

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the motion of the **ASSOCIATION** )  
**OF BUSINESSES ADVOCATING TARIFF EQUITY** )  
for the Commission to issue an order to initiate )  
proceedings to show cause why public utilities )  
should not establish comprehensive procedures ) Case No. U-8869-DE  
to implement the provisions of the Public Utility )  
Regulatory Policies Act of 1978 or, in the )  
alternative, to reopen Case No. U-6798. )  
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In the matter, on the Commission's own motion, )  
to commence a proceeding to establish a framework )  
for future capacity solicitations by **THE DETROIT** ) Case No. U-9798  
**EDISON COMPANY** from qualifying facilities as )  
defined by the Public Utility Regulatory Policies )  
Act of 1978. )  
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In the matter of the petition of **THE DETROIT** )  
**EDISON COMPANY** to establish a revised ) Case No. U-12177  
procedure for future capacity solicitations. )  
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At the December 16, 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

On July 22, 1992, the Commission issued an order in Cases Nos. U-8869-DE and U-9798 (the July 22 order) establishing a procedural framework for future capacity solicitations undertaken by The Detroit Edison Company (Detroit Edison). Indicative of the fact that it was established prior to any significant move toward the restructuring of the electric industry, the framework provided numerous opportunities for contested case proceedings and vested the Commission with final decision-making responsibility over a wide array of capacity-related issues.

Based on claims that subsequent changes in the industry have rendered that capacity solicitation process outdated, Detroit Edison filed a petition on October 25, 1999 seeking rescission of the July 22 order and requesting approval of a revised capacity solicitation process. The recommended process set forth in Detroit Edison's petition would generally consist of the following three steps:

(1) Detroit Edison would submit an annual report to the Commission outlining the utility's expected summer generating capacity needs and describing the manner in which Detroit Edison expects to meet those needs. Interested persons would then be given an opportunity to review the report and submit comments concerning its reasonableness. However, no contested case hearings would be scheduled.

(2) Detroit Edison would utilize a standardized Request for Proposal (RFP) in soliciting offers to supply any needed capacity for terms exceeding one year in duration. Detroit Edison would retain the authority, and bear the full responsibility, for reviewing and accepting any of the capacity offers submitted under that RFP process.

(3) Detroit Edison would make available for review by the Commission Staff all offers received in response to the RFP and all capacity-related contracts ultimately entered into as a result of the RFP process. Nevertheless, there would be no public disclosure of those documents.

See Detroit Edison's October 25, 1999 petition, pp. 4-5. Detroit Edison's petition went on to assert that its request to rescind the July 22 order and adopt this revised capacity solicitation framework should be

approved on an ex parte basis or, in the alternative, acted upon following completion of an expedited notice and comment process.

On November 5, 12, and 19, 1999, respectively, Energy Michigan, Attorney General Jennifer M. Granholm (Attorney General), and the Association of Businesses Advocating Tariff Equity filed objections to Detroit Edison's petition and requests to intervene. Those objections claim, among other things, that Detroit Edison's request to rescind the July 22 order cannot be granted without first conducting contested case hearings.<sup>1</sup> Thus, these parties assert, both Detroit Edison's request for ex parte relief and its alternative proposal to rely on a notice and comment process for considering its petition must be rejected.

In contrast, Detroit Edison contends that it is not necessary to initiate contested case proceedings to review its proposed alternative capacity solicitation process. Specifically, Detroit Edison asserts that the relief requested in its October 25, 1999 petition will not result in an increase in the rates, charges, or cost of service to any of its customers. It therefore recommends that the Commission either (1) grant ex parte approval of its request or (2) establish a schedule for receiving comments and reply comments concerning the alternative capacity solicitation process set forth in Detroit Edison's petition and the proposed RFP (which is attached as Appendix 1 to the petition). Following receipt and review of those comments, Detroit Edison continues, the Commission could issue an order rescinding the July 22 order, approving

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<sup>1</sup>Energy Michigan and the Attorney General also object to specific aspects of the alternative capacity solicitation process outlined in Detroit Edison's petition. This includes objections to the use of Detroit Edison's affiliates as suppliers, the exclusion of short-term purchase agreements, and the lack of both public disclosure of relevant data and Commission oversight of the process. Because those objections may be better addressed in the context of all parties' positions regarding capacity solicitation, any discussion regarding their merit should await receipt of comments from all interested parties.

implementation of the utility's alternative capacity solicitation process, and approving the form of Detroit Edison's proposed RFP.

Because Detroit Edison's petition constitutes a request for rescission or amendment of a Commission order pursuant to Section 24 of 1909 PA 300, MCL 462.24; MSA 22.43, all other parties to the contested case proceedings that led to the July 22 order must be given notice of the utility's petition and at least 10 days to respond. Thus, the Commission finds that ex parte approval is not appropriate in this case.

Nevertheless, the Commission agrees with Detroit Edison's assertion that, because granting the October 25, 1999 petition would not result in an increase in the rates, charges, or cost of service to the utility's customers, contested case proceedings are not required. The Commission further concludes that a notice and comment procedure, similar to that suggested by Detroit Edison as an alternative to ex parte approval, should be used to receive comments from interested parties regarding the utility's proposal to rescind the July 22 order and revise its capacity solicitation process.

The Commission FINDS that:

- a. Jurisdiction is pursuant to 1909 PA 106, as amended, MCL 460.551 et seq.; MSA 22.151 et seq.; 1909 PA 300, as amended, MCL 462.2 et seq.; MSA 22.21 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, as amended, 1992 AACRS, R 460.17101 et seq.
- b. Interested parties should file, by January 18, 2000, comments regarding Detroit Edison's October 25, 1999 petition requesting rescission of the July 22 order and adoption of a revised capacity

solicitation process. Copies of the petition, as well as Detroit Edison's proposed RFP, may be obtained by contacting the Commission or accessing the Commission's Internet web site (<http://cis.state.mi.us/mpsc>).

- c. Reply comments should be filed by February 1, 2000.
- d. Responses to reply comments should be filed by February 8, 2000.

THEREFORE, IT IS ORDERED that comments, reply comments, and responses to reply comments regarding the proposals set forth in The Detroit Edison Company's October 25, 1999 petition shall be due no later than January 18, February 1, and February 8, 2000, respectively.

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

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ John G. Strand  
Chairman

( S E A L )

/s/ David A. Svanda  
Commissioner

/s/ Robert B. Nelson  
Commissioner

By its action of December 16, 1999.

/s/ Dorothy Wideman

Its Executive Secretary

d. Responses to reply comments should be filed by February 8, 2000.

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MICHIGAN PUBLIC SERVICE COMMISSION

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Chairman

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By its action of December 16, 1999.

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Case No. U-8869-DE

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Act of 1978. )

Case No. U-9798

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In the matter of the petition of **THE DETROIT EDISON COMPANY** to establish a revised )  
procedure for future capacity solicitations. )

Case No. U-12177

Suggested Minute:

“Adopt and issue order dated December 16, 1999 establishing a schedule for the submission of comments, reply comments, and responses to reply comments concerning the request of The Detroit Edison Company to establish an alternative capacity solicitation process, as set forth in the order.”