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February 12, 2013

Ms. Mary Jo Kunkle
Executive Secretary
Michigan Public Service Commission
6545 Mercantile Way
Lansing, MI 48911

Dear Ms. Kunkle:

Re: MPSC Case No. U-17053

Pursuant to the Commission's E-Dockets User Manual, I am attaching the Attorney General's Initial Brief along with a proof of service.

Sincerely,

Donald E. Erickson
Assistant Attorney General

c All Parties

PROOF OF SERVICE - U-17053

The undersigned certifies that the Attorney General's Initial Brief was served upon the parties listed below, by e-mailing the same to them at the e-mail addresses listed below on the 12th day of February 2013.

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STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application and request of
THE DETROIT EDISON COMPANY seeking MPSC No. U-17053
approval and authority to implement its
proposed Advanced Metering Infrastructure
Opt-Out Program

Attorney General's Initial Brief

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History of Proceedings

On July 31, 2012, The Detroit Edison Company filed an application in the captioned case. The application requested the Michigan Public Service Commission to implement an Advanced Metering Infrastructure (“AMI”) Opt-Out Program for residential customers. The application indicated the program would provide an opportunity for its residential customers to voluntarily make an affirmative choice to participate in the program resulting in a non-transmitting AMI meter being installed at the Customer’s service location instead of a transmitting AMI meter and further subject the requesting customer to applicable charges as described herein.

Detroit Edison’s application was based upon recommendations contained in a July 29, 2012 report submitted to the Commission by its Staff in Case No. U-17000, and Detroit Edison’s application provided the following description of its AMI opt-out program:

Edison’s AMI Opt-Out Program will provide an opportunity for individual residential customers who voluntarily request to participate in the program to have a non-transmitting AMI meter installed at their residential service address instead of the Company’s transmitting AMI meter. Customers will be required to supply positive identification and information to an Opt-Out Customer Representative to initiate the opt out procedure. Customers may opt out for any reason and will not be required to communicate the reason to the Company. Customer’s electing to opt-out will be subjected to an initial charge of \$87 for costs of special infrastructure charges and the metering changes required at the site and a monthly fee of \$15 to cover the incremental costs of manual meter reading infrastructure and other services necessitated by maintenance of a manual meter system that would otherwise be avoided by an AMI meter system. Customers requesting to “opt-out” will have their meter reads obtained manually

and at least monthly according to the Public Service Commission, Consumer Standards and Billing Practices for Electric And Gas Residential Service (R 460.101).

The application was supported by an affidavit signed by Mr. Robert E. Sitkauskas, and a proposed tariff sheet attached to his affidavit.

But the application stated that Detroit Edison further reserves the right to propose modifications to the charges for the AMI Opt-Out Program in its next general rate case based on changes in volume, costs and participation levels and that if its application is not approved in its entirety by the Commission, or is modified in any way, the Application shall be withdrawn.

After Detroit Edison filed its application in this case, the Commission issued its September 11, 2012 Order in Case No. U-1700. That order contains the following conclusions:

1. On-going Assessment of Advanced Metering Infrastructure and Smart Grid

The Commission agrees with the Staff that AMI and smart grid investments should be reviewed in the context of general rate case proceedings. The Commission expects the utilities, the Staff, and other interested parties to continue to refine the scope of, and quantify and assess the costs and benefits of AMI and smart grid during the implementation of these new technologies on a case-by-case basis.

2 Opt-out Options

As the Staff pointed out, a small minority of customers has significant concerns about AMI, and for those customers, the Staff recommends that an opt-out option be provided by the electric utilities. The Commission agrees that the investor-owned electric utilities (i.e., Alpena, Consumers, Detroit Edison, I&M, NSP-W, UPPCo, WEPCo, and WPSC) shall make available an opt-out option, based on cost-of-service principles, for their customers if or when the provider elects to implement AMI. The Commission observes that only Consumers and

Detroit Edison are currently installing AMI thus, at this point in time, only these providers are affected by this directive. Detroit Edison has already filed a proposed opt-out tariff. See, Case No. U-17053. In the case of Consumers, within 60 days of the date of this order, or in Consumers' next general rate case filing, whichever occurs first, the Commission directs the company to include a proposed optout tariff.

3. Customer Data Privacy and Cyber Security

The Staff summarized the concerns with cyber security, in connection with AMI, as follows:

As Michigan transitions to a more technologically advanced power grid, it is important that the proper actions are taken by utilities to address cyber security threats. Cyber security planning is defined as preventing damage to, unauthorized use of, or exploitation of electronic information and communications systems and the information contained therein to ensure confidentiality, integrity, and availability. The attention cyber security has received at the national and state levels for many years indicates that utilities, regulators and consumers all share common concerns. Improving the electrical grid involves gathering more data and utilizing more technology. With every added piece of technology, the risk of vulnerabilities inherently increases. The U.S. DOE has stated that the smart grid of the future should be secure and resilient against all forms of attacks. A smarter grid includes more devices and connections that may become avenues for intrusions, error-caused disruptions, malicious attacks, destruction, and other threats.

Staff Report, p. 14 (footnotes omitted).

Similarly, with respect to data privacy, the Staff explained:

AMI necessitates a higher volume of data collected by utilities, therefore it is imperative that customer information be properly protected through appropriate regulations. Federal legislation protecting consumer data privacy is forthcoming;

however, it is important to identify ways to protect Michigan's ratepayers in the interim.

Staff Report, p. 13 (footnote omitted).

The Commission finds that these issues concerning customer data collection, privacy, and cyber security are complex, and sufficiently important to merit the creation of a future docket limited to these issues. The Commission will solicit company-specific information on cyber security planning, standards, and policies for the utilities currently implementing AMI or planning to implement these systems.

In the same future docket the Commission will request utility input on customer data collection and privacy standards, required rulemaking or rule amendments, and interim measures to be undertaken while the potential rulemaking process proceeds.

[In re the Commission's own motion, to review issues bearing on the deployment of smart meters by regulated electric utilities in Michigan, MPSC Case No. U-17000, Order dated September 11, 2012, pages -6.]

The Commission also issued an order in Case No. U-17102 on October 30, 2012. The order in that case required Detroit Edison and Consumers Energy to submit comments and answer four questions related to a proposed AMI customer privacy framework. The case is still pending, and it appears the case is likely to result in a rulemaking proposal from the Commission under Chapter III of the Administrative Procedures Act.

Meanwhile, on August 14, 2002, the Commission's Executive Secretary sent a notice of hearing to Detroit Edison to be published to initiate contested-case proceedings in the captioned case. Many people have filed written comments, and several citizens submitted petitions to intervene. On September 7, Detroit Edison filed affidavits of publication and proofs of service and testimony and exhibits

supporting its application. The same day, Administrative Law Judge (ALJ) Dennis W. Mack conducted a prehearing conference.

At the prehearing conference, Detroit Edison and the Commission's Staff participated pursuant to Commission rules, and ALJ Mack granted intervenor status to the Attorney General, John and Pauline Holton, Karen Spranger, Cynthia Edwards, Linda Kurtz, Dominic and Lillian Cusumano, Richard Meltzer, and Sharon Schmidt. 22 citizens offered oral statements at the prehearing conference under Rule 207. Subsequently, many additional citizens have filed written comments.

Several of the citizen-intervenors submitted prefiled direct and/or rebuttal testimony, and the Commission's Staff submitted direct testimony and exhibits. Detroit Edison submitted rebuttal testimony. On January 8, 2013, the ALJ heard oral arguments on 12 motions to strike filed by Detroit Edison, one motion to strike filed by the Commission's Staff, and one motion filed by Mr. Holeton.

The ALJ ruled that much of the prefiled testimony exceeded the scope of the issues in this case and granted motions to strike some or all of this testimony (2 T 180-196).

The ALJ conducted evidentiary hearings on January 15 (3 T 207-462) and on January 16 (4 T 464-640). During those hearings, Mr. Sitkauskas testified on behalf of Detroit Edison and was cross examined (3 T 214-261 & 4 T 468-530). Revised surrebuttal testimony filed by Mr. Meltzer was bound into the record by agreement of the parties (4 T 531-543). Redacted testimony and exhibits sponsored by Mr.

Holeton were admitted, and he was cross examined (4 T 532-569). Finally, Staff witness Steven McLean testified and was cross examined (4 T 569-640).

Outline of the Evidence

Given the narrow scope of the issues in this case and to minimize repetition , the Attorney General will present a summary of the testimony in this section and will address other portions of the record evidence in the context of the arguments section in this brief.

A. Detroit Edison's Testimony and Exhibits

Mr. Sitkauskas testified that Detroit Edison began reviewing the possible deployment of an AMI system in 2006 (3 T 226). A contract was signed on July 16, 2008 which engaged Itron for an initial pilot program entailing the installation of approximately 10,000 meters (4,000 gas and 6,000 electric) in Grosse Ile, and after the pilot was completed, Detroit Edison continued with installation of AMI meters and to date has installed over 822,000 meters (electric) and modules (gas), primarily in Oakland County, and more recently installations in Washtenaw County (3 T 226).

Mr. Sitkauskas testified that Detroit Edison originally outlined its proposal to implement the AMI pilot program in general rate Case No. U-15244 and that

Detroit Edison supported implementation of its AMI program in general rate Case Nos. U-15768 and U-16472 (3 T 227).¹

Mr. Sitkauskas testified that AMI meters eliminate the need to read meters at customers' premises, improve billing accuracy, nearly eliminate the need to estimate customers' bills, alert the Company if meter tampering occurs, lets the Company become aware of potential theft, minimize potential employee injuries at customers premises, allow the Company to disconnect and reconnect service more quickly, will make Detroit Edison's responses to outages more efficient even though the meters do not help in replacing and repairing or determining the source of an outage, and will record voltage problems at a customer's premises (3 T 227-229).

Mr. Sitkauskas testified that during the installation of approximately 800,000 meter and modules through mid-July 2012, DTE had received approximately 1,100 contacts from customers expressing concerns regarding AMI Meters and that of the customers, who have indicated to the Company the cause of their concerns, most of the concerns can be summarized as being related to data privacy and health impacts, but he said the overwhelming majority of customers fully support AMI (3 T 230).

¹ The Attorney General and ABATE filed an appeal from the January 16, 2009 final order issued by the Commission in U-15768, and on April 10 2012, the Court of Appeals remanded that case and ordered the Commission to take additional evidence regarding the AMI ruling in that case. Remand proceedings concern whether or not the Commission's AMI rulings can be supported by additional competent, material and substantial evidence. The remand proceedings are still pending.

In order to participate in Detroit Edison's proposed AMI opt-out program, residential customers must voluntarily request to have a non-transmitting AMI meter installed at their residential service address instead of having the Company's transmitting AMI meter installed (3 T 230). Opt-out participation will involve the following terms and conditions:

Customers will be required to supply positive identification and information to an opt out Customer Representative to initiate the opt out procedure. Customers may opt out for any reason and will not be required to communicate the reason to the Company. Customer's electing to opt-out will be charged an initial fee of \$87 per site for the costs of special infrastructure changes and the metering changes required at the site. This charge is applied each time a customer at a premise opts out. In addition, a monthly fee of \$15 will be charged to cover the incremental costs of manual meter reading infrastructure and other services necessitated by maintenance of a manual meter system that would otherwise be avoided by AMI. Both of these charges are considered energy charges for purposes of applying the Michigan Public Service Commission billing rules and regulations. The monthly charge has been adjusted to eliminate costs already included in residential customers current rates associated with AMI infrastructure and meter reading. Customers electing to opt-out and who already have a transmitting AMI meter installed at their premise will have their meter changed to a non-transmitting AMI meter. Opt-out customers, who have not had their current meter replaced by a transmitting AMI meter at the time they request to opt out, will temporarily retain their current meter until such a time as AMI meters in their area are installed and subsequently will receive a non-transmitting AMI meter (3 T 231).

If an opt-out customer pays the \$87 and moves to a new house, then the customer would be charged a new \$87 (3 T 375).

Mr. Sitkauskas testified that charges Detroit Edison is proposing are based upon the actual cost of maintaining a non-transmitting AMI meter without causing incremental costs and expenses for the millions of customers not electing to opt out

because the Company does not think it is appropriate for all customers to subsidize one segment of customers who request and receive a more expensive level of service (3 T 231-232).

The difference between a so-called opt-out meter and transmitting meters is that Detroit Edison will install the same meter, but will shut off the radio transmitter, which is turned on at the factory (3 T 290). The Company will charge \$87 for signing up opt-out customers and installing a non-transmitting AMI meter (Exhibit A-1, Schedule 1, lines 1-4 and Schedules 2 & 3). It takes 45 minutes to turn a transmitter off (3 T 349). When a customer signs up for the opt-out program, the one-time \$87 will not be charged to the customer until Detroit Edison actually installs an AMI meter and turns off the transmitter (3 T 294). The breakdown of this charge is based upon projected facts in Schedules 2 and 3 of Exhibit A-1.

Initial Opt Out Charges

Exhibit A-1, Schedule 1, line 1 and Schedule 2, lines 1-9 identify labor and overhead costs totaling an average of \$61.46 per hour. Exhibit A-1, Schedule 1, line 2, and Schedule 2, lines 10-16 identify a \$2 charge per opt-out customer for training costs. Exhibit A-1, Schedule 3 presents a calculation of costs totaling \$96,000 to prepare Detroit Edison's billing system to handle opt-out service.

Monthly Opt-Out Charges

Detroit Edison also proposes a net monthly opt-out charge of \$15. Line 5 in Exhibit A-1, Schedule 1 identifies a monthly meter reading cost of \$8.00. Schedule 4 presents the details of this projected miscellaneous meter reading cost, and Schedule 4 projects an average labor wage of \$18.84 per hour plus overheads, for special meter readings. Line 6 in Exhibit A-1, Schedule 1 identifies \$2 per customer per month, and Schedule 5, lines 1-7 present the supporting details for this charge for one supervisor. Lines 7 in Exhibit A-1, Schedule 1 identify a charge of \$3.60 per month for two billing analysts. Line 8 in Exhibit A-1, Schedule 1 identifies a \$2.00 per month charge for one route coordinator. Schedule 5 indicates that the cost for a supervisor, two billing analysts, and a route coordinator would cost \$96,472, which would translate into an average \$2.01 cost per month for 4,000 opt-out customers.

Line 9 in Exhibit A-1, Schedule 1 is a \$0.45 credit that removes the meter reading cost included in the current tariffs, which is a cost calculated in Exhibit A-1, Schedule 6. Line 10 in Exhibit A-1, Schedule 1 is a credit that removes \$0.15 AMI costs included in the current tariffs which is calculated in Exhibit A-1, Schedule 7.

(See 3 T 234)

B. Staff's Testimony and Exhibits

The Commission's Staff submitted direct testimony and exhibits sponsored by Mr. Steven Q. McLean (4 T 569-640 and Exhibits S-1 and S-2). Mr. McLean present

Staff's voluntary Non-Transmitting Meter Provision for residential customers (4 T 577). He testified in part:

Staff recommends that the initial fee and monthly charge should be reduced from the Company proposed amounts of \$87.00 and \$15.00 to \$67.20 and \$9.80. Staff has also modified the tariff to make it clear that the customer is choosing a non-transmitting meter as opposed to a transmitting meter, which is the Company's standard meter for residential customers. In addition, the tariff has been modified to make it clear when the charges apply for customers who choose a non-transmitting meter and live in areas that have not yet received transmitting meters. (4 T 578).

He testified that the resulting charges be reduced to reflect a higher projected customer participation rate (4 T 578). He said Staff chose to use a rate of 0.60%, which resulted in a participation level of 15,500 customers because it is a compromise between the Company's proposed rate and the potentially higher rates forecasted by other utilities (4 T 579). These proposed rate will be subject to review in future rate cases (4 T 579)/.

C. Citizen-Intervenors' Testimony and Exhibits

Several of the intervening citizens submitted prefiled direct, rebuttal, or surrebuttal testimony. However, during a motion hearing held on January 8, 2013, the ALJ ruled that much of the prefiled testimony exceeded the scope of the issues in this case and granted motions to strike some or all of this testimony (2 T 180-196).

The record contains the following testimony from intervening citizens. Revised surrebuttal testimony filed by Mr. Meltzer was bound into the record by

agreement of the parties (4 T 531-543). Redacted testimony and exhibits sponsored by Mr. Holeton were admitted, and he was cross examined (4 T 532-569).

Arguments

The Attorney has concluded that this case involves four disputed subjects, and the following sections of this brief discuss those disputes.

I.

Should the MPSC approve an AMI opt-out program for Detroit Edison's residential customers?

In its September 11, 2012, order in Case No.U-17000, the Commission ruled that Michigan's investor-owned electric utilities shall make available an AMI opt-out option, based on cost-of-service principles for their customers if or when the provider elects to implement AMI.

In its application and testimony in this case, Detroit Edison says that Edison's AMI Opt-Out Program will provide an opportunity for individual residential customers who voluntarily request to participate in the program to have a non-transmitting AMI meter installed at their residential service address instead of the Company's transmitting AMI meter. Customers will be required to supply positive identification and information to an Opt-Out Customer Representative to initiate the opt out procedure. Customers may opt out for any reason and will not be required to communicate the reason to the Company.

Assuming the Commission continues to implements its prior rulings approving Detroit Edison's AMI program in future cases, no evidence seriously contends that allowing customers to opt out for any reason without communicating

the reason to the Company would be unjust and unreasonable. Therefore, the Attorney General recommends approving a tariff allowing residential customers to choose to opt out.

On the other hand, the evidence indicates that a non-transmitting meter will have a transmitter, but the transmitter will be turned off (4 T 507). Turning off the radio transmitter involves approximately 45 minutes (3 T 348-357). Exchanging one meter for another takes approximately 5 minutes (3 T 444).

In the physical sense, when the radio is turned on AMI meter will relay information to Detroit Edison for its processing in addition to metering the quantity of electric used by each customer (4 T 507-508). The smart meter with a radio turned on will provide daily metering information and existing analog meters will only provide monthly information, but otherwise an AMI meter with the radio turned off and an analog meter provide the same basic information and have the same impact on Detroit Edison's operations (4 T 508-509). There is no need to replace an analog meter to obtain the individual read (4 T 509). Detroit Edison would not incur initial costs related to the \$87 charge if Detroit Edison did not replace analog meters for opt-out customers (4 T 510). AMI meters and analog meter both are expected to have a 20-year life (3 T 375).

In conclusion, the Attorney General contends that the Commission should approve an AMI opt-out tariff that permits residential customers to choose to continue having an analog meter at their premises without having to accept an AMI meter with the radio turned off. Another advantage of adopting this condition would

be that Detroit Edison would not need to spend money for as many AMI meters to create zero benefits. This would reduce the rate base revenue requirements because the costs for the otherwise unneeded, new AMI meters could be avoided by continuing use of analog meters so long as they continue to work replacement analog meters are or become available at a lower cost. Furthermore, Detroit Edison considers current meters to be accurate (3 T 338).

Since continuing to use an analog meter will provide the same information as a radio-disabled AMI meter, there is no preponderance of the evidence to justify a ruling by the Commission that opt-out customers should be required to accept a radio-disabled AMI meter. And requiring opt-out customers to accept a radio-disabled AMI meter would unnecessarily increase rate base and base rates all other things being equal.

II.

Is the proposed one-time \$87 charge for the AMI opt-out program just and reasonable?

Mr. Sitkauskas testified that charges Detroit Edison is proposing are based upon the actual cost of maintaining a non-transmitting AMI meter without causing incremental costs and expenses for the millions of customers not electing to opt out because the Company does not think it is appropriate for all customers to subsidize one segment of customers who request and receive a more expensive level of service (3 T 231-232).

The Attorney General agrees with Detroit Edison that cost of service is a basic ratemaking principle and that the Commission should not force one group of customers to subsidize another group. But applying these concepts to charges that could be avoided by simply allowing an opt-out customer to retain a working analog meter is not just and reasonable.

The fundamental rule of law is that rates must be just and reasonable. *Northern Mich Water Co v PSC*, 381 Mich 340, 351; 161 NW 2d 584 (1968), and *Detroit v MPSC*, 308 Mich 706, 716; 14 NW 2d 784 (1944). Furthermore, MCL 462.4(a), MCL 462.10(g), MCL 462.22(c), MCL 460.54, MCL 460.4, and MCL 460.557(4) all require that utility rates must be just and reasonable.

In addition, the one-time \$87 that would be charged to an opt-out customer would be imposed only at the time Detroit Edison actually installs an AMI meter and turns off the transmitter (3 T 294). This charge is based upon projected facts in Schedules 2 and 3 of Exhibit A-1.

Specifically, schedule 2, lines 1-9 identify labor and overhead costs totaling an average of \$61.46 per hours, but no preponderance of the evidence shows that Detroit Edison will need to hire new workers just to serve opt-out customers. So the record does not justify treating that amount as a charge to opt-out customers because the evidence indicates \$61.46 per hour may be an average embedded cost, but fails to demonstrate that this charge represents an incremental cost Detroit Edison will incur as a consequence of serving opt-out customers.

Exhibit A-1, Schedule 1, line 2, and Schedule 2, lines 10-16 identify a \$2 per opt-out customer charge for training costs. This calculation assumes the Detroit Edison will need to incur incremental costs to train 126 workers to serve 4,000 opt-out customers, but there is no sufficient evidence to explain why Detroit Edison would need to spend that much additional money.

Exhibit A-1, Schedule 3 presents a calculation of costs totaling \$96,000 to prepare the billing system to handle opt-out service. This calculation does not explain or show how Detroit Edison will actually incur that much incremental expense on top of the billing system costs already included in base rates. In addition, the opt-out program does not have a limited life, and Detroit Edison would bill \$87 each time an opt-out customer changes residences (3 T 375). The calculation in Schedule 3 does not factor in the potential duplicating revenue for fixed costs related to the billing system.

This case must be decided on the basis of the whole record. MCL 24.285. And Mr. McLean has testified that the \$87 should be at least reduced to \$67.20 as calculated in Exhibit S-1, line 4. The Attorney General contends that this would be a minimal correction that the Commission should adopt.

In conclusion, the Attorney General contends that Detroit Edison's evidence does not prove by a preponderance of the evidence that the \$87 initial charge is just and reasonable, so the Commission should reject that proposed charge.

III.

Is the proposed \$15 monthly net charge for the AMI opt-out program just and reasonable?

Lines 5-8 in Exhibit A-1, Schedule 1 identify \$15.60 in monthly costs Detroit Edison claims that it will incur as a result of the opt-out program. Line 5 in Exhibit A-1, Schedule 1 identifies a monthly meter reading cost of \$8.00, and Schedule 4 presents the details of this projected miscellaneous meter reading cost. The testimony does not indicate that this average embedded cost accurately represents an incremental cost that will result from the opt-out program prior to a rate order setting new base rates.

Line 6 in Exhibit A-1, Schedule 1 identifies \$2 per customer per month, and Schedule 5, lines 1-7 present the supporting details this charge for one supervisor. Lines 7 and 8 in Exhibit A-1, Schedule 1 identify charges, respectively, of \$3.60 per month for two billing analysts and \$2.00 per month for one route coordinator. Again these calculations represent average, embedded costs, but the testimony does not explain why Detroit Edison will incur incremental costs just because 4,000 customers opt-out of AMI meters

Exhibit A-1, Schedule 6 reports that charge for meter reading included in current rates is \$0.45 per month, and Exhibit A-1, line 9 proposes that credit as a reduction to the proposed monthly charge (3 T 232-234 & 278-280). And Exhibit A-1, Schedule 7, calculates a \$0.15 per month credit for credit for AMI costs

included in current rates, which are also included in Exhibit A-1, Schedule 1, line 10.

Exhibit S-1, lines 5-11 propose reducing the net monthly charge from \$15 in Exhibit A-1, Schedule 1, lines 5-11 to \$9.80 in Exhibit S-1. Staff's proposal better reflects the potential that Detroit Edison's projected average monthly charge will not be needed to recover additional costs; therefore, the Attorney General supports the Staff's proposed reduction to \$9.80 per month.

IV.

Should the MPSC modify the terms and conditions Detroit Edison has proposed for its AMI opt-out tariff?

Detroit Edison has presented Exhibit A-2 as a proposed AMI opt-out tariff. The Staff has proposed Exhibit S-2 as a proposed AMI opt-out tariff. Initially, the Attorney General generally supports the tariff proposed in Exhibit S-2 because it adopts a more traditional form used for similar MPSC-approved tariffs and because Exhibit S-2 eliminates the introductory paragraphs included in Exhibit A-2.

A tariff should describe the terms and conditions in the tariff that apply to service to be taken under the tariff. The introductory paragraphs in Exhibit A-2 represent positions being presented by Detroit Edison as the reasons for the proposed terms and conditions of service; furthermore, the introductory paragraphs would imply that the Commission has approved the accuracy of the statements in those paragraphs even though those statements relate to the need for and the

wisdom of AMI meters, which are issues beyond the scope of the application in this case.

Issues discussed in the introductory paragraphs in Exhibit A-2 are matters that may and can be discussed in future rate cases regarding whether or not costs related to and the use of AMI meters should receive continued authorization from the Commission. Rates established by the Commission are always subject to change in future rate cases. *City of Lansing v Public Service Commission*, 330 Mich 608, 612; 48 NW 133 (1951).

As indicated in the first argument presented in this brief, the Attorney General contends that the evidence supports a conclusion that requiring opt-out customers to accept a radio-disabled AMI meter is not necessary or just and reasonable because the radio-disable AMI meters will do nothing that existing analog meters do and will do and because the radio-disabled meters will unnecessarily increase rate base, profits, and revenue requirements. Therefore, the Attorney General request the ALJ to issue a PFD recommending excluding a requirement to change to a non-transmitting AMI meter without any evidentiary basis that only such a switch will enable Detroit Edison to meter a customer's use of electricity for billing purposes.

For the reasons discussed in the second argument presented above, the Attorney General requests the ALJ to issue a PFD that recommends eliminating the initial fee from the tariff.

For the reasons discussed in the third argument presented above, the Attorney General requests the ALJ to issue a PFD that recommends reducing the monthly tariff charge to the \$9.80 per month level stated in Exhibit S-2.

Finally, the Attorney General recommends amending the last paragraph proposed in Exhibit S-2 as follows:

Customers electing this provision will ~~not have~~ **be physically unable to** access ~~to~~ all of the **potential** benefits of having a transmitting meter. All charges and provisions of the customer's otherwise applicable tariff shall apply.

This amendment makes it clearer that it is the choice to avoid an operating transmitter that changes access to potential benefits, not that the tariff is directly canceling benefits. This could avoid future customer confusion in considering whether or not to opt-out.

Relief Requested

The Attorney General requests the Administrative Law Judge to issue a proposal for decision that recommends ruling (1) that Detroit Edison should be authorized to adopt an AMI opt-out tariff, (2) that the tariff should not require the residential customer to have a non-transmitting AMI meter installed on their premises simply because they have elected to take service under this tariff, (3) that the Commission should adopt a tariff substantially in the form of Exhibit S-2, (4) that the tariff should not include any initial fee, (5) that the monthly fee should be \$9.80 until the Commission decides whether or not to amend it in a future rate case, and (6) that the Commission should amend the last paragraph in Exhibit S-2 to clarify that electing to take service under the tariff will make it physically impossible to access potential benefits from having a transmitting meter.

Respectfully submitted,

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