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December 20, 2019

Ms. Lisa Felice
Executive Secretary
Michigan Public Service Commission
7109 W. Saginaw Highway
P.O. Box 30221
Lansing, Michigan 48909

Re: MPSC Case No. U-20359

Dear Ms. Felice:

Attached in the above-referenced matter, please find Energy Michigan, Inc.'s Initial Brief, which has been served on all interested parties, and Proof of Service. Thank you for your assistance in this matter.

Sincerely yours,
VARNUM

Timothy J. Lundgren

TJL/sej
cc:
Parties

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of)
Indiana Michigan Power Company)
for authority to increase its rates for the)
sale of electric energy and for approval)
of depreciation rates and other related)
matters.)
_____)

Case No. U-20359

INITIAL BRIEF

OF

ENERGY MICHIGAN, INC.

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INITIAL BRIEF OF ENERGY MICHIGAN, INC.

I. INTRODUCTION

This Initial Brief is filed on behalf of Energy Michigan, Inc. (“Energy Michigan”) by its attorneys, Varnum LLP. Failure to address any issues or positions raised by other parties should not be taken as agreement with those issues or positions.

II. ARGUMENT

A. I&M's Arguments for Changing the Capacity Charges in This Case are Faulty and Should be Rejected.

As the Commission is aware, in the previous rate case of the Indiana Michigan Power Company ("I&M"), the Commission set the capacity charge at the PJM Net Cost of New Entry ("Net CONE"). In this proceeding, I&M has proposed to make one of two changes to the method previously approved by the Commission. The company has proposed to either make an adjustment to the Net CONE method, or change to use of an embedded cost method. 4 Tr 324. In either case, I&M has proposed to shift approximately \$9.6 Million in non-capacity costs onto Open Access Distribution ("OAD") customers who do not pay the utility for non-capacity services, which they receive from an alternative provider. 4 Tr 327-329. I&M's calculations

show this to be an increase to OAD customers of 124.28%, or more than double the current Net CONE charge to OAD customers. 4 Tr 333.

I&M has claimed in this proceeding that it is reopening the capacity charge issue because, "In Case No. U-18370, the Commission noted that its decision was constrained by the record before it and that the Commission could revisit the issue in the future. In that light, in this case I&M requests the Commission approve capacity charges based on cost of service and not a proxy method using a PJM Net CONE price." 4 Tr 325, quoting I&M Witness Andrew Williamson, direct testimony, page 22, lines 5-9. However, as Energy Michigan's witness, Mr. Zakem, testified, while this statement is true, it is also only a partial representation of what the Commission actually said. See 4 Tr 326-327. The Commission noted that in future cases:

The Commission may revisit, in a future rate case, whether to retain this net CONE methodology or use an approach that more closely aligns with the capacity charge methodology approved in Case Nos. U-18239 and U-18248 (i.e., using fixed costs offset by fuel and other revenues). The Commission finds unpersuasive I&M's claim that, if net CONE is used to set the capacity rate, rates will differ between OAD customers and standard service customers, thus resulting in a subsidy. As explained by the Staff, the company incorrectly assumes that all production capacity-related costs are incurred to provide capacity. The attachments to this order demonstrate that the rates calculated for OAD and standard service customers using net CONE do not differ.

4 Tr 326-327, citing Case No. U-18370, order April 12, 2018, page 72. As Mr. Zakem makes clear, the Commission's discussion in the U-18370 Order was not stating that there was insufficient evidence in that case, nor that relevant evidence or exhibits had been stricken from the record. 4 Tr 327. In fact, as Mr. Zakem notes, the Commission considered and explicitly rejected I&M's proposed capacity rate because it, "improperly includes some production-demand classified costs that are not capacity-related." *Id.*, citing Case No. U-18370, order April 12, 2018, page 71. At the same time, the Commission found that the Net CONE method was reasonable.

Id. Thus, the Commission has already considered and rejected the same arguments that I&M is again raising here. These arguments should again be rejected.

B. I&M's Adjustment to the Net CONE Method Should be Rejected

If the Commission approves continuing to use the current method of Net CONE, then I&M is proposing that a portion of power supply non-capacity charges in effect be added into the capacity charge to the utility's OAD customers, while being removed from the costs allocated to full service customers. I&M claims that the PJM Net CONE rate design produces a "cost shift of approximately \$9.6 Million to standard service customers through I&M's power supply non-capacity charges." 4 Tr 327-328, citing I&M witness, Andrew Williamson, direct testimony, page 22, lines 3-5. As Mr. Zakem points, out, this same reasoning would result in a cost shift of approximately \$9.6 Million to open access distribution ("OAD") customers for non-capacity charges. However, as Mr. Zakem also points out, OAD customers do not take non-capacity services from I&M. 4 Tr 328-329.

What I&M appears to be doing is simply relabeling \$9.6 Million of non-capacity costs as fixed costs, and then treating them as capacity costs, and consequently allocating them to OAD customers. As Mr. Zakem notes, "The outcome is that I&M is proposing to collect full embedded fixed costs for power supply – capacity and non-capacity – from OAD customers for whom it is providing only capacity service. Thus, I&M's proposal is equivalent to asking the Commission for "stranded costs" due to Electric Choice – labeled as the non-capacity portion of full embedded fixed costs – to be paid by OAD customers." 4 Tr 331-332 (emphasis in original). The Commission should reject this proposal, not only because it incorrectly seeks to make customers who are only required to pay for capacity costs liable for non-capacity costs as well, but also because it appears to be a means of improperly collecting stranded costs.

C. I&M may not now Collect Stranded Costs From its Michigan Ratepayers.

Michigan's statute authorizing utility recovery of stranded costs allowed for surcharges that would "ensure full recover of all such costs by October 6, 2013." MCL 460.10a(8). Thus, the time is now past when I&M may seek recovery of any stranded costs from Michigan ratepayers. Furthermore, as Mr. Zakem notes, the costs at issue here, do not truly fit the Commission's definition of a "stranded cost." 4 Tr 332-333, citing Case No. U-12639 Order on December 20, 2001, page 4. What I&M is seeking to do here is to simply shift costs from one customer group to another, and the Commission's approval of those costs in the rate base means that, by definition, they are not stranded. See *Id.*

D. I&M's Embedded Cost Method is not Reasonable and Should be Rejected

I&M has proposed a second alternative for amending its capacity charge, which is its embedded cost method. Under this method, as Energy Michigan's witness, Mr. Zakem explains, I&M would assign all embedded production demand-related costs as capacity costs. 4 Tr 334. However, what I&M's methodology ignores is that not all fixed costs or costs that are labeled "demand-related" are capacity costs – some may be related to improved efficiency, environmental quality, or other attributes unrelated to capacity. 4 Tr 330-331, 334-335.

As Mr. Zakem explains, the Commission has already examined the method that I&M is proposing and has rejected it. 4 Tr 326-327. Furthermore, the Commission has examined the method now in use, the Net CONE method, and found it to be a reasonable approximation of the capacity costs customers should pay. 4 Tr 336-337, citing Case No. U-18370, Order on April 12, 2018, pp. 71-72. In his testimony, Mr. Zakem recommends that the Commission adopt the PJM Final Zonal Capacity Price in place of the Net CONE price, as it better reflects actual costs,

being based on offers to sell, which is a true market value of capacity. 4 Tr 338. However, he notes that the Net CONE method is also a workable method that fits within similar parameters for a reasonable solution to fair compensation to I&M. *Id.* Energy Michigan endorses either approach as producing a fair, market-based capacity number.

III. CONCLUSIONS AND PRAYER FOR RELIEF

WHEREFORE, Energy Michigan hereby respectfully requests that the Commission do the following:

- a) Reject I&M's attempts to revise its capacity charge either through its adjustment to the Net CONE method or through its embedded cost method; and,
- b) Affirm either the Net CONE capacity charge currently in place, or else the PJM Final Zonal Capacity Price as a more accurate market-based capacity price.

Respectfully submitted,

Varnum LLP
Attorneys for Energy Michigan, Inc.

December 20, 2019

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PROOF OF SERVICE

STATE OF MICHIGAN)
) ss.
COUNTY OF INGHAM)

Sarah E. Jackinchuk, the undersigned, being first duly sworn, deposes and says that she is a Legal Secretary at Varnum LLP and that on the 20th day of December, 2019 she served a copy of Energy Michigan, Inc.'s Initial Brief, and Proof of Service upon those individuals listed on the attached Service List via email.

Sarah E. Jackinchuk

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