

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
Philip D. Moeller, and Jon Wellinghoff.

The Detroit Edison Company

Docket No. TS06-14-000

ORDER GRANTING WAIVER

(Issued April 5, 2007)

1. On September 6, 2006, The Detroit Edison Company (Detroit Edison) filed a request for clarification that certain actions it proposes to undertake, as described below, will not affect its waiver from the Commission's Standards of Conduct.<sup>1</sup> In this order, the Commission grants Detroit Edison's request for clarification that Detroit Edison will not become subject to the Standards of Conduct if it undertakes the proposed interconnection.

2. Detroit Edison explains that, in 2000, it transferred substantially all of its transmission assets to the International Transmission Company (ITC). Detroit Edison states that its current portfolio of transmission assets consists solely of two small line segments integrated into ITC's transmission system (line segments),<sup>2</sup> which Detroit Edison uses to provide retail service.

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<sup>1</sup> *Standards of Conduct for Transmission Providers*, Order No. 2004, FERC Stats. & Regs., Regulations Preambles ¶ 31,155 (2003), *order on reh'g*, Order No. 2004-A, III FERC Stats. & Regs. ¶ 31,161 (2004), *order on reh'g*, Order No. 2004-B, III FERC Stats. & Regs. ¶ 31,166 (2004), *order on reh'g*, Order No. 2004-C, FERC Stats. & Regs. ¶ 31,172, *order on reh'g*, Order No. 2004-D, 110 FERC ¶ 61,320 (2005), *vacated in part, sub. nom. National Fuel Gas Supply Corporation v. FERC*, 468 F.3d 831 (D.C. Cir. 2006). *See also Standards of Conduct for Transmission Providers*, Order No. 690, FERC Stats. & Regs. ¶ 31,237 (2007) (Interim Rule); *Standards of Conduct for Transmission Providers*, FERC Stats. & Regs ¶ 32,611 (2007) (Notice of Proposed Rulemaking).

<sup>2</sup> Detroit Edison states that the Midwest Independent Transmission System Operator, Inc. (MISO) controls access to these line segments via an agency agreement. Detroit Edison Data Response at n 2.

3. In an order issued on July 20, 2006, the Commission determined that Detroit Edison is a Transmission Provider but granted Detroit Edison partial waiver from Order No. 2004's Standards of Conduct, finding that Detroit Edison only owns limited and discrete transmission facilities that do not form an integrated transmission grid.<sup>3</sup>

4. In the instant filing, Detroit Edison requests that the Commission clarify that certain actions it proposes to undertake will not jeopardize its waiver from the Standards of Conduct. Specifically, Detroit Edison explains that it has been approached by developers/owners of certain renewable energy (wind) generators regarding the possibility of connecting these generating facilities directly to Detroit Edison's distribution system for the purpose of selling power at wholesale in interstate commerce. Detroit Edison states that once interconnected, it would provide delivery service from the point of generator interconnection to the "border" of Detroit Edison's system, or to the interconnection points between Detroit Edison's distribution system and ITC's transmission system.

5. Detroit Edison submits that, by providing the above-described delivery service to generators for the purpose of affording these generators access to the interstate grid, it could be deemed as carrying out a transmission function or providing transmission service. Thus, Detroit Edison seeks a clarification that it will not become subject to the Standards of Conduct as a consequence of providing such delivery service. Alternatively, Detroit Edison requests waiver of the Standards of Conduct.

6. Detroit Edison argues that the Commission, by granting Detroit Edison a waiver of the Standards of Conduct, has determined that Detroit Edison is not the type of transmission provider contemplated by Order No. 2004. Detroit Edison contends that it will continue to own the same *de minimis* amount of transmission and that none of its facilities will form an integrated transmission grid. Detroit Edison also states that since the Commission cannot require a utility to interconnect a generator to its distribution facilities that are not available for jurisdictional transmission service under a Commission-approved open access transmission tariff (Tariff) at the time of the interconnection request, very few utilities will proceed with an interconnection and commence delivery service over their distribution systems if they will become subject to the Standards of Conduct.

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<sup>3</sup> *High Island Offshore System, L.L.C., et al.*, 116 FERC ¶ 61,047 at P 84 (2006) (High Island).

7. Notice of Detroit Edison's filing was published in the *Federal Register*, 71 Fed. Reg. 55,456 (2006), with comments, protests, or interventions due on or before October 5, 2006. None was filed.
8. On November 1, 2006, the Commission issued a data request to obtain additional information necessary to process Detroit Edison's filing. On November 7, 2006, Detroit Edison filed its responses. Detroit Edison clarifies that, by virtue of the proposed generator interconnections, its distribution network would not be used as an extension of the transmission system but instead as an extension of the interconnection facilities needed to deliver energy from the generator to the transmission system.<sup>4</sup> Upon delivery to the distribution-transmission interface, Detroit Edison's role would end, and the generator would effectuate its sale under the MISO Tariff. Detroit Edison clarifies that its delivery service will not make use of specific line segments, nor will generators request or schedule transmission service on a transaction by transaction basis. Instead each generator will enter into a service agreement with Detroit Edison under which it will reserve the right to use Detroit Edison's distribution network to access the transmission system up to a stated capacity.
9. Further, Detroit Edison states that its System Operations Center employees, who perform distribution and reliability functions, will have access to information only as necessary to perform their obligations and ensure reliable real-time operation of the Detroit Edison system. The Systems Operations Center employees have access to all real-time system conditions and communicate regularly with the ITC regarding ITC's adjacent transmission system, to ensure reliable real-time operations. However, these Systems Operations Center employees are physically segregated from all of Detroit Edison's merchant employees and take Standards of Conduct training, similar to that required for the "transmission function" employees. Thus, according to Detroit Edison, these precautions ensure that merchant employees do not have unauthorized access to non-public information.
10. While we find the service proposed here by Detroit Edison to be transmission service, for the reasons described below, we nonetheless grant Detroit Edison a waiver from the Commission's Standards of Conduct. In *Black Creek Hydro, Inc.*, the Commission found that public utilities that own operate, or control only limited and discrete transmission facilities (*i.e.* those facilities that do not form an integrated transmission grid) qualify for waiver of the requirements of the Standards of Conduct

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<sup>4</sup> Detroit Edison explains that its distribution network would deliver energy "upstream" to one or more interfaces between Detroit Edison's distribution network and ITC's transmission system.

until such time that that public utility receives a request for transmission service.<sup>5</sup> Here, consistent with our finding in *High Island*, Detroit Edison continues to own only limited and discrete transmission facilities that do not form an integrated transmission grid. In addition, Detroit Edison has also taken a number of steps to minimize the opportunity for undue preference, such as limiting access to information and providing Standards of Conduct training to its Systems Operations Center employees.<sup>6</sup> Accordingly, based on these facts, we find that Detroit Edison will continue to qualify for waiver from the Commission's Standards of Conduct, in light of its proposal to allow certain wind generators to interconnect to its distribution network.

The Commission orders:

Detroit Edison's request for waiver of the Standards of Conduct is hereby granted, as discussed in the body of this order.

By the Commission.

( S E A L )

Philis J. Posey,  
Acting Secretary.

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<sup>5</sup> *Black Creek Hydro, Inc., et al.*, 77 FERC ¶ 61,232, at 61,941 (1996).

<sup>6</sup> We assume that as part of training, Detroit Edison's Systems Operations Center employees understand and will follow the non-conduit rule.