

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

\* \* \* \* \*

In the matter of the application of )  
**THE DETROIT EDISON COMPANY** for )  
reconciliation of its power supply cost recovery plan ) Case No. U-11175-R  
for the 12-month period ended December 31, 1997. )  
\_\_\_\_\_ )

At the May 11, 1999 meeting of the Michigan Public Service Commission in Lansing,  
Michigan.

PRESENT: Hon. John G. Strand, Chairman  
Hon. David A. Svanda, Commissioner  
Hon. Robert B. Nelson, Commissioner

**OPINION AND ORDER**

**I.**

**HISTORY OF PROCEEDINGS**

On March 31, 1998, The Detroit Edison Company (Detroit Edison) filed an application, with supporting testimony and exhibits, to reconcile its power supply cost recovery (PSCR) revenues and expenses for the 12-month period ended December 31, 1997.

Pursuant to due notice, a prehearing conference was conducted on May 8, 1998 by Administrative Law Judge James N. Rigas (ALJ). At that time, petitions to intervene filed by Attorney General Frank J. Kelley<sup>1</sup> (Attorney General), the Association of Businesses Advocating Tariff Equity

---

<sup>1</sup>On January 1, 1999, Jennifer M. Granholm was sworn in to replace Mr. Kelley as Michigan's Attorney General.

(ABATE), and the Residential Ratepayer Consortium (RRC) were granted. The Commission Staff (Staff) also participated in the proceedings.

Evidentiary hearings were conducted on June 19 and September 9, 1998. On October 2, 1998, briefs were filed by Detroit Edison, the Staff, the Attorney General, and the RRC. On October 16, 1998, reply briefs were filed by Detroit Edison and the Attorney General.

On November 16, 1998, the ALJ issued his Proposal for Decision (PFD). Exceptions to the PFD were filed by Detroit Edison, the Staff, and the Attorney General. Replies to exceptions were filed by Detroit Edison and the Attorney General.

## II.

### **FACTS AND TESTIMONY**

#### Detroit Edison

Detroit Edison presented the testimony of eight witnesses in support of its 1997 PSCR reconciliation. In its direct case, Detroit Edison calculated that its 1997 PSCR expenses exceeded its revenues by \$2,715,441, which includes interest through December 31, 1997 of \$451,748. It also calculated that application of the Fermi 2 performance standard adjustment mechanism<sup>2</sup> resulted in a disallowance of \$22,462,843 for PSCR customers and \$1,241,825 for industrial interruptible supply rider (R-10) customers.

---

<sup>2</sup>Fermi 2 is subject to a performance standard that provides for a disallowance in Detroit Edison's annual PSCR reconciliation proceeding if the plant's output fails to match the output of a group of peer facilities. The performance standard, which is contained in the settlement agreement approved by the Commission's December 27, 1988 order in Case No. U-8789, provides that the amount of the disallowance shall equal the net incremental cost of replacement power, including capacity and energy, that Detroit Edison must purchase or produce to replace production shortfalls at Fermi 2.

## Attorney General

William A. Peloquin, an expert in public utility regulation employed by the Attorney General, recommended three adjustments to Detroit Edison's 1997 PSCR reconciliation. His first adjustment concerned transmission revenues. According to Mr. Peloquin, an additional transmission revenue credit of \$202,481 should be added to Detroit Edison's traditional interconnection revenue adjustment to correct for an inconsistency between the methodology followed for calculating the adjustment in previous years and the methodology used in this proceeding.

Mr. Peloquin's second adjustment concerns calculation of the Fermi 2 performance standard adjustment. Mr. Peloquin again contended that Detroit Edison improperly changed the methodology for calculating the Fermi 2 performance standard adjustment by "zeroing out" negative generation on a daily, rather than monthly, basis.

Finally, Mr. Peloquin contended that Detroit Edison's 1997 PSCR expenses should be reduced by \$4,594,124 because the net effect of the lease of 312 megawatts (MW) of capacity at the Ludington Pumped Storage Facility to Toledo Edison and the purchase of 300 MW of seasonal capacity from Ontario Hydro was economically disadvantageous to Detroit Edison's PSCR customers. Relying on MCL 460.6j(6); MSA 22.13(6j)(6), Mr. Peloquin maintained that the Commission should consider Detroit Edison's ability to reduce or to eliminate firm sales to Toledo Edison, an out-of-state customer, when evaluating the reasonableness of its 1997 PSCR expenses.

### **III.**

#### **PROPOSAL FOR DECISION**

After reviewing the three contested issues, the ALJ recommended that the Commission adopt only one of Mr. Peloquin's proposals. According to the ALJ, Mr. Peloquin's transmission revenue

credit of \$202,481 is not appropriate because the Federal Energy Regulatory Commission's (FERC) Order No. 888 changed the way in which transmission providers conduct business. Therefore, the ALJ agreed with Detroit Edison that wholesale interconnection revenues for transmission should no longer be included in the calculation of credits to bundled retail customers.

However, the ALJ determined that Mr. Peloquin's \$130,219 adjustment to the Fermi 2 performance standard disallowance should be adopted. In so doing, he found that Detroit Edison improperly revised the methodology for calculating the Fermi 2 performance standard disallowance by zeroing-out negative generation on a daily basis rather than on a monthly basis. The ALJ was persuaded that the Commission should reject Detroit Edison's revised methodology because the Commission had rejected past proposals to change the Fermi 2 performance standard disallowance methodology despite representations that the revisions would provide a more accurate calculation.

Finally, the ALJ recommended that the Commission reject the Attorney General's proposed \$4,594,124 regarding the net effect of the Ontario Hydro and Toledo Edison transactions. The ALJ concluded that Detroit Edison's decision to lease a portion of Ludington's capacity to Toledo Edison, which was replaced by a less expensive and more flexible power supply from Ontario Hydro, was both reasonable and prudent.

#### IV.

#### DISCUSSION

##### Interconnection Revenue Adjustment

The Staff and the Attorney General except to the ALJ's rejection of Mr. Peloquin's proposed \$202,481 interconnection revenue adjustment. According to them, the January 21, 1994 order in Case No. U-10102 is controlling. They explain that the order in Case No. U-10102 established both

an interconnection revenue adjustment, which is a 100% offset to PSCR expenses, and a wheeling revenue sharing mechanism, which refunds 80% of all wheeling revenues in excess of \$600,000 annually.

The Staff and the Attorney General maintain that Detroit Edison's interconnection revenues historically have been treated as a 100% offset to PSCR expenses because the Uniform System of Accounts (USOA) required a utility to record its interconnection revenues in Account 555 (Purchased Power Expenses). They also stress that when the FERC required utilities to remove such amounts from Account 555 and to transfer them to Account 447 (Sales for Resale), Detroit Edison continued to treat such revenues as PSCR offsets pursuant to the Commission's retail rate-making requirements. However, the Staff and the Attorney General maintain that when the FERC changed accounting requirements in 1997 in Order No. 888 to require Detroit Edison to record certain interconnection revenues in Account 456 (Other Electric Revenues) that were previously recorded in Account 447, Detroit Edison took advantage of the FERC's accounting change to ignore the Commission's ratemaking treatment of the revenue credits and to transform the 100% PSCR expense offset into an 80% wheeling refund credit.

The Staff and the Attorney General insist that nothing in FERC Order No. 888 preempts the Commission's authority over retail ratemaking in Michigan. Further, they insist that the Commission's determination in Case No. U-10102 that transmission revenues constitute a 100% offset to PSCR expenses cannot be superseded by an accounting change mandated by the FERC.

In response, Detroit Edison argues that the FERC's Order No. 888 did not merely involve accounting changes. Rather, Detroit Edison insists that Order No. 888 has precipitated unprecedented changes in the electric utility industry. As the electric industry is reconfigured and its traditional transaction models are changed, Detroit Edison argues that the flow of funds resulting

from such transactions must also change. For this reason, Detroit Edison maintains that there is no support for the conclusion that wholesale interconnection revenues for transmission should continue to be included for purposes of calculating credits to PSCR customers.

The Commission finds that the exceptions raised by the Staff and the Attorney General have merit and that the proposed adjustment should be adopted. It is undisputed that, prior to 1991, interconnection sales of an electric utility were recorded in Account 555 and were treated for ratemaking purposes as a reduction to purchased power expenses. In 1991, the FERC revised its accounting standards to require that interconnection sales be recorded in either Account 442 (Commercial and Industrial Sales) or Account 447 (Sales for Resale) as electric interconnection revenues. However, despite the FERC's mandated accounting change, the Commission continued to treat Detroit Edison's interconnection revenues as an offset to purchased power expense for retail ratemaking purposes. Therefore, notwithstanding the FERC's reclassification, for the purpose of reconciling Detroit Edison's PSCR expenses and revenues, interconnection revenues continued to be combined with purchased power costs as in previous years.

It is also undisputed that in 1997 the FERC again changed accounting procedures for electric utilities. In connection with issuance of Order No. 888 and in response to the process of separating the functions of energy production from energy transmission, the FERC mandated that revenue from transmission revenues, which was previously recorded in Account 447, should now be recorded in Account 456 (Other Electric Revenues). However, revenues from energy deliveries continued to be recorded in Account 447.

In response to the FERC's accounting change, Detroit Edison recorded \$1,012,407 of interconnection revenues, which would have otherwise been recorded in Account 447, in Account 456. Further, citing the Commission's order in Case No. U-10102, Detroit Edison determined that only

80% of the \$1,012,407 of interconnection revenues should be returned to PSCR customers, which allowed Detroit Edison to retain 20% or \$202,481.

Detroit Edison's application of the FERC's accounting change is significant to its PSCR customers because, but for the shift of revenues from Account 447 to Account 456, PSCR customers would have received the entire \$1,012,407 in the form of a credit against PSCR expenses, not simply \$809,926 under the 80/20 revenue sharing mechanism adopted in Case No. U-10102.

The Commission is persuaded that the Staff and the Attorney General are correct in asserting that nothing in FERC No. 888 usurps the Commission's jurisdiction over retail ratemaking. Indeed, as recognized by the FERC in Ohio Edison Company, 84 FERC ¶ 61,157, p. 61,861 (1998), FERC Order No. 888 does not affect the Commission's authority over Detroit Edison's retail rates. Indeed, the FERC specifically noted that "state regulators are free to require utilities to keep separate sets of books for retail ratemaking purposes." 84 FERC ¶ 61,157, footnotes 1 and 16.

Because the FERC's accounting practices do not control the Commission's retail ratemaking decisions, the Commission finds that Detroit Edison's primary justification for refusing to adhere to the past practice of returning 100% of its interconnection revenues to PSCR customers has no merit. Accordingly, the Commission concludes that Detroit Edison should be directed to increase its wheeling adjustment by \$202,481 to incorporate the additional credit proposed by Mr. Peloquin.

### Negative Daily Generation

In its exception, Detroit Edison contends that its proposed methodology for calculating the Fermi 2 performance standard disallowance has merit and should be adopted by the Commission. Indeed, Detroit Edison asserts that the ALJ incorrectly characterized that proposal as a change of methodology. According to Detroit Edison, the settlement agreement approved by the Commis-

sion's December 27, 1988 order in Case No. U-8789 created a disallowance mechanism that was intended to meaningfully compare Fermi 2's operating performance to similar nuclear plants.

Because the methodology followed by Detroit Edison in this case accomplishes that goal more accurately than the methodology recommended by the ALJ, Detroit Edison insists that its methodology should be adopted by the Commission.

In support of its position, Detroit Edison cites a statement from page 5 of the Staff's brief that describes Detroit Edison's proposal as "slightly more accurate" than the methodology recommended by the ALJ. Moreover, Detroit Edison asserts that the Attorney General's opposition stems solely from the fact that Detroit Edison's proposal will result in a slightly smaller performance standard disallowance. Finally, Detroit Edison maintains that it should not be penalized simply because other plants do not report their negative generation in the same manner as Detroit Edison, which has no bearing on Fermi 2's actual performance.

In response, the Attorney General argues that Detroit Edison's proposal to revise the methodology through use of a negative daily generation adjustment is neither just nor reasonable. According to the Attorney General, Detroit Edison's own witness, Richard C. Viinikainen, candidly admitted in his testimony that the proposal to zero-out Fermi 2's negative generation on a daily basis constitutes a change in the methodology for calculating the Fermi 2 capacity factor.

The Attorney General also insists that the March 24, 1998 order in Case No. U-10965-R supports the ALJ's recommendation. According to the Attorney General, in Case No. U-10965-R, Detroit Edison's 1996 PSCR reconciliation proceeding, Detroit Edison also proposed zeroing-out negative generation on a daily basis. The Attorney General points out that the administrative law judge that presided over Case No. U-10965-R specifically recommended rejection of Detroit

Edison's proposal on page 14 of the proposal of decision issued in that proceeding. The Attorney General also stresses that Detroit Edison did not file an exception regarding that recommendation.

Finally, the Attorney General maintains that adoption of Detroit Edison's proposal to zero-out negative generation on a daily basis would be unfair because, on several prior occasions, the Commission rejected proposals proffered by the Attorney General and the RRC to modify the Fermi 2 performance standard disallowance mechanism to increase the accuracy of that methodology. Citing the April 10, 1996 order in Case No. U-10427-R and the July 14, 1997 order in Case No. U-10702-R, the Attorney General contends that because the only rationale suggested by Detroit Edison for revising the methodology is that the proposed change would improve the accuracy of the calculation, adoption of Detroit Edison's position would be logically and legally inconsistent with the Commission's prior rulings in Cases Nos. U-10427-R and U-10702-R.

The Commission finds that Detroit Edison's proposal to revise the methodology for calculating the Fermi 2 performance standard disallowance should be rejected. The ALJ correctly observed that Detroit Edison's proposal constitutes a revision to the existing methodology and that the Commission had previously rejected proposals to change the Fermi 2 capacity factor methodology despite representations that the changes could provide more accurate results. Moreover, the Commission is not persuaded that Detroit Edison's allegations regarding the importance of improving the precision of the methodology have been proven. Indeed, in Case No. U-10965-R, where the same proposal was rejected in the proposal for decision, Detroit Edison acknowledged that the proposal to zero out negative generation on a daily basis would have had no effect on the calculation. Accordingly, the Commission finds that Detroit Edison's exception should be rejected.

### Ludington Lease Adjustment

The Attorney General insists that the ALJ erroneously rejected Mr. Peloquin's \$4,594,124 adjustment for the economic consequences of the lease of Detroit Edison's share of the Ludington pumped storage facility to Toledo Edison and Detroit Edison's purchase of additional capacity and energy from Ontario Hydro. According to the Attorney General, Detroit Edison is losing money by leasing its Ludington capacity to Toledo Edison. The Attorney General insists that Detroit Edison needs the Ludington capacity to meet peak customer demand with a reasonable reserve allowance. Citing Exhibits I-22 and I-23, the Attorney General argues that Detroit Edison should not be allowed to relinquish Ludington capacity while remaining liable to pay the Ludington related costs, because Ludington capacity could be used to displace more expensive capacity obtained from another source. Indeed, the Attorney General maintains that the Commission must protect Detroit Edison's customers from the annual loss on the Ludington lease.

The Attorney General faults Detroit Edison for failing to provide information regarding (1) the alternative cost of energy, (2) marginal replacement power supply cost differences when capacity is not available from Ontario Hydro and Ludington, and (3) whether the cost of off-peak energy from Ontario Hydro is less than the cost of alternative generation. According to the Attorney General, Detroit Edison presented an incomplete picture of the Ludington lease and the Ontario Hydro purchase. For that reason, the Attorney General maintains that Detroit Edison has failed in its burden of proof on this issue.

In response, Detroit Edison argues that review of the Ludington facility's operating data for 1997 establishes that the facility was underutilized. Additionally, Detroit Edison contends that the evidence demonstrates that the Ludington facility has significantly less generation flexibility because (1) it takes more energy to pump water into the holding pond than the water creates when it is

released, (2) it is only economic to pump water with off-peak generation, and (3) there is a limit on the amount of water that can be stored in the holding pond. Because of these restrictions, Detroit Edison maintains that it was more advantageous to rely upon the less expensive and more quickly dispatchable purchased power from Ontario Hydro during the peak times of the year.

Detroit Edison stresses that the Commission approved the Ludington lease and Ontario Hydro purchase for planning purposes in its 1997 PSCR plan proceeding, Case No. U-11175. Additionally, Detroit Edison insists that the Attorney General simply misconstrued Detroit Edison's cost justification of the Ludington lease to the FERC, which is contained in the record as Exhibit I-23. According to Detroit Edison, the total cost of the Ludington lease of \$18.6 million cited by the Attorney General is the cost justification developed by Detroit Edison as required by the FERC for the purpose of establishing the ceiling price for capacity sales from Ludington. Detroit Edison stresses that had it not leased a portion of the Ludington facility to Toledo Edison, it would not have saved any of the \$18.6 million of cost. Rather, Detroit Edison maintains that a more appropriate analysis of the Ludington lease/Ontario Hydro purchase requires a comparison of the 1997 revenues received from Toledo Edison of \$13.9 million to the incremental increase in cost attributable to the lease as established by the capacity cost of a long term power purchase from Ontario Hydro for 1997 of \$3.2 million. By netting out the capacity cost associated with the Ontario Hydro purchase of \$3.2 million against the \$13.9 million of revenues realized from Toledo Edison due to the Ludington lease, Detroit Edison insists that the effect of the combined transactions benefited customers by more than \$10 million during 1997.

The Commission finds that Mr. Peloquin's proposed \$4,594,124 disallowance was properly rejected by the ALJ. Detroit Edison convincingly argued that the Ludington facility was underutilized during 1997 and that leasing a portion of this asset generated \$13.9 million in revenue that

partially offset costs that otherwise could not have been avoided. Further, the evidence indicates that Detroit Edison's purchase of capacity from Ontario Hydro was more flexible and less expensive than the Ludington capacity that was leased to Toledo Edison. The Commission concludes that the combination of the Ludington lease and the Ontario Hydro purchase was not detrimental to Detroit Edison's customers. Accordingly, the Commission finds that the Attorney General's exception should be rejected.

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.; 1982 PA 304, as amended, MCL 460.6h et seq.; MSA 22.13(6h) 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, as amended, 1992 AACCS, R 460.17101 et seq.
- b. Reconciliation of Detroit Edison's 1997 PSCR revenues and expenses produced an underrecovery of \$2,512,960, as determined by this order. Interest through the midpoint of the month of June 1999 increases the underrecovery amount by \$220,939 to \$2,733,899.
- c. Detroit Edison is obligated to refund \$22,593,062 to its PSCR customers and \$1,249,024 to its R-10 customers in conjunction with the Fermi 2 performance standard disallowance, as determined by this order.
- d. Netting the total 1997 PSCR underrecovery amount of \$2,733,899 with the Fermi 2 performance standard disallowance for PSCR customers of \$22,593,062 results in a refund liability of \$19,859,163.

THEREFORE, IT IS ORDERED that:

A. The Detroit Edison Company shall apply a credit billing factor of 5.92 mills per kilowatt-hour to the bills of its power supply cost recovery customers rendered in June 1999.

B. Customers taking service under The Detroit Edison Company's industrial interruptible supply rider shall be reimbursed \$1,249,024 for their share of the Fermi 2 performance standard disallowance.

C. Rights to any portion of this refund shall not vest until a refund amount has been credited to a customer's bill or a refund check to a customer or former customer has been negotiated. The company shall file a report regarding the refund in accordance with its refund procedures.

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.

MICHIGAN PUBLIC SERVICE COMMISSION

( S E A L )

/s/ John G. Strand  
Chairman

By its action of May 11, 1999.

/s/ David A. Svanda  
Commissioner

/s/ Dorothy Wideman  
Its Executive Secretary

/s/ Robert B. Nelson  
Commissioner, abstaining.

THEREFORE, IT IS ORDERED that:

A. The Detroit Edison Company shall apply a credit billing factor of 5.92 mills per kilowatt-hour to the bills of its power supply cost recovery customers rendered in June 1999.

B. Customers taking service under The Detroit Edison Company's industrial interruptible supply rider shall be reimbursed \$1,249,024 for their share of the Fermi 2 performance standard disallowance.

C. Rights to any portion of this refund shall not vest until a refund amount has been credited to a customer's bill or a refund check to a customer or former customer has been negotiated. The company shall file a report regarding the refund in accordance with its refund procedures.

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.

MICHIGAN PUBLIC SERVICE COMMISSION

\_\_\_\_\_  
Chairman

By its action of May 11, 1999.

\_\_\_\_\_  
Commissioner

\_\_\_\_\_  
Its Executive Secretary

\_\_\_\_\_  
Commissioner, abstaining.

In the matter of the application of )  
**THE DETROIT EDISON COMPANY** for )  
reconciliation of its power supply cost recovery plan )  
for the 12-month period ended December 31, 1997. )  
\_\_\_\_\_ )

Case No. U-11175-R

Suggested Minute:

“Adopt and issue order dated May 11, 1999 authorizing The Detroit Edison Company to reconcile its power supply costs and revenues for the 12-month period ended December 31, 1997, as set forth in the order.”