

Legislative Analysis



REVISE CUSTOMER CHOICE AND ELECTRICITY RELIABILITY ACT

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House Bill 5524

Sponsor: Rep. Frank Accavitti, Jr.

Committee: Energy and Technology

Complete to 12-19-07

A REVISED SUMMARY OF HOUSE BILL 5524 AS INTRODUCED 12-4-07

The bill would revise the Public Service Commission enabling act, including the portion known as the Customer Choice and Electricity Reliability Act, or Public Act 141 of 2000, in the following ways:

- 90-day election period. Within 90 days of the bill's effective date, all electric utility customers would have to elect whether they wish to receive electric generation service from an alternative electric supplier. As used in this section, "customer" would mean "the building or facilities served through a single existing electric billing meter and would not mean the person, corporation, partnership, association, governmental body, or other entity owning or having possession of the building or facilities." [Note: Clarification is needed as to who would be entitled to make this election, or the certification described below, on behalf of a customer given the definition of customer as a building or facility served by a single meter and not the building's owner or occupant.]
- 60-day certification period. Within 60 days after making their election, customers choosing service from an alternative electric supplier would have to certify to the Public Service Commission (PSC) that they are already receiving service from an alternative electric supplier or that they have contracted to receive this type of service. Customers choosing service from alternative electric supplier would lose their right to receive standard tariff service from the electric utility. A customer who fails to certify would be treated as a returning customer, as described below. (Among other things, a returning customer must pay the higher of the standard tariff rate or the market rate for one year.)
- Customers not electing alternative service. A customer who does not elect to receive service from an alternative supplier would be entitled to receive standard tariff service from the regulated utility and would not be eligible to receive electric generation service from an alternative electric supplier.
- New customers are not eligible for "choice." Any customer who becomes a customer after the bill's effective date would only be entitled to receive standard tariff service from an electric utility and would *not* be eligible to receive service from an alternative electric supplier.
- "Choice" customers returning to utilities. A customer who elects to receive service from an alternative electric supplier but later wishes to receive standard tariff service from a regulated electric utility could receive it within 90 days

provided that the electric utility has a reasonably available, adequate, and reliable amount of electricity to serve the returning customer's load. Returning customers would be charged the higher of the standard tariff service rate or the market price for one year following their return (and would be eligible for standard tariff service thereafter). Once a "choice" customer has returned to a utility, it would no longer be eligible to receive service from an alternative electric supplier.

"Market price" would mean "the prevailing price for electric energy available in the regional wholesale market as determined by the [PSC]." **"Standard tariff service"** would mean "for each regulated utility, the retail rates, terms, and conditions of service approved by the [PSC] for service to customers who do not elect to receive electric generation service from alternative electric suppliers."

- "Choice" customers under contract with alternative suppliers. Customers who entered into a contract with an alternative energy supplier before August 1, 2007 that remains in effect after the 90-day election period could nevertheless notify the electric utility during the 90-day election period that it wishes to receive standard tariff service from the utility once the contract has ended. If an adequate and reliable amount of electricity is reasonably available to the utility to serve the returning customer's load, the electric utility would have to offer standard tariff service to that customer under the same provisions applicable to other returning customers. (Among other things, a returning customer would pay the higher of market rates or tariff rates for one year). Once such a customer begins to receive standard tariff service from the utility, it would no longer be eligible to receive electric generation service from an alternative electric supplier.
- PSC description of election process and its consequences. Within 30 days of the bill's effective date, the PSC would have to prepare and provide to electric utilities a description of the election process and its consequences. Each electric utility would have to provide the PSC information to customers.
- Company materials. Any information provided by alternative energy suppliers or electric utilities to influence a customer's election would have to be consistent with the description prepared by the PSC.
- Cost recovery for utilities for restructuring. The PSC would have to allow an electric utility that provided retail open access service from 2002 until the bill's effective date to recover its restructuring costs and any associated accrued regulatory assets, including, but not limited to, implementation costs, stranded costs, and Section 10d(4) costs for which the PSC had issued orders authorizing recovery before the bill's effective date. This recovery would be accomplished by continuing currently authorized surcharges except that the PSC would ensure that recovery is completed no later than 60 months [5 years] after the bill becomes effective. [It is not clear if this provision is intended to end the imposition of existing surcharges after 60 months or to authorize an increase in the surcharges to make sure that the utilities fully recover these costs within 60 months]
- Standby generation. This section currently requires a utility to provide standby generation for open access load until December 31, 2001, or the date established under Section 10d(2), whichever is later. Under the bill, standby service would be

required until the date established under Section 10d(2), as it existed before the bill's effective date.

- Covered utility. "Covered utility" currently means an electric utility subject to certain rate freeze and rate cap provisions or to PSC orders in Case Nos. U-11181-R or U-12204. The bill would define covered utility as an electric utility with one million or more Michigan retail customers as of May 1, 2000 or one subject to the U-11181-R or U-12204 orders.
- Choice for large co-op customers. Section 10x of current law concerns the application of the choice program to customers of electric cooperatives. The bill would allow the retail customers of a co-op with a peak load of one megawatt or greater to choose an alternative energy supplier in accordance with the election and certification procedures set forth in Section 10 and described above.
- Choice for municipally-owned utility customers. As is currently the case, the governing body of a municipally-owned utility could choose whether to allow its retail customers to obtain electricity from an alternative energy supplier. [To date, no municipal utility has allowed its retail customers to participate in the choice program.]
- Written permission for delivery or account service to certain municipal utility customers. An alternative energy supplier could provide delivery or customer account service to a municipal utility customer only with the written consent of the municipal utility. Currently, the written notice requirement only applies to municipal utility customers receiving service as of June 5, 2000 or who are given the opportunity to participate in the choice program. As amended, the written permission requirement would appear to apply to both customers as of June 5, 2000 or any other customer "receiving the service from a municipally owned utility"—in other words, any municipal utility customer, whether or not it was a customer as of June 5, 2000, and whether or not it could participate in electric choice. [Here, too, a customer is defined as a building and not the owner or occupant of a building.] The bill would delete a provision to eliminate the "written consent" requirement after December 31, 2007 if the governing body of the municipally-owned utility did not allow all of its retail customers that are located outside the municipality's boundaries to participate in the retail electric choice program. In other words, the "written consent" requirement would stay in effect without regard to whether or not the municipal utility allowed its customers outside of its municipal boundaries to participate in the choice program.
- Municipal utilities acting as alternative energy suppliers. Section 10y(4) allows a municipal utility to operate as an alternative energy supplier providing electric generation service to customers receiving delivery service from an electric utility. The bill would eliminate Section 10y(4) and its requirements. The bill would also eliminate Section 10y(8) which allows complaints arising under Section 10y(4) to be decided by the PSC.
- Deletions. The following sections of current law would be deleted:
 - Section 10(2). [Sets forth purposes of "choice" law]
 - Section 10a(1). [Requires PSC to issue orders as to terms and conditions for allowing all customers to choose an alternative energy supplier and

providing for full recovery of a utility's net stranded and implementation costs.]

- Section 10a(12). [Concerns pre-June 5, 2000 "choice" orders.]
 - Section 10a(16). [Concerns true-up of net stranded costs.]
 - Section 10a(17). [Concerns determination of net stranded costs.]
 - Section 10a(18). [Prohibits adjustments to securitization charges.]
 - Section 10a(19). [Concerns rates charged to returning customers.]
 - Section 10d(1). [Reduces residential rates by 5% until 2003.]
 - Section 10d(2). [Prohibits rate increases for large utilities until the earlier of 2013 or when market test reached and transmission expansion completed. Prohibits rate increases for certain commercial or industrial customers before 2005. Prohibits cost-shifting from capped to uncapped customers. Prohibits residential rate increases before 2006.]
 - Section 10d(3). [Concerns Traverse City exemption.]
 - Section 10d(4). [Allows PSC to determine cost recovery and period.]
 - Section 10d(5). [Requires savings from securitization to be applied to reduce retail electric rates.]
 - Section 10d(6). [Concerns securitization savings greater than needed to achieve 5% rate reduction.]
 - Section 10d(7). [Assignment of certain securitization savings to PSC low income and energy efficiency fund.]
 - Section 10d(8). [Prohibits fees or charges that would cause residential rate reduction to less than 5% for specified period.]
 - Section 10p(2). [Includes employee restructuring costs such as severance pay, retraining programs, early retirement programs, in definition of stranded costs.]
 - Section 10r(2). [Funding for educational materials about choice program.]
 - Section 10x(5). [Exempts coops from funding educational materials.]
 - Sections 10y(3)-10y(4). [Application of choice program to municipal utilities.]
 - Section 10y(10). [Application of choice program to municipal utilities participating in joint action agencies.]
- Repealer. The bill would repeal Section 10v of Public Act 3 of 1939 (MCL 460.10v). That provision required certain utilities to file a joint plan to expand available transmission capability by January 1, 2001.
 - Tie-bars. The bill is tie-barred to the following bills, meaning that it could not take effect unless all are enacted:

House Bill 5520 (Miller) (PSC approval of sale of utility)

House Bill 5521 (Gaffney) (PSC certifications)

House Bill 5522 (LaJoy) (reallocates costs to different customer groups; special school and "economic incentive" rates)

House Bill 5523 (Clemente) (rate increases effective unless PSC approves in 90 days)

House Bill 5525 (Angerer) (Energy Efficient Michigan)
House Bill 5548 (Mayes) (renewable portfolio standards)
House Bill 5549 (Palsrok) (renewable portfolio alternatives)
House Bill 5383 (Brown) (allow electricity co-ops to set rates without PSC approval)
House Bill 5384 (Nofs) (loosen restrictions on municipal utility joint action agencies)

MCL 460.10 et al.

FISCAL IMPACT:

House Bills 5520-5525 are expected to be tie-barred to other pending bills in both the House and the Senate, so this analysis is preliminary. This group of six bills is expected to require the addition of 25 to 30 staff to the Michigan Public Service Commission to administer the new programs and standards and the resulting caseload. The cost of this additional staff is estimated to be \$1.5 million to \$1.8 million, assuming that this many staff can be added to the existing MPSC office space.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.