

HOUSE BILL No. 6005

July 2, 1998, Introduced by Reps. Baade and Olshove and referred to the Committee on Public Utilities.

A bill to establish assigned service areas to electricity distributors; to prescribe the powers and duties of certain state agencies and officials; and to prescribe penalties and civil sanctions and provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Aggregator" means a person who combines electric loads
3 of multiple retail customers or a single customer with multiple
4 sites to facilitate the provision of direct access electric serv-
5 ice to such retail customers.

6 (b) "Assigned service area" means the designated geographic
7 area within the boundaries of which a distributor is authorized
8 to furnish all electric distribution service.

9 (c) "Commission" means the Michigan public service
10 commission in the department of consumer and industry services.

1 (d) "Customer" means the buildings and facilities served
2 rather than the individual, association, partnership, or corpora-
3 tion requiring service.

4 (e) "Electric distribution service" means the provision of
5 service and facilities necessary to connect a customer to an
6 integrated electric distribution system capable of delivering
7 electricity to the customer.

8 (f) "Electricity distributor" or "distributor" means a
9 person or their lessees, trustees, and receivers, owning or oper-
10 ating equipment or facilities for delivering electricity to the
11 public for compensation.

12 (g) "Electricity generator" or "generator" means a person
13 having generating capability in this state to produce at least 1
14 megawatt of electricity.

15 (h) "Electricity supplier" or "supplier" means a person that
16 sells electricity and related services to electricity distribu-
17 tors, aggregators, or at retail to customers located in the serv-
18 ice territories of electricity distributors.

19 (i) "Existing electric distribution line" means an electric
20 distribution line that on January 1, 1998 was being used for the
21 distribution or delivery of retail electric service.

22 (j) "Person" means an individual, partnership, corporation,
23 association, governmental entity, or other legal entity.

24 Sec. 2. (1) On or before January 1, 1999, each distributor
25 in each municipality shall exchange with all other distributors
26 in the same municipality a map or maps showing all of its
27 existing electric distribution lines in the municipality that are

1 relevant to the assignment of service areas and any other
2 information it considers useful in determining the boundaries of
3 an assigned service area.

4 (2) Until otherwise agreed upon between distributors and
5 approved by the commission under subsection (4) or ordered by the
6 commission under subsection (5), the boundaries of the assigned
7 service area for each adjacent distributor shall be set as a line
8 equidistant from its existing electric distribution lines and the
9 nearest existing electric distribution lines of any other
10 distributor. The resulting assigned service area of a distribu-
11 tor will be that area that is closer to the existing electric
12 distribution lines of that distributor than to the existing elec-
13 tric distribution lines of any other distributor. Where the
14 existing electric distribution lines of 2 or more distributors
15 intersect or parallel in a manner that an equidistant line cannot
16 be determined for a given geographic area, the distributors shall
17 negotiate under subsection (3). If the affected distributors
18 cannot agree on a proposed boundary, the commission shall assign
19 the service area under subsection (5).

20 (3) Each distributor shall negotiate with all adjacent dis-
21 tributors in an effort to agree on the proposed boundaries of the
22 service areas to be assigned by the commission.

23 (4) Maps depicting the boundaries of the proposed service
24 area assignments shall be prepared by each distributor for each
25 municipality in which the distributor provides electric distribu-
26 tion service, and shall be filed, together with a petition
27 requesting approval and assignment of the service areas with the

1 commission on or before March 1, 1999, or on such other dates as
2 the commission may determine but in no event later than June 1,
3 1999. The commission shall hold public hearings regarding the
4 proposed service areas, after publication of notice of the hear-
5 ing at least 10 days before the hearing in the municipality or
6 municipalities in which the proposed service areas are located.
7 If the commission finds that the proposed service areas comply
8 with this part, it shall issue an order within 90 days of the
9 filing of the petition and related maps, approving and assigning
10 the service areas as designated on the prepared maps.

11 (5) If 2 or more adjacent distributors cannot agree upon the
12 boundary line or lines between their respective proposed service
13 areas on or before March 1, 1999, or such other date as the com-
14 mission may determine, but not later than June 1, 1999, the com-
15 mission on its own motion or upon petition of 1 of the distribu-
16 tors shall hold a public hearing regarding the location of the
17 boundary line or lines, after publication of notice of the hear-
18 ing at least 10 days before the hearing in the municipality or
19 municipalities in which the boundary line or lines are located.
20 The commission shall determine the boundary line or lines based
21 as nearly as practicable upon a line equidistant between the
22 existing electric distribution lines of the adjacent distribu-
23 tors, consistent with good utility practice and public conve-
24 nience and necessity. The commission shall issue an order deter-
25 mining the boundary line or lines and assigning the service
26 areas, and shall direct the parties to file with the commission
27 maps showing the assigned service areas. If the commission

1 determines that the maps comply with its order, it shall issue an
2 order approving the assigned service areas as designated on the
3 maps.

4 (6) Once established according to this section, the bounda-
5 ries of assigned service areas may not be changed except as pro-
6 vided in section 5.

7 Sec. 3. (1) As long as a distributor continues to provide
8 adequate electric distribution service and otherwise complies
9 with all other legal requirements, it shall have the sole right
10 to be the distributor to present and future customers within the
11 boundaries of its assigned service area. A distributor shall not
12 extend electric distribution service within another distributor's
13 assigned service area unless the distributor with the sole right
14 waives its rights to serve a customer or group of customers, or
15 the geographic area.

16 (2) The distributor in an assigned service area shall have
17 the obligation to connect all customers requesting electric dis-
18 tribution service. A distributor's sole right under subsection
19 (1) to provide electric distribution service to each present and
20 future customer within the boundaries of its assigned service
21 area does not preclude any customer having the right to choose
22 their electricity supplier of electric generation. All distribu-
23 tors shall have an obligation to procure power and energy for any
24 customer that does not elect to take service from another
25 supplier.

26 (3) Each distributor shall provide nondiscriminatory service
27 to all customers. The commission shall have the authority to

1 receive and process complaints regarding discrimination in the
2 provision of electric distribution service brought by a customer
3 or an electricity supplier, or on the motion of the commission.
4 In the event discrimination is found to have occurred, the com-
5 mission shall issue such orders as it considers necessary to
6 alleviate the discrimination relative to the complaint.

7 (4) If a distributor renders or extends electric distribu-
8 tion service within the assigned service area of another distrib-
9 utor in violation of this act, the distributor that has the sole
10 right to furnish electric distribution service in that assigned
11 service area may file a complaint with the commission within 1
12 year from the date service is provided. In addition to the pen-
13 alties under section 6, the commission upon finding a violation
14 of this act may enjoin the other distributor from rendering or
15 extending the electric distribution service.

16 Sec. 4. Except as provided in section 5, after January 1,
17 1998, the inclusion by incorporation, annexation, consolidation,
18 or merger of any part of the assigned service area of a distribu-
19 tor does not impair or affect the rights of a distributor to con-
20 tinue to solely furnish and extend electric distribution service
21 throughout any part of its assigned service area.

22 Sec. 5. The boundaries of the assigned service areas of
23 distributors may not be changed except under the following
24 circumstances:

25 (a) Upon mutual agreement of the affected distributors and
26 approval of the commission.

1 (b) In the case where a landowner owns a premise which is
2 intersected by the boundary lines of 2 or more assigned service
3 areas, and electric distribution service can best be provided by
4 1 distributor, or the distributors involved are unable to agree
5 which shall furnish electric distribution service, any of the
6 distributors or the landowner may submit the matter to the com-
7 mission for its determination. If after notice and hearing, the
8 commission determines that the boundaries of an assigned service
9 area are to be changed, the assigned service area maps of the
10 affected distributors shall be changed to reflect the new
11 boundaries.

12 (c) In the event a distributor fails to obtain or maintain
13 the necessary consent of any county, township, city, or village
14 as required by law and the failure affects the ability of the
15 distributor to extend service in any part of the assigned service
16 area, the commission may determine which distributor shall be
17 assigned to provide service in the affected area based upon
18 public convenience and necessity.

19 Sec. 6. If after notice and hearing the commission finds a
20 person has violated this act, the commission shall order remedies
21 and penalties to protect and make whole any persons who have suf-
22 fered an economic loss as a result of the violation, including,
23 but not limited to, 1 or more of the following:

24 (a) The person to pay a fine for the first offense of not
25 less than \$1,000.00 nor more than \$20,000.00 per day that the
26 person is in violation of this act, and for each subsequent

1 offense, a fine of not less than \$2,000.00 nor more than
2 \$40,000.00 per day.

3 (b) A refund to the customers of any collected excessive
4 rates.

5 (c) Cease and desist orders.

6 (d) If the person is certified or registered under this or
7 any other act, revoke the person's certificate or registration.