

HOUSE BILL No. 4790

June 11, 1999, Introduced by Reps. Garcia, Jellema, Byl and Birkholz and referred to the Committee on Energy and Technology.

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 sections 10, 16, 17, 22, 24, 25, 28, 29, and 32.

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. 16. (1) AGGREGATION OF CUSTOMERS FOR THE PURPOSE OF
8 PURCHASING ELECTRICITY AND RELATED SERVICES FROM AN ALTERNATIVE
9 ELECTRIC SUPPLIER SHALL BE ENCOURAGED BY THE COMMISSION.

10 (2) LOCAL UNITS OF GOVERNMENT MAY AGGREGATE CUSTOMER LOAD
11 FOR THE PURPOSE OF PURCHASING ELECTRICITY FOR CUSTOMERS WITHIN
12 THEIR BOUNDARIES WITH THE WRITTEN CONSENT OF EACH CUSTOMER
13 AGGREGATED. CUSTOMERS WITHIN A LOCAL UNIT OF GOVERNMENT SHALL
14 CONTINUE TO HAVE THE RIGHT TO CHOOSE THEIR ELECTRICITY SUPPLIER
15 AND ARE NOT REQUIRED TO PURCHASE ELECTRICITY THROUGH THE
16 AGGREGATOR.

17 SEC. 17. (1) NO LATER THAN 30 DAYS AFTER THE EFFECTIVE DATE
18 OF THE AMENDATORY ACT THAT ADDED THIS SECTION, THE COMMISSION
19 SHALL ORDER AN ELECTRIC UTILITY TO DO ALL OF THE FOLLOWING:

20 (A) FUNCTIONALLY SEPARATE ITS NONCOMPETITIVE BUSINESS FUNC-
21 TIONS FROM ITS COMPETITIVE ELECTRICITY GENERATION SERVICES OR ITS
22 ELECTRIC POWER GENERATOR FUNCTIONS SO THAT SUCH SERVICES OR FUNC-
23 TIONS ARE PROVIDED BY A RELATED COMPETITIVE BUSINESS SEGMENT OF
24 THE UTILITY OR THE UTILITY'S HOLDING COMPANY.

25 (B) NO LATER THAN JANUARY 1, 2000, IF AN ELECTRIC UTILITY
26 WAS SERVICING MORE THAN 1,000,000 CUSTOMERS AS OF DECEMBER 31,
27 1998, IT SHALL SEPARATE ITS BUSINESS ACTIVITIES FROM ONE ANOTHER

1 EITHER THROUGH THE CREATION OF UNAFFILIATED COMPANIES, AFFILIATED
2 COMPANIES OWNED BY A COMMON HOLDING COMPANY, OR THROUGH THE SALE
3 OF ASSETS TO AN UNAFFILIATED THIRD PARTY. DELIVERY SERVICES
4 SHALL NOT BE PROVIDED BY THE SAME COMPANY THAT PROVIDES GENERA-
5 TION SERVICES.

6 (C) FOR ALL ELECTRIC UTILITIES SERVING MORE THAN 1,000,000
7 CUSTOMERS AS OF DECEMBER 31, 1998, UPGRADE ITS TRANSMISSION FIRM
8 IMPORT CAPACITY AT PEAK BY 1,000 MW BY JULY 1, 2000 AND ADDI-
9 TIONAL 1,250 MW BY JANUARY 1, 2002. AN ELECTRIC UTILITY OR ITS
10 AFFILIATES SHALL NOT RESERVE THE INCREMENTAL INCREASES IN TRANS-
11 MISSION CAPACITY DESCRIBED IN THIS SECTION. THE COMMISSION SHALL
12 APPORTION THE TRANSMISSION INCREASES REQUIRED BY THIS SECTION
13 BETWEEN THE AFFECTED ELECTRIC UTILITIES.

14 (D) IN ADDITION TO THE REQUIREMENTS OF SUBDIVISION (C), FOR
15 ALL ELECTRIC UTILITIES SERVING MORE THAN 1,000,000 CUSTOMERS AS
16 OF DECEMBER 31, 1998, IF, BY JUNE 1, 2000, A MINIMUM OF 1,000 MW
17 OF NEW GENERATING CAPACITY IS NOT UNDER ACTIVE DEVELOPMENT IN
18 THIS STATE BY A THIRD PARTY NONAFFILIATED WITH AN ELECTRIC UTIL-
19 ITY OR A PROVIDER OF DELIVERY SERVICE, AT THE ELECTRIC UTILITY'S
20 OPTION, EITHER PROPOSE OR RECOMMEND BY JULY 1, 2000, TO THE
21 APPLICABLE REGIONAL TRANSMISSION OPERATOR, OR OTHER TRANSMISSION
22 PLANNING ENTITY, TRANSMISSION UPGRADES THAT WOULD INCREASE WITHIN
23 1 YEAR THEIR TRANSMISSION FIRM IMPORT CAPACITY AT PEAK BY THE
24 AMOUNT NEEDED TO ACHIEVE THE 1,000 MW INCREASE DESCRIBED ABOVE,
25 OR DIVEST WITHIN 1 YEAR A SIMILAR AMOUNT OF CURRENTLY LICENSED,
26 PERMITTED, AND OPERABLE FOSSIL FUEL POWERED GENERATING CAPACITY
27 TO A NONAFFILIATED THIRD PARTY. IF, BY JUNE 1, 2002, 1,250 MW,

1 IN ADDITION TO THE 1,000 MW REFERENCED ABOVE, OF NEW GENERATING
2 CAPACITY IS NOT UNDER ACTIVE DEVELOPMENT IN THIS STATE BY A THIRD
3 PARTY NONAFFILIATED WITH AN ELECTRIC UTILITY OR A PROVIDER OF
4 DELIVERY SERVICE, AT THE ELECTRIC UTILITY'S OPTION, EITHER PRO-
5 POSE OR RECOMMEND BY JULY 1, 2002, TO THE APPLICABLE REGIONAL
6 TRANSMISSION OPERATOR, OR OTHER TRANSMISSION PLANNING ENTITY,
7 TRANSMISSION UPGRADES THAT WOULD INCREASE WITHIN 1 YEAR THEIR
8 TRANSMISSION FIRM IMPORT CAPACITY AT PEAK BY THE AMOUNT NEEDED TO
9 ACHIEVE THE 1,250 MW INCREASE DESCRIBED ABOVE, OR DIVEST WITHIN 1
10 YEAR A SIMILAR AMOUNT OF CURRENTLY LICENSED, PERMITTED, AND OPER-
11 ABLE FOSSIL FUEL POWERED GENERATING CAPACITY TO A NONAFFILIATED
12 THIRD PARTY. AN ELECTRIC UTILITY OR ITS AFFILIATES SHALL NOT
13 RESERVE THE INCREMENTAL INCREASES IN TRANSMISSION CAPACITY
14 DESCRIBED IN THIS SECTION. THE COMMISSION SHALL APPORTION THE
15 REQUIREMENTS OF THIS SECTION BETWEEN THE AFFECTED ELECTRIC
16 UTILITIES. AS USED IN THIS SECTION, "ACTIVE DEVELOPMENT" MEANS
17 GENERATING CAPACITY THAT IS UNDER CONSTRUCTION AND WILL BE AVAIL-
18 ABLE TO CUSTOMERS WITHIN 12 CALENDAR MONTHS.

19 (2) IF AN ELECTRIC UTILITY DOES NOT COMPLY WITH THIS SEC-
20 TION, THE COMMISSION SHALL ORDER THE UTILITY CONSISTENT WITH SEC-
21 TION 15 TO DIVEST TO AN UNAFFILIATED COMPANY ALL OR A PORTION OF
22 ITS ELECTRIC GENERATION ASSETS AND OPERATIONS SUFFICIENT TO
23 INSURE THAT THE GENERATION FACILITIES UNDER THE ELECTRIC
24 UTILITY'S OWNERSHIP OR CONTROL DO NOT ENABLE THE UTILITY TO EXER-
25 CISE MARKET CONTROL THAT ADVERSELY AFFECTS THE FORMATION OF A
26 COMPETITIVE ELECTRIC GENERATION MARKET OR TO GAIN AN UNFAIR
27 COMPETITIVE ADVANTAGE OR OTHERWISE CHARGE NONCOMPETITIVE PRICES.

1 (3) AN ELECTRIC UTILITY SHALL NOT BE ELIGIBLE TO RECOVER
2 TRANSITION CHARGES UNDER SECTIONS 14 AND 15 UNLESS THE UTILITY
3 HAS COMPLIED WITH AN ORDER UNDER THIS SECTION.

4 SEC. 22. (1) A CUSTOMER OF AN ELECTRIC SUPPLIER SHALL NOT
5 BE SWITCHED TO ANOTHER SUPPLIER WITHOUT THE AUTHORIZATION OF THE
6 CUSTOMER.

7 (2) THE COMMISSION SHALL ISSUE ORDERS TO ENSURE THAT A CUS-
8 TOMER OF AN ELECTRIC SUPPLIER IS NOT SWITCHED TO ANOTHER SUPPLIER
9 WITHOUT THE CUSTOMER'S ORAL AUTHORIZATION, WRITTEN CONFIRMATION,
10 CONFIRMATION THROUGH AN INDEPENDENT THIRD PARTY, OR OTHER VERIFI-
11 CATION PROCEDURES SUBJECT TO COMMISSION APPROVAL, CONFIRMING THE
12 CUSTOMER'S INTENT TO MAKE A SWITCH AND THAT THE CUSTOMER HAS
13 APPROVED THE SPECIFIC DETAILS OF THE SWITCH.

14 (3) THE COMMISSION SHALL ESTABLISH A REASONABLE PERIOD
15 WITHIN WHICH A RETAIL CUSTOMER MAY CANCEL, WITHOUT PENALTY OR
16 COST, A CONTRACT ENTERED INTO WITH AN ELECTRIC SUPPLIER.

17 (4) A PROVIDER OF DELIVERY SERVICES SHALL NOT UNREASONABLY
18 DELAY OR REFUSE TO SWITCH A CUSTOMER TO ANOTHER SUPPLIER IF PROP-
19 ERLY AUTHORIZED.

20 SEC. 24. (1) AS USED IN THIS SECTION:

21 (A) "ELIGIBLE CUSTOMER" MEANS EITHER AN ELIGIBLE LOW-INCOME
22 CUSTOMER OR AN ELIGIBLE SENIOR CITIZEN CUSTOMER.

23 (B) "ELIGIBLE LOW-INCOME CUSTOMER" MEANS A CUSTOMER WHOSE
24 HOUSEHOLD INCOME DOES NOT EXCEED 150% OF THE POVERTY LEVEL, AS
25 PUBLISHED BY THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN
26 SERVICES, OR WHO RECEIVES ANY OF THE FOLLOWING:

1 (i) ASSISTANCE FROM A STATE EMERGENCY RELIEF PROGRAM

2 (ii) FOOD STAMPS.

3 (iii) MEDICAID.

4 (C) "ELIGIBLE SENIOR CITIZEN CUSTOMER" MEANS A UTILITY OR
5 SUPPLIER CUSTOMER WHO IS 65 YEARS OF AGE OR OLDER AND WHO ADVISES
6 THE UTILITY OF HIS OR HER ELIGIBILITY.

7 (2) AN ELECTRIC UTILITY OR ALTERNATIVE ELECTRIC SUPPLIER
8 SHALL NOT SHUT OFF SERVICE TO AN ELIGIBLE CUSTOMER DURING THE
9 HEATING SEASON FOR NONPAYMENT OF A DELINQUENT ACCOUNT IF THE CUS-
10 TOMER IS AN ELIGIBLE SENIOR CITIZEN CUSTOMER OR IF THE CUSTOMER
11 PAYS TO THE UTILITY OR SUPPLIER A MONTHLY AMOUNT EQUAL TO 7% OF
12 THE ESTIMATED ANNUAL BILL FOR THE ELIGIBLE CUSTOMER AND THE ELI-
13 GIBLE CUSTOMER DEMONSTRATES, WITHIN 14 DAYS OF REQUESTING SHUTOFF
14 PROTECTION, THAT HE OR SHE HAS APPLIED FOR STATE OR FEDERAL HEAT-
15 ING ASSISTANCE. IF AN ARREARAGE EXISTS AT THE TIME AN ELIGIBLE
16 CUSTOMER APPLIES FOR PROTECTION FROM SHUTOFF OF SERVICE DURING
17 THE HEATING SEASON, THE UTILITY OR SUPPLIER SHALL PERMIT THE CUS-
18 TOMER TO PAY THE ARREARAGE IN EQUAL MONTHLY INSTALLMENTS BETWEEN
19 THE DATE OF APPLICATION AND THE START OF THE SUBSEQUENT SPACE
20 HEATING SEASON.

21 (3) AN ELECTRIC UTILITY OR ALTERNATIVE ELECTRIC SUPPLIER MAY
22 SHUT OFF SERVICE TO AN ELIGIBLE LOW-INCOME CUSTOMER WHO DOES NOT
23 PAY THE MONTHLY AMOUNTS REFERRED TO IN SUBSECTION (2) AFTER
24 GIVING NOTICE IN THE MANNER REQUIRED BY RULES. THE UTILITY OR
25 SUPPLIER IS NOT REQUIRED TO OFFER A SETTLEMENT AGREEMENT TO AN
26 ELIGIBLE LOW-INCOME CUSTOMER WHO FAILS TO MAKE THE MONTHLY
27 PAYMENTS REFERRED TO IN SUBSECTION (2).

1 (4) IF A CUSTOMER FAILS TO COMPLY WITH THE TERMS AND
2 CONDITIONS OF THIS SECTION, AN ELECTRIC UTILITY OR ALTERNATIVE
3 ELECTRIC SUPPLIER MAY SHUT OFF SERVICE AFTER GIVING THE CUSTOMER
4 A NOTICE, BY PERSONAL SERVICE OR FIRST-CLASS MAIL, THAT CONTAINS
5 ALL OF THE FOLLOWING INFORMATION:

6 (A) THAT THE CUSTOMER HAS DEFAULTED ON THE WINTER PROTECTION
7 PLAN.

8 (B) THE NATURE OF THE DEFAULT.

9 (C) THAT UNLESS THE CUSTOMER MAKES THE PAYMENTS THAT ARE
10 PAST DUE UNDER THIS PART WITHIN 10 DAYS OF THE DATE OF MAILING,
11 THE UTILITY OR SUPPLIER MAY SHUT OFF SERVICE.

12 (D) THE DATE ON OR AFTER WHICH THE UTILITY OR SUPPLIER MAY
13 SHUT OFF SERVICE, UNLESS THE CUSTOMER TAKES APPROPRIATE ACTION.

14 (E) THAT THE CUSTOMER HAS THE RIGHT TO FILE A COMPLAINT DIS-
15 PUTING THE CLAIM OF THE UTILITY OR SUPPLIER BEFORE THE DATE OF
16 THE PROPOSED SHUTOFF OF SERVICE.

17 (F) THAT THE CUSTOMER HAS THE RIGHT TO REQUEST A HEARING
18 BEFORE A HEARING OFFICER IF THE COMPLAINT CANNOT BE OTHERWISE
19 RESOLVED AND THAT THE CUSTOMER MUST PAY TO THE UTILITY OR SUP-
20 PLIER THAT PORTION OF THE BILL THAT IS NOT IN DISPUTE WITHIN 3
21 DAYS OF THE DATE THAT THE CUSTOMER REQUESTS A HEARING.

22 (G) THAT THE CUSTOMER HAS THE RIGHT TO REPRESENT HIMSELF OR
23 HERSELF, TO BE REPRESENTED BY COUNSEL, OR TO BE ASSISTED BY OTHER
24 PERSONS OF HIS OR HER CHOICE IN THE COMPLAINT PROCESS.

25 (H) THAT THE UTILITY OR SUPPLIER WILL NOT SHUT OFF SERVICE
26 PENDING THE RESOLUTION OF A COMPLAINT THAT IS FILED WITH THE
27 UTILITY IN ACCORDANCE WITH THIS PART.

1 (I) THE TELEPHONE NUMBER AND ADDRESS OF THE UTILITY OR
2 SUPPLIER WHERE THE CUSTOMER MAY MAKE INQUIRY, ENTER INTO A SET-
3 TLEMENT AGREEMENT, OR FILE A COMPLAINT.

4 (J) THAT THE CUSTOMER SHOULD CONTACT A SOCIAL SERVICES
5 AGENCY IMMEDIATELY IF THE CUSTOMER BELIEVES HE OR SHE MIGHT BE
6 ELIGIBLE FOR EMERGENCY ECONOMIC ASSISTANCE.

7 (K) THAT THE UTILITY OR SUPPLIER WILL POSTPONE SHUTOFF OF
8 SERVICE IF A MEDICAL EMERGENCY EXISTS AT THE CUSTOMER'S
9 RESIDENCE.

10 (L) THAT THE UTILITY OR SUPPLIER MAY REQUIRE A DEPOSIT AND
11 RESTORATION CHARGE IF THE SUPPLIER SHUTS OFF SERVICE FOR NONPAY-
12 MENT OF A DELINQUENT ACCOUNT.

13 SEC. 25. IN ADDITION TO THE PROVISIONS PROVIDED FOR UNDER
14 THE MICHIGAN CONSUMER PROTECTION ACT, 1976 PA 331, MCL 445.901 TO
15 445.922, THE COMMISSION MAY ADOPT ANY OTHER RULES IT CONSIDERS
16 NECESSARY TO PROTECT RETAIL CUSTOMERS FROM FRAUD AND OTHER UNFAIR
17 AND DECEPTIVE BUSINESS PRACTICES.

18 SEC. 28. (1) BEFORE DECEMBER 31, 2000, EACH UTILITY OPERAT-
19 ING IN THIS STATE SHALL FILE WITH THE FERC AN UNCONDITIONAL
20 APPLICATION, CONSISTENT WITH THE APPLICABLE REGIONAL TRANSMISSION
21 ORGANIZATION'S AGREEMENT AND TARIFF, TO DO EITHER OF THE
22 FOLLOWING:

23 (A) TRANSFER THE OPERATION AND CONTROL OF ITS BULK TRANSMIS-
24 SION FACILITIES IN MICHIGAN TO A FERC APPROVED REGIONAL TRANSMIS-
25 SION ORGANIZATION.

26 (B) DIVEST ITS INTEREST IN ITS BULK TRANSMISSION FACILITIES
27 TO AN INDEPENDENT TRANSMISSION OWNER APPROVED BY THE FERC.

1 (2) IF BY JUNE 30, 2000 THERE IS PENDING BEFORE THE FERC FOR
2 APPROVAL A REGIONAL TRANSMISSION ORGANIZATION OR INDEPENDENT
3 TRANSMISSION OWNER TO WHICH A UTILITY IS A SIGNATORY THAT
4 INCLUDES 2 OR MORE DIRECTLY INTERCONNECTED CONTROL AREAS, AT
5 LEAST 1 OF WHICH IS NOT AFFILIATED WITH THAT SAME UTILITY, THE
6 DECEMBER 31, 2000 DEADLINE UNDER SUBSECTION (1) SHALL BE EXTENDED
7 FOR THAT UTILITY TO THE DATE THAT IS 75 DAYS AFTER THE DATE ON
8 WHICH THE FERC ISSUES AN ORDER EITHER APPROVING OR DISAPPROVING
9 THE REGIONAL TRANSMISSION ORGANIZATION OR INDEPENDENT TRANSMIS-
10 SION OWNER. FOR PURPOSES OF THIS SUBSECTION, THE MICHIGAN ELEC-
11 TRICAL COORDINATING SYSTEM SHALL CONTINUE TO BE TREATED AS A SIN-
12 GULAR CONTROL AREA.

13 (3) AN ELECTRIC UTILITY THAT HAS NOT BY JANUARY 1, 2002
14 EITHER JOINED A FERC APPROVED REGIONAL INDEPENDENT SYSTEM OPERA-
15 TOR OR OTHER FERC APPROVED MULTISTATE INDEPENDENT TRANSMISSION
16 ORGANIZATION OR DIVESTED ITS INTEREST IN ITS TRANSMISSION FACILI-
17 TIES TO AN INDEPENDENT TRANSMISSION OWNER APPROVED BY THE FERC IS
18 NOT ELIGIBLE TO RECOVER TRANSITION CHARGES UNDER SECTIONS 14 AND
19 15.

20 SEC. 29. (1) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS
21 ACT, REGULATED ELECTRIC UTILITIES SERVING LESS THAN 100,000 CUS-
22 TOMERS IN THIS STATE OR A COOPERATIVE ELECTRIC UTILITY SHALL
23 FILE, WITHIN 180 DAYS OF THE EFFECTIVE DATE OF THE AMENDATORY ACT
24 THAT ADDED THIS SECTION, OR BY JANUARY 1, 2000, WHICHEVER IS
25 LATER, RESTRUCTURING PLANS FOR REVIEW AND APPROVAL BY THE
26 COMMISSION.

1 (2) EACH RESTRUCTURING PLAN FILED UNDER SUBSECTION (1) SHALL
2 INCLUDE PROPOSALS TO CLASSIFY FACILITIES IN ACCORDANCE WITH
3 CRITERIA ESTABLISHED BY THE FERC AND SUCH CLASSIFICATION SHALL BE
4 BASED ON GENERALLY ACCEPTED ACCOUNTING PRINCIPLES. AN ELECTRIC
5 UTILITY SHALL NOT BE REQUIRED TO PHYSICALLY OR ORGANIZATIONALLY
6 SEPARATE FACILITIES TO ACCOMPLISH THE CLASSIFICATION.

7 (3) PRIOR TO OFFERING ITS CUSTOMERS A CHOICE OF ALTERNATIVE
8 ELECTRIC SUPPLIERS UNDER THIS ACT, EACH ELECTRIC UTILITY SERVING
9 LESS THAN 100,000 CUSTOMERS IN THIS STATE MAY ADJUST ITS RATES
10 AND CHARGES IN A CONTESTED CASE UNDER THE ADMINISTRATIVE PROCE-
11 DURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328.

12 (4) FOR ELECTRIC UTILITIES SERVING LESS THAN 100,000 CUSTOM-
13 ERS, PROPOSED TARIFFS FOR CUSTOMERS IN THIS STATE OR A COOPERA-
14 TIVE ELECTRIC UTILITY CHOOSING AN ALTERNATIVE ELECTRIC SUPPLIER
15 SHALL BE FILED ON OR BEFORE 180 DAYS AFTER APPROVAL OF RETAIL
16 ACCESS TARIFFS FOR ELECTRIC UTILITIES SERVING MORE THAN 1,000,000
17 CUSTOMERS IN THIS STATE OR JUNE 30, 2000, WHICHEVER IS LATER.

18 (5) AN ELECTRIC UTILITY WITH LESS THAN 1,000,000 CUSTOMERS
19 IN THIS STATE MAY APPLY TO THE COMMISSION TO ACCELERATE THE
20 DEPRECIATION OF A NUCLEAR POWER PLANT. THE COMMISSION SHALL
21 GRANT THE APPLICATION IF THE COMMISSION FINDS THAT THE DEPRECI-
22 TION WILL NOT RAISE THE UTILITY'S BASE RATES ABOVE THE RATES IN
23 EFFECT ON NOVEMBER 1, 1998, WILL EFFECTIVELY MITIGATE STRANDED
24 COSTS OF THE UTILITY, AND WILL PROMOTE COMPETITION.

25 SEC. 32. (1) AN ELECTRIC UTILITY OR ITS AFFILIATE SHALL NOT
26 PROVIDE DELIVERY SERVICE TO A CUSTOMER OF A MUNICIPALLY OWNED

1 UTILITY WITHOUT THE WRITTEN CONSENT OF THE MUNICIPALLY OWNED
2 UTILITY.

3 (2) SUBSECTION (1) DOES NOT APPLY IF A MUNICIPALLY OWNED
4 UTILITY HAS NOT ADOPTED A PLAN TO ALLOW CUSTOMERS LOCATED OUTSIDE
5 THE MUNICIPAL BOUNDARIES OF THE MUNICIPALLY OWNED UTILITY THE
6 OPPORTUNITY TO SELECT AN ALTERNATIVE ELECTRIC SUPPLIER BY
7 DECEMBER 31, 2007.

8 (3) NOTWITHSTANDING SUBSECTIONS (1) AND (2), IF AFTER
9 DECEMBER 31, 2007 A MUNICIPALLY OWNED UTILITY IS UNABLE TO PRO-
10 VIDE HEAT, POWER, OR LIGHT TO A CUSTOMER, WHEREVER LOCATED, OF
11 ANOTHER ELECTRIC UTILITY WITHOUT THE WRITTEN CONSENT OF THE OTHER
12 ELECTRIC UTILITY, THE OTHER UTILITY OR ITS AFFILIATE SHALL NOT
13 RENDER HEAT, POWER, OR LIGHT TO A CUSTOMER OF A MUNICIPALLY OWNED
14 UTILITY UNLESS THE MUNICIPALLY OWNED UTILITY CONSENTS IN
15 WRITING.

16 (4) THIS ACT SHALL NOT BE CONSTRUED TO PREVENT OR LIMIT A
17 MUNICIPALLY OWNED ELECTRIC UTILITY FROM SELLING ELECTRICITY AT
18 WHOLESALE.

19 (5) SECTIONS 10 THROUGH 33 DO NOT APPLY TO A MUNICIPALLY
20 OWNED UTILITY.

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

24 (a) Senate Bill No. _____ or House Bill No. _____ (request
25 no. 01725'99 **).

26 (b) Senate Bill No. _____ or House Bill No. _____ (request
27 no. 01725'99 a **).

01725'99 b **