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 authority to implement a power supply cost recovery plan in its rate schedules for 2011 metered jurisdictional sales of electricity.	))))))	Case No. U-16434

At the December 6, 2011 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. John D. Quackenbush, Chairman
Hon. Orjiakor N. Isiogu, Commissioner
Hon. Greg R. White, Commissioner

ORDER

On September 30, 2010, The Detroit Edison Company (Detroit Edison) filed an application, with supporting testimony and exhibits, pursuant to 1982 PA 304 (Act 304), MCL 460.6j *et seq.*, seeking authority to implement a power supply cost recovery (PSCR) plan in its rate schedules for 2011 metered jurisdictional sales of electricity, and approval of its five-year forecast. Detroit Edison projects total power supply costs of $1,243,275,000, which includes an estimated underrecovery of $36.349 million from the 2010 PSCR period. Exhibit A-3. Detroit Edison seeks a 2011 levelized monthly PSCR billing factor of negative 2.98 mills per kilowatt-hour (kWh). The company requests a negative PSCR factor because the allowance for power supply costs approved by the Commission in Case No. U-15768 (31.26 mills per kWh) exceeds the projected cost of power supply in this case (28.47 mills per kWh). Exhibit A-3.

A prehearing conference was held on December 2, 2010 before Administrative Law Judge Mark D. Eyster (ALJ). The ALJ granted intervenor status to the Michigan Department of the Attorney General (Attorney General), the Association of Businesses Advocating Tariff Equity (ABATE), the Michigan Community Action Agency Association (MCAAA), and the Michigan Environmental Council (MEC). The Commission Staff (Staff) also participated in the proceedings. An evidentiary hearing was held on May 19, 2011. Thereafter, the parties submitted initial and reply briefs. The ALJ issued a Proposal for Decision (PFD) on September 30, 2011.

On October 17, 2011, Detroit Edison, the Attorney General, and MCAAA filed exceptions. On October 31, 2011, these parties, along with ABATE and the Staff, filed replies to exceptions. The record consists of 311 pages of transcript and 43 exhibits. Five disputed issues emerged during the proceeding.

Reduced Emission Fuel Project

In its application, Detroit Edison stated that it was evaluating the possibility of using a process that applies chemical additives to coal to produce reduced emission fuel (REF), referred to hereafter as the REF Project. Detroit Edison states that, compared to untreated western coal, use of REF results in reduced sulfur dioxide ($SO_{2)}$, mercury, and possibly oxides of nitrogen (NO_x) emissions, and thus, the utility argued, will result in reduced emission allowance expense. Both the coal and the additives will be purchased by Detroit Edison from affiliated companies. The utility proposes that the cost of the additives be included in the PSCR in 2011-2015, and that the cost be calculated as the lower of the value of the PSCR benefit of reduced SO_2 and mercury emissions associated with the use of REF, or the revenue requirement associated with the cost of the REF Project production facilities.

The REF Project will be implemented at the Belle River Power Plant (BRPP) and the St. Clair Power Plant (SCPP).[1] Detroit Edison will sell, at book costs, a portion of its coal inventory to the Belle River Fuels Company (BRFC) and the St. Clair Fuels Company (SCFC). 2 Tr 62. DTE Energy Services (DTEES) is the parent of both fuels companies, and holds a license to use the proprietary chemical additive technology to treat coal at DTEES sites. The coal will be treated by the fuels companies. The additive will be charged to Detroit Edison, and the treated coal will be purchased back by Detroit Edison from the affiliated fuels companies. Detroit Edison maintains that the primary benefit of the REF Project will be the lower costs associated with mercury emissions, in light of the fact that mercury emissions reductions must begin in 2015 under 2009 AACS, R 336.2503 (Rule 1503). Detroit Edison states that SO_2 emissions will be reduced, and that NO_x emissions may also be reduced. 2 Tr 45-46, 64, and 158.

Detroit Edison argued that the REF Project offers the company a risk-free way of attempting to address the requirements of Rule 1503. The company explained that, starting in 2015, it would use both standard powdered activated carbon (PAC) and brominated powdered activated carbon (BrPAC) sorbents solely to reduce mercury emissions. 2 Tr 158, 199. Detroit Edison argues that both additives should be considered PSCR costs, in the same way that urea costs are treated under MCL 460.6j(1)(a), because the additives will result in decreased need for emissions allowances and will reduce mercury emissions. REF facilities have already been constructed on the BRPP and SCPP sites, and have been integrated into Detroit Edison's coal delivery process. Detroit Edison states that it will provide "coal handling and consulting and other services" to the fuels companies at "Detroit Edison's cost." 2 Tr 63. The fuels companies will thereafter provide REF to BRPP and SCPP. The SCPP transaction is described this way:

[1]In rebuttal testimony, Detroit Edison indicates that it implemented the REF Project in January 2011 at SCPP. 2 Tr 200-206. The project has no impact on the requested PSCR factor.

> After the SCFC coal is processed and treated by SCFC, the REF will be sold and delivered to SCPP for just in time consumption. The REF sale transaction will be priced out at the original fully allocated cost at which Detroit Edison sold the coal to SCFC plus an REF adder. The REF adder will consist of several components: (1) an adjustment amount related to fly ash disposal costs designed to keep Detroit Edison whole for any incremental fly ash disposal costs (beginning in January 2011), (2) an adjustment amount related to fly ash revenue (beginning in January 2015), (3) an adjustment amount based upon and no greater than Detroit Edison's reduction in actual SO_2 emission allowance expense (beginning in January 2011), and (4) an adjustment amount based upon Detroit Edison's reduction in actual mercury emission expense and capped at SCFC's revenue requirement (beginning in January 2015). Detroit Edison proposes that the REF adder component for cost reductions associated with SO_2 emission allowance consumption beginning in January 2011 be recovered through the PSCR as a fuel cost. Detroit Edison proposes that the REF adder component for reductions in mercury emission expense beginning in January 2015 also be recovered through the PSCR as a fuel cost provided that the Commission ultimately agrees that both Standard Powdered Activated Carbon (PAC) and Brominated Activated Carbon (BrPAC) are recoverable as a fuel disposal cost and includable in the PSCR process.

2 Tr 201-202 (notes omitted).

MCAAA opposed inclusion of REF Project expenses in this PSCR proceeding, arguing that it is not a category of expense that belongs in a PSCR plan, and that the REF Project is an affiliate transaction that should be questioned. The Attorney General also opposed inclusion of REF related costs, arguing that they are neither booked costs of fuel burned nor booked costs of purchased and net interchanged power. The Attorney General argued that it is premature for the Commission to pre-approve these expenses which will not be incurred in the 2011 PSCR plan year. The Attorney General also contended that the utility must demonstrate that the REF Project complies with the Code of Conduct.

The ALJ found that "For many of the reasons cited by MCAAA, the [2011 PSCR] Plan should be modified to exclude approval of the [REF] Project. MCAAA is correct that the REF project represents a questionable affiliate transaction. Under the Plan, Edison proposes to transform a PSCR cost, i.e. SO_2 emission allowance cost, into a revenue stream for its unregulated affiliate. However, Edison's presents [sic] little more than a sketch of the business relationships that have

been created and the processes involved." PFD, p. 44 (note omitted). The ALJ expressed concern that he could not find evidence in the record of the actual contractual arrangements between Detroit Edison and its affiliates. The ALJ noted that the company failed to provide any information that would allow a comparison of the services and prices offered by Detroit Edison's affiliates to the services and prices offered by other suppliers. The ALJ concluded by finding that, in order to obtain approval of the REF Project, the company "needs to build a thorough evidentiary record detailing and explaining exactly the business model it is proposing. It has clearly not done so in this case. Rather, Edison has provided a general overview of the REF Project that leaves many unanswered questions." PFD, pp. 45-46.

Detroit Edison excepts to the ALJ's findings. The company asserts that there is more than ample evidence on the record to support the reasonableness and prudence of the REF Project. Detroit Edison contends that both the treatment process and the business transaction have been adequately explained by its witnesses. Detroit Edison argues that Act 304 does not require the admission of the actual relevant contracts, but rather only that "the forecast shall include a description of all relevant major contracts." MCL 460.6j(4). Detroit Edison argues that no party to this proceeding raised the issue of whether there might be alternative processes or suppliers. The company points out that its evidence was admitted by stipulation and cross-examination was waived.

Detroit Edison argues that it is not required to make any capital investment to support the REF Project, and thus the project is a risk-free way of finding out whether it can help the company attain the standards required by Rule 1503. The company argues that DTEES, "which is the parent company of both BRFC and SCFC, has experience designing, constructing, and operating the production equipment and was willing to take on the associated risk." Detroit Edison's

exceptions, p. 9. Detroit Edison maintains that it is not aware of any other supplier that is willing to make the same investment on behalf of the company. Detroit Edison points out that DTEES has already made the same agreement with the Michigan Public Power Agency, which is a partial owner of the BRPP.

Detroit Edison further argues that the details of the coal handling, consulting, and other services that will be supplied by the utility to the fuels companies are not relevant to the issue of whether the REF Project should be approved by the Commission in this PSCR proceeding. The company points out that Exhibit A-21 reflects the type of REF related costs that Detroit Edison is seeking Commission approval of in this PSCR plan proceeding. The company states that it is not seeking recovery for costs associated with these other services, and thus there was no reason to provide evidence explaining these services. "Edison's REF involves NO_x and SO_2 emission allowances, the cost of fuel burned, payment to P.A.2 suppliers, and the future consumption of powdered activated carbon to dispose of fuel burned, all of which are clearly PSCR and Act 304 costs." Detroit Edison's exceptions, p. 12 (notes omitted). Under MCL 460.6j(13)(e), the Commission is required to disallow the incremental cost of fuel purchased from an affiliate where the price is not comparable to other suppliers. The company goes on to state, "[N]o MCL 460.6j(13)(e) issue arises since the coal (with the exception of a small REF adder capped at the lower of the emissions allowance reduction benefit or SCFC 'revenue requirement') is being resold to the Company at the same price that the Company sold the coal to the SCFC, which is no different than if Detroit Edison continued to own the coal. The REF sale transaction will be priced out at the original fully allocated cost at which Detroit Edison sold the coal to SCFC plus an REF adder." *Id.,* p. 13. Detroit Edison argues that when the ALJ calls this a questionable affiliate transaction, he is ignoring the benefits to PSCR customers. The company avers that the project

fully complies with the Code of Conduct, and that none of its evidence was substantively rebutted or even challenged.

The Attorney General agreed with the ALJ that the proposal is premature and the record is not sufficient to authorize the REF Project costs as plan costs. In his replies, the Attorney General notes that Detroit Edison has not made a commitment to the REF Project. Thus, the Attorney General argues, the proposal is premature at best. The Attorney General contends that Detroit Edison did not include a description of all relevant major contracts but only generic descriptions of its plans, which fail to explain why the contract terms and provisions would be reasonable and prudent. The Attorney General argues that the record is not sufficiently developed to determine whether fees paid to Detroit Edison's affiliates will be recoverable.

In replies to exceptions, MCAAA agrees with the other intervenors that the ALJ properly rejected approval of the REF Project for purposes of this case. MCAAA contends that the formulas by which costs and rates would be capped are vague, and that benefits to customers are, at this point, speculative. MCAAA notes that while Detroit Edison states that the costs charged by the fuels companies would be capped at the fuels companies' revenue requirements, those revenue requirements contain several elements that are not well specified or calculated, and include items that are not fuel costs, such as coal inventory and capital facility costs that are presently included in base rates. MCAAA argues that Detroit Edison should not shift base rate costs to the PSCR, nor should the Commission allow the PSCR to be expanded in this way. MCAAA contends that Detroit Edison has failed to show why the REF Project must be undertaken by an unregulated DTE Energy subsidiary, rather than the utility itself. Finally, MCAAA points out that Detroit Edison has not shown, in compliance with MCL 460.6j(13), that it has taken all measures to minimize costs.

In its replies, the Staff agrees with the conclusions of the PFD. The Staff concurs that the request is premature, and that the Commission has the authority to evaluate the five-year forecast and indicate the likelihood of future recovery of a cost item. The Staff points out that this is not a pre-approval, and that forecasts, by their very nature, will vary from the actual results.

In its application, Detroit Edison states, "Regardless of the Company's decision [on whether] to move forward with REF in 2011, that decision will have no impact on the Company's requested maximum PSCR factor for 2011." Application, p. 5; *see,* Exhibit A-3. The Commission agrees with the Staff, the Attorney General, MCAAA, and the ALJ that the request for inclusion of the REF Project costs in its 2011-2015 PSCR plan cases is premature. Even Detroit Edison indicates that the proposal is somewhat preliminary. The evidence offered simply does not demonstrate the reasonableness and prudence of the amounts to be paid for services rendered by the affiliates, nor does it demonstrate exactly to what extent the REF adder will actually reduce SO_2 and NO_x emissions. This decision has no impact on the requested factor, and the Commission is not rejecting the entire PSCR plan. However, the Commission finds that, in order to authorize these costs in future plan cases, it will require additional evidence, as is discussed in more detail in the next section.

Mercury Emission Costs

MCL 460.6j(7) states "The commission may also indicate any cost items in the five-year forecast that, on the basis of present evidence, the commission would be unlikely to permit the utility to recover from its customers . . . in the future." Pursuant to MCL 460.6j(7), Detroit Edison seeks "the Commission's concurrence that it is likely to permit the Company to recover the mercury emission-related expense for 2015." Application, p. 4.

The Staff, the Attorney General, and ABATE argued that it would not be appropriate for the Commission to make such a finding, because the Commission is not authorized to pre-approve such costs.

The ALJ found that Detroit Edison did not seek pre-approval of the REF costs under MCL 460.6j(7), and that its request for Commission concurrence that the costs would likely be recoverable in the future was a permissible request. The ALJ found that it is the Commission's prerogative to comment on the forecast's reasonableness and to provide guidance to the company. The ALJ found that the request, however, like the request to include the additive costs in 2011, is premature. The ALJ noted that the REF Project is in the testing phase and continues to be evaluated by the company. The ALJ stated that the Commission lacks information on the project's efficacy and the record is not sufficiently developed to warrant any proclamation that the mercury emission related costs will be recoverable. The ALJ found that the five-year forecast, under MCL 460.6j, may simply be accepted for filing. PFD, p. 49.

In its exceptions, Detroit Edison argues that the ALJ has erroneously conflated REF Project expenses and mercury emissions reduction expenses. The company agrees with the ALJ's finding that the Commission has authority to make a determination on the likelihood of recovery, but disagrees with the finding that such a determination is premature because the record is insufficient. The company argues that REF costs and mercury related costs are distinct, the only overlap being that, in 2015, the use of REF may allow Detroit Edison to substitute PAC for BrPAC, which will reduce overall mercury sorbent expense. The company argues that the use of these sorbents is similar to the use of urea to reduce NOx emissions, and the Commission should make a finding that the company is likely to recover these costs.

While agreeing that the proposal is premature, the Attorney General took exception to the ALJ's conclusion that the Commission could grant contingent approval of the REF Project under MCL 460.6j(7) if the company had provided sufficient evidence to do so. The Attorney General points out that Detroit Edison is continuing to evaluate the REF Project, and has not even committed to the project. 2 Tr 44-46, and 61-65. The Attorney General argues that the language of MCL 460.6j(7) gives the Commission the power to issue a warning regarding future cost recovery requests, but does not authorize contingent approval. The Attorney General contends that the Commission must find that it lacks the power to state that it would be likely to allow future recovery of costs, even if the record supported such a finding.

In its replies to exceptions, ABATE supports the Attorney General's argument that the Commission lacks authority to permit contingent approval of the project under MCL 460.6j(7).

In its reply, Detroit Edison states that its request is proper, and that it is not seeking pre-approval. The company argues that the statute does not limit the Commission to issuing warnings, but requires the Commission to evaluate the five-year forecast, and grants the Commission the discretion to indicate the likelihood of future recovery. The company argues that both the PFD and the Attorney General confuse "the Company's request for the inclusion of the REF adder in the PSCR in the 2011-2015 period with the Company's request for the Commission to indicate the likelihood of its permission to recover costs associated with reducing mercury emissions in 2015." Detroit Edison's replies to exceptions, p. 4. Detroit Edison states that it continues to seek guidance from the Commission regarding the likelihood of recovery of PAC and BrPAC costs in its 2015 PSCR plan.

In reply to the utility, the Attorney General argues that the Commission may, but is not required to, indicate that, based on present evidence, it would be unlikely to approve recovery of

costs identified in the five-year forecast, but that the Commission may not make a "converse ruling." Attorney General's replies to exceptions, p. 9.

Also in reply, MCAAA indicates that it agrees with the Attorney General's analysis that the proposal is both premature and beyond the Commission's authority to grant.

As with the REF Project as a whole, the Commission finds that this request is premature and not well fleshed-out. While the Commission finds that the five-year forecast complies with MCL 460.6j, it also finds that, on the basis of the evidence presented in this case only, the Commission would be unlikely to permit recovery of the requested costs in 2015. Detroit Edison has given the Commission very little idea of whether, and how much, the sorbents will actually reduce mercury emissions. This does not preclude allowing future recovery. However, the Commission will require more and better information on the efficacy of available methods for achieving mercury emissions reductions, as well as a demonstration showing that the REF Project is a reasonable and prudent way of achieving the maximum reductions for the minimum cost, from both a technological and business point of view. The REF Project must also be shown to comply with the Code of Conduct. The Commission recognizes that Rule 1503 presents a formidable challenge for the company, and commends Detroit Edison for diligently pursuing strategies now, for achieving compliance with Rule 1503 in 2015. Detroit Edison will need to return to the Commission with a much more detailed presentation on the costs, benefits, and efficacy of the fuel treatment program, as well as the costs and benefits of other potential mercury emissions reduction processes, if any exist.

NO_x Allowance Costs

Detroit Edison projects average NO_x seasonal emission allowance costs of $24.29 for 2011, $4.92 for 2012, $5.61 for 2013, $5.27 for 2014, and $5.98 for 2015. Exhibit A-17. Of the total

seasonal allowances projected for use in 2011, 500 were purchased prior to 2011 at a cost of $367,500, or $735 per allowance. Exhibit A-17; 2 Tr 302. For 2011, the utility projects that it will need an additional 3,548 seasonal allowances, at a cost of $80,444, or $22.67 per allowance. *Id.*

Detroit Edison projects average NO_x annual emission allowance costs of $127.66 for 2011, $11.78 for 2012, $7.54 for 2013, $5.50 for 2014, and $7.38 for 2015. Exhibit A-18. Of the annual allowances projected for use in 2011, 1,250 were purchased prior to 2011 at an expense of $3,278,750, or $2,623 per allowance. Exhibit A-18; 2 Tr 302. For 2011, the company projects that it will need an additional 8,662 annual allowances at a cost of $2,118,895, or $245 per allowance. Exhibit A-18; 2 Tr 302.

Detroit Edison explained that both the seasonal and annual pre-2011 NO_x allowance purchases were made in accordance with a pre-purchase strategy that was built into its 2008 PSCR plan in Case No. U-15417. The 2008 purchases were made at the then-current prices for 2011 emission allowances.

Because of the projected availability of lower priced allowances in 2011, MCAAA recommended a reduction of plan expenses in the amount of $3,319,170. 2 Tr 304. MCAAA argued that this amount represents the difference between the cost of the allowances purchased prior to 2011 and the projected cost of the same allowances had they been purchased in 2011. 2 Tr 303.

The ALJ rejected MCAAA's proposed disallowance, finding that, pursuant to the approved pre-purchase strategy, Detroit Edison reasonably incurred the expenses associated with the 2008 NO_x allowance purchases. The ALJ noted that MCAAA presented no evidence showing that "the pre-purchase strategy was unreasonable, that it was not followed, or that the steep decline in prices

could have been anticipated." PFD, p. 48. Since it relied solely on the difference in prices between 2008 and 2011, the ALJ found the argument unconvincing.

MCAAA excepts to the ALJ's finding, arguing that Detroit Edison only addressed this issue in rebuttal testimony, and then did not clarify whether these costs were already included in the 2008 PSCR plan, and did not explain how the Commission can pre-commit to what is reasonable and prudent for 2011 in the 2008 case. MCAAA argues that the Commission's review of these costs has been truncated and limited in this matter in an impermissible way by the fact that the ALJ found that the purchases were approved in 2008. MCAAA contends that the order in Case No. U-15417 is actually silent on this issue, and the testimony provided in that case is insufficient to justify these exorbitant costs. MCAAA requests that the Commission approve the disallowance, or refer the issue to the PSCR reconciliation case.

In reply, Detroit Edison argues that the Commission did not approve the 2011 NO_x costs back in 2008 in Case No. U-15417, but rather the basis for the approval is the current finding that the costs are reasonable and prudent, based upon the company's actions at the time the decision was made. Detroit Edison notes that the pre-purchase strategy has benefitted its customers in the past, as prices had tended to rise over the years. The company notes that since 2008 the recession has brought about a decrease in demand, resulting in decreased emissions of NO_x, and thus an oversupply of NO_x emission allowances, resulting in the decrease in price, which, Detroit Edison argues, was not predictable. The company notes that since 2008 prices have been volatile, with annual emission allowances selling for as high as about $5600 and as low as about $250.

The Commission agrees with the ALJ and rejects the proposed disallowance. There is no dispute that emission allowance costs are significantly lower at the present time, but the Commission cannot rely on hindsight. In the January 13, 2009 order in Case No. U-15417, p. 3,

the Commission described the company's plan for NO_x allowance acquisition. No party took issue with the pre-purchase strategy laid out in the company's testimony. Case No. U-15417, 3 Tr 259-262. At the time the strategy was reasonable and prudent, because, in light of the traditional increase in the cost of allowances over time, pre-purchase made sense. Those pre-purchases were made, consistent with the approved plan. No party could have predicted the length and depth of the coming recession, or that allowances would, as a result, drop as low as $250. The Commission does not find MCAAA's argument convincing.

Ring-Fencing

MCAAA argued that the Commission should be applying concepts associated with ring-fencing in determining whether to approve this PSCR plan and forecast. While acknowledging that ring-fencing measures "relate more to base rate regulation than to Act 304 regulation," MCAAA argued that affiliate transactions can affect Act 304 costs. MCAAA's initial brief, p. 36.

The ALJ rejected MCAAA's proposal, finding that MCAAA had not explained the concept of ring-fencing adequately and had not described exactly how it applies to Detroit Edison. The ALJ further found that this issue is outside the scope of an Act 304 hearing.

MCAAA excepted to the ALJ's findings, arguing that the REF Project shows that more regulation of affiliate transactions is needed. MCAAA argues that the project also shows that affiliate transactions do impact Act 304 proceedings, because affiliate company transactions can affect purchased power costs. MCAAA urges the Commission to look at the potential menu of remedies, from reporting requirements to outright prohibitions.

In its replies, Detroit Edison argues that MCAAA's proposal is irrelevant, and impermissible under Act 304 in any case. The utility contends that the fact that the REF Project is reviewable in a PSCR proceeding underscores the argument that the ring-fencing proposal is unnecessary.

Detroit Edison contends that the language of Act 304 indicates that policy issues such as ring-fencing do not belong in these statutory-based proceedings. Detroit Edison states,

> Mechanisms such as (1) capital structure requirements, (2) dividend restrictions, (3) unregulated investment restrictions, (4) prohibitions on utility asset sales, (5) collateralization requirements, (6) working capital restrictions, (7) prohibitions on inter-company loans, (8) maintenance of stand-alone bonds, and (9) independence of board members are clearly issues to be addressed in another proceeding such as a general electric and/or gas rate case and there are already a number of rules in place to adequately address such matters in an appropriate forum. . . . [T]he Company believes that the MPSC-approved Code of Conduct (MPSC Case No. U-12134), the MPSC Affiliate Transaction Guidelines (MPSC Cases U-13502 and U-10149/U-10150), and FERC's Affiliate Restrictions (18 C.F.R. § 35.39, 18 C.F.R. § 35.44, and FPA § 203) adequately address those transactions. In addition to MPSC and FERC requirements, DTE Energy has internal procedures, which are set forth in Exhibits A-22 and A-23, as well.

Detroit Edison's replies to exceptions, p. 23 (note omitted). The company further notes that in its most recent rate case, the October 20, 2011 order in Case No. U-16472, p. 108, the Commission found it unnecessary to institute any ring-fencing measures.

The Attorney General also replies in opposition to MCAAA's exception. The Attorney General contends that the Code of Conduct adopted under MCL 460.10a(4) provides adequate protection for ratepayers, and notes that MCAAA failed to explain what are the inadequacies, if any, in those standards.

As it recently stated in Case No. U-16472, the Commission finds that the cluster of processes known as ring-fencing does not include any measures that are currently necessary for the protection of Michigan ratepayers, and rejects the MCAAA's proposal.

Spent Nuclear Fuel

MCAAA proposed a disallowance of the one mill per kWh fee collected and transferred to the federal government for the final disposal of spent nuclear fuel (SNF), or, in the alternative, the

transfer of these funds to a trust. MCAAA relied on arguments regarding SNF that it (and MEC) has made repeatedly before the Commission.

The ALJ rejected MCAAA's proposal, finding that this issue has been extensively litigated, and MCAAA's arguments have been consistently and repeatedly rejected by the Commission. Citing the Commission's many previous reviews of this issue, the ALJ found that no material changes of fact or law were presented by MCAAA to warrant any change in the Commission's long-standing position. MCAAA filed exceptions, repeating the arguments it made in the case. Detroit Edison, the Staff, and the Attorney General filed replies repeating the basis of their opposition. The Commission finds that the PFD is well-reasoned and thorough, and adopts the ALJ's findings and conclusions on this issue.[2]

THEREFORE, IT IS ORDERED that:

A. The Detroit Edison Company's application for a power supply cost recovery plan for 2011 metered jurisdictional electric sales is approved.

B. The Detroit Edison Company is authorized to implement a power supply cost recovery factor of negative 2.98 mills per kilowatt-hour for bills rendered for the 2011 plan year.

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

[2]The Commission does not adopt the ALJ's footnoted suggestion that Detroit Edison "discuss the propriety of MCAAA's proposal" in its next plan case. PFD, p. 49, n. 11. MCAAA's proposal has been thoroughly analyzed in several prior cases, as described in the PFD and the briefing. *See, e.g., In re Application of Detroit Edison Co,* 276 Mich App 216; 740 NW2d 685 (2007).

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

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John D. Quackenbush, Chairman

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Orjiakor N. Isiogu, Commissioner

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Greg R. White, Commissioner

By its action of December 6, 2011.

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Mary Jo Kunkle, Executive Secretary