

SENATE BILL No. 1331

July 1, 2004, Introduced by Senators HAMMERSTROM, PATTERSON, OLSHOVE and
BERNERO 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 provide for alternative energy suppliers; to provide for licensing; to include municipally owned utilities and other providers of energy under certain provisions of this act; 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 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 certain rate increases without notice and hearing; to qualify residential energy conservation programs permitted under state law for certain federal exemption; to create a fund; to provide for a restructuring of the manner in which energy is provided in this state; to encourage the utilization of resource recovery facilities; to prohibit certain acts and practices of providers of energy; to allow for the securitization of stranded costs; to reduce rates; to provide for appeals; to provide appropriations; to declare the effect and purpose of this act; to prescribe remedies and penalties; and to repeal acts and parts of acts,"

by amending sections 10a, 10b, 10s, and 10bb (MCL 460.10a, 460.10b, 460.10s, and 460.10bb), section 10a as amended by 2004 PA 88 and sections 10b, 10s, and 10bb as added by 2000 PA 141;

and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 10a. ~~—(1) No later than January 1, 2002, the~~
2 ~~commission shall issue orders establishing the rates, terms, and~~
3 ~~conditions of service that allow all retail customers of an~~
4 ~~electric utility or provider to choose an alternative electric~~
5 ~~supplier. The orders shall provide for full recovery of a~~
6 ~~utility's net stranded costs and implementation costs as~~
7 ~~determined by the commission.~~

8 ~~—— (2) The commission shall issue orders establishing a~~
9 ~~licensing procedure for all alternative electric suppliers. To~~
10 ~~ensure adequate service to customers in this state, the~~
11 ~~commission shall require that an alternative electric supplier~~
12 ~~maintain an office within this state, shall assure that an~~
13 ~~alternative electric supplier has the necessary financial,~~
14 ~~managerial, and technical capabilities, shall require that an~~
15 ~~alternative electric supplier maintain records which the~~
16 ~~commission considers necessary, and shall ensure an alternative~~
17 ~~electric supplier's accessibility to the commission, to~~
18 ~~consumers, and to electric utilities in this state. The~~
19 ~~commission also shall require alternative electric suppliers to~~
20 ~~agree that they will collect and remit to local units of~~
21 ~~government all applicable users, sales, and use taxes. An~~
22 ~~alternative electric supplier is not required to obtain any~~
23 ~~certificate, license, or authorization from the commission other~~
24 ~~than as required by this act.~~

25 (1) As used in sections 10 through 10gg:

1 (a) "Alternative electric service" means the provision of
2 electric generation service to customers by an alternative
3 electric supplier.

4 (b) "Alternative electric supplier" means a person, other
5 than an electric utility, selling alternative electric service to
6 retail customers in this state. Alternative electric supplier
7 does not include a person who physically delivers electricity
8 directly to retail customers in this state. An alternative
9 electric supplier is not a public utility.

10 (c) "Base rates" means the rates for tariff services approved
11 by the commission for the collection of an electric utility's
12 revenue requirement, excluding separate riders, surcharges
13 including securitization charges, environmental compliance
14 surcharges, low income and energy efficiency surcharges, and
15 decommissioning charges, special or negotiated contract rates,
16 retail open access service tariffs, and default supply service.

17 (d) "Commission" means the Michigan public service
18 commission.

19 (e) "Customer" means an individual, sole proprietorship,
20 partnership, corporation, association, governmental entity, or
21 other legal entity at a single location within the electric
22 utility's service area.

23 (f) "Electric utility" means that term as defined in section
24 2 of the electric transmission line certification act, 1995 PA
25 30, MCL 460.562.

26 (g) "Interim transition charge" means a charge to recover
27 transition charges for all years from 2002 through the effective

1 date of the amendatory act that added subsection (30) and any
2 accrued regulatory asset associated with the implementation of
3 retail open access as set forth in subsection (25).

4 (h) "Merchant plant" means electric generating equipment and
5 associated facilities with a capacity of more than 100 kilowatts
6 located in this state that are not owned and operated by an
7 electric utility.

8 (i) "Relevant market" means either the Upper Peninsula or the
9 Lower Peninsula of this state.

10 (j) "Renewable energy source" means energy generated by
11 solar, wind, geothermal, biomass, including waste-to-energy and
12 landfill gas, or hydroelectric.

13 (k) "Retail open access service" means those services
14 provided by the electric utility that are necessary in order for
15 the transmission and distribution systems to function so that
16 eligible customers located in the electric utility's service area
17 can receive alternative electric services and shall include,
18 without limitation, standard metering and billing.

19 (l) "Single location" means 1 meter, or multiple meters where
20 multiple meters measure electric service to a single building or
21 to multiple buildings that are either located on a single parcel
22 of land or which occupy immediate street frontages on the same
23 street or alley.

24 (m) "Tariff customer" means a customer receiving tariff
25 service from an electric utility.

26 (n) "Tariff service" means services provided to customers by
27 an electric utility as defined by its rates on file with the

1 commission, but shall not include alternative electric services
2 or default supply service.

3 (o) "Transition period" means the period beginning on the
4 effective date of the amendatory act that added subsection (30)
5 and continuing until such time as tariff rates for all classes of
6 customers produce equal rates of return as determined by the
7 commission or 120 months after the effective date of the
8 amendatory act that added subsection (30), whichever is longer.

9 (2) Customers purchasing electricity from the electric
10 utility as a tariff service on the effective date of the
11 amendatory act that added subsection (30) may continue to receive
12 tariff service, elect to receive an alternative electric service,
13 or receive default supply service.

14 (3) Customers purchasing an alternative electric service on
15 the effective date of the amendatory act that added subsection
16 (30) may return to tariff service when their existing agreement
17 expires if the customer notifies the electric utility no later
18 than December 31, 2004 of the customer's intent to return to
19 tariff service and returns to tariff service no later than
20 December 31, 2005.

21 (4) If a customer does not provide notice as required under
22 subsection (3) or elects to receive a alternative electric
23 service after the effective date of the amendatory act that added
24 subsection (30) and subsequently returns to electric utility
25 service, the customer shall do so under default supply service as
26 defined in section 10b(3).

27 (5) The commission shall issue orders establishing a

1 licensing procedure for all alternative electric suppliers. An
2 alternative electric supplier is not required to obtain any
3 certificate, license, or authorization from the commission other
4 than as required by this act. The commission shall require that
5 an alternative electric supplier maintain an office within this
6 state, assure that an alternative electric supplier has the
7 necessary financial, managerial, and technical capabilities,
8 require that an alternative electric supplier maintain records
9 which the commission considers necessary, and ensure an
10 alternative electric supplier's accessibility to the commission,
11 to customers, and to electric utilities in this state. The
12 commission also shall require alternative electric suppliers to
13 agree that they will collect and remit to local units of
14 government all applicable sales and use taxes. The commission
15 may audit all alternative electric suppliers' contracts to ensure
16 compliance with this act.

17 (6) ~~—(3)—~~ The commission shall issue orders to ensure that
18 customers in this state are not switched to another supplier or
19 billed for any services without the customer's consent.

20 (7) ~~—(4)—~~ No later than December 2, 2000, the commission
21 shall establish a code of conduct that shall apply to all
22 electric utilities. The code of conduct shall include, but is
23 not limited to, measures to prevent cross-subsidization,
24 information sharing, and preferential treatment, between a
25 utility's regulated and unregulated services, whether those
26 services are provided by the utility or the utility's affiliated
27 entities. The code of conduct established under this subsection

1 shall also be applicable to electric utilities and alternative
2 electric suppliers consistent with section 10, this section, and
3 sections 10b through ~~10ee~~ 10gg.

4 (8) ~~—(5)—~~ An electric utility may offer its customers an
5 appliance service program. Except as otherwise provided by this
6 section, the utility shall comply with the code of conduct
7 established by the commission under subsection ~~—(4)—~~ (7). As
8 used in this section, "appliance service program" or "program"
9 means a subscription program for the repair and servicing of
10 heating and cooling systems or other appliances.

11 (9) ~~—(6)—~~ A utility offering a program under subsection ~~—(5)—~~
12 (8) shall do all of the following:

13 (a) Locate within a separate department of the utility or
14 affiliate within the utility's corporate structure the personnel
15 responsible for the day-to-day management of the program.

16 (b) Maintain separate books and records for the program,
17 access to which shall be made available to the commission upon
18 request.

19 (c) Not promote or market the program through the use of
20 utility billing inserts, printed messages on the utility's
21 billing materials, or other promotional materials included with
22 customers' utility bills.

23 (10) ~~—(7)—~~ All costs directly attributable to an appliance
24 service program allowed under subsection ~~—(5)—~~ (8) shall be
25 allocated to the program as required by this subsection. The
26 direct and indirect costs of employees, vehicles, equipment,
27 office space, and other facilities used in the appliance service

1 program shall be allocated to the program based upon the amount
2 of use by the program as compared to the total use of the
3 employees, vehicles, equipment, office space, and other
4 facilities. The cost of the program shall include administrative
5 and general expense loading to be determined in the same manner
6 as the utility determines administrative and general expense
7 loading for all of the utility's regulated and unregulated
8 activities. A subsidy by a utility does not exist if costs
9 allocated as required by this subsection do not exceed the
10 revenue of the program.

11 (11) ~~—(8)—~~ A utility may include charges for its appliance
12 service program on its monthly billings to its customers if the
13 utility complies with all of the following requirements:

14 (a) All costs associated with the billing process, including
15 the postage, envelopes, paper, and printing expenses, are
16 allocated as required under subsection ~~—(7)—~~ (10).

17 (b) A customer's regulated utility service is not terminated
18 for nonpayment of the appliance service program portion of the
19 bill.

20 (c) Unless the customer directs otherwise in writing, a
21 partial payment by a customer is applied first to the bill for
22 regulated service.

23 (12) ~~—(9)—~~ In marketing its appliance service program to the
24 public, a utility shall do all of the following:

25 (a) The list of customers receiving regulated service from
26 the utility shall be available to a provider of appliance repair
27 service upon request within 2 business days. The customer list

1 shall be provided in the same electronic format as such
2 information is provided to the appliance service program. A new
3 customer shall be added to the customer list within 1 business
4 day of the date the customer requested to turn on service.

5 (b) Appropriately allocate costs as required under subsection
6 ~~—(7)—~~ (10) when personnel employed at a utility's call center
7 provide appliance service program marketing information to a
8 prospective customer.

9 (c) Prior to enrolling a customer into the program, the
10 utility shall inform the potential customer of all of the
11 following:

12 (i) That appliance service programs may be available from
13 another provider.

14 (ii) That the appliance service program is not regulated by
15 the commission.

16 (iii) That a new customer shall have 10 days after enrollment
17 to cancel his or her appliance service program contract without
18 penalty.

19 (iv) That the customer's regulated rates and conditions of
20 service provided by the utility are not affected by enrollment in
21 the program or by the decision of the customer to use the
22 services of another provider of appliance repair service.

23 (d) The utility name and logo may be used to market the
24 appliance service program provided that the program is not
25 marketed in conjunction with a regulated service. To the extent
26 that a program utilizes the utility's name and logo in marketing
27 the program, the program shall include language on all material

1 indicating that the program is not regulated by the commission.
2 Costs shall not be allocated to the program for the use of the
3 utility's name or logo.

4 (13) ~~—(10)—~~ This section does not prohibit the commission
5 from requiring a utility to include revenues from an appliance
6 service program in establishing base rates. If the commission
7 includes the revenues of an appliance service program in
8 determining a utility's base rates, the commission shall also
9 include all of the costs of the program as determined under this
10 section.

11 (14) ~~—(11)—~~ Except as otherwise provided in this section, the
12 code of conduct with respect to an appliance service program
13 shall not require a utility to form a separate affiliate or
14 division to operate an appliance service program, impose further
15 restrictions on the sharing of employees, vehicles, equipment,
16 office space, and other facilities, or require the utility to
17 provide other providers of appliance repair service with access
18 to utility employees, vehicles, equipment, office space, or other
19 facilities.

20 (15) ~~—(12)—~~ The orders issued by the commission before June
21 5, 2000 that allow customers of an electric utility to choose an
22 alternative electric supplier, including orders that determine
23 and authorize recovery of net stranded costs and implementation
24 costs and that confirm any voluntary commitments of electric
25 utilities, are in compliance with this act and enforceable by the
26 commission. An electric utility that has not had voluntary
27 commitments to provide customer choice previously approved by

1 orders of the commission shall file a restructuring plan to allow
2 customers to choose an alternative electric supplier no later
3 than the date ordered by the commission. The plan shall propose
4 a methodology to determine the electric utility's net stranded
5 costs and implementation costs.

6 (16) ~~—(13)—~~ This act does not prohibit or limit the right of
7 a person to obtain self-service power and does not impose a
8 transition, implementation, exit fee, or any other similar charge
9 on self-service power. A person using self-service power is not
10 an electric supplier, electric utility, or a person conducting an
11 electric utility business. As used in this subsection,
12 "self-service power" means any of the following:

13 (a) Electricity generated and consumed at an industrial site
14 or contiguous industrial site or single commercial establishment
15 or single residence without the use of an electric utility's
16 transmission and distribution system.

17 (b) Electricity generated primarily by the use of by-product
18 fuels, including waste water solids, which electricity is
19 consumed as part of a contiguous facility, with the use of an
20 electric utility's transmission and distribution system, but only
21 if the point or points of receipt of the power within the
22 facility are not greater than 3 miles distant from the point of
23 generation.

24 (c) A site or facility with load existing on June 5, 2000
25 that is divided by an inland body of water or by a public
26 highway, road, or street but that otherwise meets this definition
27 meets the contiguous requirement of this subdivision regardless

1 of whether self-service power was being generated on June 5,
2 2000.

3 (d) A commercial or industrial facility or single residence
4 that meets the requirements of subdivision (a) or (b) meets this
5 definition whether or not the generation facility is owned by an
6 entity different from the owner of the commercial or industrial
7 site or single residence.

8 (17) ~~—(14)—~~ This act does not prohibit or limit the right of
9 a person to engage in affiliate wheeling and does not impose a
10 transition, implementation, exit fee, or any other similar charge
11 on a person engaged in affiliate wheeling. As used in this
12 section:

13 (a) "Affiliate" means a person or entity that directly, or
14 indirectly through 1 or more intermediates, controls, is
15 controlled by, or is under common control with another specified
16 entity. As used in this subdivision, "control" means, whether
17 through an ownership, beneficial, contractual, or equitable
18 interest, the possession, directly or indirectly, of the power to
19 direct or to cause the direction of the management or policies of
20 a person or entity or the ownership of at least 7% of an entity
21 either directly or indirectly.

22 (b) "Affiliate wheeling" means a person's use of direct
23 access service where an electric utility delivers electricity
24 generated at a person's industrial site to that person or that
25 person's affiliate at a location, or general aggregated
26 locations, within this state that was either 1 of the following:

27 (i) For at least 90 days during the period from January 1,

1 1996 to October 1, 1999, supplied by self-service power, but only
2 to the extent of the capacity reserved or load served by
3 self-service power during the period.

4 (ii) Capable of being supplied by a person's cogeneration
5 capacity within this state that has had since January 1, 1996 a
6 rated capacity of 15 megawatts or less, was placed in service
7 before December 31, 1975, and has been in continuous service
8 since that date. A person engaging in affiliate wheeling is not
9 an electric supplier, an electric utility, or conducting an
10 electric utility business when a person engages in affiliate
11 wheeling.

12 (18) ~~—(15)—~~ The rights of parties to existing contracts and
13 agreements in effect as of January 1, 2000 between electric
14 utilities and qualifying facilities, including the right to have
15 the charges recovered from the customers of an electric utility,
16 or its successor, shall not be abrogated, increased, or
17 diminished by this act, nor shall the receipt of any proceeds of
18 the securitization bonds by an electric utility be a basis for
19 any regulatory disallowance. Further, any securitization or
20 financing order issued by the commission that relates to a
21 qualifying facility's power purchase contract shall fully
22 consider that qualifying facility's legal and financial
23 interests.

24 ~~—(16) The commission shall, after a contested case~~
25 ~~proceeding, issue annually an order approving for each electric~~
26 ~~utility a true-up adjustment to reconcile any overcollections or~~
27 ~~undercollections of the preceding 12 months to ensure the~~

~~1 recovery of all amounts of net stranded costs. The rates for
2 customers remaining with an incumbent electric utility will not
3 be affected by the true up process under this subsection. The
4 commission shall review the electric utility's stranded cost
5 recovery charges and securitization charges implemented for the
6 preceding 12 months, and adjust the stranded cost recovery
7 charge, by way of supplemental surcharges or credits, to allow
8 the netting of stranded costs.~~

~~9 (17) The commission shall consider the reasonableness and
10 appropriateness of various methods to determine net stranded
11 costs, including, but not limited to, all of the following:~~

~~12 (a) Evaluating the relationship of market value to the net
13 book value of generation assets and purchased power contracts.~~

~~14 (b) Evaluating net stranded costs based on the market price
15 of power in relation to prices assumed by the commission in prior
16 orders.~~

~~17 (c) Any other method the commission considers appropriate.~~

~~18 (18) The true up adjustment adopted under subsection (16)
19 shall not result in a modification to the securitization charge.~~

~~20 The commission shall not adjust or change in any manner
21 securitization charges authorized by the commission in a
22 financing order issued under section 10i as a result of its
23 review and any action taken under subsection (16).~~

~~24 (19) After the time period described in section 10d(2), the
25 rates for retail customers that remain with or leave and later
26 return to the incumbent electric utility shall be determined in
27 the same manner as the rates were determined before the effective~~

1 ~~date of this section.~~

2 (19) No later than 30 days after the effective date of the
3 amendatory act that added subsection (30), the electric utility
4 shall file all necessary tariffs and amendments to existing
5 service rules that establish the methodology for calculating
6 transition charges to be paid by each customer or group of
7 customers receiving alternative electric service or default
8 supply service. No later than 90 days after the effective date
9 of the amendatory act that added subsection (30), the commission
10 shall issue orders approving the tariffs and service rules, upon
11 a finding that the tariffs and service rules conform with this
12 section.

13 (20) An electric utility that is required to offer retail
14 open access service is entitled to collect transition charges
15 during the transition period. Customers receiving alternative
16 electric service or default supply service and customers
17 described in subsection (21) are required to pay the transition
18 charge. Customers obtaining self-service power or energy under
19 subsection (16) or engaging in affiliate wheeling under
20 subsection (17) are not required to pay a transition charge for
21 that portion of the power or energy considered to be self-service
22 power or affiliate wheeling. As used in this subsection,
23 "transition charge" means a charge or charges expressed in cents
24 per kilowatt hour or as otherwise provided under subsection (22)
25 that are calculated twice annually as follows:

26 (a) The amount of revenue that an electric utility would
27 receive from the customer or group of customers if it were

1 serving the customer's or group of customers' electric power and
2 energy requirements as a tariff service based on all of the
3 customer's actual usage during the 12 billing months ending 30
4 days preceding the 6-month period in which transition charges are
5 to be collected and on the base rates, any separate riders,
6 including any power supply cost recovery mechanisms, and any
7 surcharges, including, but not limited to, securitization
8 charges, environmental compliance surcharges, low income and
9 energy efficiency surcharges, and decommissioning charges in
10 effect 30 days preceding the 6-month period in which the
11 transition charges are to be collected.

12 (b) Less the amount of revenue, other than revenue from
13 transition charges, but including revenue from securitization
14 charges, environmental compliance surcharges, low income and
15 energy efficiency surcharges, decommissioning charges, and any
16 other surcharges, the electric utility would receive from the
17 customer or group of customers for retail open access services
18 provided by the electric utility, assuming the customer or group
19 of customers were taking retail open access services for all of
20 their usage, based on the retail open access services tariffs in
21 effect 30 days preceding the 6-month period in which the
22 transition charges are to be collected and on the usage
23 identified in subdivision (a).

24 (c) Less the amount of revenue for the transmission of
25 electricity, to the extent applicable, that the electric utility
26 would receive from the customer or group of customers if it were
27 serving the customer's or group of customers' electric power and

1 energy requirements as a tariff service in effect 30 days
2 preceding the 6-month period in which transition charges are to
3 be collected.

4 (d) Less an amount of revenue calculated by multiplying the
5 market value of energy by all of the customer's or group of
6 customers' actual usage during the 12 billing months ending 30
7 days preceding the 6-month period in which the transition charges
8 are to be collected. As used in this subdivision, "market value
9 of energy" means the forward market price for the subsequent
10 12-month period for the electric power and energy expressed in
11 cents per kilowatt hour that an electric utility would normally
12 buy from or sell into the regional wholesale electric market.
13 Until there is a viable, transparent market price for wholesale
14 electric energy in an electric utility's service territory, an
15 electric utility shall use an exchange or other market traded
16 index, options, or futures contracts or forward contracts that
17 reflect power and energy normally traded in the wholesale
18 electric market. The market value of energy shall be modified to
19 reflect an electric utility's internal system losses in the
20 transmission and distribution of electricity.

21 (e) Less a customer credit in an amount equal to 8% of the
22 amount produced by applying the base rates and any separate
23 riders including any power supply cost recovery mechanisms in
24 effect on January 1 of the year in which the transition charges
25 are to be collected.

26 (f) Divided by customer usage as calculated in subdivision
27 (a). The transition charge shall never be less than zero.

1 (21) An electric utility shall file tariffs that allow it to
2 collect transition charges from eligible customers in the
3 electric utility's service area that do not take retail open
4 access services but that take electric power or energy from an
5 alternative electric supplier or directly from a supplier of
6 electricity other than the electric utility in whose service area
7 the customer is located. The charges shall be calculated, in
8 accordance with the definition of transition charges in
9 subsection (22), for the period of time that the customer would
10 be obligated to pay transition charges if it were taking retail
11 open access services.

12 (22) The electric utility's tariff and service rules shall
13 establish the methodology for calculating transition charges for
14 each group of customers as defined by the electric utility. The
15 electric utility's tariffs may also provide for the calculation
16 of transition charges on a customer-specific basis for all
17 customers with a maximum demand of 1,000 kilowatts or greater at
18 a single location in the 12-month period immediately preceding
19 the date of establishing alternative electric service.

20 (23) An electric utility shall be entitled to add to the
21 bills of all customers receiving a alternative electric service
22 any commission-approved surcharges, including, but not limited
23 to, securitization charges, environmental compliance surcharges,
24 low income and energy efficiency surcharges, and decommissioning
25 charges.

26 (24) The transition charges collected under subsection (21)
27 shall not result in a modification to the securitization charge.

1 The commission shall not adjust or change securitization charges
2 authorized by the commission in a financing order issued under
3 section 10i as a result of its review and any action taken under
4 this section.

5 (25) An electric utility that provided retail open access
6 service during 2002 through the effective date of the amendatory
7 act that added subsection (30) shall be entitled to recover
8 transition charges for those years or partial years, and any
9 accrued regulatory assets as of the effective date of the
10 amendatory act that added subsection (30), through an "interim
11 transition charge". The interim transition charge shall be
12 calculated in the same manner as provided under subsection (20)
13 and be recovered from all customers during the transition
14 period. For purposes of calculating the interim transition
15 charge payment, the market value of energy to be utilized in
16 subsection (20)(d) shall be the actual market price of energy an
17 electric utility would have bought from or sold into the
18 wholesale electric market in 2002, and through the effective date
19 of the amendatory act that added subsection (30).

20 (26) In any proceeding to establish rates and charges for
21 tariff services or retail open access services, the commission
22 shall ensure that rates for such services are established at a
23 level that provides for full and complete recovery of all
24 reasonable and prudent costs.

25 (27) In establishing rates for tariff services, the
26 commission shall include all of the following reasonable and
27 prudent costs:

1 (a) Generation-related costs, investments, and cost of
2 capital necessary to serve the tariff customers' load, including
3 the costs associated with the electric utility maintaining a
4 minimum 15% reserve margin.

5 (b) Costs, investments, and costs of capital directly or
6 indirectly associated with the provision of the tariff services,
7 including, but not limited to, transmission, distribution, and
8 customer service.

9 (c) Costs associated with the electric utility's compliance
10 with decommissioning, environmental, low income and energy
11 efficiency, and securitization funding requirements.

12 (d) Any transition charge revenues collected by the electric
13 utility in establishing rates for tariff service under this
14 subsection.

15 (28) In establishing rates for retail open access services,
16 the commission shall include both of the following reasonable and
17 prudent costs:

18 (a) Costs, investments, and cost of capital directly or
19 indirectly associated with the provision of retail open access
20 services, including, but not limited to, transmission,
21 distribution, and customer service.

22 (b) Costs associated with the electric utility's compliance
23 with decommissioning, environmental, low income and energy
24 efficiency, and securitization funding requirements.

25 (29) In establishing rates under subsection (27) or (28), the
26 commission shall not consider any other revenues, costs,
27 investments, or costs of capital of the electric utility that are

1 not associated with the provision of tariff service or retail
2 open access service.

3 (30) During the transition period, the commission shall, on
4 its own motion or upon application by an electric utility,
5 initiate a proceeding to redesign its rates to eliminate any and
6 all subsidies in the cost of its providing service to its various
7 classes of customers. A motion or application under this section
8 shall require the electric utility to file testimony and exhibits
9 supporting its proposed rates for each customer class based on
10 fully allocated costs of service. The proposed rates shall be
11 designed so that all customer classes produce equal rates of
12 return. The commission shall require that notice of the
13 application filed under this subsection be published by the
14 electric utility within 30 days from the date the application was
15 filed. An order the commission issues approving redesigned rates
16 shall be issued within 180 days from the date the electric
17 utility filed its application.

18 Sec. 10b. (1) The commission shall establish rates, terms,
19 and conditions of electric service that promote and enhance the
20 development of new generation, transmission, and distribution
21 technologies.

22 (2) No later than ~~1 year~~ **90 days** from the effective date of
23 the amendatory act that added ~~this~~ section **10a(30)**, each
24 electric utility shall file an application, **based on its current**
25 **cost of service**, with the commission to unbundle its existing
26 ~~commercial and industrial~~ rate schedules and separately
27 identify and charge for their discrete services. ~~No earlier~~

1 ~~than 1 year from the effective date of the amendatory act that~~
2 ~~added this section, the commission may order the electric utility~~
3 ~~to file an application to unbundle existing residential rate~~
4 ~~schedules. The commission may allow the unbundled rates to be~~
5 ~~expressed on residential billings in terms of percentages in~~
6 ~~order to simplify residential billing. The commission shall~~
7 ~~require that notice of the application be published by the~~
8 ~~electric utility within 30 days from the date the application was~~
9 ~~filed. The commission shall issue its order unbundling the~~
10 ~~electric utility's rate schedules no later than December 31,~~
11 ~~2005. The commission shall allow recovery by electric utilities~~
12 ~~of all just and reasonable costs incurred by electric utilities~~
13 ~~to implement and administer the provisions of this subsection.~~
14 ~~(3) The orders issued under this act shall include, but are~~
15 ~~not limited to, the providing of reliable and lower cost~~
16 ~~competitive rates for all customers in this state.~~
17 ~~—— (4) An electric utility is obligated, with commission~~
18 ~~oversight, to provide standby generation service for open access~~
19 ~~load on a best efforts basis until December 31, 2001 or the date~~
20 ~~established under section 10d(2), whichever is later. The~~
21 ~~pricing for the electric generation standby service is equal to~~
22 ~~the retail market price of comparable standby service allowed~~
23 ~~under subsection (5). An electric utility is not required to~~
24 ~~interrupt firm off system sales or firm service customers to~~
25 ~~provide standby generation service. Until the date established~~
26 ~~under section 10d(2), standby generation service shall continue~~
27 ~~to be provided to nonopen access customers under regulated~~

1 tariffs.

2 ~~—— (5) The methodology for identifying the retail market price~~
3 ~~for electric generation service to be applied under this section~~
4 ~~shall be determined by the commission based upon market indices~~
5 ~~commonly relied upon in the electric generation industry,~~
6 ~~adjusted as appropriate to reflect retail market prices in the~~
7 ~~relevant market.~~

8 (3) Within 30 days of the effective date of the amendatory
9 act that added section 10a(30), each electric utility shall file
10 a tariff or tariffs that provide eligible customers of an
11 electric utility the ability to receive default supply service.
12 As used in this subsection, "default supply service" means
13 electric energy procured in the wholesale electric market. The
14 price of the default supply service shall include an electric
15 utility's actual cost of obtaining the electric energy, retail
16 open access tariff charges, and other applicable charges,
17 including transition charges. The commission shall approve the
18 tariff or tariffs within 90 days of the effective date of the
19 amendatory act that added section 10a(30). An electric utility's
20 only obligation is to use reasonable efforts to procure energy
21 for the provision of default supply service.

22 Sec. 10s. (1) The commission shall monitor the extent to
23 which federal funds are available for low-income and energy
24 assistance programs. If there is a reduction in the amount of
25 the federal funds available to residents in this state, the
26 commission shall conduct a hearing to determine the amount of
27 funds available and the need, if any, for supplemental funding.

1 Upon completion of the hearing, the commission shall prepare a
2 report and submit it to the governor and the legislature.

3 (2) An electric utility that is providing funding for the low
4 income and energy efficiency fund created under section 10d(7)
5 shall be allowed to recover such funding from all customers
6 within the utility's service area within any final order issued
7 in a general rate proceeding order in an amount and for the
8 remaining funding period originally established by the commission
9 under section 10d(7).

10 Sec. 10bb. (1) Aggregation may be used for the purchasing
11 of electricity and related services from an alternative electric
12 supplier.

13 (2) Local units of government, public and private schools,
14 universities, and community colleges may aggregate for the
15 purpose of purchasing electricity for themselves or for customers
16 within their boundaries with the written consent of each customer
17 aggregated. Customers within a local unit of government shall
18 continue to have the right to choose their electricity supplier
19 and are not required to purchase electricity through the
20 aggregator.

21 (3) As used in this section, "aggregation" means the
22 combining of electric loads of multiple retail customers or a
23 single customer with multiple sites to facilitate the provision
24 of electric service to such customers.

25 (4) A school district aggregating electricity for school
26 properties or an exclusive aggregator for public or private
27 school properties is not an electric utility or a public utility

1 for the purpose of that aggregation.

2 Enacting section 1. Section 10g of 1939 PA 3, MCL 460.10g,
3 is repealed.

4 Enacting section 2. This amendatory act does not take
5 effect unless all of the following bills of the 92nd Legislature
6 are enacted into law:

7 (a) Senate Bill No. 1335.

8

9 (b) Senate Bill No. 1336.

10

11 (c) Senate Bill No. 1333.

12

13 (d) Senate Bill No. 1334.

14

15 (e) Senate Bill No. 1332.

16