: complete billing of both AES energy and Edison distribution charges by Edison or separate billing by Edison and the electric supplier of their respective charges. Also, Section 16.1 described the services and specific charges which would be levied by Edison to provide complete billing to an AES



entity. Energy Michigan witness Richard Polich recommended striking most of the language in Section 6.1 which describes Edison's complete billing option since the option is a competitive service which may be offered in the open market but as such should not be described in an official tariff. Mr. Polich stated that including Edison's complete billing option in the tariff provides Edison with a competitive edge. *Polich, 2 Tr 291, Energy Michigan Brief, p. 51.* As to Section 16.1, Energy Michigan made essentially the same recommendations for deletion by referring the ALJ to the comments on RAST Section 6 above. *Energy Michigan Brief, p. 59.*

In its Brief, Detroit Edison revised Section 6.1 by removing most language referencing complete billing but did not alter Section 16.1 which described the complete billing services and prices in great detail. In response to this development, the Energy Michigan Reply Brief concurred with Edison's modifications of Section 6 to remove references to complete billing but objected to retention in Section 16.1 which also describes complete billing detailed services and prices stating that this was inappropriate and anti-competitive. *Energy Michigan Reply Brief, p. 33.*

## 2. The PFD

The PFD did not address the retention of Edison complete billing pricing and details in Section 16.1.

## 3. Energy Michigan Exceptions

Energy Michigan excepts to the failure of the ALJ to order that Section 16.1 of the RAST be revised to strike all complete billing service detail set forth in four subparagraphs. As amended, Section 6.1 no longer contains a discussion or even offering of the complete billing service option. Section 16.1 should also be amended to remove reference to complete billing for the reasons stated by Mr. Polich above. Edison is given a competitive advantage

in offering complete billing within the tariff which is reviewed by virtually all suppliers and customers. Edison's competitors do not have the same advantage. For these reasons, Section 16.1 should be stricken.


#### V. CONCLUSION AND REQUEST FOR RELIEF

WHEREFORE, Energy Michigan respectfully requests that the Commission adopt a decision in this matter containing its exceptions to the PFD as more fully detailed above.

Respectfully submitted,

VARNUM, RIDDERING, SCHMIDT & HOWLETTLLP  
Attorneys for Energy Michigan

October 2, 2001

By:   
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**Economic Impact of Detroit Edison Rate Change  
SWITCHING TO ENERGY ONLY CHARGE**

Case No: U-12489  
 Exhibit: EM-\_\_\_\_\_(RAP-3)  
 Witness: RAPolich  
 Date: February 2001  
 Page: 1 of 2

The following is based upon actual bills from September-October 2000 billing cycle for Open Access Customers:  
 Customer Account Number 000097402

**OPEN ACCESS DISTRIBUTION CHARGES UNDER CURRENT RATES**

	Billing Determinates	Rate	Charge	Total
1	(a)	(b)	(c)	
2	Service Charge	\$5.95	\$5.95	
3	System Use Charge	\$3.42	\$6.84	
4	Nuclear Decommissioning Charç	309 KWh \$0.001234	\$0.38	
5	Michigan Sales tax		\$0.79	
6	<b>TOTAL DETROIT EDISON CHARGES</b>		<b>\$13.96</b>	
7				

**OPEN ACCESS DISTRIBUTION CHARGES BASED ON PROPOSED RATES**

	Billing Determinates	Rate	Charge	Total
	(d)	(e)	(f)	
	Service Charge	\$5.95	\$5.95	
	System Use Charge	309 KWh \$0.030200	\$9.33	
	Nuclear Decommissioning Charç	309 KWh \$0.001234	\$0.38	
	Michigan Sales tax		\$0.94	
	<b>TOTAL DETROIT EDISON CHARGES</b>		<b>\$16.60</b>	
	<b>TOTAL INCREASE</b>		<b>\$2.64</b>	
	<b>PERCENT INCREASE</b>			<b>18.9%</b>

Customer Account Number 000097006

**OPEN ACCESS DISTRIBUTION CHARGES UNDER CURRENT RATES**

	Billing Determinates	Rate	Charge	Total
1	(a)	(b)	(c)	
2	Service Charge	\$5.95	\$5.95	
3	System Use Charge	\$3.42	\$34.20	
4	Nuclear Decommissioning Charç	2,301 KWh \$0.001234	\$2.84	
5	Michigan Sales tax		\$2.58	
6	<b>TOTAL DETROIT EDISON CHARGES</b>		<b>\$45.57</b>	
7				

**OPEN ACCESS DISTRIBUTION CHARGES BASED ON PROPOSED RATES**

	Billing Determinates	Rate	Charge	Total
	(d)	(e)	(f)	
	Service Charge	\$5.95	\$5.95	
	System Use Charge	2301 KWh \$0.030200	\$69.49	
	Nuclear Decommissioning Charç	2,301 KWh \$0.001234	\$2.84	
	Michigan Sales tax		\$4.70	
	<b>TOTAL DETROIT EDISON CHARGES</b>		<b>\$82.98</b>	
	<b>TOTAL INCREASE</b>		<b>\$37.41</b>	
	<b>PERCENT INCREASE</b>			<b>82.1%</b>

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

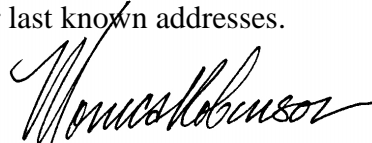
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In the matter of the rates, terms, and )  
conditions for retail customers of )  
**THE DETROIT EDISON COMPANY** for )  
to choose an alternative electric supplier. )  
\_\_\_\_\_ )

Case No. U-12489

**PROOF OF SERVICE**

Monica Robinson, duly sworn, deposes and says that on the 2nd day of October, 2001 she served Energy Michigan's Exceptions to Proposal For Decision upon the individuals listed on the attached service list by e-mail and regular mail at their last known addresses.



\_\_\_\_\_  
Monica Robinson, Deponent

Subscribed to and sworn before me  
this 2nd day of October 2001.



Eric J. Schneidewind, Notary Public  
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Acting in Ingham County, Michigan  
My Commission Expires: April 24, 2006

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