

**SLAMMING AND CRAMMING PROCEDURES**

These procedures are adopted pursuant to Section 10a(3) of 2000 PA 141 (Act 141), MCL 460.10a(3). All materials disseminated in accordance with these procedures shall comply with Section 10r(1) of Act 141, MCL 460.10r(1), and the Commission's orders in Case No. U-12487 regarding the form and content of all disclosures, explanations, or sales information disseminated by electric suppliers to the general public.

**I. SUPPLIER TRANSFERS**

All electric service transfers to change a customer's supplier shall be accomplished through one of the following methods, with verification for all service switches to be provided through a customer identification or account number:

- A. The new supplier has obtained the customer's written authorization.
- B. The new supplier has established one or more toll free telephone numbers and obtained the customer's electronic authorization through a customer voice response unit.
- C. The new supplier has obtained the customer's electronic authorization through a web-based internet connection, with the necessary security for confidential information.
- D. An appropriately qualified independent third party has obtained the customer's oral authorization, where the oral change authorization confirms and includes appropriate verification data.
- E. A three-way call initiated by the customer's prospective new supplier has been undertaken by the new supplier, the customer, and the old supplier, in which the customer affirmatively states a desire to change to a new electric supplier. In the course of such a three-way call:
  - 1. Neither supplier shall disclose confidential or proprietary information.
  - 2. The current supplier shall not attempt to persuade the customer or new supplier not to switch providers.
  - 3. The current supplier shall not attempt to market other services to the customer.

## II. NOTIFICATION OF CUSTOMER TRANSFER

Within seven days of a request for a change in service, the new supplier shall notify the customer and the supplier being replaced of the change by the internet, fax, letter, or telephone call to a designated number. The notification shall specify the date upon which the service will be changed or cancelled. Upon processing of the switch of service, the old supplier shall immediately discontinue billing the customer for the discontinued service.

## III. UNAUTHORIZED SERVICES

A supplier shall not bill a customer for a service without the customer's prior consent authorizing provision of that service. Failure to decline an offered or proposed service does not constitute prior consent for the provision of the service.

## IV. VIOLATION OF PROCEDURES

A supplier shall not submit or execute on its own behalf a transfer of service or bill for any services except in accordance with Section 10a(3) of Act 141 and as further defined in these procedures and Commission orders.

### A. INFORMAL DISPUTE RESOLUTION

The Commission encourages customers to first attempt resolution of a dispute directly with the supplier.

### B. FORMAL DISPUTE RESOLUTION

Any individual, corporation, partnership, association, governmental entity, or other legal entity, including the Commission or its Staff, having knowledge of a violation of these procedures, may initiate an action against a supplier for failure to adhere to these procedures. Any such action shall be treated as a complaint case under Section 10c(2) of Act 141 and shall be processed in accordance with the Michigan Administrative Procedures Act, MCL 24.201 et seq., and the Commission's Rules of Practice and Procedure, R 460.17101 et seq.

1. Upon a complaint or the Commission's own motion, the Commission may conduct a contested case to review allegations of a violation under Section 10a(3) of Act 141.
2. If the Commission finds, after a contested case hearing, that there has been a violation of Section 10a(3) of Act 141, the slamming and cramming procedures adopted by the Commission pursuant to Section 10a(3), or any other order issued by the Commission pursuant to Section 10a(3), the Commission shall order

remedies and penalties pursuant to Section 10c(3) of Act 141 to protect customers and other persons who have suffered damages as a result of the violation, including, but not limited to, one or more of the following:

- (a) Order the person to pay a fine for the first offense of not less than \$20,000 or more than \$30,000. For a second and any subsequent offense, the Commission shall order the person to pay a fine of not less than \$30,000 or more than \$50,000. If the Commission finds that the second or any of the subsequent offenses were knowingly made in violation of Section 10a(3), the Commission shall order the person to pay a fine of not more than \$70,000.
- (b) Order an unauthorized supplier to refund to the customer any amount greater than the customer would have paid to an authorized supplier.
- (c) Order an unauthorized supplier to reimburse an authorized supplier an amount equal to the amount paid by the customer that should have been paid to the authorized supplier.
- (d) Order the refund of any amounts paid by the customer for unauthorized services.
- (e) Order a portion between 10% to 50% of the fine imposed to be paid directly to the customer who suffered the violation under Section 10a(3) of Act 141.
- (f) If the person is licensed under Act 141, revoke the license if the Commission finds a pattern of violations of Section 10a(3).
- (g) Issue cease and desist orders.
- (h) For purposes of imposing fines pursuant to Section 10c(3)(a), each unauthorized action made in violation of Section 10a(3) shall be a separate offense.

3. Pursuant to Section 10c(4) of Act 141, a fine shall not be imposed for a violation of Section 10a(3) if the supplier has otherwise fully complied with Section 10a(3) and shows that the violation was an unintentional and bona fide error that occurred notwithstanding the maintenance of procedures reasonably adopted to avoid the error. Examples of a bona fide error include clerical, calculation, computer malfunction, programming, or printing errors. An error in legal judgment with respect to a supplier's obligations under Section 10a(3) is not a bona fide error. The burden of proving that a violation was an unintentional and bona fide error is on the supplier.
4. If the Commission finds that a party's position in a complaint filed under these procedures is frivolous, the Commission shall award to the prevailing party its costs, including reasonable attorney fees, against the nonprevailing party and its attorney.