

# SENATE BILL No. 937

January 25, 2000, Introduced by Senators DUNASKISS, HOFFMAN and SCHWARZ and referred to the Committee on Technology and Energy.

A bill to amend 1939 PA 3, entitled

"An act to provide for the regulation and control of public utilities and other services affected with a public interest within this state; to create a public service commission and to prescribe and define its powers and duties; to abolish the Michigan public utilities commission and to confer the powers and duties vested by law therein on the public service commission; to provide for the continuance, transfer, and completion of certain matters and proceedings; to abolish automatic adjustment clauses; to prohibit rate increases without notice and hearing; to qualify residential energy conservation programs permitted under state law for certain federal exemption; to provide for a restructuring of rates for certain utilities; to encourage the utilization of resource recovery facilities; to provide for appeals; to provide appropriations; to declare the effect of this act; to prescribe penalties; and to repeal all acts contrary to this act,"

(MCL 460.1 to 460.8) by amending the title, as amended by 1989 PA 2, and by adding sections 10a, 10b, 10c, 10d, 10e, 10f, 10g, 10h, 10i, 10j, 10k, 10l, 10m, 10n, 10o, 10p, 10q, 10r, 10s, 10t, 10u, 10v, 10w, 10x, 10y, and 10z.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

## 1 TITLE

2 An act to provide for the regulation and control of public  
3 utilities and other services affected with a public interest  
4 within this state; to create a public service commission and to  
5 prescribe and define its powers and duties; to abolish the  
6 Michigan public utilities commission and to ~~confer~~ TRANSFER the  
7 powers and duties vested by law therein ~~on~~ TO the public serv-  
8 ice commission; to provide for the continuance, transfer, and  
9 completion of certain matters and proceedings; to abolish auto-  
10 matic adjustment clauses; to prohibit rate increases without  
11 notice and hearing; to qualify residential energy conservation  
12 programs permitted under state law for certain federal exemption;  
13 to provide for a restructuring of rates for certain utilities; to  
14 encourage the utilization of resource recovery facilities; TO  
15 REGULATE CERTAIN CHARGES FOR THE TRANSMISSION OF ELECTRIC SERV-  
16 ICE; TO REGULATE THE RULES AND CONDITIONS OF PROVIDING CERTAIN  
17 ELECTRIC SERVICE; TO RESTRUCTURE THE ELECTRIC INDUSTRY AND PRO-  
18 MOTE COMPETITION; to provide for appeals; to provide appropria-  
19 tions; to declare the effect of this act; to prescribe penalties;  
20 and to repeal all acts contrary to this act.

21 SEC. 10A. (1) THE COMMISSION SHALL ORDER THAT ALL CUSTOMERS  
22 OF ELECTRIC SERVICE IN THIS STATE HAVE THE OPTION OF CHOOSING AN  
23 ALTERNATIVE ELECTRIC SUPPLIER NO LATER THAN JANUARY 1, 2002.

24 (2) THE COMMISSION SHALL ADOPT THE FOLLOWING PHASE-IN SCHED-  
25 ULE FOR RETAIL CUSTOMERS TO CHOOSE AN ALTERNATIVE ELECTRIC  
26 SUPPLIER:

1 (A) AS OF JUNE 1, 2000, 15% OF EACH ELECTRIC UTILITY'S  
2 ANNUAL PEAK LOAD.

3 (B) AS OF JANUARY 1, 2001, A TOTAL OF 20% OF EACH ELECTRIC  
4 UTILITY'S ANNUAL PEAK LOAD.

5 (C) AS OF JANUARY 1, 2002, ALL OF THE REMAINING CUSTOMERS OF  
6 EACH ELECTRIC UTILITY SHALL HAVE THE OPTION TO CHOOSE AN ALTERNA-  
7 TIVE ELECTRIC SUPPLIER.

8 (3) EACH REGULATED SERVICE PROVIDER SHALL TRANSMIT ALTERNA-  
9 TIVE ELECTRIC SUPPLIER POWER UNDER REASONABLE RATES, TERMS, AND  
10 CONDITIONS AS APPROVED BY THE COMMISSION.

11 (4) THE COMMISSION SHALL ADOPT A BIDDING MECHANISM THAT  
12 ALLOWS ALL CUSTOMERS IN ALL CLASSES A REASONABLE OPPORTUNITY TO  
13 PARTICIPATE IN THE PHASE-IN SCHEDULE. THE COMMISSION SHALL NOT  
14 ESTABLISH A MINIMUM BID AMOUNT. THE COMMISSION MAY RESERVE A  
15 PORTION OF THE PHASE-IN AMOUNTS UNDER SUBSECTION (2)(A) AND (B)  
16 FOR SPECIFIC CUSTOMER CLASSES. IF A CUSTOMER CLASS DOES NOT UTI-  
17 LIZE ALL OF THE AMOUNT OF OPEN ACCESS RESERVED FOR THAT CLASS,  
18 THE COMMISSION SHALL REALLOCATE THE AMOUNT TO ANY OVERSUBSCRIBED  
19 CLASS.

20 (5) SUBSECTION (2)(A) AND (B) DOES NOT APPLY TO  
21 INVESTOR-OWNED ELECTRIC UTILITIES SERVING LESS THAN 200,000 CUS-  
22 TOMERS IN THIS STATE. UTILITIES UNDER THIS SUBSECTION ARE  
23 REQUIRED TO PROVIDE ALL OF THEIR CUSTOMERS WITH THE OPTION OF  
24 CHOOSING AN ALTERNATIVE ELECTRIC SUPPLIER NO LATER THAN JANUARY  
25 1, 2002.

26 (6) THIS ACT DOES NOT PROHIBIT OR LIMIT THE RIGHT OF A  
27 PERSON TO OBTAIN SELF-SERVICE POWER, AND IT DOES NOT IMPOSE A

1 TRANSITION, IMPLEMENTATION, EXIT FEE, OR ANY OTHER SIMILAR CHARGE  
2 ON SELF-SERVICE POWER. A PERSON USING SELF-SERVICE POWER IS NOT  
3 AN ELECTRIC SUPPLIER, A REGULATED SERVICE PROVIDER, OR A PUBLIC  
4 UTILITY OR A PERSON CONDUCTING A PUBLIC UTILITY BUSINESS.

5 (7) THIS ACT DOES NOT PROHIBIT OR LIMIT THE RIGHT OF A  
6 PERSON TO ENGAGE IN AFFILIATE WHEELING AND DOES NOT IMPOSE A  
7 TRANSITION, IMPLEMENTATION, EXIT FEE, OR ANY OTHER SIMILAR CHARGE  
8 ON A PERSON ENGAGED IN AFFILIATE WHEELING.

9 (8) AN ELECTRIC UTILITY MAY, AT ITS OPTION, ELECT TO ACCEL-  
10 ERATE THE PHASE-IN SCHEDULE ESTABLISHED UNDER SUBSECTION (2).

11 (9) UNTIL DECEMBER 31, 2002, AN ELECTRIC UTILITY SHALL ALLOW  
12 LOAD PROFILING FOR CUSTOMERS WITH DEMANDS OF LESS THAN 20 KILO-  
13 WATTS INSTEAD OF TIME OF USE METERS. AFTER DECEMBER 31, 2002,  
14 THE COMMISSION SHALL DETERMINE WHETHER LOAD PROFILING SHOULD CON-  
15 TINUE TO BE ALLOWED.

16 (10) A COMMISSION ORDER ISSUED BEFORE THE EFFECTIVE DATE OF  
17 THE AMENDATORY ACT THAT ADDED THIS SECTION SHALL CONTINUE IN  
18 EFFECT TO THE EXTENT THAT THE ORDER IS NOT INCONSISTENT WITH THIS  
19 ACT.

20 (11) THE COMMISSION SHALL ESTABLISH AND ENFORCE STANDARDS  
21 FOR THE USE OF DISTRIBUTED GENERATION NECESSARY TO ENSURE THE  
22 SAFETY OF PERSONS USING THE ELECTRIC UTILITY'S DISTRIBUTION  
23 SYSTEM.

24 SEC. 10B. (1) NO LATER THAN 180 DAYS AFTER THE EFFECTIVE  
25 DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION, EACH ELECTRIC  
26 UTILITY SHALL FILE AN APPLICATION WITH THE COMMISSION TO UNBUNDLE  
27 ITS RATE SCHEDULES AND SEPARATELY IDENTIFY AND CHARGE FOR THE

1 DISCRETE RETAIL SERVICES AND CHARGES THAT WERE IN EFFECT IN ITS  
2 TARIFFS AS OF DECEMBER 31, 1999. FOR EACH ELECTRIC UTILITY, THE  
3 TOTAL OF THE RATES FOR ELECTRIC SERVICE THAT ARE UNBUNDLED UNDER  
4 THIS SECTION SHALL EQUAL THE RATES THAT WERE IN EFFECT AS OF  
5 DECEMBER 31, 1999, EXCEPT FOR ADJUSTMENTS ALLOWED UNDER SECTION  
6 10C(2). THE BUNDLED RATES IN EFFECT FOR CALENDAR YEAR 2000 SHALL  
7 EQUAL THOSE RATES IN EFFECT AS OF DECEMBER 31, 1999, EXCEPT FOR  
8 ADJUSTMENTS ALLOWED UNDER SECTION 10C(2). UNTIL JANUARY 1, 2003,  
9 THE COMMISSION SHALL NOT ADJUST THE RATES ESTABLISHED UNDER THIS  
10 SECTION EXCEPT AS OTHERWISE PROVIDED BY THE AMENDATORY ACT THAT  
11 ADDED THIS SECTION. WITHIN 180 DAYS AFTER THE UTILITY FILES AN  
12 APPLICATION UNDER THIS SUBSECTION, THE COMMISSION SHALL ISSUE A  
13 FINAL ORDER.

14 (2) THE DISCRETE SERVICES AND CHARGES UNBUNDLED UNDER SUB-  
15 SECTION (1) SHALL INCLUDE, AT A MINIMUM, DISTRIBUTION SERVICES  
16 AND CHARGES INCLUDING CUSTOMER ACCOUNT SERVICES, TRANSMISSION  
17 SERVICES AND CHARGES, GENERATION SERVICES AND CHARGES, TRANSITION  
18 CHARGES ALLOWED UNDER SECTION 10E, AND OTHER SURCHARGES AND TAXES  
19 APPLICABLE TO THE SALE, DELIVERY, OR CONSUMPTION OF ELECTRICITY.

20 (3) AN ELECTRIC UTILITY MAY UNBUNDLE CUSTOMER ACCOUNT  
21 SERVICES. THE COMMISSION MAY REQUIRE THAT CUSTOMER ACCOUNT SERV-  
22 ICES BE UNBUNDLED IF IT DETERMINES, AFTER NOTICE AND HEARING,  
23 THAT THE UNBUNDLING WOULD BE BENEFICIAL TO CUSTOMERS. EXCEPT TO  
24 THE EXTENT THE SERVICES ARE UNBUNDLED, THE PROVISION OF THE SERV-  
25 ICES REMAINS THE RESPONSIBILITY OF THE REGULATED SERVICE  
26 PROVIDER.

1 (4) ALL COMPETITIVE SERVICES OFFERED BY A REGULATED SERVICE  
2 PROVIDER THAT THE PROVIDER IS NOT PROHIBITED FROM PROVIDING UNDER  
3 THIS ACT OR BY AN ALTERNATIVE ELECTRIC SUPPLIER SHALL BE CHARGED  
4 SEPARATELY FROM NONCOMPETITIVE SERVICES.

5 (5) THE COMMISSION SHALL REQUIRE ELECTRIC UTILITIES TO  
6 SUBMIT RATE UNBUNDLING FILINGS IN A FORM APPROVED BY THE  
7 COMMISSION. THE COMMISSION SHALL REVIEW THE FILINGS AND, AFTER  
8 NOTICE AND HEARING, RENDER A DETERMINATION AS TO THE APPROPRIATE  
9 UNBUNDLED RATES CONSISTENT WITH THIS SECTION. FOR PURPOSES OF  
10 UNBUNDLING, THE COMMISSION SHALL ASSURE THAT THE JURISDICTIONAL  
11 ALLOCATION OF GENERATION, TRANSMISSION, AND DISTRIBUTION PLANT  
12 AND COSTS ARE CONSISTENT WITH FERC PRACTICES AND FERC AUTHORIZED  
13 TRANSMISSION TARIFFS.

14 (6) THE UNBUNDLING OF ELECTRIC UTILITY RATES UNDER THIS SEC-  
15 TION SHALL NOT RESULT IN THE REALLOCATION OF UTILITY COST RESPON-  
16 SIBILITY BETWEEN OR AMONG DIFFERENT CLASSES OF CUSTOMERS.

17 SEC. 10C. (1) EXCEPT AS PROVIDED UNDER SUBSECTION (2) AND  
18 SECTIONS 10P AND 10Q, THE UNBUNDLED RATES UNDER SECTION 10B  
19 REMAIN IN EFFECT UNTIL DECEMBER 31, 2002.

20 (2) PAST UNDER OR OVER COLLECTIONS APPROVED BY THE COMMIS-  
21 SION RESULTING FROM RECONCILIATION PROCEEDINGS CONDUCTED UNDER  
22 SECTION 6J FOR PERIODS ENDING BEFORE JANUARY 1, 2000 SHALL BE  
23 COLLECTED FROM OR REFUNDED TO CUSTOMERS, AND SPECIFIC RATE  
24 ADJUSTMENTS THAT WERE APPROVED BY THE COMMISSION BEFORE DECEMBER  
25 31, 1999 SHALL BE IMPLEMENTED.

26 (3) UNTIL DECEMBER 31, 2002, A REGULATED SERVICE PROVIDER IS  
27 OBLIGATED TO USE ITS BEST EFFORTS TO GENERATE OR PROCURE

1 ELECTRICITY FOR CUSTOMERS WHO SWITCH TO AN ALTERNATIVE ELECTRIC  
2 SUPPLIER AND SUBSEQUENTLY DESIRE TO SWITCH BACK TO THE REGULATED  
3 SERVICE PROVIDER FOR ELECTRIC GENERATION SERVICE. IF THE CUS-  
4 TOMER REQUIRES 250 OR MORE KILOWATTS PER YEAR AND THE CUSTOMER'S  
5 ALTERNATIVE ELECTRIC SUPPLIER IS CAPABLE OF PROVIDING THE SERV-  
6 ICE, THE REGULATED SERVICE PROVIDER MAY CHARGE RETAIL MARKET  
7 PRICES FOR SERVICE PROVIDED UNDER THIS SUBSECTION.

8 (4) CUSTOMERS UNDER SUBSECTION (3) WHO SWITCH BACK TO THE  
9 REGULATED SERVICE PROVIDER BEFORE JANUARY 1, 2002 SHALL PAY THE  
10 GENERATION CHARGES ESTABLISHED UNDER SUBSECTION (1) AND SHALL NOT  
11 SWITCH TO AN ALTERNATIVE ELECTRIC SUPPLIER FOR A 12-MONTH  
12 PERIOD.

13 (5) CUSTOMERS UNDER SUBSECTION (3) WHO SWITCH BACK AFTER  
14 JANUARY 1, 2002 BUT BEFORE JANUARY 1, 2003 MAY BE CHARGED RETAIL  
15 MARKET PRICES DETERMINED UNDER SUBSECTION (10) FOR ELECTRIC GEN-  
16 ERATION SERVICE.

17 (6) A RETAIL CUSTOMER WITH PEAK DEMANDS GREATER THAN 250  
18 KILOWATTS THAT ELECTS ELECTRIC GENERATION SERVICE UNDER SUBSEC-  
19 TION (3) SHALL GIVE THE REGULATED SERVICE PROVIDER 60 DAYS' WRIT-  
20 TEN NOTICE OF A DESIRE TO RECEIVE SERVICE. A REGULATED SERVICE  
21 PROVIDER MAY WAIVE THE NOTICE REQUIREMENT OF THIS SUBSECTION.

22 (7) AFTER DECEMBER 31, 2002, THE COMMISSION SHALL CONTINUE  
23 TO HAVE JURISDICTION AND CONTROL OF THE RATES FOR REGULATED  
24 SERVICE. THE COMMISSION MAY, UPON APPLICATION OF A REGULATED  
25 SERVICE PROVIDER, ADOPT AN INCENTIVE-BASED RATE MAKING MECHANISM  
26 FOR ESTABLISHING RATES FOR REGULATED SERVICE. AFTER NOTICE AND A  
27 CONTESTED CASE HEARING, IF THE COMMISSION DETERMINES THAT THE

1 INCENTIVE-BASED MECHANISM PROPOSED BY THE REGULATED SERVICE  
2 PROVIDER PROMOTES EFFICIENT OPERATIONS AND COST CONTROL, IS CON-  
3 SISTENT WITH PROVIDING SAFE, ADEQUATE, AND RELIABLE REGULATED  
4 SERVICE, AND WILL RESULT IN JUST AND REASONABLE RATES, THE COM-  
5 MISSION SHALL APPROVE THE INCENTIVE-BASED RATE MAKING MECHANISM.  
6 IF THE COMMISSION DETERMINES THAT THE MECHANISM PROPOSED BY THE  
7 REGULATED SERVICE PROVIDER DOES NOT MEET THE REQUIREMENTS OF THIS  
8 SUBSECTION, THE COMMISSION SHALL REJECT THE PROPOSED MECHANISM.

9 (8) AFTER DECEMBER 31, 2002, A REGULATED SERVICE PROVIDER IS  
10 OBLIGATED TO PROCURE STANDARD GENERATION SERVICE FOR ITS CUSTOM-  
11 ERS WHO ARE NOT TAKING SERVICE FROM AN ALTERNATIVE ELECTRIC  
12 SUPPLIER. A RETAIL CUSTOMER WITH PEAK DEMANDS GREATER THAN 250  
13 KILOWATTS THAT ELECTS STANDARD GENERATION SERVICE UNDER THIS SUB-  
14 SECTION SHALL GIVE THE REGULATED SERVICE PROVIDER 60 DAYS' WRIT-  
15 TEN NOTICE OF A DESIRE TO RECEIVE STANDARD GENERATION SERVICE. A  
16 REGULATED SERVICE PROVIDER MAY WAIVE THE NOTICE REQUIREMENT OF  
17 THIS SUBSECTION. A REGULATED SERVICE PROVIDER SHALL PURCHASE THE  
18 SERVICES NECESSARY TO SUPPLY THE STANDARD GENERATION SERVICE.  
19 THE PURCHASE OF ELECTRICITY REQUIRED BY THIS SUBSECTION MAY BE  
20 FROM AN AFFILIATE OR FROM ANY OTHER SOURCE. SUBJECT TO COMMIS-  
21 SION APPROVAL, A REGULATED SERVICE PROVIDER MAY ENTER INTO A CON-  
22 TRACT WITH AN ELECTRIC SUPPLIER LICENSED UNDER SECTION 10T, THAT  
23 REQUIRES THE LICENSED ELECTRIC SUPPLIER TO ASSUME THE OBLIGATION  
24 TO PROVIDE STANDARD GENERATION SERVICE UNDER THIS SUBSECTION IN  
25 THE REGULATED SERVICE PROVIDER'S SERVICE TERRITORY. THE RATES  
26 CHARGED CUSTOMERS FOR THIS SERVICE SHALL BE DETERMINED BY 1 OF  
27 THE FOLLOWING:

1 (A) IF THE REGULATED SERVICE PROVIDER PURCHASES THE  
2 ELECTRICITY FROM AN AFFILIATE, THE RATES FOR THE STANDARD GENERA-  
3 TION SERVICE TO RETAIL CUSTOMERS SHALL BE EQUAL TO THE RETAIL  
4 MARKET PRICE DETERMINED UNDER SUBSECTION (10).

5 (B) IF THE REGULATED SERVICE PROVIDER PURCHASES THE ELEC-  
6 TRICITY FROM AN UNAFFILIATED SOURCE, THE RATES SHALL BE ESTAB-  
7 LISHED TO ALLOW RECOVERY OF THE ACTUAL PROCUREMENT COSTS PRU-  
8 DENTLY INCURRED BY THE REGULATED SERVICE PROVIDER.

9 (C) IF THE REGULATED SERVICE PROVIDER CONTRACTS WITH A  
10 LICENSED ELECTRIC SUPPLIER TO PROVIDE STANDARD GENERATION SERV-  
11 ICE, THE RATES SHALL BE EQUAL TO THE RETAIL MARKET PRICES DETER-  
12 MINED UNDER SUBSECTION (10).

13 (D) IF THE REGULATED SERVICE PROVIDER PURCHASES TRANSMISSION  
14 SERVICES EITHER FROM AN AFFILIATED OR UNAFFILIATED PROVIDER, THE  
15 RATES SHALL BE ESTABLISHED TO ALLOW RECOVERY OF ACTUAL TRANSMIS-  
16 SION COSTS, PROVIDED THAT THE COSTS ARE BASED UPON RATES THAT DO  
17 NOT EXCEED THOSE APPROVED BY THE FERC AND THE COMMISSION.

18 (9) A REGULATED SERVICE PROVIDER IS OBLIGATED, WITH COMMIS-  
19 SION OVERSIGHT, TO PROVIDE STANDBY GENERATION SERVICE FOR OPEN  
20 ACCESS LOAD ON A BEST EFFORTS BASIS UNTIL DECEMBER 31, 2001 OR  
21 THE DATE ON WHICH THE PROVIDER MEETS THE MARKET POWER TEST ESTAB-  
22 LISHED BY SECTION 10D, WHICHEVER IS LATER. THE PRICING FOR THE  
23 ELECTRIC GENERATION STANDBY SERVICE IS EQUAL TO THE RETAIL MARKET  
24 PRICE OF COMPARABLE STANDBY SERVICE ALLOWED UNDER SUBSECTION  
25 (10). A REGULATED SERVICE PROVIDER IS NOT REQUIRED TO INTERRUPT  
26 FIRM OFF-SYSTEM SALES OR FIRM SERVICE CUSTOMERS TO PROVIDE  
27 STANDBY GENERATION SERVICE. UNTIL THE DATE ON WHICH THE

1 REGULATED SERVICE PROVIDER'S AFFILIATED ELECTRIC SUPPLIERS MEET  
2 THE MARKET POWER TEST ESTABLISHED BY SECTION 10D, STANDBY GENERA-  
3 TION SERVICE SHALL CONTINUE TO BE PROVIDED TO NONOPEN ACCESS CUS-  
4 TOMERS UNDER REGULATED TARIFFS.

5 (10) THE METHODOLOGY FOR IDENTIFYING THE RETAIL MARKET PRICE  
6 FOR ELECTRIC GENERATION SERVICE TO BE APPLIED UNDER THIS SECTION  
7 SHALL BE DETERMINED BY THE COMMISSION BASED UPON MARKET INDICES  
8 COMMONLY RELIED UPON IN THE ELECTRIC GENERATION INDUSTRY,  
9 ADJUSTED AS APPROPRIATE TO REFLECT RETAIL MARKET PRICES IN THE  
10 RELEVANT MARKET.

11 SEC. 10D. (1) EXCEPT AS REQUIRED UNDER SECTION 10C, AN  
12 ELECTRIC SUPPLIER IS NOT SUBJECT TO RATE REGULATION OF ELECTRIC  
13 GENERATION SERVICE BY THE COMMISSION AFTER DECEMBER 31, 2002 IF  
14 THE PROVIDER HAS COMPLIED WITH SECTIONS 10G AND 10Q, HAS OBTAINED  
15 ANY REQUIRED APPROVAL FOR A PLAN FILED UNDER SECTION 10P, AND THE  
16 SUM OF THE AMOUNT OF GENERATING CAPACITY UNDER THE COMMERCIAL  
17 CONTROL OF ITS AFFILIATED ELECTRIC SUPPLIER THAT IS AVAILABLE TO  
18 SERVE THE RELEVANT MARKET IS LESS THAN 30% OF THE TOTAL GENERAT-  
19 ING CAPACITY AVAILABLE TO SERVE THE RELEVANT MARKET. AN ELECTRIC  
20 SUPPLIER CAN APPLY TO THE COMMISSION FOR AN INCREASE IN THE 30%  
21 STANDARD THAT WOULD OTHERWISE APPLY UNDER THIS SUBSECTION. THE  
22 COMMISSION MAY APPROVE THE APPLICATION IF THE INCREASE WILL NOT  
23 UNDULY IMPEDE COMPETITION IN THE RELEVANT MARKETS IN THIS STATE.  
24 AN ELECTRIC SUPPLIER SHALL FILE A PETITION WITH THE COMMISSION  
25 ASKING FOR A DETERMINATION THAT THE REQUIREMENTS OF THIS SUBSEC-  
26 TION HAVE BEEN SATISFIED. AFTER PROVIDING AN OPPORTUNITY FOR  
27 WRITTEN COMMENTS FROM INTERESTED PERSONS, THE COMMISSION SHALL,

1 WITHIN 90 DAYS OF THE FILING OF THE PETITION, ISSUE AN ORDER  
2 GRANTING OR DENYING THE PETITION. IF THE COMMISSION DENIES THE  
3 PETITION, THE COMMISSION SHALL SPECIFY THE REASONS FOR THE  
4 DENIAL. FOR PURPOSES OF ADMINISTERING THIS SECTION, THE RELEVANT  
5 MARKET SHALL BE EITHER THE UPPER PENINSULA OR THE LOWER PENINSULA  
6 OF THIS STATE.

7 (2) THE TOTAL GENERATING CAPACITY AVAILABLE TO SERVE THE  
8 RELEVANT MARKET SHALL BE DETERMINED BY THE COMMISSION AND SHALL  
9 EQUAL THE SUM OF THE FIRM AVAILABLE TRANSMISSION CAPABILITY INTO  
10 THE RELEVANT MARKET AND THE AGGREGATE GENERATING CAPACITY LOCATED  
11 WITHIN THE RELEVANT MARKET, LESS ANY OF THE FOLLOWING:

12 (A) GENERATING CAPACITY OWNED BY MUNICIPAL UTILITIES NECES-  
13 SARY TO SERVE THEIR RETAIL NATIVE LOAD, IF THE MUNICIPAL UTILI-  
14 TIES DO NOT PERMIT THEIR RETAIL CUSTOMERS TO SELECT ALTERNATIVE  
15 ELECTRIC SUPPLIERS.

16 (B) SELF-SERVICE POWER GENERATING CAPACITY DEDICATED TO  
17 SERVING ON-SITE LOAD AND SMALLER THAN 50 KILOWATTS OR IN OPERA-  
18 TION BEFORE JANUARY 1, 2000.

19 (C) THE GENERATING CAPACITY OF ANY MULTISTATE INVESTOR-OWNED  
20 UTILITY JURISDICTIONALLY ASSIGNED TO CUSTOMERS OF OTHER STATES.

21 (3) AN ELECTRIC SUPPLIER IS NOT CONSIDERED TO HAVE COMMER-  
22 CIAL CONTROL OF GENERATING CAPACITY THAT IT OR ITS AFFILIATE HAS  
23 SOLD UNDER A CONTRACT WITH A NONRETAIL PURCHASER FOR A TERM OF AT  
24 LEAST 5 YEARS OR HAS TRANSFERRED TO AN INDEPENDENT BROKERING  
25 TRUSTEE FOR A TERM OF AT LEAST 5 YEARS. IF AN ELECTRIC SUPPLIER  
26 OWNS IN EXCESS OF 5% OF THE EQUITY INTEREST OF A GENERATING PLANT  
27 OR GENERATING COMPANY, IT SHALL DEMONSTRATE THE LACK OF

1 COMMERCIAL CONTROL THROUGH EVIDENCE THAT DEMONSTRATES THAT IT  
2 LACKS THE ABILITY TO CONTROL DECISIONS CONCERNING THE PRICING AND  
3 MARKETING OF THE ASSOCIATED CAPACITY. A REGULATED SERVICE PRO-  
4 VIDER IS NOT CONSIDERED TO HAVE COMMERCIAL CONTROL OF GENERATING  
5 CAPACITY IT HAS PURCHASED TO MEET ITS OBLIGATIONS UNDER SECTION  
6 10C. IF THE CAPACITY IS PURCHASED FROM AN AFFILIATE, THIS SUB-  
7 SECTION DOES NOT EXCLUDE THE CAPACITY FROM THE DETERMINATION OF  
8 THE MARKET POWER OF THE REGULATED SERVICE PROVIDER AND ITS  
9 AFFILIATES.

10 (4) AS USED IN THIS SECTION, "INDEPENDENT BROKERING TRUSTEE"  
11 MEANS AN ENTITY THAT HAS BEEN ASSIGNED THE RESPONSIBILITY OF MAR-  
12 KETING THE OUTPUT OF GENERATING CAPACITY TRANSFERRED UNDER SUB-  
13 SECTION (3) IN BLOCKS OF AT LEAST 500 MEGAWATTS, 24 HOURS PER  
14 DAY. THE TRUSTEE OR TRUSTEES SHALL HAVE NO AFFILIATION WITH AND  
15 BE COMPLETELY INDEPENDENT FROM THE ELECTRIC SUPPLIER TRANSFEROR.  
16 THE TERMS OF THE TRANSFER SHALL ENSURE THAT THE TRUSTEE HAS COM-  
17 PLETE CONTROL OVER THE MARKETING, PRICING, AND TERMS OF THE  
18 TRANSFERRED CAPACITY FOR TERMS OF AT LEAST 5 YEARS AND SHALL PRO-  
19 VIDE APPROPRIATE PERFORMANCE INCENTIVES TO THE TRUSTEE FOR MAR-  
20 KETING OF THE TRANSFERRED CAPACITY. UPON APPLICATION BY THE  
21 ELECTRIC SUPPLIER TRANSFEROR, THE COMMISSION MAY ISSUE AN ORDER  
22 APPROVING A CHANGE IN TRUSTEES DURING A 5-YEAR TERM UPON A SHOW-  
23 ING THAT A TRUSTEE HAS FAILED TO MARKET THE TRANSFERRED GENERAT-  
24 ING CAPACITY IN A MANNER AS WOULD A PRUDENT AND EXPERIENCED  
25 PERSON ENGAGED IN AN ENTERPRISE OF LIKE CHARACTER. THE TOTAL  
26 AMOUNT OF CAPACITY TRANSFERRED TO AN INDEPENDENT BROKERING  
27 TRUSTEE CAN BE MODIFIED EVERY 5 YEARS.

1 (5) FOR ANY ELECTRIC SUPPLIER WHO, AFTER DECEMBER 31, 2002,  
2 DOES NOT MEET THE APPLICABLE PERCENTAGE STANDARD UNDER SUBSECTION  
3 (1), THE COMMISSION SHALL REVOKE OR REFUSE TO GRANT AN ELECTRIC  
4 SUPPLIER LICENSE UNDER SECTION 10T, REQUIRE A REFUND OF ALL MONEY  
5 DISTRIBUTED UNDER SECTION 10E(10), AND SUBJECT THE ELECTRIC SUP-  
6 PLIER TO RATE REGULATION OF ELECTRIC GENERATION SERVICE. THE  
7 COMMISSION SHALL NOT REVOKE A LICENSE OR SUBJECT THE ELECTRIC  
8 SUPPLIER TO RATE REGULATION UNTIL THE EXPIRATION OF THE 180-DAY  
9 PERIOD PROVIDED UNDER SUBSECTION (5).

10 (6) THE COMMISSION SHALL REQUIRE DEREGULATED ELECTRIC SUP-  
11 PLIERS TO ANNUALLY FILE SUFFICIENT INFORMATION DEMONSTRATING COM-  
12 PLIANCE WITH THIS SECTION. TO THE EXTENT THE COMMISSION DETER-  
13 MINES THAT A PERSON IS NOT IN COMPLIANCE, THE COMMISSION SHALL  
14 ORDER THAT PERSON TO TAKE APPROPRIATE ACTION WITHIN 180 DAYS OF  
15 THE DATE OF THE ORDER. THE PERSON SHALL RETAIN THE RIGHT TO  
16 DETERMINE WHAT SPECIFIC ACTIONS TO TAKE TO ACHIEVE COMPLIANCE  
17 WITH THIS SECTION.

18 (7) FIRM AVAILABLE TRANSMISSION CAPABILITY FOR THE LOWER  
19 PENINSULA IS THE MINIMUM OF THE 12 MONTHLY AGGREGATED FIRM AVAIL-  
20 ABLE TRANSMISSION CAPABILITIES POSTED ON THE OPEN ACCESS  
21 SAME-TIME INFORMATION SYSTEM FOR EACH OF THE INTERFACES BETWEEN  
22 REGULATED SERVICE PROVIDERS SERVING MORE THAN 1,000,000 CUSTOMERS  
23 IN THIS STATE AS OF JANUARY 1, 1999 AND OTHER REGIONAL DOMESTIC  
24 OR CANADIAN ELECTRIC UTILITIES. THE COMMISSION SHALL DETERMINE  
25 THE SPECIFIC METHOD OF AGGREGATING THE CAPACITY OF INDIVIDUAL  
26 INTERFACES FOR EACH MONTH INTO A SINGLE VALUE REPRESENTING  
27 SIMULTANEOUS IMPORT CAPABILITY TAKING INTO ACCOUNT THE

1 INTERACTION BETWEEN FLOWS ON INDIVIDUAL INTERFACES. FIRM  
2 AVAILABLE TRANSMISSION CAPABILITY FOR THE UPPER PENINSULA SHALL  
3 BE DETERMINED BY THE COMMISSION.

4 (8) THE COMMISSION SHALL ISSUE A REPORT NO LATER THAN  
5 JANUARY 31 OF EACH YEAR DETAILING THE STATE OF COMPETITION IN THE  
6 ELECTRIC GENERATION SERVICE MARKET WITHIN THE SERVICE TERRITORY  
7 OF EACH REGULATED SERVICE PROVIDER IN THIS STATE. THE REPORT  
8 SHALL BE MADE PUBLICLY AVAILABLE. THE FIRST REPORT SHALL BE  
9 ISSUED BY JANUARY 31, 2001.

10 SEC. 10E. (1) THE COMMISSION SHALL ALLOW EACH ELECTRIC  
11 UTILITY TO COLLECT ALL STRANDED COSTS THROUGH A TRANSITION CHARGE  
12 RECOVERABLE FROM ALL CUSTOMERS WITHIN THE UTILITY'S SERVICE TER-  
13 RITORY EXCEPT AS PROVIDED UNDER SECTION 10A(5), (6), AND (9).

14 (2) STRANDED COSTS INCLUDE ALL OF THE FOLLOWING:

15 (A) THE NET BOOK BALANCE OF A UTILITY'S GENERATION-RELATED  
16 REGULATORY ASSETS, EXCEPT THAT REGULATORY ASSETS THAT REPRESENT  
17 THE RECOVERY OF NUCLEAR POWER PLANT CAPITAL COSTS SHALL BE  
18 INCLUDED UNDER SUBDIVISION (B).

19 (B) THE DIFFERENCE BETWEEN NET BOOK VALUE OF A UTILITY'S  
20 GENERATION ASSETS AND THE MARKET VALUE OF THE GENERATION ASSETS.

21 (C) THE DIFFERENCE BETWEEN FUTURE PURCHASED POWER CONTRACT  
22 PAYMENTS AND THE MARKET VALUE OF A UTILITY'S PURCHASED POWER CON-  
23 TRACTS, DETERMINED ON A NET PRESENT VALUE BASIS OVER THE ENTIRE  
24 REMAINING TERM OF THE CONTRACT. PURCHASED POWER CONTRACTS SHALL  
25 INCLUDE AGREEMENTS UNDER WHICH GENERATING CAPACITY IS LEASED.

26 (D) ALL TRANSACTION COSTS AND OTHER COSTS PRUDENTLY INCURRED  
27 AS A RESULT OF THE VALUATION, SALE, OR TRANSFER OF GENERATING

1 ASSETS OR PURCHASED POWER CONTRACTS UNDER THIS SECTION THAT ARE  
2 APPROVED BY THE COMMISSION. THE COSTS UNDER THIS SUBDIVISION DO  
3 NOT INCLUDE INCOME TAXES AND CAPITAL GAINS TAXES.

4 (E) ACTUAL LOST GENERATION RELATED REVENUES NET OF THE  
5 WHOLESALE MARKET VALUE OF THE DISPLACED RETAIL SALES AND OF THE  
6 TRANSITION CHARGE REVENUES COLLECTED DURING THE PERIOD FROM THE  
7 COMMENCEMENT OF CUSTOMER CHOICE THROUGH DECEMBER 31, 2002,  
8 ADJUSTED TO REFLECT THE SALE OF ASSETS OR PURCHASED POWER CON-  
9 TRACTS THAT OCCURS BEFORE JANUARY 1, 2003. ON OR AFTER JANUARY  
10 1, 2003, ANY UNRECOVERED COSTS UNDER THIS SUBDIVISION ARE CONSID-  
11 ERED A GENERATION RELATED REGULATORY ASSET.

12 (3) DURING THE PERIOD FROM THE COMMENCEMENT OF CUSTOMER  
13 CHOICE THROUGH DECEMBER 31, 2001, THE BIDDING PROCESS ESTABLISHED  
14 UNDER SECTION 10A(4) SHALL DETERMINE THE TRANSITION CHARGE.  
15 DURING THE PERIOD FROM JANUARY 1, 2002 THROUGH DECEMBER 31, 2002,  
16 THE COMMISSION SHALL ESTABLISH A TRANSITION CHARGE THAT TAKES  
17 INTO ACCOUNT THE AMOUNT OF THE BIDS SUBMITTED IN THE YEARS 2000  
18 AND 2001. AFTER JANUARY 1, 2003, THE TRANSITION CHARGE SHALL BE  
19 DETERMINED USING THE VALUATION PROCESS DESCRIBED IN THIS SECTION,  
20 ADJUSTED TO REFLECT ANY DIFFERENCE BETWEEN TRANSITION CHARGE REV-  
21 ENUE COLLECTED BEFORE JANUARY 1, 2003 AND THE ACTUAL LOST GENERA-  
22 TION REVENUES CALCULATED UNDER SUBSECTION (2)(E) FOR THE PERIOD  
23 FROM THE COMMENCEMENT OF CUSTOMER CHOICE THROUGH DECEMBER 31,  
24 2002, AND THE TIMING OF THE SALE OF GENERATING ASSETS OR PUR-  
25 CHASED POWER CONTRACTS THAT OCCURS BEFORE JANUARY 1, 2003. IN  
26 DETERMINING THE TRANSITION CHARGE, THE ACTUAL LOST GENERATION  
27 REVENUE THROUGH DECEMBER 31, 2002 IS CONSIDERED A GENERATION

1 RELATED ASSET. THE UTILITY SHALL FILE AN APPLICATION NO LATER  
2 THAN MARCH 31, 2001 TO DETERMINE THE LOST GENERATION REVENUE.

3 (4) THE COMMISSION SHALL DETERMINE THE MARKET VALUE OF GEN-  
4 ERATION ASSETS AND PURCHASED POWER CONTRACTS BY DECEMBER 31, 2002  
5 USING 1 OR MORE OF THE FOLLOWING VALUATION METHODS:

6 (A) DIVESTITURE OF A GENERATING ASSET OR THE ASSIGNMENT OR  
7 EQUIVALENT TRANSFER OF A PURCHASED POWER CONTRACT. THE TRANSFER  
8 OF A PURCHASED POWER CONTRACT MAY BE ACCOMPLISHED BY ENTERING  
9 INTO A NEW CONTRACT THAT HAS THE EFFECT OF TRANSFERRING THE  
10 PURCHASER'S OBLIGATIONS UNDER THE PURCHASED POWER CONTRACT TO A  
11 THIRD PARTY.

12 (B) THE SALE OF ALL OR A PORTION OF THE CAPACITY AND ENERGY  
13 OF A GENERATING ASSET OR PURCHASED POWER CONTRACT. FOR A SALE TO  
14 BE UTILIZED TO ESTABLISH THE MARKET VALUE OF THE ENTIRE GENERAT-  
15 ING ASSET OR CONTRACT, THE SALE SHALL BE OF AT LEAST 25% OF THE  
16 OUTPUT ASSOCIATED WITH THE ASSET OR CONTRACT, AND FOR A TERM OF  
17 AT LEAST 10 YEARS. IN ADDITION, THE COMMISSION SHALL ADJUST THE  
18 MARKET VALUATION PROCESS FOLLOWED TO ENSURE THAT ANY VALUE NOT  
19 DIRECTLY REFLECTED IN THE SALE OF THE CAPACITY AND ENERGY IS  
20 INCLUDED.

21 (C) AN APPRAISAL OF A GENERATING ASSET OR PURCHASED POWER  
22 CONTRACT CONDUCTED BY A QUALIFIED INDEPENDENT THIRD PARTY OR  
23 PARTIES. THE APPRAISAL MAY BE BASED UPON, BUT IS NOT LIMITED TO,  
24 MARKET DATA FROM THE SALE OF CAPACITY AND ENERGY ASSOCIATED WITH  
25 COMPARABLE ASSETS OR CONTRACTS.

26 (D) THE TRANSFER OF GENERATING ASSETS OR PURCHASED POWER  
27 CONTRACTS TO A SEPARATE AFFILIATE WHOSE ASSETS ARE COMPRISED

1 PRIMARILY OF THE GENERATING ASSETS OR PURCHASED POWER CONTRACTS  
2 AND THAT HAS HAD AT LEAST 19% OF ITS COMMON STOCK PUBLICLY TRADED  
3 FOR AT LEAST 2 YEARS. THE COMMISSION SHALL APPROVE AN INTERIM  
4 VALUATION AND APPROVE THE FINAL VALUATION IN A SUBSEQUENT TRUE-UP  
5 PROCEEDING BASED UPON THE AVERAGE STOCK PRICE OVER THE PRECEDING  
6 2-YEAR PERIOD.

7 (E) IF A GENERATING PLANT IS TRANSFERRED TO AN AFFILIATE  
8 INSTEAD OF BEING SOLD TO AN UNAFFILIATED PARTY, THE FOLLOWING  
9 PROCESS WILL BE USED:

10 (i) THE COMMISSION WILL CONDUCT A CONTESTED CASE PROCEEDING  
11 TO DETERMINE THE APPRAISAL OF THE ASSET THAT TAKES INTO ACCOUNT  
12 THE PRICE PAID FOR COMPARABLE PLANTS AND THE VALUE OF THE  
13 EXPECTED NET CASH FLOWS AT CURRENT AND PROJECTED MARKET PRICES  
14 FOR POWER.

15 (ii) THE APPRAISAL AMOUNT LESS THE NET BOOK VALUE NETTED  
16 AGAINST STRANDED COSTS.

17 (iii) ON A MOTION BY THE UTILITY, A PARTY TO THE PROCEEDING,  
18 OR A BONA FIDE CUSTOMER GROUP, THE COMMISSION WILL REOPEN THE  
19 APPRAISAL PROCEEDING TO REEVALUATE THE AMOUNT OF THE APPRAISAL  
20 UPON A PRIMA FACIE DEMONSTRATION THAT CONDITIONS HAVE CHANGED  
21 SIGNIFICANTLY FROM THOSE USED IN SETTING THE ORIGINAL APPRAISED  
22 VALUE.

23 (iv) IF THE ASSET IS SUBSEQUENTLY SOLD BY THE AFFILIATE TO  
24 AN UNAFFILIATED ENTITY, THEN STRANDED COSTS UNDER SUBSECTION (2)  
25 WILL BE ADJUSTED TO REFLECT THE NET SELLING PRICE LESS AMOUNTS  
26 RECOVERED THROUGH THE APPRAISAL.

1 (5) AN ADVISORY COMMITTEE SHALL BE ESTABLISHED TO ADVISE THE  
2 COMMISSION ON THE CREATION OF STANDARDS AND DETAILED PROCEDURES  
3 FOR HOW EACH OF THE VALUATION METHODS IDENTIFIED IN SUBSECTION  
4 (4) SHALL BE ADMINISTERED. WITHIN 60 DAYS OF THE EFFECTIVE DATE  
5 OF THE AMENDATORY ACT THAT ADDED THIS SECTION, THE COMMISSION  
6 SHALL APPOINT THE MEMBERS OF THE ADVISORY COMMITTEE. THE  
7 ADVISORY COMMITTEE SHALL BE COMPRISED OF 1 REPRESENTATIVE FROM  
8 EACH OF THE INDUSTRIAL, COMMERCIAL, AND RESIDENTIAL RATE CLASSES,  
9 1 FROM THE OFFICE OF THE ATTORNEY GENERAL, 1 FROM THE STAFF OF  
10 THE COMMISSION, AND 1 FROM EACH OF THE ELECTRIC UTILITIES WHO ARE  
11 REQUIRED TO FOLLOW THE VALUATION UNDER THIS SECTION. THE  
12 ADVISORY COMMITTEE SHALL BE AUTHORIZED TO HIRE AN INDEPENDENT  
13 INVESTMENT ADVISER, THE COSTS OF WHICH SHALL BE PAID BY THE ELEC-  
14 TRIC UTILITIES AND BE RECOVERED AS PART OF TRANSITION COSTS UNDER  
15 SUBSECTION (15). THE ADVISORY COMMITTEE SHALL ESTABLISH STAN-  
16 DARDS AND DETAILED PROCEDURES THAT ARE DESIGNED TO INSURE THAT  
17 EACH VALUATION METHOD WILL YIELD A FAIR ASSESSMENT OF MARKET  
18 VALUE, AND THAT A PROPOSED SALE OR TRANSFER OF AN ASSET OR CON-  
19 TRACT WILL PROVIDE A FAIR OPPORTUNITY FOR QUALIFIED AND INTER-  
20 ESTED PERSONS TO PARTICIPATE, AND WILL NOT RESULT IN MARKET  
21 POWER, AS DETERMINED UNDER SECTION 10D, BEING POSSESSED BY THE  
22 PURCHASER OR TRANSFEREE. THE STANDARDS AND DETAILED PROCEDURES  
23 AGREED UPON BY THE ADVISORY COMMITTEE SHALL BE FILED WITH THE  
24 COMMISSION, AND SHALL BE ADOPTED FOR USE UNDER THIS ACT. IF THE  
25 ADVISORY COMMITTEE IS UNABLE TO AGREE UPON THE STANDARDS AND  
26 DETAILED PROCEDURES WITHIN 60 DAYS OF ITS CREATION, IT SHALL  
27 IMMEDIATELY NOTIFY THE COMMISSION THAT IT IS UNABLE TO AGREE.

1 WITHIN 10 DAYS OF THIS NOTIFICATION, THE COMMISSION SHALL  
2 COMMENCE A CONTESTED CASE TO RESOLVE ANY DISPUTES CONCERNING THE  
3 STANDARDS AND DETAILED PROCEDURES. ALL MEMBERS OF THE ADVISORY  
4 COMMITTEE SHALL BE ENTITLED TO PRESENT EVIDENCE AND ARGUMENT  
5 ADDRESSING THE DISPUTES. THE COMMISSION SHALL ISSUE A FINAL  
6 ORDER ESTABLISHING THE STANDARDS AND DETAILED PROCEDURES WITHIN  
7 90 DAYS OF THE COMMENCEMENT OF THE CONTESTED CASE.

8 (6) THE ELECTRIC UTILITY SHALL ELECT WHICH VALUATION METHOD  
9 OR METHODS IDENTIFIED IN SUBSECTION (4) WILL BE FOLLOWED IN  
10 DETERMINING THE MARKET VALUE OF ITS GENERATING ASSETS AND PUR-  
11 CHASED POWER CONTRACTS. NO LATER THAN DECEMBER 31, 2002, THE  
12 ELECTRIC UTILITY SHALL FILE A PLAN WITH THE COMMISSION DESCRIBING  
13 THE MANNER IN WHICH THE UTILITY PROPOSES TO ACCOMPLISH THE VALUA-  
14 TION OF GENERATING ASSETS AND PURCHASED POWER CONTRACTS. THE  
15 PLAN SHALL PROVIDE THAT THE HIGHEST LEGITIMATE BID OR VALUATION  
16 WILL BE USED UNDER THIS SECTION. THE COMMISSION SHALL PROVIDE  
17 NOTICE AND CONDUCT A CONTESTED CASE HEARING TO REVIEW THE PLAN.  
18 INTERESTED PARTIES SHALL HAVE THE OPPORTUNITY TO PRESENT EVIDENCE  
19 ADDRESSING HOW THE VALUATION METHOD OR METHODS SELECTED BY THE  
20 UTILITY SHOULD BE IMPLEMENTED. WITHIN 120 DAYS OF THE FILING OF  
21 THE PLAN, THE COMMISSION SHALL ISSUE AN ORDER APPROVING THE PLAN  
22 OR DIRECTING THAT MODIFICATIONS TO THE PLAN BE MADE. THE COMMIS-  
23 SION SHALL APPROVE THE PLAN IF IT MEETS THE STANDARDS ESTABLISHED  
24 UNDER SUBSECTION (5). IF THE COMMISSION MODIFIES THE FILED PLAN,  
25 THE ELECTRIC UTILITY, WITHIN 30 DAYS OF THE COMMISSION ORDER, MAY  
26 SUBMIT A REVISED PLAN THAT ELECTS AN ALTERNATIVE VALUATION METHOD  
27 WITH RESPECT TO SOME OR ALL OF THE GENERATING ASSETS OR PURCHASED

1 POWER CONTRACTS. THE REVISED PLAN SHALL BE REVIEWED AS PROVIDED  
2 UNDER THIS SUBSECTION. THE COMMISSION SHALL CONDUCT A CONTESTED  
3 CASE HEARING TO REVIEW THE REVISED PLAN AND ISSUE AN ORDER WITHIN  
4 120 DAYS AFTER THE CONTESTED CASE HEARING APPROVING THE REVISED  
5 PLAN OR DIRECTING THAT FURTHER MODIFICATIONS BE MADE.

6 (7) AFFILIATES OF THE ELECTRIC UTILITY SHALL NOT BE PERMIT-  
7 TED TO SUBMIT BIDS FOR THE PURCHASE OR TRANSFER OF GENERATING  
8 ASSETS OR PURCHASED POWER CONTRACTS UNDER THIS SECTION.

9 (8) SUBJECT TO SECTION 10D CONCERNING MARKET POWER, AN ELEC-  
10 TRIC UTILITY THAT HAS CONDUCTED A VALUATION PROCESS CONSISTENT  
11 WITH THIS SECTION MAY TRANSFER A GENERATING ASSET OR PURCHASED  
12 POWER CONTRACT TO AN AFFILIATE. FOR PURPOSES OF CALCULATING  
13 STRANDED COSTS UNDER THIS SECTION, THE HIGHEST MARKET VALUE FOR  
14 THE ASSET OR CONTRACT OTHERWISE DETERMINED UNDER THE UTILITY'S  
15 PLAN FOLLOWED UNDER THIS ACT SHALL BE USED.

16 (9) TO THE EXTENT A GENERATING ASSET OR PURCHASED POWER CON-  
17 TRACT IS VALUED UNDER SUBSECTION (4)(B) OR (C), THE ELECTRIC  
18 UTILITY MAY, WITHIN 90 DAYS OF COMPLETING THE VALUATION METHOD,  
19 ELECT TO CONDUCT THE REVALUATION OF THE GENERATING ASSET OR CON-  
20 TRACT UNDER SUBSECTION (4)(A). IF THE ELECTION IS MADE, THE  
21 REVALUATION DETERMINED UNDER SUBSECTION (4)(A) SHALL BE UTILIZED  
22 FOR PURPOSES OF CALCULATING STRANDED COSTS UNDER THIS SECTION.  
23 SUBSECTION (8) DOES NOT APPLY TO A REVALUATION CONDUCTED UNDER  
24 THIS SUBSECTION.

25 (10) IF AFTER NETTING THE GENERATION RELATED ASSETS AS PRO-  
26 VIDED UNDER THIS ACT, ANY DIFFERENTIAL BETWEEN THE VALUATION AND  
27 THE NETBOOK VALUE SHALL BE ALLOCATED THROUGH 1 OF THE FOLLOWING:

1 (A) IN CALCULATING THE TRANSITION CHARGE UNDER SUBSECTION  
2 (15), THE AMOUNT WILL BE ALLOCATED OVER THE REMAINING USEFUL LIFE  
3 OF THE PLANT. THE ALLOCATION WILL BE FRONT-LOADED TO MEET BOTH  
4 OF THE FOLLOWING CONDITIONS:

5 (i) AFTER JANUARY 1, 2008, EACH YEAR'S ALLOCATION WILL BE  
6 REDUCED FROM THE PRIOR YEAR BY A PERCENTAGE EQUAL TO THE  
7 UTILITY'S AUTHORIZED RATE OF RETURN ON COMMON EQUITY.

8 (ii) THE NET PRESENT VALUE OF THE ANNUAL ALLOCATIONS WILL  
9 EQUAL THE NET AMOUNT OF THE APPRAISAL.

10 (B) THE AMOUNT WILL BE ALLOCATED BY A SECURITIZATION METHOD  
11 AS ALLOWED BY LAW NOT TO EXCEED A 15-YEAR PERIOD FROM THE DATE  
12 THAT THE SECURITIES ARE FIRST OFFERED.

13 (11) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, FOR  
14 GENERATING ASSETS THAT ARE SOLD OR TRANSFERRED FOR AN AMOUNT IN  
15 EXCESS OF NET BOOK VALUE TO A PERSON UNAFFILIATED WITH THE ELEC-  
16 TRIC UTILITY, INCLUDING 100% OF ANY STOCK SPIN-OFF, ONLY 90% OF  
17 THE AMOUNT IN EXCESS OF NET BOOK VALUE SHALL BE TREATED AS AN  
18 OFFSET TO STRANDED COST. THE REMAINING 10% OF THE AMOUNT IN  
19 EXCESS OF NET BOOK VALUE SHALL BE RETAINED BY THE ELECTRIC  
20 UTILITY. BEFORE THE DATE THAT THE ELECTRIC UTILITY MEETS THE  
21 MARKET POWER TEST ESTABLISHED IN SECTION 10D, THE 10% AMOUNT  
22 SHALL BE PLACED IN AN ESCROW ACCOUNT. ALL AMOUNTS RETAINED IN  
23 THE ESCROW ACCOUNT SHALL BE DISTRIBUTED TO THE ELECTRIC UTILITY  
24 ON THE DATE THAT IT MEETS THE MARKET POWER TEST ESTABLISHED IN  
25 SECTION 10D.

26 (12) TO THE EXTENT A PURCHASED POWER CONTRACT IS ASSIGNED OR  
27 TRANSFERRED, THE DIFFERENCE BETWEEN FUTURE CONTRACT PAYMENTS AND

1 THE MARKET VALUE OF A UTILITY'S PURCHASED POWER CONTRACTS SHALL  
2 BE EQUAL TO THE PAYMENTS THAT AN ASSIGNEE OR TRANSFEREE REQUIRES  
3 THE ASSIGNOR OR TRANSFEROR TO MAKE IN ORDER FOR THE ASSIGNEE OR  
4 TRANSFEREE TO ASSUME RESPONSIBILITY FOR PERFORMANCE UNDER THE  
5 TERMS OF THE PURCHASED POWER CONTRACT. THE COMMISSION SHALL  
6 ENSURE THAT THE TERMS OF THE ASSIGNMENT OR TRANSFER REQUIRE THAT  
7 THE PAYMENT OBLIGATION OF THE ASSIGNOR OR TRANSFEROR BE ADJUSTED  
8 IN THE EVENT OF FUTURE NONPERFORMANCE BY THE ORIGINAL POWER  
9 SELLER UNDER THE CONTRACT.

10 (13) FOLLOWING ISSUANCE OF AN ORDER APPROVING A PLAN UNDER  
11 SUBSECTION (6), THE UTILITY SHALL PROCEED WITH THE IMPLEMENTATION  
12 OF THE PLAN. THE UTILITY SHALL SUBMIT PERIODIC REPORTS TO THE  
13 COMMISSION AND THE ADVISORY COMMITTEE THAT DESCRIBE THE PROGRESS  
14 MADE IN IMPLEMENTATION OF THE PLAN SO THAT THE COMMISSION AND  
15 ADVISORY COMMITTEE CAN INSURE THAT THE PLAN IS IMPLEMENTED AS  
16 APPROVED. IF A COMPLAINT IS FILED ALLEGING THAT THE UTILITY IS  
17 FAILING TO FOLLOW THE APPROVED PLAN, THE COMMISSION SHALL REQUIRE  
18 WRITTEN SUBMISSIONS FROM THE COMPLAINANT AND THE UTILITY AND  
19 SHALL RESOLVE THE DISPUTE WITHIN 20 DAYS OF THE FILING OF THE  
20 COMPLAINT. SUBJECT TO SUBSECTIONS (8) AND (9), THE RESULTS OF  
21 THE APPLICATION OF A VALUATION METHOD, SALE, ASSIGNMENT, OR  
22 TRANSFER OF A GENERATING ASSET OR PURCHASED POWER CONTRACT CON-  
23 DUCTED UNDER THIS SECTION SHALL BE FINAL AND BINDING FOR PURPOSES  
24 OF DETERMINING STRANDED COST RECOVERY UNDER THIS ACT.

25 (14) THE COMMISSION SHALL ADOPT A TRUE-UP PROCESS FOR ASSUR-  
26 ING THAT THE DOLLAR AMOUNT OF STRANDED COSTS, PLUS CARRYING  
27 CHARGES, DETERMINED UNDER THIS SECTION IS THE AMOUNT ACTUALLY

1 COLLECTED FROM CUSTOMERS. THE TRUE-UP PROCESS SHALL BE LIMITED  
2 TO ANNUAL ADJUSTMENTS OF THE TRANSITION CHARGE TO REFLECT DIFFER-  
3 ENCES BETWEEN THE KILOWATT-HOUR ESTIMATES USED TO DEVELOP THE  
4 TRANSITION CHARGE AND ACTUAL KILOWATT-HOUR LEVELS. THE ELECTRIC  
5 UTILITY SHALL SUPPLY THE COMMISSION WITH ALL INFORMATION NECES-  
6 SARY TO ADMINISTER THIS TRUE-UP PROCESS AND ENSURE THAT THERE IS  
7 NO OVERRECOVERY OR UNDERRECOVERY OF STRANDED COSTS.

8 (15) THE COMMISSION SHALL ESTABLISH A TRANSITION CHARGE  
9 UNDER THIS SECTION THAT IS APPLICABLE TO ALL CUSTOMERS EXCEPT AS  
10 PROVIDED IN SECTION 10A(6) AND (7) AND SHALL NEVER BE LESS THAN  
11 THE GREATER OF THE AMOUNT NECESSARY TO ALLOW FULL RECOVERY OF ALL  
12 GENERATION-RELATED REGULATORY ASSETS IDENTIFIED UNDER SUBSECTION  
13 (2)(A) PLUS ASSOCIATED CARRYING CHARGES, OR THE SUM OF THE  
14 AMOUNTS DETERMINED UNDER SUBSECTION (2)(A) THROUGH (E), PLUS  
15 ASSOCIATED CARRYING CHARGES. THE PERIOD OVER WHICH THE TRANSI-  
16 TION CHARGE WILL BE APPLIED TO CUSTOMERS' BILLS WILL BE DETER-  
17 MINED BY THE COMMISSION CONSISTENT WITH BOTH OF THE FOLLOWING:

18 (A) IF THE TOTAL STRANDED COST ESTABLISHED UNDER SUBSECTION  
19 (2), LESS THE COSTS UNDER SUBSECTION (2)(C), IS POSITIVE, THE  
20 POSITIVE AMOUNT AND ASSOCIATED CARRYING CHARGES SHALL BE RECOV-  
21 ERED IN A LEVELIZED MANNER OVER A PERIOD TO END NO LATER THAN  
22 DECEMBER 31, 2007. THE STRANDED COST DETERMINED UNDER SUBSECTION  
23 (2)(C) SHALL BE RECOVERED OVER A PERIOD DETERMINED BY THE COMMIS-  
24 SION TO BE REASONABLY CONSISTENT WITH THE ORIGINAL TERM OF THE  
25 SUBJECT CONTRACTS, OR DECEMBER 31, 2007, WHICHEVER IS LATER.

26 (B) IF THE TOTAL STRANDED COST ESTABLISHED UNDER SUBSECTION  
27 (2), LESS THE COSTS UNDER SUBSECTION (2)(C), IS NEGATIVE, THE

1 TOTAL AMOUNT OF STRANDED COSTS DETERMINED UNDER THIS SECTION  
2 SHALL BE RECOVERED IN A LEVELIZED MANNER OVER A PERIOD DETERMINED  
3 BY THE COMMISSION TO BE REASONABLY CONSISTENT WITH THE ORIGINAL  
4 TERM OF THE SUBJECT CONTRACTS, OR DECEMBER 31, 2007, WHICHEVER IS  
5 LATER.

6 (16) AFTER NOTICE AND A CONTESTED CASE HEARING, THE COMMIS-  
7 SION SHALL ALSO ESTABLISH A SEPARATE CHARGE TO APPLY TO CUSTOMERS  
8 THAT WILL ALLOW RECOVERY OF ALL IMPLEMENTATION COSTS AND ASSOCI-  
9 ATED CARRYING CHARGES, TO THE EXTENT THAT SUCH COSTS HAVE NOT  
10 PREVIOUSLY BEEN REFLECTED IN RATES. THE CHARGE TO RECOVER IMPLE-  
11 MENTATION COSTS AND CHARGES WILL BE APPLIED TO CUSTOMERS' BILLS  
12 OVER THE PERIOD COMMENCING JANUARY 1, 2003 THROUGH DECEMBER 31,  
13 2007. IMPLEMENTATION COSTS ARE THOSE COSTS THAT ARE INCURRED FOR  
14 THE PURPOSE OF IMPLEMENTING CUSTOMER CHOICE THAT HAVE BEEN FOUND  
15 TO HAVE BEEN PRUDENTLY INCURRED, INCLUDING, BUT NOT LIMITED TO,  
16 COSTS ASSOCIATED WITH THE START-UP OF A REGIONAL TRANSMISSION  
17 SYSTEM ORGANIZATION THAT ARE NOT INCLUDED BY FERC IN TRANSMISSION  
18 RATES, THE CREATION OF NEW OR MODIFIED BILLING AND METERING SYS-  
19 TEMS TO FACILITATE DIRECT ACCESS, POWER DISPATCHING AND SCHEDUL-  
20 ING SYSTEMS, AND EMPLOYEE-RELATED COSTS. EMPLOYEE-RELATED COSTS  
21 ARE THOSE EMPLOYEE-RELATED COSTS INCURRED IN CONNECTION WITH THE  
22 IMPLEMENTATION OF CUSTOMER CHOICE AND THE SALE OR TRANSFER OF  
23 GENERATING ASSETS, INCLUDING THE COSTS OF EMPLOYEE SEVERANCE,  
24 RETRAINING, EARLY RETIREMENT, WORKER TRANSITION, AND RETENTION OR  
25 OUTPLACEMENT PROGRAMS. TO THE EXTENT THAT THESE COSTS RELATE TO  
26 OFFICERS AND PROFESSIONAL EMPLOYEES PERFORMING REGULATORY AND  
27 LEGAL FUNCTIONS OR TO EMPLOYEES HIRED AFTER THE EFFECTIVE DATE OF

1 THE AMENDATORY ACT THAT ADDED THIS SECTION, THEY SHALL NOT BE  
2 INCLUDED IN THE RECOVERABLE EMPLOYEE-RELATED COSTS UNDER THIS  
3 SUBSECTION. IMPLEMENTATION COSTS DO NOT INCLUDE COSTS INCURRED  
4 BY COMPETITIVE SUPPLIERS WHO ARE AFFILIATES OF THE REGULATED  
5 SERVICE PROVIDER.

6 (17) THE COMMISSION SHALL CONDUCT A CONTESTED CASE HEARING  
7 TO ESTABLISH THE RATE DESIGN FOR TRANSITION CHARGES UNDER THIS  
8 SECTION. THE TRANSITION CHARGES SHALL BE DETERMINED IN A MANNER  
9 CONSISTENT WITH SECTION 10B(6). FOR PURPOSES OF DETERMINING THE  
10 CHARGE TO RECOVER THE IMPLEMENTATION COSTS DETERMINED UNDER THIS  
11 SECTION, THE COMMISSION SHALL ASSIGN COSTS TO CUSTOMER CLASSES IN  
12 A MANNER THAT REASONABLY REFLECTS COST CAUSATION.

13 (18) THE COMMISSION SHALL CONTINUE TO HAVE THE AUTHORITY AND  
14 RESPONSIBILITY TO ESTABLISH NUCLEAR DECOMMISSIONING CHARGES FOR  
15 NUCLEAR POWER PLANTS. UPON APPLICATION, THE COMMISSION SHALL  
16 ESTABLISH CHARGES APPLICABLE TO CUSTOMERS OF THE REGULATED SERV-  
17 ICE PROVIDER THAT ARE SUFFICIENT FOR DECOMMISSIONING.

18 (19) CARRYING CHARGES SHALL BE CALCULATED BASED UPON THE  
19 UTILITY'S OVERALL PRETAX WEIGHTED COST OF CAPITAL AS DETERMINED  
20 IN THE UTILITY'S MOST RECENTLY COMPLETED GENERAL RATE CASE.

21 (20) IN MAKING DETERMINATIONS UNDER THIS SECTION, THE COM-  
22 MISSION SHALL, WITH RESPECT TO MULTISTATE UTILITIES, ONLY INCLUDE  
23 UTILITY INVESTMENTS JURISDICTIONALLY ASSIGNED TO CUSTOMERS IN  
24 THIS STATE.

25 (21) THE RIGHTS OF PARTIES TO EXISTING CONTRACTS AND AGREE-  
26 MENTS IN EFFECT AS OF JANUARY 1, 2000 BETWEEN ELECTRIC UTILITIES  
27 AND QUALIFYING FACILITIES, INCLUDING THE RIGHTS TO HAVE THE

1 CHARGES RECOVERED FROM THE CUSTOMERS OF AN ELECTRIC UTILITY, ARE  
2 NOT ABROGATED OR DIMINISHED BY THIS ACT.

3 SEC. 10F. (1) AGGREGATION MAY BE USED FOR THE PURCHASING OF  
4 ELECTRICITY AND RELATED SERVICES FROM AN ALTERNATIVE ELECTRIC  
5 SUPPLIER.

6 (2) LOCAL UNITS OF GOVERNMENT MAY AGGREGATE FOR THE PURPOSE  
7 OF PURCHASING ELECTRICITY FOR CUSTOMERS WITHIN THEIR BOUNDARIES  
8 WITH THE WRITTEN CONSENT OF EACH CUSTOMER AGGREGATED. CUSTOMERS  
9 WITHIN A LOCAL UNIT OF GOVERNMENT SHALL CONTINUE TO HAVE THE  
10 RIGHT TO CHOOSE THEIR ELECTRICITY SUPPLIER AND ARE NOT REQUIRED  
11 TO PURCHASE ELECTRICITY THROUGH THE AGGREGATOR.

12 SEC. 10G. (1) ON OR BEFORE JANUARY 1, 2002, AN ELECTRIC  
13 UTILITY SHALL DO ALL OF THE FOLLOWING:

14 (A) ACCOMPLISH THE LEGAL, PHYSICAL, AND OPERATIONAL SEPARA-  
15 TION OF AFFILIATED BUSINESS ENTITIES PROVIDING ELECTRIC GENERA-  
16 TION OR ELECTRIC GENERATION-RELATED MARKETING SERVICES FROM THE  
17 BUSINESS ENTITY PROVIDING REGULATED SERVICE. A REGULATED SERVICE  
18 PROVIDER SHALL NO LONGER OWN GENERATION AND SHALL NOT ENGAGE IN  
19 COMPETITIVE ACTIVITIES AS DESCRIBED IN SECTION 10Z(F).

20 (B) ADOPT AND COMPLY WITH A CODE OF CONDUCT CONSISTENT WITH  
21 SECTION 10H THAT GOVERNS THE RELATIONSHIP BETWEEN A REGULATED  
22 SERVICE PROVIDER AND AN AFFILIATED COMPETITIVE SUPPLIER.

23 (2) IF FINANCIAL RESTRUCTURING TO ACCOMMODATE THE SEPARATION  
24 REQUIRED BY THIS SECTION CAUSES THE ELECTRIC UTILITY TO INCUR  
25 FEES, PENALTIES, OR OTHER COSTS ASSOCIATED WITH DEBT COVENANTS,  
26 THE UTILITY MAY APPLY TO THE COMMISSION BY JANUARY 1, 2002 FOR  
27 RECOVERY OF THE COSTS. THE COMMISSION SHALL EITHER GRANT THE

1 RECOVERY OF THESE COSTS AS IMPLEMENTATION COSTS UNDER SECTION  
2 10E(15) OR GRANT AN EXTENSION OF THE DEADLINE FROM JANUARY 1,  
3 2002 TO A DATE NO LATER THAN DECEMBER 31, 2003.

4 SEC. 10H. (1) THE COMMISSION SHALL ESTABLISH A CODE OF CON-  
5 DUCT THAT SHALL APPLY TO A REGULATED SERVICE PROVIDER AND ANY OF  
6 ITS AFFILIATES TO PREVENT CROSS-SUBSIDIZATION. THE CODE OF CON-  
7 DUCT SHALL PROVIDE, BUT IS NOT LIMITED TO, ALL OF THE FOLLOWING:

8 (A) A REGULATED SERVICE PROVIDER SHALL NOT, THROUGH A TARIFF  
9 OR OTHERWISE, GIVE ANY AFFILIATED COMPETITIVE SUPPLIER OR CUSTOM-  
10 ERS OF AN AFFILIATED COMPETITIVE SUPPLIER PREFERENCE OVER NONAF-  
11 FILIATED SUPPLIERS OR CUSTOMERS OF NONAFFILIATED SUPPLIERS IN  
12 MATTERS RELATING TO ANY REGULATED PRODUCT OR SERVICE.

13 (B) ALL REGULATED PRODUCTS AND SERVICES, INCLUDING DIS-  
14 COUNTS, REBATES, OR FEE WAIVERS, SHALL BE AVAILABLE TO ALL CUS-  
15 TOMERS AND SUPPLIERS WITHOUT UNDUE OR UNREASONABLE  
16 DISCRIMINATION.

17 (C) A REGULATED SERVICE PROVIDER SHALL NOT SELL OR OTHERWISE  
18 PROVIDE REGULATED PRODUCTS OR SERVICES TO ANY AFFILIATED COMPETI-  
19 TIVE SUPPLIER ON TERMS DIFFERENT FROM THOSE SPECIFIED BY TARIFF  
20 WITHOUT POSTING THE OFFERING ELECTRONICALLY ON A PUBLICLY AVAIL-  
21 ABLE SOURCE AND MAKING THE TERMS GENERALLY AVAILABLE TO SIMILARLY  
22 SITUATED NONAFFILIATED SUPPLIERS.

23 (D) A REGULATED SERVICE PROVIDER SHALL PROCESS ALL SIMILAR  
24 REQUESTS FOR A REGULATED PRODUCT OR SERVICE IN A COMPARABLE  
25 MANNER AND WITHIN A COMPARABLE PERIOD OF TIME.

1 (E) A REGULATED SERVICE PROVIDER SHALL NOT CONDITION OR TIE  
2 THE PROVISION OF A REGULATED PRODUCT OR SERVICE TO ANY PRODUCT OR  
3 SERVICE BY AN AFFILIATED COMPETITIVE SUPPLIER.

4 (F) A REGULATED SERVICE PROVIDER SHALL NOT RELEASE ANY PRO-  
5 PRIETARY CUSTOMER INFORMATION TO A THIRD PARTY UNLESS THE CUS-  
6 TOMER HAS CONSENTED TO THE RELEASE. ALL REQUESTS AND CONSENTS  
7 FOR THE RELEASE OF THE INFORMATION SHALL BE PROCESSED IN A NON-  
8 DISCRIMINATORY MANNER.

9 (G) A REGULATED SERVICE PROVIDER SHALL NOT ALLOW AN AFFILI-  
10 ATED COMPETITIVE SUPPLIER PREFERENTIAL ACCESS TO ANY NONPUBLIC  
11 INFORMATION REGARDING THE TRANSMISSION OR DISTRIBUTION SYSTEM OR  
12 ANY OTHER REGULATED SERVICE.

13 (H) A REGULATED SERVICE PROVIDER SHALL NOT PROVIDE ANY  
14 AFFILIATED COMPETITIVE SUPPLIER WITH ACCESS TO MARKET INFORMATION  
15 ACQUIRED FROM NONAFFILIATED SUPPLIERS UNLESS THE MARKET INFORMA-  
16 TION IS MADE EQUALLY AVAILABLE TO ALL SUPPLIERS.

17 (I) A REGULATED SERVICE PROVIDER SHALL REFRAIN FROM GIVING  
18 THE APPEARANCE OF SPEAKING ON BEHALF OF ANY AFFILIATED COMPETI-  
19 TIVE SUPPLIER, AND SHALL NOT REPRESENT THAT ANY ADVANTAGE ACCRUES  
20 TO A CUSTOMER IN THE USE OF ANY REGULATED SERVICE AS A RESULT OF  
21 THAT CUSTOMER DEALING WITH THE AFFILIATED COMPETITIVE SUPPLIER.

22 (J) IF A CUSTOMER REQUESTS INFORMATION ABOUT ALTERNATIVE  
23 SUPPLIERS, A REGULATED SERVICE PROVIDER SHALL PROVIDE A COPY OF  
24 THE CURRENT COMMISSION COMPILED LIST OF ALL SUPPLIERS. A REGU-  
25 LATED SERVICE PROVIDER SHALL NOT PROMOTE AN AFFILIATED COMPETI-  
26 TIVE SUPPLIER.

1 (K) EMPLOYEES INVOLVED IN THE PROVISION OF REGULATED SERVICE  
2 ON BEHALF OF A REGULATED SERVICE PROVIDER SHALL FUNCTION  
3 INDEPENDENTLY OF EMPLOYEES OF ALL AFFILIATED COMPETITIVE  
4 SUPPLIERS.

5 (l) A REGULATED SERVICE PROVIDER AND ANY AFFILIATED COMPETI-  
6 TIVE SUPPLIER SHALL MAINTAIN SEPARATE BOOKS AND RECORDS. THE  
7 BOOKS AND RECORDS OF A REGULATED SERVICE PROVIDER ARE SUBJECT TO  
8 REVIEW BY THE COMMISSION. THE BOOKS AND RECORDS SHALL CLEARLY  
9 IDENTIFY ALL COSTS AND REVENUES INCURRED OR RECEIVED BY OR ALLO-  
10 CATED TO THE REGULATED SERVICE PROVIDER, AND THE BASIS FOR THE  
11 ALLOCATIONS.

12 (M) A REGULATED SERVICE PROVIDER SHALL NOT USE REGULATED  
13 SERVICE RATES TO SUBSIDIZE COMPETITIVE SERVICES. EXPENSES  
14 INCURRED IN CONNECTION WITH COMPETITIVE SERVICES SHALL NOT BE  
15 INCLUDED IN REGULATED SERVICE RATES.

16 (2) IF A REGULATED SERVICE PROVIDER OR ITS AFFILIATE UTI-  
17 LIZES ESTIMATED BILLINGS WITH PERIODIC ACTUAL METER READINGS  
18 RESULTING IN ADDITIONAL AMOUNTS DUE ON THE ACCOUNT, THE PROVIDER  
19 OR AFFILIATE SHALL PRORATE THE AMOUNT OVER THE SAME TIME PERIOD  
20 FOR WHICH THE CUSTOMER'S BILL WAS ESTIMATED.

21 (3) THE COMMISSION SHALL ESTABLISH A DISPUTE RESOLUTION PRO-  
22 CEDURE TO ADDRESS COMPLAINTS ALLEGING VIOLATIONS OF THIS  
23 SECTION. A DISPUTE RESOLUTION PROCEDURE SHALL DESIGNATE A PERSON  
24 WITHIN THE REGULATED SERVICE PROVIDER TO CONDUCT AN INVESTIGATION  
25 OF THE COMPLAINT. THE RESULT OF THE INVESTIGATION SHALL BE COM-  
26 MUNICATED TO THE CLAIMANT IN WRITING WITHIN 30 DAYS AFTER THE  
27 DATE THE COMPLAINT WAS RECEIVED. THE COMMUNICATION SHALL INCLUDE

1 A DESCRIPTION OF ANY ACTION TAKEN AND A STATEMENT DESCRIBING THE  
2 CLAIMANT'S RIGHT TO FILE A COMPLAINT WITH THE COMMISSION IF NOT  
3 SATISFIED WITH THE RESULTS OF THE INVESTIGATION. THE REGULATED  
4 SERVICE PROVIDER SHALL MAINTAIN A LOG OF ALL COMPLAINTS THAT ARE  
5 SUBJECT TO ANNUAL REVIEW BY THE COMMISSION.

6 SEC. 10I. (1) A REGULATED SERVICE PROVIDER IS OBLIGATED TO  
7 CONNECT ALL RETAIL CUSTOMERS, INCLUDING THOSE USING SELF-SERVICE  
8 POWER LOCATED WITHIN THE REGULATED SERVICE PROVIDER'S SERVICE  
9 TERRITORY, TO THOSE FACILITIES OF THE PROVIDER THAT ARE USED FOR  
10 REGULATED SERVICE.

11 (2) A REGULATED SERVICE PROVIDER OR ITS DESIGNATE SHALL  
12 IMPLEMENT PROCEDURES TO REQUIRE ALL ELECTRIC SUPPLIERS TO DELIVER  
13 ELECTRICITY TO THE REGULATED SERVICE PROVIDER AT LOCATIONS AND IN  
14 AMOUNTS THAT ARE ADEQUATE TO MEET EACH ELECTRIC SUPPLIER'S OBLI-  
15 GATIONS TO ITS CUSTOMERS.

16 SEC. 10J. (1) A CUSTOMER OF AN ELECTRIC SUPPLIER SHALL NOT  
17 BE SWITCHED TO ANOTHER ELECTRIC SUPPLIER WITHOUT THE AUTHORIZA-  
18 TION OF THE CUSTOMER.

19 (2) THE COMMISSION SHALL ISSUE ORDERS TO ENSURE THAT A CUS-  
20 TOMER OF AN ELECTRIC SUPPLIER IS NOT SWITCHED TO ANOTHER ELECTRIC  
21 SUPPLIER WITHOUT THE CUSTOMER'S ORAL AUTHORIZATION, WRITTEN CON-  
22 FIRMATION, CONFIRMATION THROUGH AN INDEPENDENT THIRD PARTY, OR  
23 OTHER VERIFICATION PROCEDURES SUBJECT TO COMMISSION APPROVAL,  
24 CONFIRMING THE CUSTOMER'S INTENT TO MAKE A SWITCH AND THAT THE  
25 CUSTOMER HAS APPROVED THE SPECIFIC DETAILS OF THE SWITCH.

1 (3) THE COMMISSION SHALL ESTABLISH A REASONABLE PERIOD  
2 WITHIN WHICH A RETAIL CUSTOMER MAY CANCEL, WITHOUT PENALTY OR  
3 COST, A CONTRACT ENTERED INTO WITH AN ELECTRIC SUPPLIER.

4 (4) AN ELECTRIC SUPPLIER SHALL NOT UNREASONABLY DELAY OR  
5 REFUSE TO SWITCH A CUSTOMER TO ANOTHER ELECTRIC SUPPLIER IF PROP-  
6 ERLY AUTHORIZED.

7 (5) THE COMMISSION SHALL ESTABLISH STANDARDS FOR THE ELEC-  
8 TRONIC TRANSFER OF INFORMATION NECESSARY TO ALLOW CUSTOMERS TO  
9 CHOOSE AN ALTERNATIVE ELECTRIC SUPPLIER.

10 SEC. 10K. (1) THE COMMISSION SHALL ESTABLISH MINIMUM STAN-  
11 DARDS FOR THE FORM AND CONTENT OF ALL DISCLOSURES, EXPLANATIONS,  
12 OR SALES INFORMATION DISSEMINATED BY A PERSON SELLING ELECTRIC  
13 SERVICE TO ENSURE THAT THE PERSON PROVIDES ADEQUATE, ACCURATE,  
14 AND UNDERSTANDABLE INFORMATION ABOUT THE SERVICE THAT ENABLES A  
15 CUSTOMER TO MAKE AN INFORMED DECISION RELATING TO THE SOURCE AND  
16 TYPE OF ELECTRIC SERVICE PURCHASED. THE STANDARDS SHALL BE  
17 DEVELOPED TO DO ALL OF THE FOLLOWING:

18 (A) NOT BE UNDULY BURDENSOME.

19 (B) NOT UNNECESSARILY DELAY OR INHIBIT THE INITIATION AND  
20 DEVELOPMENT OF COMPETITION FOR ELECTRIC GENERATION SERVICE IN ANY  
21 MARKET.

22 (C) ESTABLISH DIFFERENT REQUIREMENTS FOR DISCLOSURES, EXPLA-  
23 NATIONS, OR SALES INFORMATION RELATING TO DIFFERENT SERVICES OR  
24 SIMILAR SERVICES TO DIFFERENT CLASSES OF CUSTOMERS, WHENEVER SUCH  
25 DIFFERENT REQUIREMENTS ARE APPROPRIATE TO CARRY OUT THE PURPOSES  
26 OF THIS ACT.

1 (2) BEFORE JANUARY 1, 2002, THE COMMISSION SHALL ESTABLISH A  
2 FUNDING MECHANISM FOR ELECTRIC SUPPLIERS AND ALTERNATIVE ELECTRIC  
3 SUPPLIERS TO CARRY OUT AN EDUCATIONAL PROGRAM FOR CUSTOMERS TO DO  
4 ALL OF THE FOLLOWING:

5 (A) INFORM CUSTOMERS OF THE CHANGES IN THE PROVISION OF  
6 ELECTRIC SERVICE, INCLUDING, BUT NOT LIMITED TO, THE AVAILABILITY  
7 OF ALTERNATIVE ELECTRIC SUPPLIERS.

8 (B) INFORM CUSTOMERS OF THE REQUIREMENTS RELATING TO DISCLO-  
9 SURES, EXPLANATIONS, OR SALES INFORMATION FOR ALTERNATIVE ELEC-  
10 TRIC SUPPLIERS.

11 (C) PROVIDE ASSISTANCE TO CUSTOMERS IN UNDERSTANDING AND  
12 USING THE INFORMATION TO MAKE REASONABLY INFORMED CHOICES ABOUT  
13 WHICH SERVICE TO PURCHASE AND FROM WHOM TO PURCHASE IT.

14 (3) THE COMMISSION SHALL REQUIRE THAT ALL ELECTRIC SUPPLIERS  
15 IN A STANDARDIZED, UNIFORM FORMAT DISCLOSE ON THE CUSTOMER'S  
16 BILL, WITH A BILL INSERT, OR ON CUSTOMER CONTRACTS INFORMATION  
17 ABOUT THE ENVIRONMENTAL CHARACTERISTICS OF ELECTRICITY PURCHASED  
18 BY THE CUSTOMER, INCLUDING ALL OF THE FOLLOWING:

19 (A) THE AVERAGE FUEL MIX, INCLUDING CATEGORIES FOR OIL, GAS,  
20 COAL, SOLAR, HYDROELECTRIC, WIND, BIOFUEL, AND BIOMASS. A  
21 REGIONAL AVERAGE, DETERMINED BY THE COMMISSION, MAY BE USED IF  
22 THE FUEL MIX CANNOT BE DISCERNED OR A CLAIM REGARDING THE ENVI-  
23 RONMENTAL ATTRIBUTES OF A PRODUCT IS NOT MADE.

24 (B) THE AVERAGE EMISSIONS, IN POUNDS PER MEGAWATT HOUR, OF  
25 SULFUR DIOXIDE, CARBON DIOXIDE, AND OXIDES OF NITROGEN. AN EMIS-  
26 SIONS DEFAULT, DETERMINED BY THE COMMISSION, MAY BE USED IF THE  
27 REGIONAL AVERAGE FUEL MIX IS BEING DISCLOSED.

1 (C) THE REGIONAL AVERAGE FUEL MIX AND EMISSIONS PROFILE AS  
2 REFERENCED IN SUBSECTION (3)(A) AND (B).

3 (4) THE INFORMATION REQUIRED BY SUBSECTION (3) SHALL BE PRO-  
4 VIDED NO MORE THAN TWICE ANNUALLY, AND BE BASED ON A ROLLING  
5 ANNUAL AVERAGE. EMISSIONS FACTORS WILL BE BASED ON ANNUAL PUB-  
6 LICLY AVAILABLE DATA BY GENERATION SOURCE.

7 (5) ALL OF THE INFORMATION REQUIRED TO BE PROVIDED UNDER  
8 SUBSECTION (1) SHALL ALSO BE PROVIDED TO THE COMMISSION TO BE  
9 INCLUDED ON THE COMMISSION'S INTERNET SITE.

10 (6) THE COMMISSION SHALL ESTABLISH THE MICHIGAN RENEWABLES  
11 ENERGY PROGRAM. THE PROGRAM SHALL BE DESIGNED TO INFORM CUSTOM-  
12 ERS IN THIS STATE OF THE AVAILABILITY AND VALUE OF USING RENEW-  
13 ABLE ENERGY GENERATION AND THE POTENTIAL OF REDUCED POLLUTION.

14 (7) THE COMMISSION SHALL ESTABLISH THE RATES, TERMS, AND  
15 CONDITIONS OF SERVICE THAT ALLOW CUSTOMERS TO PURCHASE RENEWABLE  
16 ENERGY.

17 (8) FOR EACH MEGAWATT GENERATED BY AN ELECTRIC UTILITY USING  
18 A RENEWABLE ENERGY SOURCE, THE UTILITY MAY TAKE A CREDIT OF 3  
19 MEGAWATTS TO REDUCE ITS SHARE OF MARKET POWER UNDER SECTION 10D.

20 SEC. 10/. (1) AN ELECTRIC UTILITY OR ALTERNATIVE ELECTRIC  
21 SUPPLIER SHALL NOT SHUT OFF SERVICE TO AN ELIGIBLE CUSTOMER  
22 DURING THE HEATING SEASON FOR NONPAYMENT OF A DELINQUENT ACCOUNT  
23 IF THE CUSTOMER IS AN ELIGIBLE SENIOR CITIZEN CUSTOMER OR IF THE  
24 CUSTOMER PAYS TO THE UTILITY OR SUPPLIER A MONTHLY AMOUNT EQUAL  
25 TO 7% OF THE ESTIMATED ANNUAL BILL FOR THE ELIGIBLE CUSTOMER AND  
26 THE ELIGIBLE CUSTOMER DEMONSTRATES, WITHIN 14 DAYS OF REQUESTING  
27 SHUTOFF PROTECTION, THAT HE OR SHE HAS APPLIED FOR STATE OR

1 FEDERAL HEATING ASSISTANCE. IF AN ARREARAGE EXISTS AT THE TIME  
2 AN ELIGIBLE CUSTOMER APPLIES FOR PROTECTION FROM SHUTOFF OF SERV-  
3 ICE DURING THE HEATING SEASON, THE UTILITY OR SUPPLIER SHALL  
4 PERMIT THE CUSTOMER TO PAY THE ARREARAGE IN EQUAL MONTHLY  
5 INSTALLMENTS BETWEEN THE DATE OF APPLICATION AND THE START OF THE  
6 SUBSEQUENT HEATING SEASON.

7 (2) AN ELECTRIC UTILITY OR ALTERNATIVE ELECTRIC SUPPLIER MAY  
8 SHUT OFF SERVICE TO AN ELIGIBLE LOW-INCOME CUSTOMER WHO DOES NOT  
9 PAY THE MONTHLY AMOUNTS REQUIRED UNDER SUBSECTION (1) AFTER  
10 GIVING NOTICE IN THE MANNER REQUIRED BY RULES. THE UTILITY OR  
11 SUPPLIER IS NOT REQUIRED TO OFFER A SETTLEMENT AGREEMENT TO AN  
12 ELIGIBLE LOW-INCOME CUSTOMER WHO FAILS TO MAKE THE MONTHLY PAY-  
13 MENTS REQUIRED UNDER SUBSECTION (1).

14 (3) IF A CUSTOMER FAILS TO COMPLY WITH THE TERMS AND CONDI-  
15 TIONS OF THIS SECTION, AN ELECTRIC UTILITY MAY SHUT OFF SERVICE  
16 ON ITS OWN BEHALF OR ON BEHALF OF AN ALTERNATIVE ELECTRIC SUP-  
17 PLIER AFTER GIVING THE CUSTOMER A NOTICE, BY PERSONAL SERVICE OR  
18 FIRST-CLASS MAIL, THAT CONTAINS ALL OF THE FOLLOWING  
19 INFORMATION:

20 (A) THAT THE CUSTOMER HAS DEFAULTED ON THE WINTER PROTECTION  
21 PLAN.

22 (B) THE NATURE OF THE DEFAULT.

23 (C) THAT UNLESS THE CUSTOMER MAKES THE PAYMENTS THAT ARE  
24 PAST DUE WITHIN 10 DAYS OF THE DATE OF MAILING, THE UTILITY OR  
25 SUPPLIER MAY SHUT OFF SERVICE.

26 (D) THE DATE ON OR AFTER WHICH THE UTILITY OR SUPPLIER MAY  
27 SHUT OFF SERVICE, UNLESS THE CUSTOMER TAKES APPROPRIATE ACTION.

1 (E) THAT THE CUSTOMER HAS THE RIGHT TO FILE A COMPLAINT  
2 DISPUTING THE CLAIM OF THE UTILITY OR SUPPLIER BEFORE THE DATE OF  
3 THE PROPOSED SHUTOFF OF SERVICE.

4 (F) THAT THE CUSTOMER HAS THE RIGHT TO REQUEST A HEARING  
5 BEFORE A HEARING OFFICER IF THE COMPLAINT CANNOT BE OTHERWISE  
6 RESOLVED AND THAT THE CUSTOMER SHALL PAY TO THE UTILITY OR SUP-  
7 PLIER THAT PORTION OF THE BILL THAT IS NOT IN DISPUTE WITHIN 3  
8 DAYS OF THE DATE THAT THE CUSTOMER REQUESTS A HEARING.

9 (G) THAT THE CUSTOMER HAS THE RIGHT TO REPRESENT HIMSELF OR  
10 HERSELF, TO BE REPRESENTED BY AN ATTORNEY, OR TO BE ASSISTED BY  
11 ANY OTHER PERSON OF HIS OR HER CHOICE IN THE COMPLAINT PROCESS.

12 (H) THAT THE UTILITY OR SUPPLIER WILL NOT SHUT OFF SERVICE  
13 PENDING THE RESOLUTION OF A COMPLAINT THAT IS FILED WITH THE  
14 UTILITY IN ACCORDANCE WITH THIS SECTION.

15 (I) THE TELEPHONE NUMBER AND ADDRESS OF THE UTILITY OR SUP-  
16 PLIER WHERE THE CUSTOMER MAY MAKE INQUIRY, ENTER INTO A SETTLE-  
17 MENT AGREEMENT, OR FILE A COMPLAINT.

18 (J) THAT THE CUSTOMER SHOULD CONTACT A SOCIAL SERVICES  
19 AGENCY IMMEDIATELY IF THE CUSTOMER BELIEVES HE OR SHE MIGHT BE  
20 ELIGIBLE FOR EMERGENCY ECONOMIC ASSISTANCE.

21 (K) THAT THE UTILITY OR SUPPLIER WILL POSTPONE SHUTOFF OF  
22 SERVICE IF A MEDICAL EMERGENCY EXISTS AT THE CUSTOMER'S  
23 RESIDENCE.

24 (l) THAT THE UTILITY OR SUPPLIER MAY REQUIRE A DEPOSIT AND  
25 RESTORATION CHARGE IF THE SUPPLIER SHUTS OFF SERVICE FOR NONPAY-  
26 MENT OF A DELINQUENT ACCOUNT.

1 (4) A REGULATED SERVICE PROVIDER IS NOT REQUIRED TO SHUT OFF  
2 SERVICE UNDER THIS SECTION TO AN ELIGIBLE CUSTOMER FOR NONPAYMENT  
3 TO A COMPETITIVE ELECTRIC SUPPLIER.

4 (5) AS USED IN THIS SECTION:

5 (A) "ELIGIBLE CUSTOMER" MEANS EITHER AN ELIGIBLE LOW-INCOME  
6 CUSTOMER OR AN ELIGIBLE SENIOR CITIZEN CUSTOMER.

7 (B) "ELIGIBLE LOW-INCOME CUSTOMER" MEANS A CUSTOMER WHOSE  
8 HOUSEHOLD INCOME DOES NOT EXCEED 150% OF THE POVERTY LEVEL, AS  
9 PUBLISHED BY THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN  
10 SERVICES, OR WHO RECEIVES ANY OF THE FOLLOWING:

11 (i) ASSISTANCE FROM A STATE EMERGENCY RELIEF PROGRAM.

12 (ii) FOOD STAMPS.

13 (iii) MEDICAID.

14 (C) "ELIGIBLE SENIOR CITIZEN CUSTOMER" MEANS A UTILITY OR  
15 SUPPLIER CUSTOMER WHO IS 65 YEARS OF AGE OR OLDER AND WHO ADVISES  
16 THE UTILITY OF HIS OR HER ELIGIBILITY.

17 SEC. 10M. IN ADDITION TO THE PROVISIONS OF THE MICHIGAN  
18 CONSUMER PROTECTION ACT, 1976 PA 331, MCL 445.901 TO 445.922, THE  
19 COMMISSION MAY ISSUE CEASE AND DESIST ORDERS AND ADOPT RULES TO  
20 PROTECT RETAIL CUSTOMERS FROM FRAUD AND OTHER UNFAIR AND DECEP-  
21 TIVE BUSINESS PRACTICES.

22 SEC. 10N. (1) THE COMMISSION SHALL ESTABLISH A COMPLAINT  
23 PROCEDURE TO ALLOW PERSONS, OR THE COMMISSION ON ITS OWN MOTION,  
24 TO FILE CLAIMS OF VIOLATIONS OF SECTIONS 10A THROUGH 10Y OR A  
25 RULE OR ORDER ISSUED RELATING TO SECTIONS 10A THROUGH 10Y.

1 (2) UPON THE FILING OF A CLAIM, THE COMMISSION SHALL  
2 INVESTIGATE AND MAKE FINDINGS OF WHETHER A VIOLATION HAS  
3 OCCURRED.

4 (3) IN ADDITION TO ANY OTHER PENALTIES PROVIDED BY THIS ACT  
5 OR LAW, IF THE COMMISSION FINDS, AFTER NOTICE AND HEARING, THAT  
6 THERE HAS BEEN A VIOLATION OF SECTION 10H, 10J, 10K, OR 10T, IT  
7 MAY ISSUE A CEASE AND DESIST ORDER.

8 (4) IF THE VIOLATION WARRANTS IMMEDIATE ACTION, THE COMMIS-  
9 SION IS AUTHORIZED TO ISSUE A PRELIMINARY CEASE AND DESIST  
10 ORDER. A REQUEST FOR PRELIMINARY ORDER UNDER THIS SUBSECTION  
11 SHALL BE EITHER GRANTED OR DENIED WITHIN 3 BUSINESS DAYS FROM THE  
12 DATE THE COMPLAINT IS FILED. A PRELIMINARY ORDER ISSUED UNDER  
13 THIS SUBSECTION SHALL BE REVIEWED AFTER NOTICE AND HEARING.

14 (5) IF A PERSON VIOLATES AN ORDER ISSUED UNDER SUBSECTION  
15 (3) OR (4), THE COMMISSION MAY ORDER THE PERSON TO PAY A FINE OF  
16 NOT MORE THAN \$50,000.00 PER DAY FOR EACH DAY THE PERSON IS IN  
17 VIOLATION AND TO MAKE WHOLE ANY PERSON INJURED BY THE VIOLATION,  
18 INCLUDING THE PAYMENT OF REASONABLE ATTORNEY FEES.

19 SEC. 10o. THE COMMISSION SHALL FILE A REPORT WITH THE GOV-  
20 ERNOR AND LEGISLATURE BY DECEMBER 31 OF EACH YEAR THAT SHALL  
21 INCLUDE BOTH OF THE FOLLOWING:

22 (A) ACTIONS TAKEN BY THE COMMISSION TO IMPLEMENT MEASURES  
23 NECESSARY TO PROTECT CONSUMERS FROM UNFAIR OR DECEPTIVE BUSINESS  
24 PRACTICES BY UTILITIES, ALTERNATIVE ELECTRIC SUPPLIERS, AND OTHER  
25 MARKET PARTICIPANTS.

26 (B) INFORMATION REGARDING CONSUMER EDUCATION PROGRAMS,  
27 APPROVED BY THE COMMISSION, TO INFORM CONSUMERS OF ALL RELEVANT

1 INFORMATION REGARDING THE PURCHASE OF ELECTRICITY AND RELATED  
2 SERVICES FROM ALTERNATIVE ELECTRIC SUPPLIERS.

3 SEC. 10P. (1) INVESTOR OWNED REGULATED SERVICE PROVIDERS  
4 WHO SERVE MORE THAN 100,000 RETAIL CUSTOMERS IN THIS STATE SHALL  
5 FILE, BY JULY 1, 2000, A JOINT PLAN WITH THE COMMISSION DETAILING  
6 MEASURES PROPOSED TO PERMANENTLY EXPAND, BY JANUARY 1, 2002, THE  
7 AVAILABLE TRANSMISSION CAPABILITY BY AT LEAST 2,000 MEGAWATTS  
8 OVER THE AVAILABLE TRANSMISSION CAPABILITY IN PLACE AS OF JANUARY  
9 1, 2000, AS DETERMINED UNDER SECTION 10D(6).

10 (2) THE JOINT PLAN UNDER SUBSECTION (1) SHALL DETAIL ALL  
11 ACTIONS INCLUDING ADDITIONAL FACILITIES REQUIRED, THE PROPOSED  
12 SCHEDULE FOR ACCOMPLISHING THE ACTIONS, THE COST OF THE ACTIONS,  
13 AND THE PROPOSED RATEMAKING TREATMENT FOR THE COSTS. THE JOINT  
14 PLAN SHALL ALSO IDENTIFY ALL ACTIONS AND FACILITIES THAT ARE  
15 REQUIRED OF OTHER TRANSMISSION OWNERS, INCLUDING OUT-OF-STATE  
16 ENTITIES, TO ACCOMMODATE THE ACTIONS DESCRIBED IN THE JOINT  
17 PLAN.

18 (3) THE COMMISSION MAY ORDER AN INDEPENDENT ASSESSMENT OF  
19 THE JOINT PLAN PREPARED UNDER SUBSECTION (1) TO EVALUATE ITS  
20 REASONABLENESS. IF THE JOINT PLAN DOES NOT PROVIDE FOR MEETING  
21 THE REQUIREMENT OF SUBSECTION (1) BY AT LEAST JANUARY 1, 2002,  
22 THE COMMISSION MAY ORDER REASONABLE, COST-EFFECTIVE CHANGES IN  
23 THE JOINT PLAN TO ACCELERATE THE ACCOMPLISHMENT OF THAT  
24 REQUIREMENT. THE COMMISSION SHALL ISSUE AN ORDER APPROVING THE  
25 JOINT PLAN AND ASSOCIATED RATEMAKING TREATMENT. IF THE INVESTOR  
26 OWNED REGULATED SERVICE PROVIDERS ARE UNABLE TO AGREE UPON A  
27 JOINT PLAN TO MEET THE REQUIREMENTS OF THIS SECTION, THE

1 COMMISSION SHALL CONDUCT A HEARING TO ESTABLISH A JOINT PLAN.  
2 THE COMMISSION SHALL AUTHORIZE RECOVERY FROM CUSTOMERS OF ALL  
3 REASONABLE AND PRUDENT COSTS INCURRED BY TRANSMISSION OWNERS FOR  
4 AUTHORIZED ACTIONS TAKEN AND FACILITIES INSTALLED TO MEET THE  
5 REQUIREMENTS OF THIS SECTION THAT ARE NOT INCLUDED BY FERC IN  
6 TRANSMISSION RATES.

7 SEC. 10Q. (1) EACH INVESTOR OWNED REGULATED SERVICE PRO-  
8 VIDER IN THIS STATE SHALL, AT THE PROVIDER'S OPTION, EITHER JOIN  
9 A FERC APPROVED MULTISTATE REGIONAL TRANSMISSION SYSTEM ORGANIZA-  
10 TION OR OTHER FERC APPROVED MULTISTATE INDEPENDENT TRANSMISSION  
11 ORGANIZATION OR DIVEST ITS INTEREST IN ITS TRANSMISSION FACILI-  
12 TIES TO AN INDEPENDENT TRANSMISSION OWNER.

13 (2) AN INVESTOR OWNED REGULATED SERVICE PROVIDER WHO IS  
14 PARTY TO A LEGITIMATE FILING THAT WAS PENDING BEFORE THE FERC ON  
15 DECEMBER 31, 2001 WHICH IS SEEKING FERC APPROVAL OF A PROPOSED  
16 MULTISTATE REGIONAL TRANSMISSION SYSTEM ORGANIZATION SHALL BE  
17 CONSIDERED TO BE IN COMPLIANCE WITH THIS SECTION. SUBSECTION (3)  
18 SHALL APPLY IF FERC REJECTS A PENDING FILING OR IF THE REGULATED  
19 SERVICE PROVIDER WITHDRAWS FROM THE FILING OR FROM A REGIONAL  
20 TRANSMISSION SYSTEM ORGANIZATION. THIS SECTION DOES NOT PROVIDE  
21 GUIDANCE TO FERC WITH RESPECT TO ANY PENDING FILING.

22 (3) IF A REGULATED SERVICE PROVIDER HAS NOT COMPLIED WITH  
23 THIS SECTION BY DECEMBER 31, 2001, THE COMMISSION SHALL DIRECT  
24 THE REGULATED SERVICE PROVIDER TO JOIN A FERC APPROVED MULTISTATE  
25 REGIONAL TRANSMISSION SYSTEM ORGANIZATION SELECTED BY THE  
26 COMMISSION.

1           SEC. 10R. IN THE EVENT OF A SALE, PURCHASE, OR ANY OTHER  
2 TRANSFER OF 1 OR MORE MICHIGAN DIVISIONS OR BUSINESS UNITS, OR  
3 GENERATING STATIONS OR GENERATING UNITS, OF AN ELECTRIC UTILITY,  
4 TO EITHER A THIRD PARTY OR A UTILITY AFFILIATE, THE ELECTRIC  
5 UTILITY'S CONTRACT AND AGREEMENTS WITH THE ACQUIRING ENTITY OR  
6 PERSONS SHALL REQUIRE THAT THE ENTITY OR PERSONS HIRE A SUFFI-  
7 CIENT NUMBER OF NONSUPERVISORY EMPLOYEES TO OPERATE AND MAINTAIN  
8 THE STATION, DIVISION, OR UNIT BY INITIALLY MAKING OFFERS OF  
9 EMPLOYMENT TO THE NONSUPERVISORY WORKFORCE OF THE ELECTRIC  
10 UTILITY'S DIVISION, BUSINESS UNIT, GENERATING STATION, OR GENER-  
11 ATING UNIT AT NO LESS THAN THE WAGE RATES, AND SUBSTANTIALLY  
12 EQUIVALENT FRINGE BENEFITS AND TERMS AND CONDITIONS OF EMPLOYMENT  
13 THAT ARE IN EFFECT AT THE TIME OF TRANSFER OF OWNERSHIP OF THE  
14 DIVISION, BUSINESS UNIT, GENERATING STATION, OR GENERATING UNIT.  
15 THE WAGE RATES AND SUBSTANTIALLY EQUIVALENT FRINGE BENEFITS AND  
16 TERMS AND CONDITIONS OF EMPLOYMENT SHALL CONTINUE FOR AT LEAST 30  
17 MONTHS FROM THE TIME OF THE TRANSFER OF OWNERSHIP UNLESS THE  
18 EMPLOYEES, OR IF APPLICABLE A COLLECTIVE BARGAINING UNIT, AND THE  
19 NEW EMPLOYER MUTUALLY AGREE TO DIFFERENT TERMS AND CONDITIONS OR  
20 EMPLOYMENT WITHIN THAT 30-MONTH PERIOD. THE UTILITY SHALL OFFER  
21 A TRANSITION PLAN TO THOSE EMPLOYEES WHO ARE NOT OFFERED JOBS BY  
22 THE ACQUIRING ENTITY BECAUSE THAT ENTITY HAS A NEED FOR FEWER  
23 WORKERS. IF THERE IS LITIGATION CONCERNING THE SALE OR OTHER  
24 TRANSFER OF OWNERSHIP OF THE ELECTRIC UTILITY'S DIVISIONS, BUSI-  
25 NESS UNITS, GENERATING STATIONS, OR GENERATING UNITS, THE  
26 30-MONTH PERIOD WILL BEGIN ON THE DATE THE ACQUIRING ENTITY OR  
27 PERSONS TAKE CONTROL OR TAKE MANAGEMENT OF THE DIVISIONS,

1 BUSINESS UNITS, GENERATING STATION, OR GENERATING UNITS OF THE  
2 ELECTRIC UTILITY.

3 SEC. 10S. (1) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS  
4 ACT, REGULATED ELECTRIC UTILITIES SERVING LESS THAN 100,000 CUS-  
5 TOMERS IN THIS STATE SHALL FILE, WITHIN 180 DAYS OF THE EFFECTIVE  
6 DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION, RESTRUCTURING  
7 PLANS FOR REVIEW AND APPROVAL BY THE COMMISSION.

8 (2) EACH RESTRUCTURING PLAN FILED UNDER SUBSECTION (1) SHALL  
9 INCLUDE PROPOSALS TO CLASSIFY FACILITIES IN ACCORDANCE WITH CRI-  
10 TERIA ESTABLISHED BY THE FERC AND THE CLASSIFICATION SHALL BE  
11 BASED ON GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.

12 (3) BEFORE OFFERING ITS CUSTOMERS A CHOICE OF ALTERNATIVE  
13 ELECTRIC SUPPLIERS UNDER THIS ACT, EACH ELECTRIC UTILITY SERVING  
14 LESS THAN 100,000 CUSTOMERS IN THIS STATE MAY ADJUST ITS RATES  
15 AND CHARGES IN A CONTESTED CASE IF FILED BEFORE THE EFFECTIVE  
16 DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION.

17 (4) FOR ELECTRIC UTILITIES SERVING LESS THAN 100,000 CUSTOM-  
18 ERS, PROPOSED TARIFFS FOR CUSTOMERS IN THIS STATE CHOOSING AN  
19 ALTERNATIVE ELECTRIC SUPPLIER SHALL BE FILED ON OR BEFORE 180  
20 DAYS AFTER APPROVAL OF RETAIL ACCESS TARIFFS FOR ELECTRIC UTILI-  
21 TIES SERVING MORE THAN 1,000,000 CUSTOMERS IN THIS STATE OR JUNE  
22 30, 2000, WHICHEVER IS LATER.

23 SEC. 10T. (1) A PERSON SHALL NOT ENGAGE IN THE BUSINESS OF  
24 AN ELECTRIC SUPPLIER IN THIS STATE UNLESS THE PERSON HOLDS A  
25 LICENSED ISSUED UNDER THIS ACT.

26 (2) AN APPLICATION FOR AN ELECTRIC SUPPLIER LICENSE SHALL  
27 INCLUDE ALL OF THE FOLLOWING:

1 (A) BE IN WRITING ON A FORM APPROVED BY THE COMMISSION.

2 (B) BE VERIFIED BY OATH OR AFFIRMATION.

3 (C) CONTAIN ALL INFORMATION THAT THE COMMISSION REQUIRES.

4 (3) THE COMMISSION MAY REQUIRE, BY REGULATION OR ORDER, 1 OR  
5 MORE OF THE FOLLOWING BEFORE ISSUING A LICENSE:

6 (A) REQUIRE PROOF OF FINANCIAL INTEGRITY.

7 (B) REQUIRE THE APPLICANT TO POST A BOND OR OTHER SIMILAR  
8 INSTRUMENT, IF, IN THE COMMISSION'S JUDGMENT, THE BOND OR SIMILAR  
9 INSTRUMENT IS NECESSARY TO INSURE AN ELECTRICITY SUPPLIER'S  
10 FINANCIAL INTEGRITY.

11 (C) REQUIRE THE APPLICANT TO DO BOTH OF THE FOLLOWING:

12 (i) PROVIDE PROOF THAT IT HAS PROPERLY REGISTERED TO DO  
13 BUSINESS IN THIS STATE.

14 (ii) AGREE TO BE SUBJECT TO ALL APPLICABLE TAXES OF THE  
15 STATE.

16 (D) ADOPT ANY OTHER REQUIREMENTS THE COMMISSION FINDS TO BE  
17 IN THE PUBLIC INTEREST, WHICH MAY INCLUDE DIFFERENT REQUIREMENTS  
18 FOR ELECTRIC SUPPLIERS THAT SERVE ONLY LARGE CUSTOMERS.

19 (4) IF AN APPLICANT COMPLIES WITH THE REQUIREMENTS OF SUB-  
20 SECTIONS (2) AND (3), THE COMMISSION SHALL ISSUE A LICENSE TO  
21 ALLOW THE PERSON TO ENGAGE IN THE BUSINESS OF AN ELECTRIC  
22 SUPPLIER.

23 (5) A LICENSE ISSUED UNDER THIS SECTION MAY NOT BE TRANS-  
24 FERRED WITHOUT PRIOR COMMISSION APPROVAL. AN ALTERNATIVE ELEC-  
25 TRIC SUPPLIER SHALL NOT BE REQUIRED TO OBTAIN ANY CERTIFICATE,  
26 LICENSE, OR AUTHORIZATION OTHER THAN AS REQUIRED BY THIS

1 SECTION. A LICENSED ALTERNATIVE ELECTRIC SUPPLIER IS NOT A  
2 PUBLIC UTILITY.

3 (6) THE COMMISSION SHALL NOT REQUIRE RECIPROCITY AS A CONDI-  
4 TION OF GRANTING A LICENSE TO AN OUT-OF-STATE UTILITY OR ITS  
5 AFFILIATES.

6 (7) IN ADDITION TO ANY OTHER PENALTIES PROVIDED BY THIS ACT  
7 OR LAW, IF THE COMMISSION FINDS, AFTER NOTICE AND HEARING, THAT  
8 THERE HAS BEEN A VIOLATION OF THIS SECTION, IT MAY DO 1 OR MORE  
9 OF THE FOLLOWING:

10 (A) ISSUE A CEASE AND DESIST ORDER.

11 (B) ISSUE A PRELIMINARY CEASE AND DESIST ORDER IN THE SAME  
12 MANNER AS PROVIDED UNDER SECTION 10N.

13 (C) ORDER THE PERSON TO PAY A FINE OF NOT LESS THAN  
14 \$10,000.00 OR MORE THAN \$50,000.00 PER DAY THAT THE PERSON IS IN  
15 VIOLATION OF THIS SECTION.

16 (D) ORDER THAT THE LICENSE BE REVOKED.

17 (8) THE COMMISSION SHALL ESTABLISH PROCEDURES THAT GOVERN  
18 THE APPLICATION AND GRANTING OF LICENSES UNDER THIS SECTION  
19 WITHIN 60 DAYS OF THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT  
20 ADDED THIS SECTION. BEFORE THE DATE ESTABLISHED UNDER THIS SUB-  
21 SECTION, ELECTRIC SUPPLIERS WHO ARE PROVIDING ELECTRIC GENERATION  
22 SERVICE TO RETAIL CUSTOMERS IN THIS STATE OR WHO ARE ELIGIBLE TO  
23 PROVIDE ELECTRIC GENERATION SERVICE TO RETAIL CUSTOMERS UNDER  
24 COMMISSION APPROVED DIRECT ACCESS PROGRAMS IN EFFECT BEFORE THAT  
25 DATE SHALL BE PERMITTED TO PROVIDE ELECTRIC GENERATION SERVICE  
26 UNDER PREVIOUSLY EXISTING PROCEDURES AND STATUTES.

1           SEC. 10U. (1) THE GOVERNING BODY OF A MUNICIPALLY OWNED  
2 UTILITY SHALL DETERMINE WHETHER IT WILL PERMIT RETAIL CUSTOMERS  
3 RECEIVING DELIVERY SERVICE FROM THE MUNICIPALLY OWNED UTILITY THE  
4 OPPORTUNITY OF CHOOSING AN ALTERNATIVE ELECTRIC SUPPLIER, SUBJECT  
5 TO THE IMPLEMENTATION OF RATES, CHARGES, TERMS, AND CONDITIONS  
6 REFERRED TO IN SUBSECTION (7).

7           (2) EXCEPT WITH THE WRITTEN CONSENT OF THE MUNICIPALLY OWNED  
8 UTILITY, A PERSON SHALL NOT PROVIDE DELIVERY SERVICE OR CUSTOMER  
9 ACCOUNT SERVICE TO A RETAIL CUSTOMER THAT WAS RECEIVING THAT  
10 SERVICE FROM A MUNICIPALLY OWNED UTILITY AS OF THE EFFECTIVE DATE  
11 OF THE AMENDATORY ACT THAT ADDED THIS SECTION, OR IS RECEIVING  
12 THE SERVICE FROM A MUNICIPALLY OWNED UTILITY AND HAS THE OPPORTU-  
13 NITY TO CHOOSE AN ALTERNATIVE ELECTRIC SUPPLIER UNDER TERMS CON-  
14 SISTENT WITH THIS SECTION. FOR PURPOSES OF THIS SUBSECTION,  
15 "CUSTOMER" MEANS THE BUILDING OR FACILITIES SERVED RATHER THAN  
16 THE INDIVIDUAL, ASSOCIATION, PARTNERSHIP, CORPORATION, GOVERNMEN-  
17 TAL BODY, OR ANY OTHER ENTITY TAKING SERVICE.

18           (3) AFTER DECEMBER 31, 2007, SUBSECTION (2) DOES NOT APPLY  
19 IF THE GOVERNING BODY OF THE MUNICIPALLY OWNED UTILITY DOES NOT  
20 PERMIT ALL OF ITS RETAIL CUSTOMERS LOCATED OUTSIDE OF THE BOUNDA-  
21 RIES OF THE MUNICIPALITY THAT OWNS THE UTILITY THE OPPORTUNITY TO  
22 CHOOSE AN ALTERNATIVE ELECTRIC SUPPLIER.

23           (4) IF A MUNICIPALLY OWNED UTILITY ELECTS TO SERVE AS AN  
24 ELECTRIC SUPPLIER TO RETAIL CUSTOMERS RECEIVING DELIVERY SERVICE  
25 FROM A REGULATED SERVICE PROVIDER, ALL OF THE FOLLOWING APPLY:

26           (A) THE MUNICIPALLY OWNED UTILITY SHALL PROVIDE ALL OF ITS  
27 RETAIL CUSTOMERS LOCATED OUTSIDE OF THE BOUNDARIES OF THE

1 MUNICIPALITY THAT OWNS THE UTILITY THE OPPORTUNITY OF CHOOSING AN  
2 ALTERNATIVE ELECTRIC SUPPLIER. THE RATES, CHARGES, TERMS, AND  
3 CONDITIONS OF DELIVERY SERVICE FOR CUSTOMERS CHOOSING AN ALTERNA-  
4 TIVE ELECTRIC SUPPLIER SHALL BE ESTABLISHED BY THE GOVERNING BODY  
5 OF THE MUNICIPALLY OWNED UTILITY AS PROVIDED UNDER SUBSECTION  
6 (7).

7 (B) IF A MUNICIPALLY OWNED UTILITY AND A REGULATED SERVICE  
8 PROVIDER BOTH PROVIDE DELIVERY SERVICE TO RETAIL CUSTOMERS  
9 LOCATED OUTSIDE OF THE BOUNDARIES OF THE MUNICIPALITY THAT OWNS  
10 THE MUNICIPAL UTILITY, THEN THE MUNICIPALLY OWNED UTILITY SHALL  
11 DO 1 OF THE FOLLOWING:

12 (i) MAKE A FILING AS PROVIDED UNDER SUBSECTION (5).

13 (ii) ENTER INTO A WRITTEN AGREEMENT AS PROVIDED UNDER SUB-  
14 SECTION (6).

15 (C) THE MUNICIPALLY OWNED UTILITY SHALL COMPLY WITH SECTIONS  
16 10J, 10K, 10L, 10M, AND 10N WITH RESPECT TO CUSTOMERS LOCATED  
17 OUTSIDE OF THE MUNICIPALITY THAT OWNS THE MUNICIPALLY OWNED  
18 UTILITY.

19 (D) THE MUNICIPALLY OWNED UTILITY MAY SERVE AS AN ELECTRIC  
20 SUPPLIER TO RETAIL CUSTOMERS RECEIVING DELIVERY SERVICE FROM A  
21 REGULATED SERVICE PROVIDER UP TO AN AMOUNT EQUAL TO THE MUNICI-  
22 PALLY OWNED UTILITY'S RETAIL CUSTOMER LOAD THAT HAS THE OPPORTU-  
23 NITY OF CHOOSING FROM AN ALTERNATIVE ELECTRIC SUPPLIER.

24 (E) THE MUNICIPALLY OWNED UTILITY SHALL OBTAIN A LICENSE  
25 UNDER SECTION 10T. THE COMMISSION SHALL ISSUE A LICENSE UNLESS  
26 IT DETERMINES THAT THE MUNICIPALLY OWNED UTILITY HAS ADOPTED  
27 RATES, CHARGES, TERMS, AND CONDITIONS FOR DELIVERY SERVICE THAT

1 ARE UNDULY DISCRIMINATORY OR REFLECT RECOVERY OF STRANDED COSTS  
2 IN AN AMOUNT CONSIDERED UNJUST AND UNREASONABLE BY THE  
3 COMMISSION. A MUNICIPALLY OWNED UTILITY OPERATING UNDER A  
4 LICENSE ISSUED BY THE COMMISSION SHALL NOTIFY THE COMMISSION  
5 BEFORE MODIFYING RATES, CHARGES, TERMS, AND CONDITIONS FOR DELIV-  
6 ERY SERVICES. NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED AS  
7 GRANTING THE COMMISSION AUTHORITY TO SET RATES FOR A MUNICIPALLY  
8 OWNED UTILITY. THE COMMISSION, AFTER NOTICE AND OPPORTUNITY FOR  
9 HEARING, MAY REVOKE A LICENSE ISSUED TO A MUNICIPALLY OWNED UTIL-  
10 ITY IF IT DETERMINES THAT THE MUNICIPALLY OWNED UTILITY IS NOT IN  
11 COMPLIANCE WITH THIS SUBSECTION.

12 (5) WITH RESPECT TO ANY REGULATED SERVICE PROVIDER REGARDING  
13 DELIVERY SERVICE TO CUSTOMERS LOCATED OUTSIDE OF THE MUNICIPAL  
14 BOUNDARIES OF THE MUNICIPALITY THAT OWNS THE UTILITY, A GOVERNING  
15 BODY OF A MUNICIPALLY OWNED UTILITY MAY ELECT TO OPERATE IN COM-  
16 PLIANCE WITH ADMINISTRATIVE RULE R 460.3411, AS IN EFFECT ON THE  
17 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION,  
18 PROVIDED THAT COMPLIANCE WITH SUBRULE (13) OF RULE R 460.3411 IS  
19 NOT REQUIRED FOR THE MUNICIPALLY OWNED UTILITY. CONCURRENT WITH  
20 THE FILING OF AN ELECTION UNDER THIS SUBSECTION, THE MUNICIPALLY  
21 OWNED UTILITY SHALL SERVE A COPY OF THE ELECTION ON THE REGULATED  
22 SERVICE PROVIDER. BEGINNING 30 DAYS AFTER SERVICE OF THE COPY OF  
23 THE ELECTION, THE REGULATED SERVICE PROVIDER SHALL, AS TO THE  
24 ELECTING MUNICIPALLY OWNED UTILITY, BE SUBJECT TO THE TERMS OF  
25 RULE R 460.3411. THE COMMISSION SHALL DECIDE DISPUTES ARISING  
26 UNDER THIS SUBSECTION SUBJECT TO JUDICIAL REVIEW AND  
27 ENFORCEMENT.

1           (6) A MUNICIPALLY OWNED UTILITY MAY ENTER INTO WITH A  
2 REGULATED SERVICE PROVIDER THAT PROVIDES DELIVERY SERVICE IN THE  
3 SAME MUNICIPALITY AS THE MUNICIPALLY OWNED UTILITY A WRITTEN  
4 AGREEMENT TO DEFINE THE TERRITORIAL BOUNDARIES OF EACH UTILITY'S  
5 DELIVERY SERVICE AREA AND ANY OTHER TERMS AND CONDITIONS AS NEC-  
6 ESSARY TO PROVIDE DELIVERY SERVICE. THE AGREEMENT IS NOT EFFEC-  
7 TIVE UNLESS APPROVED BY THE GOVERNING BODY OF THE MUNICIPALLY  
8 OWNED UTILITY AND THE COMMISSION. THE GOVERNING BODY OF THE  
9 MUNICIPALLY OWNED UTILITY AND THE COMMISSION SHALL ANNUALLY  
10 REVIEW AND SUPERVISE COMPLIANCE WITH THE TERMS OF THE AGREEMENT.  
11 AT THE REQUEST OF A PARTY TO THE AGREEMENT, DISPUTES ARISING  
12 UNDER THE AGREEMENT SHALL BE DECIDED BY THE COMMISSION SUBJECT TO  
13 JUDICIAL REVIEW AND ENFORCEMENT.

14           (7) IF THE GOVERNING BODY OF A MUNICIPALLY OWNED UTILITY  
15 ESTABLISHES A PROGRAM TO PERMIT ANY OF ITS CUSTOMERS THE OPPORTU-  
16 NITY TO CHOOSE AN ALTERNATIVE ELECTRIC SUPPLIER, THE GOVERNING  
17 BODY OF THE MUNICIPALLY OWNED UTILITY SHALL HAVE EXCLUSIVE JURIS-  
18 DICTION TO DO ALL OF THE FOLLOWING:

19           (A) SET DELIVERY SERVICE RATES APPLICABLE TO SERVICES PRO-  
20 VIDED BY THE MUNICIPALLY OWNED UTILITY THAT SHALL NOT BE UNDULY  
21 DISCRIMINATORY.

22           (B) DETERMINE THE AMOUNT AND TYPES OF, AND RECOVERY MECHA-  
23 NISM FOR, STRANDED AND TRANSITION COSTS THAT WILL BE CHARGED.

24           (C) ESTABLISH RULES, TERMS OF ACCESS, AND CONDITIONS THAT IT  
25 CONSIDERS APPROPRIATE FOR THE IMPLEMENTATION OF A PROGRAM TO  
26 ALLOW CUSTOMERS THE OPPORTUNITY OF CHOOSING AN ALTERNATIVE  
27 ELECTRIC SUPPLIER.

1 (8) COMPLAINTS ALLEGING UNDULY DISCRIMINATORY RATES OR OTHER  
2 NONCOMPLIANCE ARISING UNDER SUBSECTION (7) SHALL BE FILED IN THE  
3 CIRCUIT COURT IN WHICH THE MUNICIPALLY OWNED UTILITY IS LOCATED.  
4 COMPLAINTS ARISING UNDER SUBSECTION (4) SHALL BE DECIDED BY THE  
5 COMMISSION SUBJECT TO JUDICIAL REVIEW AND ENFORCEMENT.

6 (9) THIS SECTION SHALL NOT BE CONSTRUED TO PREVENT OR LIMIT  
7 A MUNICIPALLY OWNED UTILITY FROM SELLING ELECTRICITY AT  
8 WHOLESALE. A MUNICIPALLY OWNED UTILITY SELLING AT WHOLESALE IS  
9 NOT CONSIDERED AN ALTERNATIVE ELECTRIC SUPPLIER OR SUBJECT TO  
10 REGULATION BY THE COMMISSION.

11 (10) IF A MUNICIPALLY OWNED UTILITY COMPLIES WITH SUBSECTION  
12 (4)(A), (B), AND (C) AND IS A MEMBER OF A JOINT AGENCY ESTAB-  
13 LISHED UNDER THE MICHIGAN ENERGY EMPLOYMENT ACT OF 1976, 1976 PA  
14 448, MCL 460.801 TO 460.848, IT MAY WITH THE CONSENT OF THE JOINT  
15 AGENCY ASSIGN TO THE JOINT AGENCY UP TO AN AMOUNT OF LOAD THAT IT  
16 IS ALLOWED TO SERVE AS AN ELECTRIC SUPPLIER UNDER SUBSECTION  
17 (4)(D), FOR THE PURPOSE OF ALLOWING THE JOINT AGENCY THE OPPORTU-  
18 NITY TO SELL RETAIL ELECTRIC GENERATION AS AN ELECTRIC SUPPLIER,  
19 PROVIDED THE JOINT AGENCY COMPLIES WITH SECTIONS 10J, 10K, 10L,  
20 10M, AND 10N AND OBTAINS A LICENSE UNDER SECTION 10T.

21 (11) THIS SECTION SHALL NOT BE CONSTRUED TO IMPAIR THE CON-  
22 TRACTUAL RIGHTS OF A MUNICIPALLY OWNED UTILITY OR CUSTOMER UNDER  
23 AN EXISTING CONTRACT.

24 (12) CONTRACTS OR OTHER RECORDS PERTAINING TO THE SALE OF  
25 ELECTRICITY BY A MUNICIPALLY OWNED UTILITY ACTING AS AN ELECTRIC  
26 SUPPLIER THAT ARE IN THE POSSESSION OF A PUBLIC BODY AND THAT  
27 CONTAIN SPECIFIC PRICING OR OTHER CONFIDENTIAL OR PROPRIETARY

1 INFORMATION MAY BE EXEMPTED FROM PUBLIC DISCLOSURE REQUIREMENTS  
2 BY THE GOVERNING BODY OF A MUNICIPALLY OWNED UTILITY. UPON SHOW-  
3 ING OF GOOD CAUSE, DISCLOSURE SUBJECT TO APPROPRIATE CONFIDEN-  
4 TIALITY PROVISIONS MAY BE ORDERED BY A COURT OR THE COMMISSION.

5 (13) THIS SECTION SHALL NOT AFFECT THE VALIDITY OF THE ORDER  
6 RELATING TO THE TERMS AND CONDITIONS OF SERVICE IN THE TRAVERSE  
7 CITY AREA THAT WAS ISSUED AUGUST 25, 1994 BY THE COMMISSION AT  
8 THE REQUEST OF CONSUMERS POWER COMPANY AND THE LIGHT AND POWER  
9 BOARD OF THE CITY OF TRAVERSE CITY.

10 (14) EXCEPT AS PROVIDED FOR IN SUBSECTIONS (4)(C) AND (10),  
11 SECTIONS 10A THROUGH 10T AND SECTION 10X DO NOT APPLY TO A MUNIC-  
12 IPALLY OWNED UTILITY.

13 (15) AS USED IN THIS SECTION:

14 (A) "DELIVERY SERVICE" MEANS THE PROVIDING OF ELECTRIC  
15 TRANSMISSION OR DISTRIBUTION TO A RETAIL CUSTOMER.

16 (B) "MUNICIPALITY" MEANS ANY CITY, VILLAGE, OR TOWNSHIP.

17 SEC. 10V. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION,  
18 A LOCAL UNIT OF GOVERNMENT SHALL GRANT A PERMIT FOR ACCESS TO AND  
19 THE ONGOING USE OF ALL RIGHT-OF-WAYS, EASEMENTS, AND PUBLIC  
20 PLACES UNDER ITS CONTROL AND JURISDICTION TO ELECTRIC DISTRIBU-  
21 TORS AND SUPPLIERS.

22 (2) A DISTRIBUTOR OR SUPPLIER SHALL NOT GAIN ACCESS TO OR  
23 USE A RIGHT-OF-WAY, EASEMENT, OR PUBLIC PLACE WITHOUT FIRST  
24 OBTAINING A PERMIT UNDER SUBSECTION (1).

25 (3) THIS SECTION DOES NOT LIMIT A LOCAL UNIT OF GOVERNMENT'S  
26 RIGHT TO REVIEW AND APPROVE A DISTRIBUTOR'S OR SUPPLIER'S ACCESS  
27 TO AND ONGOING USE OF A RIGHT-OF-WAY, EASEMENT, OR PUBLIC PLACE

1 OR LIMIT THE UNIT'S AUTHORITY TO ENSURE AND PROTECT THE HEALTH,  
2 SAFETY, AND WELFARE OF THE PUBLIC.

3 (4) A LOCAL UNIT OF GOVERNMENT SHALL APPROVE OR DENY ACCESS  
4 UNDER THIS SECTION WITHIN 90 DAYS FROM THE DATE A DISTRIBUTOR OR  
5 SUPPLIER FILES AN APPLICATION FOR A PERMIT FOR ACCESS TO A  
6 RIGHT-OF-WAY, EASEMENT, OR PUBLIC PLACE. A DISTRIBUTOR'S OR  
7 SUPPLIER'S RIGHT TO ACCESS AND USE OF A RIGHT-OF-WAY, EASEMENT,  
8 OR PUBLIC PLACE SHALL NOT BE UNREASONABLY DENIED BY A LOCAL UNIT  
9 OF GOVERNMENT. A LOCAL UNIT OF GOVERNMENT MAY REQUIRE AS A CON-  
10 DITION OF THE PERMIT THAT A BOND BE POSTED BY THE DISTRIBUTOR OR  
11 SUPPLIER, WHICH SHALL NOT EXCEED THE REASONABLE COST, TO ENSURE  
12 THAT THE RIGHT-OF-WAY, EASEMENT, OR PUBLIC PLACE IS RETURNED TO  
13 ITS ORIGINAL CONDITION DURING AND AFTER THE DISTRIBUTOR'S OR  
14 SUPPLIER'S ACCESS AND USE.

15 (5) THE CONDITIONS OF A PERMIT GRANTED UNDER THIS SECTION  
16 SHALL BE LIMITED TO THE DISTRIBUTOR'S OR SUPPLIER'S ACCESS AND  
17 USAGE OF THE RIGHT-OF-WAY, EASEMENT, OR PUBLIC PLACE.

18 (6) ALL FEES OR ASSESSMENTS MADE IN THE GRANTING OF A PERMIT  
19 UNDER THIS SECTION SHALL BE ON A NONDISCRIMINATORY BASIS AND  
20 SHALL NOT EXCEED THE FIXED AND VARIABLE COSTS TO THE LOCAL UNIT  
21 OF GOVERNMENT IN GRANTING A PERMIT AND MAINTAINING THE  
22 RIGHT-OF-WAY, EASEMENT, OR PUBLIC PLACE USED BY THE DISTRIBUTOR  
23 OR SUPPLIER.

24 SEC. 10W. NOTHING IN THIS ACT IMPAIRS THE CONTRACTUAL  
25 RIGHTS OF ELECTRIC UTILITIES OR CUSTOMERS UNDER AN EXISTING CON-  
26 TRACT THAT HAS BEEN APPROVED BY THE COMMISSION UNDER SECTION 11  
27 OF 1909 PA 300, MCL 462.11.

1           SEC. 10X. (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS  
2 ACT, A COOPERATIVE ELECTRIC UTILITY SHALL FILE, EXCEPT AS PRO-  
3 VIDED IN SUBSECTION (4), WITHIN 180 DAYS OF THE EFFECTIVE DATE OF  
4 THE AMENDATORY ACT THAT ADDED THIS SECTION, A RESTRUCTURING PLAN  
5 FOR REVIEW AND APPROVAL BY THE COMMISSION. THE RESTRUCTURING  
6 PLAN SHALL PROVIDE ALL CUSTOMER MEMBERS OF A COOPERATIVE ELECTRIC  
7 UTILITY WITH THE OPTION OF CHOOSING AN ALTERNATIVE ELECTRIC SUP-  
8 PLIER BY JANUARY 1, 2002, OR SUCH DATE AS APPROVED BY THE COMMIS-  
9 SION, WHICHEVER IS LATER. THE RESTRUCTURING PLAN MAY, BUT IS NOT  
10 REQUIRED TO, PROVIDE FOR THE PHASE-IN OF ELECTRIC CAPACITY AVAIL-  
11 ABLE FOR RETAIL OPEN ACCESS. IF THE RESTRUCTURING PLAN PROVIDES  
12 A PHASE-IN PERIOD, IT SHALL SET FORTH THE METHOD OF ALLOCATING  
13 CAPACITY AMONG THE COOPERATIVE ELECTRIC UTILITY'S CUSTOMER  
14 MEMBERS. THE ALLOCATION NEED NOT BE BASED ON A LOTTERY OR PRO-  
15 VIDE FOR AN EQUAL ALLOCATION TO ALL CUSTOMER MEMBERS OR CUSTOMER  
16 MEMBER CLASSES SERVED BY THE COOPERATIVE ELECTRIC UTILITY.

17           (2) IF APPLICABLE, THE RESTRUCTURING PLAN SHALL CLASSIFY THE  
18 FACILITIES OWNED BY THE COOPERATIVE ELECTRIC UTILITY IN ACCORD-  
19 ANCE WITH CRITERIA ESTABLISHED BY THE FERC FOR CLASSIFICATION OF  
20 TRANSMISSION AND DISTRIBUTION FACILITIES. A COOPERATIVE ELECTRIC  
21 UTILITY SHALL NOT BE REQUIRED TO SEPARATE, EITHER PHYSICALLY OR  
22 ORGANIZATIONALLY, ITS FACILITIES OR OPERATIONS USED TO PROVIDE  
23 COMPETITIVE AND NONCOMPETITIVE SERVICES, OR DIVEST TRANSMISSION  
24 ASSETS TO A FERC APPROVED REGIONAL TRANSMISSION SYSTEM ORGANIZA-  
25 TION, UNLESS REQUIRED BY FEDERAL LAW. ANY SEPARATION BETWEEN  
26 COMPETITIVE AND NONCOMPETITIVE SERVICES REQUIRED BY THIS ACT

1 SHALL BE ACCOMPLISHED BY THE APPLICATION OF GENERALLY ACCEPTED  
2 ACCOUNTING PRINCIPLES.

3 (3) A COOPERATIVE ELECTRIC UTILITY IS NOT PRECLUDED FROM  
4 ADJUSTING ITS RATES FOR NONCOMPETITIVE SERVICES IN ACCORDANCE  
5 WITH SECTION 6A.

6 (4) A COOPERATIVE ELECTRIC UTILITY SERVING LESS THAN 15,000  
7 CUSTOMER MEMBERS ON DECEMBER 31, 1999, SHALL FILE A RESTRUCTURING  
8 PLAN IN ACCORDANCE WITH SUBSECTION (1), UNLESS ITS BOARD OF  
9 DIRECTORS ELECTS BY A 2/3 VOTE TO NOT FILE A PLAN. IF THE BOARD  
10 OF DIRECTORS ELECTS TO NOT FILE A RESTRUCTURING PLAN, THE COOPER-  
11 ATIVE ELECTRIC UTILITY IS EXEMPT FROM THIS ACT AND IS NOT PERMIT-  
12 TED TO PROVIDE COMPETITIVE ELECTRIC SERVICE OUTSIDE ITS SERVICE  
13 TERRITORY. WITHIN 180 DAYS OF THE EFFECTIVE DATE OF THE AMENDA-  
14 TORY ACT THAT ADDED THIS SECTION, THE COOPERATIVE SHALL NOTIFY  
15 THE COMMISSION OF ITS ELECTION TO NOT FILE A RESTRUCTURING PLAN.  
16 THE COMMISSION SHALL CONTINUE TO REGULATE THE RETAIL RATES OF A  
17 COOPERATIVE ELECTRIC UTILITY THAT HAS ELECTED TO NOT FILE A  
18 RESTRUCTURING PLAN. A COOPERATIVE ELECTRIC UTILITY THAT ELECTS  
19 TO NOT FILE A RESTRUCTURING PLAN SHALL ALLOW ANY CUSTOMER MEMBER  
20 WITH A PEAK LOAD OF 1 MW OR GREATER THE OPTION TO SELECT AN  
21 ALTERNATIVE ELECTRIC PROVIDER. IF A CUSTOMER MEMBER SELECTS AN  
22 ALTERNATIVE ELECTRIC PROVIDER, THE COOPERATIVE ELECTRIC UTILITY  
23 SHALL PROVIDE SERVICE TO THE CUSTOMER MEMBER AS PROVIDED UNDER  
24 THIS SECTION.

25 (5) THE BOARD OF DIRECTORS OF A COOPERATIVE ELECTRIC UTILITY  
26 THAT HAS ELECTED TO NOT FILE A RESTRUCTURING PLAN MAY  
27 SUBSEQUENTLY ELECT BY A 2/3 VOTE TO FILE A PLAN. ONCE A

1 COOPERATIVE ELECTRIC UTILITY MAKES THIS ELECTION, IT SHALL WITHIN  
2 180 DAYS OF ITS ELECTION TO FILE A PLAN MAKE ALL NECESSARY FIL-  
3 INGS TO COMPLY WITH THIS SECTION.

4 (6) A CUSTOMER MEMBER USING SELF-SERVICE POWER OR ENGAGED IN  
5 AFFILIATE WHEELING ON OR BEFORE DECEMBER 31, 1999 IS EXEMPT FROM  
6 THE IMPOSITION OF TRANSITION, IMPLEMENTATION, EXIT FEES, OR ANY  
7 OTHER SIMILAR CHARGE IMPOSED BY A COOPERATIVE ELECTRIC UTILITY.  
8 THIS SECTION DOES NOT PROHIBIT A PERSON FROM ENGAGING IN  
9 SELF-SERVICE POWER OR AFFILIATE WHEELING.

10 (7) A CUSTOMER MEMBER OF A COOPERATIVE ELECTRIC UTILITY WITH  
11 A PEAK DEMAND GREATER THAN 500 KILOWATTS THAT ELECTS TO TAKE  
12 POWER FROM AN ALTERNATIVE POWER SUPPLIER, TAKE SELF-SERVICE  
13 POWER, OR ENGAGE IN AFFILIATE WHEELING, SHALL GIVE ITS FORMER  
14 COOPERATIVE ELECTRIC UTILITY 60 DAYS' WRITTEN NOTICE OF A DESIRE  
15 TO AGAIN PURCHASE ELECTRIC GENERATION SERVICE FROM THE COOPERA-  
16 TIVE ELECTRIC UTILITY. THE RATE FOR THE CUSTOMER MEMBER SHALL BE  
17 THE COOPERATIVE ELECTRIC UTILITY'S RATE ON FILE WITH THE COMMIS-  
18 SION, OR THE COST INCURRED BY THE COOPERATIVE ELECTRIC UTILITY TO  
19 PURCHASE OR OTHERWISE PROVIDE THE GENERATION SERVICE REQUESTED,  
20 WHICHEVER IS HIGHER.

21 (8) THE RATES FOR GENERATION SERVICES FOR A COOPERATIVE  
22 ELECTRIC UTILITY SHALL BE DEREGULATED ON A FINDING BY THE COMMIS-  
23 SION THAT COMPETITION EXISTS WITHIN THE SERVICE TERRITORY OF A  
24 COOPERATIVE ELECTRIC UTILITY. IF THE RETAIL RATES FOR A GENERA-  
25 TION SERVICE PROVIDED BY A COOPERATIVE ELECTRIC UTILITY ARE  
26 DEREGULATED BY THE COMMISSION, THE COOPERATIVE ELECTRIC UTILITY

1 IS NOT PROHIBITED OR RESTRICTED IN ANY MANNER FROM CONTINUING TO  
2 OFFER GENERATION SERVICE TO ANY CUSTOMER OR CLASS OF CUSTOMERS.

3 (9) AFTER JANUARY 1, 2002, A COOPERATIVE ELECTRIC UTILITY  
4 REQUIRED TO PROVIDE ITS CUSTOMER MEMBERS WITH THE OPTION OF  
5 CHOOSING AN ALTERNATIVE ELECTRIC SUPPLIER SHALL PROVIDE NONDIS-  
6 CRIMINATORY ACCESS TO ITS DISTRIBUTION AND TRANSMISSION SYSTEM TO  
7 ALL CUSTOMERS AND QUALIFIED ALTERNATIVE POWER SUPPLIERS. ACCESS  
8 SHALL BE IN ACCORDANCE WITH RULES AND RATES ESTABLISHED BY THE  
9 COMMISSION. A COOPERATIVE ELECTRIC UTILITY IS OBLIGATED TO CON-  
10 NECT ALL RETAIL CUSTOMERS LOCATED WITHIN THE COOPERATIVE ELECTRIC  
11 UTILITY'S SERVICE TERRITORY, INCLUDING THOSE CUSTOMERS USING  
12 SELF-SERVICE POWER, TO THOSE FACILITIES OF THE COOPERATIVE ELEC-  
13 TRIC UTILITY THAT ARE USED FOR DELIVERY OF RETAIL ELECTRIC SERV-  
14 ICE AT CHARGES AND RATES AS ESTABLISHED BY THE COMMISSION.

15 (10) THE COMMISSION SHALL ALLOW EACH COOPERATIVE ELECTRIC  
16 UTILITY TO RECOVER ALL STRANDED COSTS THROUGH A TRANSITION CHARGE  
17 RECOVERABLE FROM ALL CUSTOMERS WITHIN THE COOPERATIVE ELECTRIC  
18 UTILITY'S SERVICE TERRITORY. THE COMMISSION SHALL ADOPT A METH-  
19 ODOLOGY TO DETERMINE THE AMOUNT OF STRANDED COSTS THAT A COOPERA-  
20 TIVE ELECTRIC UTILITY MAY RECOVER, PROVIDED THE METHODOLOGY  
21 ALLOWS FOR THE RECOVERY OF ALL COSTS RENDERED UNRECOVERABLE AS A  
22 RESULT OF THE IMPLEMENTATION OF THIS SECTION.

23 (11) THE STRANDED COSTS OF A COOPERATIVE ELECTRIC UTILITY  
24 SERVING PRIMARILY AT WHOLESALE SHALL BE ESTABLISHED BY THE COM-  
25 MISSION UPON APPLICATION BY ITS MEMBER COOPERATIVES IN THIS  
26 STATE. THE COSTS SHALL BE ESTABLISHED IN A CONTESTED CASE. IN  
27 ESTABLISHING THE STRANDED COST FOR A COOPERATIVE ELECTRIC UTILITY

1 SERVING PRIMARILY AT WHOLESALE, THE COMMISSION SHALL INCLUDE, AT  
2 A MINIMUM, UNECONOMIC ASSETS, ABOVE MARKET PURCHASED POWER COSTS,  
3 AND DEBT RELATED EXPENSES FOR NUCLEAR POWER PLANTS TO THE EXTENT  
4 THE EXPENSES WERE ASSIGNED TO CUSTOMERS IN THIS STATE BY EITHER  
5 THE COMMISSION OR THE FERC. THE STRANDED COSTS OF A COOPERATIVE  
6 ELECTRIC UTILITY SERVING PRIMARILY AT WHOLESALE AS ESTABLISHED BY  
7 THE COMMISSION MAY BE ASSESSED BY AND COLLECTED THROUGH ITS  
8 MEMBER COOPERATIVE OR COOPERATIVES.

9 (12) THE COMMISSION SHALL ALSO DETERMINE AN IMPLEMENTATION  
10 CHARGE THAT SHALL APPLY TO RETAIL CUSTOMERS OF A COOPERATIVE  
11 ELECTRIC UTILITY. THE IMPLEMENTATION CHARGE SHALL INCLUDE ALL  
12 COSTS ASSOCIATED WITH THE IMPLEMENTATION OF THIS SECTION.

13 (13) CHARGES ESTABLISHED UNDER SUBSECTIONS (10) THROUGH (12)  
14 MAY BE SUBJECT TO ANNUAL ADJUSTMENT IN A TRUE-UP PROCEEDING IN  
15 ACCORDANCE WITH SECTION 10E. THE COMMISSION MAY ADOPT A TRUE-UP  
16 PROCEEDING FOR COOPERATIVE ELECTRIC UTILITIES THAT IS BASED ON  
17 FINANCIAL RATIOS THAT WAIVES THE REQUIREMENT OF NOTICE AND  
18 HEARING.

19 (14) NOTWITHSTANDING SECTION 10E, A COOPERATIVE ELECTRIC  
20 UTILITY MAY DIVEST GENERATING ASSETS OR PURCHASE POWER CONTRACTS  
21 WITHOUT COMMISSION APPROVAL OR REVIEW.

22 (15) NO LATER THAN THE STARTING DATE FOR CUSTOMER CHOICE AS  
23 DETERMINED UNDER THIS SECTION, EACH COOPERATIVE ELECTRIC UTILITY  
24 SHALL FILE AN APPLICATION WITH THE COMMISSION TO UNBUNDLE ITS  
25 RATES. EACH SERVICE SHALL BE SEPARATELY IDENTIFIED AND CHARGED.

26 (16) THE DISCRETE SERVICES AND CHARGES UNDER SUBSECTION (15)  
27 SHALL INCLUDE, AT A MINIMUM, CUSTOMER ACCOUNT SERVICES AND

1 CHARGES, DISTRIBUTION SERVICES AND CHARGES, TRANSMISSION SERVICES  
2 AND CHARGES, GENERATION SERVICES AND CHARGES, AND TRANSITION  
3 CHARGES.

4 (17) EXCEPT AS REQUIRED UNDER SUBSECTION (18), RESIDENTIAL  
5 RATE SCHEDULES, ONCE UNBUNDLED, MAY, AT THE OPTION OF THE COOPER-  
6 ATIVE ELECTRIC UTILITY, BE SEPARATELY STATED OR COMBINED FOR RES-  
7 IDENTIAL BILLING PURPOSES FOR CUSTOMERS THAT CONTINUE TO TAKE  
8 BUNDLED SERVICE FROM THE COOPERATIVE ELECTRIC UTILITY. THE TAR-  
9 IFFS SHALL CONTINUE TO LIST ALL CHARGES SEPARATELY.

10 (18) ALL COMPETITIVE SERVICES OFFERED BY A COOPERATIVE ELEC-  
11 TRIC UTILITY SHALL BE CHARGED SEPARATELY FROM NONCOMPETITIVE  
12 SERVICES.

13 (19) THE COMMISSION SHALL REQUIRE COOPERATIVE ELECTRIC UTIL-  
14 ITIES TO SUBMIT RATE UNBUNDLING FILINGS IN A FORM SPECIFIED BY  
15 THE COMMISSION. THE COMMISSION SHALL REVIEW THE FILINGS AND,  
16 AFTER NOTICE AND HEARING, RENDER A DETERMINATION AS TO THE APPRO-  
17 PRIATE, UNBUNDLED RATES CONSISTENT WITH THIS ACT. IF APPLICABLE,  
18 THE COMMISSION SHALL ASSURE THAT THE JURISDICTIONAL ALLOCATION OF  
19 TRANSMISSION AND DISTRIBUTION PLANT AND COSTS ARE ACCEPTABLE TO  
20 THE FERC.

21 (20) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS ACT, A  
22 COOPERATIVE ELECTRIC UTILITY MAY FILE AN APPLICATION TO ADJUST  
23 ITS RATES IN CONJUNCTION WITH THE RATE UNBUNDLING FILING REQUIRED  
24 UNDER THIS SECTION. THE RATES IMPLEMENTED AS A RESULT OF THIS  
25 SUBSECTION MAY, IF APPROPRIATE, RESULT IN REALLOCATION OF UTILITY  
26 COST RESPONSIBILITY BETWEEN OR AMONG DIFFERENT CLASSES OF  
27 CUSTOMERS AS IN ANY GENERAL RATE FILING.

1 (21) A COOPERATIVE ELECTRIC UTILITY SHALL USE BEST EFFORTS  
2 TO PROVIDE STANDBY SERVICE TO ITS CUSTOMER MEMBERS WHO HAVE  
3 CHOSEN AN ALTERNATIVE ELECTRIC SUPPLIER. THE RATE FOR STANDBY  
4 SERVICE PROVIDED SHALL BE THE TOP INCREMENTAL COST INCURRED BY  
5 THE COOPERATIVE ELECTRIC UTILITY TO PURCHASE OR OTHERWISE PROVIDE  
6 THE STANDBY SERVICE FOR THE CUSTOMER MEMBERS. THE TARIFFS FOR  
7 STANDBY SERVICE SHALL DETAIL THE APPROPRIATE CHARGES AND FEES,  
8 AND MAY INCLUDE AN APPROPRIATE MARGIN. THE COMMISSION MAY ISSUE  
9 ORDERS OR ADOPT RULES FOR COOPERATIVE ELECTRIC UTILITIES REGARD-  
10 ING STANDBY SERVICE THAT TAKE INTO CONSIDERATION THE WHOLESALE  
11 POWER PURCHASE AGREEMENTS ENTERED INTO BY COOPERATIVE ELECTRIC  
12 UTILITIES. FOR GOOD CAUSE SHOWN, THE COMMISSION MAY EXEMPT A  
13 COOPERATIVE ELECTRIC UTILITY FROM THE REQUIREMENT TO PROVIDE  
14 STANDBY SERVICE.

15 (22) FOR PURPOSES OF SECTION 10H, A COOPERATIVE ELECTRIC  
16 UTILITY SERVING PRIMARILY AT WHOLESALE SHALL NOT BE CONSIDERED AN  
17 AFFILIATED COMPETITIVE PROVIDER OF ITS MEMBER COOPERATIVE ELEC-  
18 TRIC UTILITIES.

19 (23) THE COMMISSION MAY ISSUE ORDERS OR ADOPT RULES TO  
20 IMPLEMENT THE REQUIREMENTS OF SECTION 10H AS THEY PERTAIN TO  
21 COOPERATIVE ELECTRIC UTILITIES. A COOPERATIVE ELECTRIC UTILITY  
22 IS NOT REQUIRED TO PHYSICALLY OR ORGANIZATIONALLY SEPARATE ITS  
23 FACILITIES OR ITS PERSONNEL OR BE PRECLUDED FROM PROVIDING COM-  
24 PETITIVE ELECTRIC SERVICE TO ITS MEMBERS.

25 (24) IF IT WILL NOT UNDULY HARM THE COMPETITIVE MARKET, THE  
26 COMMISSION SHALL EXEMPT A COOPERATIVE ELECTRIC UTILITY FROM 1 OR  
27 MORE OF THE PROVISIONS OF SECTION 10H.

1 (25) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, A  
2 COOPERATIVE ELECTRIC UTILITY SHALL RETAIN THE RIGHT AT ALL TIMES  
3 TO BILL ITS MEMBERS DIRECTLY FOR ALL SERVICES RENDERED TO ITS  
4 MEMBERS BY THE COOPERATIVE ELECTRIC UTILITY. THE COMMISSION MAY  
5 ADOPT RULES TO IMPLEMENT THIS SUBSECTION.

6 (26) COOPERATIVE ELECTRIC UTILITIES ARE EXEMPT FROM SECTION  
7 10R.

8 SEC. 10Y. CONTRACTS ENTERED INTO BY REGULATED SERVICE PRO-  
9 VIDERS AND CUSTOMERS OR ALTERNATIVE ELECTRIC SUPPLIERS UNDER COM-  
10 MISSION APPROVED DIRECT ACCESS PROGRAMS IN EFFECT BEFORE THE  
11 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION  
12 SHALL REMAIN IN EFFECT FOR THE TERM OF THE CONTRACTS.

13 SEC. 10Z. AS USED IN THIS ACT:

14 (A) "AFFILIATE" MEANS A PERSON OR ENTITY THAT DIRECTLY, OR  
15 INDIRECTLY THROUGH 1 OR MORE INTERMEDIATES, CONTROLS, IS CON-  
16 TROLLED BY, OR IS UNDER COMMON CONTROL WITH ANOTHER SPECIFIED  
17 ENTITY. AS USED IN THIS SUBDIVISION, "CONTROL" MEANS, WHETHER  
18 THROUGH AN OWNERSHIP, BENEFICIAL, CONTRACTUAL, OR EQUITABLE  
19 INTEREST, THE POSSESSION, DIRECTLY OR INDIRECTLY, OF THE POWER TO  
20 DIRECT OR TO CAUSE THE DIRECTION OF THE MANAGEMENT OR POLICIES OF  
21 A PERSON OR ENTITY OR THE OWNERSHIP OF AT LEAST 10% OF AN ENTITY  
22 EITHER DIRECTLY OR INDIRECTLY.

23 (B) "AFFILIATE WHEELING" MEANS A PERSON'S USE OF DIRECT  
24 ACCESS SERVICE WHERE A REGULATED SERVICE PROVIDER DELIVERS ELEC-  
25 TRICITY GENERATED AT A PERSON'S INDUSTRIAL SITE TO THAT PERSON OR  
26 THAT PERSON'S AFFILIATE AT A LOCATION WITHIN THIS STATE THAT WAS,  
27 FOR AT LEAST 90 DAYS DURING THE PERIOD FROM JANUARY 1, 1996 TO

1 OCTOBER 1, 1999, SUPPLIED BY SELF-SERVICE POWER, BUT ONLY TO THE  
2 EXTENT OF THE LOAD SERVED BY SELF-SERVICE POWER DURING THE  
3 PERIOD. A PERSON ENGAGING IN AFFILIATE WHEELING IS NOT AN ELEC-  
4 TRIC SUPPLIER, A REGULATED SERVICE PROVIDER, OR A PUBLIC UTILITY  
5 OR CONDUCTING A PUBLIC UTILITY BUSINESS. FOR PURPOSES OF AFFILI-  
6 ATE WHEELING, AN AFFILIATE IS AN ENTITY THAT DIRECTLY OR INDI-  
7 RECTLY OWNS OR CONTROLS AT LEAST 50% OF ANOTHER ENTITY, OR THAT  
8 IS, DIRECTLY OR INDIRECTLY, AT LEAST 50% OWNED OR CONTROLLED BY  
9 ANOTHER ENTITY.

10 (C) "AGGREGATION" MEANS THE COMBINING OF ELECTRIC LOADS OF  
11 MULTIPLE RETAIL CUSTOMERS OR A SINGLE CUSTOMER WITH MULTIPLE  
12 SITES TO FACILITATE THE PROVISION OF ELECTRIC SERVICE TO SUCH  
13 CUSTOMERS.

14 (D) "ALTERNATIVE ELECTRIC SUPPLIER" MEANS A PERSON OTHER  
15 THAN A REGULATED SERVICE PROVIDER SELLING ELECTRIC GENERATION  
16 SERVICE TO RETAIL CUSTOMERS IN THIS STATE.

17 (E) "COMMERCIAL CONTROL" MEANS THE ABILITY TO CONTROL DECI-  
18 SIONS CONCERNING THE PRICING AND MARKETING OF GENERATING  
19 CAPACITY.

20 (F) "COMPETITIVE SUPPLIER" MEANS AN ENTITY THAT MARKETS  
21 ELECTRICITY OR ENERGY CONSUMPTION-RELATED SERVICES AT RETAIL OR  
22 WHOLESALE ON AN UNREGULATED BASIS. ENERGY CONSUMPTION-RELATED  
23 SERVICES DO NOT INCLUDE SERVICES RELATED TO THE DELIVERY OF ELEC-  
24 TRICITY, INCLUDING, BUT NOT LIMITED TO, CONSTRUCTION, TESTING, OR  
25 REPAIR SERVICES.

1 (G) "CONTESTED CASE" MEANS A CONTESTED CASE PROCEEDING UNDER  
2 THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL  
3 24.201 TO 24.328.

4 (H) "COOPERATIVE ELECTRIC UTILITY" MEANS AN ELECTRIC UTILITY  
5 ORGANIZED AS A COOPERATIVE CORPORATION UNDER 1931 PA 327, MCL  
6 450.98 TO 450.192.

7 (I) "CUSTOMER ACCOUNT SERVICE" MEANS BILLING AND COLLECTION,  
8 PROVISION OF A METER, METER MAINTENANCE AND TESTING, METER READ-  
9 ING, AND OTHER ADMINISTRATIVE ACTIVITY ASSOCIATED WITH MAINTAIN-  
10 ING A CUSTOMER ACCOUNT.

11 (J) "DISTRIBUTED GENERATION" MEANS THE USE OF ELECTRIC GEN-  
12 ERATION OWNED BY A CUSTOMER IN CONJUNCTION WITH ELECTRICITY  
13 DELIVERED THROUGH THE DISTRIBUTION SYSTEM OF AN ELECTRIC  
14 UTILITY.

15 (K) "ELECTRIC GENERATION SERVICE" MEANS THE SALE OF ELECTRIC  
16 POWER AND RELATED ANCILLARY SERVICES, BUT DOES NOT INCLUDE THE  
17 PROVISION OF REGULATED SERVICE. A PROVIDER OF ELECTRIC GENERA-  
18 TION SERVICE IS NOT A PUBLIC UTILITY.

19 (L) "ELECTRIC SUPPLIER" MEANS A PERSON SELLING ELECTRIC GEN-  
20 ERATION SERVICE TO RETAIL CUSTOMERS IN THIS STATE.

21 (M) "ELECTRIC UTILITY" MEANS A REGULATED PROVIDER OF ELEC-  
22 TRIC SERVICES BEFORE JANUARY 1, 2000.

23 (N) "FERC" MEANS THE FEDERAL ENERGY REGULATORY COMMISSION.

24 (O) "KILOWATT" OR "KW" MEANS 1,000 WATTS.

25 (P) "MEGAWATT" OR "MW" MEANS 1,000,000 WATTS.

1           (Q) "NETTING" MEANS THE SUM OF THE APPRAISED OR MARKET VALUE  
2 OF ALL GENERATION RELATED ASSETS, LESS THE NEXT BOOK VALUE OF  
3 THOSE GENERATION ASSETS.

4           (R) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION,  
5 ASSOCIATION, GOVERNMENTAL ENTITY, OR OTHER LEGAL ENTITY.

6           (S) "REGULATED SERVICE" MEANS THE TRANSMISSION AND DISTRIBU-  
7 TION SERVICES SUBJECT TO THE JURISDICTION OF THE COMMISSION THAT  
8 ARE PROVIDED BY AN ELECTRIC UTILITY. A REGULATED SERVICE PRO-  
9 VIDER IS A PUBLIC UTILITY.

10          (T) "SELF-SERVICE POWER" MEANS EITHER OF THE FOLLOWING:

11          (i) ELECTRICITY GENERATED AND CONSUMED AT A CONTIGUOUS  
12 INDUSTRIAL SITE OR SINGLE COMMERCIAL ESTABLISHMENT WITHOUT THE  
13 USE OF A REGULATED SERVICE PROVIDER'S TRANSMISSION AND DISTRIBU-  
14 TION SYSTEM.

15          (ii) ELECTRICITY GENERATED PRIMARILY BY THE USE OF  
16 BY-PRODUCT FUELS, INCLUDING WASTE WATER SOLIDS, AND THE ELECTRIC-  
17 ITY IS CONSUMED AS PART OF A CONTIGUOUS FACILITY, WITH THE USE OF  
18 A REGULATED SERVICE PROVIDER'S TRANSMISSION AND DISTRIBUTION  
19 SYSTEM, BUT ONLY IF THE POINT OR POINTS OF RECEIPT OF THE POWER  
20 WITHIN THE FACILITY ARE NOT GREATER THAN 3 MILES DISTANT FROM THE  
21 POINT OF GENERATION. A FACILITY WITH LOAD EXISTING ON THE EFFEC-  
22 TIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION THAT IS  
23 DIVIDED BY AN INLAND BODY OF WATER OR BY A PUBLIC HIGHWAY, ROAD,  
24 OR STREET BUT THAT OTHERWISE MEETS THIS DEFINITION MEETS THE CON-  
25 TIGUOUS REQUIREMENT OF THIS SUBDIVISION.

26          (U) "WORKER TRANSITION PROGRAM" MEANS A PROGRAM DEVELOPED  
27 AFTER CONSULTATION WITH EMPLOYEES OR, WHERE APPLICABLE,

1 COLLECTIVE BARGAINING UNITS, TO PROVIDE SKILLS UPGRADES,  
2 APPRENTICESHIP AND TRAINING PROGRAMS, VOLUNTARY SEPARATION PACK-  
3 AGES CONSISTENT WITH REASONABLE BUSINESS PRACTICES, AND JOB BANKS  
4 TO COORDINATE AND ASSIST PLACEMENT OF EMPLOYEES INTO COMPARABLE  
5 EMPLOYMENT AT NOT LESS THAN THE WAGE RATES AND SUBSTANTIALLY  
6 EQUIVALENT FRINGE BENEFITS RECEIVED BEFORE SEPARATION.