DEFINITIONS:

“Aggregation program," a grouping of retail customers into a buying group to purchase energy generation services in bulk from a competitive electric supplier.

"Commission" [STATE-SPECIFIC NAME AND DEFINITION]

“Competitive electric supplier,” a person or entity licensed by the [COMMISSION] to furnish electric supply to retail customers. The term does not include a person, not otherwise a competitive electric supplier who owns or operates equipment or procures electricity used solely for self-supply of electricity.

"Dual bill," an invoicing framework in which the retail customer receives a bill from the competitive electric supplier that includes charges for electric supply services and another from the electric utility for transmission and distribution services.

"Electric utility" or "investor-owned utilities," an electric corporation as defined in [STATE STATUTE]. "Electric utility" or "investor-owned utilities" shall not include municipally owned electric utilities or rural electric cooperatives, but such municipally owned or rural electric cooperatives may choose to opt in and be bound by the applicable provisions of this law.

"Hourly price," the charges for utility supply service that may vary hour to hour and are determined from wholesale market prices using a methodology approved by [COMMISSION].

"Retail customer," a customer purchasing electric supply from the electric utility supplier or from a retail electric supplier.

"Transmission and distribution service," the delivery of electricity provided by the electric utility over its transmission and distribution systems.

The Legislature finds and declares that:

Reliable and affordable electricity is essential to the prosperity, economic growth, and well-being of the citizens of this [STATE].

Electric demand is increasing rapidly due to the growth of data centers, industrial expansion, and the transition to a more electrified economy.

Over the last two decades, there have been few investments by the utility in baseload power generation, significant resources are scheduled for retirement and the state does not have sufficient generation to meet significant new load growth now projected.

Utility ratepayers in [STATE] fund the development of new power generation projects, exposing households and businesses to significant and escalating electricity costs to replace the retirement of power generation and meet increases in demand.

Allowing certain large electricity users to procure their own electric supply will reduce the volume of new utility-built generation required, thereby lowering system costs and relieving financial burdens on all ratepayers.

By enabling certain large customers to shop for power while maintaining the utility’s obligation to provide reliable transmission and distribution service, this Act provides a balanced framework that promotes economic development, supports resource adequacy, and protects households and small businesses from disproportionate cost increases.

The avoided generation costs resulting from this Act represent a direct savings to ratepayers and an important step toward ensuring the long-term affordability, reliability, and competitiveness of the State's electric system.

It is therefore the purpose of this Act, known as the "Energy Freedom & Fairness Act", to establish a process for retail access and third-party procurement by certain large customers, to provide for [COMMISSION] oversight, and to ensure that all ratepayers benefit from a more efficient, transparent, and sustainable electric system.

RETAIL ACCESS

Commencing [DATE], any eligible customer as defined in this section may elect to obtain electric supply and other required services directly from the competitive wholesale electricity market or a third-party supplier. The electric utility shall continue to provide electric distribution services.

ELIGIBILITY

Non-residential retail customers whose electric demand during the most recent calendar year exceeded 1 megawatt (MW) shall be permitted to procure electric supply directly from an entity other than the incumbent electric rate-regulated provider.

The bill provides that the non-residential retail customer(s) may meet the peak demand threshold by aggregating loads at contiguous or non-contiguous sites located within [STATE]. Individual non-residential retail customers may form an aggregation program to procure bulk power as a group.

This act does not prohibit or limit the right of a person to obtain self-service power and does not impose a transition, implementation, exit fee, or any other similar charge on self-service power. A person using self-service power is not a competitive electric supplier, electric utility, or a person conducting an electric utility business.

CAP ON ELIGIBLE LOAD SERVED TO PROVIDE FOR UTILITY PLANNING CERTAINTY

The [COMMISSION] shall establish a subscription cap allowance and queue process for non-residential retail utility customers eligible to purchase energy and capacity services outside of the utility as defined in [SECTION].

The cap shall be published by order and shall be incremental to existing loads served by licensed suppliers and third parties and based on a percentage of each utility's weather-adjusted retail sales from the previous calendar year, with consideration for any incremental demand growth.

The previously published cap shall have effect until the publication of such new order.

Such subscription cap allowance shall be no less than 20 percent of the total weather-adjusted retail sales for the preceding calendar year for each utility and shall remain in effect until replaced by a new order, at which time the cap may increase and shall not decrease.

The [COMMISSION] shall issue an order establishing the subscription cap allowance within [12] months of the effective date of this section.

If the [COMMISSION] fails to issue such an order within the required timeframe, an automatic minimum cap of 20 percent shall take effect and remain in force until a new order is published.

If a utility's subscription cap allowance is fully subscribed, a new customer will be placed in the subscription queue.

Customers whose electric demand during the most recent calendar year exceeded 75 megawatts at one site shall not be included in the calculation of the cap.

Adjustments to the Cap:

If the utility's subscription cap allowance is fully subscribed for two consecutive years, the [COMMISSION] shall conduct a proceeding to review such cap allowance and may expand such cap allowance if (i) a wait list exists for unserved customers or (ii) additional evidence of sustained or accelerated load growth is presented and the [COMMISSION] shall issue an order adjusting the cap allowance within [12] months of a request to do so.

If the utility's subscription cap allowance is fully subscribed for two consecutive years and the [COMMISSION] has not completed proceeding, the cap shall automatically increase annually by an additional minimum of 10 percent.

Every two years thereafter, the [COMMISSION] shall conduct a proceeding to review such subscription cap allowance and consider expanding or removing the cap allowance based on subscription queue load, projected utility load growth, and other market factors that the [COMMISSION] deems relevant.

On an annual basis, the [COMMISSION] shall publish a rank-ordered subscription queue of all customers awaiting retail open access service under this subsection. The filing shall include the estimated amount of electric energy used by each customer awaiting retail open access service under this subsection.

A customer seeking to expand usage at a facility shall be permitted to purchase electric energy from a licensed supplier for both the existing and any expanded load at such facility, as well as any new facility constructed or acquired by the customer that is similar in nature, if the customer owns more than 50 percent of the new facility. The owner of such a new facility may purchase electric energy from a third party regardless of whether the sales exceed the subscription cap allowance in effect established in the previous section, provided that such load is considered incremental in the calculation of the subsequent adjustments to the cap.

CUSTOMER TO UTILITY NOTICES

An eligible customer may discontinue direct market purchases of electricity and resume purchasing electricity from an electric utility if the electric utility has sufficient capacity to serve the customer's needs.

A customer who elects to receive service directly from a third party may subsequently provide notice to the electric utility of the customer's desire to receive standard generation electric service as set forth in the electric utility's tariff.

The terms pursuant to which a customer receiving supply service from a competitive electric supplier may leave supply service from the electric utility are as follows:

- All customers must provide a written notice to the electric utility at least 30 days prior to the termination of utility supply service date

The terms pursuant to which a customer receiving supply service from the wholesale market or a third-party supplier may return to full service from the electric utility are as follows:

- Customers whose peak demand was one to twenty-five megawatts during the most recent calendar year must provide written notice to the electric utility 30 days prior to the return to utility supply service date
- Customers whose peak demand was greater than twenty-five megawatts during the most recent calendar year must provide written notice to the electric utility six months prior to the return to service date

Customers who wish to return to full service with the electric utility prior to the notice requirements may be placed on an "hourly price" for the charges of electric supply from the electric utility until the notice period is complete.

RPS COMPLIANCE

Competitive electric suppliers shall match a percentage of each retail electric customer's annual load with renewable energy equal to the annual obligation of the customer's incumbent electric utility pursuant to [RPS STATE STATUTE].

For these purchases, competitive electric suppliers shall be held to the same reporting requirements as the electric utilities in filings with the [COMMISSION/RELEVANT AGENCY/ENTITY].

UTILITY RATE TRANSPARENCY

Each electric utility shall take appropriate operational measures to separate internal costs to accurately reflect the associated costs charged to ratepayers for each of these functions.

All electric utility customer bills shall contain sufficient information to enable the customer to determine the basis for charges and information necessary to compare offers.

No later than [DATE] electric utilities shall delineate charge information on all customer bills according to service, defining the following charges as separate line items:

1. Distribution
2. Transmission
3. Generation and supply, and the associated cost per kWh and per kW or any other pertinent billing unit determinants;

4. Individual program charges, including but not limited to energy efficiency, low-income assistance programs, demand response programs, and any other programs outside of the delivery of basic service;
5. Credits;
6. Taxes;
7. Account management and billing fees; and,
8. Any other charges clearly defined.

A record of these individual program and service costs shall be published and made available in an electric utility's tariff. Any proposed changes to each category shall be included in all ratemaking cases and the electric utility's integrated resource plans on or after [DATE], subject to [REFERENCE STATUTE ON RATEMAKING].

CUSTOMER DATA AND BILLING

Customers receiving electricity from a competitive electric supplier shall not be assessed any costs through the distribution or transmission rates charged by an electric utility for costs incurred with compliance with the state renewable portfolio standard or generation and supply charges.

The [COMMISSION] shall develop processes for competitive electric suppliers to confirm and document the retail customer's consent to release data; however, such processes shall not require onerous signature or other requirements to be received from the retail customer. Commonly used digital signature or similar technologies consistent with current technological capabilities shall be allowed to confirm customer consent.

The [COMMISSION] shall require each electric utility to provide:

1. Historical usage data access shall include at least two years of customer usage or metering data and other customer information required to facilitate an electric supply transaction, to include, but not be limited to, customer class details, capacity and transmission allocations, and loss factors.
2. Historical usage data shall include both monthly summaries and available interval data, if available, both at the kilowatt-hour energy and kilowatt demand levels.
3. While a retail customer is under contract for electric supply with a competitive electric supplier, the electric utility shall make available to the competitive electric supplier such usage data as necessary to facilitate invoicing in a timely manner.

Competitive electric supplier customers shall receive dual billing whereby the utility issues a bill to the customer for delivery and fixed-utility charges, and the competitive electric supplier collects payment for the generation and supply charges.

[INSERT FOR NON RTO STATES]

An eligible customer that utilizes a third-party electric supplier provides arrangements for adequate transmission service from the supplier to have its electricity delivered from the supply sources to the incumbent electric utility's transmission system. The incumbent electric utility shall cooperate with the competitive electric supplier to provide reasonable terms of transmission service, consistent with industry standards, the Open Access Transmission Tariff, and applicable business practices.

A determination must be made, in accordance with federal laws and regulations, as to whether the transmission upgrade solely benefits the eligible customers or if the upgrade benefits others whom the incumbent utility serves. To the extent the transmission upgrade benefits multiple customers, the costs of the upgrade shall be allocated to all customers based on a methodology approved by the commission.

COMMISSION OVERSIGHT

Subject to the provisions herein, the [COMMISSION] may promulgate any rules or regulations to ensure proper oversight and enforcement.

COST IMPACT TO RATEPAYERS

The [COMMISSION] shall ensure that the provisions of this act do not create an unreasonable shifting of costs to customers who are not participating in the retail purchase of electricity. The [COMMISSION] shall also consider the avoided generation and market purchase costs to ratepayers by relieving the electric utility of the obligation to serve supply service, while maintaining transmission and distribution services to customers that procure their own supply. These “business as usual” avoided costs must be balanced against any potential incurred costs of relieving the utility of the obligation to serve these large customers.

An electric utility shall not increase its rates and charges or alter, change, or amend any rate or rate schedules, the effect of which will be to increase the cost of services to its customers related to this bill, without first receiving [COMMISSION] approval as provided in this section. The utility shall place in evidence facts relied upon to support the utility’s petition or application to increase its rates and charges, or to alter, change, or amend any rate or rate schedules.

The [COMMISSION] shall ensure that, in all integrated resource plans, renewable portfolio standard compliance filings and cost recovery proceedings conducted pursuant to, no incumbent electric utility is improperly incorporating the loads of competitive electric supply customers into its forecasts or load projections.

The [COMMISSION] may retain an independent consultant to audit and review any of the filing submissions as laid out in this section.

LICENSING

The [COMMISSION] shall issue orders establishing a licensing procedure for all competitive electric suppliers. To ensure adequate service to customers in this state, the commission shall require that a competitive service provider has the necessary financial, managerial, and technical capabilities, shall require that a competitive electric supplier maintain records that the [COMMISSION] considers necessary including but not limited to:

a. reasonable financial security requirements to ensure the financial responsibility of the retail electric supplier;

b. the electric supply services to retail customers in accordance with contracts, agreements, or arrangements;
c. and the payment of all required applicable state taxes.

A competitive electric supplier is not required to obtain any certificate, license, or authorization from the commission other than as required by this act.

Each entity that applies for a retail electric supplier license shall pay an annual licensing fee of $10,000 to be allocated to the [COMMISSION] and execute and maintain a bond or other financial surety instrument issued by a qualifying surety, insurance company, or other financial institution authorized to transact business in the state of no less than $1,000,000.

The cost of the surety shall be paid by the applicant. The applicant shall file a copy of this surety, with a notarized verification page from the issuer, as part of its application for certification.

REPORTING

On an annual basis, the [COMMISSION] shall file a report with the Governor and relevant legislative committees, a summary of proceedings and actions relevant to the competitive bid process and retail market participation, including, but not limited to:

- Total collected fees (licensing and application fees)
- Current cap totals for each utility service territory, and number of customers and associated MWs participating in each service territory
- A rank-ordered list of customers in the queue for service, if any, including the number of customers and load size
- Total MWs procuring electricity from a third party, rather than the utility, to demonstrate total avoided generation to serve that load

IMPLEMENTATION

Within six months of the effective date of this Act, the [COMMISSION] shall open a proceeding for stakeholder input on the cap, management of the queue and process for third-party procurement.

Within twelve months of the effective date of this Act, the [COMMISSION] shall implement any rules necessary to promulgate this Act.

EFFECTIVE DATE. This Act, being deemed of immediate need, takes effect upon enactment.