

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the application of)	
EDISON SAULT ELECTRIC COMPANY)	
for approval of its power supply cost recovery)	Case No. U-14271-R
reconciliation for the 12-month period ended)	
December 31, 2005.)	
_____)	

In the matter of the application of)	
EDISON SAULT ELECTRIC COMPANY)	
for authority to implement a power supply cost)	Case No. U-14703
recovery plan for the 12-month period ending)	
December 31, 2006.)	
_____)	

In the matter of the application of)	
EDISON SAULT ELECTRIC COMPANY)	
for authority to implement a power supply cost)	Case No. U-15003
recovery plan for the 12-month period ending)	
December 31, 2007.)	
_____)	

In the matter of the application of)	
EDISON SAULT ELECTRIC COMPANY)	
for approval of deferral accounting relative to)	Case No. U-15164
certain regulatory costs associated with litigated)	
power supply cost recovery dockets.)	
_____)	

At the April 24, 2007 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. J. Peter Lark, Chairman
Hon. Laura Chappelle, Commissioner
Hon. Monica Martinez, Commissioner

ORDER APPROVING SETTLEMENT AGREEMENT

This order settles a series of contested cases relating to Edison Sault Electric Company's (Edison Sault) power supply cost recovery (PSCR) filings for 2005 (Case No. U-14271-R, its 2005 PSCR reconciliation), 2006 (Case No. U-14703, its 2006 PSCR plan case) and 2007 (Case No. U-15003, its 2007 PSCR plan case). On December 22, 2006, Edison Sault filed a related case (Case No. U-15164) requesting the Commission's approval to defer accounting and amortize the legal costs associated with the plan and reconciliation cases.

These cases were at different stages when the parties engaged in discussions that eventually led to execution of the settlement agreement. While the settlement agreement requires that all four cases be resolved in order for any resolution of the individual matters to take effect, it is appropriate for the Commission to summarize each case. Details of each specific docket are set forth in the settlement agreement.

Case No. U-14703

On September 30, 2005, Edison Sault filed its application, with supporting testimony and exhibits, requesting approval to implement a PSCR plan for the 12-month period ended December 31, 2006.

Pursuant to due notice, a prehearing conference was held on November 10, 2005 before Administrative Law Judge Sharon E. Feldman (ALJ).¹ Edison Sault, the City of Mackinac Island (City), the Association of Businesses Advocating Tariff Equity (ABATE), and the Commission Staff (Staff) participated in the proceedings.

The parties conducted direct and cross-examination of the witnesses at a hearing held on June 27, 2006. Subsequently, the parties filed briefs and reply briefs. The ALJ issued her

¹ ALJ Feldman presided over all four cases addressed in this order.

Proposal for Decision (PFD) on October 13, 2006. The parties filed exceptions to the PFD on November 13, 2006, and replies to exceptions on December 4, 2006. Subsequently, the parties engaged in extensive negotiations resulting in the attached settlement agreement.

Case No. U-14271-R

On March 28, 2006, Edison Sault filed an application, with supporting testimony and exhibits, for approval of its PSCR reconciliation for the 12-month period ended December 31, 2005.

Pursuant to due notice, a prehearing conference was held on May 9, 2006 before the ALJ. Edison Sault, the City, Clark Township, ABATE, and the Staff participated in the proceedings.

After the September 19, 2006 evidentiary hearing, the parties filed initial and reply briefs and the ALJ issued her PFD on January 5, 2007. The parties subsequently engaged in settlement negotiations resulting in the attached settlement agreement.

Case No. U-15003

On September 29, 2006, Edison Sault filed its application, with supporting testimony and exhibits, to implement a PSCR plan for the 12-month period ending December 31, 2007.

Pursuant to due notice, a prehearing conference was held on November 22, 2006 before the ALJ. Edison Sault, the City, and the Staff participated in the proceedings.

Subsequent to the prehearing conference, the parties engaged in discovery and negotiations resulting in the attached agreement.

Case No. U-15164

On December 22, 2006, Edison Sault filed an application for approval of deferral accounting relating to costs associated with the litigation of the above-discussed contested PSCR dockets.

Pursuant to due notice, a prehearing conference was held on March 13, 2007 before the ALJ. Edison Sault, the City, and the Staff participated in the proceedings. Subsequently, the parties reached settlement of this matter in conjunction with the other cases discussed above. That settlement agreement requires Edison Sault to withdraw its application in this docket if the settlement agreement for all four of the cases is approved by the Commission.

Settlement Agreement

Under the terms of the settlement agreement, attached as Exhibit A, the parties agree that the PSCR factor for the 12-month period ended December 31, 2006 should be \$0.01245 per kilowatt-hour (kWh) in Case No. U-14703 and that the PSCR recoverable costs in Case No. U-14271-R should be reduced by \$347,704. The parties therefore agree that Edison Sault undercollected PSCR costs in the amount of \$3,709,204 for the 12-month period ended December 31, 2005. To recover the undercollection, the parties agree that Edison Sault may surcharge its special contract customer, Enbridge Energy, Limited Partnership, a factor of \$0.00572 per kWh beginning with the first billing cycle after this order is issued and continuing for 12 months. The remainder of Edison Sault's customers shall be surcharged a factor of \$0.00588 per kWh for the same period.

In Case No. U-15003, the parties agree that the PSCR factor for the 12-month period ending December 31, 2007 shall be \$0.01679 per kWh. Furthermore, the parties agree that Edison Sault and Wisconsin Electric Power Company (WEPCo) shall file an application with the Federal Energy Regulatory Commission (FERC) seeking to remove the Port Washington Generating Station (PWGS) from the list of pooled capacity resources beginning January 1, 2007. If the FERC approves the application, Edison Sault agrees that it shall not seek to recover any capacity costs related to the PWGS for the 2007 plan and reconciliation cases.

In addition, the parties agree that for the purposes of the plan and reconciliation cases discussed here, and in cases U-14703-R and U-15003-R when they are filed, Edison Sault may recover reasonable costs under the Joint Operating Agreement No. 2 (JOA) with WEPCo by applying the surcharges described in the settlement agreement. In the event that Edison Sault or WEPCo propose to amend the JOA, Edison Sault further agrees to seek input from the other parties to this agreement and serve all parties with any filings with the FERC regarding any amendment of the JOA.

The parties agree that Edison Sault will withdraw its application in Case No. U-15164 and will not seek to recover litigation costs incurred in Case Nos. U-14271, U-14271-R, or U-15003. Furthermore, the settlement agreement provides that Edison Sault will file five year projections, with the Commission and the other parties to the settlement, beginning with its 2008 PSCR plan case, which shall be filed by September 30, 2007.

The parties agree that within 45 days of the issuance of this order, Edison Sault shall hire an independent energy advisor to review matters associated with competitive power supply markets, power acquisition, and contracting.

Finally, the parties agree that if Edison Sault concludes that doing so will benefit its customers, Edison Sault and WEPCo may change the method of calculating the allocation of Financial Transmission Rights (FTR) beginning with the next allocation of FTR's by the Midwest Independent Transmission System Operator, Inc. on June 1, 2007.

The Commission has reviewed the settlement agreement and finds that approval of the agreement is reasonable and in the public interest.

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.*; 1982 PA 304, as amended; MCL 460.6h *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. The settlement agreement is reasonable and in the public interest, and should be approved.

THEREFORE, IT IS ORDERED that:

- A. The attached settlement agreement is approved.
- B. To recover an undercollected amount of \$3,709,204 for the year ended December 31, 2005, Edison Sault Electric Company shall surcharge its special contract customer, Enbridge Energy, Limited Partnership, a factor of \$0.00572 per kilowatt-hour beginning with the first billing cycle after this order is issued and continuing for 12 months. The remainder of Edison Sault Electric Company's customers shall be surcharged a factor of \$0.00588 per kilowatt-hour for the same period. Edison Sault Electric Company shall reconcile the amount to be collected and the amounts actually collected under the surcharges in a future power supply cost recovery reconciliation proceeding, and propose a disposition of any remaining balances.
- C. Edison Sault Electric Company is authorized to apply a power supply cost recovery factor of \$0.01679 per kilowatt-hour for the 12-month period ending December 31, 2007.
- D. The docket in Case No. U-15164 shall be closed in accordance with Edison Sault Electric Company's agreement to withdraw its December 22, 2006 application in that proceeding.
- E. Capacity charges associated with power purchased for periods in excess of six months included in Edison Sault Electric Company's 2006 and 2007 power supply cost recovery plans are approved in accordance with 1982 PA 304; MCL 460.6j(13)(b).

F. Within 30 days of the date of this order, Edison Sault Electric Company shall file tariff sheets reflecting the changes approved by this order.

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.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ J. Peter Lark
Chairman

(S E A L)

/s/ Laura Chappelle
Commissioner

/s/ Monica Martinez
Commissioner

By its action of April 24, 2007.

/s/ Mary Jo Kunkle
Its Executive Secretary

F. Within 30 days of the date of this order, Edison Sault Electric Company shall file tariff sheets reflecting the changes approved by this order.

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.

MICHIGAN PUBLIC SERVICE COMMISSION

Chairman

Commissioner

Commissioner

By its action of April 24, 2007.

Its Executive Secretary

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EDISON SAULT ELECTRIC COMPANY)
for approval of its power supply cost recovery) Case No. U-14271-R
reconciliation for the 12-month period ended)
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EDISON SAULT ELECTRIC COMPANY)
for approval of deferral accounting relative to) Case No. U-15164
certain regulatory costs associated with litigated)
power supply cost recovery dockets.)
_____)

Suggested Minute:

“Adopt and issue order dated April 24, 2007 approving the settlement agreement and authorizing Edison Sault Electric Company to reconcile its power supply cost recovery revenues and expenses for the 12-month period ended December 31, 2005, authorizing Edison Sault Electric Company to apply a power supply cost recovery factor of \$0.01679 per kilowatt-hour for the 12-month period ending December 31, 2007, and approving capacity charges for periods in excess of six months in Edison Sault Electric Company’s power supply cost recovery plans for 2006 and 2007, as set forth in the order.”

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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EDISON SAULT ELECTRIC COMPANY for)
authority to implement a power supply cost) Case No. U-14703
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approval of its power supply cost reconciliation) Case No. U-14271-R
for the period ending December 31, 2005.)
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EDISON SAULT ELECTRIC COMPANY for)
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EDISON SAULT ELECTRIC COMPANY for) Case No. U-15164
approval of deferral accounting relative to certain)
regulatory costs associated with litigated power)
supply cost recovery dockets.)
_____)

SETTLEMENT AGREEMENT

INTRODUCTION

The parties to these cases have engaged in extensive negotiations and have agreed to a resolution of all four matters. Each case is summarized below, however, since the settlement is dependent on resolution of all four matters, they are presented in one document. The summary of each case is separately presented with the specific settlement terms following.

U-14703

On September 30, 2005, Edison Sault Electric Company (“Edison Sault”) filed an application, with supporting testimony and exhibits, to implement a Power Supply Cost Recovery (“PSCR”) plan for the 12-month period ending December 31, 2006. The Commission issued its Notice of Hearing commencing this proceeding and establishing a procedural schedule for such proceeding. In accordance with the Commission’s Notice of Hearing, Edison Sault provided notice of this proceeding throughout its service area.

At the prehearing conference on November 10, 2005, Edison Sault presented proof of service of the Notice of Hearing on all cities, incorporated villages, townships and counties in its service area, and also presented an affidavit evidencing the requisite publication of this notice. Appearances were entered on behalf of the Commission Staff (“Staff”), the City of Mackinac Island (“City”), the Association of Business Advocating Tariff Equity (“ABATE”) and Edison Sault. Without objection, the City’s and ABATE’s intervention petitions were granted. This proceeding was conducted as a contested case matter pursuant to Chapter 4 of the Administrative Procedures Act of 1969, 1969 PA 306.

Edison Sault prefiled testimony of Leroy M. Baatz, its Assistant Vice President - Rates. The City and ABATE jointly sponsored the prefiled rebuttal testimony of James T. Selecky, and prefiled testimony of Thomas P. Lorden from another proceeding.

The parties engaged in discovery and subsequently conducted direct and cross-examination of the witnesses at a hearing held on June 27, 2006. The parties filed briefs and reply briefs. Administrative Law Sharon Feldman issued her Proposal for Decision (“PFD”) on October 13, 2006.

The parties filed exceptions to the PFD on November 13, 2006 and Replies to Exceptions on December 4, 2006.

U-14271-R

On March 28, 2006, Edison Sault filed an application, with supporting testimony and exhibits, for approval of its PSCR reconciliation for the 12-month period ending December 31, 2005. The Commission issued its Notice of Hearing commencing this proceeding and establishing a procedural schedule for such proceeding. In accordance with the Commission's Notice of Hearing, Edison Sault provided notice of this proceeding throughout its service area.

At the prehearing conference on May 9, 2006, Edison Sault presented proof of service of the Notice of Hearing on all cities, incorporated villages, townships and counties in its service area, and also presented an affidavit evidencing the requisite publication of this notice. Appearances were entered on behalf of the Staff, the City of Mackinac Island and Clark Township (collectively, "Cities"), ABATE and Edison Sault. Without objection, the intervention petitions were granted. This proceeding was conducted as a contested case matter pursuant to Chapter 4 of the Administrative Procedures Act of 1969, 1969 PA 306.

Edison Sault prefiled testimony of Leroy M. Baatz, its Assistant Vice President - Rates. The Cities jointly sponsored the prefiled rebuttal testimony of Donald W. Johns.

The parties engaged in discovery and subsequently conducted direct and cross-examination of the witnesses at a hearing held on September 19, 2006, at which eighteen exhibits were received into evidence.

The parties filed briefs and reply briefs and Administrative Law Judge Sharon Feldman issued her PFD on January 5, 2007.

Exceptions to the PFD are currently due to be filed on March 26, 2007 and Replies to Exceptions on April 9, 2007.

U-15003

On September 29, 2006, Edison Sault filed an application, with supporting testimony and exhibits, to implement a PSCR plan for the 12-month period ending December 31, 2007. The Commission issued its Notice of Hearing commencing this proceeding and establishing a procedural schedule for such proceeding. In accordance with the Commission's Notice of Hearing, Edison Sault provided notice of this proceeding throughout its service area.

At the prehearing conference on November 22, 2006, Edison Sault presented proof of service of the Notice of Hearing on all cities, incorporated villages, townships and counties in its service area, and also presented an affidavit evidencing the requisite publication of this notice. Appearances were entered on behalf of the Staff, the City and Edison Sault. Without objection, the City's intervention petition was granted. This proceeding was conducted as a contested case matter pursuant to Chapter 4 of the Administrative Procedures Act of 1969, 1969 PA 306.

Edison Sault prefiled testimony of Leroy M. Baatz, its Assistant Vice President – Rates in support of its application. The parties have initiated discovery. Intervenors' testimony is currently due to be filed on March 26, 2007 and cross-examination is scheduled for May 1, 2007.

U-15164

On December 22, 2006, Edison Sault filed an accounting application for approval of deferral accounting relating to costs associated with the litigation of the above referenced PSCR dockets. A prehearing conference was held before ALJ Feldman at which time a second

prehearing conference was set for March 13, 2007. This prehearing conference has been rescheduled to March 27, 2007.

TERMS OF AGREEMENT

The parties have agreed to resolve Case Nos. U-14271-R, U-15003, U-14703 and U-15164.

In view of the foregoing, and pursuant to Section 78 of the Administrative Procedures Act of 1969, as amended (1969 PA 306, §78; MCL 24.278) Edison Sault, the City, ABATE and Staff hereby agree as follows:

A. For purposes only of Case Nos. U-14703, U-14271-R, U-15003 and, when they are filed, Case Nos. U-14703-R and U-15003-R, the parties agree that Edison Sault may recover its reasonable costs under the Joint Operating Agreement Amendment No. 2 (“JOA”) by applying the surcharges set forth herein. The Intervenors are agreeing to the foregoing in order to give Edison Sault sufficient time to undertake the steps outlined in paragraph D below with regard to both the JOA and the 20 MW WEPCo firm contract that is set to expire on December 31, 2007. The parties’ agreement regarding Edison Sault’s recovery of its costs under the JOA, this settlement agreement, and any Commission order approving this settlement, shall not be admissible, precedential or binding in any other Commission or other proceeding of any type for any purposes whatsoever except insofar as necessary to enforce this settlement agreement. Except to agree that that Edison Sault may recover its reasonable costs under the JOA in Case Nos. U- 14703-R and U-15003-R when they are filed, the Intervenors are not waiving any objections in any other future PSCR plan or reconciliation case, including any objections which they might have made or continued to make in these cases.

B. Edison Sault will withdraw the accounting application that was filed with the Commission on December 22, 2006 in Case No. U-15164 and will not seek to recover any attorneys fees or costs incurred in Case Nos. U-14271-R, U-14703 or U-15003.

C. Edison Sault agrees to file 5 year projections beginning with its 2008 PSCR plan year filing which Edison Sault agrees to file on or before September 30, 2007. Edison Sault will prepare complete reports of its projections and file them with the Commission and deliver copies to the Intervenors.

D. Edison Sault agrees to hire an independent energy advisor or consultant not related to Wisconsin Energy, Wisconsin Electric Power Company (“WEPCo”) or Edison Sault within 45 days of the date of the Commission’s order approving this Settlement Agreement to help Edison Sault with respect to the following:

1. Analyze the competitive market for eligible suppliers,
2. Review Edison Sault’s existing power supply contracts with the purpose of recommending changes, amendments or replacement contracts,
3. Assist Edison Sault in the negotiation of contracts, or amendments to contracts, for present power supply contracts that may be expiring or subject to price renegotiation,
4. Review the reasonableness of Edison Sault’s load forecasts,
5. Determine whether options to purchase power would be more economically advantageous than purchasing blocks of power,
6. Review Edison Sault’s historical fuel and operating costs of power generation,

7. Prepare projections of expected fuel and transportation costs of Edison Sault's generating plants,
8. Evaluate the availability and cost of purchasing external sources of power,
9. Create a strategy for Edison Sault to pursue purchases over a period of time,
10. Work with MISO to obtain a list of potential suppliers,
11. Work with ATC to identify deliverability issues,
12. Assess the cost and availability of non-firm power, and evaluate whether the purchase of non-firm power would be beneficial to Edison Sault.
13. Perform a build, of all or a part, versus buy analysis for any purchase decision that is longer than 5 years.
14. Evaluate whether it would be cost effective to implement any one or a combination of the following options: demand side management, a demand response program, a purchase of a portion of an existing generating plant or one under construction or such other options that are reasonably designed to balance the supply and demand of electricity.
15. If Intervenors become aware of an opportunity to buy power from a supplier and inform Edison Sault of that opportunity, Edison Sault and its energy consultant will consider and evaluate that opportunity in good faith.
16. Edison Sault will prepare complete reports of its market analyses and submit them to the Commission Staff and deliver copies to the Intervenors.

E. Edison Sault agrees that, in the event Edison Sault or WEPCo propose amendments to the JOA it will do the following: (i) seek input from all parties to this proceeding regarding any proposed amendment, and (ii) serve all parties to this agreement with any filings with the Federal Energy Regulatory Commission (“FERC”) to amend the JOA. The parties recognize, for purposes of this settlement only, that the Commission may review the matters raised herein without regard to the filing of the JOA and its current amendments with FERC.

F. For Case No. U-14703, by virtue of this settlement agreement, the PSCR plan factor for the 12 months ending December 31, 2006 should be \$0.01245/kWh.

G. For Case No. U-14271-R, by virtue of this settlement:

1. The claimed PSCR recoverable costs will be reduced by the Staff recommended adjustment of \$347,704. The parties therefore agree that Edison Sault under collected PSCR costs for the year ended December 31, 2005 in the amount of \$3,709,204, including interest.

2. By this settlement agreement, the parties agree that Edison Sault may surcharge its customers as follows: Except for the special contract under which Enbridge Energy is served, a surcharge factor of \$0.00588 per kWh shall be applied to all of Edison Sault’s customers subject to the PSCR clause beginning with the first billing cycle of the month following the issuance of the Commission’s order approving this Settlement Agreement, and continuing in effect for a period of 12 months. For the special contract under which Enbridge Energy is served, a surcharge factor of \$0.00572 per kWh shall be applied beginning with the first billing cycle of the month following the issuance of the Commission’s order approving this Settlement Agreement, and

continuing in effect for a period of 12 months. Edison Sault shall reconcile the amount to be collected and the amounts actually collected under the surcharges in a future PSCR reconciliation proceeding, and propose a disposition of any remaining balances.

H. For Case No. U-15003, the PSCR plan factor for the 12 months ending December 31, 2007 shall be \$0.01679/kWh. The Parties hereto agree that Edison Sault and WEPCo shall file an application with the FERC seeking to remove the Port Washington Generating Station (“PWGS”) from the list of Pooled Capacity Resources commencing January 1, 2007. Edison Sault agrees that it and WEPCo will aggressively pursue this amendment before FERC and will make every effort to ensure its approval. ABATE and City of Mackinac Island will file a concurrence with FERC in support of the proposed amendment. If FERC approves the application, and removes PWGS from the list of Pooled Capacity Resources, Edison Sault shall not seek to recover any capacity costs related to the PWGS for the 2007 PSCR plan and reconciliation. Edison Sault estimates that this will result in a \$555,000 decrease in capacity payments from Edison Sault to WEPCo in 2007. If FERC does not approve the proposed amendment to the JOA this Settlement Agreement will be deemed null and void and the parties will address how to most equitably and appropriately respond to the failure to obtain the requested FERC approval.

I. If Edison Sault concludes that doing so will benefit its ratepayers, Edison Sault and WEPCo shall also be permitted to change to the methodology by which Financial Transmission Rights (“FTRs”) are allocated to Edison Sault under the JOA to provide for the direct allocation of FTRs to Edison Sault beginning with MISO’s next allocation of FTRs on

June 1, 2007. Until June 1, 2007, Edison Sault shall continue to receive the benefits of FTRs in the manner which Edison Sault and WEPCo have employed in the past.

J. Capacity charges associated with power purchased for periods in excess of six months included in Edison Sault's 2006 and 2007 PSCR plans are specifically included in this settlement agreement – so that an order approving this settlement agreement constitutes the prior approval referenced in Section 6j(13)(b) of the PSCR Act.

K. This settlement agreement will become binding on the parties only if all parties sign it and the Commission accepts and approves the same without modification. If the Commission does not accept this settlement agreement without modification, this settlement agreement shall be withdrawn and shall not constitute any part of the record in the proceeding or be used for any purpose whatsoever.

L. Section 81 of the Administrative Procedures Act of 1969 is waived by the signatories hereto.

Dated: March ____, 2007

COMMISSION STAFF

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Dated: March____, 2007

EDISON SAULT ELECTRIC COMPANY
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Dated: March 15, 2007

THE CITY OF MACKINAC ISLAND
CLARK TOWNSHIP
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Lansing, MI 48933

Dated: March____, 2007

ABATE
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