

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeem G. Kelly.

Quest Energy, L.L.C

Docket Nos. EL04-31-001
EL04-31-002
EL04-31-003

v.

Detroit Edison Company

ORDER CONFIRMING WITHDRAWALS, ACCEPTING COMPLIANCE
FILINGS, AND TERMINATING PROCEEDINGS

(Issued December 22, 2004)

1. In this order, we confirm the withdrawal of a complaint by Quest Energy, L.L.C. (Quest) against Detroit Edison Company (Detroit Edison) and withdrawal of a request for rehearing, and accept compliance filings by Detroit Edison.

Background

2. On December 2, 2003, Quest filed a complaint alleging that, from October 2000 through December 1, 2003, Detroit Edison improperly calculated the rates it charged Quest for Energy Imbalance Service in contravention of Schedule 4 of its OATT.¹ Quest alleged that, rather than utilizing a formula consistent with the provisions of Schedule 4, Detroit Edison calculated the rates based on a formula contained in Detroit Edison's Electric Choice Supplier Handbook (Handbook). Quest estimated that Detroit Edison's improper use of the Handbook's formula resulted in Detroit Edison undercompensating Quest by approximately \$2.7 million.

¹ Energy Imbalance Service is provided when a difference occurs between scheduled and actual delivery of energy to load over a single hour.

3. On March 5, 2004, the Commission issued an order granting the complaint.² The Commission found that, because Detroit Edison did not apply the formula set forth in its tariff, it must recalculate the rates for Energy Imbalance Service provided to Quest and all other customers who purchased Energy Imbalance Service under Detroit Edison's OATT, from January 2, 2000, the date that the latest definition of decremental cost in Schedule 4 became effective, to December 2, 2003, the date Detroit Edison's OATT was superseded by its new stand-alone ancillary service tariff.³

4. On April 5, 2004, in Docket No. EL04-31-001, Detroit Edison filed a request for rehearing of the Order on Complaint.

5. On April 30, 2004, in Docket No. EL04-31-002, Detroit Edison submitted a compliance filing. Notice of the compliance filing was published in the *Federal Register*,⁴ with protests and motions to intervene due on or before May 21, 2004. Timely protests and/or motions to reject were filed by Quest, Nordic Marketing, L.L.C. (Nordic), FirstEnergy, Solutions Corporation (FirstEnergy), and Sempra Energy Solutions (Sempra). On June 7, 2004, Detroit Edison filed an answer to the protests and motions to reject its prior compliance filing.

6. On June 1, 2004, in Docket No. EL04-31-003, Detroit Edison submitted a supplemental compliance filing. Notice of the filing was published in the *Federal Register*,⁵ with protests and motions to intervene due on or before June 22, 2004. The comment date was subsequently extended to June 29, 2004. This filing was also protested by Quest and Sempra, and Detroit Edison answered the protests. Detroit Edison submitted further supplements on August 2, 2004 and September 17, 2004, both of which were also protested.

² *Quest Energy, L.L.C. v. Detroit Edison Company*, 106 FERC ¶ 61,227 (2004) (Order on Complaint).

³ *Id.* at P 21.

⁴ 69 Fed. Reg. 27,914 (2004).

⁵ 69 Fed. Reg. 34,149 (2004).

Discussion

7. On June 14, 2004, Nordic filed a withdrawal of its protest, explaining that it had reached a settlement with Detroit Edison. No motion in opposition was filed, so the withdrawal became effective on June 29, 2004, pursuant to Rule 216 of the Commission's Rules of Practice and Procedure.⁶

8. On September 24, 2004, Quest and Detroit Edison jointly filed a notice of withdrawal by Quest of its complaint and protests, and by Detroit Edison of its request for rehearing and compliance filings. Quest and Detroit Edison also request that the proceeding be terminated and, alternatively, Detroit Edison requests that the Commission accept the compliance filings and Quest does not oppose such acceptance.

9. On September 27, 2004, FirstEnergy filed a notice of withdrawal of its protests. On October 6, 2004, Sempra filed a notice of withdrawal of its protests.

10. The uncontested notices of withdrawal of protests by Quest, FirstEnergy, and Sempra became effective 15 days after filing, pursuant to Rule 216 of the Commission's Rules of Practice and Procedure. We will also confirm the withdrawals by Quest of its complaint and by Detroit Edison of its request for rehearing, similarly, and will accept Detroit Edison's compliance filings.

The Commission orders:

The withdrawals are hereby confirmed, Detroit Edison's compliance filings are hereby accepted, and these proceedings are hereby terminated, as discussed in the body of this order.

By the Commission.

(S E A L)

Linda Mitry,
Deputy Secretary.

⁶ 18 C.F.R. § 385.216 (2004).