

DRAFT Language concerning election to take competitive supply without paying wires charges.

New Subsection E in 56-583 (Wires Charges).

E. 1. Notwithstanding the provisions of §§ 56-582 D and 56-585 C, and effective not later than July 1, 2004, individual customers [**Options: (i) within the industrial and commercial rate classes, (ii) within other specified customer classes, (iii) meeting specific demand criteria, (iv) within such customer classes, or meeting such demand criteria as may be established by the Commission**] of incumbent electric utilities under this Chapter may elect, upon giving prior notification to such utilities, to purchase retail electric energy from licensed suppliers thereof without the obligation to pay wires charges to any such utilities as otherwise provided under this section.

2. Any such customers (i) making such election, and (ii) thereafter exercising that election by obtaining retail electric energy from suppliers without paying wires charges to their incumbent electric utilities, as authorized herein, shall not be entitled to purchase retail electric energy from their incumbent electric utilities thereafter at the capped rates established under § 56-582, for the duration of the capped rate period expiring on July 1, 2007.

3. a. Such customers making and exercising such election may thereafter, however, purchase retail electric energy from their incumbent electric utilities at rates based upon market prices for generation capacity and energy, as such rates may be determined and approved by the Commission.

b. As used in this subdivision, the term “rates based upon market prices for generation capacity and energy” means:

**OPTION ONE:** The additional cost to incumbent utilities of either (i) acquiring power from the market, or (ii) generating the power with their own available generation units to serve returning customers, whichever is less.

**OPTION TWO:** The price incumbent utilities would pay to obtain power in the market, regardless of whether utilities can self-generate the power for returning customers at a lower cost.

**OPTION THREE:** Commission to determine method for establishing market-based rates to be paid by returning customers based on special Commission proceeding convened for that purpose, in which all stakeholders and interested parties can participate.

4. The Commission shall promulgate such rules and regulations as may be necessary to implement the provisions of this subsection.

DRAFT Language concerning election to forego capped rates in exchange for the right to avoid minimum stay.

New Subdivision E 2 in 56-577 (current E would be renumbered E 1)

E. 2. Effective not later than July 1, 2004, retail customers of electric energy (i) purchasing such energy from licensed suppliers, and (ii) otherwise subject to minimum stay periods<sup>1</sup> prescribed by the Commission pursuant to subdivision E 1, shall nevertheless be exempt from any such minimum stay obligations by agreeing to purchase electric energy at market-based rates from incumbent electric utilities or default providers concurrent with seeking to purchase electric energy from such utilities or providers after a period of obtaining electric energy from another supplier. Such rates shall be based upon market prices for generation capacity and energy, as determined and approved by the Commission.

3. As used in this subdivision, the term “market prices for generation capacity and energy” means:

**OPTION ONE:** The additional cost to incumbent utilities of either (i) acquiring power from the market, or (ii) generating the power with their own available generation units to serve returning customers, whichever is less.

**OPTION TWO:** The price incumbent utilities would pay to obtain power in the market, regardless of whether utilities can self-generate the power for returning customers at a lower cost.

**OPTION THREE:** Commission to determine method for establishing market-based rates to be paid by returning customers based on special Commission proceeding convened for that purpose, in which all stakeholders and interested parties can participate.

<sup>1</sup> Under the Commission’s current regulations developed pursuant to § 56-577 E, customers with a demand of 500 kW or higher are subject to a twelve-month minimum stay period upon returning to their incumbent utilities for capped rate service after receiving service from an alternate supplier.

4. Notwithstanding the provisions of §§ 56-582 D and 56-585 C 1, however, any such customers exempted from any applicable minimum stay periods as provided in subdivision E 2 shall not be entitled to purchase retail electric energy from their incumbent electric utilities thereafter at the capped rates established under § 56-582, and expiring on July 1, 2007, unless such customers agree to satisfy any minimum stay period then applicable while obtaining retail electric energy at capped rates.

5. The Commission shall promulgate such rules and regulations as may be necessary to implement the provisions of this subsection.

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