



## **A SUMMARY OF HOUSE BILL 4114 AS INTRODUCED 2-7-91**

The bill would create a new act, the "Private Power Producer's Act," that basically would (a) require major utilities (that is, Consumers Power Company and Detroit Edison) to take competitive bids whenever they wished to buy electric power from private co-generating facilities and (b) allow large customers of major utilities (such as universities, office buildings, malls, and manufacturers) to use the major utilities power lines (for a fee) to buy power from power sources other than the customer's own public utility.

**Definitions.** The bill would define a number of terms, including "public utility," "private power producer," "resource needs," and "integrated resource plan." A "public utility" would mean a public utility regulated by the Public Service Commission that provided electric service to at least half a million customers in Michigan ("as shown by the latest regular federal decennial census"). Currently, in Michigan, only Consumers Power Company and Detroit Edison fit that description. A "private power producer" would mean a qualifying cogeneration facility (as defined by the federal Public Utility Regulatory Policies Act, or "PURPA").

**Requests for proposals for power.** Under the bill, when a public utility needed additional electric power, the costs of which the Public Services Commission (PSC) would allow it to pass on to its customers, the utility would have to request proposals for power from private cogeneration facilities. The bill would specify the kind of information such a request would have to contain, including the anticipated amount of power needed and the avoided costs for energy and capacity for the next ten-, twenty- and thirty-year periods; location and size of the proposed facility; fuel type; operational characteristics; date of commercial operation; pricing (including ratepayer impacts); the utility's decision criteria; standard contract forms for buying the extra power; interruptibility of generation at the public utility's request; the total amount of customer purchases that can be done at a cost lower than the avoided cost rate (which is the highest rate utilities may charge); and anything else the PSC considers appropriate.

The utility would have to submit its request for proposals to the PSC for its approval. Within 75 days of submission of a request, and after comment by interested parties, the PSC would have to review and approve, disapprove, or modify the request.

Once the PSC approved a utility's request for proposals, the utility would have to publicize its request within ten business days and "in a manner reasonably designed to ensure that" interested private cogeneration facilities would be able to respond (including publication in newspapers). The utility would have 70 days to let the PSC know its decision

on responses to its request for proposals, and would have to provide interested parties with certain information necessary to develop a proposal in response to the utility's request.

In evaluating responses of private cogenerating facilities to the request, the utility would have to be present when a proposal was opened, evaluate each proposal, and submit its evaluation of the proposals to the PSC, including the utility's recommendation as to who should get the contract. The bill includes details on the kinds of documentation that would have to accompany each of the utility's recommendation.

Within 60 days after being notified by the PSC of its decision concerning the eligibility of a private power producer to enter into a long-term contract with a public utility, the utility would have to file with the PSC any contracts executed with eligible private power producers.

Proceedings before the PSC for an approval under the bill would have to be conducted as contested cases under the Administrative Procedures Act.

Public Service Commission powers and duties. The PSC would be able to order modification of proposals, reject any proposal, order the utility to solicit again for proposals, and suspend the ranking and selection process for private power producers. The PSC also would have to approve any contract meeting the requirements of the bill (and would constitute "prior approval" under the power supply cost recovery and power purchase agreements with resource recovery facilities sections of the public service commission act, Public Act 3 of 1939).

The PSC would have to conduct a public hearing to review the utility's evaluation of proposals, and within 60 days after submission by the utility decide which proposals were consistent with the bill's requirements.

Within ten days after deciding which proposals were consistent with the bill's requirements, the PSC would have to notify successful cogeneration facilities of their eligibility to enter long-term contracts with the public utility and would have to specify any conditions or limitations to this eligibility. A copy of the PSC's notice would have to be sent to each affected public utility.

Direct power purchases by customers. The bill would allow a public utility customer in effect to buy power ("electric capacity, energy, or standby power") directly from a power producer ("qualified facility, independent power producer, or electric utility") other than the public utility, provided that the customer paid the public utility a fee. More specifically, the bill would allow customers of a public utility to submit proposals to the utility in response to a request by the utility for proposals for power. When that happened, the utility would have to (a) buy electric capacity, energy, or standby power at terms negotiated by the customer from a qualified facility, independent power producer, or electric utility and (b) resell the capacity, energy, or standby power to the customer at no increase in price. However, the utility would be able to charge the customer a fee for this service, with the bill specifying certain limits on how the fee would be set.

The bill would set certain requirements in terms of the amount of total electric capacity that could be granted, purchased and resold, and would prohibit the buying of capacity and energy for resale from a utility that did not provide comparable services to its own customers. The bill also would require the PSC to hold a drawing to select requests to be granted if the total amount of the requests exceeded the total amount of public utility customer purchases approved by the commission in a request for proposals. If the total amount of the requests was less than the total amount approved by the PSC, the balance would have to be awarded to private power producers on the basis of the bids they submitted in response to the request for proposals.

Within ten days of receiving a customer request for a direct power purchase, the public utility would have to notify customers whose requests had been honored. Within twenty days after this notification, the customer would have to pay the utility a deposit of five dollars per kilowatt of capacity, to be credited toward the purchase and resale fees. If a customer did not make the required deposit, the capacity would be made available to other customers who had submitted requests.