

# HOUSE BILL No. 4725

May 20, 1999, Introduced by Rep. Middaugh and referred to the Committee on Energy and Technology.

A bill to regulate the distribution and transmission of electricity in this state; to otherwise restructure the electric industry; and to prescribe the powers and duties of certain state agencies and officials.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 101. As used in this act:

2       (a) "Affiliate" means a person who directly or indirectly,  
3 through 1 or more intermediaries, controls, is controlled by, or  
4 is under common control with an electric utility, a person who is  
5 an officer of, partner in or trustee of, or serves in a similar  
6 capacity with respect to an electric utility, or a person who,  
7 directly or indirectly, is the beneficial owner of 10% or more of  
8 any class of equity securities of another company of which the  
9 electric utility is directly or indirectly the owner of 10% or  
10 more of any class of equity securities.

1 (b) "Aggregation" means the combining of electric loads of  
2 multiple customers or a single customer with multiple sites to  
3 facilitate the provision of direct access electric service to the  
4 customers.

5 (c) "Assigned service area" means the designated geographic  
6 area within the boundaries of which an electricity distributor is  
7 authorized to furnish all electric distribution service.

8 (d) "Commission" means the Michigan public service commis-  
9 sion in the department of consumer and industry services.

10 (e) "Consumer" or "customer" means an end-user of  
11 electricity.

12 (f) "Direct access" means the decision of an electricity  
13 customer to choose an electricity supplier.

14 (g) "Electric utility" means a public utility that provided  
15 electric service before January 1, 1997.

16 (h) "Electricity distributor" or "distributor" means a  
17 person or that person's lessees, trustees, and receivers, owning  
18 or operating equipment or facilities for delivering electricity  
19 to customers for compensation.

20 (i) "Electricity generator" or "generator" means a person in  
21 this state generating electricity for distribution to 1 or more  
22 persons other than the generator.

23 (j) "Electricity supplier" or "supplier" means a person that  
24 sells electricity and related services to electricity distribu-  
25 tors, aggregators, or customers located in the assigned service  
26 area of electricity distributors.

1 (k) "Employee-related restructuring costs" means costs  
2 incurred by an electric utility as part of restructuring under  
3 this act or commission order.

4 (l) "FERC" means the federal energy regulatory commission.

5 (m) "Historic service territory" means the service territory  
6 in which an electric utility provided electric services before  
7 January 1, 1997.

8 (n) "Kilowatt" means 1,000 watts.

9 (o) "Megawatt" means 1,000,000 watts.

10 (p) "Nonbypassable distribution charge" means a charge to  
11 persons electing direct access to compensate for certain costs  
12 and services payable to an electric utility, electricity distrib-  
13 utor, or their assignees or successors regardless of the identity  
14 of the electricity supplier.

15 (q) "Person" means an individual, partnership, corporation,  
16 association, governmental entity, or other legal entity.

17 (r) "Regulated service" means distribution and transmission  
18 services provided by an electricity distributor subject to regu-  
19 lation by either FERC or the commission.

20 (s) "Transition charge" means that portion of the nonbypas-  
21 sable distribution charge allowed by the commission to recover  
22 stranded investment costs from all retail customers taking elec-  
23 tric generation service by direct access in the electric  
24 utility's historic service territory.

25 Sec. 102. The commission shall administer this act.

26 Sec. 103. (1) Electric distribution and transmission shall  
27 be regulated by the commission.

1 (2) An electricity distributor shall connect and provide  
2 regulated service to retail customers within the electricity  
3 distributor's assigned service area at rates and on terms and  
4 conditions as authorized by the commission.

5 (3) All electricity distributors shall procure power and  
6 energy for any customer that does not elect to take service from  
7 another supplier at rates and on terms and conditions as autho-  
8 rized by the commission.

9 (4) An electricity distributor shall be obligated to provide  
10 on a best effect basis standby electric generation service to  
11 customers who elect to take direct access from another electric-  
12 ity supplier.

13 (5) The commission shall establish a rate for the standby  
14 electric generation service required under subsection (4). The  
15 rate shall be equal to the distributor's top incremental cost  
16 plus a reasonable markup.

17 Sec. 104. (1) Each electric utility with more than 500,000  
18 customers shall allow direct access to its customers according to  
19 the following schedule:

20 (a) On an initial date established by the commission, 2.5%  
21 of the electric utility's peak load.

22 (b) Sixty days after the initial date, an additional 2.5% of  
23 the peak load.

24 (c) One hundred twenty days after the initial date, an addi-  
25 tional 2.5% of the peak load.

26 (d) One hundred eighty days after the date established under  
27 subdivision (c), an additional 2.5% of the peak load.

1 (e) On January 1, 2001, an additional 2.5% of the peak  
2 load.

3 (f) On January 1, 2002, allow direct access to the remaining  
4 customers of the electric utility.

5 (2) Each electric utility with less than 500,000 customers  
6 shall allow direct access to all of its customers by January 1,  
7 2002 according to 1 of the following:

8 (a) By adopting the schedule established under subsection  
9 (1).

10 (b) By an alternative schedule as submitted to and approved  
11 by the commission.

12 (3) The percentage of the required load under subsection (1)  
13 shall be allocated in a reasonable manner as determined by the  
14 commission between the electric utility's industrial, commercial,  
15 and residential customers.

16 (4) The commission shall establish an amount of electricity  
17 that each utility with more than 500,000 customers shall  
18 set-aside for aggregation. The amount required by this subsec-  
19 tion shall be included in each year's direct access block  
20 required under subsection (1).

21 (5) Customers eligible to participate in direct access under  
22 this act before January 1, 2002 shall be selected on a bid basis  
23 as determined by the commission.

24 Sec. 105. Electricity generation service shall be a matter  
25 of contract between the generators and the customers electing  
26 direct access.

1       Sec. 106. (1) The commission shall establish a transition  
2 charge as part of the nonbypassable distribution charge for  
3 customers choosing direct access to allow electric utilities to  
4 recover stranded investment costs.

5       (2) In determining stranded investment costs, the commission  
6 shall authorize the recovery of the following costs and catego-  
7 ries of costs:

8       (a) Generation-related regulatory assets and obligations  
9 approved by the commission for inclusion in retail rates includ-  
10 ing, but not limited to, unrecovered costs of demand-side manage-  
11 ment programs, plant abandonment costs, unfunded pensions and  
12 health benefit liabilities, deferred tax liabilities, other regu-  
13 latory assets, and other similar costs.

14       (b) Unamortized capital costs of nuclear power plants  
15 approved by the commission for inclusion in retail rates as of  
16 the effective date of this act.

17       (c) Contract capacity costs of obligations incurred under  
18 purchase power contracts that were approved by the commission for  
19 inclusion in retail rates prior to the effective date of this  
20 act. This subdivision includes purchase power contracts with a  
21 qualifying facility as defined in the public utility regulatory  
22 policies act, Public Law 95-617, 92 Stat. 3117 and power purchase  
23 agreements with resource recovery facilities as defined in  
24 section 6o of 1939 PA 3, MCL 460.6o.

25       (d) Audited and verified employee-related restructuring  
26 costs approved by the commission and incurred by an electric

1 company as part of restructuring under this act after the  
2 effective date of this act.

3 (e) Audited and verified costs approved by the commission  
4 related to implementing restructuring.

5 (3) The transition charges approved by the commission under  
6 this act are subject to periodic adjustment by the commission.  
7 The commission shall establish a methodology for the periodic  
8 adjustments.

9 Sec. 107. An electric utility or supplier shall not utilize  
10 the distribution and transmission system of another supplier or  
11 electricity distributor for the purposes of a retail direct  
12 access transaction unless the electric utility or supplier pro-  
13 vides open and nondiscriminatory retail direct access and allows  
14 other electricity suppliers to utilize the electric utility's  
15 facilities.

16 Sec. 108. (1) This act does not repeal or alter the content  
17 or effect of orders that were issued by the commission before the  
18 effective date of this act.

19 (2) This act shall not be construed to alter, amend, or void  
20 any court interpretation or holding that existed on the effective  
21 date of this act.