

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of)	
DETROIT THERMAL, LLC , for a steam cost)	
recovery reconciliation proceeding for the)	Case No. U-15456-R
12-month period ended March 31, 2009.)	
_____)	

At the January 25, 2010 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon Orjiakor N. Isiogu, Chairman
Hon. Monica Martinez, Commissioner
Hon. Greg R. White, Commissioner

ORDER APPROVING SETTLEMENT AGREEMENT

On June 26, 2009, Detroit Thermal, LLC, filed an application to reconcile its steam cost recovery (SCR) and steam supply cost recovery (SSCR) revenues and expenses for the 12-month period ended March 31, 2009. The revenues being reconciled are those received under the SCR factor approved in the June 10, 2008 order Case No. U-15456 for the April 1, 2008 through November 30, 2008 period and under the SSCR factor approved in the November 13, 2008 order in Case No. U-15636 for the December 1, 2008 through March 31, 2009 period.

Detroit Thermal's application indicated that it had undercollected \$781,404 in relation to its gas and steam costs and requested to roll the net underrecovered amount into its steam supply costs for the 12-month SSCR plan period beginning April 1, 2009 and ending March 31, 2010.

A pre-hearing conference was held on September 17, 2009, before Administrative Law Judge Barbara A. Stump. Detroit Thermal and the Commission Staff participated in the proceedings. Subsequently, the parties submitted a settlement agreement resolving all the issues in the case.

According to the settlement agreement, attached as Exhibit A, the parties agree that Detroit Thermal's revenues attributable to the recovery of its booked cost of steam under its SCR and SSCR clauses exceeded its revenue from the SCR and SSCR charges by a net total of \$781,404, including interest through March 31, 2009. The parties further agree that this net underrecovery shall be rolled into Detroit Thermal's 2009-2010 SSCR plan period by adding the underrecovery to the 2009-10 SSCR reconciliation monthly over (under) recovery beginning balance in accordance with Commission-approved procedures.

The Commission finds that the settlement agreement is reasonable and in the public interest and should be approved.

THEREFORE, IT IS ORDERED that:

A. The settlement agreement, attached as Exhibit A, is approved.

B. Detroit Thermal, LLC, is authorized to roll into its 2009-2010 steam supply cost recovery plan the total net underrecovery of \$781,404 from the steam cost recovery and steam supply cost recovery reconciliation for the 12-month period ended March 31, 2009 by adding the underrecovery to the 2009-10 steam supply cost recovery reconciliation monthly over (under) recovery beginning balance.

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, under MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

Orjiakor N. Isiogu, Chairman

Monica Martinez, Commissioner

Greg R. White, Commissioner

By its action of January 25, 2010.

Mary Jo Kunkle, Executive Secretary

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of)
Detroit Thermal, LLC)
for a steam cost recovery reconciliation proceeding) Case No. U- 15456-R
for the 12-month period ended March 31, 2009)
_____)

SETTLEMENT AGREEMENT

As provided in Section 78 of the Administrative Procedures Act of 1969 (“APA”), as amended, MCL 24.278, and Rule 333 of the Commission’s Rules of Practice and Procedure, 2000 AC, R 460.17333, and supported by the Commission’s own policy towards settlement of contested issues, Detroit Thermal, LLC (“Detroit Thermal” or the “Company”) and the Michigan Public Service Commission (“Commission” or “MPSC”) Staff (“Staff”) (hereafter, collectively referred to as the “Parties”) have agreed to resolve the issues before the Commission regarding the reconciliation of Detroit Thermal’s steam cost recovery (“SCR”) costs/steam supply cost recovery (“SSCR”) costs for the twelve-month period ended March 31, 2009 as follows:

1. On June 26, 2009, Detroit Thermal filed an application for the purpose of reconciling its steam cost recovery and steam supply cost recovery revenues and expenses for the twelve-month period ended March 31, 2009 in accordance with Detroit Thermal’s Commission approved tariff, *Detroit Thermal, M.P.S.C. NO. 1 -- STEAM*.

2. The revenues being reconciled are those received under the steam cost recovery factor approved in MPSC Case U-15456 for the April 1, 2008 through November 30, 2008 period and the steam supply cost recovery factor approved in MPSC Case U-15636 for the December 1, 2008 through March 31, 2009 period.

3. On August 20, 2009, the Commission issued its Notice of Hearing directing Detroit Thermal to mail a copy of the Notice of Hearing to all cities, incorporated villages, townships and counties in its service area. Detroit Thermal was also instructed to mail a copy of the Notice of Hearing to each of its customers. Detroit Thermal electronically filed the requisite proofs of service with the Commission on August 21, 2009 and September 1, 2009.

4. Administrative Law Judge Barbara A. Stump presided over the September 17, 2009 pre-hearing conference and approved a procedural schedule. Staff participated in the proceeding. There were no intervenors.

5. Subsequent to the pre-hearing conference, the parties engaged in discussions and have agreed as follows:

a. Proceedings in this SCR/SSCR reconciliation were conducted in accordance with Detroit Thermal's Steam Cost Recovery Clause/Steam Supply Cost Recovery Clause and Act 132 of 2008.

b. The expenditures charged by Detroit Thermal for its cost of steam/cost of steam supply during the 12-month period ending March 31, 2009, were reasonably and prudently incurred.

c. During the 12-month period ending March 31, 2009, Detroit Thermal's booked cost of steam exceeded its revenue from the steam cost recovery and steam supply cost recovery charges by a net total of \$781,404, inclusive of applicable interest through March 31, 2009.

d. In accordance with the standard roll-in procedures, the parties propose that Detroit Thermal roll in the total underrecovery of \$781,404 into the

Company's 2009-10 SSCR plan period by adding the underrecovery to the 2009-10 SSCR reconciliation monthly over(under) recovery beginning balance.

6. The parties believe that this Settlement Agreement will promote the public interest and will aid in the expeditious conclusion of this case.

7. This Settlement Agreement is entered into for the sole and express purpose of reaching a compromise among the parties. All offers of settlement and discussions relating to this settlement are considered privileged under MRE 408. If the Commission approves this Settlement Agreement without modification, the parties to the settlement shall not make any reference to, or use this Settlement Agreement or the order approving it, as a reason, authority, rationale, or example for taking any action or position in any other case or proceeding; provided however, such references may be made to enforce or implement the provisions of this Settlement Agreement.

8. This Settlement Agreement is based on the facts and circumstances of this case and is intended as the final disposition of Case No. U-15456-R. If the Commission approves this Settlement Agreement without modification, the undersigned parties agree not to appeal, challenge, or otherwise contest the Commission order approving this Settlement Agreement. Except as otherwise stated in this Agreement, the parties agree and understand that this Settlement Agreement does not limit any party's right to take new or different positions on similar issues in other administrative proceedings, or appeals.

9. This Settlement Agreement is not severable. Each provision of this Settlement Agreement is dependant upon all other provisions of this Settlement Agreement. Failure to comply with any provision of this Settlement Agreement

constitutes failure to comply with the entire Settlement Agreement. If the Commission rejects or modifies this Settlement Agreement or any provision of this Settlement Agreement, this Settlement Agreement shall be deemed to be withdrawn, shall not constitute any part of the record in this proceeding or be used for any other purpose, and shall not operate to prejudice the pre-negotiation positions of any party.

10. Staff agrees that this Settlement Agreement is reasonable and in the public interest.

11. The parties agree to waive Section 81 of the Administrative Procedures Act of 1969, MCL 24.281 if the Commission approves this Settlement Agreement without modification.

WHEREFORE, the undersigned parties respectfully request that the Commission approve this Settlement Agreement without modification, and make it effective, in accordance with its terms, by final order.

**MICHIGAN PUBLIC SERVICE
COMMISSION STAFF**

DETROIT THERMAL, LLC

By: _____
Michael J. Orris (P51232)
Assistant Attorney General
Public Service Division
6545 Mercantile Way, Suite 15
Lansing, MI 48911

By: _____
Arthur J. LeVasseur (P29394)
Matthew M. Peck (P66361)
Fischer, Franklin & Ford
Attorneys for Detroit Thermal, LLC
500 Griswold St., Suite 3500
Detroit, MI 48226-3808

Dated: January 8, 2010

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