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November 25, 2009

Ms. Mary Jo Kunkle
Michigan Public Service Commission
6545 Mercantile Way
P.O. Box 30221
Lansing, MI 48909

Re: Case No. U-15768

Dear Ms. Kunkle:

Attached for paperless electronic filing is the Exception of Energy Michigan, Inc. Also attached is the original Proof of Service indicating service on counsel.

Thank you for your assistance in this matter.

Very truly yours,

VARNUM, LLP

Eric J. Schneidewind

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cc: ALJ
parties

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of THE DETROIT EDISON COMPANY for authority to increase its rates, amend its rate schedules and rules governing the distribution and supply of energy.	))))))	Case No. U-15768

EXCEPTION OF ENERGY MICHIGAN, INC.

I. Introduction and Summary of Position

A. Introduction.

This Exception to the Proposed Decision of Administrative Law Judge Barbara Stump ("ALJ") in Case U-15768 issued November 10, 2009 ("PFD") is filed on behalf of Energy Michigan, Inc. ("Energy Michigan") by Varnum, LLP. The Exception responds to a Proposed Decision contained in the PFD. Failure to respond to other Proposed Decisions in the PFD should not be construed as agreement with those Proposed Decisions.

B. Summary of Position.

The ALJ proposed adoption of a Revenue Decoupling Mechanism ("RDM") if the Michigan Public Service Commission ("Commission") determines that the record contains sufficient evidence.

The ALJ's proposed RDM, which is based on MPSC Staff Testimony, works contrary to traditional ratemaking procedures and therefore would produce volatile and unpredictable rates varying significantly from case to case. The ALJ's RDM could also award incentives or adjustment revenue to Detroit Edison even if the utility experiences sales greater than rate case projections.

While Energy Michigan neither supports nor opposes RDMs, it urges the Commission to incorporate the following principles into any RDM which it chooses to adopt based on either MPSC Staff or Detroit Edison Company ("DTE") Testimony:

1. Use separate adjustments for power supply and distribution charges. Electric Choice customers should only pay RDM adjustments related to distribution costs.

2. Calculate RDM adjustments on a total company basis not a rate class basis. This step will harmonize any RDM adjustments with the ratemaking process.

3. Limit sales decreases upon which the RDM rate adjustment is based to the actual decrease in sales that the utility has experienced.

Detailed Discussion

II. Energy Michigan Exception: The ALJ's RDM Proposal Should Modified.

A. The PFD Adopted the MPSC Staff RDM.

The ALJ took note of a Commission finding in Case U-15645 that the Commission has authority to adopt an RDM and an associated finding that the record was sufficient to support that conclusion. Based on these findings the Commission chose to establish a pilot decoupling mechanism for Consumers Energy. Order U-15645, November 2, 2009, p. 52. PFD p. 100-01.

The ALJ agreed with ABATE, however, that the record in Case U-15768 does not include any analysis of the potential rate impacts on all classes of customers as required by Act 295. The ALJ found that there was no analysis as to whether decoupling of electric rates is likely to be cost effective or is likely to reduce overall consumption of fossil fuels. On this basis the ALJ concluded that the required evidentiary record does not exist to approve an RDM. Nonetheless, the ALJ determined that if the Commission found the record adequate to support adoption of an RDM that a proposal based on Staff's presentation should be adopted. In making that finding she agreed with Staff, ABATE, Kroger and Energy Michigan that any RDM adjustment should focus solely on sales decreases attributable to the impact of Commission approved Energy Optimization programs. PFD, p. 101-02.

The ALJ rejected the DTE RDM on the basis of MPSC Staff criticism "…. [the DTE RDM] decouples all sales losses, so the mechanism insulates the Company from sales losses that are not related to increased energy efficiency." Id.

Instead the Staff proposed RDM adopted by the ALJ contains separate adjustments applicable to bundled and ROA customers. The Staff mechanism adjusts rates on a rate class basis rather than a total Company basis, and provides adjustments for projected or estimated energy optimization sales reductions regardless of the actual total sales of the utility. 7 TR 1538-49.

B. Energy Michigan Exception to the PFD: The ALJ's RDM Proposal Should Be Modified.

Energy Michigan neither supports nor opposes implementation of RDMs as a concept. However, Energy Michigan believes that the RDMs proposed by both Detroit Edison and by the ALJ should be modified. Energy Michigan urges that the three features of a technically accurate RDM described below be incorporated into any RDM adopted by the Commission.

1. An RDM should contain separate adjustments for power supply and distribution costs.

The Edison Brief was silent on the issue of whether their proposed RDM would provide that Choice customers only pay for distribution related adjustments. The Staff RDM provides that Electric Choice customers would only pay for distribution related adjustments. Ozar, 7 Tr 1546.

Energy Michigan Witness Alexander Zakem presented Direct Testimony supporting the need for separate power supply and distribution RDM adjustments. Zakem, 5 Tr 434-36.

Mr. Zakem testified that the number of customers is different for full service and for Electric Choice service. Therefore, the amount of sales and revenue would differ for recovery of generation related costs (only purchased by full service customers) and distribution service costs (recovered from all customers, both Electric Choice and full service).

To ensure an accurate match of costs and cost recovery, the Commission must separate utility RDM charges into the distribution related charges – which can be recovered from all customers including Electric Choice because distribution service is used by all customers – and generation related charges which recover costs related to services used only by bundled service DTE customers. Energy Michigan Initial Brief, p. 3.

Evidently, DTE agrees with this position because two Discovery Responses provided by DTE (EMDE-1.07/21 and EMDE-1.08/22) to Energy Michigan state that Electric Choice customers would only be surcharged or credited under an RDM adjustment program based on distribution costs not generation costs. Exhibit EM-4. From this evidence, DTE appears to agree both with Mr. Zakem and with the Testimony of MPSC Staff Witness Robert Ozar that Electric Choice and bundled customers should be billed using separate charges. Id.

<u>There are no other positions on the record relating to the use of separate RDM surcharges for Electric Choice and for bundled customers.</u> The Energy Michigan Testimony and Brief supporting that position should be adopted since it is both reasonable and unopposed.

2. RDM adjustments should be calculated and implemented on a total Company basis, not by means of the individual charges for each rate class which were proposed by MPSC Staff.

The Energy Michigan Initial Brief thoroughly discusses the technical reasons that any RDM adjustment must be implemented on a total Company basis and why implementation on a rate class basis works in opposition to the Cost of Service rate adjustment mechanism applied in ratemaking proceedings. Energy Michigan Initial Brief, p. 4-7. These reasons are summarized below.

Energy Michigan Witness Zakem explained that the RDMs proposed by Detroit Edison and Staff raise rates for individual classes as sales fall or lower those rates when sales increase. However, in traditional ratemaking, Cost of Service rate adjustments also *reduce* cost responsibility as sales, and thus revenues, fall per class and transfer this responsibility to other rate classes. Zakem, 5 TR 437-40. Exhibits EM-2 and EM-3 introduced by Mr. Zakem illustrate this effect. Mr. Zakem proposed an alternative method to recover RDM adjustments on a total Company basis. Id., Tr 440-42. Recovery of adjustments would be by means of equal surcharges or credits on a total Company basis which would work in parallel with, not in opposition to, regular ratemaking processes. Zakem, 7 Tr 441-42, Exhibits EM-2, EM-3.

By working in parallel with traditional ratemaking mechanics, the Energy Michigan proposal would produce both rate stability and rate certainty as opposed to the significant potential volatility and unpredictability produced by the Staff and Detroit Edison approaches.

Mr. Zakem testified that under the Detroit Edison approach of adjusting rates by class, if sales decreased for Customer Class A by 20% but did not decrease for Customer Class B, Customer Class A with the 20% sales decrease would experience a 25% rate increase with Class B showing no increase at all. These changes would cause total Company rates to increase by approximately 11%. However, under traditional ratemaking, the 20% lower sales in Customer Class A would result in a lower allocation of cost responsibility to Class A, and other customer classes with unchanged sales would find their allocation increased. The result of traditional ratemaking – under which both sales *and* corresponding cost responsibility are assigned to rate classes – would be that all customers would pay higher rates by approximately 11% to reflect the reallocation of cost between classes due to lower sales in Class A. See Exhibit EM-2. <u>Thus there is evidence of record that the MPSC Staff RDM adjustment mechanisms (and those of DTE) using rate classes rather than total Company adjustments not only work in opposition to traditional ratemaking but because of that fact would produce volatility and unpredictability.</u>

3. RDM adjustments should be limited to actual, not estimated, increases in sales levels compared to ratemaking projections.

MPSC Staff proposed to award RDM compensation based on estimated EO impacts on sales even if utility sales do not decrease as much as the estimated impact of EO program. Staff Brief, p. 106.

Energy Michigan Witness Zakem testified that if the Commission implements an RDM in this proceeding that is based on sales decreases attributed to an Energy Optimization ("EO") program then the sales decrease upon which an RDM rate adjustment is based should be limited by the actual decrease in sales that the utility has experienced. Zakem, 5 Tr 445. In other words, if Detroit Edison rates are based on 50 million MWh of sales and 48 million MWh are actually delivered by the utility, the RDM adjustment would be based on a 2 million MWh *actual* reduction even if the Detroit Edison EO programs were *estimated* to produce 5 million MWh of sales reductions. Energy Michigan Initial Brief, p. 8.

Mr. Zakem stated that the intent of RDM mechanisms "is to collect the fixed costs as authorized in the previous rate case given the actual sales level that has subsequently occurred - to collect for any actual under recovery and refund any actual over recovery. The intent is not to collect fixed costs commensurate with an estimated or imputed sales level that would have occurred in the absence of an EO program." Zakem, Id, Tr 444. The Zakem proposal would still allow the utility to collect the full amount of its investment-related revenues authorized for ratemaking purposes, but would limit over-collection.

The Staff approach creates an opportunity for DTE to over-collect: first to collect from actual sales the full amount of fixed costs for ratemaking purposes, and second to collect an RDM adjustment for estimated – but not incurred – EO sales losses for which there were no revenue losses because the estimated sales losses did not in fact happen. Energy Michigan Initial Brief, p. 9.

III. Summary and Prayer for Relief

WHEREFORE Energy Michigan respectfully requests that if the Commission adopts a Revenue Decoupling Mechanism, that mechanism should be required to:

A. Use separate RDM adjustments for power supply and distribution, billing Electric Choice customers only for distribution adjustments;

B. Calculate RDM adjustments on a total Company basis rather than by rate class; and

C. Limit use of adjustments to situations where actual sales are less than the sales projections used for ratemaking purposes.

Respectfully submitted,

Varnum, LLP
Attorneys for Energy Michigan, Inc.

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November 25, 2009 By: ______________________________

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Distribution Charges Net of GEI Credit
from
CE Compliance Filing

Line No.		(a) Rate GS	(b) Rate GSD	(c) Rate GP	(d) Rate GPD
	Bundled				
1.	Distribution charge $/kWh	$ .036726	$ .018620	$ .026238	$ .008027
2.	Education GEI delivery credit	- .009469	- .009469	- .006999	- .006999
3.	Net distribution per kWh (= L1 – L2)	.027257	.009151	.019239	.001028
	ROA				
4.	Distribution charge $/kWh	.030447	.015071	.015571	.004038
5.	Education GEI delivery credit	- .004864	- .004864	- .002430	- .002430
6.	Net distribution per kWh (= L4 – L5)	.025583	.010207	.013141	.001608
7.	ROA Net less Bundled Net (= L6 – L3)	- .001674	**+ *.001056***	- .006098	**+ *.000580***

Net Distribution for ROA is <u>greater</u> than Net Distribution for Bundled.

Source:
U-15645, Exhibit A Final, Schedule F3:
-- GS, p. 3 of 11
-- GSD, p. 4 of 11
-- GP, p. 5 of 11
-- GPD, pp. 6-7 of 11.

Cost of Service Comparison
Regular Bundled Rate
vs.
Educational Rate

Line No.		(a) Rate GS	(b) Rate GSD	(c) Rate GP	(d) Rate GPD
	Bundled COS -- ¢/kWh				
1.	Production	7.8	7.3	7.1	6.2
2.	Distribution	4.1	***2.2***	***1.4***	***0.7***
3.	Total	11.9	9.5	8.5	6.9
		Rate GS GEI	**Rate GSD GEI**	**Rate GP GEI**	**Rate GPD GEI**
	GEI COS -- ¢/kWh				
4.	Production	5.8	5.4	6.1	4.7
5.	Distribution	2.3	***2.2***	***1.5***	***1.1***
6.	Total	8.1	7.6	7.6	5.7

GEI cost-of-service for distribution is greater than or equal to regular rate cost-of-service, for rates GSD, GP, and GPD.

Source:
Staff COSS for U-15645 Order, Excel file:
-- "Prod" tab, line 1643, Rev Req per kWh
-- "Dist" tab, line 1643, Rev Req per kWh
-- "Total" tab, line 1643, Rev Req per kWh.

Energy Michigan
Exhibit EM-3

Re-Design of ROA GEI Credits for Distribution for rates GS & GSD and rates GP & GPD

Re-design the single GEI distribution credit into two separate credits, according to the following two conditions:

(1) The ratio of the two credits should be the same as the ratio of the respective distribution cost-of-service.

(2) The two credits, when multiplied by the associated kWh, should give the same total revenue as the compliance filing design revenue.

<u>ROA GEI Credit for Rates GS and GSD</u>

(1) GS/GSD = 2.3 / 2.2

(2) 22893 MWh x GS + 70370 MWh x GSD = $110 + $342

Simultaneous solution:
GS credit = $0.005022
GSD credit = $0.004804

<u>ROA GEI Credit for Rates GP and GPD</u>

(1) GP/GPD = 1.5 / 1.1

(2) 4554 MWh x GP + 283960 MWh x GSD = $11 + $690

Simultaneous solution:
GP credit = $0.003294
GSD credit = $0.002416

Sources:
-- GS,GSD,GP,GPD distribution COS from Exh EM-2.
-- MWh and $ from U-15645, Exhibit A Final,
Schedule F-3, pp. 3-7 of 11.

Distribution Charges Net of GEI Credit
with
Energy Michigan Proposed Solution

Line No.		(a) Rate GS	(b) Rate GSD	(c) Rate GP	(d) Rate GPD
	Bundled				
1.	Distribution charge $/kWh	$ .036726	$ .018620	$ .026238	$ .008027
2.	Education GEI delivery credit	- .009469	***- .004804***	***- .003294***	***- .002146***
3.	Net distribution per kWh (= L1 – L2)	.027257	.013816	.022944	.005611
	ROA				
4.	Distribution charge $/kWh	.030447	.015071	.015571	.004038
5.	Education GEI delivery credit	- .005022	***- .004804***	***- .003294***	***- .002416***
6.	Net distribution per kWh (= L4 – L5)	.025425	.010267	.012277	.001622
7.	ROA Net less Bundled Net (= L6 – L3)	- .001832	- .003549	- .010667	- .003989

Energy Michigan proposed GEI credits

Net Distribution for ROA is less than than Net Distribution for Bundled for all rates.

Sources:
-- Energy Michigan proposed credits from Exh. EM-3.
-- Other numbers from Exh. EM-1.

Energy Michigan
Exhibit EM-5

Education Rate GEI Credits
from
Compliance Filing

Line No.		(a) GEI Production Credit	(b) GEI Delivery Credit
	Bundled Rates		
1.	GS	.010591	.009469
2.	GSD	.010591	.009469
3.	GP	.015786	.006999
4.	GPD	.015786	.006999
	ROA Rates		
5.	GS	n/a	.004864
6.	GPD	n/a	.004864
7.	GP	n/a	.002430
8.	GPD	n/a	.002430

Identical GEI credits for two different rates

Source:
U-15645, Exhibit A Final, Schedule F3:
-- GS, p. 3 of 11
-- GSD, p. 4 of 11
-- GP, p. 5 of 11
-- GPD, pp. 6-7 of 11.

Energy Michigan
Exhibit EM-6

Comparison of Seasonal Contribution to Fixed Charges for Education Rates from Compliance Filing

Line No.		(a) Summer	(b) Winter
	Rate GS		
1.	Power Supply rate	.085290	.074225
2.	Less PSCR base	- .048660	- .048660
3.	Less GEI credit (Prod)	- .010591	- .010591
4.	= Contribution to Fixed Costs	.026039	.014974
5.	Contribution in cents/kWh	***2.60 ¢***	***1.50 ¢***
	Rate GP		
6.	Power Supply rate	.077640	.067291
7.	Less PSCR base	- .048660	.- 048660
8.	Less GEI credit (Prod)	- .015786	- .015786
9.	= Contribution to Fixed Costs	.013194	.002845
10.	Contribution in cents/kWh	***1.32 ¢***	***0.28 ¢***

Unbalanced contributions to fixed costs: Average winter contribution is significantly less than summer contribution.

Sources:
Rates from U-15645, Exhibit A Final, Schedule F3:
-- GS, p. 3 of 11
-- GP, p. 5 of 11.
PSCR base from U-15645 Final Order.

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of The Detroit Edison Company for authority to increase its rates, amend its rate schedules and rules governing the distribution and supply of electric energy. ________________________________	)))))))	Case No. U-15768

PROOF OF SERVICE

Monica Robinson, duly sworn, deposes and says that on this 25th day of November, 2009 she served a copy of the Exception of Energy Michigan, Inc. upon those individuals listed on the attached service list by e-mail and regular mail at their last known addresses.

Monica Robinson

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Monica Robinson

Subscribed and sworn to before me
this 25th day of November, 2009

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Eric J. Schneidewind, Notary Public
Eaton County, Michigan
Acting in Ingham County, Michigan
My Commission Expires: April 24, 2012.

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