

HOUSE BILL No. 6284

November 10, 1998, Introduced by Reps. Dobb, Gustafson, LeTarte, Galloway, Whyman, Kukuk and Cassis and referred to the Committee on Public Utilities.

A bill to regulate the distribution and transmission of electricity in this state; to otherwise restructure the electric industry; and to prescribe the powers and duties of certain state agencies and officials.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 101. As used in this act:
2 (a) "Affiliate" means a person who directly or indirectly,
3 through 1 or more intermediaries, controls, is controlled by, or
4 is under common control with an electric utility, a person who is
5 an officer of, partner in or trustee of, or serves in a similar
6 capacity with respect to an electric utility, or a person who,
7 directly or indirectly, is the beneficial owner of 10% or more of
8 any class of equity securities of another company of which the
9 electric utility is directly or indirectly the owner of 10% or
10 more of any class of equity securities.

1 (b) "Aggregation" means the combining of electric loads of
2 multiple customers or a single customer with multiple sites to
3 facilitate the provision of direct access electric service to the
4 customers.

5 (c) "Assigned service area" means the designated geographic
6 area within the boundaries of which an electricity distributor is
7 authorized to furnish all electric distribution service.

8 (d) "Commission" means the Michigan public service commis-
9 sion in the department of consumer and industry services.

10 (e) "Consumer" or "customer" means an end-user of
11 electricity.

12 (f) "Direct access" means the decision of an electricity
13 customer to choose an electricity supplier.

14 (g) "Electric utility" means a public utility that provided
15 electric service before January 1, 1997.

16 (h) "Electricity distributor" or "distributor" means a
17 person or their lessees, trustees, and receivers, owning or oper-
18 ating equipment or facilities for delivering electricity to cus-
19 tomers for compensation.

20 (i) "Electricity generator" or "generator" means a person in
21 this state generating electricity for distribution to 1 or more
22 persons other than the generator.

23 (j) "Electricity supplier" or "supplier" means a person that
24 sells electricity and related services to electricity distribu-
25 tors, aggregators, or customers located in the assigned service
26 area of electricity distributors.

1 (k) "Employee-related restructuring costs" means costs
2 incurred by an electric utility as part of restructuring under
3 this act or commission order.

4 (l) "FERC" means the federal energy regulatory commission.

5 (m) "Historic service territory" means the service territory
6 in which an electric utility provided electric services before
7 January 1, 1997.

8 (n) "Kilowatt" means 1,000 watts.

9 (o) "Megawatt" means 1,000,000 watts.

10 (p) "Nonbypassable distribution charge" means a charge to
11 persons electing direct access to compensate for certain costs
12 and services payable to an electric utility, electricity distrib-
13 utor, or its assignees or successors regardless of the identity
14 of the electricity supplier.

15 (q) "Person" means an individual, partnership, corporation,
16 association, governmental entity, or other legal entity.

17 (r) "Regulated service" means distribution and transmission
18 services provided by an electricity distributor subject to regu-
19 lation by either FERC or the commission.

20 (s) "Transition charge" means that portion of the nonbypas-
21 sable distribution charge allowed by the commission to recover
22 stranded investment costs from all retail customers taking elec-
23 tric generation service by direct access in the electric
24 utility's historic service territory.

25 Sec. 102. The commission shall administer this act.

26 Sec. 103. (1) Electric distribution and transmission shall
27 be regulated by the commission.

1 (2) An electricity distributor shall have an obligation to
2 connect and provide regulated service to retail customers within
3 the electricity distributor's assigned service area at rates and
4 on terms and conditions as authorized by the commission.

5 (3) All electricity distributors shall have an obligation to
6 procure power and energy for any customer that does not elect to
7 take service from another supplier at rates and on terms and con-
8 ditions as authorized by the commission.

9 (4) An electricity distributor shall be obligated to provide
10 standby electric generation service to customers who elect to
11 take direct access from another electricity supplier. In situa-
12 tions where the need for standby arises from something other than
13 the fault of the customer or its power supplier, the rate shall
14 be established by 1 of the following:

15 (a) If the utility is not the direct cause of the need for
16 standby, it shall provide standby at the customer's cost of
17 energy or the utility's top incremental cost, whichever is
18 higher.

19 (b) If the utility is the direct cause of the need for
20 standby, it shall provide standby at the customer's cost of
21 energy or the utility's top incremental cost, whichever is
22 lower.

23 Sec. 104. (1) Each electric utility with more than 500,000
24 customers shall allow direct access to its customers according to
25 the following schedule:

26 (a) On an initial date established by the commission, 2.5%
27 of the electric utility's peak load.

1 (b) Sixty days after the initial date, an additional 2.5% of
2 the peak load.

3 (c) One hundred twenty days after the initial date, an addi-
4 tional 2.5% of the peak load.

5 (d) One year after the date established under subdivision
6 (c), an additional 2.5% of the peak load.

7 (e) One year after the date established under subdivision
8 (d), an additional 2.5% of the peak load.

9 (f) On January 1, 2002, allow direct access to the remaining
10 customers of the electric utility.

11 (2) Each electric utility with less than 500,000 customers
12 shall allow direct access to all of its customers by January 1,
13 2002 according to 1 of the following:

14 (a) By adopting the schedule established under subsection
15 (1).

16 (b) By an alternative schedule as submitted to and approved
17 by the commission.

18 (3) The percentage of the required load under subsection (1)
19 shall be allocated between the electric utility's industrial,
20 commercial, and residential customers.

21 (4) The commission shall establish an amount of electricity
22 that each utility with more than 500,000 customers shall
23 set-aside for aggregation. The amount required by this subsec-
24 tion shall be included in each year's direct access block
25 required under subsection (1).

1 (5) Customers eligible to participate in direct access under
2 this act before January 1, 2002 shall be selected on a bid basis
3 as determined by the commission.

4 Sec. 105. Electricity generation service shall be a matter
5 of contract between the generators and the customers electing
6 direct access.

7 Sec. 106. (1) The commission shall establish a transition
8 charge as part of the nonbypassable distribution charge for cus-
9 tomers choosing direct access to allow electric utilities to
10 recover stranded investment costs.

11 (2) In determining stranded investment costs, the commission
12 shall authorize the recovery of the following costs and catego-
13 ries of costs:

14 (a) Generation-related regulatory assets and obligations
15 approved by the commission for inclusion in retail rates includ-
16 ing, but not limited to, unrecovered costs of demand-side manage-
17 ment programs, plant abandonment costs, unfunded pensions and
18 health benefit liabilities, deferred tax liabilities, other regu-
19 latory assets, and other similar costs.

20 (b) Unamortized capital costs of nuclear power plants
21 approved by the commission for inclusion in retail rates as of
22 the effective date of this act.

23 (c) Contract capacity costs of obligations incurred under
24 purchase power contracts which were approved by the commission
25 for inclusion in retail rates prior to the effective date of this
26 act. This subdivision includes purchase power contracts with a
27 qualifying facility as defined in the public utility regulatory

1 policies act, Public Law 95-617, 92 Stat. 3117 and power purchase
2 agreements with resource recovery facilities as defined in
3 section 6o of 1939 PA 3, MCL 460.6o.

4 (d) Audited and verified employee-related restructuring
5 costs approved by the commission and incurred by an electric com-
6 pany as part of restructuring under this act after the effective
7 date of this act.

8 (e) Audited and verified costs approved by the commission
9 related to implementing restructuring.

10 (3) The transition charges approved by the commission under
11 this act shall be subject to periodic adjustment by the
12 commission. The commission shall establish a methodology for the
13 periodic adjustments.

14 Sec. 107. An electric utility or supplier shall not utilize
15 the distribution and transmission system of another supplier or
16 electricity distributor for the purposes of a retail direct
17 access transaction unless the electric utility or supplier pro-
18 vides open and nondiscriminatory retail direct access and allows
19 other electricity suppliers to utilize the electric utility's
20 facilities.

21 Sec. 108. (1) This act does not repeal or alter the content
22 or effect of orders that were issued by the commission before the
23 effective date of this act.

24 (2) This act shall not be construed to alter, amend, or void
25 any court interpretation or holding that existed on the effective
26 date of this act.