

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the approval of a code of conduct)
for **CONSUMERS ENERGY COMPANY** and) Case No. U-12134
THE DETROIT EDISON COMPANY.)
_____)

In the matter, on the Commission's own motion,)
to require **THE DETROIT EDISON COMPANY**)
to show cause why it should not be determined to) Case No. U-14072
be in violation of the code of conduct adopted)
in Case No. U-12134.)
_____)

At the March 16, 2004 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. J. Peter Lark, Chair
Hon. Robert B. Nelson, Commissioner
Hon. Laura Chappelle, Commissioner

ORDER TO SHOW CAUSE

On November 17, 2003, the Commission received a complaint from Sandra Woti alleging that DTE Energy Company (DTE), which is the corporate parent of The Detroit Edison Company (Detroit Edison) and Michigan Consolidated Gas Company (Mich Con), were engaged in a violation of the code of conduct adopted by the Commission in various orders issued in Case

No. U-12134¹ by virtue of its use of billing inserts to promote the appliance maintenance programs of its subsidiaries.

On December 12, 2003, the Commission received a letter from Daniel R. Squires asserting that Detroit Edison used a billing insert to promote its Home Protection Plus (HPP) program in billings that Mr. Squires received in May and December of 2003. Mr. Squires alleged that Detroit Edison has thereby violated the Case No. U-12134 code of conduct.

In response to these complaints, the Commission Staff (Staff) informally contacted Detroit Edison for an explanation of its position. On January 24, 2004, Detroit Edison submitted information to the Staff indicating that it had spent nearly \$120,000 on the HPP program for printing and delivery costs. It also provided data regarding the average total cost per bill and the total cost of its September – November 2003 billings.

After reviewing all of the information received from Ms. Woti, Mr. Squires, and Detroit Edison, the Staff met with Detroit Edison and DTE employees on February 23, 2004. Based on its investigation, the Staff recommended to the Commission that it should conduct an investigation of Detroit Edison's use of billing inserts to promote its HPP program² in apparent disregard of the Commission's orders in Case No. U-12134.

The Commission concludes that Detroit Edison should demonstrate its compliance with the Commission's orders in Case No. U-12134 or show cause why it should not be found in violation of that order.

¹On March 2, 2004, the Michigan Court of Appeals upheld the Commission's authority to adopt the code of conduct. See, Detroit Edison v Public Service Comm, ___ Mich App ___; ___ NW2d ___ (2004).

²The Commission is currently investigating similar allegations against Consumers Energy Company in Case No. U-13830.

The Commission FINDS that:

a. Jurisdiction is pursuant to 1909 PA 106, as amended, MCL 460.551 et seq.; 1919 PA 419, as amended, MCL 460.51 et seq.; 1939 PA 3, as amended, MCL 460.1 et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1999 AC, R 460.17101 et seq.

b. Detroit Edison should be given until May 3, 2004 to demonstrate its compliance with the Commission's orders in Case No. U-12134 or to show cause why it should not be found in violation of the code of conduct.

c. A hearing should be held to provide Ms. Woti and Mr. Squires and other similarly situated persons an opportunity to present evidence of alleged violations and to afford Detroit Edison an opportunity to demonstrate its compliance or to show cause why it should not be found in violation of the Commission's prior orders in Case No. U-12134.

THEREFORE, IT IS ORDERED that:

A. This case is commenced to investigate alleged violations by The Detroit Edison Company of the code of conduct approved in Case No. U-12134.

B. The Detroit Edison Company shall be given until May 3, 2004 to demonstrate its compliance with the Commission's orders in Case No. U-12134 or to show cause why it should not be found in violation of the code of conduct.

C. The Detroit Edison Company shall provide its customers with notice of the commencement of this proceeding through use of a billing message or a billing insert no later than May 31, 2004 and shall publish notice of the prehearing conference in newspapers throughout its service territory.

D. Petitions to intervene shall be filed by June 8, 2004.

E. A prehearing conference shall be conducted at 9:00 a.m. on June 15, 2004 to give all interested parties an opportunity to participate in the proceedings.

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

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ J. Peter Lark

Chair

(S E A L)

/s/ Robert B. Nelson

Commissioner

/s/ Laura Chappelle

Commissioner

By its action of March 16, 2004.

/s/ Mary Jo Kunkle

Its Executive Secretary

E. A prehearing conference shall be conducted at 9:00 a.m. on June 15, 2004 to give all interested parties an opportunity to participate in the proceedings.

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MICHIGAN PUBLIC SERVICE COMMISSION

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Case No. U-14072

Suggested Minute:

“Adopt and issue order dated March 16, 2004 commencing an investigation into alleged violations by The Detroit Edison Company of the code of conduct approved in Case No. U-12134, as set forth in the order.”