

**Michigan
Public Service Commission**

**Case No. U-11290
Electric Restructuring**

**Customer Focus Issues
and Recommendations**

Report filed by
the Michigan Public Service Commission Staff
on October 13, 1997

U-11290, ELECTRIC RESTRUCTURING
CUSTOMER FOCUS ISSUES AND RECOMMENDATIONS

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U-11290
CUSTOMER FOCUS ISSUES AND RECOMMENDATIONS

A. Executive Summary

On June 5, 1997, the Michigan Public Service Commission (Commission) issued an order in Case No. U-11290 opening Michigan's retail electric market to competition. The order phases in access to competitive retail providers between 1997 and 2002. The Staff understands that the Commission intends that all Michigan electricity consumers will have the opportunity to benefit from the introduction of competition. Existing consumer protection rules will need to be modified, and at places expanded, to ensure that this is the case. In addition, a major consumer outreach and information program is recommended to effectuate the aggressive implementation timetables advanced by the Commission, and to respond to commenters' statements about the need for consumer education.

Staff is filing this report with the Commission in response to the Commission's directive in the June 5, 1997 order. In identifying issues for consideration and developing recommendations, Staff reviewed all pertinent comments (whether written or oral) received in this docket from private citizens, community and labor organizations, utilities, competitive suppliers, governmental units, and others. We also reviewed, and where appropriate, borrowed from ideas adopted by other states in their electric restructuring endeavors.

The general sense of the public response received was captured by Consumers Energy in its comments: "[e]lectricity is perceived as a universal service and is required for habitability and economic stability; therefore, unlike almost every other service in the United States, a certain amount of regulatory oversight is necessary to ensure electricity is accessible on a nondiscriminatory basis to all customers in Michigan." Commenters agree that consumer protection rules should be adopted and enforced by the Commission. Views diverge, however, on what specific rules are needed and which companies should be covered by the rules. There is general agreement that distribution services should continue to be regulated. There is also general agreement on the strong need for a consumer education and a clear preference for a joint industry/regulatory information effort with consumer input. Comments on competitive services ranged from no oversight to the same oversight as distribution services receive. While it is difficult to balance emerging competition with customer protection, both of these must be considered.

The Report recommends combining the "Consumer Standards and Billing Practices" and the "Rules Governing Services Supplied by Electric Utilities" into one document for the electric industry. Rule changes and additions are discussed in the context of an outline of the proposed combined document, "Electric Billing and Service Quality Rules and Procedures". Staff is suggesting that these rules should

apply to distributors, aggregators, and suppliers.¹

Staff attempted to capture the spirit behind the proposed rules in the “Electric Consumer Bill of Rights”. Several states are using this mechanism as a foundation for guaranteeing protections for all electric consumers². Staff recommends that the Commission or Legislature consider developing a consumer bill of rights for Michigan.

A key factor in consumer protection is assuring a truly competitive market, free of anti-competitive abuses. Market power issues in the emerging competitive market are extensive and largely outside the scope of this report. The Staff is preparing a report on market power which will be forwarded to the Commission separately. For purposes of this Report, Staff is assuming that all preconditions necessary to assuring a workably competitive market will be in place.³

¹In the context of this paper, “generator” refers to the party actually generating or producing power. A “supplier” provides power to end users, and could be a generator or marketer. An “aggregator” is a broker who combines the loads of many end users and arranges to have power delivered to them. For the purpose of the following discussion, most customers will need to aggregate load to participate in the market, so the term “supplier” will be used and, unless otherwise noted, will include aggregators. A distinction between marketers and brokers is that marketers take title to power and brokers do not. A “distributor” is the last link in the chain of electricity services and provides a monopoly service. It passes along power purchased from a generator, supplier, marketer, or broker to each end-use customer.

²The Vermont Commission has a “Consumer Bill of Rights”, under Maine’s restructuring legislation, the Maine Commission has the obligation to adopt minimum standards for supplier conduct, and the California Commission has proposed a “Consumer Bill of Rights”. The draft “Electric Consumer Bill of Rights” included in this paper is largely based on the California proposal.

³Mature competitive markets require ease of market entry, sufficient viable competition, substitutable products, mitigation of any market power, and access to information.

Staff supports the need for new legislation addressing supplier licensing and suggests that aggregators should be licensed as well. To maximize regulatory efficiency, it appears that some type of verified or self-scoring licensing process would best meet the objectives of Michigan's competitive electricity market. Customers would have protections ensuring that basic service standards are met while lengthy or complicated application processes for suppliers and aggregators are avoided. Staff is envisioning a process which includes an initial filing, a published notice of the filing with opportunity to comment, and a 60 day review period after which the license would go into effect unless problems were found which warranted Commission action.

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.

C. Consumer Protection Recommendations

1. Supplier Licensing

All seven states with electric industry restructuring legislation in place as of September 1, 1997 require electricity suppliers to obtain some type of license to do business within the state.⁴ Most parties commenting on this issue in Docket No. U-11290 agree that some form of licensing is necessary, however several make the distinction between licensing used for oversight and that used for regulation. The parties agreed that licensing should not interfere with the functioning of the market.⁵ Staff supports the need for new legislation addressing supplier licensing.

Depending on legislative intent and Commission application, licensing can serve several purposes:

- M** Licensing can provide some degree of protection to customers who will no longer be protected by cost-based utility regulation for power supply. Licensing would be especially beneficial to smaller retail customers since, during the initial years of retail competition, they will be new participants in the electricity market and will not have the experience to select a reliable supplier.
- M** Licensing can be based, in part, on a demonstration by the supplier that it is financially solvent and technically equipped to provide reliable electric service.
- M** Licensing can be conditioned on the supplier meeting standards which will enable it to function appropriately in the highly integrated distribution system. This helps to ensure the reliability of both the transmission and distribution systems.
- M** Licensing approval can require the supplier to meet certain standards of conduct. For example, a code of conduct can require the provision of complete, accurate, standardized, and easy to understand information to customers on pricing, terms, and conditions of service.

⁴The seven states are California, Maine, Montana, Nevada, New Hampshire, Pennsylvania, and Rhode Island. Legislation in Oklahoma, the eighth state with a restructuring statute, just requires its Commission to investigate retail competition.

⁵Comments, oral and written, on the issue of licensing or registration, were filed in Case No. U-11290. Parties commenting on this issue included American Electric Power, the Association of Businesses Advocating Tariff Equity, Consumers Energy, Detroit Edison, Energy Michigan, Enron, Enstar Energy Group, The Michigan Electric and Gas Association, and The Heat and Warmth Fund.

Absent some type of licensing, there will be no assurances that suppliers will meet basic service standards.

As an additional step in obtaining a license, some states require the supplier to post a bond or other type of security approved by the Commission.⁶ In its comments in Case No. U-11290, Enron suggested that all suppliers be required to provide some type of performance bond, corporate guarantee, or other type of acceptable surrogate, with the amount relative to the supplier's financial commitment in Michigan.^{7/8} Bonds can be used to provide recourse to customers if service does not meet promised standards, the code of supplier conduct is violated, or if there is fraud in marketing, delivery of service, or billing.

Bonding is also viewed by some as a tool for screening suppliers with unstable financial situations. A bonding service would be likely to charge higher fees, or to reject completely, a supplier in an unstable financial position. To ensure that a bonding requirement does not create a barrier to entry, the amount of the bond could be based on the size of the supplier, or the amount of electricity it intends to sell. The creation of some kind of bonding pool could also be explored.

In the states with restructuring statutes, legislation enables the state commission to establish and enforce licensing guidelines and oversee the licensing process. It is possible to require periodic updates of application information to ensure that the established standards are met. Once approved, licenses generally are not transferable.

States differ on who should be licensed. Some require that all suppliers, marketers, and brokers, including existing utilities selling non-tariffed electricity services in the competitive retail market, be licensed. Other states require only non-utility suppliers to be licensed. In general, it appears that as licensing requirements become more stringent, the more likely it is that all suppliers, including public utilities, must be licensed. If, for example, a state were to use licensing only to keep track of who is providing generation services in the state, it probably would be unnecessary to include current public utilities since that information is already available. If, on the other hand, licensing were to require compliance with a operational code of conduct, all suppliers, including existing utilities, should be required to be licensed. This keeps all suppliers on a level playing field and requires all to meet the same requirements.

⁶Pennsylvania requires posting of a bond, 66 PA C.S. 2809 (1997).

⁷Comments of Janine Migden, Director of Government Affairs, Enron in Case No. U-11290, July 8, 1997, p. 20.

⁸Few parties commenting in Case No. U-11290 provided specific comments on this issue.

There are three basic levels of licensing currently being discussed by or implemented in states involved in restructuring.

- M Certification process -- The supplier would provide specific corporate information, along with other information requested by the Commission. The Commission, for example, could require the supplier to meet certain financial and technical standards. This application process would involve a formal review of each application by Commission Staff. Applications could be made available for public review and comment. The Commission would have authority to approve, limit, condition, or reject any application if it did not meet the Commission's standards. This certification method would provide the Commission with relatively tight controls over the quality of market participants and is likely to offer the greatest protection to customers. In Pennsylvania, the commission reviews all licensing applications and issues orders approving them if the standards are met.⁹
- M Verified or self-scoring licensing -- A supplier would provide the same type of detailed information about itself which could include: specific corporate information, certification that the supplier meets specific technical and financial standards established by the Commission, and an agreement that the supplier will provide accurate information to customers. Approval is assumed unless there are factual objections, in which case there could be a proceeding before the Commission. The supplier, and potentially the submitting officer, would be liable for penalties if either the statements in the application are found to be inaccurate or the standards are not met. Rhode Island uses a self-scoring type of licensing: the application is served on the commission and all distribution companies operating within the state. The license becomes effective thirty days after filing unless specifically rejected. If rejected, the applicant has the opportunity to amend the application and resubmit it.¹⁰ The Federal Energy Regulatory Commission has used self-certification in applications for approval of qualifying facilities and small power generators.
- M Basic registration -- The supplier would provide the state commission with basic company information, including company name, address, telephone number, and contact person. Basic registration might also include a requirement that the supplier abide by specific guidelines such as provision of accurate information to customers. The process for registration is simple and involves no review by the Commission. California's restructuring legislation currently calls for this type of registration, however there are discussions

⁹66 Pa. C.S. 2809 (1997).

¹⁰Rhode Island General Law 39-1-27.

underway about strengthening licensing requirements.¹¹

To maximize regulatory efficiency, it appears that some type of verified or self-scoring licensing process would best meet the objectives of Michigan's competitive electricity market. Customers would have protections ensuring that basic service standards are met while lengthy or complicated application processes for suppliers are avoided. Staff is envisioning a process which includes an initial filing, a published notice of the filing with opportunity to comment, and a 60 day review period after which the license would go into effect unless problems were found which warranted Commission action. Staff suggests that the Commission present the proposed licensing standards to the Legislature for consideration.

If there is a registration or licensing process, there should also be a process for making complaints and penalizing those suppliers who violate the agreed upon service standards. The Commission is a logical forum for hearing complaints and the Staff has the expertise and background to deal with the complaint details. The courts may not be equipped to handle the level of complaints which could arise during the first years of competition. Customers should have clear information on how to make a complaint, whether before the Commission or in the courts. Possible penalties should include not only revocation of the license to conduct business in the State, but also lesser penalties, such as fines, so the Commission has the ability to make the penalty fit the infraction. In some instances, it may be appropriate for the Commission to have the ability to award damages to injured parties.

a. Supplier Licensing Requirements

Depending upon the type of licensing process established, potential suppliers could be required to provide various types of information or agreements. Licensing requirements could include:

- (1). Filing of corporate information, including names of officers, address(es), and phone numbers;
- (2). Proof of financial solvency;
- (3). Agreement to meet the service quality, reliability, and safety standards established by the Commission;
- (4). Proof of managerial and technical competence, either through the experience of the company or, especially for new entrants, the experience of the employees;
- (5). Proof of necessary licenses, permits, and franchises;
- (6). Irrevocable consent to the jurisdiction of the Michigan courts and the Commission to resolve administrative, civil, or criminal matters within the State of Michigan;

¹¹California AB 1890, Article 12, Section 394.

- (7). Commitment to collect all sales or use taxes applicable to the sale of generation services within the State of Michigan;
- (8). Commitment to comply with all applicable administrative rules of the Commission;
- (9). Evidence that qualified personnel and a toll-free number are available at all times to handle outages, other service delivery problems, and consumer complaints;
- (10). Evidence that the supplier is capable of functioning reliably in a highly integrated distribution system, for example, the supplier can be required to be a member in good standing of the North American Electric Reliability Council (NERC) and any applicable regional councils; and
- (11). The posting of a bond or other type of security with the Commission, which, in part, would enable customers to recover damages attributed to supplier fraud or non-performance of agreed upon standards of conduct.
- (12). Commitment to comply with the Supplier Code of Conduct.

Under the existing statutory framework, the Commission has determined that competing suppliers are required to obtain a certificate pursuant to Public Act 69 of 1929 (MCL 460.501).

b. Supplier Code of Conduct

As part of the licensing process, several states are requiring (or considering requiring) that suppliers participating in retail competition abide by standards of behavior or a code of conduct which defines minimal levels of acceptable behavior.¹² Such standards could include:

- (1). Commitment to provide accurate, understandable, standardized customer solicitation and marketing materials, including pricing terms and conditions;
- (2). Commitment to truth in advertising, which includes holding the suppliers to their advertised terms and conditions of service, including a standardized process for handling rate changes;
- (3). Commitment to provide accurate and verifiable generation source information as directed by the Commission;
- (4). Commitment to comply with standardized customer enrollment procedures as specified by the Commission;
- (5). Commitment to comply with standardized billing procedures and shut-off guidelines;
- (6). Commitment to provide accurate customer service information, including where

¹²In Pennsylvania, 66 Pa. C.S. 2809 and Public Utility Commission Order M-00960890, F. 0004. The Nevada Public Service Commission must establish licensing conditions, including billing practices and customer service standards (AB 366, Section 13). In Maine, restructuring legislation specifies some standards of conduct and authorizes the Commission to adopt others (1997 Me. ALS 316 A (4)).

- (7). Agreement not to engage in switching of customer accounts without proper authorization as established by the Commission; and
- (8). Commitment to maintain and staff a toll-free telephone line for handling customer information and complaints.

c. Supplier Information Requirements

Access to information about product price, quality, and characteristics is essential to efficient and effective operation of a competitive market. Customers must be capable of comparing product and service costs to make informed choices.¹³ This information is so critical that assurance of its availability should not be left to chance, especially during the initial stages of power supply competition.¹⁴ It is thus Staff's recommendation that suppliers be required to provide to potential customers prior to execution of the customer/supplier contract, price information for all relevant services. Additionally, upon request of the customer, suppliers should provide their source (or portfolio) of supply, including the fuel source used to generate that supply. Staff further recommends that this information be provided in a standardized format.¹⁵ This format should balance the need of the supplier to have the flexibility necessary to create innovative pricing structures with the need of the consumer to be able to compare prices and products. Reliable, accurate information is most crucial and urgent for residential and smaller commercial customers who have little or no previous experience shopping for electric services.

Concerns have been raised that, as the generation market develops, there may be significant opportunities for misrepresentation of supply characteristics. Suppliers who mischaracterize product information can gain an unfair competitive

¹³In anecdotal reports from participants in the New Hampshire pilot retail access program, participants expressed frustration at their inability to compare pricing terms and conditions using nonstandardized marketing materials. Participants in the Massachusetts pilot program, who had access to a standardized chart, found it easier to compare costs. Participants were reported to be consistent in their desire for standardized information. (Alan S. Levy, Mario Teisi, Lynn Halverson, and Edward A. Holt; "Information Disclosure for Electricity Sales: Consumer Preferences from Focus Groups;" Draft Report from the National Council on Competition and the Electricity Industry; May, 1997).

¹⁴California's restructuring legislation requires that "electricity consumers be provided with sufficient and reliable information to be able to compare and select among products and services provided in the electricity market." A.B. 1890, Article 11, 392(a).

¹⁵The Michigan Community Action Agency Association has stated that the "...customer should be provided with a method to compare one supplier to another using understandable and standardized measures...". Comments in Case No. U-11290, filed September 3, 1997.

advantage over other suppliers. Customer protection may be needed where suppliers, attempting to capture niche markets, claim to be providing renewable (or "green") power or power marketed as environmentally superior or friendly.¹⁶ These sources may command higher prices. Staff recommends that standards be established for identifying or defining these supply sources, in an attempt to prevent fraudulent claims.

Initially, renewable and environmental claims should be explored as candidates for labeling standards. For example, to sell power as "renewable," a definition as to what qualifies as a "renewable" source (such as biomass, solar, wind, hydro, etc.) is needed. It is also necessary to establish what percentage of a supplier's total portfolio must meet this definition to classify the supplier as "renewable." Such standards would, in addition to providing consumer fraud protection, provide useful information fostering informed customer decisions. Other states have also identified electricity labeling as an important consumer issue associated with electric industry restructuring and are contemplating development of standards.¹⁷

To illustrate the concept of electricity labeling, Staff has prepared two labels (see page 13) using a format being widely circulated by David Moskovitz of the Regulatory Assistance Project. The two example labels are for Detroit Edison and Consumers Energy based on the residential rate. Data used to prepare the labels is that which was readily available at this time, and not necessarily what would be used to prepare genuine labels if a decision is made to require them.¹⁸ These illustrations need refinement to resolve two problems that exist:

- M Identification of the source of generation for purchased or interchanged power. Detroit Edison's purchased power number is a relatively small percentage, whereas the Consumers Energy number is a more significant share of its total. If customers want to know the source of the energy used to supply them with electricity then information on the sources used to generate the purchased

¹⁶Another example may be a preference for Michigan suppliers over out-of-state ones.

¹⁷Electricity labeling has attracted national attention. The National Council on Competition in the Electric Industry, in partnership with several state and federal agencies and organizations (including the National Association of Regulatory Utility Commissioners), has undertaken a major research project on electricity labeling.

¹⁸Sources: Cost and Contract: Detroit Edison Tariff book, MPSC No. 9 effective January 1997 for the residential D-1 rate. Fuel Mix: Detroit Edison 1996 Annual Report MPSC Form P-521 Generating Plant Statistics, page 402.1 line 12. Air Emission: U.S. Environmental Protection Agency. National Air Pollutant Emissions Trend Report, October 1996. Natural Resources Defense Council. Benchmarking Air Emissions of the Utility Electric Generators in the Eastern U.S., August 13, 1997.

power will need to be tracked and reported.¹⁹ For example, customers of power marketers who purchase all of their electricity will not have meaningful information unless this problem is resolved.

- M** Measurement of environmental emissions. The preferred data to use would be a Midwest or East Central Area Reliability Coordination Agreement (ECAR) average or Midwest Independent System Operator average. These data are available from the Environmental Protection Agency, but would need to be compiled. Staff used data from the 50 largest Eastern generators to provide label examples because it was readily available. As with the first problem, the emissions associated with the source of the purchased power would need to be compiled, so that customers would have data that is comparable from one supplier to another. Only emissions from utility-owned generation are shown in the examples. Without the ability to track emissions associated with purchases, this comparison would not be meaningful. Also, some mechanism would be needed to assure that power from low emissions sources was not double counted, i.e., when sold more than once, that each subsequent buyer would claim that it had bought the low emissions portion of the original source's power.

¹⁹This may be largely resolved if the North American Electric Reliability Council (NERC) "tagging" system is upheld.

Detroit Edison Company Residential Rate D-1															
Cost Effective cost (cents per kWh) for varying levels of use	9.0 cents	9.0 cents	9.7 cents												
	250 kWh	500 kWh	1000 kWh												
Contract Length and fixed or variable price. See contract for details.	1 Years	Fixed Price	Variable Rate												
Fuel Mix The electricity you are paying for was produced using these fuels in 1996.	<table border="1"> <caption>Fuel Mix Data</caption> <thead> <tr> <th>Fuel</th> <th>Percentage</th> </tr> </thead> <tbody> <tr> <td>Coal</td> <td>84.6%</td> </tr> <tr> <td>Nuclear</td> <td>9.6%</td> </tr> <tr> <td>Net Purchased & Inte</td> <td>5.7%</td> </tr> <tr> <td>Gas</td> <td>0.2%</td> </tr> </tbody> </table>			Fuel	Percentage	Coal	84.6%	Nuclear	9.6%	Net Purchased & Inte	5.7%	Gas	0.2%		
Fuel	Percentage														
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Air Emissions Includes emissions from company owned generation only and not emission associated with net purchases or interchanges	<table border="1"> <caption>Average Top 50 Largest Generating Co. Eastern US 1995</caption> <thead> <tr> <th> pollutant </th> <th> Detroit Edison (lbs. per MWh) </th> <th> Average Top 50 (lbs. per MWh) </th> </tr> </thead> <tbody> <tr> <td> Nitrogen oxides </td> <td> ~5 </td> <td> ~5 </td> </tr> <tr> <td> Sulfur dioxides </td> <td> ~10 </td> <td> ~10 </td> </tr> <tr> <td> Carbon dioxides </td> <td> ~16 </td> <td> ~16 </td> </tr> </tbody> </table>			pollutant	Detroit Edison (lbs. per MWh)	Average Top 50 (lbs. per MWh)	Nitrogen oxides	~5	~5	Sulfur dioxides	~10	~10	Carbon dioxides	~16	~16
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Consumers Energy Residential Rate															
Cost Effective cost (cents per kWh) for varying levels of use	8.5 cents	8.5 cents	8.5 cents												
	250 kWh	500 kWh	1000 kWh												
Contract Length and fixed or variable price. See contract for details.	1 Years	Fixed Price	Flat Rate												
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Fuel	Percentage														
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Nuclear	15.0%														
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Sulfur dioxides	~10	~10													
Carbon dioxides	~16	~16													

2. Aggregator Licensing

Aggregation of customer load allows small customers, especially residential and small commercial customers, to participate in the competitive marketplace.²⁰ Standing alone, these smaller customers may not have the power to negotiate prices, nor the technical equipment to participate in the competitive market. However, as a participant in an aggregated transaction, small customers' combined loads are on a more equal footing with larger customers in the negotiation of the purchasing terms and conditions.²¹

For purposes of this Report, an aggregator is a broker who combines the loads of a group of retail electricity customers to facilitate the purchase of electricity without, itself, ever taking title to the power. It is anticipated that aggregators may also arrange all the components of a retail purchase, including transmission and distribution services, ancillary services, or back-up power. An aggregator can be a private company; a public agency; a non-profit organization or consumer cooperative; or a city, township, or county. In some cases, the aggregator may also be a marketer who takes title to the power and resells it to aggregated customers. If the aggregator has title to the power at any point in the transaction, it would be expected to function under the same rules as any other party selling power at retail. That is, the aggregator would also be covered by the supplier licensing requirements proposed earlier.

a. Aggregator Licensing Requirements

Staff suggests that aggregators be licensed in a similar manner to suppliers providing service to end-use customers. Licensing requirements could include:

- (1). Filing of corporate information, including names of officers, corporate address(es) and phone numbers;
- (2). Identification of customers eligible to participate in the aggregated transaction, for example, a local unit of government aggregating all citizens;
- (3). Certification that its suppliers meet or, upon finalization of the deal, will meet the requirements for suppliers;
- (4). Commitment to arrange for back-up service in the event of supplier default;
- (5). Irrevocable consent to the jurisdiction of the Michigan courts and the

²⁰Issues relating to the technical aspects of aggregation for Consumers Energy and Detroit Edison customers are being addressed in Case Nos. U-11451 and U-11452 respectively.

²¹While aggregation is generally viewed as a tool for small customers, it is also a tool for companies with multiple locations who want to purchase power for more than one location from one supplier, gaining the greater economies associated with larger purchases. This type of aggregation is not a focus of this Report.

- Commission to resolve administrative, civil, or criminal matters within the State of Michigan; and
- (6). Commitment to comply with all applicable administrative rules of the Commission.
 - (7). Commitment to comply with the Aggregator Code of Conduct.

To avoid duplicate bond requirements, Staff's current thinking is that an aggregator who does not take title to power should not be required to post a bond or other type of security. However, the generators supplying power through aggregators should be required to meet the same standards as other suppliers providing service directly to end-use customers in Michigan.

b. Aggregator Code of Conduct

As a condition of licensing, the aggregator should agree to abide by a code of conduct.²² The code's standards could include:

- (1). Commitment to provide accurate, understandable customer solicitation and marketing materials, including pricing terms and conditions, length of customer participation, and termination provisions by either the aggregator or the customer;
- (2). Commitment to truth in advertising, which includes holding the aggregator to the terms and conditions of service;
- (3). Commitment to pass on supplier information on generation sources, as well as other information provided by the generation supplier in compliance with the supplier code of conduct;
- (4). Written approval from each participating customer;
- (5). An agreement that no customer be forced to aggregate;
- (6). Provisions for continuity of service if the primary supplier fails to deliver;
- (7). Commitment to maintain and staff a toll-free hotline for handling customer information and complaints; and
- (8). In the case of a governmental subdivision aggregating the load of its citizens, an agreement to offer the opportunity to all entities within the geographic boundaries in a nondiscriminatory manner. (No redlining allowed.)

²²It is assumed that a company aggregating load only for its own facilities would be exempt from the code of conduct.

c. Aggregator Information Requirements

As with the direct customers of a generation supplier, participants in an aggregated power supply arrangement have a right to clear, accurate information on transactions they are considering.

At the time the customer agrees to participate in the aggregated transaction, the aggregator may not have a supplier: the aggregation of customers might be the first step in the process. However, the customer should be provided clear information on the parameters of the pricing, terms, and conditions of the agreement, and the opportunity to opt out of the arrangement if the aggregator cannot negotiate an agreement with a supplier within those parameters. Once the supplier has been identified, each potential customer should be provided information on the transaction's specific terms and conditions, including pricing and potential pricing increases, length of contract, and a pricing breakdown of the various service components.

3. Electric Billing and Service Quality Rules and Procedures

Some commenters suggested creating one consolidated set of administrative rules to apply to participants in the restructured electric industry. Staff agrees that it would be a good idea to have one rule, and has outlined below its vision of what such a rule should look like.

For those not familiar with the current rules, a brief summary of both the "Consumer Standards and Billing Practices for Residential Gas and Electric Service" (Billing Practices) and the "Rules Governing Services Supplied by Electric Utilities" (Electric Rules) follows. Copies of the complete Billing Practices and Electric Rules are attached as Appendix A and Appendix B respectively.

a. Existing Rules

(1). Consumer Standards and Billing Practices (Billing Practices)

The Billing Practices are a set of rules enacted to provide a framework for gas and electric service to residential customers. The rules apply to all regulated gas and electric utilities and cooperatives that do business in Michigan, ensuring that utilities use reasonable and uniform practices in daily customer interactions. The rules also provide protections to residential customers in that specific procedures must be followed if the utility wishes to take action against a customer. For example, shut-off procedures are described in detail so that no customer loses power without the appropriate steps being followed. The rules also provide

detailed dispute resolution procedures. The Billing Practices cover the following areas:

- Part 1 General Provisions
- Part 2 Billing and Payment Standards
- Part 3 Deposits and Guarantees
- Part 4 Utility Procedures
- Part 5 Physical Shut Off of Service
- Part 6 Procedures for Shut Off or Termination of Service
- Part 7 Commission Appeal Procedures

(2). Rules Governing Services Supplied by Electric Utilities (Electric Rules)

The Electric Rules are currently applicable to all electric utilities within the state under the jurisdiction of the Commission. They were developed and enacted to promote safe and adequate service to the public and to provide standards for uniform and reasonable practices by electric utilities. They were most recently revised in 1996 (Parts 1-5 and Parts 7-9) and in 1995 (Part 6). The Electric Rules cover the following subjects:

- Part 1 General Provisions
- Part 2 Records and Reports
- Part 3 Meter Requirements
- Part 4 Customer Relations
- Part 5 Construction, Operations, and Maintenance
- Part 6 Metering Equipment Inspections and Tests
- Part 7 Standards of Quality of Services
- Part 8 Safety
- Part 9 Commercial and Industrial Standards and Billing Practices

b. Outline of Proposed Rule

The Electric Rules and Billing Practices address operational, maintenance, and information retention requirements for the various functions necessary to provide safe and reliable service to end-use customers. Because they were developed during a period when end-use service was provided by a vertically integrated system, certain of the current rules may need to be revised or rescinded. For the most part however, Staff believes the rules will still be applicable and relevant. Individual discussion on selected aspects of the rules will highlight potentially necessary changes.

Of immediate concern is that the applicability of these rules is currently limited to “electric utilities that operate within the state of Michigan under the jurisdiction of the Public Service Commission”. Electric restructuring will add power suppliers who provide generation service but not transmission or distribution services. This

development requires that the Commission and/or the Legislature consider the extent to which these power suppliers located both within and outside Michigan, but doing business in Michigan on a retail basis, should be covered by elements of these rules or revised rules. For instance, the current rule set contains requirements for generating station meters; frequency and voltage requirements; and employee, customer, and general public safety requirements. Staff believes that all suppliers, regulated or not, should adhere to a defined set of quality standards and should supply power in a safe manner.²³ References to suppliers in the proposed rules also refer to aggregators and distributors.

PROPOSED FORMAT ELECTRIC BILLING AND SERVICE QUALITY RULES AND PROCEDURES

(1). Safety Standards

The current Electric Rules (R 460.3801 - R 460.3804) address employee, customer, and general public protection measures related to safety of service. Staff believes that all applicable safety requirements for the provision of electric service should be maintained in a restructured electric industry.

(2). Service Quality Standards

The current Electric Rules (R 460.3701 - R 460.3705) address quality of service requirements provided at the end-use customer location. Staff believes that these standards should be maintained or expanded in a restructured environment to ensure that the customer continues to receive satisfactory electric service. To address service issues when unbundled service is provided, Part 7 may also need to be revised to address ancillary services.

(3). Metering Standards

The current Electric Rules (R 460.3301 - R 460.3308) establish meter requirements for sales to end-use retail customers. Staff believes that these rules are still applicable for distribution utilities that continue to provide bundled service to end-use customers. For end-use customers exercising choice, additional metering rules may need to be developed so that accurate billing of the services contracted for by customers can be assured.

Part 6 of the current Electric Rules (R 460.3601 - R 460.3618) addresses

²³In Pennsylvania, all suppliers are required to comply with existing customer standards and billing practices (66 Pa. C.S. 2809 (1997)). In Maine, the Public Utilities Commission is required to establish consumer protection standards and standards to promote and protect market competition (1997 Me. ALS 316 A (6)).

meter test requirements and accuracy requirements for various types of meters. Testing frequency is also addressed. Staff believes that the major aspects of these rules should continue in a competitive industry structure. The Michigan Electric Cooperative Association has suggested the possibility of having a state certification program for electric meters, similar to current programs for certifying the accuracy of gasoline pumps and grocery scales.²⁴ Such a program will be necessary if power marketers and others are allowed to own meters in the new competitive era.

(4). Construction, Operation, and Maintenance Standards

The current Electric Rules (R 460.3501- R 460.3505) address standards of good practice related to the construction, operation, and maintenance of electric utility plant. The specific rules relate only to “utility” plant and the scope of the rules needs to be expanded or revised to encompass the existence of non-utility plant serving retail customers in a competitive environment. For instance, these provisions address continuity of service, uniformity in the quality of service furnished, safety of persons and property, and the adequacy of electric capacity from all supply sources to meet normal and emergency demands. Staff is unsure how such standards should be applied to alternative sources of supply in a competitive arena, but believes a mechanism must be provided to assure continued reliability of the system.

(5). Customer Relations and Service Extension

The current Electric Rules (R 460.3401 - R 460.3411) define the information necessary to enable a utility to advise customers of the best available rate for service, customer record retention, metering and billing inaccuracies, protection of utility owned equipment on customer premises, and the extension of distribution service in areas where the service territories of two or more utilities overlap. Staff believes these requirements should be retained for the distribution utility. However, several additions or modifications may be necessary to make these rules applicable to power suppliers. Modifications would also be needed if distribution service territories are redefined. For example, in situations where a customer exercises choice, the obligation of the distribution utility to identify the best available total bundled rate could be replaced with the obligation to identify the best available rate related to distribution charges.

Part 4 may also need to be revised to identify the billing and shut-off obligations of the distribution utility in cases where the customer exercises choice of a power supplier that is not the distribution provider. Such a revision should also address the shut-off obligations associated with the provision of ancillary services if they are provided by deregulated suppliers.

Rule 460.3411, commonly referred to as Rule 411, addresses the extension of

²⁴Michigan Electric Cooperative Association, letter dated September 19, 1997.

electric distribution service in areas served by two or more distribution utilities. Staff believes that the intent of Rule 411 was the avoidance of wasteful duplication of electric distribution facilities. In the two recent revisions of the total rule set, Rule 411 was not revised because of the competitive implications associated with the rule. In the current restructuring effort however, Rule 411 may need to be revised or eliminated depending on the competitive model developed for this state. For instance, certain parties have advocated the creation of exclusive service territories by statute for townships, villages, and cities for distribution service.²⁵ Such a result may eliminate the need for Rule 411 since two or more distribution utilities would no longer be allowed to operate in the same geographic area.

On the other hand, an electric restructuring direction that allows competition at the distribution level and non-exclusive distribution service territories, may necessitate the revision of Rule 411, Public Act 69 of 1929 (MCL 460.501), and Public Act 157 of 1974 (MCL 124.3) to eliminate jurisdictional and administrative inconsistencies that currently exist. The historical application of these standards in competitive situations between investor-owned and cooperative utilities (who are currently subject to the Commission's jurisdiction) and municipal electric utilities (who are not) has, at times, resulted in awkward resolutions of territorial disputes due to the differing applicability of the standards.

(6). Interim Service

As the electric utility industry is restructured and more service providers enter the marketplace, it is possible that not all market participants will always be able to provide service through the end of their contracts. A new rule may be needed to establish how to facilitate the continued provision of service for a limited time if a customer's supplier of choice abruptly discontinues service.

There are three basic options to consider in assuring uninterrupted service:

- M Require all suppliers to demonstrate existence of reliable interim supply arrangements in the event of supplier default;
- M Require the local distribution utility to provide interim supply; or
- M Require customers, or aggregators, to make their own arrangements with an alternative interim supplier to cover service for some defined time period.

Whichever option is selected, the cost of the interim supply may become an issue. If a decision is made that customers should be protected from potentially high interim supply prices, one possibility is to invoke the bond to pay the difference between the contracted cost of power and the actual cost of interim power.

²⁵This suggestion may raise constitutional questions and requires further study.

(7). Customer Records and Information Retention

The current Electric Rules (R 460.3201 - R 460.3203) address requirements regarding documents and reports which must be submitted to the Commission and records which must be retained by the utility for examination by the Commission or its designated representative. These rules require that a defined set of information including franchise information, utility tariffs, rules and regulations, and facility maps be “available within the state of Michigan for examination”. (R 460.3201). Staff would strongly support a requirement that such information be retained by all suppliers within Michigan.²⁶ However, the specific information provided and retained may need to be revised depending on the scope of Commission jurisdiction subsequent to electric restructuring.

The current rules addressing the information and records to be retained by electric utilities (gas and water utilities as well) were adopted by the Commission in its Order in Case No. U-6033 in June, 1980.

As the electric industry is restructured, these rules may become deficient or out-of-date for either structural, process, or technological reasons, and therefore, may require revision. The determination of the extent to which the current rules are still appropriate and applicable to the restructured industry may not be properly made until after the restructuring is completed, the extent of Commission jurisdiction resolved, and a complete review of the rules is conducted. As part of the rule review process, it would be advisable to assess whether or not they are consistent with similar rules of the Federal Energy Regulatory Commission, the Internal Revenue Service, or other federal or state authorities.

Until such time, however, the Commission should continue to enforce its rules established in Case No. U-6033, concerning records for both local distribution utilities and supply utilities.²⁷

These rules should continue to apply to the local distribution companies as long as they continue to function as transmission and/or distribution monopolies.

The Commission has also determined that it has jurisdiction over retail suppliers under Act 69 (MCL 460.501). Therefore, power suppliers should maintain their records in accordance with the relevant Commission Rules, at least until a

²⁶Since it is anticipated that many new suppliers may have corporate headquarters distant from Michigan, some mechanism to assure the Commission ready access to necessary information is clearly advisable.

²⁷See the Commission Rules pertaining to the Preservation of Records of Electric, Gas and Water Utilities (R 460.2501 et seq.).

determination of appropriateness and applicability has been completed.

(8). Reporting Requirements

The current Electric Rules (R 460.3203) contain requirements regarding periodic submission of documents and reports to the Commission. These will need to be updated to include appropriate information from licensed suppliers and aggregators (assuming such licensing is adopted).

(9). Customer Enrollment

(a). Written Contract

All customers should receive service under the terms of a written contract. Under current plans, customers with loads under 1000 KW may be required to aggregate load to at least 1000 KW to participate in the competitive market. Aggregators and suppliers should use a detailed, written contract in arranging to provide service to customers. Residential contracts, at least, should be standardized. At this time, it is anticipated that the retail customer will have a contract with the aggregator who, in turn, will have a contract with the supplier. The contract between the customer and the aggregator should contain all of the terms of the sale of electricity such as the unit price, the units that will be measured, the billing method, the length of the contract, back up provisions, and other pertinent information.²⁸ This way the customer will know what to expect and

²⁸At the time the contract between the aggregator and the customer is signed, it is possible the aggregator will not yet have a contract with a supplier. If that is the case, the aggregator should provide the customer with a range of terms and conditions which will be included in the final contract. If these terms and conditions are not met, the contract should be void.

disagreements will be minimized. The aggregator should obtain positive identification (positive ID) from the customer to ensure the identity of the customer, and the customer should sign the contract. The contract can then be submitted to the distribution company for processing the change.

(b). No Unauthorized Switching of Supplier or Aggregator

A signed, written contract will also protect against unauthorized switching.²⁹ Precautions should be taken to guard against customers being switched from one supplier or aggregator to another without the customer's knowledge and written permission. In addition to requiring a signed contract, unauthorized switching should be specifically prohibited and the Commission should be given authority to revoke licenses, assess fines, and/or award damages as appropriate for the violation.³⁰ The fines should be assessed for each incident and the violator should also be responsible for any costs associated with the unauthorized switch and its correction.

The contract between the aggregator and the customer should contain a similar description of the terms and conditions to that contained in a contract between a supplier and a customer. In addition, the aggregator/customer contract should contain explicit language which permits the aggregator to change suppliers along with examples of the reasons they might do so. If a change in suppliers results in a need to change the terms and conditions of the customer contract, the supplier should notify the customer who would have the option of agreeing to the new terms or terminating the contract.

(10). Residential Billing Rules

(a). Positive ID

Distribution companies and aggregators should use positive ID (driver's license or State of Michigan ID card) when accepting new customers. Under current billing rules, utility companies may request positive ID. Positive ID helps to ensure that the appropriate person is billed, that service is not shut off without the proper authorization, and that collection procedures are directed to the right person.

²⁹Unauthorized switching or "slamming" has been widespread in the telephone industry.

³⁰See supplier and aggregator codes of conduct.

(b). Contract Recision Option

Customers should have the right to rescind any contract for electricity within, for example, three to five business days after their receipt of the written contract.

(c). Security Deposits

In most markets, requiring a deposit or prepayment is a function of risk bearing and credit analysis. For example, security deposits are often required from tenants. Deposits required by suppliers selling to large customers should be determined by the market. Initially, suppliers will be anxious to enlist new customers, and deposits should be minimal. As the market matures, deposit requirements may change, but changes should reflect market conditions. As with all other service related information, the terms and conditions of the security deposit should be included in the contract.

For distribution companies and aggregators selling to small customers, deposits should continue to be regulated. The current rules cover deposit conditions, amount of deposit, prohibited practices, deposit retention, and deposit disposition for residential customers (Rules 460.2131-2134). These rules should be retained with some modification to include aggregators and reflect any other changed conditions.

(d). Billing Rules

(1). Billing Standards

Billing standards similar to those for existing regulated utilities should be established for suppliers and distributors.³¹ Billing standards should include rules on billing frequency, estimated billing, customer meter reading, equal monthly billing, cycle billing, billing for non-tariff services, charges for metering modifications, meter inaccuracies, billing errors, bill payment, bill information, switching fees, and supplier billing. Each of these is necessary to ensure that residential customers can understand their bills and have protections against inappropriate billing methods.

Customers should be billed on a regular schedule. Some customers may prefer shorter billing intervals and some may prefer longer billing intervals. The billing interval for each customer should be set at the time service commences, but may be changed if the parties agree. (R 460.2111). Bills should not be estimated for more than one billing interval. If bills are estimated over a long period of time, the actual read of the meter can result in a large amount owed. Exceptions for situations which deter actual meter reads can be provided for as they are now.

³¹Establishment of billing standards in a competitive market is not without precedent. For example, there are billing requirements for credit card companies.

(R 460.2112). Some meters are difficult to read on a regular basis primarily because of their location. A rule should be established to allow the customer to read the meter, with a read by a distributor, aggregator, or supplier (whoever owns the meter) at least once a year. (R 460.2113). Customers should continue to have the option of having equal monthly bills. (R 460.2114). The entity which reads the meter should be able to do so on a cyclical basis so the customer receives the bill at approximately the same time each billing cycle, or give the customer written notice of a change. (R 460.2115).

(2). Priority Payment for Essential Services

Some charges, such as those for generation and distribution, will be directly related to the customer's essential services. Charges for other, non-essential services, such as appliance service plans or billing insurance programs, may also be included in the customer's bill. Such non-essential services should not be treated in the same manner as essential services if the bill is not paid in full: payment should be applied fully to essential services first. Any remainder would then be applied to non-essential services. A rule should be written that defines the difference between essential and non-essential services. (R 460.2121 and R 460.2162).

(3). Service Connection and Meter Relocation Fees

The current utility tariffs contain rules and charges for service connections. When customers call to ask for service, the tariffs define the parameters for the customer's and the utility's obligations. Since service connection will continue to be a function of a monopoly system, customers who request service from a distribution company in the future should continue to have the assurance that the procedures and costs of connecting the service are overseen by the Commission. (R 460.3410 and tariffs).

Responsibility for charges associated with the relocation of a meter should be addressed in rules. The customer needs to know under what circumstances she or he will be charged for this action. (R 460.2154, R 460.2155, and R 460.3409).

(4). Metering and Billing Errors

Rules should be continued, with possible revisions, for the correction of meter and billing errors. Errors will occur and procedures should be in place which define how the errors will be corrected, particularly who will be responsible for prior unbilled usage. (R 460.2125, R 460.3403, and R 460.3409). Rules which address unauthorized usage and meter tampering should be retained. Actions under these categories should be responded to using appropriate methods. (R 460.2125, R 460.2131, R 460.2132, R 460.2155, R 460.2161, R 460.3403, and R 460.3409). Meter relocation charges are often associated with unauthorized use

or meter tampering.

(5). Bill Information and Payment Methods

Acceptable methods for bill payment and the minimum information required to be on the bill should be included in rules that apply to both distributors and suppliers/aggregators. The amount of time that the customer has to pay the bill and the late charges which will be assessed after that date should be stated. (R 460.2116, R 460.2117 and R 460.2118). The information which must be included in the bill should also be defined in a rule. Currently, the bill must contain the beginning and ending meter reads, the dates of the meter reads, the units of energy consumed, the rate, the due date, the previous balance, the amount due for energy, the amount due for other services, the amount of tax, the address and telephone number of the utility, a designation that the Commission regulates utilities, a statement that rate schedules are available, and an advisement that inquiries and complaints should be made before the due date.³² (R 460.2119).

(6). Switching Fees

The costs, if any, of switching suppliers or aggregators, and the circumstances under which the charges may be applied, should be detailed in a rule.³³ Current rules require that charges be contained in the utility tariffs. This ensures that charges are reviewed and approved by the Commission.

The charges assessed by the distribution company should receive careful scrutiny. These charges should not be prohibitive to customers who want to switch and should reflect only the cost of processing the changes.

³²In the future, “other services” may include such things as ancillary services or energy imbalance charges.

³³It is anticipated that the service contract between an aggregator and a small customer will limit switching opportunities.

(7). Industry Billing Protocols

(a). Initial Billing

The Commission should establish rules which standardize how suppliers bill their customers.³⁴ Three options have been identified, and the rules could require or allow for any or all three.

- M The supplier could send the customer a bill which includes charges for energy and distribution and then remit the distribution portion to the distributor.
- M The distributor could send one bill for energy and distribution and remit the energy portion to the supplier.
- M The supplier could issue a bill for energy and the distribution company could issue a separate bill for distribution charges.³⁵

There is a potential for the supplier and the customer agreeing not to use a standard unit such as kWh for billing. In this case, a meter read may not be necessary, and much of the discussion of bill information contained above would be moot. However, as billing gets farther and farther from standard units, it becomes more difficult for the customer to compare costs between suppliers, which in turn limits competition.

(b). Backbilling Notification

Backbilling is rebilling customers to correct errors on previous bills. Errors may result from meter defects, meter reading errors, misclassification of customers, misapplication of tariffs, or other factors. These errors will be corrected for the customer under the metering and billing error rules. However, in a competitive setting, corrections may involve two or more suppliers and the correction may not be properly made. This could result in a customer having an incorrect bad debt on his/her record. Suppliers may be reluctant to provide service to customers who have a bad credit history with another supplier. Therefore, the Commission may wish to consider requiring suppliers to inform each other when bills of direct access customers are corrected, especially when the customer is switching suppliers. This would help prevent customers who are the victims of supplier errors from losing real opportunities for choice.

(e). Collection Standards

³⁴Control of the billing process is an issue with market power implications. The party doing the billing has information on customers that is valuable for marketing.

³⁵In California, it has been proposed that the customer have the choice of any of these three options.

(1). Payment Arrangements

Rules should be established for both suppliers and distributors covering collections from customers who are delinquent in paying bills. Since electric service is an essential part of day to day life, collection practices, particularly shut off of service, should be overseen by the Commission. The areas that need to be addressed are payment arrangements, shut off, and transfer of unpaid balances.

Some customers accrue large billing arrearages. Under current rules, one way that they can pay these arrearages is to make a payment arrangement with the company. A payment arrangement breaks down the arrearage into more affordable components.

- M The supplier/distributor should offer the customer a payment arrangement if the customer claims an inability to pay the entire bill.
- M A payment arrangement should be in writing and be signed by both the customer and the company.
- M If the customer defaults on the payment arrangement, the company should follow the shut-off procedures. (R 460.2170 and R 460.2171).

Rules for distribution and regulated generation companies should remain the same as they are now. Similar rules should be applied to competitive suppliers.

(2). Shut-Off Provisions

Rules should be established that define the conditions under which a customer can be shut off. The rules should define the circumstances under which shut off is permitted and prohibited. (R 460.2161 and R 460.2162). The rules should state if shut off is permitted for nonpayment of energy or distribution services or both. The two are directly connected. Failure to pay for energy supply (and hence shut off of that service) leaves the distribution utility with no energy to deliver to the customer. The rules should also provide for delaying shut off in the case of a medical emergency. (R 460.2153).

Since shutting off service at the meter is easier than shutting off service at the pole, access to the meter is an important component of shutting off service. If the meter continues to be the property of the distributor, then the distributor should be the only party that can physically shut off service.

The rules should also establish:

- M The form and contents of the notice (R 460.2163 and R 460.2164);
- M The time frame in which the notice must be sent (R 460.2163);
- M That the entity that is shutting off service should contact the customer in person or by phone before shut off occurs (R 460.2152);
- M The hours during which shut off is permitted (R 460.2151);
- M The process for restoration of service after shut off in order to ensure that the customer is turned back on promptly (R 460.2154); and
- M Charges to the customer for restoring service should be reasonable and specified in tariffs or contracts of the distributor or supplier. (R 460.2154).

These rules not only help to avoid shut off by giving customers a chance to rectify the reasons for shut off but also will prevent inappropriate shut off of service.

(3). Transfer of Unpaid Balances

There should be rules which address transferring unpaid balances to other accounts. Under current rules, unpaid balances cannot be transferred to another customer. A deposit can be required from a residential applicant if the applicant was a member of a household where a delinquent account was accrued and the customer under whom the delinquent account was accrued is a current member of the applicant's household. Shut off is permitted under similar circumstances. There is a specific residential rule which prohibits utilities from attempting to recover any delinquent amounts from anyone other than the customer unless the other person has entered into an agreement to pay the amounts. (R 460.2131, R 460.2133 and R 460.2161). Rules similar to those in place should be retained.

(f). Customer Assistance and Dispute Resolution

(1). Supplier and Aggregator Accessibility to Customers

All of the billing standards and other customer protections to be put into place will be meaningless if the supplier, aggregator, or distributor is not reachable. The recommended codes of conduct for suppliers and aggregators are intended to guarantee that they are readily available to assist their customers. A local or toll-free phone number should be available, and customers should receive responses to their calls in a reasonable time. The customer service representatives should be knowledgeable about company rates, policies, and practices, including payment options. They should also be familiar with weatherization, energy education, and other assistance programs that are available to their customers.

Staff recommends that current utility standards be continued for distribution utilities. Current rules require utilities to have personnel available during normal

business hours for regular matters and personnel available at all times for emergency situations. The current rules also require utilities to establish procedures for prompt resolution of customer inquiries, service requests, and complaints. (R 460.2142, R 460.2143, and R 460.3407).

(2). Disclosure of Rights

Customers must be aware of their rights in order to preserve those rights. Under current rules, utilities must provide rate schedules, Commission and utility rules, complaint procedures, information on available energy assistance programs, and other pertinent information to their customers. (R 460.2122, R 460.2133, R 460.2124, R 460.2145, R 460.2146 and R 460.3401). Suppliers and distributors should be required to continue to provide this information to customers.

(3). Shut-Off Protection

The current rules include protection from shut off during the winter months. (R 460.2174). Under this "Winter Protection Plan", customers who have low incomes (and who continue to pay a portion of their bill each month) or who are senior citizens will not be shut off during the winter. The Winter Protection Plan should continue to be available to customers of suppliers and distributors. Persons with limited incomes should not be foreclosed from energy services in the winter when these services are essential. Low-income and senior citizen customers who qualify for the Winter Protection Plan should not be shut off if they comply with its provisions.

There has been discussion of modifying the plan to make it available to customers on an income basis only. Under this scenario, only customers who met income eligibility requirements would be enrolled in the Winter Protection Plan.

(4). Dispute Resolution

In the transition to a competitive environment, and perhaps beyond the transition, the number of disputes over payment and service quality can be expected to increase. The categories of disputes will also change and the types of disputes may become more complex. Currently disputes are between the customer and the utility. Future disputes will involve other parties, such as an aggregator, supplier, or marketer in a dispute with a customer and even multiple parties involved in one dispute, such as the distributor, the supplier, and the customer.

This Report contains recommendations for supplier and aggregator codes of conduct which will provide customers with protection against unfair practices. If adopted, these rules will need to be enforced by the Commission. Because disputes under the competitive environment will likely increase in number and complexity, staffing levels may need to be increased and employees provided with advanced

training in dispute resolution techniques.

Currently, there is a methodology in place for the resolution of disputes. One component has been in place since 1981, when the Commission ordered the establishment of the Executive Customer Assistance Centers³⁶. Because the majority of customer inquiries involved Michigan's four largest utilities and because the customers often had not contacted the utility, the Commission ordered the four largest utilities to set up these Centers. Calls or letters that were received by the Commission could then be forwarded directly to these Centers for resolution. The customer could recontact the Commission if the dispute could not be resolved by the Center. This system has been successful because many customers have been able to get resolution of their disputes through the utility rather than through a third party. The Commission continues to use this system today. Given that Michigan's two major electric companies will continue to provide distribution services to all of their customers and will be supplying generation services to many customers, the Centers should be continued for Consumers Energy and Detroit Edison.

Under current regulatory standards, most inquiries that are not resolved by the Centers are assigned to Commission Staff for resolution. Most of these inquiries are able to be resolved through communication with the customer and the utility. Familiarity with the rules and orders of the Commission and the tariffs of the utility are also essential in resolving disputes. It is expected that the Staff will continue to play this role in a restructured environment. The Staff will continue its efforts to enforce the rules and regulations of the Commission.

When referral to the Centers or the intervention of the Staff is not successful, the next step is the informal hearing. If there is a dispute between the utility and the customer that cannot be resolved, the utility must offer a customer an opportunity for an informal hearing before a utility hearing officer. Current rules contain a protocol for the informal hearing process. (R 460.2166 through R 460.2169).

The next step after an informal hearing now is an informal hearing appeal, which is a review of the informal hearing record conducted by the Staff. The next step after the informal hearing appeal would be a formal complaint. Formal complaints are governed by the Rules of Practice and Procedure Before the Commission. Staff recommends that the informal hearing process be continued for customers of suppliers and distributors. The Commission should act as the last avenue for customers through the formal complaint process. (R 460.2190).

It has been suggested that the informal hearing process be eliminated and that the disputes go immediately to the Commission for mediation. If mediation is used,

³⁶Order in Case No. U-4240, November 10, 1981.

Staff suggests that it be available as an alternative dispute resolution mechanism if mutually agreed to by the parties. Under this approach, a complaint that would normally proceed to a formal hearing could, if both the company and the customer agree, be resolved by mediation in lieu of the formal hearing.

Customers currently may pursue other remedies for their disputes. (R 460.2192). Customers should continue to have this option under any new rules established by the Commission.

(11). Commercial and Industrial Billing Rules

The current Electric Rules contain rules governing commercial and industrial standards and billing practices (R 460.3901 through R 460.3908). Part 9 will likely require the most extensive revision when customer choice for power supply is implemented. As a preface, Staff believes that all retail customers within the State will remain retail customers of a regulated distribution entity subject to state or local regulation. When electric services are unbundled and certain services are provided by a competitive market, the distribution utility should have limited or no obligation to disconnect should the customer not make payment to the competitive supplier. Similarly, the customer who chooses an alternative supplier should not be afforded an obligatory safety net by the distribution provider.

In a competitive environment, it may be possible to leave to the discretion of the supplier/customer relationship the determination of policies on deposit requirements, billing information, discounts and late payment charges, transfer of unpaid balances, and delivery and payment of bills. This issue warrants careful scrutiny by the Commission, since Staff understands that many business customers are unhappy with business practices in the communications industry and feel deprived of avenues of redress under current law. Staff recommends that the current provisions prohibiting unpaid balances from being transferred from a commercial or industrial account to a residential account be retained.

4. Advertising/Marketing Practices of Utilities and Other Suppliers

At the suggestion of the Michigan Electric and Gas Association, Consumers Energy and others, the Staff undertook a cursory review of Commission policies and existing statutes which relate (or may relate) to advertising and marketing practices of utilities and new participants in the electric market. In general, it appears that the policies and laws discussed below should be examined, and possibly revised, to assure their uniform applicability in the restructured industry.

a. One-Stop Customer Complaint Service

If the Commission is granted additional authority to address unfair trade

practices in the expanded electric industry, Michigan customers would retain the convenience of calling a single State office with questions and complaints on electric service.³⁷ This would also provide an enforcement focus that can link violation of consumer protection rules and laws to Commission decisions concerning initial licensing, license revocation, license renewal, and/or penalties. Of course, this would require close coordination and consultation with other agencies. If the Commission cannot define licensing requirements, condition licensing, or order restitution or fines, it would be unable to respond forcefully and effectively to counter any emerging pattern of fraud or violation of consumer protection rules.

b. Promotional Practices Policy

At the end of 1988, in Case No. U-8931³⁸, the Commission substantially revised its restrictions on certain promotional practices set forth in Case No. U-2756³⁹ and adopted a new promotional practices policy which anticipated the advent of a competitive industry by significantly reducing restrictions on utility promotional practices and providing that most related costs would not be paid for in rates unless a clear benefit to customers was shown.⁴⁰

An initial review of the policy in the context of restructuring suggests that it may have continued relevance to the extent that distribution utilities continue to offer competitive generation services. The policy ensures that competitive services, for

³⁷Authority over the competitive portion of the electric industry is defined in the unfair or deceptive acts or practices provisions of the federal act which created the FTC (15 USC § 52), various federal anti-trust laws, and the Michigan Consumer Protection Act (MCL 445.901 et seq.; MSA 19.418(l) et seq.). Specifically, MCL 445.903 lists unfair, unconscionable, and deceptive methods of trade and MCL 445.918 gives the Commission the authority to investigate public utilities it believes to be in violation of the act.

³⁸The 12/1/88 order in Case No. U-8931 approved a settlement agreement for Michigan Consolidated Gas Company's request for a waiver of restrictions on certain promotional practices. Most other utilities subsequently requested and received approval for coverage under the same policy.

³⁹The U-2756 orders are dated 5/18/67 and 8/31/67.

⁴⁰Promotional practices in the policy are defined as any utility program or activity intended to result in new or increased sales of natural gas or electricity. This definition does not include marketing of any special or discount rates, activities related to load retention, economic development advertising, activities related to energy conservation/load management programs, or routine customer services performed by marketing personnel. Utility promotional practices are to be nondiscriminatory and promote only energy-efficient end uses.

which there is customer choice, are not subsidized by overly high prices for monopoly distribution services, for which there is no customer choice. To the extent that distribution utilities divest themselves of all non-monopoly functions, the promotional practices policy may be able to be retired.

This issue warrants further review after the new structure of the electric industry in Michigan is clarified. The Commission should also examine the remaining promotional practices addressed by U-2756 for their applicability to the revised conditions of the electric market. These include: uniform applicability of practices throughout a utility's service area and prohibitions on guarantees of bill amounts; free utility services in exchange for customer installation of certain equipment; and free underground electric and distribution service.

c. Customer Information and Advertising Standards

Case No. U-6490 was initiated on the Commission's own motion, to consider the electric rate making and other standards applicable to electric or gas service as provided in the Public Utility Regulatory Policies Act of 1978 (PURPA).⁴¹ On April 29, 1986 in its decision in U-6490, the Commission adopted Customer Information and Advertising Standards. The advertising standards assured no cost recovery for utility political or promotional advertising. The customers information standards included the required provision of periodic rate information, and weatherized energy usage data. The Commission revised the Consumer Standards and Billing Practices for Electric and Gas Residential Service to implement the U-6490 standards and requirements.⁴²

As with the Promotional Practices Policy, Staff's initial review suggests that aspects of these standards will have continued relevance while other parts may appropriately be dropped. Further review is recommended after the new industry structure is clarified.

5. Rights of Privacy

a. Limiting Market Power

Possession of customer account information raises a conflict between the customer's right to privacy and the utility's potential abuse of market power by using the information in marketing to direct access customers or sharing this information with affiliates. Customer account information, such as identity, credit history, and energy usage data, is valuable in a competitive electric industry. Incumbent utilities have such data, while marketers, brokers, and aggregators most likely do not.

⁴¹PL 95-617.

⁴²R 460.2101 to R 460.2199.

Possession of this information could give a clear marketing advantage to utilities and their marketing affiliates and may constrain the development of a truly competitive industry. This leads to the possibility of making customer data available to competitive suppliers. However, customers should have the right to a degree of privacy and should have the ability to control the release and use of sensitive personal information. The Commission should establish standards governing the conditions under which this data can or must be shared. The objective must be to balance the electricity suppliers' need for information about consumers that will result in a robust competitive industry with the consumers' rights and desires for individual privacy.

Given this conflict, the Commission should consider prohibiting the use of utility customer account information by the utility or its affiliate for competitive marketing purposes or allowing it to be released only with the customer's approval.⁴³ As an alternative, the Commission could establish a comparability standard requiring that any customer data given to utility affiliates (or used by a utility in a competitive arena) be provided to other licensed suppliers.

b. Consumer Privacy

The Staff recommends that the Commission establish rules addressing a customer's rights to privacy. The Commission may want to:

- M Limit the sale of customer account information to licensed suppliers and attach restrictions on how the data is used.
- M Prohibit the sale of customer account information for non-energy marketing.
- M If possible, limit the exchange of customer account information through credit reporting agencies. (Currently, bill payment records may be provided to credit reporting agencies and this information may be reviewed by entities seeking credit information about customers.)
- M Require the supplier to obtain the customer's written consent before obtaining that customer's data from the utility. Consumers choosing to participate in the competitive market could elect to have information concerning their accounts made available to alternative electricity suppliers. Those consumers who prefer to remain with their current supplier can elect to prohibit the release of their account data from their local distribution company to electricity suppliers. This is essentially the process that will be used in California, Massachusetts, Pennsylvania, and Vermont.

⁴³The increased potential for a utility itself to use customer data obtained in a regulated environment in a competitive situation demonstrates the problem with allowing the utility to sell power to competitive retail customers rather than requiring the utility to sell competitively only through an affiliate.

M Establish a method for providing composite data without using individual customer names.

c. Information Exchange

The Commission should adopt rules governing the exchange of customer information necessary to enable competitive suppliers to operate efficiently once the customer selects an aggregator/supplier. Some examples of information that may need to be exchanged would be:

- M Meter readings;
- M Customer terminations;
- M Moves and address changes;
- M Bill corrections; and
- M Data on customer usage patterns.

If customer data is to be provided to other licensed suppliers, any associated fees should reflect only the cost of providing the information.

6. **Low-Income Protection**

Historically, public policy makers in Michigan have adopted programs designed to assure access to affordable electric service for all customers, including low-income and senior citizens. These programs include bill payment assistance, service termination restrictions during times of severe weather, weatherization, and other end-use efficiency measures. The Commission's June 5, 1997 order indicates that "[i]n the process of implementing customer choice, the Commission is committed to ensuring that customers who choose to remain sales customers of the existing utility are not harmed by the change." (p. 12). Consistent with that objective, the Commission has not reduced or eliminated any low-income or senior citizen protection programs as part of its electric restructuring efforts.

However, the Commission or the Legislature may wish to consider whether more needs to be done in this area. Low-income advocates commenting in response to the Staff's customer focus inquiry have suggested that low-income consumers may be more vulnerable in a restructured utility environment than they were under traditional utility regulation. The Michigan County Social Services Association stated in its comments that it is "concerned that with utility deregulation many of the social programs that have traditionally benefited Michigan's most vulnerable citizens may no longer be funded and that the lack of information to the public, particularly those with the fewest resources, may have a detrimental affect on their ability to secure and pay for utility services." The Heat and Warmth Fund (THAW) comments assert that "low-income households face unique market barriers to obtaining energy services through the open market and may be perceived as comprising the least desirable market

segment and thus may be in a disadvantaged position to be able to exercise meaningful choices in a restructured utility environment.”

The Michigan Community Action Association forwarded a resolution on electric restructuring adopted by the organization.⁴⁴ A section on “Universal and Affordable Access” made the following declaration.

Any alternative industry structure must include all of the following:

- A. Maintain the obligation of utilities and/or other providers to serve as the provider of last resort for vulnerable customers such as fixed and low-income consumers.
- B. Enable low-income customers to obtain that electricity essential for health and safety.
- C. Require utilities and other providers to provide affordable service to low-income customers.
- D. Provide comprehensive energy conservation, energy education and efficiency grant programs. These should improve the efficiency of energy services for low-income customers and make optimum use of the existing network of low-income weatherization providers.
- E. Provide affordable deposit and deferred payment policies,
- F. Prevent mandatory use of service limiters, pre-payment cards or other forms of degraded service.
- G. Provide adequate funding mechanism.

⁴⁴This resolution is representative of positions taken by several other agencies including The Heat and Warmth Fund, the American Association of Retired Persons, and the Office of Services to the Aging.

The market barriers mentioned by THAW were also identified and highlighted by the Massachusetts Department of Public Utilities (DPU) in its “Electric Industry Restructuring Plan: Model Rules and Legislative Proposal” (DPU. 96-100 at p.128). They are: 1) insufficient information about energy efficiency, 2) lack of financing options, 3) the inability to purchase energy efficiency measures, and 4) the differing motivations of landlords and tenants. The Massachusetts DPU further indicates that these market barriers “are market imperfections that may well continue for the foreseeable future. Provision of low-income energy efficiency services is one way to address these market failures”. (DPU May 1, 1996 Statement at p.65).

California, Pennsylvania, New Hampshire, Rhode Island, Vermont, Massachusetts, New York, Maine, and Montana have all adopted and/or implemented electric restructuring legislation, Commission orders, or both. Each has maintained or enhanced low-income energy assistance programs or low-income energy management programs.

These states are funding the programs in a variety of ways, the most common of which is general access per kWh charges (wires or line charges) or a percentage based on kWh sales via the distribution companies. California and Wisconsin, for example, are funding both low-income energy assistance and energy management programs out of a “public goods” charge based on kWh sales via the distribution companies. Massachusetts is funding its programs through a general access charge. Nearly every state is proposing to collect the revenues and operate the programs through distribution companies.

Staff believes that the continued availability of affordable electric service to low-income customers should be assured.

7. Universal Service

a. Obligation to Connect

Electricity is an essential service that is vested with the public interest. Under traditional regulation, public utilities assume an obligation to serve, which is essentially an obligation to provide adequate and reasonably efficient service at reasonable rates, without discrimination. In exchange, utilities have service territories which exclude most competing suppliers. For transmission and distribution service, the obligation to serve remains relevant in a competitive generation market since it is expected that these will continue as natural monopoly functions. Electric transmission and distribution utilities retain their rights to exercise eminent domain and their right, with appropriate franchise approval, to use public thoroughfares as transportation corridors.

In a restructured electric industry, the obligation to serve will continue to exist

but will need to be modified depending upon the type of service customers choose to suit their electric needs. No change will be needed for those who choose to remain as traditional bundled sales service customers (unless the utility decides to stop offering generation services and becomes exclusively a distribution company). However, a change is needed with regard to those customers who choose an alternative generation supplier.

The natural gas industry moved through a similar transition in the 1980s. In that industry, the issue was resolved by restricting the utility's obligation to those customers who chose an alternative supplier. In those instances, the utility maintains an obligation to deliver the supplies that the customer procured but is under no obligation to procure new or additional supplies for the customer.⁴⁵ The Staff believes a similar approach is best suited to a restructured electric industry. Under this approach, the obligation to serve, which by historical definition includes the requirement to supply electricity, would be changed to the "obligation to connect" and deliver electricity for those customers who choose an alternative generation supplier. The utility would no longer be required to procure and sell supplies of electricity to such a customer although it could if it chose to do so.

b. Supplier of Last Resort

Each of the states that have adopted or are implementing restructuring programs have provided for a "supplier of last resort", either by establishing a default service or a standard offer provision, or both.⁴⁶ In each of these states, the distribution company is required to provide basic service to all customers in its service territory: 1) Who choose not to contract directly with a supplier; 2) Who cannot obtain power in the open market; or 3) Whose supplier fails to provide generation service. The objective is to ensure that no customer goes without electricity.

In the Staff inquiry on Customer Focus Issues, low-income advocates uniformly asserted that a "supplier of last resort" provision is a necessary component of any electric restructuring program. For example, The Heat and Warmth Fund, in its resolution on utility restructuring, urged the adoption of a policy to "maintain the obligation of utilities and/or other providers to serve as the provider of last resort for vulnerable customers, such as low-income customers." The Michigan Community Action Agency Association made essentially the same statement.⁴⁷ The Michigan

⁴⁵Operationally, this was accomplished by prohibiting the customer from returning to sales service for a period of five years.

⁴⁶Those states are California, Maine, Massachusetts, Montana, Nevada, New Hampshire, New York, Pennsylvania, Rhode Island, and Vermont.

⁴⁷See MCAAA resolution quoted (in part) in Section 6, Low-income Protection.

Commission on Services to the Aging urged the Commission to consider policies to protect elderly customers by requiring a provider of last resort.

The Commission directly addressed this issue in its Order on June 5, 1997 in Case No. U-11290. The Commission stated: "In 2002, all remaining Customers will be afforded the option of choosing an alternative supplier for power generation. Customers not electing this option may retain total service from their host utility." The Commission went on to note that it "is taking the initial step toward replacing the existing model of the electric industry with a more competitive approach based on choice for those customers who desire it. In the process of implementing customer choice, the Commission is committed to ensuring that customers who choose to remain sales customers of the existing utility are not harmed by the change." (p.12).

D. Consumer Education and Information

Most utility companies and service organizations responding to the Staff inquiry agree that education and information are key factors in ensuring a smooth transition to a competitive electric industry in Michigan. Several commenters, through written documents or oral responses at meetings, suggested that the Commission, as an objective party, should assume responsibility for overseeing a comprehensive consumer education and information program that ensures accurate, market-neutral information and guidance.⁴⁸ Parties supporting such a program include: Consumers Energy,⁴⁹ Detroit Edison,⁵⁰ the American Association of

⁴⁸Under Nevada's electric industry restructuring statute, the commission has the responsibility for establishing "minimum and uniform standards" for generation sales information and to ensure it is "adequate, accurate, and understandable." (Nevada AB366, Section 20(2)).

⁴⁹Consumers Energy Company - Company Position Statement in Response to the Commission's June 5, 1997 Directive to the MPSC Staff on Administrative Rules and Customer Information, p. 2: "Customer education and information should be the joint responsibility of the Commission and electric service providers." "This neutral source of information is needed to function in parallel with electric service providers."

Session of Tuesday, July 15, 1997, Consumer Focus Issues, Volume 9, Case No. U-11290, p. 672, Ms. Lisa Thibdaue: "But we think there needs to be a cooperative effort. And I guess I'm looking at maybe a kind of the 'Be Winter Wise' cooperation between the Commission and the utilities as far as developing generic information that's available to all residents."

⁵⁰Session of Tuesday, July 15, 1997, Consumer Focus Issues, Volume 9, Case No. U-11290, p. 691: Mr. James Gessner of Detroit Edison: "And the Commission must perform its oversight role to ensure that the customer choice communication materials are fair, honest and easy to understand, and that promises are being kept."

Retired Persons,⁵¹ the Michigan Electric and Gas Association,⁵² The Heat and Warmth Fund⁵³ and others.

Although the telephone industry offers consumers competition, the lack of a coordinated education campaign has resulted in customer confusion and misinformation. Since the deregulation of the telecommunications industry, customer complaints and inquiries relating to telephone issues have doubled and are expected to reach record highs by the end of 1997.⁵⁴ Clearly, we should strive to learn from this experience and provide customers sufficient and reliable information to compare and select between products and services available in the electricity market.

Successful electric industry competition requires knowledgeable and well-informed consumers who have easy access to information. Staff supports the interested parties' proposals that the Commission should take on the important task of ensuring that necessary information is communicated to customers on a statewide basis and through a variety of media. We agree that customers need to know their range of options and how to obtain and understand the information useful to making the best choices. A concerted, ongoing effort is needed to educate electricity customers about retail competition. This can be accomplished by an outreach and education campaign continuing throughout the restructuring process (1997 to 2002) and in a reduced capacity beyond this time frame.

Most of the commenters suggest that five consumer education program goals

⁵¹Talking Points for Michigan Public Service Commission on Consumer Protections in Electric Utility Restructuring by the Michigan State Legislative Committee of the American Association of Retired Persons, July 15, 1997, p. 2: "PSC should assist customers in making sure they understand the changes in the electric utility industry."

⁵²Michigan Electric and Gas Association's comments in response to June 23, 1997, memo on customer focus, July 14, 1997, p. 3: "[t]he critical issues in assuring customer protection is adequate education of customers regarding the implications of choosing a new supplier."

⁵³Session of Tuesday, July 15, 1997, Consumer Focus Issues, Volume 9, Case No. U-11290, p. 755: Ms. Kathleen Walgren of The Heat and Warmth Fund: "I think it may possibly be a function of the Public Service Commission. If not, it certainly should be authorized by the Public Service Commission."

⁵⁴In 1991, the Commission directly resolved 3,812 complaints and inquiries regarding telephone matters. In 1996, the number was 8,530 -- an increase of 138% in six years. The number for the first six months of 1997 is 5,165. At this pace, the annual amount is expected to exceed 10,000. (These figures exclude customer contacts received by the Commission that were transferred to Ameritech's Executive Customer Assistance Center.)

in electric competition should be achieved to meet overall consumer needs:

- Prepare all customers to participate competently in the electric marketplace and impede discriminatory or abusive market practices.
- Minimize customer confusion and provide educational materials which enable comparison of price, fuel mix, environmental impact, and terms of service offered by the supplier/aggregator.
- Provide clear, accurate information to assist consumers in making sound decisions about their electric service.
- Raise awareness of what consumer choice means in the emerging marketplace.
- Protect vulnerable customers.

Consumer education budgets vary widely across the states, ranging from a high for California's Customer Education Program of \$89 million, to a low of about \$630,000 for Vermont's Consumer Information and Education Plan.

An appropriate budget and funding mechanism for Michigan's consumer education program should be examined. In California, for example, the mechanism for collecting and administering funds to support consumer education includes recovery through rates. In the same vein, Detroit Edison has suggested that "costs of the Customer Education program should be included in the distribution charges paid by all customers."⁵⁵

Education Strategy

Commenters uniformly suggested that accurate consumer information and education materials are needed to help customers understand their choices and the terms of services to be offered by suppliers and aggregators. Educating the general public on such a complex issue can be a long and complicated process. As the Michigan Community Action Agency Association stated, "customers will need to have access to information both prior to deregulation and on an ongoing basis." Additionally, the primary messages must be repeated continually for optimum effectiveness.

The following is an approach to a Michigan consumer education program

⁵⁵The Detroit Edison Company's Meeting with Janet Hanneman and MPSC Customer Focus Team, August 14, 1997, p. 10.

patterned after those used in other states, but designed to be consistent with the restructuring time frame in Case No. U-11290.

1. Phase I - Understanding and Preparing for Restructuring (1997-2001)

The first phase of the education effort should begin early in the process and continue for four years or until direct access is available to all customers. The focus would be on planning, developing, and implementing the educational concept.

Information would be delivered on the five W's of restructuring: 1) What is restructuring? 2) Why is restructuring taking place? 3) When will it begin? 4) Who will it affect? 5) Where and how will it impact my daily life? By using a partnership approach between the Commission and a broad interest group, the education campaign would introduce and build credibility as a reliable resource for electric restructuring information. The goal would be to generate and build awareness among the public about the changes taking place in the electric industry.

In Phase I, Staff and most commenters recommend the adoption of the following educational tools:⁵⁶

- Volunteer Working Group
 - Theme, Logo and Messages
 - Consumer Input
 - Generic Materials
- Toll-free Hotline Numbers
- Training of Brokers, Marketers, Aggregators and Suppliers
- Web Sites
- Consumer Forums

a. Volunteer Working Group - Planning and Development Through a Joint Effort

Many commenting parties, such as Detroit Edison,⁵⁷ Michigan Community

⁵⁶Session of Tuesday, July 15, 1997, Consumer Focus Issues, Volume 9, Case No. U-11290, p. 692, Mr. James Gessner of Detroit Edison: "You should include as many things as you possibly can support, everything from town hall meetings to use of block clubs, to direct mail, print, radio, the Internet. The local utility could also provide a customer hotline as to specific customer choices and possibly a Web site page to respond to specific customer choice questions."

⁵⁷Session of Tuesday, July 15, 1997, Consumer Focus Issues, Volume 9, Case No. U-11290, p. 692, Mr. James Gessner of Detroit Edison: "The Michigan Public Service Commission, the utility company and any other players that have a major role should have

Action Agency Association,⁵⁸ and the American Association of Retired Persons,⁵⁹ support the Commission establishing an independent working group to develop an action plan for public outreach and education. The broad interest working group would include representatives of major utility companies; small and mid-sized utility companies; rural electric cooperatives and municipal utilities; suppliers (brokers, marketers, aggregators, etc.); industrial or large commercial customers; consumer advocates; environmental and low-income advocates; and other state agencies. The working group would function through the end of 2001.

The working group would assist in the development and implementation of a statewide public awareness campaign under the direction of the Commission. In addition, the Commission could seek suggestions on how the group members can become active participants in the consumer information and education process. The recommendations of the working group would address:

- The most effective means for educating consumers.
- The appropriate entities to conduct the education effort.
- The aspects of retail access on which consumers need education.

(1). Theme, Logo, and Messages

A consistent theme, logo, and messages for the restructuring information and education effort would be developed by the working group. These items give identity to the outreach campaign and are used as the basis for developing all subsequent materials. A unified look (establishing the name, a logo, a graphic look, and key messages for all materials) for the campaign would increase recognition levels and help tie together the program elements.

Relevant campaign messages in simple language help consumers to become more intelligent about electric restructuring. For example, the primary consumer messages in Vermont's Information and Education Plans included:

some responsibility for the outreach efforts." p. 704: ". . . it seems as if there probably are about a half dozen different issues that you could set up a working group to take and resolve some of the differences and come up with a recommendation."

⁵⁸Michigan Community Action Agency Association (MCAAA) Principles on Electric Restructuring: "Low-income customers must be able to participate in a collaborative or any other form of decision making relative to electric industry restructuring issues, with funding where needed for full participation."

⁵⁹Talking Points for Michigan Public Service Commission on Consumer Protections in Electric Utility Restructuring by the Michigan State Legislative Committee of the American Association of Retired Persons, July 15, 1997, p. 2: "PSC should inform and involve customers in their ongoing proceedings."

- The lines and poles that lead to your home or business will continue to be maintained by your current electric utility and will continue to be fully regulated by the Commission.
- The more you know about your electric consumption and about how electricity is provided and billed, the better able you will be to make good choices for your household and business.

(2). Consumer Input

This early stage in the education process offers a primary goal of bringing into the dialogue the views and concerns of the customers receiving electric supply choice during Phase I. Focus groups provide an avenue by which to obtain useful information about public concerns, perceptions, and attitudes.⁶⁰ The working group should sponsor a series of focus groups around the state to obtain useful information about public concerns, priorities to help develop general education materials, and feedback on preliminary outreach. This evaluation method is preferable to surveys at this phase because the electric competition issues are too complex to handle through questionnaires and because a certain amount of education and dialogue is needed with the customer.

(3). Generic Materials

The Commission, in consultation with the working group, would develop simple, basic information, as suggested by various interested parties.⁶¹ These understandable informational materials would describe the expected changes in the electric market and be distributed to every Michigan electric customer through direct mail, consumer groups, public forums, in bill inserts and at consumer's request.⁶²

⁶⁰Focus groups involve gathering a small group of people (six to ten) who are invited to spend a few hours with a skilled moderator to discuss a product, service, organization, or other marketing entity. Kotler, Philip. Marketing Management - Analysis, Planning, Implementation and Control, p. 135.

⁶¹For example, Session of Tuesday, July 15, 1997, Consumer Focus Issues, Volume 9, p. 671, Case No. U-11290, Ms. Lisa Thibdaue of Consumers Energy: "And we think that the Commission has a very definite role in assuring that both a generic education effort to the state's nine million residents, what is restructuring and how will it work, and also assuring that the information that they are given, both by suppliers across the board and by the Commission, is understandable and really helps the customer work their way through the whole process."

⁶²American Electric Power, Comments on Customer Focus Issues, Case No. U-11290, filed August 1, 1997, pp. 12-13: "Outreach efforts should utilize communication vehicles which will be many and varied including: News media outreach (releases,

(a). Brochure

The information could be provided in a brochure explaining the basic concepts of electric restructuring and helping consumers prepare for the transition into a competitive electric industry. It would define restructuring, how it will affect consumers, when will it become available, etc.

(b). Question & Answer Sheet

A “frequently asked questions” pamphlet could address such items as: What is a kilowatt-hour (kWh)? Who is responsible for maintaining the utility poles and lines that bring electricity into my home? How do I know where the electricity purchase comes from?

(c). Restructuring Terms

There are many new terms and concepts that the public needs to understand to become educated participants in the electric market. A glossary of service and related restructuring terminology could be developed in clear, simple, standard language to educate consumers and help them understand the complex industry.

(d). Special Needs

Outreach materials targeted specifically to low-income, elderly, disabled, and other populations with special needs could be developed. The benefits provided under the federal Low-Income Home Energy Assistance Program (LIHEAP) have diminished over time and the program’s future remains uncertain. This makes it more important that low-income customers’ needs be addressed.

For this potentially vulnerable population, targeted educational efforts would be particularly essential to curtail unfair, deceptive and abusive market practices, to ensure that available assistance is made known and to see to it that the essential electric service needs of these customers are met. In particular, many believe that information concerning Customer Standards and Billing Practices Rules R 460.2122, R 460.2123, and R 460.2124 relating to energy assistance programs, and R 460.2174 on the Winter Protection Plan should remain and be required by all

backgrounds, Q&As, op-ed); Brochures outlining customer choice; Speeches, with supporting visuals and handouts; Homepage on the Internet’s World Wide Web; Briefing sessions with employees, customers, customer groups; Advertising (television, radio, newspapers, direct mail).”

suppliers.⁶³

b. Community Outreach Grants

Creative avenues beyond newspapers, press releases, etc. could be used to spread information about restructuring. For example, a mini-grant program would encourage community-based groups to educate their clients about electric utility restructuring. Small monetary grants (e.g. \$1,000 to \$5,000) could be awarded for the best ideas on how to educate consumers. Grant applications designed by the working group would be distributed to community action agencies, senior centers, local consumer and environmental advocacy groups, and other nonprofit and grassroots organizations for disseminating educational materials to their constituents during Phases I and II of the education plan. As stated by MCAAA, "Community Action Agencies are best prepared . . . to effectively reach the client base." The organizations receiving grants could use the printed educational materials developed by the working group. The Commission would be a technical resource for these groups, providing educational tools and other types of support. The process of educating consumers about restructuring should be easier with the grassroots support and partnership of these organizations.

c. Toll-Free Hotline Numbers

Some interested parties recommend that the Commission and electric service providers establish toll-free numbers for customers to use when seeking guidance and that provide advice about the selection of retail suppliers, dispute resolution, and other general electric restructuring questions. Sufficiently trained and knowledgeable consumer affairs personnel would staff hotlines and be prepared to answer a broad range of consumer inquiries as the market transition proceeds. This effort could continue into Phases II and III as well. The hotlines could also be used as a vehicle to collect consumer feedback.

d. Training of Brokers, Marketers, Aggregators, and Suppliers

Detroit Edison expressed the need for "ensuring that all parties, not only customers, ... have sufficient information, so they can play a viable role in this

⁶³Talking Points for Michigan Public Service Commission on Consumer Protections in Electric Utility Restructuring by the Michigan State Legislative Committee of the American Association of Retired Persons, July 15, 1997, p. 2: "Low-Income Assistance - Every state has programs to assist low-income consumers, such as, winter disconnection moratoria, flexible payment arrangements, bad debt and customer service expenses, bill payment counseling and assistance programs, rate discounts, percentage of income plans, arrears forgiveness, targeted energy efficiency programs and weatherization. These should be continued and protections should be expanded in a restructured industry."

process.” This could include training for prospective brokers, marketers, aggregators, and suppliers interested in active participation in the competitive electric market. Training would include areas such as licensing requirements, consumer protection issues, and other aspects of getting started in the business. In view of the economic development aspect of this effort, it might be appropriately located within the Michigan Jobs Commission.

e. Web Sites

Several interested parties supported Internet access. The Commission’s and electric service providers’ web pages could include the restructuring materials outlined above and provide a vehicle for collecting and displaying electric service provider information and consumer feedback. The World Wide Web provides a vehicle for sharing information and assuring widespread availability of customer information. The web site could be used to show standardized information on price, fuel mix, and emissions and be established as an E-mail link which permits consumers to ask questions of Commission Staff and/or provide comments on the electric restructuring efforts. This could be a very efficient means of responding to inquiries, assuming specific Staff are assigned to respond to E-mail inquiries.

For example, the Commission might provide some or all of the following information:

- Listings of licensed suppliers and aggregators.
- Tables of the average (standardized) price of electricity expressed in cents-per-kWh, fixed or variable price structure, and the price for other products or service bought by or provided to the consumer.
- Pie charts of the fuel mix or type of generation source owned or bought by the supplier and sold to the customer. The type could refer to the mix of fuel used by the generation source to produce electricity and include the percentage breakdown of the various sources of generation relied upon by the supplier.
- Charts of the environmental impact of electricity production by the retail supplier, i.e., air emissions.
- Summaries of consumer complaint statistics, including the types handled and resolved by suppliers, aggregators, distributors and the Commission.

f. Consumer Forums

The Commission regularly conducts Consumer Forums in geographical areas throughout the State. These have provided public input on electric restructuring and

opportunities for exchange of questions and answers. The ongoing purpose of the Consumer Forums is to learn about the public's concerns, but the opportunity for two-way communications helps to educate the public.

2. Phase II - Learning to Make a Good Choice (2001-2002)

Prior to and during the first year of full electric retail direct access, a statewide public outreach campaign could take place to foster maximum public contact and participation through a variety of media. The goal would be to continue to build general awareness, disseminate tools to help customers learn about change and choice, and market the availability of electric competition statewide.

In Phase II, a statewide outreach campaign could include:

- Public Awareness Campaign
- Protection Materials
- Standard Documents
- Speaker's Bureau

a. Public Awareness Campaign

Consumers Energy recommended that the Commission oversee the implementation of a statewide public awareness campaign similar to "Be WinterWise" which uses multi-media sources such as television, radio, cable, and possibly billboard and transit signs.⁶⁴ The theme, logo, and core messages developed in Phase I would be incorporated into the campaign. There should be creative, high impact advertisements to ensure scheduled and guaranteed coverage of the campaign messages.

b. Consumer Protection Materials

The Commission, in partnership with electric service providers, could develop a series of bill inserts, brochures, and consumer information sheets. The materials could provide information on:

- selecting a retail electric supplier
- value in carefully reviewing electric bills

⁶⁴The "Be WinterWise" public awareness campaign was a partnership effort between the Commission and regulated natural gas and electric companies. This statewide effort was implemented for 13 heating seasons, December 1 to March 31. The print media, transit and billboard companies, and radio, television, and cable stations were requested to market the message on bill payment assistance resources through professionally prepared public service announcements.

- new standardized bill
- price, generation sources and emissions
- access and notification of proposed changes to rules and rates⁶⁵
- publication of procedures⁶⁶
- energy assistance programs for low-income customers⁶⁷
- consumer rights and protections⁶⁸
- dispute resolution mechanisms⁶⁹
- basic service for customers that don't make a choice
- costs of changing suppliers

These materials, required in part by present consumer protection rules and practices as identified in footnotes 65 through 69, would be distributed during a specified time by the distribution companies and electric suppliers.⁷⁰

Staff suggests that there be coordinated training support on the content of these materials which would be available to industry participants upon request. In addition, standard brochures and information materials could be made available at utility offices and payment centers.

Periodic evaluation by the Commission and distribution utilities would help assess the success of educational efforts, and assist with redesign or adjustment of efforts if necessary.

⁶⁵Consumer Standards and Billing Practices, R 460.2146, and Rules Governing Services Supplied by Electric Utilities, R 460.3401.

⁶⁶Consumer Standards and Billing Practices, R 460.2145.

⁶⁷Consumer Standards and Billing Practices, R 460.2122, R 460.2123 and R 460.2124.

⁶⁸Rules Governing Services Supplied by Electric Utilities, R 460.3901 and R 460.3902, and Consumer Standards and Billing Practices, R 460.2116, R 460.2142, R 460.2143, R 460.2146, R 460.2153, and R 460.2174.

⁶⁹Rules of Practice and Procedure Before the Commission, R 460.17503 and R 460.17505, and Consumer Standards and Billing Practices, R 460.2166 and R 460.2181.

⁷⁰Detroit Edison Meeting with Janet Hanneman and MPSC Customer Focus Team, August 14, 1997, p. 10: "A communication effort is needed to educate customers on different suppliers,...." "Customers need to understand unbundled bills." "Let customers know how energy assistance, if any, will be funded. Other topics of concern include: . . . explain procedures and costs of changing suppliers (exit fees, if any); explain credit and collection rules; explain rights and responsibilities of consumers, including dispute resolution procedures."

c. Standard Documents

Customers need a method to compare one supplier to another using understandable and standardized criteria. A reasonable way to do this would be a joint Commission/industry effort to develop a standard unbundled bill format.

d. Speakers Bureau

The Commission could organize and make available to interested community and business groups a list of speakers and videotapes to educate the public on issues related to electric utility restructuring.

3. Phase III - Perpetuating Good Decisions and Fair Marketing Practices (2003-Ongoing)

The final phase of the plan provides strategies for ensuring that consumers understand and take full advantage of the restructured electric utility industry. Particular emphasis could be placed on reaching consumers who did not actively participate in the first round of choice, evaluating the effectiveness of educational materials, providing customers information on known fraudulent or deceptive marketing practices, and continuing to distribute prepared educational materials.

Based on interested parties' comments previously expressed, the following activities could be included in Phase III:

- Customer Surveys
- Consumer Alerts
- Continuing Education

a. Customer Surveys

In an effort to reassess educational efforts, a survey could be conducted at this point in cooperation with the industry to measure the effectiveness of the campaign's messages and educational materials. Customers would participate in a telephone questionnaire. The results of the survey would help improve on the educational materials developed earlier.

b. Consumer Alerts

Consumer alerts should continue to be prepared and distributed to the media to inform and alert consumers to fraud and unfair practices. Customers should also have access to information on supplier or aggregator violations. Alerts could also be developed about important restructuring issues and any unauthorized or fraudulent companies attempting to do business in Michigan.

c. Continuing Education

The Commission could continue to update and distribute informational and educational materials developed in Phases I and II. The toll-free number hotlines and web sites could be maintained to address electric retail competition issues.

This Report was produced by the Electric Division in cooperation with the Executive Secretary Division.

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<http://ermisweb.cis.state.mi.us/mpsc>.

The Customer Focus Team expresses its appreciation to the interested parties who provided comments in this proceeding.