

# SENATE BILL No. 1263

May 11, 2000, Introduced by Senators DINGELL, HOFFMAN and DUNASKISS 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 adding sections 10p and 10q.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 SEC. 10P. (1) THE COMMISSION SHALL REQUIRE THAT EACH ELEC-
- 2 TRIC UTILITY OPERATING IN THIS STATE ESTABLISH AN INDUSTRY WORKER
- 3 TRANSITION PROGRAM THAT SHALL, IN CONSULTATION WITH EMPLOYEES OR
- 4 APPLICABLE COLLECTIVE BARGAINING REPRESENTATIVES, PROVIDE SKILLS

1 UPGRADES, APPRENTICESHIP AND TRAINING PROGRAMS, VOLUNTARY  
2 SEPARATION PACKAGES CONSISTENT WITH REASONABLE BUSINESS PRAC-  
3 TICES, AND JOB BANKS TO COORDINATE AND ASSIST PLACEMENT OF  
4 EMPLOYEES INTO COMPARABLE EMPLOYMENT AT NO LESS THAN THE WAGE  
5 RATES AND SUBSTANTIALLY EQUIVALENT FRINGE BENEFITS RECEIVED  
6 BEFORE THE TRANSITION.

7       (2) STRANDED COSTS SHALL INCLUDE AUDITED AND VERIFIED  
8 EMPLOYEE-RELATED RESTRUCTURING COSTS THAT ARE INCURRED AS A  
9 RESULT OF THE AMENDATORY ACT THAT ADDED THIS SECTION, INCLUDING  
10 EMPLOYEE SEVERANCE COSTS, EMPLOYEE RETRAINING PROGRAMS, EARLY  
11 RETIREMENT PROGRAMS, OUTPLACEMENT PROGRAMS, AND SIMILAR COSTS AND  
12 PROGRAMS, THAT HAVE BEEN APPROVED AND FOUND TO BE PRUDENTLY  
13 INCURRED BY THE COMMISSION.

14       (3) IN THE EVENT OF A SALE, PURCHASE, OR ANY OTHER TRANSFER  
15 OF OWNERSHIP OF 1 OR MORE MICHIGAN DIVISIONS OR BUSINESS UNITS,  
16 OR GENERATING STATIONS OR GENERATING UNITS, OF AN ELECTRIC UTILI-  
17 TY, TO EITHER A THIRD PARTY OR A UTILITY SUBSIDIARY, THE ELECTRIC  
18 UTILITY'S CONTRACT AND AGREEMENTS WITH THE ACQUIRING ENTITY OR  
19 PERSONS SHALL REQUIRE ALL OF THE FOLLOWING:

20       (A) THAT THE ACQUIRING ENTITY OR PERSONS HIRE A SUFFICIENT  
21 NUMBER OF NONSUPERVISORY EMPLOYEES TO SAFELY AND RELIABLY OPERATE  
22 AND MAINTAIN THE STATION, DIVISION, OR UNIT BY MAKING OFFERS OF  
23 EMPLOYMENT TO THE NONSUPERVISORY WORKFORCE OF THE ELECTRIC  
24 UTILITY'S DIVISION, BUSINESS UNIT, GENERATING STATION, OR GENER-  
25 ATING UNIT.

26       (B) THAT THE ACQUIRING ENTITY OR PERSONS NOT EMPLOY  
27 NONSUPERVISORY EMPLOYEES FROM OUTSIDE THE ELECTRIC UTILITY'S

1 WORKFORCE UNLESS OFFERS OF EMPLOYMENT HAVE BEEN MADE TO ALL  
2 QUALIFIED NONSUPERVISORY EMPLOYEES OF THE ELECTRIC UTILITY.

3 (C) THAT THE ACQUIRING ENTITY OR PERSONS HAVE A DISPUTE RES-  
4 OLUTION MECHANISM CULMINATING IN A FINAL AND BINDING DECISION BY  
5 A NEUTRAL THIRD PARTY FOR RESOLVING EMPLOYEE COMPLAINTS OR DIS-  
6 PUTES OVER WAGES, FRINGE BENEFITS, AND WORKING CONDITIONS.

7 (D) THAT THE ACQUIRING ENTITY OR PERSONS OFFER EMPLOYMENT AT  
8 NO LESS THAN THE WAGE RATES AND SUBSTANTIALLY EQUIVALENT FRINGE  
9 BENEFITS AND TERMS AND CONDITIONS OF EMPLOYMENT THAT ARE IN  
10 EFFECT AT THE TIME OF TRANSFER OF OWNERSHIP OF THE DIVISION,  
11 BUSINESS UNIT, GENERATING STATION, OR GENERATING UNIT. THE WAGE  
12 RATES AND SUBSTANTIALLY EQUIVALENT FRINGE BENEFITS AND TERMS AND  
13 CONDITIONS OF EMPLOYMENT SHALL CONTINUE FOR AT LEAST 30 MONTHS  
14 FROM THE TIME OF THE TRANSFER OF OWNERSHIP UNLESS THE EMPLOYEES,  
15 OR WHERE APPLICABLE COLLECTIVE BARGAINING REPRESENTATIVE, AND THE  
16 NEW EMPLOYER MUTUALLY AGREE TO DIFFERENT TERMS AND CONDITIONS OF  
17 EMPLOYMENT WITHIN THAT 30-MONTH PERIOD.

18 (4) THE ELECTRIC UTILITY SHALL OFFER A TRANSITION PLAN TO  
19 THOSE EMPLOYEES WHO ARE NOT OFFERED JOBS BY THE ENTITY BECAUSE  
20 THE ENTITY HAS A NEED FOR FEWER WORKERS. IF THERE IS LITIGATION  
21 CONCERNING THE SALE, OR OTHER TRANSFER OF OWNERSHIP OF THE ELEC-  
22 TRIC UTILITY'S DIVISIONS, BUSINESS UNITS, GENERATING STATIONS, OR  
23 GENERATING UNITS, THE 30-MONTH PERIOD UNDER SUBSECTION (3) WILL  
24 BEGIN ON THE DATE THE ACQUIRING ENTITY OR PERSONS TAKE CONTROL OR  
25 MANAGEMENT OF THE DIVISIONS, BUSINESS UNITS, GENERATING STATIONS,  
26 OR GENERATING UNITS OF THE ELECTRIC UTILITY.

1           (5) THE COMMISSION SHALL ADOPT GENERALLY APPLICABLE SERVICE  
2 QUALITY AND RELIABILITY STANDARDS FOR THE TRANSMISSION AND  
3 DISTRIBUTION SYSTEMS OF ELECTRIC UTILITIES AND OTHER ENTITIES  
4 SUBJECT TO ITS JURISDICTION AND IN CONJUNCTION WITH ANY PER-  
5 FORMANCE RATE MAKING PLAN IMPLEMENTED, INCLUDING, BUT NOT LIMITED  
6 TO, STANDARDS FOR CUSTOMER SATISFACTION, SERVICE OUTAGES, DISTRI-  
7 BUTION FACILITY UPGRADES, REPAIRS AND MAINTENANCE, TELEPHONE  
8 SERVICE, BILLING SERVICE, AND PUBLIC AND WORKER SAFETY. IN SET-  
9 TING SERVICE QUALITY AND RELIABILITY STANDARDS, THE COMMISSION  
10 SHALL CONSIDER SAFETY, COSTS, LOCAL GEOGRAPHY AND WEATHER, APPLI-  
11 CABLE CODES, NATIONAL ELECTRIC INDUSTRY PRACTICES, SOUND ENGI-  
12 NEERING JUDGMENT, AND EXPERIENCE. THE COMMISSION SHALL ALSO  
13 ADOPT STANDARDS FOR OPERATIONAL RELIABILITY AND SAFETY DURING  
14 PERIODS OF EMERGENCY OPERATIONS. IN CONNECTION WITH ANY PER-  
15 FORMANCE BASED RATE MAKING PLAN, THE SERVICE QUALITY AND RELI-  
16 ABILITY STANDARDS SHALL INCLUDE BENCHMARKS FOR EMPLOYEE STAFF  
17 LEVELS AND EMPLOYEE TRAINING PROGRAMS.

18           (6) IN COMPLYING WITH THE SERVICE QUALITY AND RELIABILITY  
19 STANDARDS AND EMPLOYEE BENCHMARKS ESTABLISHED UNDER THIS SECTION,  
20 A JURISDICTIONAL ENTITY THAT MAKES A PERFORMANCE BASED RATING  
21 FILING AFTER THE EFFECTIVE DATE OF THE ACT THAT ADDED THIS SEC-  
22 TION SHALL NOT BE ALLOWED TO ENGAGE IN LABOR DISPLACEMENT OR  
23 REDUCTIONS BELOW STAFFING LEVELS IN EXISTENCE ON JANUARY 1, 2000,  
24 UNLESS ALLOWED BY A COLLECTIVE BARGAINING AGREEMENT OR AGREEMENTS  
25 BETWEEN THE ENTITY AND THE APPLICABLE ORGANIZATION OR ORGANIZA-  
26 TIONS REPRESENTING THE WORKERS, OR WITH THE APPROVAL OF THE  
27 COMMISSION FOLLOWING NOTICE AND HEARING AT WHICH THE BURDEN SHALL

1 BE UPON THE ENTITY TO DEMONSTRATE THAT THE STAFFING REDUCTIONS  
2 WOULD NOT ADVERSELY DISRUPT SERVICE QUALITY AND RELIABILITY STANDARDS AS ESTABLISHED BY THE COMMISSION. THIS PARAGRAPH DOES NOT  
3 PREVENT REDUCTION OF FORCES BELOW THE JANUARY 1, 2000 LEVEL  
4 THROUGH EARLY RETIREMENT AND SEVERANCES NEGOTIATED WITH LABOR  
5 ORGANIZATIONS.

7 (7) ANNUALLY, EACH JURISDICTIONAL UTILITY OR ENTITY SHALL  
8 FILE ITS PLAN WITH THE COMMISSION DETAILING THE INSPECTION, MAINTENANCE, REPAIR, AND REPLACEMENT ACTIONS TO BE TAKEN TO COMPLY  
9 WITH THE SERVICE QUALITY AND RELIABILITY STANDARDS DURING THE  
10 NEXT CALENDAR YEAR. EACH JURISDICTIONAL ENTITY SHALL FILE A  
11 REPORT WITH THE COMMISSION DETAILING ITS PERFORMANCE IN RELATION  
12 TO THE SERVICE QUALITY AND RELIABILITY STANDARDS DURING THE PRIOR  
13 CALENDAR YEAR. THE ANNUAL REPORTS SHALL CONTAIN OUTAGE DATA  
14 BASED ON A STANDARD OUTAGE REPORTING METHODOLOGY, INCLUDING, BUT  
15 NOT LIMITED TO, DATA AS TO THE NUMBER OF OUTAGES EXPERIENCED BY  
16 CUSTOMERS, THE LENGTH OF OUTAGES BASED ON SYSTEM AVERAGE INTERRUPTION FREQUENCY INDICES, SYSTEM AVERAGE INTERRUPTION DURATION  
17 INDICES, AND MOMENTARY AVERAGE INTERRUPTION FREQUENCY INDICES,  
18 THE TIME OF OUTAGES, OUTAGE SEVERITY, THE IMPACT OF WEATHER CONDITIONS ON OUTAGES, AND YEAR-TO-YEAR COMPARISONS.

22 (8) THE COMMISSION SHALL ANALYZE THE DATA TO DETERMINE  
23 WHETHER THE JURISDICTIONAL ENTITIES ARE PROPERLY OPERATING AND  
24 MAINTAINING THEIR SYSTEMS, ASSESS THE IMPACT OF DEREGULATION ON  
25 RELIABILITY, AND TAKE CORRECTIVE ACTION IF NEEDED.

26 (9) THE COMMISSION SHALL BE AUTHORIZED TO LEVY A PENALTY  
27 AGAINST ANY JURISDICTIONAL ENTITY WHICH FAILS TO MEET THE SERVICE

1 QUALITY AND RELIABILITY STANDARDS IN AN AMOUNT UP TO AND  
2 INCLUDING THE EQUIVALENT OF 2% OF ITS TRANSMISSION AND DISTRIBUTION  
3 SERVICE REVENUES FOR THE PRECEDING CALENDAR YEAR.

4 SEC. 10Q. (1) A PERSON SHALL NOT ENGAGE IN THE BUSINESS OF  
5 AN ELECTRIC SUPPLIER IN THIS STATE UNLESS THE PERSON OBTAINS AND  
6 MAINTAINS A LICENSE ISSUED UNDER THIS ACT.

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

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

10 (B) BE VERIFIED BY OATH OR AFFIRMATION.

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

12 (3) IN ADDITION TO ANY OTHER INFORMATION REQUIRED BY THE  
13 COMMISSION IN CONNECTION WITH A LICENSING APPLICATION, THE APPLICANT  
14 SHALL BE REQUIRED TO DO BOTH OF THE FOLLOWING:

15 (A) DISCLOSE WHETHER THE APPLICANT, ANY MEMBER OF ITS BOARD  
16 OF DIRECTORS, OR ANY OF ITS OFFICERS OR MANAGING AGENTS HAVE BEEN  
17 OR ARE THE SUBJECT OF ANY FEDERAL, STATE, OR LOCAL GOVERNMENT  
18 INVESTIGATION, LICENSE REVOCATION PROCEEDING OR LAWSUIT, OR ANY  
19 VIOLATIONS OR PENDING CHARGES CONCERNING ANY FEDERAL, STATE, OR  
20 LOCAL LAWS, CODES, RULES, OR REGULATIONS, WITHIN THE LAST 10  
21 YEARS.

22 (B) PROVIDE INFORMATION, INCLUDE INFORMATION AS TO THE  
23 APPLICANT'S SAFETY RECORD AND ITS HISTORY OF SERVICE QUALITY AND  
24 RELIABILITY, AS TO THE APPLICANT'S TECHNICAL ABILITY, AS DEFINED  
25 UNDER REGULATIONS OF THE COMMISSION, TO SAFELY AND RELIABLY GENERATE  
26 OR OTHERWISE OBTAIN AND DELIVER ELECTRICITY AND PROVIDE ANY  
27 OTHER PROPOSED SERVICES.

1 (4) THE COMMISSION SHALL REQUIRE, BY REGULATION OR ORDER,  
2 THE FOLLOWING BEFORE ISSUING A LICENSE:

3 (A) REQUIRE PROOF OF FINANCIAL INTEGRITY.

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

8 (C) REQUIRE A LICENSEE OR APPLICANT TO DO ALL OF THE  
9 FOLLOWING:

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

12 (ii) AGREE TO BE SUBJECT TO ALL APPLICABLE TAXES OF THE  
13 STATE.

14 (iii) COLLECT AND REMIT TO LOCAL UNITS OF GOVERNMENT ALL  
15 APPLICABLE USE TAX.

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 (5) EACH ELECTRIC SUPPLIER SHALL DEMONSTRATE TO THE COMMIS-  
20 SION THE COMPETENCE OF ITS EMPLOYEES TO WORK IN THE ELECTRIC  
21 INDUSTRY IN ORDER TO OBTAIN AND MAINTAIN AN ELECTRIC SUPPLIER  
22 LICENSE. THE KNOWLEDGE, SKILL, AND COMPETENCE LEVELS TO BE  
23 DEMONSTRATED SHALL BE CONSISTENT WITH THOSE GENERALLY REQUIRED OF  
24 OR BY THE ELECTRIC UTILITIES IN THIS STATE WITH RESPECT TO THEIR  
25 EMPLOYEES. ADEQUATE DEMONSTRATION OF NECESSARY KNOWLEDGE, SKILL,  
26 AND COMPETENCE SHALL REQUIRE A SHOWING OF FACTORS INCLUDING  
27 COMPLETION BY THE EMPLOYEE OF AN ACCREDITED OR OTHERWISE

1 RECOGNIZED APPRENTICESHIP PROGRAM FOR THE PARTICULAR CRAFT,  
2 TRADE, OR SKILL OR SPECIFIED YEARS OF EMPLOYMENT WITH AN ELECTRIC  
3 UTILITY PERFORMING A PARTICULAR WORK FUNCTION.

4       (6) TO IMPLEMENT REQUIREMENTS OF SUBSECTION (5), THE COMMIS-  
5 SION, IN DETERMINING THAT AN APPLICANT MEETS THE STANDARDS FOR  
6 LICENSING AS AN ELECTRIC SUPPLIER, SHALL REQUIRE IN ADDITION TO  
7 ANY OTHER LICENSING REQUIREMENTS THAT THE APPLICANT DEMONSTRATE  
8 THAT THE EMPLOYEES OF THE APPLICANT THAT WILL BE INSTALLING,  
9 OPERATING, AND MAINTAINING GENERATION, TRANSMISSION, OR DISTRIBUTION  
10 FACILITIES WITHIN THIS STATE, OR ANY ENTITY WITH WHICH THE  
11 APPLICANT HAS CONTRACTED TO PERFORM THOSE FUNCTIONS WITHIN THIS  
12 STATE, HAVE THE REQUISITE KNOWLEDGE, SKILLS, AND COMPETENCE TO  
13 PERFORM THOSE FUNCTIONS IN A SAFE AND RESPONSIBLE MANNER IN ORDER  
14 TO PROVIDE SAFE AND RELIABLE SERVICE.

15       (7) IF AN APPLICANT COMPLIES WITH THE REQUIREMENTS OF SUB-  
16 SECTIONS (2) THROUGH (6), THE COMMISSION SHALL ISSUE A LICENSE TO  
17 ALLOW THE PERSON TO ENGAGE IN THE BUSINESS OF AN ELECTRIC  
18 SUPPLIER.

19       (8) A LICENSE ISSUED UNDER THIS SECTION MAY NOT BE TRANS-  
20 FERRED WITHOUT PRIOR COMMISSION APPROVAL. AN ALTERNATIVE ELEC-  
21 TRIC SUPPLIER SHALL NOT BE REQUIRED TO OBTAIN ANY CERTIFICATE,  
22 LICENSE, OR AUTHORIZATION OTHER THAN AS REQUIRED BY THIS  
23 SECTION. A LICENSED ALTERNATIVE ELECTRIC SUPPLIER IS NOT A  
24 PUBLIC UTILITY.

25       (9) IN ADDITION TO ANY OTHER PENALTIES PROVIDED BY THIS ACT  
26 OR LAW, IF THE COMMISSION FINDS, AFTER NOTICE AND HEARING, THAT



1 THERE HAS BEEN A VIOLATION OF THIS SECTION, IT MAY DO 1 OR MORE  
2 OF THE FOLLOWING:

3 (A) ISSUE A CEASE AND DESIST ORDER.

4 (B) ISSUE A PRELIMINARY CEASE AND DESIST ORDER IN THE SAME  
5 MANNER AS PROVIDED UNDER SECTION 100.

6 (C) ORDER THE PERSON TO PAY A FINE OF NOT LESS THAN  
7 \$10,000.00 OR MORE THAN \$50,000.00 PER DAY THAT THE PERSON IS IN  
8 VIOLATION OF THIS SECTION.

9 (D) ORDER THAT THE LICENSE BE REVOKED.

10 (10) THE COMMISSION SHALL ESTABLISH PROCEDURES WHICH GOVERN  
11 THE APPLICATION AND GRANTING OF LICENSES UNDER THIS SECTION  
12 WITHIN 60 DAYS OF THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT  
13 ADDED THIS SECTION. BEFORE THAT DATE, ELECTRIC SUPPLIERS WHO ARE  
14 PROVIDING ELECTRIC GENERATION SERVICE TO RETAIL CUSTOMERS IN THIS  
15 STATE OR WHO ARE ELIGIBLE TO PROVIDE ELECTRIC GENERATION SERVICE  
16 TO RETAIL CUSTOMERS IN THIS STATE UNDER COMMISSION APPROVED  
17 DIRECT ACCESS PROGRAMS IN EFFECT BEFORE THE EFFECTIVE DATE OF THE  
18 AMENDATORY ACT THAT ADDED THIS SECTION SHALL BE PERMITTED TO DO  
19 SO UNDER PREVIOUSLY EXISTING PROCEDURES AND STATUTES.