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ERIC J. SCHNEIDEWIND

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November 1, 2002

Ms. Dorothy Wideman
Michigan Public Service Commission
6545 Mercantile Way
P.O. Box 30221
Lansing, MI 48909

Re: Case No. U-13286

Dear Ms. Wideman:

Enclosed for filing in the above captioned matter please find the original and four copies of Energy Michigan's Exception 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 & HOWLETTLLP

Eric J. Schneidewind

EJS/mrr

cc: ALJ
parties

STATE OF MICHIGAN
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of the Application of)	
THE DETROIT EDISON COMPANY)	Case No. U-13286
to unbundle its retail electric rates.)	
_____)	

EXCEPTION TO PROPOSAL FOR DECISION

Following is the Exception of Energy Michigan, Inc. (Energy Michigan) to the Proposal for Decision (PFD) issued October 18, 2002 by Administrative Law Judge (ALJ) Barbara Stump. Failure to except to any other positions or recommendations in the Proposed Decision should not be taken as agreement with those positions.

The Edison Request for a Transmission Surcharge Should Be Rejected
as a Violation of the PA 141 Rate Freeze

1. The Position Adopted in the PFD

The Administrative Law Judge adopted the Detroit Edison (Edison) proposal to implement a mechanism to raise and lower transmission service charges. The ALJ reasoned that since Edison initially proposes to offset the charge and because unbundled transmission charges are subject to FERC jurisdiction, the PA 141 rate freeze provided in Section 10d(10) does not apply. *PFD.*, p. 15-17.

2. Energy Michigan Exception: Edison's Proposed Transmission Charge Violates PA 141

a. MPSC Jurisdiction

This issue involves a Detroit Edison proposal to unbundle retail electric rates. This case does not involve unbundled retail transmission service.

Moreover, Edison has acknowledged that FERC has not implemented jurisdiction over the transmission component of bundled retail electric rates. *PF*D, p. 16.

Given these facts, the MPSC has jurisdiction over Edison's request to impose a new transmission system charge whether that charge is offset or not.

b. The New Transmission Charge Violates PA 141

PA 141 § 10d(1) effectively freezes all Detroit Edison rates through December 31, 2003. Despite the proposal of Edison witness Musial to implement a cost adjustment mechanism to raise or lower transmission charges and to initially offset any charges, Edison has not made the case that such charges would be permanently offset and thus would be excluded from the scope of PA 141, § 10d(1). *2 TR 43*. Specifically, Detroit Edison has experienced many changes in cost during the PA 141 rate freeze. Some costs such as interest rates and certain fuel components have undoubtedly decreased during the freeze. Other costs have increased. However, the freeze does not allow Detroit Edison to pass along the cost of increases to its customers, either retail or Electric Choice during the rate freeze period. Also, Edison admits that the FERC has not yet implemented jurisdiction over the transmission component of retail rates. *Edison Brief*, p. 10. Until FERC acts, preemption has not and cannot occur.

c. Transmission cost Increases May Be Recoverable Under PA 141 § 10d(3)

Section 10d(3) of PA 141 offers Detroit Edison the opportunity to request accrual and deferral of any costs mandated by federal or state action. If Edison believes that these transmission costs are mandated by federal action, Section 10d(3) provides an avenue to recover these costs in a time frame when they will be applicable to all retail and Electric Choice customers rather than falling exclusively on Electric Choice customers. Edison

witness Musial has admitted as much in his direct testimony where he states, "In the absence of Commission authority to recover increased transmission related costs during the rate freeze period, the Company will defer these costs for future recovery pursuant to 2000 PA 141." 2 TR 43.

Relief

WHEREFORE, Energy Michigan respectfully requests that the Commission reject the portions of the PFD which recommend implementation of a new transmission charge.

Respectfully submitted,

VARNUM, RIDDERING, SCHMIDT & HOWLETT LLP
Attorneys for Energy Michigan, Inc.

November 1, 2002

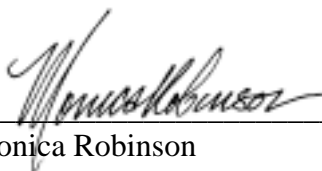
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PROOF OF SERVICE

Monica Robinson, duly sworn deposes and says that on this 1st day of November 2002 she served a copy of Energy Michigan, Inc.'s Exception to Proposal for Decision upon those individuals listed on the attached service list by e-mail and regular mail at their last known addresses.



Monica Robinson

Subscribed to and sworn before me
this 1st day of November, 2002.


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

SERVICE LIST- U-13286

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