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October 2, 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 Reply Brief 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

EJS/mrr

cc: ALJ
parties

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 energy.)
_____)

Case No. U-15768

REPLY BRIEF OF ENERGY MICHIGAN, INC.

I. Introduction and Summary of Position

A. Introduction.

This Reply Brief is filed on behalf of Energy Michigan, Inc. ("Energy Michigan") by Varnum, LLP. The Reply Brief responds to arguments or positions contained in the Initial Briefs of MPSC Staff and Detroit Edison Company ("Detroit Edison" or "DTE"). Failure to respond to issues or positions raised in the Initial Briefs of other parties should not be construed as agreement with those issues or positions.

B. Summary of Position.

The Revenue Decoupling Mechanisms ("RDM"s) proposed by Detroit Edison and MPSC Staff should be rejected or modified

The RDM proposed by Detroit Edison works contrary to revenue and rate base allocation procedures contained in the ratemaking process. The Edison RDM will produce volatile and unpredictable rates. The proposed RDM also does not clearly state that separate adjustments should be used for power supply and distribution charges. This defect creates the potential for imposing inappropriate generation related costs on Electric Choice customers. Finally, Detroit

Edison's RDM proposal effectively insulates the utility from variations in revenue due to economic conditions.

The MPSC Staff RDM, like the DTE RDM proposal, works contrary to traditional ratemaking procedures and therefore would produce volatile and unpredictable rates varying significantly from case to case. Staff's RDM could 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 apply the following principles if it chooses to adopt an RDM.

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. The MPSC Staff and Detroit Edison RDMs Should Be Rejected As Proposed.

A. Position of Parties.

1. Detroit Edison position.

Detroit Edison proposes an RDM which establishes a target revenue requirement for each major customer class equaling total class revenue requirement less class PSCR revenue and other surcharges. The established revenue requirement is then divided by class

kilowatt hours to derive a net average approved price. This average price is then compared with actual class revenue per kilowatt hour. If the recovered revenue is less than the target established, the members of the class are assessed a surcharge to make up the difference.

Detroit Edison claims that the proposed RDM will "remove the link between energy sales and utility revenues and profits thereby removing the economic disincentive to encourage energy efficiency." Detroit Edison Brief, p. 75-77. The Detroit Edison position does not clearly state that separate generation and distribution RDM adjustments would or would not be made.

2. MPSC Staff position.

The MPSC Staff position offered through Witness Ozar opposes the Detroit Edison RDM "because it decouples all sales losses, so the mechanism insulates the Company from sales losses that are not related to increased energy efficiency." Staff Brief, p. 106.

Instead, Staff proposes an RDM which 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. Ozar, 7 Tr 1538-49.

3. Kroger position.

Kroger opposes both the MPSC Staff and Detroit Edison RDMs. Kroger states that the effect of the Detroit Edison RDM is that rates would be adjusted by the proposed RDMs for any reason including economic conditions and thus insulate Detroit Edison from the economic circumstances currently prevailing in Michigan. Kroger Brief, p. 9. Kroger states that both Detroit Edison and MPSC Staff proposed RDMs would work in opposition to the cost allocation processes used in traditional ratemaking. Also the DTE

RDM would allow Detroit Edison to keep increased revenues due to weather conditions but would pass on revenue declines due to economic conditions. Kroger Brief, p. 10.

4. ABATE

ABATE opposes RDMs offered by MPSC Staff and Detroit Edison on the grounds that these RDMs are not accompanied by an analysis of the rate impact which would be produced. ABATE Brief, p. 16. Moreover, ABATE states that the proposed Detroit Edison and Staff RDMs should be rejected because they:

- a. Are a departure from traditional ratemaking principles.
- b. Frustrate the voluntary efforts of customers to reduce energy consumption.
- c. Transfer traditional utility business risk to customers.
- d. Create unnecessary rate volatility and uncertainty.
- e. Expose customers to potentially large rate surcharges at a time of severe economic recession. ABATE Brief, p. 17.

5. Constellation NewEnergy

Constellation NewEnergy ("CNE") opposes the Detroit Edison RDM and states that if the Commission decides to adopt an RDM it should approve the framework proposed by Energy Michigan. CNE Brief, p. 6. CNE explains that the Energy Michigan proposals ensure that Electric Choice customers using only distribution service would pay only a distribution related RDM and that the Detroit Edison proposal does not contain this feature. Id.

B. Energy Michigan Reply to DTE and MPSC Staff RDM Proposals.

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 MPSC Staff are flawed and should not be adopted as proposed. Instead, Energy Michigan urges that the

three features of a technically accurate RDM described below be incorporated into the final position adopted by the Commission if an RDM is implemented.

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

The Edison Brief is 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.

There are no other positions on the record relating to the use of separate RDM surcharges for Electric Choice and for bundled customers. 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 individual charges for each rate class.

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 lower 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. Thus there is evidence of record that the Detroit Edison and MPSC Staff adjustment mechanisms 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.

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

MPSC Staff proposes 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 is actually received by the utility, the RDM adjustment would be based on a 2 million MWh 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 limit the utility to adjustments that allow it to collect the full amount of its investment for ratemaking purposes.

The Staff approach creates an opportunity for DTE to over-collect: first to collect the full amount of fixed costs for ratemaking purposes, and second to collect an RDM adjustment for sales losses that are fully compensated when the utility sold the full amount of power assumed to be necessary for full collection under traditional ratemaking. 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,

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October 2, 2009

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STATE OF MICHIGAN

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In the matter of the application of)
The Detroit Edison Company for)
authority to increase its rates,)
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Case No. U-15768

PROOF OF SERVICE

Monica Robinson, duly sworn, deposes and says that on this 2nd day of October, 2009 she served a copy of the Reply Brief 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

Subscribed and sworn to before me
this 2nd day of October, 2009

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

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