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June 30, 2006

Mary Jo Kunkle  
Executive Secretary  
Michigan Public Service Commission  
PO Box 30221  
Lansing, MI 48909-7721

Re: Case No. U-14838  
Petition for Leave to Intervene of *ITCTRANSMISSION*

Dear Ms. Kunkle:

Enclosed please find Petition for Leave to Intervene of *ITCTRANSMISSION* in the above-referenced matter as well as a Proof of Service. These documents are being electronically filed.

If there are any questions, please contact me.

Sincerely,

**DYKEMA GOSSETT** PLLC

Stewart A. Binke

/jka

Enclosure

cc:

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ID\SB

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission’s own motion, )
ordering THE DETROIT EDISON COMPANY to )
show cause why its retail rates for the sale and ) Case No. U-14838
distribution of electric energy should not be )
decreased. )
\_\_\_\_\_ )

PETITION FOR LEAVE TO INTERVENE OF

ITCTRANSMISSION

ITCTransmission (“ITCTransmission” or “Petitioner”), by and through its attorneys, Dykema Gossett PLLC, files this Petition for Leave to Intervene and become a party to the above-captioned matter, pursuant to Rule 201 of the Michigan Public Service Commission’s (“Commission”) Rules of Practice and Procedure (1996 ACS, R 460.17201) and the Administrative Procedures Act, MCL 24.101 et seq. In support of its Petition, ITCTransmission states as follows:

Petitioner’s Interest and Grounds for Intervention

- 1. ITCTransmission is a Michigan corporation with is principal place of business located 39500 Orchard Place, Suite 200, Novi, MI 48375.
2. ITCTransmission is engaged in the Federal Energy Regulatory Commission (“FERC”) jurisdictional transmission of electricity throughout southeastern Michigan, including the Detroit metropolitan area. ITCTransmission, incorporated on December 30, 2002, is the first independently owned and operated electric transmission company in the United States. ITCTransmission operates solely in the State of Michigan, and provides open, non-discriminatory access to its transmission facilities.

3. *ITCTransmission* purchased its transmission assets from DTE Energy Company on February 28, 2003. The purchase was approved by the FERC on February 20, 2003, in Docket Nos. EC03-40-000 and ER03-343-000.

4. *ITCTransmission's* current system footprint mirrors Detroit Edison's retail service territory and is located in an approximately 7,600 square mile area having a population of approximately 4.9 million and consists of the following assets: (i) approximately 2,700 circuit miles of transmission lines operated at 120 kilovolts (kV) to 345 kV, (ii) approximately 16,000 transmission towers and poles, (iii) 30 stations which connect transmission facilities, (iv) other transmission equipment necessary to safely operate the system (*e.g.*, switching stations, breakers and metering equipment), (v) associated land, rights of way and easements, (vi) assets located in *ITCTransmission's* Novi, Michigan corporate office, which consist of a transmission operations control room, furniture, fixtures, office equipment and other associated facilities, and (vii) the Michigan Electric Power Coordination Center which performs control area services for all of the electrical systems of *ITCTransmission* and the Michigan Electric Transmission Company, LLC. ("METC").

5. *ITCTransmission* is a customer of Detroit Edison, *i.e.*, Detroit Edison provides retail electric service to *ITCTransmission*.

6. The Commission commenced this proceeding on March 23, 2006, to require Detroit Edison to show cause why its retail electric rates should not be reduced, citing as concerns: (i) that Detroit Edison's retail rates set in Case No. U-13808 may have been based on incorrect assumptions regarding the level of electric choice sales and the amount of revenue received by Detroit Edison associated with sales of power not required because retail customer load had migrated to electric choice, thus potentially resulting in the collection of excess

revenues related to non-existent stranded costs; (ii) that Detroit Edison's retail rates set in Case No. U-13808 may have been based on a forecast that assumed substantially less bundled sales than was actually occurring; (iii) that DTE Energy had announced plans to substantially reduce its union and non-union work force over the next two years from that assumed in Detroit Edison's base rates; (iv) that Detroit Edison's actual after-tax net operating income was steadily rising above the assumed net operating income reflected in base rates. The Commission determined that all these factors could result in Detroit Edison being in a position where it would be earning substantially more than its authorized rate of return.

8. In its March 23, 2006 Order commencing this case, the Commission directed Detroit Edison to file its direct evidentiary presentation to show cause why its retail rates should not be reduced by June 1, 2006.

9. On June 1, 2006, Detroit Edison filed its direct case, in which it claims that rather than having a situation where it would be earning revenues in excess of its authorized rate of return, it will experience a revenue deficiency of over \$43 million for the 2007 test year based on current rates. Detroit Edison also proposed to re-establish base power supply costs and to recover its proposed rate increase solely through its retail distribution charges. Reflected in Detroit Edison's position on any projected excess earnings and for its proposed rate increase are assumptions relating to various *transmission issues* affecting Detroit Edison, including the utility's load loss assumptions setting base power supply costs, and its assumptions on ancillary income, such as pole attachment and cellular antennae revenues that are associated with *ITCTransmission* facilities, that would be an offset to Detroit Edison's cost of service.

10. The Commission recognizes two standards for intervention by parties in contested case proceedings. The first type of intervention is where the party has standing to intervene *as of*

*right*, which requires that the party: (i) will have suffered an injury-in-fact as a result of the outcome of the case; and (ii) be within the “zone of interest” to be protected by statute. The second type of intervention is *permissive*, where the Commission has the discretion to permit a party to intervene in the case where that party can provide useful information to the Commission or unique perspective on the issues to be resolved in the case. *ITCTransmission’s* proposed intervention satisfies both standards.

11. First, *ITCTransmission* is a retail customer of Detroit Edison. As such, it is certainly within the zone of interest to be protected and it would suffer an injury-in-fact as a result of any outcome in this proceeding. Further, as a provider of transmission services to Detroit Edison’s retail bundled customers and its electric choice and retail open access customers, *ITCTransmission* has a substantial interest in making sure that Detroit Edison’s rates, particularly its distribution rates, fairly reflect the true cost of serving such customers and provide appropriate price signals to end-users to properly evaluate and make decisions on their retail electric supply.

12. *ITCTransmission’s* intervention on a permissive basis is also amply justified. *ITCTransmission* is uniquely suited to provide information to the Commission in this show cause proceeding since the assets it owns and the business it conducts were previously part of Detroit Edison. Therefore, *ITCTransmission* can provide useful information and insight into Detroit Edison’s costs and operations, which the Commission has expressly identified as the areas of concerns in its investigation in this case. Also, *ITCTransmission* is the largest transmission provider in the state of Michigan, serving all of Detroit Edison’s service territory and electric load. Consequently, *ITCTransmission* can offer unique and critical information as to Detroit Edison’s load patterns and requirements no other party to this proceeding can provide.

### **Grounds for Late Intervention**

13. *ITCTransmission* recognizes that this Petition has not been filed within the time period specified in Rule 201(1) of the Commission's Rules of Practice and Procedure. However, good cause exists for *ITCTransmission*'s late intervention.

14. Detroit Edison did not file its direct evidentiary case in this case until June 1, 2006 and was required by the Commission to file reconciliation schedules regarding billing determinants and revenues. Thus, *ITCTransmission* did not have full and complete information as to what Detroit Edison's position and evidentiary presentation would be in response to the Commission's directive.

15. It is important to note that the Commission, in its March 23, 2006 Order commencing this case, did not specify when such petitions were required to be filed in the case. Accordingly, the Commission did not appear to restrict interventions after the prehearing in this case was conducted on April 25, 2006, so long as such interventions are appropriate and do not result in delaying the Commission's desire to expeditiously process this case.

16. *ITCTransmission* takes this case as it stands. Intervention by *ITCTransmission* at this stage of the proceeding will not prejudice any of the other parties nor delay in any way the progress of this case. *ITCTransmission* understands that the schedule for this case has been set by the Commission and that discovery is in progress. *ITCTransmission*'s participation in this case will not interrupt ongoing discovery nor add any substantial burden to it. In addition, Staff and intervenors' filings are not due until August 23, 2006, leaving more than sufficient time for Detroit Edison and the parties to prepare for any testimony and exhibits and arguments that *ITCTransmission* might present.

### **Statement of Position**

17. *ITCTransmission* position is that Detroit Edison's retail electric rates must be just and reasonable and reflect the true cost of serving its customers.

18. Detroit Edison's rates must incorporate in full all ancillary revenues that Detroit Edison will be expected to accrue.

19. Detroit Edison's proposed change in its distribution rates appears unwarranted and could significantly impede the continued development of a viable competitive retail market for electricity.

20. To the extent that Detroit Edison's current retail rates result in rates exceeding such costs and with Detroit Edison earning above its authorized rate of return, then such rates should be reduced.

21. *ITCTransmission* reserves the right to raise additional positions during the course of this case.

### **Relief Requested**

WHEREFORE, *ITCTransmission* respectfully requests the Commission to:

- (A) Grant *ITCTransmission* leave to intervene and participate as a full party to the proceedings, taking the case as it stands;
- (B) Enter the appearance of counsel for *ITCTransmission* in this proceeding.

(C) Grant such other relief to *ITCTransmission* as is just and reasonable.

Respectfully submitted,

*ITCTransmission*

By Its Attorneys:  
DYKEMA GOSSETT PLLC

Dated: June 30, 2006

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STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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\_\_\_\_\_ )

Case No. U-14838

PROOF OF SERVICE

STATE OF MICHIGAN )  
 ) SS.  
COUNTY OF INGHAM )

Janice K. Atkins, an employee of Dykema Gossett PLLC, being first duly sworn, deposes and says that on the 30<sup>th</sup> of June, 2006, she served a copy of Petition for Leave to Intervene of *ITCTRANSMISSION* upon the individuals on the attached service list by electronic mail and by enclosing a copy of said document in an envelope addressed as shown and depositing same with the U. S. Postal Service, postage prepaid.

\_\_\_\_\_  
Janice K. Atkins

Subscribed and sworn before  
me this 30<sup>th</sup> day of June, 2006.

\_\_\_\_\_  
Carolyn Ann Priest, Notary Public, Ingham Co., MI  
Acting in Ingham County, Michigan  
My Commission Expires: 07/01/12

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