

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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| In the matter of the application of |) | |
| THE DETROIT EDISON COMPANY for |) | |
| accounting authority related to the accelerated |) | Case No. U-11726 |
| amortization of the Fermi 2 nuclear plant. |) | |
| _____ |) | |

At the June 5, 2001 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. Laura Chappelle, Chairman
Hon. David A. Svanda, Commissioner
Hon. Robert B. Nelson, Commissioner

ORDER DENYING PETITION TO REOPEN

On April 5, 2000, Energy Michigan filed a petition to reopen Case No. U-11726. Energy Michigan's petition was supported by the Association of Businesses Advocating Tariff Equity (ABATE) and opposed by The Detroit Edison Company (Detroit Edison).

R 460.17401 (Rule 401) allows a party to request the reopening of a proceeding for the purpose of receiving further evidence when a reopening is deemed necessary for the development of a full and complete record or when there has been a change in conditions of fact or law such that the public interest requires the reopening of the proceeding.

In support of the petition, Energy Michigan and ABATE argue that the reopening of this proceeding, which was closed by issuance of a final order on December 28, 1998, is necessary to allow Energy Michigan an opportunity to prove that Detroit Edison has refused to cooperate in the

implementation of the retail open access and customer choice programs. They maintain that newly obtained evidence will establish that Detroit Edison is attempting to monopolize available transmission capacity into the state of Michigan that could be used by competing power suppliers to import power to serve their customers. Accordingly, Energy Michigan and ABATE insist that this proceeding should be reopened.

In response, Detroit Edison states that it has done nothing to frustrate retail competition in Michigan. More specifically, Detroit Edison maintains that it has never attempted to hoard unneeded transmission capacity to the detriment of its competitors. Rather, Detroit Edison insists that it is necessary for it to import energy into Michigan during the summer months to meet the needs of its customers and that variables, such as weather conditions, the economy, customer usage, and the rate of emigration of load to competitors, must be factored into its load forecasts to ensure that the utility does not fall short in its obligation to meet peak demand. According to Detroit Edison, the full amount of transmission called for in its load forecast will be needed to serve its load obligations.

In granting Detroit Edison authority to accelerate amortization of its Fermi 2 plant assets, the Commission expressly conditioned its approval on the utility's agreement to abide by the retail open access program established in the Commission's prior orders in Cases Nos. U-11290 et al. Further, the Commission took such action in direct response to Energy Michigan's concern regarding the future of retail open access in Detroit Edison's service territory.

Although the Commission does not discount the importance of adequate transmission capacity during periods of peak demand, the Commission finds that the importance of considering the issue of transmission capacity in the context of this proceeding has been diminished by supervening events. First, on June 5, 2000, the Customer Choice and Electricity Reliability Act, 2000 PA 141

(Act 141) and 2000 PA 142 (Act 142), which amended 1939 PA 3, MCL 460.1 et seq.; MSA 22.13(1) et seq., took effect. Second, on July 5, 2000, Detroit Edison filed an application in Case No. U-12478 for a financing order under Section 10i of Act 142 to permit securitization of \$1.85 billion in regulatory assets and other qualified costs, over 80% of which related to the Fermi 2 assets. The Commission's November 2, 2000 and January 4, 2001 orders in Case No. U-12478 authorized Detroit Edison to securitize up to \$1.77 billion of its after-tax qualified costs. Third, on December 28, 2000, I&M filed an application in Case No. U-12780 seeking approvals associated with a proposal to expand transmission capacity by 2,000 MW as required by Section 10v of Act 141. Also, on that day, International Transmission Company, on behalf of Detroit Edison, Consumers, and Great Lakes Energy Cooperative, filed an application in Case No. U-12781 seeking approvals associated with a different transmission capacity expansion plan. Those cases have been consolidated for hearing, and Energy Michigan and ABATE have been permitted to intervene in them.

Given the passage of Public Acts 141 and 142, issuance of the securitization orders in Case No. U-12478, and the availability of Cases Nos. U-12780 and U-12781 as a forum for transmission capacity concerns, the Commission concludes that Energy Michigan's petition to reopen Case No. U-11726 should be denied.

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, as amended, 1992 AACRS, R 460.17101 et seq.

b. The petition to reopen filed by Energy Michigan should be denied.

THEREFORE, IT IS ORDERED that the petition to reopen filed by Energy Michigan 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.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ Laura Chappelle
Chairman

(S E A L)

/s/ David A. Svanda
Commissioner

/s/ Robert B. Nelson
Commissioner

By its action of June 5, 2001.

/s/ Dorothy Wideman
Its Executive Secretary

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. The petition to reopen filed by Energy Michigan should be denied.

THEREFORE, IT IS ORDERED that the petition to reopen filed by Energy Michigan is denied.

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MICHIGAN PUBLIC SERVICE COMMISSION

Chairman

Commissioner

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By its action of June 5, 2001.

Its Executive Secretary

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amortization of the Fermi 2 nuclear plant.)
_____)

Case No. U-11726

Suggested Minute:

“Adopt and issue order dated June 5, 2001 denying the petition of Energy Michigan to reopen The Detroit Edison Company’s application for accounting authority related to the accelerated amortization of the Fermi 2 nuclear plant, as set forth in the order.”