

SENATE BILL NO. 643

June 10, 1999, Introduced by Senators BULLARD, SIKKEMA and
VAN REGENMORTER and referred to the Committee on Technology
and Energy.

A bill to amend 1909 PA 106, entitled

"An act to regulate the transmission of electricity through the
public highways, streets and places of this state, where the
source of supply and place of use are in the same or different
counties; to regulate the charges to be made for electricity so
transmitted; to regulate the rules and conditions of service
under which said electricity shall be furnished and to confer
upon the Michigan public utilities commission certain powers and
duties in regard thereto,"

(MCL 460.551 to 460.559) by amending the title and by adding sec-
tions 10, 11, 13, 18, 19, 20, 21, 30, 31, and 34.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

TITLE

2

An act to regulate the transmission AND DELIVERY of

3

~~electricity through the public highways, streets and places of~~

4

ELECTRIC SERVICE IN this state; ~~—, where the source of supply and~~

5

~~place of use are in the same or different counties;~~ to regulate

6

~~the~~ CERTAIN charges to be made for electricity so transmitted;

1 to regulate the rules and conditions of PROVIDING ELECTRIC
2 service; ~~under which said electricity shall be furnished and to~~
3 ~~confer upon the Michigan public utilities commission certain~~
4 ~~powers and duties in regard thereto~~ TO RESTRUCTURE THE ELECTRIC
5 INDUSTRY AND PROMOTE COMPETITION; TO PRESCRIBE THE POWERS AND
6 DUTIES OF CERTAIN STATE AGENCIES AND OFFICIALS; AND TO PROVIDE
7 PENALTIES AND OTHER REMEDIES FOR A VIOLATION OF THIS ACT.

8 SEC. 10. THE PURPOSE OF SECTIONS 11 THROUGH 32 IS TO DO ALL
9 OF THE FOLLOWING:

10 (A) CREATE COMPETITIVE MARKETS TO LOWER THE COST OF ELECTRIC
11 ENERGY AND IMPROVE THE QUALITY AND CHOICES OF SERVICE FOR RESI-
12 DENTIAL, COMMERCIAL, AND INDUSTRIAL CONSUMERS IN THIS STATE.

13 (B) IMPROVE THIS STATE'S COMPETITIVE ECONOMIC POSITION IN
14 REGIONAL, NATIONAL, AND INTERNATIONAL MARKETS.

15 (C) PLACE GREATER RELIANCE ON COMPETITIVE MARKETS, WHEN SUCH
16 MARKETS EXIST, TO DELIVER ELECTRIC SERVICES IN GREATER VARIETY
17 AND AT LOWER COST THAN TRADITIONAL, BUNDLED ELECTRIC SERVICES.

18 (D) MAINTAIN ADEQUATE REGULATORY OVERSIGHT OVER COMPETITIVE
19 PROVIDERS OF ELECTRIC SERVICES TO ASSURE THAT CONSUMER PROTECTION
20 SAFEGUARDS INHERENT TO TRADITIONAL ELECTRIC REGULATION ARE MAIN-
21 TAINED, WITHOUT UNDULY IMPEDING COMPETITIVE MARKETS.

22 (E) MAINTAIN REGULATORY AUTHORITY OVER NONCOMPETITIVE ELEC-
23 TRIC DELIVERY SERVICES.

24 (F) ENSURE THAT RATES FOR NONCOMPETITIVE ELECTRIC SERVICES
25 DO NOT SUBSIDIZE THE PROVISION OF COMPETITIVE ELECTRIC SERVICES
26 BY PROVIDERS OF DELIVERY SERVICES OR THEIR AFFILIATES.

1 (G) AUTHORIZE THE COMMISSION TO MODIFY THE REGULATION OF
2 COMPETITIVE ELECTRIC SERVICES, AND TO PROMOTE ECONOMIC
3 DEVELOPMENT IN THIS STATE.

4 (H) IMPROVE THE RELIABILITY OF ELECTRIC POWER SUPPLY AND
5 DELIVERY SYSTEMS AS THE MARKETPLACE IS TRANSFORMED FROM A MONOP-
6 OLY TO A COMPETITIVE ENVIRONMENT.

7 SEC. 11. (1) THE COMMISSION SHALL ORDER THAT ALL CUSTOMERS
8 OF ELECTRIC SERVICE IN THIS STATE HAVE THE OPTION OF CHOOSING AN
9 ALTERNATIVE ELECTRIC SUPPLIER NO LATER THAN JANUARY 1, 2002.

10 (2) THE COMMISSION SHALL ADOPT THE FOLLOWING PHASE-IN SCHED-
11 ULE FOR RETAIL CUSTOMERS TO CHOOSE AN ALTERNATIVE ELECTRIC
12 SUPPLIER:

13 (A) WITHIN 60 DAYS OF THE EFFECTIVE DATE OF THE AMENDATORY
14 ACT THAT ADDED THIS SECTION, 10% OF EACH ELECTRIC UTILITY'S
15 ANNUAL PEAK LOAD.

16 (B) AS OF JANUARY 1, 2000, 20% OF EACH ELECTRIC UTILITY'S
17 ANNUAL PEAK LOAD.

18 (C) AS OF JANUARY 1, 2001, 30% OF EACH ELECTRIC UTILITY'S
19 ANNUAL PEAK LOAD.

20 (D) AS OF JANUARY 1, 2002, ALL OF THE REMAINING CUSTOMERS OF
21 EACH ELECTRIC UTILITY SHALL HAVE THE OPTION TO CHOOSE AN ALTERNA-
22 TIVE ELECTRIC SUPPLIER.

23 (3) THE COMMISSION SHALL ADOPT A LOTTERY ALLOCATION MECHA-
24 NISM THAT ALLOWS ALL CUSTOMERS IN ALL CLASSES A REASONABLE OPPOR-
25 TUNITY TO PARTICIPATE IN THE PHASE-IN OF OPEN ACCESS. IF A CUS-
26 TOMER CLASS DOES NOT UTILIZE ALL OF THE AMOUNT OF OPEN ACCESS

1 RESERVED FOR THAT CLASS, THE COMMISSION SHALL REALLOCATE THE
2 AMOUNT TO ANY FULLY SUBSCRIBED CLASS OR CLASSES.

3 (4) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (1), THE
4 COMMISSION MAY ADOPT A DIFFERENT PHASE-IN SCHEDULE FOR COOPERA-
5 TIVE ELECTRIC UTILITIES OR FOR INVESTOR-OWNED ELECTRIC UTILITIES
6 SERVING LESS THAN 1,000,000 CUSTOMERS IN THIS STATE, PROVIDED
7 THAT ALL OF THEIR CUSTOMERS HAVE THE OPTION OF CHOOSING AN ALTER-
8 NATIVE ELECTRIC SUPPLIER NO LATER THAN JANUARY 1, 2002.

9 (5) THIS ACT DOES NOT PROHIBIT OR LIMIT THE RIGHT OF A
10 PERSON TO OBTAIN SELF-SERVICE POWER AND IT DOES NOT IMPOSE A
11 TRANSITION, IMPLEMENTATION, EXIT FEE, OR ANY OTHER SIMILAR CHARGE
12 ON SELF-SERVICE POWER. A PERSON USING SELF-SERVICE POWER IS NOT
13 A PUBLIC UTILITY OR CONDUCTING A PUBLIC UTILITY BUSINESS.

14 (6) A PERSON PROVIDING SELF-SERVICE POWER SHALL NOT BE CON-
15 sidered to be a public utility or conducting public utility busi-
16 ness unless it directly provides power without the use of a third
17 party to more than 5 retail customers located off the manufactur-
18 ing site on which the self-service power is generated.

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

23 (8) A RETAIL CUSTOMER WITH PEAK DEMANDS GREATER THAN 500
24 KILOWATTS THAT ELECTED THE OPTION UNDER THIS SECTION MUST GIVE
25 THEIR FORMER ELECTRIC UTILITY 60 DAYS' WRITTEN NOTICE OF A DESIRE
26 TO AGAIN PURCHASE ELECTRIC GENERATION SERVICE FROM THE UTILITY.

1 AN ELECTRIC UTILITY MAY WAIVE THE NOTICE REQUIREMENT OF THIS
2 SUBSECTION.

3 (9) BEGINNING ON THE STARTING DATE OF THE PHASE-IN FOR OPEN
4 ACCESS AND NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, EACH
5 CONSUMER IN THIS STATE, AND THE SUPPLIERS TO A CONSUMER, SHALL
6 HAVE COMPARABLE AND NONDISCRIMINATORY ACCESS TO NONCOMPETITIVE
7 RETAIL ELECTRIC SERVICES OF AN ELECTRIC UTILITY IN THIS STATE.

8 SEC. 13. (1) NOT LATER THAN THE STARTING DATE FOR CUSTOMERS
9 TO CHOOSE AN ALTERNATIVE ELECTRIC SUPPLIER AS DETERMINED UNDER
10 SECTION 11, EACH ELECTRIC UTILITY SHALL UNBUNDLE ITS RATES THAT
11 WERE IN EFFECT AS OF DECEMBER 31, 1998 SUCH THAT DISCRETE SERV-
12 ICES AND CHARGES PROVIDED, WHICH WERE PREVIOUSLY INCLUDED IN THE
13 BUNDLED UTILITY RATE, ARE SEPARATELY IDENTIFIED AND CHARGED IN
14 ITS TARIFFS.

15 (2) THE DISCRETE SERVICES AND CHARGES UNDER SUBSECTION (1)
16 SHALL INCLUDE, AT A MINIMUM, CUSTOMER ACCOUNT SERVICES AND
17 CHARGES, DISTRIBUTION SERVICES AND CHARGES, TRANSMISSION SERVICES
18 AND CHARGES, GENERATION SERVICES AND CHARGES, AND TRANSITION
19 CHARGES ALLOWED UNDER SECTIONS 14 AND 15. IF A CUSTOMER DOES NOT
20 ELECT TO USE AN ALTERNATIVE ELECTRIC SUPPLIER, TRANSITION CHARGES
21 ALLOWED UNDER THIS ACT SHALL BE LISTED AS PART OF THE GENERATION
22 SERVICES AND CHARGES.

23 (3) EXCEPT AS REQUIRED UNDER SUBSECTION (4), RESIDENTIAL
24 RATE SCHEDULES, ONCE UNBUNDLED, MAY, AT THE OPTION OF THE CUSTOM-
25 ER, BE SEPARATELY STATED OR COMBINED FOR RESIDENTIAL BILLING
26 PURPOSES. HOWEVER, TARIFFS SHALL CONTINUE TO LIST ALL CHARGES
27 SEPARATELY.

1 (4) ALL COMPETITIVE SERVICES OFFERED BY AN ELECTRIC UTILITY
2 OR ALTERNATIVE ELECTRIC SUPPLIER SHALL BE CHARGED SEPARATELY FROM
3 NONCOMPETITIVE SERVICES.

4 (5) THE COMMISSION SHALL REQUIRE ELECTRIC UTILITIES TO
5 SUBMIT RATE UNBUNDLING FILINGS IN A FORM SPECIFIED BY THE
6 COMMISSION. THE COMMISSION SHALL REVIEW THE FILINGS AND, AFTER
7 NOTICE AND HEARING, RENDER A DETERMINATION AS TO THE APPROPRIATE,
8 UNBUNDLED RATES CONSISTENT WITH THE PROVISIONS OF THIS ACT. THE
9 COMMISSION SHALL ASSURE THAT THE JURISDICTIONAL ALLOCATION OF
10 TRANSMISSION AND DISTRIBUTION PLANT AND COSTS ARE ACCEPTABLE TO
11 THE FERC.

12 (6) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS ACT, AN
13 UNBUNDLING OF ELECTRIC UTILITY RATES IMPLEMENTED AS A RESULT OF
14 THIS SECTION SHALL NOT RESULT IN REALLOCATION OF UTILITY COST
15 RESPONSIBILITY BETWEEN OR AMONG DIFFERENT CLASSES OF CUSTOMERS.

16 (7) NOTWITHSTANDING SECTION 12, IN NO EVENT SHALL THE RATES
17 FOR ELECTRIC GENERATION SERVICES AND CHARGES OF AN ELECTRIC UTIL-
18 ITY SERVING MORE THAN 1,000,000 CUSTOMERS IN THIS STATE EXCEED
19 THE RATES OF THAT ELECTRIC UTILITY THAT WERE IN EFFECT AS OF
20 DECEMBER 31, 1998 LESS ANY REDUCTIONS ALREADY DIRECTED BY THE
21 COMMISSION AS OF THE EFFECTIVE DATE OF THE ACT THAT ADDED THIS
22 SECTION AND SUBJECT TO THE COST REDUCTION CREDIT CALCULATED UNDER
23 SECTION 14.

24 (8) ANY CHARGES ALLOWED UNDER SECTIONS 14 AND 15 SHALL NOT
25 CAUSE THE RATE CAP REQUIRED UNDER SUBSECTION (7) TO BE EXCEEDED.

1 SEC. 18. (1) AT THE OPTION OF THE RETAIL CUSTOMER WHO HAS
2 CHOSEN AN ALTERNATIVE ELECTRIC SUPPLIER, AN ELECTRIC UTILITY
3 SHALL BE OBLIGATED TO DO 1 OF THE FOLLOWING:

4 (A) PROVIDE FIRM STANDBY ELECTRIC GENERATION SERVICE AT COST
5 BASED RATES AS APPROVED BY THE COMMISSION.

6 (B) MAKE AVAILABLE FIRM TRANSMISSION SERVICE.

7 (2) AN ELECTRIC UTILITY SHALL CONTINUE TO OFFER STANDBY
8 POWER SERVICE TO ALL CUSTOMERS AT REGULATED COST-BASED RATES
9 UNTIL THE COMMISSION DETERMINES AND THE LEGISLATURE CONCURS UNDER
10 SECTION 12 THAT THE MARKET FOR STANDBY POWER SERVICE IS FULLY
11 COMPETITIVE AND ALL CUSTOMERS HAVE THE ACTUAL PRESENT ABILITY TO
12 MEANINGFULLY CHOOSE BETWEEN ALTERNATIVE ELECTRIC SUPPLIERS OF
13 STANDBY POWER.

14 (3) THIS SECTION DOES NOT APPLY TO A PROVIDER OF DELIVERY
15 SERVICES IF IT HAS HAD ITS RATES DEREGULATED UNDER SECTION
16 12(11).

17 (4) ANY CHARGES IMPOSED UNDER SECTIONS 14 AND 15 ON ELECTRIC
18 SERVICE PROVIDED ON A STANDBY BASIS SHALL BE BASED ON THE NUMBER
19 OF KILOWATT HOURS OF ELECTRICITY DELIVERED TO THE CUSTOMER BY THE
20 ELECTRIC UTILITY.

21 (5) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE
22 COMMISSION MAY ADOPT RULES FOR COOPERATIVE ELECTRIC UTILITIES
23 REGARDING STANDBY SERVICE THAT TAKE INTO CONSIDERATION THE WHOLE-
24 SALE PURCHASE POWER AGREEMENTS ENTERED INTO BY COOPERATIVE ELEC-
25 TRIC UTILITIES. THE COMMISSION MAY EXEMPT A COOPERATIVE ELECTRIC
26 UTILITY FROM THE REQUIREMENTS OF THIS SECTION.

1 SEC. 19. (1) A PROVIDER OF DELIVERY SERVICES IS OBLIGATED
2 TO CONNECT ALL RETAIL CUSTOMERS, INCLUDING, UPON REQUEST, THOSE
3 CUSTOMERS USING SELF-SERVICE POWER LOCATED WITHIN THE PROVIDER'S
4 SERVICE TERRITORY, TO THOSE FACILITIES OF THE PROVIDER THAT ARE
5 USED FOR DELIVERY OF RETAIL ELECTRIC SERVICE.

6 (2) EACH PROVIDER OF DELIVERY SERVICE SHALL MAINTAIN THE
7 INTEGRITY OF THE DISTRIBUTION SYSTEM AT LEAST IN CONFORMITY WITH
8 THE NATIONAL ELECTRIC SAFETY CODE AND OTHER STANDARDS PRACTICED
9 BY THE INDUSTRY IN A MANNER SUFFICIENT TO PROVIDE FOR THE DELIV-
10 ERY OF SAFE AND RELIABLE ELECTRIC SERVICE TO ALL CUSTOMERS CON-
11 NECTED TO THE SYSTEM CONSISTENT WITH THIS ACT AND THE
12 COMMISSION'S REGULATIONS. THE COMMISSION SHALL CONSIDER CUSTOMER
13 REQUIREMENTS AS A FACTOR IN ESTABLISHING ITS REGULATIONS.

14 (3) THE PROVIDER OF DELIVERY SERVICE SHALL PERMIT A
15 CUSTOMER'S SUPPLIER OF ELECTRICITY TO DYNAMICALLY BALANCE ITS
16 DELIVERIES TO THE CUSTOMER'S USAGE UNLESS THE COMMISSION RULES
17 THAT THERE EXISTS A FULLY COMPETITIVE SPOT MARKET IN THIS STATE
18 FOR BALANCING LOAD.

19 (4) THERE IS A REBUTTABLE PRESUMPTION THAT THE PROVIDER OF
20 DELIVERY SERVICE HAS THE ABILITY TO RECEIVE ELECTRICITY AT ALL
21 POINTS ON ITS SYSTEM SUFFICIENT TO MEET THE NEEDS OF ALL CUSTOM-
22 ERS ON ITS SYSTEM.

23 (5) THIS SECTION DOES NOT PREVENT THE PROVIDER OF DELIVERY
24 SERVICE FROM UPGRADING ITS SYSTEM TO MEET CHANGING CUSTOMER
25 REQUIREMENTS CONSISTENT WITH THE REQUIREMENTS OF THIS ACT, AND
26 THE COMMISSION MAY ESTABLISH INCENTIVE PROGRAMS TO ENCOURAGE
27 SYSTEM UPGRADES.

1 SEC. 20. (1) THE FOLLOWING PROVISIONS GOVERN THE CONDUCT OF
2 A PROVIDER OF DELIVERY SERVICE AND AN AFFILIATED COMPETITIVE PRO-
3 VIDER OF ELECTRIC GENERATION OR CUSTOMER ACCOUNT SERVICES:

4 (A) A PROVIDER OF DELIVERY SERVICE SHALL NOT, THROUGH A
5 TARIFF OR OTHERWISE, GIVE ITS AFFILIATED COMPETITIVE PROVIDER OR
6 CUSTOMERS OF ITS AFFILIATED COMPETITIVE PROVIDER PREFERENCE OVER
7 NONAFFILIATED COMPETITIVE PROVIDERS OR CUSTOMERS OF NONAFFILIATED
8 COMPETITIVE PROVIDERS IN MATTERS RELATING TO ANY REGULATED PRO-
9 DUCT OR SERVICE.

10 (B) ALL REGULATED PRODUCTS AND SERVICES AND CHARGES AND
11 RATES OFFERED BY A PROVIDER OF DELIVERY SERVICE, INCLUDING ANY
12 DISCOUNT, REBATE, OR FEE WAIVER, SHALL BE AVAILABLE TO ALL CUS-
13 TOMERS AND COMPETITIVE PROVIDERS SIMULTANEOUSLY, TO THE EXTENT
14 TECHNICALLY POSSIBLE, AND WITHOUT UNDUE OR UNREASONABLE
15 DISCRIMINATION.

16 (C) A PROVIDER OF DELIVERY SERVICE SHALL NOT SELL OR OTHER-
17 WISE PROVIDE REGULATED PRODUCTS OR SERVICES TO ITS AFFILIATED
18 COMPETITIVE PROVIDER WITHOUT EITHER POSTING THE OFFERING ELEC-
19 TRONICALLY ON A WELL-KNOWN SOURCE OR OTHERWISE MAKING A SUFFI-
20 CIENT PUBLIC OFFERING TO THE MARKET FOR THAT PRODUCT OR SERVICE.

21 (D) A PROVIDER OF DELIVERY SERVICE SHALL PROCESS ALL SIMILAR
22 REQUESTS FOR A REGULATED PRODUCT OR SERVICE IN THE SAME MANNER
23 AND WITHIN THE SAME PERIOD OF TIME.

24 (E) A PROVIDER OF DELIVERY SERVICE SHALL NOT CONDITION OR
25 TIE THE PROVISION OF ANY REGULATED PRODUCT, SERVICE, OR RATE
26 AGREEMENT BY THE PROVIDER OF DELIVERY SERVICE TO THE PROVISION OF

1 ANY PRODUCT OR SERVICE IN WHICH AN AFFILIATED COMPETITIVE
2 PROVIDER IS INVOLVED.

3 (F) A PROVIDER OF DELIVERY SERVICE SHALL PROCESS ALL SIMILAR
4 REQUESTS FOR INFORMATION IN THE SAME MANNER AND WITHIN THE SAME
5 PERIOD OF TIME. A PROVIDER OF DELIVERY SERVICE SHALL NOT PROVIDE
6 INFORMATION TO AN AFFILIATED COMPETITIVE PROVIDER WITHOUT A
7 REQUEST WHEN INFORMATION IS MADE AVAILABLE TO NONAFFILIATED COM-
8 PETITIVE PROVIDERS ONLY UPON REQUEST. A PROVIDER OF DELIVERY
9 SERVICE SHALL NOT ALLOW AN AFFILIATED COMPETITIVE PROVIDER PREF-
10 ERENTIAL ACCESS TO ANY NONPUBLIC INFORMATION REGARDING THE DIS-
11 TRIBUTION SYSTEM OR CUSTOMERS TAKING SERVICE FROM THE PROVIDER OF
12 DELIVERY SERVICE THAT IS NOT MADE AVAILABLE TO NONAFFILIATED COM-
13 PETITIVE PROVIDERS UPON REQUEST, AND A PROVIDER OF DELIVERY SERV-
14 ICE SHALL INSTRUCT ALL OF ITS EMPLOYEES NOT TO PROVIDE AFFILIATED
15 COMPETITIVE PROVIDERS OR NONAFFILIATED COMPETITIVE PROVIDERS ANY
16 PREFERENTIAL ACCESS TO NONPUBLIC INFORMATION.

17 (G) EMPLOYEES OF A PROVIDER OF DELIVERY SERVICE SHALL NOT
18 SHARE WITH ANY AFFILIATED COMPETITIVE PROVIDER OR ANY NONAFFILI-
19 ATED COMPETITIVE PROVIDER EITHER OF THE FOLLOWING:

20 (i) ANY MARKET INFORMATION ACQUIRED FROM THE AFFILIATED COM-
21 PETITIVE PROVIDER OR FROM ANY NONAFFILIATED COMPETITIVE
22 PROVIDER.

23 (ii) ANY MARKET INFORMATION DEVELOPED BY THE PROVIDER OF
24 DELIVERY SERVICE IN THE COURSE OF RESPONDING TO REQUESTS FOR DIS-
25 TRIBUTION SERVICE.

26 (H) A PROVIDER OF DELIVERY SERVICE SHALL KEEP A LOG OF ALL
27 REQUESTS FOR INFORMATION MADE BY THE AFFILIATED COMPETITIVE

1 PROVIDER AND NONAFFILIATED COMPETITIVE ELECTRICITY PROVIDERS AND
2 THE DATE OF THE RESPONSE TO THE REQUESTS. THE LOG IS SUBJECT TO
3 PERIODIC REVIEW BY THE COMMISSION. THE COMMISSION SHALL ESTAB-
4 LISH CATEGORIES OF REQUESTS FOR INFORMATION AND SHALL SPECIFY
5 WHICH CATEGORIES, IF ANY, ARE SUFFICIENTLY TRIVIAL TO BE EXEMPT
6 FROM THE LOG REQUIREMENTS IMPOSED UNDER THIS SUBDIVISION.

7 (I) A PROVIDER OF DELIVERY SERVICE SHALL REFRAIN FROM GIVING
8 ANY APPEARANCE OF SPEAKING ON BEHALF OF ITS AFFILIATED COMPETI-
9 TIVE PROVIDER. NEITHER A PROVIDER OF DELIVERY SERVICE NOR AN
10 AFFILIATED COMPETITIVE PROVIDER MAY IN ANY WAY REPRESENT THAT ANY
11 ADVANTAGE ACCRUES TO CUSTOMERS OR OTHERS IN THE USE OF THE SERV-
12 ICES OF THE PROVIDER AS A RESULT OF THAT CUSTOMER OR OTHERS DEAL-
13 ING WITH THE AFFILIATED COMPETITIVE PROVIDER. A PROVIDER OF
14 DELIVERY SERVICE SHALL NOT ENGAGE IN JOINT ADVERTISING OR MARKET-
15 ING PROGRAMS OF ANY SORT WITH ITS AFFILIATED COMPETITIVE PROVID-
16 ER, NOR MAY THE PROVIDER OF DELIVERY SERVICE PROMOTE OR MARKET
17 ANY PRODUCT OR SERVICE OFFERED BY ITS AFFILIATED COMPETITIVE
18 PROVIDER. THE COMMISSION SHALL MAINTAIN A CURRENT LIST OF ALL
19 COMPETITIVE PROVIDERS. IF A CUSTOMER REQUESTS INFORMATION ABOUT
20 COMPETITIVE PROVIDERS, THE PROVIDER OF DELIVERY SERVICE SHALL
21 PROVIDE A COPY OF A LIST ON WHICH COMPETITIVE PROVIDERS APPEAR IN
22 RANDOM SEQUENCE AND NOT IN ALPHABETICAL ORDER. THE PROVIDER OF
23 DELIVERY SERVICE SHALL NOT IN ANY MANNER PROMOTE ITS AFFILIATED
24 COMPETITIVE PROVIDER.

25 (J) EMPLOYEES OF A PROVIDER OF DELIVERY SERVICE SHALL NOT
26 STATE OR PROVIDE TO ANY CUSTOMER OR POTENTIAL CUSTOMER ANY
27 OPINION REGARDING THE RELIABILITY, EXPERIENCE, QUALIFICATIONS,

1 FINANCIAL CAPABILITY, MANAGERIAL CAPABILITY, OPERATIONS
 2 CAPABILITY, CUSTOMER SERVICE RECORD, CONSUMER PRACTICES, OR
 3 MARKET SHARE OF ANY AFFILIATED COMPETITIVE PROVIDER OR NONAFFILI-
 4 ATED COMPETITIVE PROVIDER.

5 (K) EMPLOYEES OF A PROVIDER OF DELIVERY SERVICE SHALL NOT BE
 6 SHARED WITH, AND MUST BE PHYSICALLY SEPARATED FROM, THOSE OF AN
 7 AFFILIATED COMPETITIVE PROVIDER. THE COMMISSION MAY APPROVE AN
 8 EXEMPTION FROM THESE SEPARATION REQUIREMENTS UPON A FINDING OF
 9 ALL OF THE FOLLOWING:

10 (i) SHARING EMPLOYEES OR FACILITIES WOULD BE IN THE BEST
 11 INTEREST OF THE PUBLIC.

12 (ii) SHARING EMPLOYEES OR FACILITIES WOULD HAVE NO ANTICOM-
 13 PETITIVE EFFECT.

14 (iii) THE COSTS OF ANY SHARED EMPLOYEES OR FACILITIES CAN BE
 15 FULLY AND ACCURATELY ALLOCATED BETWEEN THE PROVIDER OF DELIVERY
 16 SERVICE AND THE AFFILIATED COMPETITIVE PROVIDER.

17 A REQUEST FOR AN EXEMPTION UNDER THIS SUBDIVISION SHALL BE ACCOM-
 18 PANIED BY A FULL AND TRANSPARENT ALLOCATION OF COSTS FOR ANY
 19 SHARED FACILITIES OR GENERAL AND ADMINISTRATIVE SUPPORT
 20 SERVICES. THE COMMISSION SHALL ALLOW A REASONABLE OPPORTUNITY
 21 FOR PARTIES TO SUBMIT COMMENTS REGARDING ANY REQUEST FOR AN
 22 EXEMPTION. AN EXEMPTION IS VALID UNTIL THE COMMISSION DETERMINES
 23 THAT MODIFICATION OR REMOVAL OF THE EXEMPTION IS NECESSARY.

24 (l) A PROVIDER OF DELIVERY SERVICE SHALL NOT USE REGULATED
 25 RATES TO SUBSIDIZE ITS COMPETITIVE SERVICES OR COMPETITIVE SERV-
 26 ICES OFFERED BY A RELATED COMPETITIVE BUSINESS SEGMENT OF THE
 27 PROVIDER'S HOLDING COMPANY OF WHICH THE PROVIDER IS AN AFFILIATE,

1 AND EXPENSES INCURRED IN CONJUNCTION WITH ITS COMPETITIVE
2 SERVICES SHALL NOT BE BORNE BY ITS REGULATED RATE CUSTOMERS. THE
3 REGULATED RATES OF A PROVIDER OF DELIVERY SERVICE SHALL BE
4 SUBJECT TO THE REVIEW AND APPROVAL OF THE COMMISSION TO DETERMINE
5 THAT THERE IS NO SUBSIDIZATION OF ITS RELATED COMPETITIVE BUSI-
6 NESS SEGMENT. EACH PROVIDER OF DELIVERY SERVICE SHALL MAINTAIN
7 BOOKS AND RECORDS AND PROVIDE ACCOUNTING ENTRIES OF ITS REGULATED
8 BUSINESS TO THE COMMISSION AS MAY BE REQUIRED BY THE COMMISSION,
9 TO SHOW THAT THERE IS STRICT SEPARATION AND ALLOCATION OF THE
10 PROVIDER'S REVENUES, COSTS, ASSETS, RISKS, AND FUNCTIONS, BETWEEN
11 THE PROVIDER AND ITS RELATED COMPETITIVE BUSINESS SEGMENT.

12 (M) A PROVIDER OF DELIVERY SERVICE SHALL ESTABLISH AND FILE
13 WITH THE COMMISSION A DISPUTE RESOLUTION PROCEDURE TO ADDRESS
14 COMPLAINTS ALLEGING VIOLATIONS OF THIS SECTION OR ANY RULES
15 ADOPTED UNDER THIS SECTION. A DISPUTE RESOLUTION PROCEDURE MUST,
16 AT A MINIMUM, DESIGNATE A PERSON TO CONDUCT AN INVESTIGATION OF
17 THE COMPLAINT AND COMMUNICATE THE RESULTS OF THE INVESTIGATION TO
18 THE CLAIMANT IN WRITING WITHIN 30 DAYS AFTER THE COMPLAINT WAS
19 RECEIVED, INCLUDING A DESCRIPTION OF ANY ACTION TAKEN AND THE
20 COMPLAINANT'S RIGHT TO FILE A COMPLAINT WITH THE COMMISSION IF
21 NOT SATISFIED WITH THE RESULTS OF THE INVESTIGATION. THE PRO-
22 VIDER OF DELIVERY SERVICE SHALL MAINTAIN A LOG OF ALL NEW,
23 RESOLVED, AND PENDING COMPLAINTS. THE LOG IS SUBJECT TO ANNUAL
24 REVIEW BY THE COMMISSION AND MUST INCLUDE, AT A MINIMUM, THE
25 WRITTEN STATEMENT OF THE COMPLAINT AND THE RESOLUTION OF THE COM-
26 PLAIN OR THE REASON WHY THE COMPLAINT IS STILL PENDING.

1 (N) A PROVIDER OF DELIVERY SERVICE SHALL MAINTAIN IN A
2 PUBLIC PLACE AND FILE WITH THE COMMISSION CURRENT WRITTEN
3 PROCEDURES IMPLEMENTING THE STANDARDS OF CONDUCT ESTABLISHED BY
4 THIS SECTION AND RULES ADOPTED BY THE COMMISSION UNDER THIS
5 SECTION. THE WRITTEN PROCEDURE MUST BE IN DETAIL SUFFICIENT TO
6 ENABLE CUSTOMERS AND THE COMMISSION TO DETERMINE THAT THE COMPANY
7 IS IN COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION.

8 (O) ANY OTHER PROVISIONS THE COMMISSION DETERMINES ARE NEC-
9 ESSARY TO ASSURE THE DEVELOPMENT OF A COMPETITIVE MARKET.

10 (2) IN ORDER TO MONITOR THE ALLOCATION OF COSTS BETWEEN COM-
11 PETITIVE AND NONCOMPETITIVE SERVICES OFFERED BY A PROVIDER OF
12 DELIVERY SERVICE, AND WITHIN 60 DAYS AFTER THE STARTING DATE FOR
13 IMPLEMENTATION OF DIRECT ACCESS UNDER SECTION 11, THE COMMISSION
14 SHALL COMMENCE THE PROCESS OF CONDUCTING AUDITS, AT THE EXPENSE
15 OF THE PROVIDERS OF DELIVERY SERVICE, TO ENSURE COMPLIANCE WITH
16 THIS ACT AND WITH THE COMMISSION'S RULES, REGULATIONS, AND ORDERS
17 ADOPTED UNDER THIS SECTION.

18 (3) THE COMMISSION MAY ADOPT RULES TO IMPLEMENT THE REQUIRE-
19 MENTS OF THIS SECTION.

20 (4) IF IT WILL NOT UNDULY HARM THE COMPETITIVE MARKET, THE
21 COMMISSION MAY EXEMPT AN ELECTRIC UTILITY SERVING LESS THAN
22 1,000,000 CUSTOMERS IN THIS STATE FROM 1 OR MORE OF THE PROVI-
23 SIONS OF THIS SECTION.

24 SEC. 21. (1) A PROVIDER OF DELIVERY SERVICES SHALL CONTINUE
25 TO OFFER CUSTOMER ACCOUNT SERVICES ON A REGULATED BASIS SUBSE-
26 QUENT TO THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS
27 SECTION. NO LATER THAN JANUARY 1, 2001, THE COMMISSION SHALL

1 INVESTIGATE THE MANNER AND MECHANICS BY WHICH CUSTOMERS ARE
2 AFFORDED THE OPPORTUNITY TO CONTRACT WITH THE PROVIDER OF DELIV-
3 ERY SERVICES OR AN ELECTRIC SUPPLIER FOR CUSTOMER ACCOUNT SERV-
4 ICES AND TO ESTABLISH THE NECESSARY STANDARDS FOR SAFETY, RELI-
5 ABILITY, AND TESTING FOR METERS AND INFORMATION EXCHANGE PROTO-
6 COLS APPLICABLE TO BOTH ELECTRIC SUPPLIERS AND PROVIDERS OF
7 DELIVERY SERVICES THAT WILL PERMIT CUSTOMERS TO CHOOSE A SUPPLIER
8 FOR SOME OR ALL CUSTOMER ACCOUNT SERVICES.

9 (2) THE COMMISSION SHALL ISSUE AN ORDER FOR PROVIDING CUS-
10 TOMERS THE OPPORTUNITY TO CHOOSE AN ELECTRIC SUPPLIER FOR SOME OR
11 ALL CUSTOMER ACCOUNT SERVICES NO LATER THAN JANUARY 1, 2002 AND
12 SETTING FORTH THE MANNER, MECHANICS, AND STANDARDS FOR COMPETI-
13 TIVE CUSTOMER ACCOUNT SERVICES.

14 (3) THE COMMISSION SHALL REQUIRE THAT PROVIDERS OF DELIVERY
15 SERVICES, IN THE CONTINUED REGULATED PROVISION OF CUSTOMER
16 ACCOUNT SERVICES, NOT TAKE ACTIONS THAT WOULD UNREASONABLY IMPEDE
17 A TRANSITION TO A COMPETITIVE CUSTOMER ACCOUNT SERVICE MARKET.

18 (4) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, AN
19 ELECTRIC SUPPLIER MAY BILL THE CUSTOMER DIRECTLY FOR GENERATION
20 SERVICES AND OTHER SERVICES IT PROVIDES TO THE CUSTOMER AS OF THE
21 STARTING DATE FOR IMPLEMENTATION OF DIRECT ACCESS. THE COMMIS-
22 SION SHALL ENSURE THAT THE STANDARDS AND PROTOCOLS FOR ELECTRONIC
23 DATA EXCHANGE NEEDED TO SUPPORT THIS OPTION ARE ADOPTED AND ARE
24 IMPLEMENTED BY ELECTRIC UTILITIES IN A TIMELY MANNER.

25 SEC. 30. (1) A PERSON SHALL NOT ENGAGE IN THE BUSINESS OF
26 AN ELECTRIC SUPPLIER IN THIS STATE UNLESS THE PERSON HOLDS A
27 LICENSE ISSUED BY THE COMMISSION.

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

3 (A) BE IN WRITING ON A FORM ADOPTED BY THE COMMISSION.

4 (B) BE VERIFIED BY OATH OR AFFIRMATION.

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

6 (D) AN IRREVOCABLE CONSENT TO THE JURISDICTION OF THE COURTS
7 OF THIS STATE AND SERVICE OF PROCESS IN THIS STATE, INCLUDING,
8 WITHOUT LIMITATION, SERVICE OF SUMMONS AND SUBPOENAS, FOR ANY
9 CIVIL OR CRIMINAL PROCEEDING ARISING OUT OF, OR RELATING TO, THE
10 SUPPLY OF ELECTRICITY OR ENERGY SERVICES IN THIS STATE.

11 (3) THE COMMISSION MAY, BY REGULATION OR ORDER, DO 1 OR MORE
12 OF THE FOLLOWING:

13 (A) REQUIRE PROOF OF FINANCIAL INTEGRITY.

14 (B) REQUIRE A LICENSEE TO POST A BOND OR OTHER SIMILAR
15 INSTRUMENT, IF, IN THE COMMISSION'S JUDGMENT, THE BOND OR SIMILAR
16 INSTRUMENT IS NECESSARY TO INSURE AN ELECTRICITY SUPPLIER'S
17 FINANCIAL INTEGRITY.

18 (C) REQUIRE A LICENSEE TO DO BOTH OF THE FOLLOWING:

19 (i) PROVIDE PROOF THAT IT HAS PROPERLY REGISTERED TO DO
20 BUSINESS IN THE STATE.

21 (ii) AGREE TO BE SUBJECT TO ALL APPLICABLE TAXES OF THE
22 STATE.

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

26 (4) A LICENSE ISSUED UNDER THIS SECTION MAY NOT BE
27 TRANSFERRED WITHOUT PRIOR COMMISSION APPROVAL. AN ELECTRIC

1 SUPPLIER SHALL NOT BE REQUIRED TO OBTAIN ANY CERTIFICATE,
2 LICENSE, OR AUTHORIZATION OTHER THAN AS REQUIRED BY THIS
3 SECTION.

4 (5) 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 THIS SECTION, IT MAY DO 1 OR BOTH
7 OF THE FOLLOWING:

8 (A) ISSUE A CEASE AND DESIST ORDER.

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

12 (C) ORDER THAT THE LICENSE BE REVOKED.

13 (6) IF THE VIOLATION OF THIS ACT WARRANTS IMMEDIATE ACTION,
14 THE COMMISSION IS AUTHORIZED TO ISSUE A PRELIMINARY CEASE AND
15 DESIST ORDER. A REQUEST FOR A PRELIMINARY ORDER UNDER THIS SUB-
16 SECTION SHALL BE EITHER GRANTED OR DENIED WITHIN 3 BUSINESS DAYS
17 FROM THE DATE THE COMPLAINT IS FILED.

18 SEC. 31. (1) ALL EXISTING POWER PURCHASE AGREEMENTS BETWEEN
19 ELECTRIC UTILITIES AND QUALIFYING FACILITIES, AS THE TERM
20 "QUALIFYING FACILITIES" IS DEFINED IN THE PUBLIC UTILITY REGULA-
21 TORY POLICIES ACT OF 1978, PUBLIC LAW 95-617, 92 STAT. 3117, IN
22 EFFECT AS OF THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED
23 THIS SECTION SHALL CONTINUE IN EFFECT NOTWITHSTANDING ANY OTHER
24 PROVISION OF THIS ACT, AND THE RIGHTS OF ANY PARTIES TO THOSE
25 AGREEMENTS SHALL NOT BE ABROGATED OR DIMINISHED BY THIS ACT.

26 (2) ELECTRIC UTILITIES OR THEIR SUCCESSORS SHALL MAKE ALL
27 PAYMENTS REQUIRED UNDER EXISTING POWER PURCHASE AGREEMENTS WITH

1 QUALIFYING FACILITIES AND SHALL BE ENTITLED TO RECOVER THOSE
2 PAYMENTS UNDER SUBSECTION (3).

3 (3) THE COMMISSION SHALL ENSURE THAT ELECTRIC UTILITIES OR
4 THEIR SUCCESSORS RECOVER ALL CHARGES INCURRED OR TO BE INCURRED
5 OVER THE FULL CONTRACT TERM OF POWER PURCHASE AGREEMENTS WITH
6 QUALIFYING FACILITIES AT RATES THAT WERE APPROVED BY THE COMMIS-
7 SION BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED
8 THIS SECTION.

9 SEC. 34. AS USED IN THIS ACT:

10 (A) "AFFILIATE WHEELING" MEANS THE USE OF AN ELECTRIC
11 UTILITY'S OR A PROVIDER OF DELIVERY SERVICES'S TRANSMISSION OR
12 DISTRIBUTION SYSTEM TO DELIVER ELECTRICITY GENERATED AT A
13 PERSON'S INDUSTRIAL SITE TO THAT PERSON OR ITS AFFILIATE AT A
14 LOCATION THAT WAS PREVIOUSLY SUPPLIED BY SELF-SERVICE POWER. A
15 PERSON ENGAGING IN AFFILIATE WHEELING IS NOT A PUBLIC UTILITY OR
16 CONDUCTING A PUBLIC UTILITY BUSINESS.

17 (B) "AGGREGATION" MEANS THE COMBINING OF ELECTRIC LOADS OF
18 MULTIPLE RETAIL CUSTOMERS OR A SINGLE CUSTOMER WITH MULTIPLE
19 SITES TO FACILITATE THE PROVISION OF ELECTRIC SERVICE TO SUCH
20 CUSTOMERS.

21 (C) "ALTERNATIVE ELECTRIC SUPPLIER" MEANS A PERSON OTHER
22 THAN A PROVIDER OF DELIVERY SERVICE SELLING ELECTRIC GENERATION
23 SERVICE TO RETAIL CUSTOMERS IN THIS STATE.

24 (D) "COOPERATIVE ELECTRIC UTILITY" MEANS AN ELECTRIC UTILITY
25 ORGANIZED AS A COOPERATIVE CORPORATION UNDER 1931 PA 327,
26 MCL 450.62 TO 450.192.

1 (E) "CUSTOMER ACCOUNT SERVICE" MEANS BILLING AND COLLECTION,
2 PROVISION OF A METER, METER MAINTENANCE AND TESTING, METER
3 READING, AND OTHER ADMINISTRATIVE ACTIVITY ASSOCIATED WITH MAIN-
4 TAINING A CUSTOMER ACCOUNT.

5 (F) "DELIVERY SERVICE" MEANS THE TRANSMISSION AND DISTRIBU-
6 TION OF ELECTRICITY SERVICES SUBJECT TO THE JURISDICTION OF THE
7 COMMISSION. A PROVIDER OF DELIVERY SERVICE IS CONSIDERED A
8 PUBLIC UTILITY UNDER SECTION 29 OF ARTICLE VII OF THE STATE CON-
9 STITUTION OF 1963.

10 (G) "DIVEST" OR "DIVESTITURE" MEANS AN ELECTRIC UTILITY'S
11 SALE TO A NONAFFILIATE OF ITS ELECTRIC GENERATING PLANTS AND CON-
12 TRACTS FOR THE PURCHASE OF ELECTRICITY.

13 (H) "ELECTRIC GENERATION SERVICE" MEANS THE SALE OF ELECTRIC
14 POWER AND RELATED ANCILLARY SERVICES, BUT DOES NOT INCLUDE THE
15 PROVISION OF DELIVERY SERVICE. A PROVIDER OF ELECTRIC GENERATION
16 SERVICE IS NOT CONSIDERED A PUBLIC UTILITY UNDER SECTION 29 OF
17 ARTICLE VII OF THE STATE CONSTITUTION OF 1963.

18 (I) "ELECTRIC UTILITY" MEANS A PUBLIC UTILITY THAT PROVIDED
19 ELECTRIC SERVICE BEFORE DECEMBER 31, 1998.

20 (J) "FERC" MEANS THE FEDERAL ENERGY REGULATORY COMMISSION.

21 (K) "FIRM TRANSMISSION SERVICE" MEANS TRANSMISSION SERVICE
22 FROM THE ELECTRIC UTILITY THAT IS EQUIVALENT TO THE MOST FIRM
23 SERVICE AVAILABLE FOR SERVICE TO BUNDLED SERVICE CUSTOMERS OF THE
24 ELECTRIC UTILITY.

25 (L) "KILOWATT" OR "KW" MEANS 1,000 WATTS.

26 (M) "MEGAWATT" OR "MW" MEANS 1,000,000 WATTS.

1 (N) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION,
2 ASSOCIATION, GOVERNMENTAL ENTITY, OR OTHER LEGAL ENTITY.

3 (O) "SELF-SERVICE POWER" MEANS EITHER OF THE FOLLOWING:

4 (i) ELECTRICITY DELIVERED TO AN END-USER WITHOUT THE USE OF
5 AN ELECTRIC UTILITY'S TRANSMISSION AND DISTRIBUTION FACILITIES.

6 (ii) ELECTRICITY GENERATED AND CONSUMED AS PART OF A CONTIN-
7 UOUS INTEGRATED MANUFACTURING FACILITY.

8 Enacting section 1. This amendatory act does not take
9 effect unless all of the following bills of the 90th Legislature
10 are enacted into law:

11 (a) Senate Bill No. 642

12

13 (b) Senate Bill No. 644

14