

Order

**Michigan Supreme Court
Lansing, Michigan**

October 7, 2016

153116
153118

Robert P. Young, Jr.,
Chief Justice

Stephen J. Markman
Brian K. Zahra
Bridget M. McCormack
David F. Viviano
Richard H. Bernstein
Joan L. Larsen,
Justices

ENBRIDGE ENERGY LIMITED
PARTNERSHIP,
Petitioner-Appellee,

v

SC: 153116
COA: 321946
MPSC: U-017077

UPPER PENINSULA POWER COMPANY,
Respondent-Appellant,

and

MICHIGAN PUBLIC SERVICE COMMISSION,
Appellee.

ENBRIDGE ENERGY LIMITED
PARTNERSHIP,
Petitioner-Appellee,

v

SC: 153118
COA: 321946
MPSC: U-017077

UPPER PENINSULA POWER COMPANY,
Respondent-Appellee,

and

MICHIGAN PUBLIC SERVICE COMMISSION,
Appellant.

On order of the Court, the applications for leave to appeal the December 22, 2015 judgment of the Court of Appeals are considered. We direct the Clerk to schedule oral argument on whether to grant the applications or take other action. MCR 7.305(H)(1).

The parties shall file supplemental briefs within 42 days of the date of this order addressing: (1) whether the Court of Appeals erred in holding that the analysis provided in *Dodge v Detroit Trust Co*, 300 Mich 575, 613 (1942), was relevant to the determination whether the Michigan Public Service Commission (MPSC) exceeded its statutory authority by enforcing a settlement agreement that included a revenue decoupling mechanism for an electric utility; (2) if *Dodge* applies, whether the petitioner was barred from arguing that the settlement agreement is unenforceable or void; and (3) whether the petitioner is procedurally barred from challenging the MPSC's prior orders when it failed to intervene in the cases or appeal from the orders. The parties may address other issues but should not submit mere restatements of their application papers.



p1004

I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

October 7, 2016

A handwritten signature in black ink, appearing to read "Larry S. Royster", is written over a horizontal line.

Clerk