

REGULATION OF ELECTRIC COOPERATIVES

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House Bill 5383

Sponsor: Rep. Terry Brown

Committee: Energy and Technology

Complete to 11-7-07

A SUMMARY OF HOUSE BILL 5383 AS INTRODUCED 10-30-07

The bill would create a new act called the "Electric Cooperative Member-Regulation Act" that would allow the board of directors of a cooperative electric utility to elect so-called "member-regulation" with respect to (1) rates, (2) charges, (3) accounting standards, (4) billing practices, and (5) terms and conditions of service.

In other words, the cooperative could set its own rates, charges, accounting standards, billing practices, and terms and conditions of service. Rates and charges would have to "reasonably reflect the costs of providing service and be uniform within the classes of service provided."

The Public Service Commission, however, would retain jurisdiction and control with respect to "safety, interconnection, code of conduct, customer choice, service area, distribution, performance standards, and quality of service," except any penalties pertaining to performance standards and quality of service would be voted on by cooperative members in accordance with procedures set forth in the bill.

The PSC would also retain jurisdiction over all areas served and line extension disputes involving a member-regulated cooperative and a regulated electric utility. A member-regulated cooperative would have to comply with administrative rules regarding extension of electric service in areas served by two or more utilities.

Procedures for electing or rescinding "member-regulation." A cooperative's board of directors would have to comply with the bill's procedures to elect or rescind member-regulation. The board could not act on a member-regulation proposal until 90 days after such a proposal has been made by a director. The board would have to adopt a proposal at a meeting of the board open to all members for which written notice has been delivered to all members not less than 21 or more than 60 days before the meeting. To take effect, the proposal would have to be adopted by two thirds of the directors in a roll call vote. After a member regulation proposal was adopted, the cooperative would notify the Public Service Commission within 10 days and 90 days thereafter would become member-regulated.

An election to rescind member-regulation would have to be called not less than 120 days after receipt of a valid petition signed by five percent or 750 members of the cooperative, whichever is less. The cooperative would have to deliver written notice to members not

less than 21 days or more than 60 days before the date of the meeting. Voting could take place by mail ballot, the Internet, or in person at the meeting. Proxy voting would not be allowed, however. A two-thirds majority would also be required to overturn the election of member-regulation.

A vote to rescind member-regulation could take place no more than once every 24 months. If members vote to overturn a board's decision to member-regulate, the board of directors would have to wait 36 months before acting on a new proposal to member-regulate.

Penalties. Cooperative members could set penalties relating to failure to meet performance standards or quality of service rules by adopting a member-regulation proposal establishing penalties or by a vote at an annual meeting.

Notice of rates and practices. Member-regulated cooperatives would have to make their rates, charges, accounting standards, billing practices, service rules, and terms and conditions of service publicly available on a website and make a paper copy available at every cooperative office for review by the general public. The cooperative would also have to provide a copy, along with its most recent audited financial statement, to the Public Service Commission.

Notice of meetings to decide rate increases. Member-regulated cooperatives would have to give at least 10 days' notice to all members of the time and place of any meeting at which a rate increase of at least five percent or a substantive change in billing practices, service rules, or terms of conditions of service are to be discussed and voted on. The meeting would have to be open to all members.

Disputes between two providers. The Commission would resolve disputes between cooperatives and regulated electric utilities concerning whether a cooperative has offered an unjustly preferential charge for extension of service or an unjust rate to a prospective customer that could otherwise be served by the electric utility; this would be done in a contested case proceeding under the standards set forth in the bill. If the Commission finds that the cooperative's charges to extend service, if any, or the rates offered to a prospective customer are unjust and unreasonable, it would order the cooperative to assess the appropriate charges or rates. In addition, the customer would also have 60 days to opt to switch service to the regulated electric utility. If the customer switches, the objecting electric utility would pay the cooperative the reasonable value of its facilities that the regulated electric utility would continue to use to serve the customer.

Definitions. Definitions in the bill include:

"Cooperative" or **"cooperative electric utility"** would mean "an electric utility organized as a cooperative corporation under sections 98 to 109 of 1931 PA 327, MCL 450.98 to 450.109, serving primarily members of the cooperative electric utility."

"Electric Utility" would mean "a person, partnership, corporation, association, or other legal entity whose transmission or distribution of electricity the [Public Service Commission] regulates under 1909 PA 106, MCL 460.551 to 460.559, or 1939 PA 3, MCL 460.1 to 450.10c. Electric utility does not include a municipal utility, affiliated transmission company, or independent transmission company."

"Member" would mean "a person, partnership, corporation, association, or other legal entity that purchases electricity from a cooperative electric utility as a member of the cooperative."

"Member-regulation" would mean "the board of directors of the cooperative is charged with establishing, maintaining, and applying all rates, charges, accounting standards, billing practices, and terms and conditions of service."

FISCAL IMPACT:

A fiscal analysis is in process.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.