FREQUENTLY ASKED QUESTIONS

What is The Energy Freedom & Fairness Act?
Template state legislation that can be tailored to any state. This would allow a determined portion of utility customers in a vertically integrated state to procure electricity from a third party other than the utility.

This will reduce the amount of new generation utilities must build and ratepayers must fund to meet the growing electricity demand, and allow utilities to continue with planned retirements and investments in new generation on a more manageable scale.

Is The Energy Freedom & Fairness Act a "deregulation" bill?
No. The utilities will continue to own, operate and receive a guaranteed rate of return for existing and planned power plants. This legislation allows some large energy users to procure their own electricity, preventing new generation and premium market purchases from being passed through to residential customers.

Who is eligible to procure their own electricity?
Non-residential retail customers whose electric demand during the most recent calendar year exceeded 1 megawatt can procure electric supply directly from an entity other than the incumbent electric rate-regulated provider.

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.

How does aggregation work?
Non-residential customer(s) can meet the 1 megawatt peak demand threshold by aggregating loads at contiguous or non-contiguous sites located within the state. This can be within a company or group of non-related entities that develop a bulk power buying group.

Will there be stranded costs?
No. In the majority of states, utilities had not kept pace in building generation to meet customer demand. Many utilities are purchasing from the wholesale market or procuring electricity through power purchase agreements to make up the difference.

With a large number of scheduled power plant retirements across the country, coupled with load growth forecasts, utilities do not have excess power generation that could be "stranded" if some of their customer base procures electricity from a third party.

Customers who procure their own electricity still pay all other utility fees (transmission, distribution, operations, etc.) directly to the utility except for the generation/supply portion of their bill.

The only cost impact to the utility if more customers enroll with a competitive supplier would be the percentage of costs for the management and billing of those accounts (office space, call center, billing, etc.) These are not large capital expenditures, and the legislation empowers the utility commission or state governing body to ensure any costs are recovered.

This legislation will result in *avoided future generation costs.* Competition reduces the need for the utility to continually build new generation, which reduces operation costs and lowers the overall system-wide costs over time.

What if all customers want to leave utility service?
The legislation addresses this scenario by providing a cap on the load eligible to procure supply from a third party. Even if the cap is fully subscribed, utilities will still need to build or prepare to build to replace planned retirements and load growth in states.

Will this policy raise rates for remaining utility customers? Could it create a cost-shift where industrial customers leave and residential/small businesses pay more?
By allowing large energy users that demand 1 megawatt of electricity or more to procure their own electricity from a retail energy supplier, ratepayers will be protected from the cost burden of new power generation that utilities would otherwise need to build to meet the demand.

Many utility companies are already leveraging a wholesale market to procure additional electricity for resale at premium prices because they are unable to generate enough electricity. If large energy users are able to remove themselves from the equation to procure their own electricity, ratepayers will see less financial impact.

What happens if a large user wants to return to the utility later at a later date for supply service?
If a large energy user decides to discontinue direct market purchases, the large energy user can return to utility service if the utility has sufficient capacity. The large energy user would need to provide a notice of return, depending on the user's peak demand in the most recent calendar year, and the utility has the option to temporarily place that customer on a market-based rate to prevent any cost-shift to existing utility customers.

Do the participating customers still pay other utility costs?
Yes. Large energy users that decide to procure their electricity from a supplier other than their utility company will still have to pay for delivery fees and any other charges or taxes applied by the state.

Will the investor-owned utilities still build and operate power plants?
Yes, the utilities will still own their power plants and can request approval from the state regulatory commission to build new power plants with their “rate of return.” The Energy Freedom & Fairness Act is not “deregulation.” If large energy users are able to procure their own electricity from another supplier, ratepayers will be better protected from the need for utility companies to have to build costly new power plants.

Do other states do this already?
Yes, and more states are implementing versions of this model to shift the risk and cost of building to serve new large loads from all customers to the new customer in need of service. You can view a map of which states have a partial competition market where the utilities still own the generation but some customers can procure their own electricity (states in yellow).

Michigan implemented this policy in 2008 with a 10% cap on customer load eligible to participate. Since 2008, the cap has been fully subscribed with retail energy suppliers serving 5,539 customers (2,798 MW) in 2024.

In 2024, there were 5,981 customers in the utility queues, waiting for a spot to open in the cap; however there is little to no movement in the cap each year once the customer is able to shop. To view a report from the Michigan Public Service Commission, click here.

How does this align with the state's energy and decarbonization goals?
Competitive electric suppliers will have to supply the equivalent annual renewable portfolio standard obligation that is required of the utility company. The competitive electric suppliers will be held to the same reporting requirements.

Emissions have fallen faster in states that allow competition with the utility by allowing customers to voluntarily choose from a variety of clean energy plans that are cleaner than state energy requirements. Competitive service providers have a higher enrollment rate for 100% renewable energy plans than utilities that offer renewable energy plans, as they provide more flexibility on price, terms, energy resources, carbon intensity and bundle these plans with value-added green premium services and tools like smart home thermostats and energy use management tools.

This demand from consumers attracts private investments in clean energy resources from companies, shifting the risk and cost burden from the ratepayer and state to the private company.