

ALASKA LEGISLATURE COMMITTEE FILES 1999-2000 8672

9907 HOUSE LABOR & COMMERCE

occurring as companies jockey for competitive position.

Electricity service is provided in close proximity to people. It can be extremely dangerous unless conducted properly. In general, industry workers, management and regulators have achieved an exemplary safety record. A long history of proper training and appropriate investments in public safety and worker safety is responsible for that record.

The foundation for the industry-wide safety record is a system of voluntary consensus standards developed through the joint efforts of all segments of the electric utility industry. Some of these consensus standards, such as the National Electrical Safety Code and the National Electrical Code, have become mandatory through enactment by state legislatures. Others form the foundation for the setting of mandatory standards by federal regulatory agencies.

Under the present regulatory framework, funding for this safety culture is borne by electric utility companies, which pass on much of the cost through the rate structure to the consumer. With industry deregulation, funding for public and worker safety programs could be cut substantially.

To assure continued public and worker safety:

- All aspects of the continued development of safety codes and standards must continue to be fully funded by all sectors of the electricity industry.
- Consensus on safety codes and standards must be continually developed by qualified, experienced industry and labor representatives.
- Unregulated generating plants must be subject to state and federal general industry OSHA requirements and must undergo periodic government inspection.

APEC Principles, 2/12/98

Societal Impacts

Valuable community-based programs funded by local power companies are being placed at risk. They include lifeline rates, low income assistance, wildlife preservation, service cut off protections, and community services such as lighting for playgrounds, athletic fields, and holiday lighting.

Under the traditional regulatory structure, power companies have provided programs such as community lighting and wildlife preservation. Even under the current regulatory structure, however, government and utility-sponsored programs designed to keep the lights on for people with low incomes have been inadequate. For deregulation to benefit residential customers, a comprehensive program, like that existing in the telecommunications industry, must be implemented.

Similarly, while most existing power companies have service cut-off protection programs, the adequacy of such programs should be ensured. Such programs must be applicable to all retail suppliers.

Deregulation should enhance and protect public benefit programs by:

- Providing reasonable incentives to power companies, existing and new, to provide community lighting services for playgrounds, athletic fields and other similar public service programs.
- Including a comprehensive program of low income assistance, including lifeline rates, subsidies and assistance with hook-ups.
- Requiring all retail suppliers to have an adequate program ensuring that service will not be terminated unfairly or during extreme weather.

[Back to Contents](#)

[Go to Part 3](#)



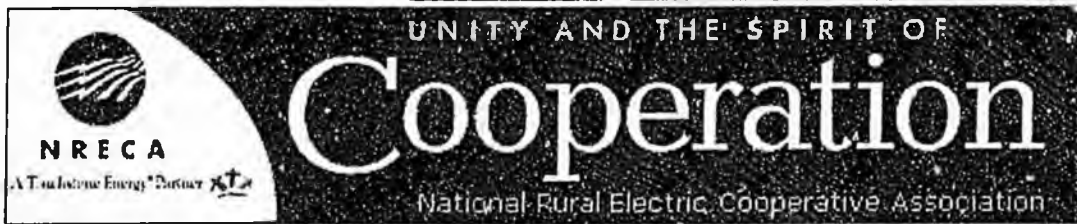
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APEC Principles, 2/12/98

Stranded Costs

Under rapid, radical deregulation, some electric power companies may not be able to recover the costs they incurred to provide electric service. The signers of this document differ in their views as to whether stranded cost recovery is necessary or appropriate. All agree, however, that restructuring should not proceed unless all customer classes benefit.

If deregulation is adopted, utilities might not be able to recover the costs they have incurred to provide service, especially investments in generation facilities that produce electricity at prices now above the prevailing market price.

APEC members have widely varying views on whether utility recovery of these stranded costs is appropriate. Groups representing consumers believe utilities should absorb all or a substantial portion of these costs because the utilities chose to make the investments. Groups representing publicly- and consumer-owned utilities believe recovery of costs stranded as a result of deregulation is generally appropriate, because utilities were required to build facilities sufficient to serve all retail consumers in their service territories.

Despite these widely varying views, the members of APEC do agree on certain fundamental points:

- Stranded cost amounts should be based on actual market prices over time, or the actual sales price buyers pay for "stranded facilities" when sold in arms-length transactions. Stranded cost recovery should not include "phantom" stranded costs that do not materialize.
- Stranded cost calculations should be carefully examined

to make sure that utility costs are not recovered twice. For example, tax costs already collected through deferred tax mechanisms should not be collected again.

- Utilities should not earn a profit on stranded assets through stranded cost recovery.
- Stranded cost allowances should actually be used to address stranded cost issues and not for other purposes, such as overseas investments or purchase of competitors.
- Human stranded costs, i.e., the cost of worker assistance and retraining, should be considered a legitimate, recoverable stranded cost.
- Large industrial customers must pay their fair share of stranded costs.
- Stranded cost recovery should not subsidize future operating costs of stranded plants.

APEC Principles, 2/12/98

Stranded Workers

Workers who have devoted their careers to the industry and made a commitment to gaining skills and experience are already suffering great losses with deregulation. Qualified workers are losing their jobs and receiving little or nothing in the way of severance pay, retraining, or other job placement assistance. To assure continued system reliability and safety, every effort should be made to retain electric utility workers.

Utility companies buy equipment and train workers to be prepared to respond rapidly to outages and emergencies, and to perform regular and preventive maintenance. In response to emergencies or disasters, utilities also "loan" skilled employees to each other to restore electric service as rapidly as possible. This needful cooperation may diminish when affiliates of these utilities are competing for customers.

Anticipating the possibility of competition, investor-owned utilities have, since 1990, cut the number of electricity employees nationwide by twenty-five percent. These cuts have had devastating effects on the affected employees and their communities. Utility maintenance and emergency response time have been impaired.

Extended blackouts of large areas of the nation's power grid have been directly attributed to utility cost cutting and reductions in maintenance. Cutting of workforces and

reductions in employee training are creating a shortage of the skilled workers necessary for power restoration in emergencies.

Work force layoffs have also affected workers in the power generation plants, as well as clerical and customer service workers. The increased workloads and responsibilities are being shifted to the remaining utility employees who now cover expanded daily work routines. The work load is compounded when the inevitable emergency situations arise and there are fewer people to deal with them.

Any electric utility industry restructuring should ensure that:

- The critical necessity for trained and qualified personnel to operate all segments of the electric utility industry is met by implementing, as soon as possible, the provisions of the 1994 National Skills Standards Act for all electric utility workers.
- State or federal electrical system reliability and maintenance standards require appropriate staffing levels of trained and qualified utility workers at all levels of the industry.
- Appropriate provision is made for severance or retirement options, job retraining, and outplacement assistance for affected utility employees.

APEC Principles, 2/12/98

Tax Revenues

Currently, electric power companies contribute significantly to the local tax base. In a deregulated industry, this tax revenue could dry up or drop considerably.

State and local taxes imposed on electric utilities may include gross receipts taxes, income taxes, franchise fees, and property taxes that may be applied differently than those imposed on other businesses. Taxes imposed on utility customers, but collected and remitted by the utility, include sales taxes, use taxes, and utility user taxes. In many states, the aggregate level of taxation on utilities is significantly greater than that imposed on other businesses.

Much of the existing tax regime for electric utilities could

become obsolete under deregulation. Deregulation will present three basic tax issues for state and local governments:

1. Revenues could decline in many jurisdictions. This could result from lower electricity prices, a shift in market share from more to less heavily taxed service providers who may be located out of state, and from declining values of property owned by utilities.
2. If utilities continue to be taxed on different bases than other electricity providers, these tax variations will create a very different economic effect in a deregulated industry than under prior cost of service regulation. Taxes which utilities previously recovered as a matter of course under cost of service regulation may become unrecoverable, as consumers choose different electricity providers to avoid the payment of these taxes.
3. If existing tax laws are changed, local jurisdictions could lose control of the tax revenues.

To protect consumers:

- No deregulation plan should increase the tax burden of residential and small business consumers or cause reductions in tax-supported services, such as police, fire, and schools.
- Governments considering deregulation must also consider what tax reforms are necessary to prevent the loss of local control or the increase of taxes on individual and small business consumers.

APEC Principles, 2/12/98

Universal Service

Deregulated electric power companies and new competitive power suppliers may not be obligated or motivated to serve low income customers or customers that need electricity in inner cities, rural areas, or regions suffering economic trouble. Service quality could deteriorate below acceptable standards.

Not every electricity customer is equally profitable to serve. Not every area costs the same to serve. In a deregulated industry, electricity service sellers that operate solely on a for-profit basis may be allowed to choose freely whom they will serve and the rate they will charge each customer. If they do, they can be expected to segregate customers by geographic

area, past credit records and income level, and to sell to the most attractive customers. If they do, what quality of service at what price can people in high-cost, difficult to serve, areas expect? How will people with lower incomes be assured they can afford electric service? Unless these questions are equitably resolved, deregulation will not benefit the whole nation.

Before deregulation is adopted, there must be assurance that:

- All consumers will have access to reliable, non-interruptible electric service at reasonable, affordable prices.
- Customers are not left without a power supplier and do not have to endure price-gouging simply because they have no other supplier.
- Low-income customers are not discriminated against or priced out of the market.

To assure these outcomes, any deregulation plan should:

- Require all providers of electric distribution service to offer to install facilities needed to connect all customers in their service territories.
- Require suppliers to offer service to all customers in a specified geographic area, or designate a "supplier of last resort" to provide service at a reasonable price to those consumers without a reasonable choice of suppliers.
- Prohibit "redlining" or other discrimination against low income consumers.
- Include a universal service fund to help defray the costs of serving lower income consumers and those consumers in rural or high cost areas.

[Back to Contents](#)



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*Arkansas***Bill Status: SB791**

Sponsor: Fitch

AN ACT TO AUTHORIZE ELECTRIC UTILITY COMPETITION.

- Senate - Apr 15 1999 14:52:44 - Notification that SB791 is now Act 1556
- Senate - Apr 8 1999 16:33:09 - Reported correctly enrolled and ordered delivered to the Governor.
- Senate - Apr 8 1999 12:09:56 - ORDERED ENROLLED
- Senate - Apr 8 1999 12:09:52 - Read third time and passed.
- Senate - Apr 8 1999 12:09:49 - Rules suspended.
- Senate - Apr 8 1999 12:09:35 - House Amendment No. 1 and 2 read first time, rule suspended, read second time and concurred in.
- Senate - Apr 8 1999 12:08:28 - Returned by the Committee with the recommendation that it Do Pass as amended, Amendment # 1
- Senate - Apr 8 1999 11:11:44 - Re-referred to the Committee on Insurance and Commerce
- Senate - Apr 8 1999 11:10:58 - Returned From the House as passed, as amended # 1 and 2
- House - Apr 8 1999 10:52:11 - Returned From Senate as passed, as amended # 1,2
- House - Apr 8 1999 10:51:52 - CLINCHER MOTION ADOPTED
- House - Apr 8 1999 10:42:37 - Read the third time and passed and ordered transmitted to the Senate.
- House - Apr 7 1999 15:16:00 - REPORTED CORRECTLY ENGROSSED
- House - Apr 7 1999 11:16:51 - Amendment No. 1,2 read and adopted and the bill ordered engrossed.
- House - Apr 7 1999 11:15:22 - Placed on second reading for the purpose of amendment.
- House - Apr 6 1999 17:04:07 - Returned by the Committee with the recommendation that it do pass as amended 1,2
- House - Mar 23 1999 15:02:49 - Read the first time, rules suspended, read the second time and referred to the Committee on Insurance and Commerce
- House - Mar 23 1999 08:47:01 - RECEIVED FROM THE SENATE
- Senate - Mar 22 1999 16:09:19 - Read the third time and passed and ordered Transmitted to the House.

- Senate - Mar 22 1999 16:09:15 - Rules suspended.
- Senate - Mar 22 1999 15:40:08 - Report correctly engrossed.
- Senate - Mar 22 1999 13:28:42 - Amendment # 2 read the first time, rules suspended, read the second time and adopted, ordered engrossed.
- Senate - Mar 22 1999 13:28:09 - Rules suspended.
- Senate - Mar 19 1999 12:13:53 - Report correctly engrossed.
- Senate - Mar 19 1999 09:11:36 - Amendment # 1 read the first time, rules suspended, read the second time and adopted, ordered engrossed.
- Senate - Mar 18 1999 13:30:33 - Returned by the Committee with the recommendation that it Do Pass as amended, Amendment # 1
- Senate - Mar 4 1999 13:49:22 - Read first time, rules suspended, read second time, referred to Committee on Insurance and Commerce

Currently not scheduled on any agenda

Currently not scheduled on either House or Senate Calendar

[Return to Bill Query Page](#)

[Return to Main Page](#)

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Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly

1 State of Arkansas *As Engrossed: S3/19/99 S3/22/99 H4/7/99*

2 82nd General Assembly

A Bill

Act 1556 of 1999

3 Regular Session, 1999

SENATE BILL 791

4

5 By: Senate Committee on Insurance and Commerce, and Senators Fitch, Kennedy, Mahony

6 By: Representatives Napper, T. Thomas, Glover, Biggs, Bookout, Carson, Courtway, Dees, Eason,

7 Ferguson, Files, Green, Hausam, Hendren, Horn, Jones, King, Magnus, Malone, Milum, Pappas,

8 Rodgers, Salmon, L. Thomas, Wilkinson, Willis

9

10

11

For An Act To Be Entitled

12

" THE ELECTRIC CONSUMER CHOICE ACT OF 1999; AN ACT TO

13

PROVIDE FOR THE INTRODUCTION OF RETAIL COMPETITION

14

INTO THE ELECTRIC UTILITY INDUSTRY, THE REGULATION OF

15

NEW ENERGY SERVICE PROVIDERS, THE RECOVERY OF STRANDED

16

COSTS; AND FOR OTHER PURPOSES."

17

18

Subtitle

19

"AN ACT TO AUTHORIZE ELECTRIC UTILITY

20

COMPETITION."

21

22

23

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

24

25

SECTION 1. Arkansas Code Title 23 is amended to add the following

26

additional chapter:

14 the implementation of retail open access, as may be determined by the
15 commission after notice and hearing, through a customer transition charge.
16 Transition costs surcharges will be subject to annual review by the commission
17 and costs included therein shall be prudent, reasonable, and directly caused
18 by retail open access.

19 (b) After notice and an opportunity for hearing, the commission shall
20 annually adjust the level of the customer transition charge to ensure the
21 recovery of undercollections from the previous year and the refund of
22 overcollections from the previous year.

23 (c) An application for recovery of transition costs shall not be
24 treated as an application for recovery of stranded costs or as an application
25 for a qualified rate order. Transition costs shall not include costs
26 includable in the determination of stranded costs pursuant to § 23-19-303.

27 (d) A generation and transmission electric cooperative corporation
28 shall be entitled to recover its transition costs, as determined by the
29 commission pursuant to this section. A distribution electric cooperative
30 corporation which purchases power from a generation and transmission electric
31 cooperative corporation shall recover on behalf of, and remit to, such
32 generation and transmission electric cooperative corporation its transition
33 costs through a customer transition charge pursuant to this section. The
34 commission shall determine the manner by which the generation and transmission
35 electric cooperative corporation's transition costs are allocated among those
36 distribution electric cooperative corporations.

-----End of Page 42

1

2 SUBCHAPTER 4 - Consumer Protection.

3

4 23-19-401. Commission rules and regulations.

5 (a) The commission shall adopt appropriate rules on or before the date

6 determined by the commission for the implementation of retail open access to

7 promote the following goals:

8 (1) All electric utilities doing business in this state should

9 retain their historical obligations to connect customers to the electric

10 utility grid upon reasonable terms and conditions;

11 (2) Retail customers should have access to safe, reliable, and

12 affordable electricity, including protection against service disconnections in

13 extreme weather or in cases of medical emergency or nonpayment for unrelated

14 services;

15 (3) Electric utility bills, usage, and payment records should be

16 treated as confidential, unless the retail customer consents to their release

17 or the information is provided only in the aggregate;

18 (4) Bills should be accurate and understandable;

19 (5) A retail customer's chosen provider should not be changed

20 without the retail customer's informed consent;

21 (6) A retail customer should have access to a continuity of

22 service provider;

23 (7) Retail customers should have access to sufficient information

24 to make an informed choice of service provider, including but not limited to

25 information on rates. The commission shall establish minimum standards for

26 the form and content of such information to be disseminated by an electric

27 utility or energy service provider, including standards for the disclosure of

28 the environmental effects of the generation being supplied, where such
29 disclosure would be practical and accurate, provided that such minimum
30 standards: (A) shall be just and reasonable; (B) shall not unnecessarily
31 inhibit the initiation and development of competition for any service; and (C)
32 may vary for different services and different classes of customers; and
33 (8) A retail customer should be entitled to truthful and reasonable
34 marketing and sales practices, including abiding by the commission's
35 disclosure requirements related to the environmental effects of the generation
36 being supplied as provided in the previous subdivision, as well as non-

-----End of Page 43

1 discriminatory and non-abusive billing, credit, collection and service
2 connection practices; and
3 (9) Evaluate the impact of competition on renewable energy development
4 and on low income and energy efficiency programs.
5 (b) The commission shall adopt, after notice and hearing, such other
6 rules and regulations as it deems appropriate for the purposes of this
7 chapter, including without limitation, rules governing promotional practices
8 relating to regulated services offered by electric utilities and rules for
9 interconnection to transmission and distribution facilities.
10 (c) The commission shall have jurisdiction over all electric utilities,
11 municipal corporations owning municipal electric utilities which elect to
12 offer retail open access, and energy service providers in enforcing rules
13 adopted pursuant to subsection (a). The commission may begin a proceeding, on
14 its own motion, or upon the complaint of a retail customer or other affected
15 party, to impose, after notice and hearing, a civil sanction not to exceed ten
16 thousand dollars (\$10,000), for failure to comply with rules or orders adopted

17 pursuant to this chapter for each day such violation should continue, or in
18 the case of repeated and substantial violations of such rules or orders, to
19 revoke or suspend the registration or certificate of convenience and necessity
20 of an electric utility or the license of an energy service provider. The
21 proceeds from the civil sanctions imposed under this subdivision shall be
22 deposited into the State Treasury as special revenues and shall be credited to
23 the Public Service Commission Fund.

24

25 23-19-402. Continuity of service provider.

26 (a) On and after the implementation of retail open access, each
27 incumbent electric utility, or a retail affiliate thereof, doing business in
28 this state, shall offer a standard service package on such conditions as may
29 be set by the commission within its distribution service territory and shall
30 have an obligation to provide such service unless and until any such customer
31 has elected an alternative energy service provider, or in the event any such
32 customer has not been able to secure an alternative energy service provider.
33 The commission shall, after notice and hearing, establish procedures and
34 methods by which the electric utility or a retail affiliate thereof shall
35 demonstrate that its rates for such standard service package are consistent
36 with competitive market prices. The commission may require that the electric

-----End of Page 44

1 utility or a retail affiliate thereof use competitive bidding to procure some
2 or all of the generation necessary to fulfill its obligations under this
3 subsection. The previous two (2) sentences shall not apply to an electric
4 utility or retail affiliate thereof which agrees to have its rates for this

5 service established pursuant to §§ 23-4-101 through 23-4-207 and §§ 23-4-401
6 through 23-4-509, and in the case of a rural electric cooperative, the
7 additional provisions in §§ 23-4-901 through 23-4-909.

8 (b) Rates and charges for electricity and electric service provided as
9 part of a standard service package to residential and small business customers
10 shall, for one (1) year following the implementation of retail open access, be
11 the same as the rates and charges for any comparable service provided by the
12 electric utility to such customers immediately prior to the implementation of
13 retail open access. In the event an electric utility recovers stranded costs
14 pursuant to § 23-19-303, rates and charges for electricity and electric
15 service, including any stranded costs and nuclear decommissioning costs
16 included in a customer transition charge, provided as part of its standard
17 service package to residential and small business customers shall, for three
18 (3) years following the implementation of retail open access, be the same as
19 the rates and charges for any comparable service provided by the electric
20 utility to such customers immediately prior to the implementation of retail
21 open access. In no event shall customers receiving service under the standard
22 service package during the one (1) or three (3) year periods set forth in this
23 subsection experience an increase in rates resulting from their allocation of
24 customer transition charges. For purposes of this subsection, a small business
25 customer is one whose maximum peak demand does not exceed one hundred (100)
26 kw, unless designated at a lower kw level by the commission after notice and
27 hearing.

28 (c) The restrictions in subsection (b) above shall not apply to any
29 fuel adjustment clause or energy cost recovery rider approved by the
30 commission and in effect as of the effective date of this chapter, and the

31 commission shall permit any electric utility subject to the restrictions in
32 subsection (b) to recover fuel and fuel-related costs through such clauses or
33 riders during the period the electric utility is subject to the restrictions
34 in subsection (b), but not thereafter.

35

36 23-19-403. Affiliate dealings.

-----End of Page 45

1 All transactions among or between the regulated and any unregulated
2 divisions, components or affiliates of an electric utility shall be conducted
3 at arm's length, subject to such rules as may be promulgated by the
4 commission. All such transactions that involve regulated services shall be
5 subject to the rates, terms and conditions specified in tariffs approved by
6 the commission. An electric utility shall not use any revenue from any
7 regulated asset, operation or service to subsidize the provision of any
8 unregulated electric service or any other unregulated activity.

9

10 23-19-404. Market power analysis.

11 (a) No later than January 1, 2001, and at such later times as the
12 commission may direct, electric utilities and energy services providers that
13 are affiliates of electric utilities shall file with the commission market
14 power analyses applicable to each product or service for which competition has
15 been authorized by this chapter. Such analyses shall be consistent with
16 guidelines, standards, and methods issued or used by the United States
17 Department of Justice or the Federal Trade Commission, including but not
18 limited to methods for defining the relevant market, measuring market

19 concentration, identifying entry barriers, and assessing the existence of
20 market power. Such analyses shall address the availability of transmission
21 import capability, contractual or other mechanisms that would affect market
22 concentration, and such other factors as the commission prescribes by rule or
23 order.

24 (b) Upon application, complaint or its own motion, and after notice
25 and hearing, the commission shall issue by June 1, 2001, or for good cause
26 shown, no later than thirty (30) days thereafter, and at such later times as
27 the commission shall determine, an order finding whether any provider of a
28 product or service for which competition is authorized by this chapter has
29 market power. Within sixty (60) days of the issuance of such order, unless
30 the commission grants an extension of time, such provider shall file with the
31 commission, consistent with any rules or orders of the commission, a market
32 power mitigation plan designed to eliminate the market power found by the
33 commission. Such plan may include, without limitation, price caps,
34 transitional standard offers, the auction of generation to be sold under long-
35 term power contracts, the placement of assets or activities in affiliated
36 corporations, and divestiture of assets or activities. After notice and

-----**End of Page 46**

1 hearing considering such plan, along with any alternative plans proposed by
2 intervenors or commission staff, the commission shall order such provider to
3 implement those measures determined by the commission to be necessary to
4 mitigate the market power that it finds to be in the public interest. Such
5 mitigation measures shall be implemented by January 1, 2002, or such later
6 date as may be authorized by the commission, but such date shall be no later
7 than the implementation of retail open access. The measures ordered by the

8 commission may include, but are not limited to, price caps, transitional
9 standard offers, the auction of generation to be sold under long-term power
10 contracts, the auction or other competitive selection of the right to serve
11 customers who have not made an affirmative selection of an electric utility or
12 electric service provider as provided in subsection (c) of this section, and
13 divestiture of assets or activities; provided, that the commission may not
14 order an electric utility or affiliated energy services provider to divest
15 assets or activities without the consent of such utility or affiliated energy
16 services provider, unless and until the commission determines that other
17 available measures will not adequately mitigate the utility's or affiliated
18 energy services provider's market power. Furthermore, the commission may delay
19 implementation of divestiture until after the implementation of retail open
20 access if implementing divestiture prior thereto would increase the utility's
21 stranded costs and would be contrary to the public interest. If the
22 commission determines that no mitigation plan proposed or considered pursuant
23 to this subdivision will adequately mitigate market power, the commission
24 shall notify the House and Senate Committees on Insurance and Commerce and may
25 refer its findings and any recommendations to appropriate state or federal
26 authorities, file action(s) under applicable laws in any court of competent
27 jurisdiction or take such other action as is authorized by law. Nothing in
28 this subdivision shall in any way limit the obligations or liability, under
29 state or federal antitrust or consumer protection laws or regulations, of an
30 electric utility or energy service provider for conduct arising after
31 implementation of retail open access. In addition, a proceeding pursuant to
32 this subdivision shall not be a condition precedent to an action pursuant to

33 state or federal antitrust or consumer protection laws or regulations.

34 (c) For that period of time subsequent to the one (1) or three (3) year

35 periods referenced in Section 23-19-402(b), each incumbent electric utility or

36 its retail affiliate shall continue to have the obligation to provide a

-----End of Page 47

1 standard service package pursuant to § 23-19-402 (a) to those of its

2 distribution customers that have not elected or are unable to secure an

3 alternative energy service provider, provided that the commission has first

4 found that neither the incumbent utility nor any affiliate thereof has market

5 power over the sale to any customer class of any component of such bundled

6 service for which competition has been authorized by this chapter. If the

7 commission finds that such market power exists, the commission shall determine

8 the most appropriate method of providing the electric service needs of such

9 distribution customers on a fair and equitable basis, including but not

10 limited to allowing energy service providers to compete for the opportunity to

11 serve some or all such customers pursuant to reasonable rates, terms, and

12 conditions. The Commission may adopt such method only after notice and

13 hearing and finding that such method is in the public interest.

14 (d) 'Market power' means the ability to impose on customers a

15 significant and nontransitory price increase on a product or service in a

16 market above the price level which would prevail in a competitive market or

17 exclude competition in the relevant market.

18 (e) No later than July 1, 2008, and annually thereafter, the commission

19 shall submit to the General Assembly a report assessing the competitiveness of

20 those markets for which competition has been authorized by this chapter. Each

21 such report shall include a recommendation as to whether the authority granted

22 to the commission under this section should be continued, revised, or
23 repealed. Upon receipt of such report, the House and Senate Committees on
24 Insurance and Commerce shall make a recommendation to the General Assembly as
25 to whether to revise or repeal this section.

26 (f) Upon a petition filed or on its own motion, the commission may
27 find, after notice and opportunity for hearing, that one or more markets for
28 which competition has been authorized by this chapter is subject to effective
29 competition. After such finding, the commission shall revoke or revise such
30 market power mitigation measures, previously ordered by the commission, to the
31 extent such revocation or modification is consistent with the maintenance of
32 effective competition.

33

34 SUBCHAPTER 5 - Regulation of Distribution and Transmission Services.

35

36 23-19-501. Authority of the commission.

-----End of Page 48

1 (a) At any time on or after the implementation of retail open access,
2 the commission, after notice and hearing and a finding that it is in the
3 public interest, may declare billing, metering, collection, and any customer
4 service offered by an electric utility as a regulated service to be
5 competitive and exempt from rate regulation. This subsection shall not be
6 construed to require that the commission declare such services to be
7 competitive or to limit the commission's ability to declare such services
8 competitive only in certain areas or only when offered by a particular type of
9 electric utility.



The Arizona Electricity Consumer Bill of Rights

All Arizona consumers are entitled to have access to safe, reliable electric service at affordable rates.

Arizona electricity consumers are also entitled to:

- Be protected from "scams" and other unfair business practices
- Choose from among different providers of electrical generation service
- Have their privacy rights and confidential information respected and protected
- A continuation of System Benefits to protect special communities / public interests
- A continuation of "Provider of Last Resort" protection to assure connection and access to electrical service
- Have easy access to fair and expeditious complaint resolution mechanisms to redress grievances against energy service providers
- Be able to easily compare terms and conditions for electric services and billing using standardized, easy-to-understand language and disclosure formats

These entitlements will be established and protected by:

- Development of consumer education and outreach programs
- Development of a comprehensive ACC website for consumer protection issues
- Development of printed and electronic materials in standard, simple language formats
- Access to real, live persons for both information and complaints at ESP, utility and ACC
- Continuation / establishment of both informal and formal complaint resolution mechanisms designed for residential consumers
- Development of rules governing advertising, marketing and promotional materials, including deceptive or untrue advertising practices

The Arizona Corporation Commission will enlist existing and new energy service providers to become partners in consumer protection by:

- Establishing significant performance requirements for energy service providers
- Establishing significant penalties for an energy service provider's failure to perform

For more information about retail electric competition, contact us at:

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Utilities Division
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Phoenix, Arizona 85007

Phone: (602) 542-4251 or toll-free 1-800-222-7000 (in Arizona)

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NEW CONSUMER CHOICES IN ELECTRIC SERVICES

How California's Electric Industry Is Changing...

If you are an electricity customer of Pacific Gas & Electric, San Diego Gas & Electric, Southern California Edison, PacifiCorp, Sierra Pacific Power, Kirkwood Gas & Electric, or Bear Valley Electric, you now have a choice in purchasing electricity. You may purchase electricity from a supplier other than your utility, or choose to continue purchasing electricity from the utility distribution company.

There will be no change in the reliability and safety of your electric service. No matter who you buy electricity from, your utility will continue to deliver it to your home or business, and the California Public Utilities Commission will continue to make sure that it is done safely and reliably.

FOR MORE INFORMATION ON CONSUMER CHOICE:

- [Electric Restructuring in Plain English](#)
- [Answers to Frequently Asked Questions](#)

HOW ELECTRIC INDUSTRY CHANGES AFFECT YOU...

Choice of electricity provider...Electric service providers who intend to sell power to residential and small commercial customers must register with the California Public Utilities Commission (CPUC.) A list of providers is maintained on the CPUC website.

Lower rates...The idea behind electric industry change is that competition will lower prices and encourage new innovation. Since January 1, 1998, you have been paying less for electricity than you did in 1997, due to a 10% rate reduction. You receive this reduction whether you choose to buy power from an electric service provider or the utility distribution company. The rate reduction is financed by low-cost bonds, which will be paid back by ratepayers over a 10-year period ending January 2008.

Itemized bills...Your bill is now itemized to show how much you pay for each component of electric service. Charges related to the industry restructuring, called the Competition Transition Charge (CTC), charges for public purpose program costs, known as Public Goods Charges (PGC), and costs related to the rate reduction bonds, known as Trust Transfer Amount (TTA) will also be itemized.

Safe and reliable service...A new entity, the Independent System Operator, manages

California's entire transmission grid, and will respond quickly should problems occur. The utilities continue to operate and maintain the local distribution system, with regulatory oversight provided by the CPUC.

Consumer protection...The California Legislature enacted consumer protection laws to ensure that consumers are treated fairly. The CPUC will enforce these laws.

ADDITIONAL RESOURCES

- [Electric Education Call Center - 1-800-253-0500](#)
- [List of Registered Electric Service Providers](#)
- [CPUC Energy Division - Electric Restructuring](#)
- [CPUC Consumer Services Division - 1-800-649-7570](#)
- [Independent System Operator](#)
- [Power Exchange](#)
- [California Energy Commission](#)
- [Federal Energy Regulatory Commission](#)
- [Department of Energy](#)
- [CPUC Office of Ratepayer Advocates](#)

Glossary of Commonly-used Electric Industry Terms

Feedback to CPUC Staff

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CONSUMER BILL OF RIGHTS UNDER ELECTRIC RESTRUCTURING

DISCLOSURE OF THE TERMS OF A SERVICE AGREEMENT

All electric service providers are required by law (Senate Bill 477 of 1997) to provide you with a written notice which describes the price, terms and conditions of service BEFORE you sign up for service.

The notice must include:

The price of electricity expressed in a format which makes it possible for you to compare and select among similar products and services on a standard basis. It must show the total price of electricity on a cents per kilowatt hour basis, including the costs of all electric services and charges regulated by the CPUC;

Estimates of the total monthly bill for electric service at varying consumption levels, including the costs of all electric service and charges regulated by the CPUC;

Separate disclosure of all recurring and one time charges associated with the sale of electricity,

If services other than electricity are offered, an itemization of the services and the charges associated with each;

An explanation of the applicability and amount of the competition transition charge;

A description of your right to rescind the contract without fee or penalty in writing within three days of signing the contract;

An explanation of your financial obligations, as well as procedures regarding past due payments, discontinuance of service, billing disputes, and service complaints;

The service provider's registration number. All electric service providers selling electricity to residential and small commercial customers must register with the CPUC.

Your right to change service providers upon written notice, including disclosure of any fees or penalties assessed by the supplier for early termination of a contract;

The availability of low income assistance programs for qualified customers and how you can apply for these programs.

RULES FOR SWITCHING SERVICE

An electric service provider may not switch the service of a RESIDENTIAL customer until one of the following means of confirming the change has been completed:

An independent third party has verified the request for a change in provider, or the customer calls the provider directly and requests that service be switched. However, the provider may not ask you to call its offices directly to avoid the third party verification procedures.

The independent third party must record the customer's oral confirmation of the change and obtain relevant

customer information to verify the customer's identity. This record must be made available to the customer on request and may not be used for marketing purposes. Any unauthorized release of this information is grounds for a civil suit.

An electric service provider may not switch the service of a **SMALL COMMERCIAL** customer until one of the following means of confirming the change has been completed:

An independent third party has verified the request for a change in provider;

The electric service provider receives written confirmation in the mail from the consumer after the consumer has received an information packet with the service agreement;

The consumer signs a document fully explaining the nature and effect of the change in service;

Or the consumer's consent is obtained through electronic means, such as a computer transaction.

Any provider that violates the verification procedures is liable to the customer's previous provider for all charges paid by the customer after the violation occurred.

ADDITIONAL CONSUMER PROTECTIONS

SB 477 also provides for the following consumer protections:

Confidentiality: Your usage, billing and credit information is confidential unless you consent in writing to the release of the information.

Physical disconnects and reconnects: Only electrical corporations such as PG&E, San Diego Gas and Electric or SoCal Edison have the authority to disconnect or reconnect your electric service. A **RESIDENTIAL** service may not be disconnected for nonpayment of a bill until a **REGULATED** utility has sent you 15 day and 48 hour notices warning you of the impending disconnection. A **SMALL COMMERCIAL** service may not be disconnected for nonpayment of a bill until a **REGULATED** utility has sent you a 7 day notice warning you of the impending disconnection.

Change in providers: After providing adequate notice, you may change energy suppliers. Energy suppliers may charge for such a change, provided that any fee or penalty charged by the supplier associated with early termination of service is disclosed in the contract.

Written notices: Notices describing the terms and conditions of service, service agreements, notices of late payment, notices of discontinuance of service, and disconnection notices must be easily understandable, and provided in the language in which the company offered the services.

Billing: All bills must have a standard bill format, and must contain sufficient detail for you to recalculate the bill for accuracy. Any late fees must be separately stated. Bills must contain a phone number for you to call to report and resolve billing inquiries and complaints. If you contact a registered provider regarding a billing dispute, the provider must advise you at the time of the initial contact that you may file a complaint with the California Public Utilities Commission if the dispute is not satisfactorily resolved by the provider.

Meter integrity: You may have your meter tested to ensure the reasonable accuracy of the meter. However, you may be held responsible for the cost of testing the meter.

Customer deposits: You may be required to pay a deposit before service commences, but the deposit cannot be more than your estimated bill for a three-month period.

DON'T CALL ME LIST

If you do not want electric service providers to contact you by telephone to solicit their services, you may have your name placed on a "Do not call me" list.

To have your name added to this list, write to the California Public Utilities Commission at 505 Van Ness Ave., CAB, San Francisco, CA 94102.

In your letter, state that you want your name added to the don't call me list. We must have your name, address and telephone number, including area code, to add your name to the list.

The list will be updated at least quarterly.

An electric service provider who calls you more than once after your name appears on an updated list is subject to a fine.

COMPLAINT RESOLUTION

If you are unable to resolve a dispute with an electric service provider, you may request assistance from the California Public Utilities Commission by writing to us at:

CPUC

Attention: CAB

505 Van Ness Ave.

San Francisco, CA 94102

[CLICK HERE FOR MORE INFORMATION](#)



[Go Back to CPUC main web page](#)

CONNECTICUT

Category

Electric Restructuring

HB 5005 =
Public Act
98-28
enacted 29 April
1998

Summary of Electric Restructuring Legislation

FROM: Kevin E. McCarthy, Principal Analyst - Office of Legislative Research

RE: Electric Restructuring Legislation Electric Restructuring Legislation

The following is a brief summary of the electric restructuring bill (sHB 5005), as it was passed by the House and Senate.

ELECTRIC RESTRUCTURING LEGISLATION

This bill restructures the electric industry to allow consumers to choose their electric suppliers. Up to 35% of each electric company's peak load, consisting of customers located in distressed municipalities, will be able to choose starting January 1, 2000. All consumers will be able to choose starting July 1, 2000.

Each electric company must unbundle (separate) its generation component from the rest of the company. The generation component will be subject to competition from other suppliers. The remaining component, called a distribution company, will continue to be regulated as a utility by the Department of Public Utility Control (DPUC).

From July 1, 1998, until January 1, 2000, rates are capped at their December 31, 1996, levels. Starting January 1, 2000, each distribution company must provide service under a "standard offer" to customers who choose this option, who do not arrange for service from a supplier, or who do not maintain such service. Under the standard offer, distribution companies must reduce their total rates by at least 10% compared to rates in effect December 31, 1996. This requirement runs for four years. DPUC must adjust rates under the standard offer to reflect changes in taxes and fuel costs and can adjust them to reflect other costs. Starting January 1, 2004, distribution companies must procure power for consumers who do not obtain service from competitive suppliers, but can charge market rates for this power.

The bill provides electric companies with an opportunity to recover their stranded costs. These are costs that are currently in electric rates that would be above market in a competitive environment. The bill addresses three types of stranded costs, those associated with generation assets such as power plants, regulatory assets (expenditures that DPUC has approved for deferred recovery), and long term contracts that the company has entered into to buy power from non-utility generators.

A company must divest its non-nuclear generation assets by January 1, 2000. It must do this by putting the assets up for auction if it wishes to recover any stranded costs. A generation affiliate of the distribution company can bid on these assets if it is qualified to do so. A distribution company can apply to DPUC to retire the Millstone 1 nuclear power plant for economic reasons under the existing utility rate regulation law (CGS §16-19). DPUC must allow any recovery ordered pursuant to this law to be recovered through the competitive transition assessment (CTA), described below. The other nuclear power plants must be operating for the company to recover any stranded costs associated with them. The companies must put these plants up for auction by January 1, 2004, if they wish to continue recovering the costs associated with them. Companies must mitigate their stranded costs and costs that are below market must be netted against those that are above market.

DPUC must establish the CTA for each distribution company by January 1, 2000, to recover DPUC-approved stranded costs. The CTA applies to all company's customers, other than those on existing special contracts, regardless of their supplier. (Electric companies have entered into special contracts, which provide substantial rate discounts, with certain industrial customers under an existing law.)

The bill allows companies to securitize (refinance) their regulatory assets, purchased power contracts with a fixed present value, and mitigation costs. The refinancing is accomplished through the issuance of state revenue bonds backed by part of the CTA. The bonds are not state obligations. The bill bars the use of the bond proceeds to buy back stock, pay dividends or operating costs (other than taxes associated with the refinancing), or buy generation assets.

→ Suppliers, including the generation affiliates of distribution companies, must be licensed by DPUC. They must demonstrate their technical and managerial competence and meet a variety of environmental, consumer protection, and labor provisions. They must obtain a specified amount of their power from renewable resources. They are subject to many of the laws that currently apply to utilities, including restrictions on terminations.

DPUC must establish a charge of 0.3 cents per kilowatt-hour to fund energy conservation programs. It must establish a charge rising to 0.1 cents per kilowatt-hour to fund investments in renewable technologies. The Department of Environmental Protection must develop emission standards for various pollutants for generating plants serving the Connecticut market, whether they are located in the state or elsewhere. The standard for a pollutant goes into effect when adopted by three northeastern states having a total population of at least 27 million.

DPUC must also establish a comprehensive education program. The cost of this program is covered by a systems benefits charge (SBC). The SBC is also used to provide assistance to utility workers and municipalities that are harmed by restructuring and cover other public

policy costs. The SBC applies to all distribution customers, other than those on special contracts.

The bill eliminates the gross earnings tax as it applies to generation, but it increases the tax rate on transmission and distribution services. It subjects the CTA and SBC to this tax. And it amends the corporation business tax and sales tax to reflect the bill's changes to the electric industry. The bill requires various studies and makes many conforming changes. Most of the bill's provisions are effective July 1, 1998, but the unbundling requirement and several other provisions are effective upon passage and the gross earnings tax changes are effective January 1, 2000.

KM:cd

File Attachment:

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CONSUMER EDUCATION OUTREACH PROGRAM (CEOP)

Executive Summary

INTRODUCTION

Success in meeting the provisions of Connecticut PUBLIC ACT 98-28 will depend to a significant extent on the readiness and willingness of Connecticut citizens and businesses to change their understanding of how they purchase electric energy. The Consumer Education Outreach Program (CEOP) will provide the communications structures, strategies and accountability/measurement systems to ensure Connecticut consumers and businesses are fully prepared and equipped to participate in the new energy marketplace.

The CEOP is designed to reach both residential consumers and businesses on a statewide basis. Recognizing that these audience definitions are somewhat broad, particularly for consumers, the CEOP divides this group into sub-audiences that include a range of traditionally under-served populations such as the low-income community, the disabled community, ethnic populations and senior citizens. The plan is also designed to reach all types of businesses in Connecticut, from the one- and two-person, home-based businesses up to major manufacturing, industrial and service companies, as well as governmental units, non-profit organizations and all other types of businesses throughout the state. In essence, the plan is designed to reach everyone in Connecticut - both residents and businesses.

An Overview of the CEOP

The Consumer Education Outreach Program must ensure that residential and business consumers have the information they need to understand electric utility restructuring and to participate knowledgeably in a competitive energy market.

CT DPUC CONSUMER EDUCATION OUTREACH PROGRAM

5. Most of the new terms that consumers will have to understand in a deregulated market were not understood by these consumers. Concepts such as "generation company", "aggregation", "green power", "transition service/standard offer" and "default service" were understood by only a few.
6. Most people were very interested in learning more about the electric deregulation process and how it would benefit them.
7. Most participants felt newspaper articles and direct mail (as long as it is "official" looking) were effective ways to educate consumers, as well as bill inserts, public access programs, radio talk shows and the internet. Radio and TV commercials were suggested as good ways to point consumers to other forms of education and for awareness building. A toll free 800 number information center was liked only if there was a human voice at the other end.
8. While there was some agreement as to the best way to reach consumers, there were significant differences regarding the information consumers were interested in hearing. Many felt the only way they would be interested would be if it showed them how to save money - others wanted more comprehensive information concerning all aspects of deregulation. All wanted to know their rights/consumer protection under deregulation, but again, this was not as important to some as the need for direct references to savings.
9. The majority felt it was the state's responsibility to educate consumers, but some felt it was the responsibility of the consumers to find information. They felt their legislators and environmental groups should help in the education of consumers. Some felt the state's responsibility was to do background checks on the new electric suppliers and provide consumers with a comparison list of registered suppliers.
10. When asked, employment rates, tourism, trade, crime, health care, the economy, traffic and education were seen as being issues more important to the majority of the participants in these focus groups than electric deregulation.

changing because of uncertainties they see with competition. This is a key "barrier to choice" that the CEOP must address.

To do so, the CEOP will first assure consumers not to worry - that the lights won't go out. It will then introduce the basics of electricity and show consumers how the system currently works. It will explain how and where electricity is generated and graphically depict how electricity eventually reaches their home or business. Once consumers understand the current structure, it will highlight those parts of the system that are changing and those parts of the system that are staying the same. This knowledge is essential to enabling consumers to understand "when, where and how" they have a choice in who generates their electricity, and show them why there will be no change in power service, reliability and quality.



Next, consumers will be shown that there are still safeguards in the system, and that they have many consumer rights and protections under competition. In addition, they will be presented with the "vocabulary" of the new marketplace in clear, simple, easy to understand terms and graphics so they can easily understand concepts such as generation company, distribution company, standard offer, default power service, green energy and others. Printed materials will address all of this information, and the answer center will be introduced as a place to turn to for more information on any topic.

V.4. Plan Implementatio:

Effectively launching this comprehensive and integrated public education program requires careful preparation and effective implementation. To accomplish this, CEOP implementation will occur over four phases:

1. OUTREACH & PREPARATION PHASE: O1 1999 - O2 1999

During the first six months of 1999, comprehensive plan development and plan refinement will occur. The Consumer Education Advisory Council will be in place with an important task of reviewing, commenting and providing input on the CEOP.

- ii) Introduce some of the 11/98 survey statistics.
- 3.) What is the Connecticut Department of Public Utility Control:
- a) Controlling legal authority;
 - b) Commission mission statement;
 - c) Organizational structure;
 - d) Short introduction and bios of Commissioners/Executive Staff.
- 4.) History - How we got to where we are:
- a) Map of the service territories of CT utilities;
 - b) Cost of electricity in CT versus costs in other NE states and nationally;
 - c) Brief overview and history on how we got to where we are today;
 - d) Discuss the intent of Public Act 98-28.
- 5.) Explanation of Changes:
- a) How electric service is provided today:
 - i) introduce and explain concepts of generation/transmission/distribution;
 - b) Competitive market structure:
 - i) introduce key terms;
 - ii) identify how the provision of electric service changes with the introduction of competition - two companies, one regulated - one competitive;
 - iii) define what is changing and what is staying the same;
 - iv) define how consumers will purchase power;
 - v) discussion of transition service/standard offer;
 - vi) role of distribution company:
 - 1) safety, reliability, maintenance, outages;
 - vii) role of DPUC:
 - 1) regulation of distribution;
 - 2) limited regulation of competitive supplier;
 - 3) consumer protection;
 - 4) supplier registration;
 - viii) role of competitive supplier:
 - 1) who the new players are;
 - 2) resource mix issues;

- Distributing public education materials through on-going departmental efforts;
- Agreeing to follow the public education program schedule on these items throughout the life of the campaign.

3. Connecticut Community Action Programs (CAPs)

The Connecticut Community Action Programs (CAPs) are an important group of agencies to partner with because they reach low-income and elderly populations across the state. This plan is designed to work closely with the CAPs to leverage their communications efforts.

VI.7. Marketing to Electric Suppliers

While it is essential to prepare Connecticut consumers for retail electric competition, there are no absolute assurances that there will be energy options for them to choose from. Given that market entry patterns of new energy suppliers in other states to date have been slow to form, the CEOP will work to stimulate this process through the development and implementation of communications efforts directed to retail electric suppliers. The objective of these efforts will be to ensure that potential electric suppliers understand the size and value of the Connecticut market, particularly residential consumer segments. A key part of this effort will be enabling potential retail electric suppliers to understand how the CEOP has worked to develop and prepare the Connecticut market for competition. It must also ensure they are fully aware of all supplier registration requirements and consumer protection provisions in a fashion that works to attract high value suppliers. This activity will begin in advance of retail electric competition both in the distressed municipalities and statewide to ensure all efforts have been taken to provide Connecticut consumers with an active market offering real choice.

VI.8. DPUC Answer Center

The Electric Competition Answer Center is a core strategy of this public education program. Along with the web site, this answer center enables each consumer to find the information they need



DELAWARE PUBLIC SERVICE COMMISSION



ELECTRIC INDUSTRY RESTRUCTURING

Last Updated September 30, 1999

<u>H.B. 10 Summary</u>
<u>Regulation Docket No. 49</u>
<u>DEC's Plan (Docket No. 99-457)</u>
<u>DP&L's Plan (Docket No. 99-163)</u>
<u>Electric Choice Education Group (Docket No. 99-156)</u>

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[YEAR 2000](#) | [PRESS RELEASES](#) | [JOB POSTINGS](#)
[FINDINGS AND RECOMMENDATIONS](#)

8/9/99; 10am-3pm: Full group meeting at PSC, Dover
8/30/99; 10am-3pm: Full group meeting at Conectiv, Wilmington
9/20/99; 10am-3pm: Full group meeting at PSC, Dover
10/6/99; 10am-12pm: Full group meeting at Conference Center, Delaware Technical College, Stanton Campus
10/6/99; 1pm-3pm: Presentation by Penn. Regulators at Conference Center, Delaware Technical College, Stanton Campus

Please contact Commission Staff at 302-739-2107 for additional information or e-mail rbarua@state.de.us.

[Return to List of Categories](#)

Summary of House Bill 10

On March 31, 1999, Governor Tom Carper signed House Bill No. 10, which restructures Delaware's electricity industry beginning October 1, 1999. The following are selected highlights of H.B.10:

DELMARVA POWER & LIGHT (DP&L) CUSTOMERS:

- Rate freeze at 9/30/99 level for non-residential customers from 10/1/99 to 9/30/02 (Transition Period).
- Rate freeze at 9/30/99 level with a 7.5% decrease for residential customers from 10/1/99 to 9/30/03 (Transition Period), with adjustments for Commission-determined extraordinary events.
- Customers with a peak monthly load of 1,000 kW or more can choose their own suppliers 10/1/99.
- Customers with a peak monthly load of 300 kW or more can choose their own suppliers 1/15/00.
- All others, including residential customers, can choose their own suppliers 18 months (10/1/00) after enactment.

DELAWARE ELECTRIC COOPFRATIVE (DEC) CUSTOMERS:

- Rate freeze for all customers from 4/1/00 to 3/31/05 (Transition Period).
- Customers with a peak monthly load of 1,000 kW or more can choose their own suppliers 4/1/00.
- Customers with a peak monthly load of 300 kW or more can choose their own suppliers 7/1/00.
- All others, including residential customers, can choose their own suppliers 24 months (4/1/01) after enactment.

RESTRUCTURING PLANS:

- DP&L files by 4/15/99 and Commission decides by 8/31/99. (See PSC Docket No. 99-163)
- DEC files by 9/15/99 and Commission decides by 2/28/00. (See PSC Docket No. 99-457)

DEFAULT SUPPLIER:

- DP&L during its Transition Period; after that, Commission designates based on various factors.
- DEC during its Transition Period; after that, DEC for those who do not choose.

METERING & BILLING:

- DP&L during its Transition Period; after that, Commission may permit others.
- DEC will always have this function.

DP&L PUBLIC PURPOSE FUNDS:

- **Environmental:** An average of \$0.000178/kWh each month (approx. \$1.5 million annually) to fund environmental incentive programs for conservation and energy efficiency; administered by the Delaware Economic Development Office, in consultation with the Delaware Energy Office and the Division of Public Advocate.
- **Low-income:** An average of \$0.000095/kWh each month (approx. \$800,000 annually) to fund low-income fuel assistance and weatherization programs; administered by Dept. of Health & Social Services' Division of State Service Centers (which currently administers similar federally-funded programs).

CONSUMER EDUCATION FUNDS:

- A total of \$250,000 from DP&L & DEC apportioned based on 1998 kWh retail sales.

MUNICIPALITIES:

- On their own schedule with a reciprocity arrangement.

Please contact Commission Staff at 302-739-2107 for additional information or e-mail rbarua@state.de.us.

[Return to List of Categories](#)



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HB 10 w/ HA 1, HA 1 to HA 2, HA 2 + SA 1 to SA 1, SA 1, SA 2, SA 3, SA 5,
SA 6, SA 7

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- [Ready List](#)
- [Meeting Notices](#)
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& **Sen. McDowell; Reps. Capano Carey Stone; Sens. Adams Vaughn Venables Still**
AN ACT AMENDING THE PROVISIONS OF TITLE 26 OF THE DELAWARE CODE RELATING TO THE RESTRUCTURING AND REGULATION OF PUBLIC UTILITIES SUPPLYING ELECTRICITY TO RETAIL CUSTOMERS IN THE STATE.


Long Title:

Date of Introduction:
Current Status:
Date Governor Acted:
Synopsis:

01/19/99
Signed

This comprehensive legislation restructures and deregulates the supplying of electricity to all industrial, commercial and residential customers within the service territories of Delmarva Power & Light Company and Delaware Electric Cooperative, by eliminating the exclusive franchise for the supply of electricity which each enjoys within its service territory, beginning with customer choice on October 1, 1999 for Delmarva's large industrial users, and on April 1, 2000 for DEC's large industrial users. The Act provides for a 7.5% cut in electric rates for Delmarva's residential customers, and, by replacing electric supply monopoly with free market competition, presages lower prices for all DP&L and DEC customers.

Vote Type:
Effective Date(s):
Fiscal Note:
Complete Legislation:

Simple Majority
03/31/99
F/N
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SPONSOR:
Rep. Roy

HOUSE OF REPRESENTATIVES

140th GENERAL ASSEMBLY

HOUSE BILL NO. 10

AN ACT AMENDING THE PROVISIONS OF TITLE 26 OF THE DELAWARE CODE RELATING TO THE RESTRUCTURING AND REGULATION OF PUBLIC UTILITIES SUPPLYING ELECTRICITY TO RETAIL CUSTOMERS IN THE STATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

(Three-Fifths Majority of all members elected to each house thereof concurring therein):

Section 1. This Act shall be known and referred to as the "Electric Utility Restructuring Act of 1999."

Section 2. Declaration of Policy.

It is the policy of this State that a competitive market for the supply of electricity and the availability of customer choice among electric suppliers shall be encouraged and that the generation, supply and sale of electricity shall be deregulated.

Section 3. Amend Title 26 of the Delaware Code by adding a new Chapter 10 as follows:

" Chapter 10. Electric Utility Restructuring.

§1001. Definitions.

As used in this chapter, unless the context otherwise requires:

"Ancillary Services" means services that are necessary for the transmission and distribution of electricity from supply sources to loads and for maintaining reliable operation of the transmission and distribution system.

"Broker" means a person or entity that acts as an agent or intermediary in the sale or purchase of, but that does not take title to, electricity for sale to Retail Electric Customers.

"Commission" means the Delaware Public Service Commission.

"DEC" means the Delaware Electric Cooperative and its successors.

(2) Commission review of plan. The Commission shall review DEC's restructuring plan and, after an evidentiary proceeding, issue an order by February 28, 2000, adopting the plan as filed or modifying the plan as appropriate.

§1006. Rates for Customers.

(a) Rates for Customers within DP&L's Service Territory.

(1) Rates in effect during the Transition Period.

For the Transition Period identified in §1004(a) of this chapter, the following Delaware retail rate levels shall be determined by the Commission (without conducting a base rate case) as part of its decision on DP&L's restructuring plan filed pursuant to §1005(a) of this chapter and shall thereafter remain in effect as provided below:

(i) The retail market price for Electric Supply Service (including losses to the Customer's delivery point) shall be estimated and applied separately for each Customer rate class for each year of the Transition Period. Such prices shall be based upon and/or representative of regional wholesale electric market prices, plus a reasonable allowance for retail margin to be determined by the Commission. Once established, such prices shall not thereafter be changed by the Commission during the Transition Period, except as the result of an appeal of the Commission's decision.

(ii) For each Customer rate class, the total of the actual base rates (excluding fuel costs) in effect on, and the fuel rates based upon the actual fuel costs for the 12 months ending, September 30, 1999 shall remain in effect for the Transition Period, less: (a) a base rate decrease of 7.5% percent of the total of those base and fuel revenues for each residential rate class; and (b) the above-specified retail market price in each respective year. However, upon application by DP&L, the Commission may change rates in the Transition Period for the recovery of any extraordinary costs as the Commission may, in its discretion, determine.

(iii) For each Customer rate class, the total of the rates established pursuant to subparagraphs (i) and (ii) of this subsection (a)(1) shall be separated (on a revenue-neutral basis) into rates for Electric Supply, Transmission, Ancillary, Distribution, nuclear decommissioning and other Services and may be combined for billing purposes.

(iv) Customers who obtain Transmission and/or Ancillary Services directly from the PJM Independent System Operator or from their Electric Supplier shall receive a credit against DP&L's retail delivery rates equal to the then-applicable Federal Energy Regulatory Commission equivalent retail Transmission and/or Ancillary Services rates paid by that Customer or its Electric Supplier.

(v) For Customers who do not choose an alternate Electric Supplier or have returned to obtaining their electric supply from DP&L, the above-specified retail market price shall be the rate paid for Electric Supply Service for the Transition Period, subject to such regulations as the Commission may adopt pursuant to §1010(c) of this chapter for returning Customers.

(vi) For Customers who do choose an alternate Electric Supplier, the above-specified retail market price shall not be applicable for such Customer's Electric Supply Service.

(vii) In addition to the above-specified rates and charges, and notwithstanding subparagraph (ii), a deferred fuel true up credit or charge shall be in effect for all Customers for up to 12 months following September 30, 1999, pursuant to §303(c) of this title.

(2) Rates in effect after the Transition Period.

(i) At the end of the Transition Period set forth in §1004(a) of this chapter, the retail market price under subparagraph (a)(1)(i) of this section shall become the Standard Offer Service price.

(ii) Such Standard Offer Service price shall be the applicable retail market price for Electric Supply Service for any Customers who have not chosen an alternate Electric Supplier or have returned to obtaining their Electric Supply Service from the Standard Offer Service Supplier, subject to such regulations as the Commission may adopt pursuant to §1010(c) of this chapter for returning Customers.

(iii) If DP&L is a Standard Offer Service Supplier, the Standard Offer Service price shall be revised by DP&L from time to time for each Customer rate class to be representative of the regional wholesale electric market price, plus a reasonable allowance for retail margin to be determined by the Commission for providing such Electric Supply Service. The Standard Offer Service price may be reviewed from time to time by the Commission to determine whether it represents the regional wholesale electric market price, plus a reasonable allowance for retail margin. If the Commission has elected another Electric Supplier to be the Standard Offer Service Supplier as the result of the bidding process in §1010(a)(2) of this chapter, the Standard Offer Service price shall be the bid price.

(iv) For Customers who have chosen an Electric Supplier, in addition to the Standard Offer Service price or the alternative Electric Supplier's supply price, each Customer shall pay the separate applicable rates for Transmission, Ancillary, Distribution, nuclear decommissioning and other Services. Such rates shall not include any generation or electric supply costs. By March 1, 2002, DP&L shall file a rate case quality cost of service study (consistent with the Minimum Filing Requirements in effect on February 1, 1999) and a proposal to reset its regulated rates to be applicable at the end of the Transition Periods. The Commission shall review these filings to determine the appropriate rates DP&L may charge its Customers for regulated services.

(v) Customers who obtain Transmission and/or Ancillary Services directly from the PJM Independent System Operator or from their Electric Supplier shall receive a credit against DP&L's retail delivery rates equal to the then-applicable Federal Energy Regulatory Commission equivalent retail Transmission and/or Ancillary Services rates paid by that Customer or its Electric Supplier.

(vi) To the extent that any nuclear generating unit partially owned by DP&L has been sold, or otherwise disposed of, the nuclear decommissioning costs associated with such unit shall not be recovered from Customers after the Transition Period.

(b) Rates for Customers within DEC's Service Territory.

(1) Rates in effect during the Transition Period.

For the Transition Period identified in §1004(b) of this chapter, the following Delaware retail rate levels shall be determined by the Commission (without conducting a base rate case) as part of its decision on DEC's restructuring plan filed pursuant to §1005(b) of this chapter and shall thereafter remain in effect as provided below:

(i) The retail market price for Electric Supply Service (including losses to the Customer's delivery point) shall be estimated and applied separately for each Customer rate class for each year of the Transition Period. Such prices shall be based upon and/or representative of regional wholesale electric market prices, plus a reasonable allowance for retail margin to be determined by the Commission. Once established, such prices shall not thereafter be changed by the Commission, except as the result of an appeal of the Commission's decision.

(ii) For each Customer rate class, the total of the actual base rates (excluding Purchase Power Costs) and the Purchase Power rates based upon the actual Purchase Power Costs for the 12 months ending March 31, 2000 shall remain in effect for the Transition Period less: (a) the above-specified retail market price in each respective year; and (b) the below-specified Competitive Transition Charge in each respective year. However, upon application by DEC, the Commission may change rates in the Transition Period for the recovery of any extraordinary costs as the Commission may, in its discretion, determine.

(iii) A Competitive Transition Charge shall be established by the Commission to recover Stranded Costs and Transition Costs, if any, pursuant to §1007 of this chapter. The Competitive Transition Charge shall be set as a separate charge at a level that will permit DEC to recover its allowed Stranded Costs and Transition Costs over the Transition Period.

(iv) For each Customer rate class, the total of the rates established pursuant to subparagraphs (i), (ii) and (iii) of this subsection (b)(1) shall be separated (on a revenue-neutral basis) into rates for Electric Supply, Transmission, Ancillary, Distribution nuclear decommissioning, Competitive

electric supply through the Distribution or Transmission Facilities of DEC, to allow DEC to recover its Stranded Costs and Transition Costs as determined by the Commission pursuant to this section.

(b) "Stranded Costs" means DEC's electric generation related costs, including purchased power contract costs, incurred in meeting its public service obligations, that would be recovered under traditional cost of service regulation but which may not be recoverable in a competitive electric supply market, including, but not limited to: net generation plant investment costs, generation plant retirement costs, including nuclear plant decommissioning costs, spent nuclear fuel disposal costs, purchase power contract costs, and any similar or related costs.

(c) "Transition Costs" means the costs DEC incurs during the course of the transition to a competitive electric supply market that would be recovered under traditional cost of service regulation but which may not be recoverable in a competitive electric supply market, including, but not limited to: the costs of implementing a genuinely competitive retail market, personnel costs, the costs of purchasing, replacing or modifying systems, software, and other equipment; the costs of any physical plan rendered no longer used or useful; and any other similar or related costs attributable to the transition to a competitive electric supply market.

(d) DEC shall be permitted to recover all reasonably incurred, non-mitigable Stranded and Transition Costs. The amount and method of determining DEC's Stranded and Transition Costs shall be decided by the Commission. The costs to be recovered shall be allocated in a manner that avoids, to the extent possible, inter-class or intra-class cross-subsidization.

(e) The Commission shall establish procedures for periodic review of the costs recovered through the Competitive Transition Charge.

§1008. Duties of Electric Distribution Companies.

Each Electric Distribution Company shall maintain the reliability of its Distribution Services and shall implement procedures to require all Electric Suppliers to deliver energy to the Electric Distribution Company at locations and in amounts which are adequate to meet each Electric Supplier's obligations to its Customers.

§1009. Reciprocity.

Notwithstanding any other provision of this chapter, unless an electric utility, including a municipally-owned electric utility or a municipal electric company, has implemented a restructuring plan that provides for Retail Competition in its Delaware service territory, such electric utility may not use the Transmission or Distribution Facilities of a nonaffiliated electric utility to make sales to Customers in such nonaffiliated electric utility's Delaware service territory; nor shall such electric utility own or receive, directly or indirectly, any economic interest in any entity which uses the Transmission or Distribution Facilities of a nonaffiliated electric utility to make sales to Customers in such nonaffiliated electric utility's Delaware service territory.

→ §1010. Electric Distribution Companies' Obligation to Serve Customers.

(a) DP&L's obligation to serve.

(1) During the Transition Period, DP&L shall continue to have the obligation to serve all Customers in its Commission-designated service territory, including the connection of Customers, the delivery of electricity and the generation or acquisition of Electric Supply Service for Customers.

(2) Prior to the end of the Transition Period set forth in §1004(a) of this chapter, the Commission shall determine who the Standard Offer Service Supplier in DP&L's service territory will be following the Transition Period, based on various factors including but not limited to price, reliability and overall quality of the Electric Supply Service offered. In determining the Standard Offer Service Supplier for DP&L's service territory, the Commission may use an auction bidding process. The Commission shall promulgate rules and regulations for the bidding process and may: (i) negotiate directly with bidders; (ii) aggregate various distribution areas to attract more bidders; or (iii) choose more than one Standard Offer Service Supplier to provide Standard Offer Service. Nothing in the Commission's rules or regulations shall prohibit DP&L or its affiliates from participating in the bidding process for post-transition Standard Offer Service. The Commission may also require DP&L to continue to be the Standard Offer Service Supplier or to supply a portion of the Standard Offer Service after the Transition Period. Any Standard Offer Service Supplier arrangement shall be periodically reviewed by the Commission to insure that those who use Standard Offer Service are provided Electric Supply Service that is safe and reliable.

(b) DEC's obligation to serve.

(1) During the Transition Period, DEC, or affiliates thereof, shall have the obligation to serve all Customers in its Commission-designated service territory, including the connection of Customers, the delivery of electricity and the generation or acquisition of Electric Supply Service for Customers.

(2) After the Transition Period, in addition to Transmission and Distribution Service, DEC shall supply Standard Offer Service, as determined in accordance with §1006(b)(2)(iii) of this chapter, to Customers who: (i) have no choice regarding Electric Suppliers, (ii) do not choose another Electric Supplier, or (iii) have contracted for Electric Supply Service that is not delivered. The Commission may choose another Electric Supplier to provide Standard Offer Service to DEC's Customers, through a Commission-supervised competitive bidding process or otherwise, similar to §1010(a)(2) above, only if DEC is unable to provide Standard Offer Service in its service territory or if it is established, after notice and hearing, that the Standard Offer Service rendered by DEC is inadequate to meet the requirements of the public necessity and convenience.

(c) The Commission shall promulgate rules and regulations governing the amount of notice that a Customer who desires to return to the Standard Offer Service Supplier must provide, the minimum amount of time that a Customer must take service from a Standard Offer Service Supplier, and the amount of charges that may be assessed against a Customer who leaves the Standard Offer Service Supplier and later returns to the Standard Offer Service Supplier, including the appropriate retail market price, which may be higher than the Standard Offer Service price.

→ §1011. Metering and Billing.

(a) The following provisions shall govern metering and billing for Customers in DP&L's service territory:

(1) Each Customer shall have the right to choose to receive separate bills from DP&L and from its Electric Supplier, or to receive a combined bill from either DP&L or its Electric Supplier, for Electric Supply, Transmission, Distribution, Ancillary and other Services, consistent with the regulations of the Commission.

(2) If the Customer does not elect a billing option, DP&L shall be responsible for billing Customers for all Electric Supply, Transmission, Distribution, Ancillary and other Services, regardless of the identity of the provider of Electric Supply Service.

(3) Customer bills shall contain sufficient detail to enable the Customer to determine the basis for all charges.

(4) During the Transition Period, DP&L shall continue to own all meters and perform all meter-reading functions. After the Transition Period, or earlier if requested by DP&L, the Commission may permit others to provide some or all of such metering functions on a competitive basis.

(b) The following provisions shall govern metering and billing for Customers in DEC's service territory:

(1) DEC shall continue to bill each Customer for: (1) that Customer's Electric Supply Service, regardless of the Electric Supplier, and (2) Transmission, Distribution, Ancillary and other Services.

(2) All Customers in DEC's service territory shall continue to be members of DEC and the revenues for DEC's services shall continue to be treated as member revenue to DEC.

(3) DEC shall continue to own and operate meters and perform meter reading functions in its Commission-designated service territory.

→ §1012. Certification of Electric Suppliers.

(a) Certification Requirements. Prior to doing business in Delaware, every Electric Supplier seeking to provide Electric Supply Service to Customers shall obtain a certificate from the Commission. The Commission shall promulgate rules and regulations governing the information that Electric Suppliers shall be required to provide and requirements to be satisfied in order to obtain such certificate. The failure by any Electric Supplier to comply with any of the requirements promulgated by the Commission may result in penalties, including monetary assessments, suspension or revocation of the Electric Supplier's certificate, or other sanctions.

(b) Rules and Regulations. The Commission may promulgate rules and regulations with respect to Electric Suppliers and Electric Supply Service to protect Customers after the implementation of Retail Competition, including those related to billing,

service terms and conditions, dispute procedures, changing suppliers and standards for suppliers who offer environmentally-advantageous "Green Power" options, such as electricity generated from renewable resources, biomass, hydroelectric and other such generating sources. All Electric Suppliers shall consent to the jurisdiction of the Delaware courts for acts or omissions arising from their activities in the State.

(c) Fees and Assessments.

(1) Electric Suppliers required to obtain a certificate to provide retail Electric Supply Service shall pay an application fee of \$750.00.

(2) For purposes of §§ 114 (Charges and Fees; Costs and Expenses of Proceedings), 115 (Public Safety; Regulatory Assessment; Definition of Revenue; Returns; Collection of Assessment), and 116 (Delaware Public Service Commission Revolving Fund; Deposit of Moneys Collected) of this title, an Electric Supplier shall be deemed to be a "Public Utility" as defined in §102(2) of this title.

§1013. Market Power Remediation.

(a) On or after October 1, 1999, upon complaint or upon its own motion, for good cause shown, the Commission may conduct an investigation of the retail Electric Supply Service market and whether the function of that market is being adversely affected by market power arising from the ownership or control of facilities and equipment used to provide Electric Supply Service.

(b) If, as a result of an investigation conducted under this section, the Commission has reason to believe that market power in the relevant market under the Commission's jurisdiction is preventing Retail Electric Customers in the State from obtaining the benefits of a Retail Competition, the Commission may take remedial actions to mitigate the impact of such activities, including ordering divestiture. However, in the case of divestiture, the Commission may only order divestiture of generating asset(s) of a public utility and only in an extreme situation and as a last resort measure.

→ **§1014. Public Purpose Programs and Consumer Education.**

(a) In separating the rates or prices for DP&L's services under §1005(a) of this chapter, the Commission shall reassign to the separate Transmission and Distribution rates of each rate class from the total base rates \$0.000095 per kilowatt-hour to be deposited each month by DP&L into an environmental incentive fund effective on October 1, 1999. Such fund shall be established and administered by the Delaware Economic Development Office, in consultation with the Division of the Public Advocate, and shall be used to fund environmental incentive programs for conservation and energy efficiency within DP&L's service territory.

(b) The Commission shall further reassign to the separate Transmission and Distribution rates of each rate class from the total base rates \$0.000095 per kilowatt-hour to be deposited each month by DP&L into a low-income program fund effective on October 1, 1999. Such funds shall be administered by the Department of Health and Social Services, Division of State Service Centers and shall be used to fund low-income fuel assistance and weatherization programs within DP&L's service territory.

(c) The Commission shall establish a working group by June 1, 1999 comprised of representatives of the Commission, electric utilities, Electric Suppliers, the Division of the Public Advocate, and other interested parties to design and implement a consumer education program, including "Green Power" options, to prepare the citizens of Delaware for Retail Competition. The Commission may direct the payment of up to a total of \$250,000 from DP&L and DEC (apportioned on the 1998 kWh Delaware retail sales of each entity) for the purpose of providing customer education materials to citizens of Delaware in connection with Retail Competition.

§ 1015. Procedures to Govern Commission Proceedings

(a) The Commission is authorized to enter such orders and adopt such regulations as may be needed to implement Retail Competition in accordance with this chapter. In order to allow the Commission to implement Retail Competition on the implementation dates set forth in §1003(b) of this chapter, the Commission may waive procedures required by 29 Del.C. §§1131-1136 and 29 Del.C. §§10111-10128 with respect to proceedings or rulemakings authorized by this chapter which must be completed prior to the implementation dates. In case of such waiver, the Commission shall provide notice in such a manner to allow all interested and affected persons an opportunity to comment upon and participate in the proposed action or rulemaking and shall conduct such proceedings or rulemakings in accordance with the principles of due process and fundamental fairness. All regulations shall be published in the Delaware Register of Regulations. Such orders and regulations shall become effective on a date designated by the Commission consistent with the requirements of this chapter. Judicial review of such final orders or regulations shall remain available under 29 Del.C. §10141 and §10142.

This comprehensive legislation restructures and deregulates the supplying of electricity to all industrial, commercial and residential customers within the service territories of Delmarva Power & Light Company and Delaware Electric Cooperative, by eliminating the exclusive franchise for the supply of electricity which each enjoys within its service territory, beginning with customer choice on October 1, 1999 for Delmarva's large industrial users, and on April 1, 2000 for DEC's large industrial users. The Act provides for a 7.5% cut in electric rates for Delmarva's residential customers, and, by replacing electric supply monopoly with free market competition, presages lower prices for all DP&L and DEC customers.

Maine

<http://www.state.me.us/legis/opla/ute2.pdf>

Joint Standing Committee on Utilities and Energy

LD 221

An Act to Amend the Charter of the Madison Water District

P & S 8

Sponsor(s)
RICHARD

Committee Report
OTP-AM

Amendments Adopted
H-19

LD 221 proposed to amend the charter of the Madison Water District to correct an error and to clarify the process for filling a vacancy on the board of trustees.

Committee Amendment "A" (H-19) proposed to remove an ambiguity that might have been created by an amendment to the charter that was made in 1994.

Enacted law summary

Private and Special Law 1997, chapter 8 amends the charter of the Madison Water District to correct certain errors and ambiguities and to clarify the process for filling a vacancy on the board of trustees.

LD 224

An Act Regarding Charges Assessed against Owners of Sprinkler Systems

CARRIED OVER

Sponsor(s)
CAMPBELL

Committee Report

Amendments Adopted

LD 224 proposes to prohibit a water utility from charging customers with private fire protection systems, such as sprinklers, rates to recover the utility's backup capacity costs. The bill proposed to require the rates to be based on water usage. The bill was carried over to the Second Regular Session of the 118th Legislature.

LD 233

An Act to Regulate Telephone Directory Entries

ONTP

Sponsor(s)
POVICH

Committee Report
ONTP

Amendments Adopted

LD 233 proposed to require telephone utilities to include in directories the address of a customer who has an "800" or "888" number.

3. Proposed to require the Public Utilities Commission to provide incentives for energy conservation;
4. Proposed to permit electric utilities an opportunity to recover stranded costs; and
5. Proposed to establish an oversight committee to oversee the implementation of restructuring and to develop proposals to conform other provisions of law to the restructuring principles established by this bill.

See LD 1804.



LD 1804

An Act to Restructure the State's Electric Industry

PUBLIC 316

<u>Sponsor(s)</u>	<u>Committee Report</u>		<u>Amendments Adopted</u>
JONES K	OTP-AM	MAJ	H-568
CAREY	ONTP	MIN	

LD 1804 proposed to restructure the electric industry in the manner proposed by the Public Utilities Commission in its report to the Legislature of December 31, 1996. The bill proposed to establish retail competition for the purchase and sale of electricity beginning January 1, 2000; to require investor-owned electric utilities by

January 1, 2000 to transfer all generation-related assets and business functions, other than contracts with qualifying facilities, to distinct corporate entities; to require Central Maine Power Company and Bangor Hydro-Electric Company by January 1, 2000 to sell all their rights to capacity and energy under contracts with qualifying facilities; to require Central Maine Power Company and Bangor Hydro-Electric Company by January 1, 2006 to divest all generation-related assets and business functions, except ownership interests in the Maine Yankee Atomic Power Company and contracts with qualifying facilities; to require Central Maine Power Company and Bangor Hydro-Electric Company by January 1, 2006 to sell all rights to energy and capacity under any contracts with the Maine Yankee Atomic Power Company; to permit the Public Utilities Commission to require Maine Public Service Company to divest all generation-related assets and functions, except ownership interests in Maine Yankee Atomic Power Company and contracts with qualifying facilities; to preserve Public Utilities Commission regulation of transmission and distribution services; to permit electric utilities to recover legitimate, verifiable and unmitigable costs that are otherwise unrecoverable as a result of retail competition in the electric industry; to establish a standard-offer service to ensure access for all customers to reasonably priced electric power; to require the Public Utilities Commission to establish rules to protect consumers in the competitive market; to require the Public Utilities Commission to establish registration requirements and minimum business practice standards for competitive generation providers; to permit the Public Utilities Commission to enforce the Maine Unfair Trade Practices Act with respect to electric retail sales activities; to require the Public Utilities Commission to adopt rules that promote renewable resources and energy conservation; and to preserve low-income assistance programs funded through transmission and distribution rates but to direct that alternative funding mechanisms be proposed.

Committee Amendment "A" (H-568), which was the majority report of the committee, completely replaces the bill. The amendment proposed the following:

1. To establish retail competition for the purchase and sale of electricity beginning March 1, 2000;

2. To require Central Maine Power Company, Bangor Hydro-Electric Company and Maine Public Service Company by March 1, 2000 to divest all generation-related assets and business functions other than contracts with qualifying facilities and conservation providers, nuclear assets, facilities located outside the United States and assets the Public Utilities Commission determines necessary for the utility to provide efficient transmission and distribution services;
3. To allow the Public Utilities Commission to grant an extension to the divestiture deadline if the extension will likely improve the sale value of the assets;
4. To require utilities to sell the rights to the energy and capacity from the assets that are not divested;
5. To permit the Public Utilities Commission to require Central Maine Power Company, Bangor Hydro-Electric Company and Maine Public Service Company to divest their ownership interests in Maine Yankee Atomic Power Company on or after January 1, 2009;
6. To allow Central Maine Power Company and Bangor Hydro-Electric Company to market and sell electric power through separate but affiliated corporate entities, provided certain standards of conduct are met;
7. To cap the permissible market share acquired by marketing affiliates of Central Maine Power Company and Bangor Hydro-Electric Company within their respective transmission and distribution service territories at 33%;
8. To prohibit any entity or affiliate of an entity that purchases more than 10% of the stock of Central Maine Power Company or Bangor Hydro-Electric Company from providing competitive electric power service and provides that if the Public Utilities Commission determines the purchase results in a utility affiliate gaining unfair market advantage, the utility is required to divest its marketing affiliate;
9. To allow Maine Public Service Company to market and sell electricity through a separate, affiliated corporate entity in accordance with standards of conduct established by the Public Utilities Commission;
10. To require the Public Utilities Commission to determine the most efficient means of ensuring that all portions of the State are connected to the New England grid so that all portions of the State can take full advantage of competition;
11. To allow consumer-owned utilities to market and sell power only within their service territories and requires the Public Utilities Commission to limit or prohibit sales by competitors in consumer-owned-utilities' service territories if allowing such sales would cause these utilities to lose their tax-exempt status;
12. To cause billing and metering services to be subject to competition beginning March 1, 2002 and permits the Public Utilities Commission to establish an earlier beginning date for competition for billing or metering provided that the beginning date is no earlier than March 1, 2000;
13. To preserve Public Utilities Commission regulation of transmission and distribution services;

14. To permit electric utilities a reasonable opportunity to recover legitimate, verifiable and unmitigable costs that are otherwise unrecoverable as a result of retail competition in the electric industry;
15. To prohibit entry and exit fees;
16. To establish a standard-offer service to ensure access for all customers to reasonably priced electric power and prohibits affiliates of Central Maine Power Company and Bangor Hydro-Electric Company from providing standard offer service for more than 20% of the load within their respective service territories;

→ 17. To establish consumer protection standards and requires the Public Utilities Commission to establish by rule further standards to protect consumers in the competitive market;

18. To establish licensing requirements for all competitive electricity providers;

→ 19. To grant the Public Utilities Commission new enforcement authority to protect consumers;

→ 20. To prohibit disconnection of service to consumers who fail to pay generation charges but permits disconnection of customers who fail to pay the standard-offer service charge;

21. To establish a 30% renewable resource portfolio requirement for competitive electricity providers;

22. To establish a program funded through voluntary contributions for renewable resource research and development;

23. To require the commission to establish a wires charge for funding conservation programs at a level comparable to the funding level in place in 1999;

→ 24. To preserve low-income assistance programs funded through transmission and distribution rates but directs that alternative funding mechanisms be proposed;

→ 25. To require electric bill charges to be unbundled beginning in 1999;

→ 26. To require the Public Utilities Commission to adopt rules establishing a consumer education program and requires the commission to organize an advisory board to guide the development of the education program;

27. To require the Public Utilities Commission to monitor the development and conduct of the regional independent system operator and to advocate for Maine rate-payer interests at the Federal Energy Regulatory Commission with regard to issues concerning the independent system operator;

28. To require Central Maine Power Company, Bangor Hydro-Electric Company and Maine Public Service Company to offer certain transition services and benefits to employees displaced by electric industry competition and funds the costs of these services and benefits through a wires charge;

29. To require the Public Utilities Commission to annually report to the legislature on the implementation of retail access; and

30. To establish mechanisms to address contractual difficulties created by the restructuring of the electric industry.

Enacted law summary

Public Law 1997, chapter 316 restructures the electric industry and opens the retail purchase and sale of electricity to competition beginning March 1, 2000. It restructures the industry in the manner described above in the summary of the committee amendment.

LD 1871

An Act to Authorize the Public Utilities Commission to Establish Reasonable Registration and Reporting Requirements and to Study Market Power Issues Associated with Electric Industry Restructuring

**PUBLIC 447
EMERGENCY**

Sponsor(s)
CAREY
JONES K

Committee Report
OTP-AM

Amendments Adopted
S-327

LD 1871 proposed that any contract made after the effective date of the bill with an unregistered provider is void.

Part A of the bill proposed to require any entity that contracts or attempts to contract with any consumer for the provision of electric generation service in anticipation of electric industry restructuring to be registered with the Public Utilities Commission.

Part B of the bill proposed to require the Public Utilities Commission and the Department of the Attorney General to conduct a study of market power issues related to electric industry restructuring.

Committee Amendment "A" (S-327) proposed technical corrections to the bill to make it clear that the registration requirements apply to prospective providers of retail electric service.

Enacted law summary

Public Law 1997, chapter 447 requires any entity that contracts or attempts to contract with any consumer for the provision of retail electric service in anticipation of electric industry restructuring to be registered with the Public Utilities Commission. A contract made with an unregistered provider is void.

It also requires the Public Utilities Commission and the Department of the Attorney General to conduct a study of market power issues related to electric industry restructuring. The law is effective on June 10, 1997.

LD 1873

An Act to Increase the Debt Limit of the Vinalhaven Water District

**P & S 42
EMERGENCY**

Sponsor(s)
PINGREE

Committee Report
OTP-AM

Amendments Adopted
S-316

LD 1873 proposed to increase the debt limit of the Vinalhaven Water District from \$400,000 to \$1,500,000.



Michigan Electric Utility Restructuring

This site is frequently updated. Please reload to make sure you are viewing the most recent version!

Commission Orders about Restructuring March 8, 1999

At the March 8, 1999 meeting of the Michigan Public Service Commission, several orders about electric utility restructuring were issued. Those orders are listed below.

The final Implementation Plan Tariffs for Consumers Energy and Detroit Edison are attached to copies of the orders. In addition, a [Tariffs page](#) has been added to this web site, where you will find PDF and HTML copies of the tariffs themselves.

Attached to the Order in Case No. U-11290m on final Implementation Plans is a [Code of Conduct](#), proposed by Consumers Energy Company, and approved as modified by the order.

For an MPSC Press Release about the March 8 restructuring orders, please check this web page: <http://ermisweb.cis.state.mi.us/mpsc/orders/press/plan.txt.htm>

Orders by Topic: Most Recent:	Restructuring (General) 3/8/1999	Electricity Suppliers 3/22/1999	Consumers Energy Rate DA Program 8/20/1998	How to view PDF files
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This page gives a brief description of selected Michigan Public Service Commission Orders about Electric Utility Restructuring and links to those orders contained on the MPSC web site. Orders are indexed by date of issue, with the most recent orders at the top. A single case number may result in more than one Commission Order. If the Commission has issued a press release in conjunction with an Order, a link to the Press Release is provided. Please reload this page to make sure you are viewing the most current version!

This page indexes orders about restructuring, which arise from or are related to Case No. U-11290: In the matter, on the Commission's own motion, to consider the restructuring of the electric utility industry. That case was opened in December 1996, and has resulted in several orders being issued.



Michigan Electric Utility Restructuring

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CONSUMERS' ELECTRIC CODE OF CONDUCT

F12. RETAIL OPEN ACCESS PROGRAM STANDARDS OF CONDUCT

This rule is intended to promote fair competition and a level playing field among all participants involved in the Retail Open Access Service program within Consumers Energy Company's ("Consumers") regulated electric service territory. All affiliates of Consumers, whether divisions of, departments within or wholly-owned subsidiaries of Consumers (collectively described herein as first tier affiliates) or separately organized affiliated companies or joint ventures (collectively described herein as second tier affiliates) will be allowed to participate in every aspect of such program on an equal basis to non-affiliates because of Consumers' decision to adopt these standards of conduct. Accordingly, once the MPSC approves such a scope of participation by Consumers' first and second tier affiliates and agrees that Consumers' program and obligations thereunder should be no different because of participation by such affiliates, Consumers agrees to apply the following standards of conduct to the Retail Open Access Service program in its regulated electric service territory:

A. These standards of conduct shall apply as follows to affiliates of Consumers:

(1) The standards of conduct apply to second tier affiliates when they participate in the Retail Open Access Service program within Consumers' regulated electric service territory by offering retail customers power supplies at market prices. Such affiliates can begin to participate immediately in the program.

(2) The standards of conduct will only apply to Consumers or its first tier affiliates if and when they participate in the Retail Open Access Service program within Consumers' regulated electric service territory by offering retail customers power supplies at market prices. The standards of conduct do not apply to Consumers or its first tier affiliates if the power supply is offered as part of a bundled service or if the price of the power supply to the customer remains regulated in any respect by the MPSC.

(3) Within its regulated electric service territory, Consumers and its first tier affiliates will not commence offering retail customers power supplies at market prices pursuant to the Retail Open Access Service program any earlier than January 1, 2002.

B. Consumers will apply any tariff provision relating to Retail Open Access Service in the same manner without undue discrimination to all similarly situated persons.

C. Consumers will not give any Aggregator, Broker, Marketer or Retailer or their customers undue preference over any other Aggregator, Broker, Marketer or Retailer and their customers in matters relating to bidding, scheduling of power, provision of ancillary services, billing, metering, curtailment policy or access to customer information pursuant to the Retail Open Access Rate Schedules approved by the MPSC. Affiliated Aggregators, Brokers, Marketers, Retailers and their customers shall neither receive undue preferences nor be discriminated against, but simply be treated by Consumers like all other Aggregators, Brokers, Marketers, Retailers and their customers.

D. Consumers will not communicate to any of its retail electric customers, or to any Aggregator, Broker, Marketer or Retailer that any advantage may accrue to such customers, Aggregator, Broker, Marketer or Retailer in the use of Consumers' regulated services as a result of that customer, Aggregator, Broker, Marketer or Retailer dealing with any particular Aggregator, Broker, Marketer or Retailer, including an affiliated Aggregator, Broker, Marketer or Retailer.

E. To the extent practicable, Consumers will process all similar requests for Retail Open Access Service in the same manner and within the same period of time.

F. If a Customer requests information about Aggregators, Brokers, Marketers or Retailers, Consumers will provide a list of all Aggregators, Brokers, Marketers or Retailers known to be operating on its system, including its affiliates, and in response to such a request will not promote any specific Aggregators, Brokers, Marketers or Retailers including its affiliates.

G. Consumers shall not provide customer lists, customer-specific sales volumes and customer-specific patterns of usage to any Aggregator, Broker, Marketer or Retailer, including affiliated Aggregators, Brokers, Marketers or Retailers offering retail customers power supplies at market prices. Once a calendar year a Customer can request in writing that up to 12 months of historic volumetric sales data be provided to a particular Aggregator, Broker, Marketer or Retailer or to all Aggregators, Brokers, Marketers or Retailers, and that request will be honored by Consumers without charge until revoked by the Customer. Additionally, once a calendar year a particular Aggregator, Broker, Marketer or Retailer can request and receive up to 12 months of historic volumetric sales data for one of its current customers and Consumers may without charge provide only that Aggregator, Broker, Marketer or Retailer with such data. Consumers can levy a reasonable fee to fill requests for data that is more than 12 months old or to respond to requests made more frequently than once a calendar year.

H. Consumers will implement its Retail Open Access Service program on a nondiscriminatory basis, and will not engage in any practice which unduly conditions transactions between any Customer, Aggregator, Broker, Marketer or Retailer and Consumers' affiliated Aggregators, Brokers, Marketers or Retailers. Notwithstanding the above, Customers, Aggregators, Brokers, Marketers or Retailers are not relieved of complying with the requirements to execute or complete the contracts, agreements or other forms required by the terms of the Retail Open Access Service program.

I. Except as permitted by these standards of conduct, Consumers' transmission and

distribution employees and the employees of its first and second tier affiliates that act as Aggregators, Brokers, Marketers and Retailers offering retail customers power supplies at market prices will function independently of each other. Consumers will maintain separate business offices from its wholly-owned subsidiaries and second tier affiliates engaged in the Retail Open Access Service program.

J. The books of account and records for the regulated utility services provided by Consumers to its retail electric customers will be maintained separately from the books of accounts and records kept by any affiliated Aggregator, Broker, Marketer or Retailer.

K. Nothing in these retail standards of conduct is intended to supplant or relieve Consumers of its duty to comply with the Standards of Conduct for Public Utilities established by the Federal Energy Regulatory Commission in Order Nos. 889 and 889-A. as codified at 18 CFR §§37.1-37.4.

[MPSC Home](#) [Electric Division](#) [Top](#) [Search](#)

Last Updated: Friday, Mar 26, 1999

Send comments, questions, suggestions, etc. to: tstanton@ermisweb.cis.state.mi.us

B. Electric Consumer Bill of Rights

Staff recommends that the Commission or Legislature consider developing a formal summary of those rights essential to electric consumers. The list of rights would be used as the foundation for guaranteeing consumer protections for all electric customers. Staff's initial thinking on this is outlined below and reflected in the restructuring recommendations that follow.

The Electric Consumer Bill of Rights could include:

- a. **Right to Know** - Customers should be assured access to free (or easily affordable) and accurate information and education materials which enable comparison of price, quality, supplier service record, and terms of service offered.
- b. **Right to Choice** - Customers should have the ability to choose from among service providers competing in an open market. All customers should have the ability to aggregate efficiently on a nondiscriminatory basis.
- c. **Right to Fair Dealing** - All classes of customers should have access to choices and pricing options without discrimination.
- d. **Right to Redress** - There should be a neutral, prompt, effective, no-cost or low-cost forum for resolving customer complaints against electricity suppliers, aggregators, and distributors.
- e. **Right to Privacy** - Consumers should be able to control release and use of sensitive personal information and records. Marketing should not be unduly intrusive.
- f. **Right to Service Quality** - All choices offered to customers should meet minimum safety standards and service criteria, and must fulfill advertised terms and conditions. Unreasonable terms and conditions (e.g. blanket requirements for service limiters) should not be forced on any customers as a precondition for providing service.
- g. **Required Code of Conduct and Oversight** - All suppliers and aggregators should meet minimum standards for certification as a condition of market entry and adhere to a standard code of conduct.
- h. **Right to Universal Electric Service** - Electric service is a basic necessity which should be accessible to all residential consumers/properties. Universal service includes the right to firm generation, transmission, and distribution services, and such metering as is necessary to allow customers to participate fully in a competitive power market.

Montana Public Service Commission

We are entering the brave new world of competition for electricity and natural gas supply. Sooner or later, you will be expected to choose a competitive supplier for one or both of these services if you are a customer of Montana Power Company, or Energy Northwest, Inc. (formerly Pacific Power), or Energy West Montana (formerly Great Falls Gas Co.).

Electricity and natural gas suppliers are not regulated for the most part and the Public Service Commission has no jurisdiction over their prices. However, Montana law requires suppliers to obtain a license from the PSC before they market their products in the state. Lists of licensed natural gas and electricity suppliers are available on the PSC's website at the [Restructuring page](#).

Montana's natural gas and electricity restructuring laws also require the PSC to establish information and protection requirements for consumers and suppliers in these newly restructured industries. Following is a summary of the PSC's consumer information and protection rules that became effective in June 1999. Most of these rules apply to suppliers' dealings with residential and small commercial customers only. They do not apply to electric co-ops or their customers, except for co-ops' supply affiliates operating outside the co-ops' traditional utility service territories.

CHANGING SUPPLIERS

A supplier must obtain your written authorization before making a supplier switch on your behalf. The supplier will provide you with a written authorization form that is accompanied by the supplier's service contract. You must sign, date and return the authorization form to the supplier if you want to switch suppliers.

The authorization form must clearly confirm:

- Your billing name and address and each account number to be switched;
- Your decision to change suppliers and direction to the new supplier to effect the supplier change;
- Your understanding that by authorizing a supplier change, you are authorizing access by that supplier to your usage and account information;
- That you received the supplier's service contract and you agree to its terms and conditions.

If you believe a supplier has switched your account without your authorization and the supplier cannot produce your written authorization for the switch, then you are not liable for payment of any charges to the unauthorized supplier.

SERVICE CONTRACT

A supplier's service contract provides a plain-language explanation of the supplier's rates, terms and conditions. Read the service contract carefully so that you understand the supplier's offer. If you have any questions, call the supplier for answers. A supplier must provide its service contract to a customer upon request.

The service contract will include an information label which will give you basic information about the supplier's offer. All suppliers must use the same label format to make it easier for consumers to compare suppliers' offers. The information label includes:

- The effective price for the supplier's service for various levels of monthly usage. The price will be shown in cents per kWh for electricity, or in price per dkt or mcf for natural gas.
- Information whether the price is fixed or variable. If it's variable, the supplier must describe the potential range and possible causes of price variations and, if applicable, the pricing formula or

index.

- The length of time the contract will be in effect.
- The supplier's toll-free phone number and hours that number is staffed.

Besides the information required to be shown on the label, the service contract must also prominently identify all charges, fees and penalties associated with the supplier's service and explain whether there are conditions under which the supplier may terminate the supply agreement. The contract must include an explanation that distribution and transmission charges remain regulated, are not provided by the supplier, and identify whether the distribution utility or the supplier will bill you for distribution and transmission.

You have a three-day grace period after signing the contract during which you may rescind it without penalty. The supplier must explain in the service contract how you may rescind the contract. The supplier may not inform the distribution utility of your decision to change suppliers until after the three-day grace period is over.

If you have a long-term service contract with a supplier, rather than a month-to-month agreement, your contract may include a provision that the contract will be automatically renewed when the term of the contract is up. The supplier must notify you at least two months before the contract expires to remind you of the existence of the automatic renewal provision. You may choose to do nothing and let the contract be renewed with your existing supplier, or you may choose to change suppliers. A supplier may not change the terms and conditions of your contract upon the automatic renewal date unless the supplier has given you written notice of the changes two months in advance of the effective date and you have returned your written authorization of the changes to the supplier. You must also be informed of your right to switch suppliers rather than renew.

If you move to a location outside the supplier's service area or to a location where you are not responsible for payment of the energy supply service, then you may terminate the service contract by notifying the supplier.

If a supplier plans to quit providing service, it must notify its affected customers, the PSC and distribution utilities in the state in writing at least two months in advance.

TERMINATION OF CONTRACT DUE TO NONPAYMENT

If you don't pay the charges owing to your supplier, the supplier may terminate your service contract after providing you with written notice at least 14 days before the termination date. The notice must include the reasons for termination, the termination date, and the name, address and phone number of a supplier representative who can address your questions about the proposed contract termination. The notice must also inform you that a default supplier will continue to provide your electricity or natural gas supply if your service contract is terminated.

The supplier must also inform the distribution utility of the contract termination at least 14 days ahead of time. If you and the supplier make arrangements that result in continuance of your contract, the supplier must notify the distribution utility at least one day in advance of the scheduled contract termination date.

BILLS

The supplier may contract with your distribution utility to do its billing. In that case, you will receive one combined bill from your distribution utility that includes your supplier's charges and your distribution utility's charges. Alternatively, a supplier may choose to send its own bill to customers. That bill could either contain just the charges for supply service and arrive separately from your distribution utility's bill

or, depending on billing agreements, could include your distribution utility's distribution and transmission charges as well.

Each service component (supply, transmission or transportation and distribution, transition charges and universal system benefits charges) will be itemized. Charges must be identified as regulated or unregulated. If you receive a combined bill, your supplier's charges and your distribution utility's charges will be separately subtotaled. The bill must include the name and toll-free phone number of each company for which charges are billed. Bills combining charges for both electric and natural gas services must separate the electricity-related portion of the bill from the natural gas-related portion and separately subtotal each.

Your bill for electricity or natural gas supply will show the actual cents per kWh or price per mcf/dkt you have been charged for your usage during the billing period.

DEFAULT SUPPLIER

If you are without supply service because you have not chosen a supplier or because your supplier has terminated your supply service contract, your electricity or natural gas supply will continue uninterrupted from a default supplier. For now, the distribution utility in your area will serve as the default supplier but, in the near future, other entities may also provide default supply service.

Default supply service is meant to provide consumers with a stopgap energy supply source for the short period of time it takes them to move to a competitive supplier. If you receive default supply service, you must have a paid-up account with the default supplier in order to exit the service in favor of a competitive supplier.

The default supplier may require a deposit from a customer. The default supplier may disconnect service to a customer who has not paid for its default service or its distribution service, after providing notice to the customer. Both deposits and terminations must be handled in accordance with the PSC's rules.

SERVICE DISCONNECTION

A regulated distribution utility may not disconnect or deny distribution service to a customer due to the customer's failure to pay for a supplier's service or any service provided by another company. When the same utility provides distribution of both electricity and natural gas to a customer, it may not deny or disconnect natural gas service due to a customer's failure to pay for electric service, or deny or disconnect electric service due to a customer's failure to pay for natural gas service.

SUPPLIER COMPLAINT PROCEDURE

Every supplier must be able to respond to customer inquiries and complaints. If the supplier is unable to resolve a dispute with a customer, the customer must be informed of his or her right to file an informal complaint with the PSC.

MARKETING CLAIMS

A supplier must be able to document any marketing claims it makes that its electricity or natural gas product is environmentally beneficial or is produced primarily with renewable energy sources. The PSC may investigate suppliers' marketing claims and may penalize suppliers whose claims are determined to be misleading, false or fraudulent.

Suppliers that are affiliated with previously regulated public utilities that offered supply, transmission and

distribution all in one package may not associate themselves in their marketing efforts with the perceived virtues of the previously regulated public utility. A supply affiliate is a separate and distinct company from a previously regulated public utility and may not use its affiliation to gain advantage in the competitive supply market in the service area of the previously regulated public utility.

QUESTIONS? Call the PSC toll-free at 1-888-215-4056.

ASSEMBLY, No. 16

Public Law
1999
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STATE OF NEW JERSEY

208th LEGISLATURE

INTRODUCED JANUARY 25, 1999

Sponsored by:

Assemblyman PAUL DIGAETANO

District 36 (Bergen, Essex and Passaic)

Assemblyman RICHARD H. BAGGER

District 22 (Middlesex, Morris, Somerset and Union)

Co-Sponsored by:

Assemblywomen Murphy, Heck, Assemblymen O'Toole, Weingarten, Felice, Kelly, Augustine, Azzolina, Bateman, Biondi, Chatzidakis, Cottrell, DeCroce, Doria, Assemblywoman Farragher, Assemblymen Gibson, Holzapfel, Kramer, Assemblywoman Myers, Assemblymen Stuhltrager, Talarico, Thompson, Assemblywoman Vandervalk, Assemblyman Wolfe, Assemblywoman Wright, Assemblyman Zecker, Senators Inverso, O'Connor, Sinagra, Singer and Bucco

SYNOPSIS

Restructures electric and gas utility industries.

CURRENT VERSION OF TEXT

As introduced.

1 AN ACT concerning competition in the electric power and gas
2 industries and supplementing, amending and repealing certain
3 sections of the statutory law.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. (New section) Sections 1 through 46, and sections 51, 57, 59,
9 60, 63, 65 and 66 of this act shall be known and may be cited as the
10 "Electric Discount and Energy Competition Act."

11
12 2. (New section) a. The Legislature finds and declares that it is
13 the policy of this State to:

14 (1) Lower the current high cost of energy, and improve the quality
15 and choices of service, for all of this State's residential, business and
16 institutional consumers, and thereby improve the quality of life and
17 place this State in an improved competitive position in regional,
18 national and international markets;

19 (2) Place greater reliance on competitive markets, where such
20 markets exist, to deliver energy services to consumers in greater
21 variety and at lower cost than traditional, bundled public utility
22 service;

23 (3) Maintain adequate regulatory oversight over competitive
24 purveyors of retail power and natural gas supply and other energy
25 services to assure that consumer protection safeguards inherent to
26 traditional public utility regulation are maintained, without unduly
27 impeding competitive markets;

28 (4) Ensure universal access to affordable and reliable electric
29 power and natural gas service;

30 (5) Maintain traditional regulatory authority over non-competitive
31 energy delivery or other energy services, subject to alternative forms
32 of traditional regulation authorized by the Legislature;

33 (6) Ensure that rates for non-competitive public utility services do
34 not subsidize the provision of competitive services by public utilities;

35 (7) Provide diversity in the supply of electric power throughout
36 this State;

37 (8) Authorize the Board of Public Utilities to approve alternative
38 forms of regulation in order to address changes in technology and the
39 structure of the electric power and gas industries; to modify the
40 regulation of competitive services; and to promote economic
41 development;

42 (9) Prevent any adverse impacts on environmental quality in this
43 State as a result of the introduction of competition in retail power

1 markets in this State;

2 (10) Ensure that improved energy efficiency and load management
3 practices, implemented via marketplace mechanisms or State-
4 sponsored programs, remain part of this State's strategy to meet the
5 long-term energy needs of New Jersey consumers;

6 (11) Preserve the reliability of power supply and delivery systems
7 as the marketplace is transformed from a monopoly to a competitive
8 environment; and

9 (12) Provide for a smooth transition from a regulated to a
10 competitive power supply marketplace, including provisions which
11 afford fair treatment to all stakeholders during the transition.

12 b. The Legislature further finds and declares that:

13 (1) In a competitive marketplace, traditional utility rate regulation
14 is not necessary to protect the public interest and that competition will
15 promote efficiency, reduce regulatory delay, and foster productivity
16 and innovation;

17 (2) Due to regulatory changes, technological developments and
18 other factors, a competitive electric generation and wholesale supply
19 market has developed over the past several years;

20 (3) Electric power services are available in the wholesale markets
21 at prices substantially lower than the current cost of electric power
22 generation and supply services provided to retail customers by this
23 State's electric public utilities;

24 (4) The traditional retail monopoly which electric public utilities
25 have held in this State for electric power generation and supply
26 services should be eliminated, so that all New Jersey energy consumers
27 will be afforded the opportunity to access the competitive market for
28 such services and to select the electric power supplier of their choice;

29 (5) The traditional electric public utility rate regulation which the
30 Board of Public Utilities has exercised over retail power supply in this
31 State requires reform in order to provide retail choice and bring the
32 benefits of competition to all New Jersey consumers;

33 (6) Permitting the competitive electric power generation and
34 supply marketplace to operate without traditional utility rate
35 regulation will produce a wider selection of services at competitive
36 market-based prices;

37 (7) Certain regulatory authority, including requiring electric power
38 suppliers and gas suppliers to maintain offices in this State, is
39 necessary to ensure continued safety, reliability and consumer
40 protections in the electric power and gas industries; and to ensure
41 accessibility to electric power suppliers and gas suppliers by the Board
42 of Public Utilities, consumers, electric public utilities and gas public
43 utilities; and

44 (8) The electric power generation marketplace and gas supply
45 marketplace should be subject to appropriate consumer protection

1 standards that will ensure that all classes of customers in all regions of
2 this State are properly and adequately served.

3 c. The Legislature therefore determines that it is in the public
4 interest to:

5 (1) Authorize the Board of Public Utilities to permit competition
6 in the electric generation and gas marketplace and such other
7 traditional utility areas as the board determines, and thereby reduce the
8 aggregate energy rates currently paid by all New Jersey consumers;

9 (2) Provide for regulation of new market entrants in the areas of
10 safe, adequate and proper service and customer protection;

11 (3) Relieve electric public utilities from traditional utility rate
12 regulation in the provision of services which are deemed to be
13 provided in a competitive market;

14 (4) Provide each electric public utility the opportunity to recover
15 above-market power generation and supply costs and other reasonably
16 incurred costs associated with the restructuring of the electric industry
17 in New Jersey, the level of which will be determined by the Board of
18 Public Utilities to the extent necessary to maintain the financial
19 integrity of the electric public utility through the transition to
20 competition, subject to the achievement of the other goals and
21 provisions of this act, and subject to the public utility having taken and
22 continuing to take all reasonably available steps to mitigate the
23 magnitude of its above-market electric power generation and supply
24 costs; and

25 (5) Provide the Board of Public Utilities with ongoing oversight
26 and regulatory authority to monitor and review composition of the
27 electric generation and retail power supply marketplace in New Jersey,
28 and to take such actions as it deems necessary and appropriate to
29 restore a competitive marketplace in the event it determines that one
30 or more suppliers are in a position to dominate the marketplace and
31 charge anti-competitive or above-market prices.

32

33 3. (New section) As used in this act:

34 "Assignee" means a person to which an electric public utility or
35 another assignee assigns, sells or transfers, other than as security, all
36 or a portion of its right to or interest in bondable transition property.
37 Except as specifically provided in this act, an assignee shall not be
38 subject to the public utility requirements of Title 48 or any rules or
39 regulations adopted pursuant thereto;

40 "Basic gas supply service" means gas supply service that is
41 provided to any customer that has not chosen an alternative gas
42 supplier, whether or not the customer has received offers as to
43 competitive supply options, including, but not limited to, any customer
44 that cannot obtain such service for any reason, including non-payment
45 for services. Basic gas supply service is not a competitive service and

1 **Consumer Protection Standards: Slamming** (sections 36 & 37)

2 This bill requires the board to adopt interim consumer protection
3 standards for electric power and gas suppliers within 90 days of the
4 effective date of the act. These standards are to include standards for
5 collections, credit, contracts, authorized changes of an energy
6 consumer's electric power or gas supplier, for the prohibition of
7 discriminatory marketing, for advertising and disclosure and are to be
8 adopted in consultation with the Division of Consumer Affairs.

9 This bill also requires that contracts must disclose duration of the
10 contract and price per unit, and have the customer's written signature
11 or other board-approved verification for switching electric power or
12 gas suppliers and for contract renewal. Contracts must also disclose
13 termination procedures, notice of any fees, and toll-free or local
14 telephone numbers for electric power or gas suppliers and the board.

15 This bill requires the board to adopt standards for the prohibition
16 of discriminatory marketing in accepting or rejecting customers.

17 This bill requires advertising standards to provide that optional
18 charges to the consumer will not be added to any advertised cost per
19 kilowatt hour or therm, and the only unit of measurement that may be
20 used in advertisements is cost per kilowatt hour or therm unless the
21 board approves otherwise. Optional charges must be identified
22 separately and identified as optional.

23 This bill requires credit standards to include that the credit
24 requirements must be the same for all residential customers, and
25 prohibits the imposition of unreasonable income or credit
26 requirements.

27 This bill requires billing standards to include, at a minimum,
28 provisions prohibiting the imposition of switching fees on residential
29 customers.

30 This bill requires that a customer's proprietary information (name,
31 address, energy usage and payment history, etc.) shall not be disclosed
32 without a customer's written consent, and requires when such
33 information is disclosed, it may be used only for the provision of
34 continued electric generation service, electric related service, gas
35 supply service or gas related service to that customer. This bill
36 provides that proprietary information gained by virtue of provision of
37 service may be used to initiate, render, bill and collect for services,
38 protect the rights or property of the electric power or gas supplier or
39 public utility, and protect consumers and other service providers from
40 fraudulent, abusive or unlawful use of, or subscription to the services.

41 This bill requires the board to establish and maintain a database for
42 the purpose of recording customer complaints concerning electric and
43 gas public utilities, electric power suppliers, gas suppliers, private
44 aggregators, and energy agents.

45 This bill requires the board, in consultation with the Division of

1 Program to educate consumers about the implications of utility
2 restructuring.

3 This bill also requires the board, in consultation with the Division
4 of Consumer Affairs, to adopt standards for the prohibition of
5 unauthorized changes in a customer's electric or gas supplier and
6 provides for penalties for violations of such standards.

7
8 **Environmental Issues (Section 38)**

9 This bill requires electric power suppliers and basic generation
10 service providers to disclose on bills, contracts or marketing material
11 a uniform common set of environmental characteristics, including fuel
12 mix, emissions, and any retiring of emission credits, and requires the
13 BPU to adopt standards, in consultation with the DEP, to implement
14 the disclosure requirements, including adopting a methodology for
15 emissions disclosure based on output pounds per megawatt hour,
16 benchmarks to allow consumers to perform a meaningful comparison
17 of different suppliers, and a uniform format for emissions disclosure
18 that is graphic in nature and easily understandable.

19 This bill authorizes the BPU to adopt, in consultation with DEP,
20 an emissions portfolio standard for electric power suppliers and basic
21 generation service providers upon a finding that: the standard is
22 necessary to meet Clean Air Act; and regional and federal actions will
23 not achieve compliance.

24 This bill requires the board to adopt an emissions portfolio
25 standard applicable to all electric power suppliers, including basic
26 generation service providers, if two other states in the PJM power
27 pool comprising at least 40% of the retail electric usage in the PJM
28 power pool adopt such standards.

29 This bill requires the BPU to adopt renewable energy portfolio
30 standards, and requires that: two and one-half percent of the kilowatt
31 hours sold in this State by each electric power supplier and basic
32 generation service provider be from Class I or Class II renewable
33 energy sources; and beginning on January 1, 2001, that one-half of
34 one percent of the kilowatt hours sold in this State by each electric
35 power supplier and basic generation service provider to be from Class
36 I renewable energy sources. This bill requires the board to increase
37 the required percentage for Class I renewable energy sources so that
38 by January 1, 2006 one percent of the kilowatt hours sold in this State
39 by each electric power supplier and basic generation service provider
40 shall be from Class I renewable energy sources and to increase the
41 required percentage for Class I renewable energy sources by one-half
42 of one percent each year until January 1, 2012, when four percent of
43 the kilowatt hours sold in this State shall be from Class I renewable
44 energy sources.

45 This bill requires the BPU to adopt interim net metering standards

1 penalty; and other factors the board determines to be appropriate. The
2 amount of the penalty when finally determined, or the amount agreed
3 upon in compromise, may be deducted from any sums owing by the
4 State to the person charged, or may be recovered, if necessary, in a
5 summary proceeding pursuant to "the penalty enforcement law,"
6 N.J.S.2A:58-1 et seq. The Superior Court shall have jurisdiction to
7 enforce the provisions of "the penalty enforcement law" in connection
8 with this act.

9
10 35. (New section) a. The rights, remedies and prohibitions
11 accorded by the provisions of this act are in addition to and cumulative
12 of any right, remedy or prohibition accorded by the common law or
13 any statute of this State and nothing contained herein shall be
14 construed to deny, abrogate or impair any such common law or
15 statutory right, remedy or prohibition. The Attorney General and the
16 Division of Consumer Affairs in the Department of Law and Public
17 Safety shall continue to have the authority to enforce civil and criminal
18 violations of the consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.)
19 or any other applicable law, rule or regulation in connection with the
20 activities of electric power suppliers and gas suppliers.

21 b. Administrative and judicial remedies provided in this act may be
22 pursued simultaneously.

23
24 36. (New section) a. Notwithstanding any provisions of the
25 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)
26 to the contrary, the board, in consultation with the Division of
27 Consumer Affairs in the Department of Law and Public Safety, shall
28 initiate a proceeding and shall adopt, after notice, provision of the
29 opportunity for comment, and public hearing, interim consumer
30 protection standards for electric power suppliers or gas suppliers
31 within 90 days of the effective date of this act, including, but not
32 limited to, standards for collections, credit, contracts, authorized
33 changes of an energy consumer's electric power supplier or gas
34 supplier, for the prohibition of discriminatory marketing, for
35 advertising and for disclosure. Such standards shall be effective as
36 regulations immediately upon filing with the Office of Administrative
37 Law and shall be effective for a period not to exceed 18 months, and
38 may, thereafter, be amended, adopted or readopted by the board in
39 accordance with the provisions of the "Administrative Procedure Act."

40 (1) Contract standards shall include, but not be limited to,
41 requirements that electric power supply contracts or gas supply
42 contracts must conspicuously disclose the duration of the contract;
43 state the price per kilowatt hour or per therm or other pricing
44 determinant approved by the board; have the customer's written
45 signature or such alternative forms of verification as the board, in

1 switching electric power suppliers or gas suppliers and for contract
2 renewal; and include termination procedures, notice of any fees, and
3 toll-free or local telephone numbers for the electric power supplier or
4 gas supplier and for the board.

5 (2) Standards for the prohibition of discriminatory marketing
6 standards shall provide at a minimum that a decision made by an
7 electric power supplier or a gas supplier to accept or reject a customer
8 shall not be based on race, color, national origin, age, gender, religion,
9 source of income, receipt of public benefits, family status, sexual
10 preference, or geographic location. The board shall adopt reporting
11 requirements to monitor compliance with such standards.

12 (3) Advertising standards for electric power suppliers or gas
13 suppliers shall provide, at a minimum, that optional charges to the
14 consumer will not be added to any advertised cost per kilowatt hour
15 or per therm, and that the only unit of measurement that may be used
16 in advertisements is cost per kilowatt hour or per therm, unless
17 otherwise approved by the board. If an electric power supplier or gas
18 supplier does not advertise using cost per kilowatt hour or per therm,
19 the electric power supplier or gas supplier shall provide, at the
20 consumer's request, an estimate of the cost per kilowatt hour or per
21 therm. Any optional charges to the consumer shall be identified
22 separately and denoted as optional.

23 (4) Credit standards shall include, at a minimum, that the credit
24 requirements used to make offer decisions must be the same for all
25 residential customers and that electric power suppliers, gas suppliers
26 and private aggregators not impose unreasonable income or credit
27 requirements.

28 (5) Billing standards shall include, at a minimum, provisions
29 prohibiting electric public utilities, gas public utilities, electric power
30 suppliers and gas suppliers from charging a fee to residential
31 customers for either the commencement or termination of electric
32 generation service or gas supply service.

33 b. (1) An electric power supplier, a gas supplier, an electric public
34 utility, and a gas public utility shall not disclose, sell or transfer
35 individual proprietary information, including, but not limited to, a
36 customer's name, address, telephone number, energy usage and electric
37 power payment history, to a third party without the written consent of
38 the customer. Whenever such individual proprietary information is
39 disclosed, sold or transferred, upon the written consent of the
40 customer, it may be used only for the provision of continued electric
41 generation service, electric related service, gas supply service or gas
42 related service to that customer. In the case of a transfer or sale of a
43 business, customer consent shall not be required for the transfer of
44 customer proprietary information to the subsequent owner of the
45 business for maintaining the continuation of such services.

1 or an electric public utility may use individual proprietary information
2 that it has obtained by virtue of its provision of electric generation
3 service, electric related service, gas supply service or gas related
4 service to:

5 (a) Initiate, render, bill and collect for such services to the extent
6 otherwise authorized to provide billing and collection services;

7 (b) Protect the rights or property of the electric power supplier,
8 gas supplier or public utility; and

9 (c) Protect consumers of such services and other electric power
10 suppliers, gas suppliers or electric and gas public utilities from
11 fraudulent, abusive or unlawful use of, or subscription to, such
12 services.

13 c. The board shall establish and maintain a database for the
14 purpose of recording customer complaints concerning electric and gas
15 public utilities, electric power suppliers, gas suppliers, private
16 aggregators, and energy agents.

17 d. The board, in consultation with the Division of Consumer
18 Affairs in the Department of Law and Public Safety, shall establish, or
19 cause to be established, a multi-lingual electric and gas consumer
20 education program. The goal of the consumer education program shall
21 be to educate residential, small business, and special needs consumers
22 about the implications for consumers of the restructuring of the
23 electric power and gas industries. The consumer education program
24 shall include, but need not be limited to, the dissemination of
25 information to enable consumers to make informed choices among
26 available electricity and gas services and suppliers, and the
27 communication to consumers of the consumer protection provisions
28 of this act.

29 The board shall ensure the neutrality of the content and message
30 of advertisements and materials.

31 The board shall promulgate standards for the recovery of consumer
32 education program costs from customers which include reasonable
33 measures and criteria to judge the success of the program in enhancing
34 customer understanding of retail choice.

35
36 37. (New section) a. Notwithstanding any provisions of the
37 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)
38 to the contrary, the board, in consultation with the Division of
39 Consumer Affairs in the Department of Law and Public Safety, shall
40 initiate a proceeding and shall adopt, after notice, provision of the
41 opportunity for comment, and public hearing, interim standards for
42 electric power suppliers or gas suppliers, within 90 days of the
43 effective date of this act, to prevent and establish penalties for
44 unauthorized changes of a consumer's electric power supplier or gas
45 supplier, a practice commonly known as "slamming." Such standards

1 of Administrative Law and shall be effective for a period not to exceed
2 18 months, and may, thereafter, be amended, adopted or readopted by
3 the board in accordance with the provisions of the "Administrative
4 Procedure Act."

5 b. Standards for the prohibition of unauthorized changes in a
6 customer's electric power supplier or gas supplier shall include:

7 (1) An electric power supplier, an electric public utility, a gas
8 supplier or a gas public utility shall not cause an unauthorized change
9 in a customer's electric power supplier or gas supplier, a practice
10 known as "slamming." A change in a customer's electric power
11 supplier or gas supplier shall be deemed to be unauthorized unless the
12 customer has done so affirmatively and voluntarily and the supplier has
13 obtained the customer's approval either through a written signature or
14 such alternative forms of verification as the board, in consultation with
15 the Division of Consumer Affairs, may permit;

16 (2) An electric power supplier, an electric public utility, a gas
17 supplier or a gas public utility shall not fail to cause a change in a
18 customer's electric power supplier or gas supplier, within a period of
19 time determined to be appropriate by the board, when a supplier or
20 utility is in receipt of a change order provided that such change order
21 has been received in a manner that complies with federal and State
22 rules and regulations, including as provided in this subsection;

23 (3) The acts of an agent of an electric power supplier, an electric
24 public utility, a gas supplier or a gas public utility shall be considered
25 the acts of the electric power supplier, electric public utility, gas
26 supplier or gas public utility.

27 c. A customer's new electric power supplier, electric public utility,
28 gas supplier or gas public utility shall notify the customer of the
29 change in the customer's electric or gas supplier within 30 days in a
30 manner to be determined by the board.

31 d. Bills to customers from an electric power supplier, electric
32 public utility, gas supplier or gas public utility shall contain the name
33 and telephone number of each supplier for whom billing is provided,
34 and any other information deemed applicable by the board.

35 e. In addition to any other penalties, fines or remedies authorized
36 by law, any electric power supplier, electric public utility, gas supplier
37 or gas public utility that violates this section and collects charges for
38 electric power supply or gas supply services from a customer or
39 through an entity providing customer account services shall be liable
40 to the electric power supplier, electric public utility, gas supplier or
41 gas public utility previously selected by the customer in an amount
42 equal to all charges paid by the customer after such violation in
43 accordance with such procedures as the board may prescribe. Any
44 electric power supplier, electric public utility, gas supplier or gas
45 public utility that violates this section shall also be liable for a civil

1 authorized to revoke the license of any entity that violates this section.

2

3 38. (New section) a. The board shall require an electric power
4 supplier or basic generation service provider to disclose on a
5 customer's bill or on customer contracts or marketing materials, a
6 uniform, common set of information about the environmental
7 characteristics of the energy purchased by the customer, including, but
8 not limited to:

9 (1) Its fuel mix, including categories for oil, gas, nuclear, coal,
10 solar, hydroelectric, wind and biomass, or a regional average
11 determined by the board;

12 (2) Its emissions, in pounds per megawatt hour, of sulfur dioxide,
13 carbon dioxide, oxides of nitrogen, and any other pollutant that the
14 board may determine to pose an environmental or health hazard, or an
15 emissions default to be determined by the board; and

16 (3) Any discrete emission reduction retired pursuant to rules and
17 regulations adopted pursuant to P.L.1995, c.188.

18 b. Notwithstanding any provisions of the "Administrative
19 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary,
20 the board shall initiate a proceeding and shall adopt, in consultation
21 with the Department of Environmental Protection, after notice and
22 opportunity for public comment and public hearing, interim standards
23 to implement this disclosure requirement, including, but not limited to:

24 (1) A methodology for disclosure of emissions based on output
25 pounds per megawatt hour;

26 (2) Benchmarks for all suppliers and basic generation service
27 providers to use in disclosing emissions that will enable consumers to
28 perform a meaningful comparison with a supplier's or basic generation
29 service provider's emission levels; and

30 (3) A uniform emissions disclosure format that is graphic in nature
31 and easily understandable by consumers. The board shall periodically
32 review the disclosure requirements to determine if revisions to the
33 environmental disclosure system as implemented are necessary.

34 Such standards shall be effective as regulations immediately upon
35 filing with the Office of Administrative Law and shall be effective for
36 a period not to exceed 18 months, and may, thereafter, be amended,
37 adopted or readopted by the board in accordance with the provisions
38 of the "Administrative Procedure Act."

39 c. (1) The board may adopt, in consultation with the Department
40 of Environmental Protection, after notice and opportunity for public
41 comment, an emissions portfolio standard applicable to all electric
42 power suppliers and basic generation service providers, upon a finding
43 that:

44 (a) The standard is necessary as part of a plan to enable the State
45 to meet federal Clean Air Act or State ambient air quality standards;

*New Jersey
Web Energy
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30 Sept 1999*

SECTION 1. GENERAL PROVISIONS

1. Scope

The following standards shall apply to all electric power suppliers, and gas suppliers. Except where specifically addressing residential customers, the consumer protections contained herein shall pertain to all customers.

2. Definitions

The following words and terms, when used in these standards, shall have the following meanings unless the context clearly indicates otherwise:

"Act" means the "Electric Discount and Energy Competition Act" (P.L. 1999, c.23)

"Advertising" means the activity of attracting public attention to a product, service, or business, etc., as through announcements in print, radio, television, telemarketing, electronically, internet, etc.

"Basic gas supply service" means gas supply service that is provided to any customer that has not chosen an alternative gas supplier, whether or not the customer has received offers as to competitive supply options, including, but not limited to, any customer that cannot obtain such service for any reason, including non-payment for services. Basic gas supply service is not a competitive service and shall be fully regulated by the Board.

"Basic generation service (BGS)" means electric generation service that is provided, pursuant to section 9 of the Act, to any customer that has not chosen an alternative electric power supplier, whether or not the customer has received offers as to competitive supply options, including, but not limited to, any customer that cannot obtain such service from an electric power supplier for any reason, including non-payment for services. Basic generation service is not a competitive service and shall be fully regulated by the Board.

"Board" means the New Jersey Board of Public Utilities or any successor agency.

"Broker" means a duly licensed electric power supplier that assumes the contractual and legal responsibility for the sale of electric generation service, transmission or other services to end-use retail customers, but does not take title to any of the power sold, or a duly licensed gas supplier that assumes the contractual and legal obligation to provide gas supply service to end-use retail customers, but does not take title to the gas.

"CFR" means the Code of Federal Regulations.

"Customer information" means individual proprietary information as defined below.

"Customer" means any person that is connected to any part of the transmission and distribution system within a LDC's service territory within this State.

"Electric generation service" the provision of retail electric energy and capacity which is generated off-site from the location at which the consumption of such electric energy and capacity is metered for retail billing purposes, including agreements and arrangements related thereto.

"Electric power supplier" means a person or entity that is duly licensed pursuant to the provisions of the Act and pursuant to the Board's licensing standards promulgated pursuant thereto, to offer and to assume the contractual and legal responsibility to provide electric generation service to retail customers, and includes load serving entities, marketers and brokers that offer or provide electric generation service to retail customers. The term excludes an electric public utility that provides electric generation service only as a basic generation service pursuant to section 9 of the Act.

"Electric related service" means a service that is directly related to the consumption of electricity by an end user, including, but not limited to, the installation of demand side management measures at the end user's premises, the maintenance, repair or replacement of appliances, lighting, motors or other energy-consuming devices at the end-user's premises, and the provision of energy consumption management measurement and billing services.

"Energy agent" means a person that is duly registered pursuant to provisions of this act, that arranges the sale of retail electricity or electric related services or retail gas supply or gas related services between government aggregators or private aggregators and electric power suppliers or gas suppliers, but does not take title to the electric or gas sold.

"FTC" means the Federal Trade Commission or its successor agency.

"Gas related service" means a service that is directly related to the consumption of gas by an end user, including, but not limited to, the installation of demand side management measures at the end user's premises, the maintenance, repair or replacement of appliances or other energy-consuming devices at the end-user's premises, and the provision of energy consumption management measurement and billing services.

"Gas supplier" means a person that is duly licensed pursuant to the provisions of the Act and pursuant to the Board's licensing standards promulgated pursuant thereto, to offer and assume the contractual and legal responsibility to provide gas supply service to retail customers, and includes, but is not limited to, marketers and brokers. A non-public utility affiliate of a public utility holding company may be a gas supplier, but a gas public utility or any subsidiary of a gas utility is not a gas supplier. In the event that a gas public utility is not part of a holding company legal structure, a related competitive business segment of that gas public utility may be a gas supplier, provided that related competitive business segment is structurally separated from the gas public utility, and provided that the interactions between the gas public utility and the related competitive business segment are subject to the affiliate relations standards adopted by the Board pursuant to subsection k. of section 10 of the Act.

"Gas Supply Service" means the provision of the retail commodity of gas, but does not include any regulated distribution service.

"Individual proprietary information" or "customer information" means, but is not limited to, a customer's name, address, telephone number, electricity and/or gas usage, peak demand and payment history.

"LDC" means local distribution company, referring to the electric and/or gas public utility responsible for distributing power and/or gas to retail customers on behalf of electric power suppliers and/or gas suppliers.

"Marketer" means a duly licensed electric power supplier that takes title to electric energy and capacity, transmission and other services from electric power generators and other wholesale suppliers and then assumes contractual and legal obligation to provide electric generation service, and may include transmission and other services, to an end-use retail customer or customers, or a duly licensed gas supplier that takes title to gas and then assumes the contractual and legal obligation to provide gas supply service to an end-use customer or customers.

"Marketing" means a direct solicitation by a TPS to an individual customer for the purpose of persuading a customer to enter into an agreement for the purchase of electric generation service, gas supply service, electric related service and/or gas related service, such direct solicitation to include direct mailings, telemarketing, internet websites and in-person solicitation.

"Optional services" means services other than electric generation service and/or gas supply service.

"Private aggregator" means a non-government aggregator that is a duly-organized business or non-profit organization authorized to so business in this State enters into a contract with a duly licensed electric power supplier for the purchase of electric energy and capacity, or with a duly licensed gas supplier for the purchase of natural gas supply service, on behalf of multiple end-use customers by combining the loads of those customers.

"Redlining" means a procedure which involves unreasonable discrimination based upon race, color, national origin, age, gender, religion, source of income, receipt of public benefits, family status, sexual preference, or geographic location.

"Retail sales" means the bundled service provided by the LDC.

"Slamming" means the unauthorized change of a customer's electric power supplier or gas supplier.

"Third-party Supplier (TPS)" means an electric power supplier or gas supplier as those terms are defined herein, or a person acting on behalf of such suppliers.

"Transmission and distribution system" means any facility or equipment that is used for the transmission, distribution and/or delivery of electricity or gas to the end-use customers including, but not limited to, the land, structures, meters, lines, pipes, switches, valves and all other appurtenances thereof and thereto, owned or controlled by the electric or gas public utility, or LDC, respectively.

3. Advertising Standards

All types of advertising

Any advertisement by a TPS which offers to customers optional services, whether such advertisement is in electronic, print, radio or television media, or via telemarketing or an internet website, which specifically targets residential customers for electric generation service or gas supply service, shall clearly and conspicuously state that such optional services are provided at an additional charge which is not reflected in the advertised cost per kWh or per therm, or the advertised percentage savings.

Electronic, radio and/or television advertising

- (a) A TPS shall include in its advertisements of a general nature, via electronic, radio and/or television medium, the following:
 - i. A toll-free or local telephone number which a customer may call to request detailed information concerning the average price per kWh for and environmental characteristics of electric generation service or average price per therm for gas supply service over the term of a contract for the service being offered, exclusive of any charges for any optional services other than electric generation or gas supply service; and
 - ii. the LDC(s) in whose service territory(ies) the TPS is offering services.

4. Marketing Standards

- (a) In marketing materials provided by the TPS to residential customers for the purpose of persuading the customer to authorize a switch to the TPS for electric generation service or gas supply service, whether such materials are in hardcopy form, electronically or via internet websites, the following information must be provided:
 - i. The average price per kWh for electric generation service or average price per therm for gas supply service over the term of a contract for the service being offered, exclusive of any charges for any optional services other than electric generation or gas supply service; and
 - ii. The period of time over which the advertised price is valid; and
 - iii. The term (duration) of the contract for which the advertised price is being offered; and
 - iv. The average price per kWh for electric generation service or the average price per therm for gas supply service being charged for basic generation service or basic gas supply service by the LDC over the same period; and

- v. The estimated percentage savings on the total bill which a customer will realize under the advertised price relative to the customer taking basic generation service or basic gas supply service from the LDC
 - a. The estimated percentage savings on the total electric bill, referred to in v. above, shall not include and shall only represent the savings above and beyond the rate reductions which all electric customers receive under the Act whether they switch suppliers or not; or
 - vi. If a TPS does not offer a fixed price or guaranteed price electric generation service or gas supply service, the TPS shall describe in clear and conspicuous language the mechanism or formula by which the price is determined, and provide a detailed customer bill comparison which demonstrates for a residential customer: for 250 kWh, 500 kWh, 1,000 kWh and 2,000 kWh plus any monthly fixed and/or variable charge(s) for each month of the year, the customer's total electric bill under the proposed contract with the customer's total electric bill at the same electricity usage levels for each month of the year if the customer were to remain on basic generation service; and for 50 therms, 100 therms, 150 therms and 200 therms plus any monthly fixed and/or variable charge(s) for each month of the year, the customer's total gas bill under the proposed contract with the customer's total gas bill at the same gas usage levels for each month of the year if the customer were to remain on basic gas supply service; for the term of the contract being offered; such TPS shall also clearly indicate the period of time for which the savings offer is valid, and the term (duration) of the contract being offered.; and
 - vii. The TPS' license number;
 - viii. the LDC(s) in whose service territory(ies) the TPS is offering the advertised services; and
 - ix. Other materials or information which may be required to comply with the Environmental Disclosure Standards.
 - x. A clear statement indicating whether or not the TPS offers budget billing.
- (b) The TPS shall comply with all FTC telemarketing rules, including the restriction on telemarketing between the hours of 9 pm and 8 am.
 - (c) A TPS may not market to retail customers prior to its receipt from the Board of a supplier license, and in no event prior to August 1, 1999,
 - (d) The TPS must clearly state in its solicitations to the customer, and in its marketing materials, whether in hardcopy, electronically or via internet website, that switching to a competitive third party supplier is not mandatory, and the customer has the option of remaining with the LDC for basic generation service or basic gas supply service.
 - (e) For optional services being offered by the TPS, the TPS' marketing materials shall clearly and conspicuously identify each separate charge.

- (f) The TPS shall not represent that it can terminate any services from the LDC, including but not limited to, delivery of electricity and/or natural gas.
- (g) The TPS shall not make misrepresentations, in its solicitations or its marketing materials or any way, in violation of any standards implemented by the Board pursuant to the Act, of any other consumer protection laws or rules implemented or enforced by the Division of Consumer Affairs, or of the mechanics of the customer enrollment process adopted by the Board.
- (h) The TPS shall not commit dishonesty, fraud or deceit.

Prohibition of Discriminatory Marketing

- (a) A TPS shall not make a decision to market to a customer or customer group, or to accept or reject a customer, based upon race, color, national origin, age, gender, religion, source of income, receipt of public benefits, family status, sexual preference, or geographic location.
 - i. Marketing to specific groups, such as housing associations, developments, senior citizens organizations, church/religious associations, and the like, shall not be considered discriminatory pursuant to this subsection or the Act.
 - a. However, once a TPS has received application from specific groups, the decision to accept or reject any customer or groups thereof, shall not be based upon race, color, national origin, age, gender, religion, source of income, receipt of public benefits, family status, sexual preference, or geographic location.
 - ii. Marketing to specific LDC service territory(ies) shall not be considered discriminatory pursuant to this subsection or the Act.
 - a. However, once a TPS has received applications from customers within a specific LDC service territory(ies), the decision to accept or reject any customer or groups thereof, shall not be based upon race, color, national origin, age, gender, religion, source of income, receipt of public benefits, family status, sexual preference, or geographic location.

5. Credit

- (a) A TPS shall employ uniform income, security deposit and credit requirement(s) for purposes of making decisions whether to offer service to a customer within the same customer class;
- (b) A TPS shall maintain a written explanation of its income, security deposit and credit requirements, in compliance with the Licensing Standards, which shall be made available on a confidential basis to the Board and the Division of Consumer Affairs within 48 hours upon request, in the event of a formal investigation of the TPS' credit or income requirement practices;

- (c) A TPS shall apply such income, security deposit and credit requirements in a uniform manner for all customers for the same customer class.
- (d) In the event that a TPS requires a security deposit from a customer, such deposit must be maintained in an interest bearing escrow account, and the customer must be provided a receipt.

6. Contracts

- (a) A TPS shall not be permitted to provide electric generation service or gas supply service to a retail customer without the customer's written signature on a contract or such alternative forms of verification as the Board may permit to initiate such service(s), for switching TPSs or for renewal thereof;
- (b) A TPS contract shall clearly and conspicuously state that the purpose of this documents to authorize a change in the customer's TPS, and includes explicit terms and conditions which shall include, at a minimum:
 - i. a clear statement of the duration of the contract;
 - ii. the price per kWh or therm or, if a fixed pricing arrangement is not made, a clear and unambiguous statement of the precise mechanism or formula by which the price will be determined; if the contract contains no particular pricing terms, but rather, expresses the charges for service rendered on a percentage savings basis, the contract language must clearly and conspicuously state the percentage savings being guaranteed, as well as the price or charges to which the percentage savings is being compared;
 - iii. A complete list of any other fees, including but not limited to, early termination penalties, due date for payment, late payment fees and the number of days after which a late payment fee may be applied, and interest charges, which will or can be imposed on residential customers, including but not limited to the specific conditions under which such penalties and/or fees can be imposed.
 - iv. A statement of the residential customer's rights, which shall provide that the customer will receive a confirmation notice of its choice of supplier and that, at a minimum, the customer will have 14 calendar days from the date of the confirmation notice to contact its LDC and rescind its selection. Furthermore, that a contract for electric generation or gas supply service shall not be legally binding upon the residential customer until the 14 day confirmation period has expired, and the customer has not, directly or indirectly, rescinded his/her selection.
 - v. A statement of the TPS' termination rights, which shall explain the specific conditions under which the TPS may terminate service, and that at a minimum the TPS provide the customer with at least a separate 30 days' written notice of the termination and opportunity to remedy the termination condition.
 - vi. No statement which asks that any customers waive any rights they have under New

Jersey or federal Consumer Protection laws.

- (c) A TPS contract shall include the TPS' local or toll-free telephone number, the LDC's emergency and toll-free customer service telephone numbers and the Board's Division of Customer Relations toll-free telephone number;
- (d) A TPS contract must state that the customer should call the LDC in the event that an electric/gas-related emergency, such as a gas leak or power outage, exists;
- (e) A TPS contract shall explicitly permit a residential customer to terminate the contract, with 48 hour notice without penalty, as a result of a relocation within or outside the LDC's franchise area, disability and/or death;
- (f) A TPS contract must clearly and conspicuously display the TPS' name and license number issued by the Board;
- (g) In compliance with the Licensing Standards, a TPS shall file a sample copy of its residential contract(s) with the Secretary of the Board, with a copy provided to the Division of Consumer Affairs and the Division of Ratepayer Advocate on a confidential basis; the initial filing of the sample copy of TPS contract(s) shall include a consumer complaint resolution process; a TPS shall file a sample copy of subsequent revisions of its contract(s) with the Secretary of the Board, with a copy provided to the Division of Consumer Affairs and the Division of Ratepayer Advocate on a confidential basis, within three (3) business days;
- (h) In no event shall a TPS cease to deliver electric power supply, or natural gas supply, subject to the terms and conditions of the contract and the LDC tariff, to the LDC on behalf of a residential customer, upon less than the minimum 30 days' notice period;
- (i) Where an affirmative written signature is not obtained for renewal of a residential electric generation service or gas supply service contract, the existing contract shall continue on a month-to-month basis under the current terms and condition and pricing.

7. Customer Bills

- (a) TPS bills must be in clear and conspicuous language and include the name, address and local and/or toll-free telephone number of the Board and TPS and toll-free customer service and emergency telephone numbers of the LDC.
- (b) TPS bills must contain sufficient information to allow customers, to calculate their bills which information shall include but not be limited to kWh or therm usage billing period which shall include the start and end dates, billing date, next estimated meter reading date, remaining balance and payment(s) applied.
- (c) A TPS or a LDC shall not charge a fee to residential customers to either commence and/or terminate electric generation service or gas supply service.

- (d) If optional services are provided, the associated charge(s) shall be itemized separately on the customer's bill.
- (e) The TPS and LDC's charges shall be separately identified on the bill if the customer chooses the one-bill option.

8. Customer Information

- (a) Customer information shall not be disclosed, sold or transferred to a third party without the affirmative written consent of the customer or alternative Board-approved consent methodology, except under certain conditions, e.g., a third-party performing services directly for a TPS under a binding confidentiality agreement.
- (b) In the case of a transfer or sale of a TPS, customer consent shall not be required to transfer customer information to the subsequent owner of the business in order to maintain continuity of electric generation service or gas supply service.

9. Complaints

- (a) TPS shall use good faith efforts to respond to and resolve all complaints promptly.
 - i. If the TPS has been advised that the customer is not satisfied with the TPS' response, the TPS must advise the customer that customer can contact the Secretary of the Board, at 973-648-2065, to request an Alternate Dispute Resolution procedure or to file a formal complaint.
- (b) TPS shall maintain a record of the complaints received, how resolved, and still pending, for review by the Board upon request, with 3 days' notice.

10. Termination

- (a) A TPS shall not terminate a residential contract due to non-payment in cases where charges are in dispute, provided undisputed charges are paid and the TPS and customer agree to resolve the disputed charges within 30 days of the time that a customer has notified the TPS that charges are in dispute.
- (b) Residential may be terminated for non-payment at the time of the next meter reading but with at least the minimum 30 days' written notice, which shall include a toll-free or local telephone number of the TPS and the Board, the effective date, the reason for the contractual termination, timetable for the residential to choose another TPS before defaulting to basic generation service or gas service, and 15 to 30 days' notice to the LDC.
- (c) TPS shall not terminate a separate or independent residential contract due to non-payment of a non-residential contract.

(d) TPS shall not terminate a residential contract for gas supply service or electric generation service for non-payment of another service, including gas supply service, gas related service, electric generation service or electric related service.

Signed 8 April 1999
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SENATE BILL 428
44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY
Michael S. Sanchez

AN ACT

RELATING TO PUBLIC UTILITIES; ESTABLISHING THE RESTRUCTURE OF
THE ELECTRIC UTILITY INDUSTRY; PROVIDING FOR CUSTOMER CHOICE
IN THE SUPPLY OF ELECTRICITY; PROVIDING OPTIONS TO RURAL
ELECTRIC COOPERATIVES AND MUNICIPAL UTILITIES; CREATING A
FUND; PROVIDING PENALTIES; ENACTING SECTIONS OF THE NMSA 1978;
MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the
"Electric Utility Industry Restructuring Act of 1999".

Section 2. FINDINGS AND PURPOSES.--

A. With respect to the Electric Utility Industry
Restructuring Act of 1999, the legislature finds that:

(1) the generation and retail sale of
electricity is becoming a competitive industry across the

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1 the greatest extent possible, products and services are and
2 should be available from nonregulated providers in the
3 competitive marketplace, including from nonregulated public
4 utility affiliates;

5 (7) the public interest requires the
6 continued protection of retail customers through the licensing
7 of electric suppliers, the provision of information to
8 customers regarding electric service, service reliability and
9 quality and the availability of service for all retail
10 customers;

11 (8) residential and small business customers
12 are least likely to benefit from the restructuring of the
13 electric industry and need special protection to help ensure
14 their participation in any benefits of competition;

15 (9) electric public utilities have undertaken
16 long-term investments in facilities in order to provide
17 sufficient and reliable service to the public. These actions
18 may have created costs that will not be recoverable in a
19 competitive market, and utilities should be permitted a
20 reasonable opportunity to recover an appropriate amount of the
21 costs incurred previously in providing electric service as
22 well as costs that will be incurred in converting to the
23 restructured scheme;

24 (10) protection of the state's environment
25 and the promotion of renewable energy technologies are

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1 sensible endeavors that may be encouraged in the restructured
2 electric industry; yet, after a reasonable period, assessment
3 should be made to determine the usefulness, acceptability,
4 benefits, including environmental and economic benefits, and
5 the appropriateness of continuing financial promotion of
6 renewable energy; and

7 (11) it is necessary to provide comprehensive
8 implementing legislation to establish direction for all
9 aspects of the restructuring of the electric utility industry
10 in New Mexico.

11 B. The purposes of the Electric Utility Industry
12 Restructuring Act of 1999 are to:

13 (1) provide a framework and time schedule for
14 the restructuring of the electric industry to prepare for full
15 competition in the energy supply and services segments of the
16 electric industry;

17 (2) permit customer choice in the state on a
18 phased basis to permit education of retail customers about
19 choice and to permit utilities, suppliers and regulators to
20 learn from their developing experiences in the competitive
21 marketplace;

22 (3) state the policies of the legislature
23 regarding the recovery of stranded costs and transition costs;

24 (4) ensure that when customer choice of
25 electric supply is offered that adequate safeguards and