

**SENATE BILL NO. 642**

June 10, 1999, Introduced by Senators SIKKEMA, BULLARD 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, 12, 14, 15, 23, 26, 27, and 33.

**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. 12. (1) THE COMMISSION SHALL HOLD A PUBLIC HEARING AND  
8 ISSUE A REPORT NOT LATER THAN JANUARY 1 OF EACH YEAR DETAILING  
9 THE STATE OF COMPETITION IN THE ELECTRIC GENERATION SERVICE  
10 MARKET WITHIN THE SERVICE TERRITORY OF EACH PROVIDER OF DELIVERY  
11 SERVICE. THE FIRST REPORT SHALL BE ISSUED NO EARLIER THAN  
12 JANUARY 1, 2001.

13 (2) THE REPORT ISSUED UNDER SUBSECTION (1) SHALL BE BASED ON  
14 RELEVANT ECONOMIC TESTS, INCLUDING, BUT NOT LIMITED TO, THOSE IN  
15 SUBSECTION (5). THE FINDINGS IN THE REPORT SHALL NOT BE BASED ON  
16 ANY SINGLE MEASURE OF COMPETITION, BUT APPROPRIATE WEIGHT SHALL  
17 BE GIVEN TO ALL MEASURES OF COMPETITION. THE REPORT AND FINDINGS  
18 SHALL BE SUPPORTED BY SUBSTANTIAL EVIDENCE.

19 (3) THE REPORT SHALL INCLUDE A SEPARATE FINDING OF WHETHER  
20 COMPETITION EXISTS IN EACH CUSTOMER CLASS FOR EACH GENERATION  
21 SERVICE IN THE SERVICE TERRITORY OF EACH PROVIDER OF DELIVERY  
22 SERVICE.

23 (4) A PERSON WHO DISAGREES WITH THE REPORT AND FINDINGS OF  
24 THE COMMISSION MAY REQUEST A CONTESTED HEARING UNDER THE ADMINIS-  
25 TRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO  
26 24.328, NO LATER THAN 30 DAYS AFTER ISSUANCE OF THE TENTATIVE  
27 REPORT. THE COMMISSION SHALL GRANT A REQUEST MADE UNDER THIS

1 SUBSECTION AND ISSUE ITS FINAL DECISION WITHIN 120 DAYS AFTER THE  
2 DATE THE TENTATIVE REPORT WAS ISSUED.

3 (5) ALL OF THE FOLLOWING SHALL BE CONSIDERED BY THE COMMIS-  
4 SION UNDER SUBSECTION (1):

5 (A) THE EXTENT TO WHICH A PROVIDER OF DELIVERY SERVICES, AN  
6 AFFILIATE, OR BOTH CONTROL ALL OR A PORTION OF THE ELECTRIC GEN-  
7 ERATION SERVICE MARKET. WITH RESPECT TO COMPETITION WITHIN A  
8 SERVICE TERRITORY, CONTROL OF THE MARKET DOES NOT EXIST UNLESS  
9 THE PROVIDER OF DELIVERY SERVICES, AN AFFILIATE, OR BOTH HAVE  
10 MORE THAN A 30% MARKET SHARE OF ELECTRIC GENERATION SERVICES AS  
11 MEASURED BY RETAIL SALES IN ANY CUSTOMER CLASS WITHIN THE SERVICE  
12 TERRITORY.

13 (B) WHETHER THE TOTAL NUMBER OF COMPANIES PROVIDING ELECTRIC  
14 GENERATION SERVICE IN THIS STATE IS SUFFICIENT TO PROVIDE CUSTOM-  
15 ERS WITH MULTIPLE CHOICES OF ELECTRIC SUPPLIERS.

16 (C) THE ABILITY OF A PROVIDER OF DELIVERY SERVICES OR ITS  
17 AFFILIATE TO IMPOSE ON CUSTOMERS IN AN IDENTIFIABLE MARKET A  
18 PRICE LEVEL ON GENERATION SERVICE THAT IS SIGNIFICANTLY ABOVE THE  
19 PRICE LEVEL THAT WOULD PREVAIL IN A COMPETITIVE MARKET.

20 (D) THE AVAILABILITY OF FIRM TRANSMISSION SERVICE IN ALL  
21 GEOGRAPHIC REGIONS DURING EACH MONTH OF THE CALENDAR YEAR.

22 (E) ANY OTHER FACTORS THE COMMISSION CONSIDERS RELEVANT.

23 (6) THE REPORT AND FINDINGS REQUIRED UNDER THIS SECTION  
24 SHALL BE FORWARDED TO THE GOVERNOR, THE CLERK OF THE HOUSE, THE  
25 SECRETARY OF THE SENATE, AND THE HOUSE OF REPRESENTATIVES AND  
26 SENATE COMMITTEES THAT DEAL WITH ENERGY ISSUES.

1       (7) NO LATER THAN 90 DAYS AFTER RECEIPT OF THE REPORT AND  
2 FINDINGS UNDER THIS SECTION OR AT THE CONCLUSION OF A CONTESTED  
3 CASE UNDER SUBSECTION (4), WHICHEVER IS LATER, THE LEGISLATURE,  
4 BY CONCURRENT RESOLUTION, SHALL ADOPT OR REJECT, IN WHOLE OR IN  
5 PART, THE COMMISSION'S FINDINGS BY A MAJORITY ROLL-CALL VOTE OF  
6 ALL MEMBERS ELECTED AND SERVING IN EACH CHAMBER.

7       (8) BEGINNING JANUARY 1, 2003, IF THE LEGISLATURE ADOPTS A  
8 COMMISSION FINDING THAT COMPETITION EXISTS WITHIN THE SERVICE  
9 TERRITORY OF A PROVIDER OF DELIVERY SERVICE AS TO ALL OR CERTAIN  
10 CUSTOMER CLASSES AND AS TO ALL OR CERTAIN ELECTRIC GENERATION  
11 SERVICES, EXCEPT AS PROVIDED UNDER SECTION 13(7), THE COMMISSION  
12 SHALL DEREGULATE RETAIL RATES FOR THOSE CUSTOMER CLASSES AND GEN-  
13 ERATION SERVICES. A PROVIDER OF DELIVERY SERVICES THAT HAS HAD  
14 ITS RETAIL RATES FOR A GENERATION SERVICE AND CUSTOMER CLASS  
15 DEREGULATED UNDER THIS SUBSECTION IS PROHIBITED FROM PROVIDING  
16 THAT GENERATION SERVICE TO THAT CLASS.

17       (9) IF THE LEGISLATURE DOES NOT ACT WITHIN 90 DAYS AS  
18 REQUIRED UNDER SUBSECTION (7), REJECTS THE FINDINGS BY THE COM-  
19 MISSION THAT COMPETITION EXISTS AS TO A CUSTOMER CLASS OR GENERA-  
20 TION SERVICE WITHIN A SERVICE TERRITORY OF A PROVIDER OF DELIVERY  
21 SERVICES, OR ADOPTS A FINDING BY THE COMMISSION THAT COMPETITION  
22 DOES NOT EXIST AS TO A CLASS OR SERVICE, THE COMMISSION SHALL  
23 REGULATE THE RETAIL RATES FOR THOSE CUSTOMER CLASSES AND GENERA-  
24 TION SERVICES.

25       (10) IF COMPETITION IS FOUND NOT TO EXIST UNDER THIS SEC-  
26 TION, THE COMMISSION SHALL TAKE THE NECESSARY ACTION CONSISTENT

1 WITH THIS ACT TO ENCOURAGE THE DEVELOPMENT OF A COMPETITIVE  
2 MARKET IN THIS STATE.

3 (11) BEGINNING JANUARY 1, 2003, NOTWITHSTANDING SUBSECTIONS  
4 (1) THROUGH (10), THE COMMISSION SHALL, UPON THE APPLICATION OF A  
5 PROVIDER OF DELIVERY SERVICE, DEREGULATE RETAIL RATES FOR THE  
6 GENERATION OF ELECTRICITY IN THE SERVICE TERRITORY OF THE PRO-  
7 VIDER OF DELIVERY SERVICE IF THE COMMISSION DETERMINES THAT THE  
8 TRANSMISSION IMPORT CAPABILITY INTO THE PROVIDER'S TERRITORY, NOT  
9 RESERVED BY THE PROVIDER OF DELIVERY SERVICES, PLUS THE GENERA-  
10 TION CAPACITY OF ELECTRIC SUPPLIERS LOCATED IN THE SERVICE TERRI-  
11 TORY THAT ARE NOT UNDER THE COMMERCIAL CONTROL OR AFFILIATED WITH  
12 THE PROVIDER OF DELIVERY SERVICE OR ITS AFFILIATES, ARE SUFFI-  
13 CIENT TO PROVIDE RELIABLE ELECTRIC GENERATION SERVICE TO 100% OF  
14 THE PEAK ELECTRIC LOAD IN THE TERRITORY ON A FIRM BASIS THROUGH-  
15 OUT THE CALENDAR YEAR.

16 SEC. 14. (1) EXCEPT AS PROVIDED IN SECTION 11(5) AND (7)  
17 AND SUBSECTION (14), THE COMMISSION SHALL ALLOW EACH ELECTRIC  
18 UTILITY THE OPPORTUNITY TO RECOVER STRANDED COSTS THROUGH A TRAN-  
19 SITION CHARGE RECOVERABLE FROM ALL CUSTOMERS WITHIN THE UTILITY'S  
20 SERVICE TERRITORY.

21 (2) FOR EACH ELECTRIC UTILITY SERVING CUSTOMERS IN THIS  
22 STATE ON DECEMBER 31, 1998, THE COMMISSION SHALL DETERMINE, TO  
23 THE EXTENT THEY QUALIFY AS STRANDED COSTS UNDER SUBSECTION (1),  
24 THE SUM OF THE COSTS OF A UTILITY'S REGULATORY ASSETS RELATED TO  
25 GENERATION, PLUS THE GREATER OF ZERO OR THE SUM OF THE  
26 FOLLOWING:

1 (A) EXCEPT AS PROVIDED IN SECTION 15(6), THE DIFFERENCE  
2 BETWEEN NET PLANT INVESTMENT ASSOCIATED WITH ALL OF A UTILITY'S  
3 GENERATION ASSETS AND THE MARKET VALUE OF THE GENERATION ASSETS.

4 (B) THE DIFFERENCE BETWEEN FUTURE CONTRACT PAYMENTS AND THE  
5 MARKET VALUE OF ALL OF A UTILITY'S PURCHASED POWER CONTRACTS.

6 (3) WHEN DETERMINING THE MARKET VALUE OF GENERATION ASSETS  
7 AND PURCHASED POWER CONTRACTS UNDER SUBSECTION (2), THE COMMIS-  
8 SION SHALL RELY TO THE GREATEST EXTENT POSSIBLE ON MARKET INFOR-  
9 MATION, INCLUDING, BUT NOT LIMITED TO, MARKET VALUATIONS THAT  
10 BECOME KNOWN AS GENERATION ASSETS AND THE RIGHTS TO POWER UNDER  
11 CONTRACTS WITH QUALIFYING FACILITIES ARE SOLD OR APPRAISALS CON-  
12 DUCTED BY THIRD PARTIES INDEPENDENT OF THE ELECTRIC UTILITY TO  
13 DETERMINE THE MAXIMUM MARKET VALUE OF THE ASSETS THAT COULD BE  
14 REALIZED BY AN OPEN AND COMPETITIVE SALE.

15 (4) FOR EACH ELECTRIC UTILITY SERVING LESS THAN 1,000,000  
16 CUSTOMERS IN THIS STATE ON DECEMBER 31, 1998, THE COMMISSION MAY  
17 ADOPT A DIFFERENT METHODOLOGY TO DETERMINE THE AMOUNT OF STRANDED  
18 COSTS THAT THE UTILITY MAY RECOVER. HOWEVER, IN NO EVENT MAY THE  
19 COMMISSION DETERMINE THAT A UTILITY SHALL RECEIVE LESS THAN ITS  
20 REGULATORY ASSETS AS ITS STRANDED COSTS RECOVERY.

21 (5) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, THE  
22 COMMISSION SHALL NOT INCLUDE ANY COSTS FOR OBLIGATIONS INCURRED  
23 AFTER DECEMBER 31, 1998 IN AN ELECTRIC UTILITY'S STRANDED COSTS.

24 (6) THE COMMISSION SHALL CALCULATE A COST REDUCTION CREDIT  
25 FOR EACH CUSTOMER SERVED BY A PROVIDER OF DELIVERY SERVICE  
26 DESCRIBED IN SUBDIVISIONS (A) AND (B). THE CREDIT SHALL BE  
27 ALLOCATED IN A COMPETITIVELY NEUTRAL MANNER BY THE COMMISSION AND

1 WITHOUT REGARD TO WHETHER THE CUSTOMER IS EXERCISING DIRECT  
2 ACCESS OR RECEIVING GENERATION SERVICES FROM A PROVIDER OF DELIV-  
3 ERY SERVICES. THE COST REDUCTION CREDIT SHALL REDUCE THE TOTAL  
4 MONTHLY BILL OF CUSTOMERS SERVED BY A PROVIDER OF DELIVERY  
5 SERVICES. THE COMMISSION SHALL APPLY THE COST REDUCTION CREDIT  
6 THROUGH DECEMBER 31, 2008 AND SHALL DETERMINE THE AMOUNT OF THE  
7 MONTHLY CREDIT FROM THE FOLLOWING AGGREGATE NUMBERS:

8 (A) FOR A PROVIDER OF DELIVERY SERVICES SERVING 1,000,000 OR  
9 MORE BUT LESS THAN 2,000,000 CUSTOMERS IN THIS STATE AS OF  
10 DECEMBER 31, 1997, \$94,000,000.00, PRESENT DISCOUNTED VALUE, 7%  
11 DISCOUNT RATE, SHALL BE DISBURSED AS PROVIDED BY THIS SECTION.

12 (B) FOR A PROVIDER OF DELIVERY SERVICES SERVING 2,000,000 OR  
13 MORE CUSTOMERS IN THIS STATE AS OF DECEMBER 31, 1997,  
14 \$532,000,000.00, PRESENT DISCOUNTED VALUE, 7% DISCOUNT RATE,  
15 SHALL BE DISBURSED AS PROVIDED BY THIS SECTION.

16 (7) EXCEPT AS REQUIRED UNDER SECTION 31, A TRANSITION CHARGE  
17 ESTABLISHED UNDER THIS SECTION AND SECTION 15 SHALL APPLY TO ALL  
18 CUSTOMERS UNTIL JANUARY 1, 2008.

19 (8) AS A PORTION OF THE TRANSITION CHARGE, THE COMMISSION  
20 SHALL ALSO DETERMINE AN IMPLEMENTATION CHARGE THAT SHALL APPLY TO  
21 ALL RETAIL CUSTOMERS. IN DETERMINING THE LEVEL OF THIS CHARGE,  
22 THE COMMISSION MAY ONLY CONSIDER AUDITED AND VERIFIED  
23 EMPLOYEE-RELATED RESTRUCTURING COSTS THE COMMISSION HAS APPROVED  
24 AND DETERMINED TO BE REASONABLE AND PRUDENT THAT ARE INCURRED AS  
25 A RESULT OF COMMISSION ORDERS OR THE AMENDATORY ACT THAT ADDED  
26 THIS SECTION, INCLUDING EMPLOYEE SEVERANCE COSTS, EMPLOYEE  
27 RETRAINING PROGRAMS, EARLY RETIREMENT PROGRAMS, OUTPLACEMENT



1 PROGRAMS, AND SIMILAR COSTS AND PROGRAMS. COSTS RELATING TO  
2 OFFICERS, SENIOR SUPERVISORY EMPLOYEES, AND PROFESSIONAL EMPLOY-  
3 EES PERFORMING REGULATORY AND LEGAL FUNCTIONS OF AN ELECTRIC  
4 UTILITY OR AN AFFILIATE OF THE UTILITY, EMPLOYEES OF AN AFFILIATE  
5 OF THE UTILITY, OR EMPLOYEES HIRED AFTER THE EFFECTIVE DATE OF  
6 THE AMENDATORY ACT THAT ADDED THIS SECTION SHALL NOT BE INCLUDED  
7 UNDER THIS SUBSECTION.

8 (9) THE COMMISSION SHALL ALLOCATE THE CHARGES TO BE RECOV-  
9 ERED UNDER THIS SECTION BETWEEN THE DIFFERENT CUSTOMER CLASSES OF  
10 EACH ELECTRIC UTILITY ACCORDING TO THE SAME ALLOCATION PERCENT-  
11 TAGES AS APPROVED BY THE COMMISSION IN THE ELECTRIC UTILITY'S  
12 MOST RECENTLY COMPLETED GENERAL RATE CASE AS OF THE EFFECTIVE  
13 DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION.

14 (10) STRANDED COSTS FOR A COOPERATIVE ELECTRIC UTILITY SERV-  
15 ING PRIMARILY AT WHOLESALE SHALL BE ASSESSED BY AND COLLECTED  
16 THROUGH ITS MEMBER COOPERATIVES CONSISTENT WITH STATE AND FEDERAL  
17 LAW.

18 (11) IN MAKING DETERMINATIONS UNDER THIS SECTION AND SECTION  
19 15, THE COMMISSION SHALL ONLY INCLUDE UTILITY INVESTMENTS JURIS-  
20 DICTIONALLY ASSIGNED TO CUSTOMERS IN THIS STATE.

21 (12) THE COMMISSION SHALL CONTINUE TO HAVE THE AUTHORITY AND  
22 RESPONSIBILITY TO ESTABLISH NUCLEAR DECOMMISSIONING CHARGES FOR  
23 NUCLEAR POWER PLANTS. UPON APPLICATION BY AN ELECTRIC UTILITY,  
24 THE COMMISSION SHALL ESTABLISH CHARGES APPLICABLE TO CUSTOMERS OF  
25 THE PROVIDER OF DELIVERY SERVICES IN THIS STATE WHICH ARE SUFFI-  
26 CIENT FOR DECOMMISSIONING.

1 (13) THIS SECTION SHALL NOT IMPAIR OR ALTER THE TERMS OF A  
2 COMMISSION APPROVED CONTRACT BETWEEN A UTILITY AND A CUSTOMER.

3 (14) AS USED IN THIS SECTION AND SECTION 15:

4 (A) "REGULATORY ASSETS" DOES NOT INCLUDE DEBT RELATED  
5 EXPENSES AND CAPITAL COSTS RELATING TO NUCLEAR POWER PLANTS AND  
6 PURCHASE POWER AGREEMENTS.

7 (B) "STRANDED COSTS" MEANS AN ELECTRIC UTILITY'S LEGITIMATE,  
8 VERIFIABLE, AND UNMITIGABLE COSTS MADE UNRECOVERABLE AS A RESULT  
9 OF THE RESTRUCTURING OF THE ELECTRIC INDUSTRY REQUIRED BY THIS  
10 ACT AND DETERMINED BY THE COMMISSION AS PROVIDED IN THIS  
11 SECTION.

12 SEC. 15. (1) TRANSITION CHARGES ESTABLISHED UNDER SECTION  
13 14 SHALL BE SUBJECT TO ANNUAL ADJUSTMENT IN A TRUE-UP PROCEEDING  
14 CONDUCTED AT THE END OF EACH YEAR BEGINNING WITH 1999, UP TO AND  
15 INCLUDING THE YEAR 2007 IF STRANDED COSTS HAVE NOT BEEN  
16 RECOVERED. THE COMMISSION SHALL ASSURE THAT THE TRANSITION  
17 CHARGES ALLOWED UNDER SECTION 14 ACCURATELY REFLECT THE ACTUAL  
18 STRANDED COSTS AND EMPLOYEE RELATED RESTRUCTURING COSTS OF THE  
19 ELECTRIC UTILITY BY MAKING THE NECESSARY ADJUSTMENTS TO PREVENT  
20 OVERRECOVERY OR UNDERRECOVERY OF THOSE COSTS.

21 (2) THE TRUE-UP PROCEEDING FOR 2000 SHALL BE CONDUCTED AS A  
22 CONTESTED CASE UNDER THE ADMINISTRATIVE PROCEDURES ACT OF 1969,  
23 1969 PA 306, MCL 24.201 TO 24.328.

24 (3) AN ELECTRIC UTILITY THAT HAS COLLECTED, OR IS ELIGIBLE  
25 TO COLLECT, A COMMISSION-APPROVED TRANSITION CHARGE SHALL FILE  
26 WITH THE COMMISSION, NO LATER THAN 60 DAYS AFTER THE END OF EACH  
27 CALENDAR YEAR, AN APPLICATION WITH COMPLETE SUPPORTING

1 DOCUMENTATION FOR A TRUE-UP OF ITS TRANSITION CHARGE AND SHALL  
2 PUBLISH A NOTICE OF ITS APPLICATION, IN FORM AND SUBSTANCE AS  
3 APPROVED BY THE COMMISSION, IN NEWSPAPERS OF GENERAL CIRCULATION  
4 THROUGHOUT ITS SERVICE TERRITORY.

5 (4) EXCEPT AS PROVIDED IN SUBSECTION (2), ANY CUSTOMER,  
6 ALTERNATIVE ELECTRIC SUPPLIER, OR OTHER INTERESTED PERSON MAY  
7 FILE COMMENTS, INCLUDING DATA, VIEWS, AND ARGUMENTS, WITHIN 60  
8 DAYS OF THE FILING OR FINAL PUBLICATION OF THE NOTICE, WHICHEVER  
9 IS LATER.

10 (5) EXCEPT AS PROVIDED IN SUBSECTION (2), THE COMMISSION  
11 SHALL CONDUCT AN INVESTIGATION AND AFTER NOTICE AND HEARING ISSUE  
12 AN ORDER ACCEPTING, REJECTING, OR MODIFYING THE TRUE-UP ADJUST-  
13 MENT, WITHIN 60 DAYS OF THE DEADLINE FOR FILING OF COMMENTS. THE  
14 COMMISSION'S INVESTIGATION, HEARING, AND ORDER UNDER THIS SUBSEC-  
15 TION ARE NOT A CONTESTED CASE UNDER THE ADMINISTRATIVE PROCEDURES  
16 ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328.

17 (6) IF GENERATION ASSETS ARE DIVESTED TO AN UNAFFILIATED  
18 THIRD PARTY, 95% OF THE PROCEEDS ABOVE NET BOOK VALUE SHALL BE  
19 USED TO REDUCE TRANSITION CHARGES. FIVE PERCENT OF THE PROCEEDS  
20 ABOVE NET BOOK VALUE SHALL BE DISTRIBUTED TO THE ELECTRIC UTILITY  
21 AND SHALL NOT REDUCE TRANSITION CHARGES.

22 (7) PRIOR TO AN ELECTRIC UTILITY OR AN AFFILIATE OF AN ELEC-  
23 TRIC UTILITY SOLICITING BIDS FOR THE SALE OF GENERATING ASSETS,  
24 INCLUDING RIGHTS TO POWER PRODUCED UNDER CONTRACTS WITH A QUALI-  
25 FYING FACILITY, OF THE ELECTRIC UTILITY OR THE ELECTRIC UTILITY  
26 HOLDING COMPANY OR SOLICITING BIDS FOR THE SALE OF GENERATING  
27 ASSETS, INCLUDING RIGHTS TO POWER PRODUCED UNDER CONTRACTS WITH A

1 QUALIFYING FACILITY, WHICH HAVE NOT BEEN APPROVED BY THE  
2 COMMISSION FOR TRANSFER FROM THE ELECTRIC UTILITY TO THE ELECTRIC  
3 UTILITY HOLDING COMPANY, THE COMMISSION SHALL ESTABLISH STANDARDS  
4 FOR THE CONDUCT OF THE SALE BY THE UTILITY. THE STANDARDS SHALL  
5 INCLUDE PROVISIONS FOR THE COMMISSION TO MONITOR THE BID PROCESS  
6 TO ENSURE THAT IT IS CONDUCTED BY PARTIES ACTING IN THEIR OWN  
7 BEST INTEREST AND IN A MANNER DESIGNED TO ENSURE A FAIR MARKET  
8 VALUE DETERMINATION AND DOES NOT UNREASONABLY PRECLUDE PARTICIPA-  
9 TION BY PROSPECTIVE PURCHASERS.

10 (8) BEFORE COMPLETING ANY SALE OF GENERATING ASSETS, INCLUD-  
11 ING RIGHTS TO POWER PRODUCED UNDER CONTRACTS WITH A QUALIFYING  
12 FACILITY, WITHIN THIS STATE, AN ELECTRIC UTILITY SHALL FILE FOR  
13 AND OBTAIN APPROVAL BY THE COMMISSION OF THE SALE. THE COMMIS-  
14 SION SHALL APPROVE THE SALE IF IT FINDS ALL OF THE FOLLOWING:

15 (A) THAT THE SALE REFLECTS THE FULL MARKET VALUE OF THE  
16 ASSETS.

17 (B) THAT THE SALE IS OTHERWISE IN THE BEST INTEREST OF THE  
18 ELECTRIC UTILITY'S CUSTOMERS.

19 (C) THAT THE SALE WILL NOT JEOPARDIZE THE RELIABILITY OF THE  
20 ELECTRIC POWER SYSTEM.

21 (D) THAT THE SALE WILL NOT RESULT IN UNDUE CONTROL OF THE  
22 ELECTRIC POWER MARKET BY THE PROSPECTIVE BUYER.

23 (9) AS A CONDITION OF RECOVERING STRANDED COSTS UNDER THIS  
24 SECTION AND SECTION 14, EACH ELECTRIC UTILITY SHALL PROVIDE THE  
25 COMMISSION WITH ALL INFORMATION THAT THE COMMISSION CONSIDERS  
26 NECESSARY TO MAKE A DETERMINATION UNDER THIS SECTION.

1        SEC. 23. (1) THE COMMISSION SHALL ESTABLISH MINIMUM  
2 STANDARDS FOR THE FORM AND CONTENT OF ALL DISCLOSURES,  
3 EXPLANATIONS, OR SALES INFORMATION DISSEMINATED BY A PERSON SELL-  
4 ING A COMPETITIVE SERVICE TO ENSURE THAT THE PERSON PROVIDES ADE-  
5 QUATE, ACCURATE, AND UNDERSTANDABLE INFORMATION ABOUT THE SERVICE  
6 WHICH ENABLES A CUSTOMER TO MAKE AN INFORMED DECISION RELATING TO  
7 THE SOURCE AND TYPE OF ELECTRIC SERVICE PURCHASED. THE STANDARDS  
8 SHALL BE DEVELOPED TO DO ALL OF THE FOLLOWING:

9        (A) NOT BE UNDULY BURDENSOME.

10       (B) NOT UNNECESSARILY DELAY OR INHIBIT THE INITIATION AND  
11 DEVELOPMENT OF COMPETITION FOR ANY SERVICE IN ANY MARKET.

12       (C) ESTABLISH DIFFERENT REQUIREMENTS FOR DISCLOSURES, EXPLA-  
13 NATIONS, OR SALES INFORMATION RELATING TO DIFFERENT SERVICES OR  
14 SIMILAR SERVICES TO DIFFERENT CLASSES OF CUSTOMERS, WHENEVER SUCH  
15 DIFFERENT REQUIREMENTS ARE APPROPRIATE TO CARRY OUT THE PROVI-  
16 SIONS OF THIS ACT.

17       (2) THE COMMISSION, BEFORE AND AFTER THE COMMENCEMENT OF  
18 DIRECT ACCESS TO ALTERNATIVE ELECTRIC SUPPLIERS, SHALL CARRY OUT  
19 AN EDUCATIONAL PROGRAM FOR CUSTOMERS TO DO ALL OF THE FOLLOWING:

20       (A) INFORM CUSTOMERS OF THE CHANGES IN THE PROVISION OF  
21 ELECTRIC SERVICE, INCLUDING, BUT NOT LIMITED TO, THE AVAILABILITY  
22 OF ALTERNATIVE ELECTRIC SUPPLIERS.

23       (B) INFORM CUSTOMERS OF THE REQUIREMENTS RELATING TO DISCLO-  
24 SURES, EXPLANATIONS, OR SALES INFORMATION FOR SELLERS OF COMPETI-  
25 TIVE SERVICES.

1 (C) PROVIDE ASSISTANCE TO CUSTOMERS IN UNDERSTANDING AND  
2 USING THE INFORMATION TO MAKE REASONABLY INFORMED CHOICES ABOUT  
3 WHICH SERVICE TO PURCHASE AND FROM WHOM TO PURCHASE IT.

4 (3) THE SUPPLIER SHALL PROVIDE WRITTEN DISCLOSURE TO ITS  
5 CUSTOMERS, AS REQUIRED BY THE COMMISSION, REGARDING THE NATURE  
6 AND PERCENTAGES OF THE SOURCES OF POWER.

7 SEC. 26. (1) THE COMMISSION SHALL ESTABLISH A COMPLAINT  
8 PROCEDURE TO ALLOW PERSONS, OR THE COMMISSION ON ITS OWN MOTION,  
9 TO FILE CLAIMS OF VIOLATIONS OF SECTIONS 20, 21, 22, 23, 24, AND  
10 25.

11 (2) UPON THE FILING OF A CLAIM, THE COMMISSION SHALL INVES-  
12 TIGATE AND MAKE FINDINGS OF WHETHER A VIOLATION HAS OCCURRED.

13 (3) IN ADDITION TO ANY OTHER PENALTIES PROVIDED BY THIS ACT  
14 OR LAW, IF THE COMMISSION FINDS, AFTER NOTICE AND HEARING, THAT  
15 THERE HAS BEEN A VIOLATION OF SECTION 20, 21, 22, 23, 24, OR 25,  
16 IT MAY ISSUE A CEASE AND DESIST ORDER.

17 (4) IF THE VIOLATION WARRANTS IMMEDIATE ACTION, THE COMMIS-  
18 SION IS AUTHORIZED TO ISSUE A PRELIMINARY CEASE AND DESIST ORDER  
19 BASED UPON AN ABBREVIATED HEARING BY AN ADMINISTRATIVE JUDGE. A  
20 REQUEST FOR A PRELIMINARY ORDER UNDER THIS SUBSECTION SHALL BE  
21 EITHER GRANTED OR DENIED WITHIN 3 BUSINESS DAYS FROM THE DATE THE  
22 COMPLAINT IS FILED.

23 (5) IF A PERSON VIOLATES AN ORDER ISSUED UNDER SUBSECTION  
24 (3) OR (4), THE COMMISSION MAY ORDER THE PERSON TO PAY A FINE OF  
25 NOT MORE THAN \$50,000.00 PER DAY FOR EACH DAY THE PERSON IS IN  
26 VIOLATION.

1       (6) THE COMMISSION MAY ORDER THE PROVIDER OF DELIVERY  
2 SERVICE OR ITS AFFILIATE TO DIVEST TO AN UNAFFILIATED THIRD PARTY  
3 ALL OR A PORTION OF ITS ELECTRIC GENERATION ASSETS AND OPERATION  
4 SUFFICIENT TO ENSURE THAT THE PROVIDER OF DELIVERY SERVICES OR  
5 ITS AFFILIATE MAY NOT ADVERSELY AFFECT THE DEVELOPMENT OF A COM-  
6 PETITIVE MARKET FOR GENERATION SERVICES OR OTHERWISE IMPOSE ON  
7 CUSTOMERS IN AN IDENTIFIABLE MARKET A PRICE LEVEL FOR GENERATION  
8 SERVICES SIGNIFICANTLY HIGHER THAN THE PRICE LEVEL THAT WOULD  
9 PREVAIL IN A COMPETITIVE MARKET, IF THE COMMISSION FINDS BOTH OF  
10 THE FOLLOWING:

11       (A) THAT THERE IS A PATTERN OF VIOLATIONS BY A PROVIDER OF  
12 DELIVERY SERVICES OR ITS AFFILIATE UNDER THIS SECTION.

13       (B) THAT THE VIOLATIONS HAVE SUBSTANTIALLY HARMED THE COM-  
14 PETITIVE MARKET FOR GENERATION SERVICES IN THIS STATE.

15       (7) IF A PROVIDER OF DELIVERY SERVICE FAILS TO COMPLY WITH  
16 AN ORDER ISSUED UNDER THIS SECTION, THE PROVIDER IS NOT ELIGIBLE  
17 TO RECOVER TRANSITION CHARGES UNDER SECTIONS 14 AND 15.

18       SEC. 27. THE COMMISSION SHALL FILE A REPORT WITH THE GOVER-  
19 NOR AND LEGISLATURE BY DECEMBER 31 OF EACH YEAR THAT SHALL  
20 INCLUDE ALL OF THE FOLLOWING:

21       (A) ACTIONS TAKEN BY THE COMMISSION TO IMPLEMENT MEASURES  
22 NECESSARY TO PROTECT CONSUMERS FROM UNFAIR OR DECEPTIVE BUSINESS  
23 PRACTICES BY UTILITIES, ALTERNATIVE ELECTRIC SUPPLIERS, AND OTHER  
24 MARKET PARTICIPANTS.

25       (B) INFORMATION REGARDING CONSUMER EDUCATION PROGRAMS,  
26 APPROVED BY THE COMMISSION, TO INFORM CONSUMERS OF ALL RELEVANT

1 INFORMATION REGARDING THE PURCHASE OF ELECTRICITY AND RELATED  
2 SERVICES FROM ALTERNATIVE ELECTRIC SUPPLIERS.

3 (C) ANY ACTIONS THE COMMISSION TAKES AS REQUIRED UNDER SEC-  
4 TION 12(10).

5 SEC. 33. THIS ACT SHALL NOT BE CONSTRUED TO EXEMPT OR IMMU-  
6 NIZE FROM PUNISHMENT OR PROSECUTION CONDUCT THAT VIOLATES ANY  
7 FEDERAL ANTITRUST LAWS OR ANY ANTITRUST LAWS OF THIS STATE.

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. 643

12

13 (b) Senate Bill No. 644

14