

S T A T E O F M I C H I G A N
B E F O R E T H E M I C H I G A N P U B L I C S E R V I C E C O M M I S S I O N

* * * * *

In the matter of the application of
THE DETROIT EDISON COMPANY for
authority to implement a power supply cost
recovery plan in its rate schedules for 1997
metered jurisdictional sales of electricity.

Case No. U-11175

At the February 11, 1997 meeting of the Michigan Public Service Commission in
Lansing, Michigan.

P R E S E N T : H o n . J o h n G . S t r a n d , C h a i r m a n
H o n . J o h n C . S h e a , C o m m i s s i o n e r
H o n . D a v i d A . S v a n d a , C o m m i s s i o n e r

OPINION AND ORDER

On January 13, 1996, the Association of Businesses Advocating Tariff Equity (A B A T E , Attorney General Frank J. Kelley (Attorney General, and the Residential Ratepayer Consortium (RRC filed a joint petition for rehearing of the Commission's December 12, 1996 order granting an application for leave to appeal that was filed by The Detroit Edison Company (Detroit Edison. On January 31, 1997, Detroit Edison filed a response to the petition for rehearing.

In their petition for rehearing, A B A T E , the Attorney General, and the RRC maintain that the Commission improperly ordered that further proceedings regarding matters pertinent to Detroit Edison's five-year forecast, including all related discovery activities, should be separated from review of Detroit Edison's 1997 power supply cost recovery (PSCR plan and adjourned until further order of the Commission. They argue that it was legal error for the Commission to separate its consideration of Detroit Edison's 1997 PSCR plan from the five-year forecast. In support of their argument, they rely on Sections 6j(3 to 6j(7 of 1982 PA 304, as amended, MCL 460.6h et seq.; MSA 22.13(6h et seq. (Act 304. Indeed, they insist that the Legislature clearly provided in Sections 6j(3 to 6j(7 of Act 304 that the Commission is required to conduct a single contested case in which a single final order adjudicates the merits of a utility's PSCR plan and five-year forecast.

In response, Detroit Edison maintains that nothing in Act 304 requires the Commission to consider a PSCR plan and a five-year forecast in the same proceeding. Although acknowledging that Section 6j(4 of Act 304, MCL 460.6j(4; MSA 22.13(6j(4 obligated it to simultaneously file its 1997 PSCR plan and five-year forecast, Detroit Edison insists that

the Commission is under no obligation to simultaneously adjudicate the PSCR plan and five-year forecast. Accordingly, Detroit Edison urges the Commission to deny the petition for rehearing filed by ABATE, the Attorney General, and RRC.

Rule 403 of the Commission's Rules of Practice and Procedure, 1992 AACS, R 460.17403, provides that a petition for rehearing may be based on claims of error, newly discovered evidence, facts or circumstances arising after the hearing, or unintended consequences resulting from compliance with the order. A petition for rehearing is not merely another opportunity for a party to argue a position or to express disagreement with the Commission's decision. Unless a party can show the decision to be incorrect or improper because of errors, newly discovered evidence, or unintended consequences of the decision, the Commission will not grant a rehearing.

The Commission finds that the petition for rehearing should be rejected. The arguments raised in the petition for rehearing were addressed in the December 12, 1996 order.

As an alternative to rehearing, ABATE, the Attorney General, and the RRC maintain that the Commission should clarify one aspect of the December 12, 1996 order. According to them, because certain information may be relevant to both Detroit Edison's 1997 PSCR plan and to the 1998-2001 "out years" of its five-year forecast, the Commission should specifically find that information that is relevant to both periods is subject to discovery and hearings in conjunction with consideration of the 1997 PSCR plan.

In response, Detroit Edison argues that the clarification sought by ABATE, the Attorney General, and the RRC is not appropriate. According to Detroit Edison, the December 12, 1996 order clearly evidences that it is the Commission's intent that matters relevant to the out years of the five-year forecast were to be separated from consideration of Detroit Edison's 1997 PSCR plan.

The Commission finds that the clarification sought by ABATE, the Attorney General, and the RRC is not necessary. The December 12, 1996 order provides that only the aspects of this proceeding regarding the out years of the five-year forecast have been adjourned until further order of the Commission. The Commission recognizes that some documents may pertain to both 1997 and the out years of the forecast. Because such documents are pertinent to 1997, they must be provided in discovery, but they will be subject to scrutiny at the hearing only to the extent that the documents are pertinent to 1997. Therefore, if

necessary, the parties should submit exhibits at the hearing that have been redacted in a reasonable manner to preserve the intent of the Commission's order.

The Commission FINDS that:

a. Jurisdiction is pursuant to 1909 PA 106, as amended, MCL 460.551 et seq.; MSA 22.151 et seq.; 1919 PA 419, as amended, MCL 460.51 et seq.; MSA 22.1 et seq.; 1939 PA 3, as amended, MCL 460.1 et seq.; MSA 22.13(1 et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; MSA 3.560(101 et seq.; and the Commission's Rules of Practice and Procedure, 1992 AACS, R 460.17101 et seq.

b. The joint petition for rehearing filed by ABATE, the Attorney General, and RRC should be denied.

THEREFORE, IT IS ORDERED that the joint petition for rehearing filed by the Association of Businesses Advocating Tariff Equity, Attorney General Frank J. Kelley, and the Residential Ratepayer Consortium is denied.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26; MSA 22.45.

ON

MICHIGAN PUBLIC SERVICE COMMISSION

John G. Strand
Chairman

(S E A L

John C. Shea
Commissioner

David A. Svanda
Commissioner

By its action of February 11, 1997.

Dorothy Wideman
Executive Secretary

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26; MSA 22.45.

ON

MICHIGAN PUBLIC SERVICE COMMISSION

Chairman

Commissioner

Commissioner

By its action of February 11, 1997.

Executive Secretary

In the matter of the application of
THE DETROIT EDISON COMPANY for
authority to implement a power supply cost
recovery plan in its rate schedules for 1997
metered jurisdictional sales of electricity.

Case No. U-11175

Suggested Minute:

“Adopt and issue order dated February 11, 1997 denying the joint petition for rehearing filed by the Association of Businesses Advocating Tariff Equity, Attorney General Frank J. Kelley, and the Residential Ratepayer Consortium, as set forth in the order.”