

**ELECTRIC UTILITIES: RECOVERY
OF SECURITY COSTS**

Senate Bill 1499 (Substitute H-5)
Sponsor: Rep. Mat Dunaskiss
Committee: Energy and Technology

Complete to 12-13-02

**A SUMMARY OF SENATE BILL 1499 (SUBSTITUTE H-5) AS REPORTED BY THE
HOUSE ENERGY AND TECHNOLOGY COMMITTEE 12-12-02**

Senate Bill 1499 would amend the Customer Choice and Electricity Reliability Act to allow certain electric utilities to apply to the Public Service Commission (PSC) to recover security costs mandated by federal or state regulators after September 11, 2001 or determined to be necessary by the PSC to provide reasonable security from an “act of terrorism”, as defined in the bill. Recovery could only be sought for costs incurred before January 1, 2006. The bill would also:

- specify application, notice, and hearing requirements for PSC approval of a "security recovery factor" (an unbundled charge to all retail customers except for customers of an alternative electric supplier);
- specify costs that the PSC could include in determining a security recovery factor; and
- provide for the confidentiality of certain utility records supplied to the PSC in the application process.

A more detailed description of the bill follows.

Enhanced security costs recovery. Under the bill, a “covered utility” could apply to the commission to recover “enhanced security costs” for an electric generating facility through a “security recover factor”. A “covered utility” would be defined as an “electric utility” subject either to the act’s rate freeze and rate cap provisions, which apply to electric utilities that had one million or more retail customers in Michigan on May 1, 2000, or to the rate freeze provisions of specific PSC orders in case numbers U-11181-R and U-12204. The act’s rate cap and freeze requirements would not apply to rates or charges authorized by the PSC under the bill.

(The act uses the definition of “electric utility” in Public Act 30 of 1995—i.e., a person, partnership, corporation, association, or other legal entity whose *transmission or distribution* of electricity the PSC regulates, not including a municipal utility.)

“Enhanced security costs” would be defined as a covered utility’s reasonable and prudent security costs of new and enhanced security measures incurred before January 1, 2006 for an electric generating facility that are required by federal or state regulatory security requirements issued after September 11, 2001 or determined to be necessary by the PSC to provide reasonable security from an “act of terrorism”. The term would include increases in the cost of insurance

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that are attributable to an increased terror-related risk and the costs of maintaining or restoring electric service following an act of terrorism.

"Security recovery factor" would mean an unbundled charge for retail customers who are not customers of alternative electric suppliers to recover enhanced security costs approved by the PSC.

"Act of terrorism" would mean a willful and deliberate act that met the following conditions:

- the act would be a violent felony under the laws of this state, whether or not committed in the state;
- the person (committing the act) knew or had reason to know the act was dangerous to human life; and
- the act was intended to intimidate or coerce a civilian population or influence or affect the conduct of government or a unit of government through intimidation or coercion.

Application, notice, and hearing. Within 60 days of the bill's effective date, the PSC would have to issue an order prescribing the form for the filing of an application for a "security recovery factor". If the PSC or its designee determined that a filing was incomplete, it would have to notify the utility within ten days of the filing.

The PSC would have to require that a covered utility publish notice of an application for a security recovery factor within 30 days of filing a complete application. The initial PSC hearing would have to be held within 20 days of publication of the notice in newspapers of general circulation in the utility's service territory. The PSC could issue an order approving, rejecting, or modifying the security recovery factor. If the PSC issued an order approving a security recovery factor, the order would have to be issued within 120 days of the initial PSC hearing.

Determination of security recovery factor. In determining the security recovery factor for a covered utility, the PSC could include only costs that it determined were reasonable and prudent and that were jurisdictionally assigned to the utility's retail customers in Michigan. The costs included would have to be net of any proceeds that had been or would be received from another source, including any applicable insurance settlements received by the utility or any grants or other emergency relief from federal, state, or local governmental agencies for the purpose of defraying enhanced security costs. In its order, the PSC would have to designate a period for recovery of enhanced security costs, including a reasonable return on the unamortized balance, over a period of not more than five years. The security factor could not be less than zero.

Confidentiality of records. Records or other information supplied by a utility in an application for recovery of security costs that described security measures, including emergency response plans, risk planning documents, threat assessments, domestic preparedness strategies, and other plans for responding to acts of terrorism, would not be subject to the Freedom of Information Act and would have to be treated as confidential by the PSC. The PSC would have

to issue protective orders that were necessary to protect the information that it found to be to be confidential.

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Analyst: J. Caver

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.