

# SENATE BILL No. 1498

(As amended by the Senate, December 4, 2002)

November 12, 2002, Introduced by Senators DUNASKISS, BYRUM and GAST and referred to the Committee on Technology and Energy.

A bill to allow for the recovery of certain costs by electric public utilities; to prescribe powers and duties of certain state agencies and officials; and to provide protection against the disclosure of certain information.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1. This act shall be known and may be cited as the  
2 "terrorism protection and cost recovery act of 2002".

3       Sec. 2. As used in this act:

4       (a) "Commission" means the Michigan public service commis-  
5 sion in the department of consumer and industry services.

6       (b) "Covered utility" means an electric utility subject to  
7 the rate freeze provisions of section 10d(1) of 1939 PA 3, MCL  
8 460.10d, the rate cap provisions of section 10d(2) of 1939 PA 3,  
9 MCL 460.10d, or the rate freeze provisions of commission orders  
10 in case numbers U-11181-R and U-12204.

1 (c) "Enhanced security costs" means reasonable and prudent  
2 costs of new and enhanced security measures incurred before  
3 January 1, 2006 for an electric generating facility by a covered  
4 utility that are required by federal or state regulatory security  
5 requirements issued after September 11, 2001 or determined to be  
6 necessary by the commission to provide reasonable and prudent secur-  
7 ity from terrorist attacks. Enhanced security costs include  
8 insurance and the costs of maintaining or restoring electric  
9 service following the result of an act of terrorism.

10 (d) "Security recovery factor" means a charge for all retail  
11 customers to recover enhanced security costs that have been  
12 incurred by a covered utility.

13 Sec. 3. (1) A covered utility shall recover enhanced security  
14 costs for an electric generating facility  
15 following application to the commission and the commission issu-  
16 ing an order approving reasonable and prudent costs.

17 (2) The commission shall require that notice of the applica-  
18 tion for a security recovery factor be published by the covered  
19 utility within 30 days of the filing of a complete application  
20 under section 4. The initial hearing shall be held within 20  
21 days of publication of notice in newspapers of general circula-  
22 tion in the service territory of the covered utility.

23 (3) Within 120 days of the initial hearing, the commission  
24 shall issue an order approving, rejecting, or modifying the  
25 security recovery factor. In determining the security recovery  
26 factor, the commission shall only include costs that the  
27 commission determines are reasonable and prudent and that are

1 jurisdictionally assigned to retail customers in this state. The  
2 costs included shall be net of any proceeds that have been or  
3 will be received from another source, including, but not limited  
4 to, any applicable insurance settlements received by the covered  
5 utility or any grants or other emergency relief from federal,  
6 state, or local governmental agencies for the purpose of defray-  
7 ing enhanced security costs. In its order, the commission shall  
8 designate a period for recovery of enhanced security costs,  
9 including a reasonable return on the unamortized balance, over a  
10 period not to exceed 5 years.

11       Sec. 4. Within 60 days of the effective date of this act,  
12 the commission shall by order prescribe the form for the filing  
13 of an application for a security recovery factor. If the commis-  
14 sion or its designee determines that a filing is incomplete, it  
15 shall notify the covered utility within 10 days of the filing.

16       Sec. 5. (1) Records or other information supplied by the  
17 utility in an application for recovery of security costs under  
18 section 3 that describe security measures, including, but not  
19 limited to, emergency response plans, risk planning documents,  
20 threat assessments, domestic preparedness strategies, and other  
21 plans for responding to acts of terrorism are not subject to the  
22 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246,  
23 and shall be treated as confidential by the commission.

24       (2) The commission shall issue such protective orders as are  
25 necessary to protect the information found by the commission to  
26 be confidential under this section.