

Legislative Analysis



MODIFY RATE INCREASE PROCEDURES; LIMIT ELECTRIC CHOICE PROGRAM; CERTIFICATES OF NECESSITY; MERGER REVIEW

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5524 (Substitute H-3)
Sponsor: Rep. Frank Accavitti, Jr.
Committee: Energy and Technology

Complete to 4-17-08

A SUMMARY OF HOUSE BILL 5524 AS REPORTED FROM COMMITTEE

The bill would amend the Public Service Commission law, Public Act 3 of 1939, to do the following, among other things:

- Designate the Public Service Commission (PSC) as an autonomous entity within the Department of Labor and Economic Growth (DLEG) with management authority in areas such as personnel, property, and budgeting.
- Revise utility rate increase procedures. Key changes would do the following:
 - Allow utilities to implement proposed rate changes before the PSC has issued a final order if the PSC does not rule on a complete application within 180 days, subject to a refund procedure if the rate increase implemented exceeds the amount later approved by the PSC.
 - Require the PSC to issue a final order within 12 months or an application would be considered approved.
 - Require utilities to wait at least 12 months after filing a general rate increase case (and until that case is decided) before filing another one.
 - Require the PSC to adopt standard filing forms and instructions.
- Require the PSC to approve special rates or contracts for large industrial or commercial gas customers, if requested by a gas utility, to help the utility retain those customers.
- Grant the PSC merger review authority to protect regulated utilities and their customers.
- Establish a certificate of necessity process for electric utilities and require utilities requesting certificates to prepare integrated resource plans.
- Allow utilities that have received a certificate of necessity to recover financing interest costs during the construction phase of a project and to recover all other reasonable and prudent costs (including cost overruns of up to 25 percent) once a facility (or power purchase agreement) is considered *used and useful*.
- Cost overruns of more than 25 percent would be presumed to be imprudently incurred, but could be recovered if the utility demonstrated by a preponderance of the evidence that the additional costs were prudently incurred.
- Modify the electric choice program so that customers located in a utility's distribution service territory could not take electricity service from alternative

energy suppliers in an aggregate amount that at any time exceeds 10 percent of the utility's weather-adjusted retail sales for the preceding calendar year.

- Require the PSC's order to include rules for allocating annual energy allotments up to the 10 percent limit. Existing "choice" customers would have to be given allotments and customers seeking expanded usage would be given the next priority for allotments. The remaining allotments, if any, would be allocated on a first-come, first-served basis. (Note, however, that "choice" customers continuously served by an alternative energy supplier (AES) since April 1, 2008 could continue to purchase electricity from an AES in any amount.)
- Require that a utility's "return to service" rules for returning "choice" customers in place on January 1, 2008 would continue in effect. (If none, PSC would provide rules.)
- Authorize a surcharge on utility customers that would allow a utility that offered "choice" from 2002 through the effective date of the bill to fully recover its restructuring costs and "accrued regulatory assets" (including implementation costs, stranded costs, and costs previously authorized under Section 10(d)(4)) within five years.
- Require the PSC to study and report on the advisability of separating electric distribution and generation within utilities and on the possible creation of a statewide electricity purchasing pool.
- Require electricity utilities to file plans for using dispatchable customer-owned generation.
- Require the PSC to study and report on issues relating to service quality and cost-efficiency
- Require the adoption of cost-based rates ("deskewing") and special school rates. These rates could be phased in over up to five years for the customers of large utility companies.

DETAILED SUMMARY

PSC Structure

PSC structure within DLEG. [§4a, p.2] Except as otherwise provided, the PSC would be subject to Executive Reorganization Order No. 2003-1, creating the Department of Labor and Economic Growth (DLEG). Funding for the PSC would be provided under Public Act 299 of 1972 (assessments on utilities) and as otherwise provided by law. The PSC would be an "autonomous entity" within DLEG with independent management authority in areas such as personnel, property, budgeting, records, and procurement. The PSC would have to reimburse DLEG for the cost of any support or coordinated services it requests from DLEG. The Governor would continue to appoint the PSC chairperson; the bill would specify that the chairperson would report directly to the Governor.

Utility Rate Case Procedures

Utility rate case procedures. [§6a(1)-(2), p.2-5] The bill would amend rate case procedures and rules.

PSC approval. A gas or electric utility could not increase its rates or charges or change its rates or rate schedules if the effect would be to increase the cost of services to its customers without first receiving PSC approval as provided in Section 6a. (But note that the bill creates a new rule allowing a utility to implement a proposed rate increase if the PSC does not issue an order on a filing within 180 days (subject to a refund procedure) and a new rule that a proposed rate increase would be considered approved if the PSC did not issue a final order within 12 months.)

Use of projected costs and revenues. The bill would add a provision allowing a utility to use projected costs and revenues for a future consecutive 12-month period when proposing new rates and charges, but if this option is used, it would affect the timing of the implementation of a proposed increase, as described below.

30-day rule. The PSC would have to notify a utility within 30 days whether its petition or application for rate or charge changes is complete, and a petition or application would have to be considered complete if it complies with new filing forms and instructions that would be adopted in the bill and described below. (A petition or application pending before adoption of the new forms and instructions would be evaluated under requirements in effect at the time of the filing.) If an application is incomplete, the PSC would have to notify the utility what information was missing. If the PSC does not notify the utility within 30 days, the application would be deemed complete.

180-day rule. If the PSC does not issue an order within 180 days (six months) from the filing of a complete application, the utility could implement up to the amount of the proposed annual rate change through equal percentage increases (or, more rarely, decreases) applied to all base rates. For pending cases, the 180-day period would begin on the effective date of the bill.

Application of 180-day rule when projections are used. If a utility uses projected costs and revenues in proposing new rates or charges, it could not implement equal percentage increases or decreases prior to a final order by the PSC before the beginning of the 12-month period to which the projections apply.

Temporary orders blocking implementation of proposed rates or charges. For good cause, the PSC could issue a temporary order preventing or delaying the implementation of rates or charges before the PSC issues a final order.

Refunds with interest if increased rates or charges exceed amount approved in final order. If a utility implements increased rates or charges before a final order by the PSC, it would have to refund to its customers, with interest, any portion of the total revenues collected that exceeds the total that would have been produced by the rates or charges approved by the PSC in its final order.

Allocation of refunds. The PSC would allocate any refund as follows: (1) for primary customers, based on their pro rata share of the revenue collected under the increase, and

(2) among secondary and residential customers, in a manner to be determined by the PSC.

Interest rate on refunds. The interest rate on refunds would be equal to five percent (5%) plus the London Interbank Offered Rate (LIBOR) for the appropriate time period. For any portion of the refund that, not counting interest, exceeds 25 percent of the approved revenue increase in the PSC final order, the interest rate (on the portion that exceeds 25 percent) would be the authorized rate of return on the common stock of the utility during the appropriate period. Any refund or interest awarded could not be included, in whole or part, in any application for a rate increase by a utility.

Show cause authority. Nothing in Section 6a would impair the PSC's authority to issue show cause orders.

12-month deadline for final orders. [§6a(2)-(3), pp. 5-7] Under current law the PSC is required to adopt rules and procedures to enable it to make final decisions in rate cases within *nine* months from the filing of a petition or application. The bill would change this deadline to *12* months from the filing of a *complete* petition or application.

Currently, if the PSC has not ruled in a rate case within nine months, it has to give the case greater priority and take actions to expedite a final decision in the case. Under the bill, if the PSC does not issue a final decision within 12 months from a filing, the petition or application would be considered approved. If the utility makes any significant amendment to its filing, the PSC would get an additional 12 months from the date of the amendment. If a utility files for an extension of time, the PSC's deadline would be extended by the amount of additional time requested by the utility.

One rate increase case per year per utility. [§6a(4), p.7] A utility would have to wait at least 12 months after filing a general rate increase case--and until that case is decided or deemed approved because the PSC missed the 12-month deadline--before it could file another general rate increase case.

Discounted rates or contracts to help gas utilities retain large customers. [§6a(5), pp.8-9] If requested by a gas utility, the PSC would (1) establish "load retention transportation rate schedules" or (2) approve "gas transportation contracts" to allow the utility to retain large industrial or commercial customers whose annual transportation volumes exceed 500,000 decatherms and who have a viable alternative to service from the gas utility. The PSC would have to approve discounted customer retention rates or special contracts entered into by the utility in good faith if:

- The customer has "the installed capacity to use an alternative fuel or otherwise has a viable alternative to receiving natural gas transportation service from the utility."
- The customer could obtain the alternative to the gas utility at a price that would cause it to stop using the gas utility's system.
- The customer makes a significant contribution to the utility's fixed costs.

The PSC would have to ensure through accounting and rate-making policies that discounts given to large industrial or commercial customers were recovered through charges paid by other customers so long as the costs of the discounts were no greater than the additional costs that would be paid by other customers if the large customers left the utility and no longer contributed to the utility's fixed costs.

Standard filing forms and instructions for regulated utilities. [§6a(6), pp. 8-9] Within 90 days of the bill's effective date, the PSC would have to adopt standard rate application filing forms and instructions for use in all general rate cases filed by regulated utilities. For regulated cooperative utilities, the Commission would have to continue to allow rate filings based on the cooperative's "times interest earned ratio," in addition to filings under the new standard forms. The PSC would have the authority to modify the standard forms and instructions.

PSC Merger Review Authority

PSC merger review authority. [§6q, p.9-12] A person could not "acquire, control, or merge, directly or indirectly, in whole or in part, with a jurisdictional regulated utility" nor could a jurisdictional regulated utility "sell, assign, transfer, or encumber its assets to another person" without first applying to and receiving the approval of the PSC. In this section, a jurisdictional regulated utility would mean a utility whose rates are regulated by the PSC, but not telecommunications providers or motor carriers.

PSC order regarding covered transactions. After notice and a hearing, the PSC would issue an order describing what transactions would be subject to review. The bill explicitly excludes certain transactions that might occur in the normal course of business and the issuance of securities or other financing transactions not directly or indirectly involved in a covered acquisition, merger, encumbrance, or transfer of control.

Rules. The PSC would promulgate procedural rules under this section.

Applications. An application would have to include, but would not be limited to, all of the following information:

- A concise summary of the terms of the proposed transaction (acquisition, transfer, merger, or encumbrance).
- Copies of material documents relating to the transaction, if available.
- A summary of the projected impacts of the transaction on rates and electric service in Michigan.
- Pro forma financial statements relevant to the transaction.
- Copies of the parties' public filings with other state or federal regulatory agencies regarding the same transaction, including any regulatory orders issued by those agencies.

60-day comment period. Within 60 days from a filing under this section, interested parties, including the Attorney General, could file comments with the PSC relating to the proposed transaction.

180-day decision deadline. After notice and hearing, and within 180 days from the date an application is filed, the PSC would have to issue an order approving or rejecting the proposed transaction.

Access to information. All parties to a covered transaction would have to provide the PSC and the Attorney General access to all books, records, and other data and information the PSC considered necessary to effectively assess the impact of the proposed acquisition, transfer, merger, or encumbrance.

Relevant factors in evaluating a proposed transaction. The PSC would consider, among other factors, the following:

- Would there be an adverse impact on the rates of affected customers?
- Would there be an adverse impact on the provision of safe, reliable, and adequate energy service in Michigan?
- Would the customers of the regulated utility subsidize a nonregulated activity of a new entity through their rates?
- Would the regulated utility's ability to raise necessary capital or maintain a reasonable capital structure be significantly impaired?
- Would the proposed action be otherwise inconsistent with public policy and interest?

Approval with conditions. In approving an acquisition, transfer, merger, or encumbrance, the PSC could impose reasonable terms and conditions on the proposed deal to protect the jurisdictional regulated utility or its customers, including conditions relating to the division and allocation of the utility's assets. A regulated utility could reject these terms and conditions and abandon the proposed transaction.

Confidentiality. Nonpublic information and materials submitted by a regulated utility under this section clearly designated as confidential would be exempt from the Freedom of Information Act. The PSC would have to issue protective orders as necessary to protect information designated by a regulated utility as confidential.

Antitrust laws. Nothing in this section would alter the Attorney General's authority to enforce federal and state antitrust laws.

Certificates of Necessity

Certificates of necessity. An electric utility could apply to the PSC for a certificate of necessity when proposing any of the actions described below if (1) the cost is at least \$500 million, and (2) some portion of the cost would be allocable to Michigan retail customers. The PSC would not issue certificates of necessity for environmental upgrades

to existing facilities or for a renewable energy system. A utility could apply for a certificate to:

- Construct an electric generation facility.
- Make a significant investment in an existing generation facility. (A "significant investment" would include a group of investments reasonably planned to be made over a period of up to five years for a single purpose, such as expanding capacity.)
- Purchase an existing generation facility.
- Enter into a power purchase contract for seven years or more.

Certificates of necessity for utilities with less than one million customers. The PSC could implement separate review criteria and approval standards for utilities with less than one million customers who seek certificates of necessity for projects costing less than \$500 million.

Types of certificates of necessity. An electric utility could apply for a certificate of necessity as to one or more of the following:

- That the power to be supplied by construction, investment, or purchase is needed.
- That the size, fuel type, and other design characteristics of the existing or proposed new facility (or that the terms of the power purchase agreement) represent the most reasonable and prudent way of meeting that power need.
- That the price specified in a power purchase agreement would be recovered in the electric utility's customer rates.
- That the estimated purchase or capital costs of the existing or proposed electric generation facility would be recoverable in the customer rates, subject to the rules defining reasonableness, described below. These costs would include, but not be limited to, the costs of siting or licensing a new facility and the estimated costs of power from the new or proposed generation facility.

Procedures. The PSC would have to issue an order granting or denying a requested certificate of necessity within 270 days (about nine months) after the filing of an application and a contested case hearing. Interested parties could intervene, and reasonable discovery would be permitted before and during the hearing to assist parties and interested persons in obtaining information relating to the application such as the reasonableness and prudence of the proposed construction, investment, or purchase.

For up to 150 days after applying for a certificate of necessity, an electric utility could file to update its cost estimates if they have materially changed. If the utility wanted to make a change other than a cost update, the application would have to be withdrawn and refiled. A utility's filing of a cost update would *not* extend the Commission's 270-day period for granting or denying the requested certificate.

Approval standard. The PSC would have to grant a requested certificate of necessity if it found all of the following:

- The utility has demonstrated a need for the power in its approved integrated resource plan.
- The information supplied indicates that the existing or proposed facility would comply with all applicable state and federal environmental standards and laws.
- The estimated cost of power (from the existing or proposed facility or in the power purchase agreement) is reasonable. (The PSC would have to find a cost estimate reasonable if (1) as to construction or investment in a new facility, the estimated costs are the result of competitively bid engineering, procurement, and construction contracts, to the extent commercially practicable, and (2) as to a power purchase agreement, there was a competitive solicitation. An affiliate of a multi-state electric utility that serves customers in Michigan and at least one other state could submit a bid to provide engineering, procurement, and construction services to the electric utility with which it is affiliated for a project under this section.)
- The existing or proposed facility or proposed power purchase agreement represents the most reasonable and prudent means of meeting the power need compared to other options, including energy efficiency programs and transmission efficiencies.
- The construction or investment in a new or existing facility is completed using a workforce composed of Michigan workers to the extent practicable.

Consideration of information supplied by interveners; annual progress reports. The PSC could consider cost or related information supplied by interveners. A utility would have to file a progress report with PSC at least once a year (and more often if requested) as to projects for which a certificate of need has been issued.

Effect of denial. If the PSC denies any of the relief requested by a utility, the utility could withdraw its application or proceed with the proposed project without a certificate and its assurances.

Inclusion of approved costs in rates; recovery of cost overruns. Once the electric generation facility is considered *used and useful* or as otherwise provided in Section 6r(11) (authorizing recovery of interest costs relating to construction work in progress in base rates), the PSC would have to include in the utility's retail rates all reasonable and prudent costs for the facility or power purchase agreement for which a certificate of necessity has been granted. The PSC could not disallow costs for which a certificate of necessity has been granted so long as the costs do not exceed the costs approved in the certificate. If actual costs exceed the approved costs, the PSC would have to include the additional costs if it found them to be reasonable and prudent. When actual costs exceed approved costs, the utility would have the burden of proving by a preponderance of the evidence that the costs are reasonable and prudent. *If actual costs are more than 125 percent of approved costs (i.e. a cost overrun of more than 25 percent), the portion exceeding 125 percent of approved costs would be presumed to be imprudently incurred, but could still be recovered by the utility if the Commission found by a preponderance of the evidence that the costs were prudently incurred.*

Adoption of standard forms and instructions. Within 90 days of the bill's effective date, the PSC would have to adopt standard filing forms and instructions for use in all requests for a certificate of necessity, and the PSC would have the authority to modify the forms and instructions.

Integrated resource plans. A utility requesting a certificate of necessity would have to file an integrated resource plan or IRP that includes all of the following:

- A long-term forecast of the utility's load growth under various reasonable scenarios.
- The type of generation technology and capacity proposed for the generation facility, including project fuel and regulatory costs under various reasonable scenarios.
- Projected energy and capacity purchased or produced by the utility under any renewable portfolio standard.
- Projected energy efficiency program savings under efficiency program requirements and the projected costs.
- The availability and costs of alternatives that could defer or displace, in whole or part, the proposed facility or purchased power agreement, including, additional renewable energy, energy efficiency, load management, and demand response programs beyond amounts already described.
- Electric transmission options.

Base rate treatment of financing interest costs during construction phase. The PSC would have to allow a utility to recover in base rates its financing interest costs relating to construction work in progress for capital improvements certified under this section before the facilities became used and useful. Regardless of whether the PSC granted base rate treatment for financing interest costs relating to construction work in progress, the utility would be allowed to recognize, accrue, and defer the allowance for funds used during construction related to equity capital.

Modify Customer Choice and Electricity Reliability Act

Modify electricity choice program. [§10a(1)-(20), pp. 19-33] The bill would amend the section of the act formally called the "Customer Choice and Electricity Reliability Act," and informally referred to as the electricity choice program or simply, the "choice program."

Purposes. The bill would add a new stated purpose for the act: "to maintain, foster, and encourage robust, reliable, and economic generation, distribution, and transmission systems to provide this state's electric suppliers and generators an opportunity to access regional sources of generation and wholesale power markets and to ensure a reliable supply of electricity in this state." An existing provision that made the purposes section expire on December 31, 2003 would be removed, giving the purposes section renewed applicability.

PSC choice program order. The PSC would have to issue an order that does all of the following:

- Provides that customers located in a utility's distribution service territory could not take electricity service from alternative energy suppliers in an aggregate amount that at any time exceeds 10 percent of the utility's weather-adjusted retail sales for the preceding calendar year.
- Establishes procedures to administer this 10 percent limit through the use of annual energy allotments awarded on a calendar-year basis. Generally speaking, customers would be assigned priority for an annual allotment in the following order of priority:
 1. Current "choice" customers with a facility served by an AES on the bill's effective date. (Notwithstanding any other provision, customers seeking to expand usage at a facility continuously served by an AES since April 1, 2008, would be permitted to purchase electricity from an AES for both the existing and any expanded load at that facility.)
 2. Current "choice" customers" who wish to expand usage at a facility served by an AES.
 3. Remaining load, if any, allocated on a first-come, first served basis.

In addition the PSC would define customer facility for purposes of assigning allotments to be allocated. The PSC could not allocate any additional annual energy allotments whenever the total annual energy allotments for the utility's distribution service territory is greater than 10 percent of the utility's weather-adjusted retail sales for the preceding calendar year. However, if the sales of a utility are less in a subsequent year, or if a "choice" customer exceeds its annual energy allotment for a facility, the customer would not be forced to purchase electricity from a utility but could purchase additional electricity from an AES for that facility during that calendar year.

Deleted sections. The bill would delete existing Sections 10a(12) (restructuring) and 10a(16) (annual true-ups for net stranded costs).

Returning "choice" customers. A customer who elects to receive from an AES may later notify the electric utility that it wants to receive standard tariff service from the utility. The bill would ratify each electric utility's procedures in effect on January 1, 2008 that set the terms under which a customer receiving service from an AES may return to full service from the electric utility. If no procedures were in place, the PSC would provide them.

Recovering of restructuring costs and "accrued regulatory assets" through surcharges for up to five years. The PSC would have to authorize rates that would ensure that an electric utility that offered retail open access service from 2002 to the effective date of the bill fully recovers its "restructuring costs" and "any associated accrued regulatory assets," including implementation costs, stranded costs, and costs under Section 10d(4)

(as it existed before the bill's effective date) that the PSC authorized for recovery before the bill's effective date. Any previously authorized charges would be recovered through surcharges that would ensure recovery of all such costs within five years.

Additional deleted sections. The bill would delete Sections 10d(1) through (8).

Definition of Independent transmission owner. The bill would define "independent transmission owner" as that term is defined in the Electric Transmission Line Certification Act.

Retain employee-related restructuring cost provision. The bill would retain a provision concerning employee-related restructuring costs but would call these expenses "costs" not "stranded costs."

Service quality and reliability. Under current law, the PSC must adopt generally applicable service quality and reliability standards for the transmission and distribution systems of electric utilities. The bill would require standards for "transmission, generation, and distribution." Each year, a regulated utility must file an annual report on what it needs to do in the coming year and what it accomplished in the previous year with respect to serviced quality and reliability standards. The bill would add a requirement that an annual report include the estimated cost of improving service quality and reliability under the standards. The PSC would no longer have to assess the impact of deregulation on reliability when reviewing data from the annual reports.

PSC service and reliability report. The bill would require the PSC to submit a report to the Governor and Legislature by September 1, 2009, after a review of existing customer surveys and what other states have done. The report would have to include:

- An assessment of major types of end-use customer power quality disturbances caused by both distribution and transmission systems in Michigan.
- An assessment of utility power plant generating cost efficiency.
- Current commission efforts to monitor and enforce standards pertaining to end-use power quality disturbances and utility power plant generating cost efficiency.
- Recommendations for use of methods for monitoring power quality disturbances and power plant operating generating cost efficiency.
- Recommendations for statutory changes needed to allow the PSC to properly monitor and enforce standards to obtain optimal and cost-effective end-use power quality to attract economic development and investment.

Subsequently, by December 31, 2009, the PSC would have to review its existing rules for any amendments needed to implement performance standards for generation facilities and for distribution facilities to protect end-use customers from power quality disturbances.

New standards or rules would be designed to do the following:

- Establish different requirements for each customer class, whenever appropriate to carry out this section and to reflect different load and service characteristics.
- Consider the availability and associated cost of equipment and labor required to maintain or upgrade distribution and generating facilities.
- Ensure that the most cost-effective means of addressing power quality disturbances are promoted for each utility, including new equipment or operating practices at the end-user's location.
- Take into account the extent to which the benefits associated with achieving a particular standard would be offset by the costs of achieving the benefits.
- Consider appropriate time frames for achieving standards.

Benchmarks. The PSC would also have to include benchmarks in rate-making processes to achieve the goals of alleviating end-use power quality disturbances and to promote cost efficiency.

Industrial customers. The PSC would have to establish a method for gathering data from the industrial customer class to assist in monitoring standards related to the service characteristics of that class.

Customer education. The bill would delete existing Section 10r(2) which required funding for and adoption of programs to educate the public about alternative energy suppliers.

Require PSC to study and report on the advisability of separating electric distribution and generation within utilities. Within two years of the bill's effective date, the PSC would have to conduct a study and report to the Governor and to legislative standing committees with oversight of public utility issues on the advisability of separating electric distribution and generation within electric utilities.

Require PSC to study and report on the possible creation of a statewide electricity purchasing pool. Two years after the effective date of the bill, the PSC would conduct a study and report to the Governor and legislative standing committees with oversight over public utility issues on whether Michigan would benefit from the creation of a purchasing pool in which electric generation in Michigan is purchased and then resold.

Require electricity utilities to file plans for using dispatchable customer-owned generation. Within 270 days after the effective date of the bill, each regulated electric utility would have to file a plan with the PSC for using dispatchable customer-owned distributed generation within the context of its integrated resource planning process. A utility could refer to and get credit for plans that it already has in place.

Application of electric choice program to cooperative electric utilities. The bill would amend provisions governing the application of the choice program to cooperative electric utilities.

Application of electric choice program as to municipal utilities. [§10y, pp. 52-60] The bill would amend provisions governing the application of the choice program to municipally-owned electric utilities.

Cost-based rates and special school rates

Cost-based rates and school rate provisions applicable to electric utilities with one million or more Michigan retail customers (i.e., Detroit Edison and Consumers). For electric utilities with one million or more Michigan retail customers (Detroit Edison and Consumers), the PSC would have to adopt electric rates equal to the cost of providing service to each customer class, sometimes referred to as cost-based rates and also as "deskewing," from the notion that rates are currently skewed in favor of residential customers whose rates are being subsidized by other customer classes and do not reflect the true cost of service. In this section, "customer class" means groupings of customers determined by the PSC based on the voltage level at which each customer receives electric service.

The bill would require the PSC to adopt the following cost allocation method:

- Production-related and transmission costs to each customer class based on the 50-25-25 method of cost allocation, as defined in the bill.
- Fixed costs based on the demand of each customer class.
- Costs that vary with electricity usage based upon the level of consumption in each customer class.

Demand would be calculated based on the contribution of each customer class to the average of the utility's monthly system coincident peak demands for the relevant 12-month period.

School rates. Notwithstanding any other provision of this section, the PSC would be required to establish rate schedules to ensure that public and private schools, universities, and community colleges would have retail electric rates that reflect the actual costs of providing service to them. Utilities would have to file new school tariffs within 90 days of the bill's effective date to ensure that schools, universities, and community colleges, are charged electric rates "that fully reflect their unique load characteristics."

Other differences to be reflected in rates. The PSC would have to allow rates that would take into account cost differences related to the time of day, season, and ability of a customer to shift usage from peak to off-peak periods, and interruptible service. Within 90 days of the bill's effective date, utilities would have to file a plan for evaluating whether its interruptible tariffs are appropriate and properly valued in light of current electricity market dynamics, including recent changes to the relevant multi-state regional transmission system organization market.

Independent consultants. At the request of an electric utility or an intervenor in any proceeding in which a utility's cost of service is being reviewed under this section, the

PSC would have to retain an independent consultant to verify that this section's requirements are being satisfied. The cost of this service would be recoverable in the utility's rates.

Phase in of new cost-based rates. If the PSC found it necessary to minimize the impact on customers, the PSC could, but would not be required to, phase in cost-based rates over up to five years.

Utilities with less than one million Michigan retail customers. The PSC would also have to approve cost-based rates for utilities with less than one million Michigan retail customers in each utility's first general rate case filed after the bill's effective date. If the new cost-based rates would have a material impact, the PSC could, but would not be required to, phase in the new rates over a "suitable number of years."

POSITIONS:

Associated General Contractors indicated support. (4-16-08)
Boilermakers Local 169 indicated support. (4-16-08)
Chaldean American Chamber of Commerce indicated support. (4-16-08)
Consumers Energy indicated its support. (4-16-08)
Dow Corning Corporation indicated its support. (4-16-08)
DTE Energy indicated its support. (4-16-08)
DTE Shareholders United indicated support. (4-16-08)
Ford Motor Company indicated its support. (4-16-08)
General Motors Corporation indicated its support of the bill. (4-16-08)
H. R. Technologies, Inc. indicated its support of the bill. (4-16-08)
Hemlock Semiconductor Corporation indicated its support. (4-16-08)
Macomb Intermediate School District indicated its support. (4-16-08)
Michigan Building and Construction Trades Council indicated its support. (4-16-08)
Michigan Chapter, National Electrical Contractors Association indicated its support. (4-16-08)
Michigan Chamber of Commerce testified in support. (4-16-08)
Michigan Electric Cooperative Association testified in support. (4-16-08)
Michigan Laborers' Union indicated its support. (4-16-08)
Michigan Manufacturers Association testified in support. (4-16-08)
Michigan Municipal Electric Association indicated its support. (4-16-08)
Michigan Regional Conference of Carpenters indicated its support. (4-16-08)
Michigan State Conference, International Brotherhood of Electrical Workers (IBEW), indicated its support of the bill. (4-16-08)
Michigan State Utility Workers Council indicated its support. (4-16-08)
Operating Engineers, Local 324 indicated its support. (4-16-08)
Protect Michigan indicated its support. (4-16-08)
Roy Smith Company indicated its support. (4-16-08)
Saginaw County Chamber of Commerce indicated its support. (4-16-08)
Utility Workers Union of America indicated its support. (4-16-08)

AARP indicated its opposition. (4-16-08)
Associated Petroleum Industries of Michigan indicated its opposition. (4-16-08)
Customer Choice Coalition indicated its opposition. (4-16-08)
Direct Energy indicated its opposition. (4-16-08)
Dynergy indicated its opposition. (4-16-08)
LS Power indicated its opposition. (4-16-08)
Michigan Association of Non-Public Schools indicated its opposition. (4-16-08)
New Covert Generating indicated its opposition. (4-16-08)
Small Business Association of Michigan indicated its opposition. (4-16-08)
Spartan Stores indicated its opposition. (4-16-08)

FISCAL IMPACT:

A fiscal analysis is in process.

Legislative Analyst: Shannan Kane
Fiscal Analyst: Mark Wolf

■ 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.