

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Curt Hébert, Jr., Chairman;
William L. Massey, Linda Breathitt,
Pat Wood III, and Nora Mead Brownell.

Detroit Edison Company	Docket Nos.	EL01-51-000 EL01-51-001 EL01-51-002 ER01-1649-000 ER01-1649-001 ER01-1649-002
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ORDER ACCEPTING AND SUSPENDING INTERCONNECTION AGREEMENT, AS MODIFIED, AND
ESTABLISHING HEARING PROCEDURES

(Issued June 15, 2001)

On March 13, 2001 and March 23, 2001, as supplemented on April 16, 2001 and May 4, 2001, Detroit Edison Company (Detroit Edison) submitted for filing a proposed unexecuted Distribution Interconnection Agreement (Interconnection Agreement) and a Startup Testing and Parallel Operation and Interconnection Agreement (Startup Agreement) between Detroit Edison and Dearborn Industrial Generation, L.L.C. (Dearborn).¹ Detroit Edison requests that the Commission disclaim jurisdiction over the Interconnection Agreement. Alternatively, it requests that if the Commission determines that the Interconnection Agreement is jurisdictional, the Commission accept the Interconnection Agreement for filing, to become effective as of March 14, 2001. In this order, the Commission finds the Interconnection Agreement to be jurisdictional under the Federal Power Act (FPA), accepts the Interconnection Agreement for filing, as modified, and suspends it, to become effective March 14, 2001, subject to refund. In

addition, we set the charges in Exhibit B for hearing and establish settlement judge procedures.

BACKGROUND

According to Detroit Edison, Dearborn proposes to own and operate an electric generating facility in Dearborn, Michigan (Facility). Detroit Edison states that the Facility will be comprised of four electric generating units with a maximum output of 780 MW as well as interconnection and distribution facilities. Detroit Edison adds that the Facility will be connected to Dearborn's ring bus and other interconnection and distribution facilities owned by Dearborn and third parties. Dearborn's facilities will, in turn, interconnect with Detroit Edison's facilities at two points. Detroit Edison states that its facilities serve primarily to permit Detroit Edison to serve its retail customers adjacent to the Facility, and secondarily to connect the Facility with the International Transmission Company (ITC) transmission system.² Detroit Edison points out that

¹Dearborn is a Michigan limited liability company and an indirect, wholly-owned subsidiary of CMS Energy Corporation. It was determined to be an exempt wholesale generator (EWG) under section 32(a)(2) of the Public Utility Holding Company Act (PUHCA) in Docket No. EG99-115-000. See Dearborn Industrial Generation, L.L.C., 87 FERC ¶ 62,241 (1999).

²Detroit Edison transferred its transmission facilities to ITC on January 1, 2001. See DTE Energy

since its facilities are between the Dearborn Facility and ITC's transmission system,³ Dearborn will utilize Detroit Edison's facilities as a path to and from ITC's transmission system.

Under the terms of the Interconnection Agreement, Dearborn and any loads connected directly or indirectly to its facilities would take service under Detroit Edison's Retail Access Service Tariff (Retail Tariff), which Detroit Edison states is on file with the Michigan Public Service Commission (Michigan Commission).

Detroit Edison contends that because the Interconnection Agreement primarily would involve services provided over facilities that serve retail customers, the Commission should disclaim jurisdiction over the Interconnection Agreement.⁴

On March 23, 2001, Detroit Edison filed the Startup Agreement in order to facilitate startup testing of the Facility. Detroit Edison also requests that the Commission disclaim jurisdiction over the Startup Agreement. Detroit Edison requests an effective date of March 24, 2001 for the Startup Agreement, which will terminate no later than May 15, 2001 or earlier if the Commission accepts the Interconnection Agreement.

On April 16, 2001, as supplemented, Detroit Edison filed a revised draft of the Interconnection Agreement stating that it had reached agreement with Dearborn on several of the issues and identifying the issues that remain in dispute.

Notice of Filing

Notices of Detroit Edison's various filings were published in the Federal Register, at 66 Fed. Reg. 16,219 (2001) 66 Fed. Reg. 17,875 (2001), and 66 Fed. Reg. 20,980 (2001) . On April 6, 2001, Dearborn filed a timely motion to intervene. On May 4, 2001, Ford Motor Company (Ford) along with Rouge Steel Company (Rouge Steel) filed a motion to intervene. On May 7, 2001, Dearborn filed a protest. On May 7, 2001, ITC filed a motion for leave to intervene to Detroit Edison's filing of April 16, 2001. On May 22, 2001, Detroit Edison and ITC jointly filed a motion for leave to answer and an answer to Dearborn's protest. On June 4, 2001, the Michigan Commission filed a motion to intervene out-of-time raising no substantive issues. On June 6, 2001, Dearborn filed a motion for leave to file an answer and an answer.

DISCUSSION

A. Procedural Matters

Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2000), the timely, unopposed motions to intervene serve to make Dearborn, Ford, Rouge Steel and ITC

Company, *et al.*, 91 FERC ¶ 61,317 (2000).

³ITC filed a unexecuted transmission interconnection agreement with Dearborn on February 22, 2001, in Docket No. ER01-1303-000. ITC withdrew the agreement on March 14, 2001. The Commission accepted the withdrawal on April 25, 2001. *See* International Transmission Company, 95 FERC ¶ 61,104 (2001).

⁴Detroit Edison states that it has filed the Interconnection Agreement with the Michigan Commission. On April 17, 2001, the Michigan Commission dismissed Detroit Edison's filing because it was not executed. *See* Dearborn Protest at 3; Answer at 8.

parties to this proceeding. We will grant the Michigan Commission's motion to intervene out-of-time given the early stage of this proceeding and the absence of any undue prejudice or delay.

While answers generally are not permitted pursuant to Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2)(2000), we will, in this case, allow Detroit Edison's and Dearborn's answers because it aids in our understanding and resolution of the issues raised.

B. Jurisdictional Determination

As discussed below, the Commission finds that the Interconnection Agreement is subject to the Commission's jurisdiction.

As we explained in Order No. 888, to the extent that any facilities, regardless of their original nominal classification, in fact, prove to be used by public utilities to provide transmission service in interstate commerce in order to deliver power and energy to wholesale purchasers, such facilities are subject to this Commission's jurisdiction and review.⁵ Dearborn will sell all of the Facility's output at wholesale.⁶ Therefore, we find that the instant Interconnection Agreement is subject to the Commission's jurisdiction.⁷

We disagree with Detroit Edison's representation that its facilities connecting the Facility to ITC's transmission system have been delineated as distribution facilities.⁸ In the Commission's order authorizing the disposition of Detroit Edison's transmission facilities to ITC, we made no specific determination concerning the classification of Detroit Edison's facilities.⁹ Rather, we simply granted the clarification requested by the Michigan Commission stating that our ruling in that case was not a finding concerning Detroit Edison's and

⁵See Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities and Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Order No. 888, FERC Stats. & Regs. ¶ 31,036 at 31,783 (1996), order on reh'g, Order No. 888-A, FERC Stats. & Regs. ¶ 31, 048 (1997), order on reh'g, Order No. 888-B, 81 FERC ¶ 61,248 (1997), order on reh'g, Order No. 888-C, 82 FERC ¶ 61,046 (1998), aff'd in relevant part sub nom. Transmission Access Policy Study Group v. FERC, 225 F.3d 667 (D.C. Cir. 2000), cert. granted, 69 U.S.L.W. 3574 (Nos. 99-568 (in part) and 00-809) cert. denied, id. (No. 00-800) (U.S. Feb. 26, 2001). The Commission explained that "a public utility's facilities used to deliver electric energy to a wholesale purchaser, whether labeled 'transmission,' 'distribution,' or 'local distribution,' are subject to the Commission's exclusive jurisdiction under Sections 205 and 206 of the FPA." See Mid-American Energy Company, et al., 90 FERC ¶ 61,105 at 61,337 (2000).

⁶According to Detroit Edison, Dearborn will sell the output of the Facility to its affiliate CMS Marketing, Services and Trading Company. See Detroit Edison Answer at 5. In its answer, Dearborn states that a portion of Facility output will be sold directly to another affiliate, CMS MS&T Michigan, L.L.C. for resale. See Dearborn Answer at 5.

⁷Detroit Edison acknowledges that the Interconnection Agreement governs the interconnection of the Facility directly with Detroit Edison's facilities and indirectly with ITC's transmission system. See Detroit Edison Answer at 2, 6 and 10.

⁸Detroit Edison Transmittal Letter at 3.

⁹See 91 FERC at 62,091.

ITC's proposed future division of assets among generation, transmission, and distribution functions.¹⁰ In addition, as we stated earlier, these facilities would be subject to our jurisdiction regardless of the nominal classification.

C. Issues in Dispute

1. Applicability of Retail Access Charges

Dearborn observes that the proposed Interconnection Agreement would require Dearborn to pay retail access charges under Detroit Edison's Retail Tariff for power that flows into the points of interconnection. Dearborn contends that the facilities leading to the points of interconnection with the Facility are subject to this Commission's jurisdiction because they will be used to deliver electric energy for resale in interstate commerce.¹¹ Therefore, Dearborn argues, the only appropriate charges are those imposed by this Commission for transmission in interstate commerce.¹²

In its answer, Detroit Edison argues that its facilities serve two functions: (1) to deliver energy from the Facility to the ITC transmission system and (2) to deliver energy and ancillary services from the ITC transmission system over Detroit Edison's distribution system to retail loads.¹³ Detroit Edison states it has and continues to use its facilities to provide retail distribution. Detroit Edison maintains that even if the Commission asserts jurisdiction over the Interconnection Agreement, that would not preclude Detroit Edison from assessing retail charges under the Retail Tariff.¹⁴

While we find the Interconnection Agreement jurisdictional, we make no findings here as to any retail access charges that may be recoverable under Detroit Edison's Retail Tariff. As we explained in Order No. 888, "while we believe in most cases there will be identifiable local distribution facilities subject to state jurisdiction, we also believe that even where there are no identifiable local distribution facilities, states nevertheless have jurisdiction in all circumstances over the service of delivering energy to end users."¹⁵ Any liability Dearborn may have for such charges is enforceable under state law, not by means of a FERC jurisdictional agreement. Thus, on compliance, Detroit Edison should delete from the Interconnection Agreement the obligation for Dearborn to pay retail access charges.

2. Scheduling and Computing Generation Imbalances

According to Dearborn, Section 8.5 (Scheduling of Generation) of the Interconnection Agreement requires that generation be scheduled from the Facility rather than from the points of interconnection with Detroit Edison's facilities. Dearborn contends that since power from the Facility is both exported and

¹⁰Id. at 62,093.

¹¹Dearborn Protest at 5-8.

¹²Id. at 8.

¹³Answer at 10.

¹⁴Id. at 11.

¹⁵Order No. 888 at 31,783.

imported at these points of interconnection, Facility output should be scheduled at the points of interconnection rather than at the Facility.¹⁶

In addition, Dearborn contends, pursuant to Section 8.6 (Generation Imbalance Service) and Schedule A of the Interconnection Agreement, it will be subject to a double charge: (1) an ancillary service charge (Load Imbalance Service) under ITC's OATT and (2) a charge for generation imbalance under Schedule A of the Interconnection Agreement. Dearborn claims that since the Facility will load follow, deviations in generation will be offset by an equal and opposite deviation in load.¹⁷ Therefore, Dearborn requests that Section 8.6 and Schedule A be modified.

In its answer, Detroit Edison opposes Dearborn's requests. First, with regard to scheduling of Facility output, Detroit Edison asserts that scheduling the Facility's output at the Facility is consistent with the requirements for all other generators connected to the Detroit Edison and ITC systems. Detroit Edison contends that the Facility will operate in parallel with Detroit Edison's and ITC's systems and, thus, any imbalances will be cured by Detroit Edison or ITC-acquired generation resources. Detroit Edison challenges Dearborn's position that the Facility will supply power "behind-the-meter" to the retail loads served by Dearborn's affiliate.¹⁸ Second, with respect to charges for generation and energy imbalances, Detroit Edison states that the Commission has recognized that these services are separate and distinct and that Dearborn will not be charged twice for the same service.¹⁹

We will accept these provisions of the Interconnection Agreement. It is clear that Dearborn will not be charged twice for the same service. In Niagara Mohawk, the Commission discussed situations involving generator imbalance and energy imbalance.²⁰ Where the generator is located in the transmission provider's control area, but the load is not (export service), and the amount of energy scheduled from the generator is different from the actual output, the Commission concluded that such a situation was appropriately addressed in a generator-specific interconnection agreement (or an open-access customer's service agreement), as Detroit Edison has done.²¹ Thus, to the extent Dearborn schedules power for export outside the ITC control area, it may be subject to a generation imbalance charge under the Interconnection Agreement. However, in this situation, Dearborn will not be subject to an energy imbalance service charge.

3. Interconnection Charges and Credits

¹⁶Dearborn Protest at 9. According to Dearborn, Facility output is sold to a power marketer, which, in turn, will sell the same power to retail customers (e.g., Ford and Rouge Steel) adjacent to the Facility and over the ITC system to other customers.

¹⁷Id. at 9-10.

¹⁸Detroit Edison Answer at 15-20. Detroit Edison states that it serves a retail customer located adjacent to the Facility and in the same complex as retail customers served by Dearborn's affiliate.

¹⁹Id. at 19-20.

²⁰See Niagara Mohawk Power Corporation, 86 FERC ¶ 61,009 at 61,025-61,026 (1999).

²¹Conversely, if the load is in the transmission provider's control area but the generator is not (import service), and the amount of energy scheduled does not match the actual load, any imbalances are covered by the open access tariff's energy imbalance ancillary service. In this situation, the generation imbalance service would not apply.

Exhibit B of the Interconnection Agreement contains proposed charges for Contributions in Aid of Construction (CIAC), operation and maintenance expenses.

Dearborn points out that Detroit Edison provides no cost support for these charges. Dearborn also expresses concern about a number of the charges and requests that the Commission accept the charges subject to refund, subject to Detroit Edison providing the necessary cost support.²²

Dearborn asserts that because it is paying a CIAC charge, it is entitled to a credit against the cost of transmission service for this contribution. However, Dearborn points out that there is no crediting mechanism in the Interconnection Agreement. Dearborn argues that the Commission has approved such credits to the interconnection customer provided the facilities meet the definition of network upgrades. Dearborn states that these facilities meet that definition. Dearborn requests the Commission require Detroit Edison to provide a credit against the cost of transmission service.²³

In its answer, Detroit Edison argues that the facilities constructed to interconnect the facility are directly assignable facilities and provide no benefits to the ITC transmission system.²⁴ Detroit Edison maintains that Dearborn should not receive transmission credits for its contributions to non-network upgrades.

It is not clear from the information before the Commission whether the facilities at issue are directly-assignable interconnection facilities or network upgrades. Our preliminary analysis finds that the CIAC charges and other charges in Exhibit B to the Interconnection Agreement have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.²⁵ Accordingly, while we are accepting the Interconnection Agreement, as modified, we will suspend it for a nominal period and we will set the charges in Exhibit B for hearing. In addition, the issue of whether credits should apply needs to be addressed.

While we are setting these matters for a trial-type evidentiary hearing, we encourage the parties to make every effort to settle their disputes before hearing procedures are commenced. To aid the parties in their settlement efforts, the hearing will be held in abeyance and a settlement judge shall be appointed to assist the parties in reaching a settlement.²⁶ If the parties desire, they may, by mutual agreement, request a specific judge as the settlement judge in this proceeding; otherwise, the Chief Judge will select a judge.²⁷

4. Curtailment

²²Dearborn Protest at 17-18.

²³Id. at 15.

²⁴Detroit Edison Answer at 21.

²⁵Detroit Edison states in its Answer that it will recover proposed charges to Dearborn related to network upgrades. Answer at 21-22 note 35.

²⁶18 C.F.R. § 385.603 (2000).

²⁷If the parties decide to request a specific judge, they must make their joint request to the Chief Judge by telephone at (202) 219-2500 within five days of this order. FERC's website contains a listing of Commission Judges and a summary of their background and experience (www.ferc.fed.us—click on the Office of Administrative Law Judges).

Dearborn takes issue with Detroit Edison's right to curtail generation or disconnect the Facility when adverse parallel flows are caused by the Facility. Dearborn argues that curtailment is not appropriate for direct redeliveries which occur behind the points of interconnection and is only appropriate if Dearborn's sales involve transmission scheduled under the OATT.²⁸ Dearborn proposes changing Section 7.8 (Control Area Operations) of the Interconnection Agreement to reflect the language in Detroit Edison's interconnection and operation agreement with one of its affiliates.

In its answer, Detroit Edison disagrees with Dearborn's presumption that its Facility may cause adverse parallel flows only when the Facility output is scheduled to flow over the ITC system. Detroit Edison claims that Dearborn's Facility will cause parallel flows whenever it is operating in parallel and interconnected with the Detroit Edison and ITC systems and those parallel flows may cause an adverse impact.²⁹

We agree with Detroit Edison that, for reliable operation of the interconnected system, it (or ITC) should have the right to curtail the Facility if there are adverse effects to Detroit Edison's and ITC's systems. However, we agree with Dearborn that Detroit Edison should treat Dearborn no worse than it treats its affiliates. Therefore, we direct Detroit Edison to revise Section 7.8 by adding a curtailment provision similar to the one included in its agreements with its affiliates.

5. Results of Final Interconnection Study

Dearborn claims that neither Detroit Edison nor ITC has provided it with a final interconnection study. Dearborn requests that Detroit Edison provide a final interconnection study no later than May 15, 2001 pursuant to the OATT.³⁰

In its answer, Detroit Edison states it provided Dearborn with the final interconnection study on May 2, 2001.³¹ Therefore, the Commission finds that Detroit Edison has now provided Dearborn with a final interconnection study and no further action is needed.

6. Reactive Power

According to Dearborn, it will only be compensated for reactive power when Detroit Edison or ITC has made a specific request for reactive power. Dearborn contends that this aspect of Detroit Edison's proposal is inequitable since Dearborn must produce reactive power in order to maintain the voltage schedules contained in Schedule B of the Interconnection Agreement, regardless of whether Detroit Edison or ITC requests it.³² Dearborn proposes amending Section 7.9d (Obligation to Provide Reactive Power) of the Interconnection Agreement.

²⁸Dearborn Protest at 16.

²⁹Detroit Edison Answer at 22.

³⁰Dearborn Protest at 18-19.

³¹Detroit Edison Answer at 23-24.

³²Dearborn Protest at 20.

Dearborn also complains that Detroit Edison provides no protection to Dearborn when reductions in output are caused by Detroit Edison's customers. Dearborn says that at some point, generators cannot produce additional reactive power without reducing energy output which, in turn, reduces the amount of energy Dearborn can sell.³³ Dearborn claims it should be compensated for any reductions in energy output and proposes additional language to Section 7.9a (Obligation to Supply Reactive Power) of the Interconnection Agreement.

A generator is required to supply reactive power in order to operate the facility in a safe and reliable manner and in accordance with good utility practice. If, however, a transmission provider requests a generator to increase or decrease reactive power output, the generator must be compensated by the transmission provider. Dearborn is free to file ancillary service schedules to provide for compensation where such service is sought by Detroit Edison. The language proposed by Detroit Edison in its revised Interconnection Agreement is sufficient. Therefore, the Commission rejects Dearborn's proposed changes to Section 7.9d.

In regard to Dearborn's objection to supplying reactive power when doing so reduces the amount of energy it could sell, the Interconnection Agreement requires Dearborn to operate the Facility within design limits and voltage schedules provided by Detroit Edison. These factors should not cause Dearborn to experience reductions in energy sales and, therefore, we will not require Detroit Edison to change Section 7.9a.

7. Voltage Level at the Interconnection Point

Dearborn states that it does not oppose the voltage schedules proposed in Schedule B. However, Dearborn contends that Schedule B gives Detroit Edison the right to change the stated voltage schedules without any upper limit on the voltage level.³⁴ Dearborn maintains that it should not be required to maintain a voltage any higher than 106 percent of the nominal voltage of approximately 230 kV.³⁵

In its answer, Detroit Edison states that an upper limit of 106 percent is adequate for system reliability purposes and agrees to revise the Interconnection Agreement to place an upper limit on 106 percent of nominal voltage on any voltage schedule ordered by Detroit Edison.³⁶ Therefore, the Commission directs Detroit Edison to revise Schedule B to reflect this change.

8. Metering Requirements

Dearborn states that, with Detroit Edison's permission, it installed revenue metering facilities at the Facility and at the interconnection points. Dearborn states that, in compliance with Section 8.3 (Revenue Metering) of the Interconnection Agreement, it is installing additional meters to meet Detroit Edison's specifications. According to Dearborn, the installation of these additional meters has resulted in an additional expense for Dearborn. Dearborn claims that Detroit Edison has not adequately justified the need to replace Dearborn's meters with additional meters.³⁷ Dearborn also maintains that Detroit Edison requires the

³³Id. at 21.

³⁴Id. at 22.

³⁵Id. at 22-23.

³⁶Detroit Edison Answer at 25.

³⁷Dearborn Protest at 24.

installation of meters not only at the Facility and at the points of interconnection but also at the load served by the Facility.³⁸

In its Answer, Detroit Edison contends that Dearborn has not supplied information to verify the accuracy of Dearborn's metering equipment nor has Dearborn properly installed those meters. Detroit Edison also states that load metering requirements under its Retail Tariff or ITC's OATT apply only to the Facility's station service loads or to retail customers at the Rouge complex taking service under Detroit Edison's Retail Tariff or ITC's OATT.³⁹

Because metering charges are part of Exhibit B, we will set this matter for hearing. However, we encourage the parties to resolve these issues.

D. Effective Date and Request for Waiver

Detroit Edison requests an effective date of March 14, 2001 for the proposed Interconnection Agreement to permit Dearborn to interconnect with Detroit Edison's facilities for the purpose of start-up testing on or about March 14, 2001 and seeks waiver of the Commission's prior notice requirement to allow such an effective date. We will grant waiver of our 60-day prior notice requirement to permit a March 14, 2001 effective date, as requested.⁴⁰

In addition, the referenced filing does not contain designations as required by Order No. 614. Specifically, Order No. 614 requires that all rate schedule sheets (i.e., tariff sheets, rate schedules, and service agreements) submitted to the Commission after June 1, 2000, be designated.

The Commission orders:

(A) Detroit Edison's proposed Interconnection Agreement is hereby accepted for filing, as modified, and suspended for a nominal period to become effective on March 14, 2001, subject to refund, as discussed in the body of this order.

(B) Detroit Edison is hereby directed to designate the Interconnection Agreement in compliance with Order No. 614, within 15 days of this order.

(C) Detroit Edison is hereby directed to submit a compliance filing within 15 days of this order, as discussed in the body of this order.

(D) Detroit Edison's request for waiver of the Commission's 60-day prior notice requirement is granted.

³⁸Id. at 24-25.

³⁹Detroit Edison Answer at 26.

⁴⁰See Central Hudson Gas and Electric Corporation, 60 FERC ¶ 61,106 (1992), reh'g denied, 61 FERC ¶ 61,089 (1992).

(E) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 C.F.R. Chapter I), a public hearing shall be held concerning the justness and reasonableness of the charges in Exhibit B of the Interconnection Agreement, as discussed in the body of this order.

(F) Pursuant to Rule 603 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.603 (2000), the Chief Administrative Law Judge is hereby directed to appoint a settlement judge in this proceeding within 15 days of the date of this order. To the extent consistent with this order, the designated settlement judge shall have all powers and duties enumerated in Rule 603 and shall convene a settlement conference as soon as practicable.

(G) Within sixty (60) days of the date of this order, the settlement judge shall issue a report to the Commission and the Chief Administrative Law Judge. The settlement judge shall issue a report every sixty (60) days thereafter, apprising the Commission and the Chief Administrative Law Judge of the parties' progress toward settlement.

(H) If the settlement discussions fail, an administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a prehearing conference in this proceeding, to be held within approximately 15 days of the settlement judge's report to the Commission, in a hearing room of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. Such conference shall be held for the purposes of establishing a procedural schedule. The presiding administrative law judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss), as provided in the Commission's Rules of Practice and Procedure.

By the Commission. Commissioner Wood concurred with a separate statement attached.

(S E A L)

Linwood A. Watson, Jr.,
Acting Secretary.

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Detroit Edison Company

Docket Nos. EL01-51-000

EL01-51-001
EL01-51-002
ER01-1649-000
ER01-1649-001
ER01-1649-002

(Issued June 15, 2001)

WOOD, Commissioner, concurring:

Because the nation needs investment in power generation facilities of all sizes, it is important to have regulatory policies that provide incentive to power developers to construct. My recent experience as a wholesale electric market regulator over the Electric Reliability Council of Texas (ERCOT) has informed my views on what is needed to provide the proper regulatory incentives. This is the first FERC case where these issues are raised, so I write separately today to lay out the key aspects of what I hope will become the FERC's generation interconnection policy.

First, interconnection terms and conditions (including charges, reliability protocols, reactive power issues, voltage levels, metering requirements) should be standardized, regionally if not nationally. (This would also apply for smaller-scale generation, which is not at issue in this case). The scope, timing and cost of interconnection studies would also be set out, differentiated based on factors such as size. Parties should be allowed to amend the standard contract to suit specific needs, but any generator should be able to approach any transmission service provider (TSP) and be able to sign an comprehensive agreement up front. It is inconceivable that generators and TSPs would have to expend resources litigating these issues before the FERC, as Dearborn and Detroit are doing in this case.

Second, costs of transmission beyond the power plant busbar which are needed to accommodate the output of the new generation facility should be borne by the transmission service provider and be promptly recoverable in transmission rates from all end-use customers by state and federal regulators. The practice of requiring new generators to bear a portion of transmission system interconnection costs results in unequal treatment of new generation compared to pre-existing utility-owned generation, whose transmission costs are generally rolled into overall transmission rates. We will never have a truly level generation playing field if new facilities must recover transmission costs in their rates that existing facilities do not bear. One answer would be to allocate some transmission costs back to the existing facilities; the easier answer is to

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place no interconnection costs (other than strictly local, behind-the-busbar costs) onto any generator. Customers ultimately bear these costs under either allocation method.

As the authority issuing transmission certificates, the state commissions have the ultimate ability to deny transmission upgrades whose costs may be significantly out of line with benefits (such as locating a plant very far from the closest transmission interconnection point), so there is a check on abuse.

Third, the Texas Commission adopted a single postage stamp transmission rate assessed on load to recover the costs of all TSPs, so the costs of all transmission are borne equally by all customers within ERCOT. This was based on the view that adequate generation supplies and transmission system upgrades to address constraints benefit all customers. Congestion management costs are dealt with separately.

These three policies, in conjunction with other state siting streamlining efforts and the full unbundling of existing generation, have led to significant new and timely power generation investment in my home state. I look forward to exploring with my colleagues and with interested parties how similar policies can be adopted by the FERC.

Respectfully submitted,

Pat Wood, III
Commissioner