

# Annual Report to Members of the Michigan Alliance for Fair Competition

If the effort to end unfair utility competition is like a football game, then 2006 was a year grinding out first downs the hard way: there were no flashy touchdowns but steady progress was made.

The flashy touchdowns came in 2000 with the passage of PA141 which required a Code of Conduct to prevent utility cross-subsidization for Michigan electric utilities and then again in 2004 when the Michigan legislature codified these protections.

Then another touchdown came in 2005 when the Michigan Supreme Court threw out the last of the legal challenges made by electric utilities. These were tremendous gains for Michigan contractors and MAFC.

Since then, continuing the football analogy, the progress has continued but it has been a yard at time. The focus of the effort has been in getting the utilities to comply with the law.

- In 2005 Consumers Energy was fined twice for violations.
- In 2006 Detroit Edison was also fined.
- In 2006 Consumers Energy was again fined.
- Going in to 2007 the Michigan Court of Appeals was examining the 2006 decision to determine whether the charges against Consumers Energy had gone far enough. (See next section 'Electric Utility Customers Pay for Lower Gas Utility Rates.')

To put the entire struggle against unfair utility competition in perspective, the first 16 years of MAFC saw much activity but few results. Then, as related above, 2000 – 2006 has seen the job completed half-way: electric utilities are no longer able to cross-subsidize as they had in the past. However, to complete the job, gas utilities also need the same restrictions.

The climate to accomplish these changes and completely end these abuses is favorable to accomplish. Legislators who have been asked recognize the need for the protections to extend to the gas utilities. The Public Service Commission also recognizes the need for this parity. All is ready for MAFC to make a push.

So what is the hold up?

Very simply, the efforts of the last 6 years have depleted our funds and left MAFC with an obligation to our attorneys. The cost to defend the Code of Conduct twice before the Michigan Court of Appeals and before the Michigan Supreme Court was tremendous. (Our attorneys have been graciously carrying us as MAFC attempts to raise funds.) Before any further efforts can be made, MAFC wants these outstanding obligations to be retired.

You can help by renewing your membership with your \$300 suggested minimum Dues payment. As none of this is for lobbying purposes, the entire amount is deductible as a business expense. An additional 'Debt Retirement' contribution above and beyond your dues would also be helpful. If every MAFC member pays his or her Dues it will go a long way toward reaching our goal.

Then we can get back to getting the job done.

**Who is MAFC?** The steering committee of MAFC consists of HVAC contractors like you. We are volunteering our time and resources for this cause. Most of the time we are running our businesses like you, but are willing to make the investment of time because it is such an important cause.

**Special Fund Raising Opportunity:** Online Access, Inc. has graciously agreed to donate half the proceeds of a Page-Pilot website subscription for the first year for any contractor who is referred through MAFC. For more information, visit [www.MichFairComp.com](http://www.MichFairComp.com).

## Electric Utility Customers Unfairly Pay For Lower Gas Utility Rates

The Michigan Public Service Commission ("MPSC") is still advocating for cost free delivery of Consumers Energy's gas utility appliance service plan ("ASP") advertisements with the monthly electric utility bills; which lowers gas utility rates.

In Michigan Court of Appeals Case No. 270941 the MPSC has argued that the gas utility of Consumers Energy need not pay fair market value for the postage (\$.02810 per unit) used in the illegally mailing of over 3 million ASP advertisements with the monthly Consumer Energy electric utility bills, but does needs to pay fair market value to the electric division for the electric utility bill envelopes and billing machinery illegally used by the ASP program.

In its bizarre interpretation and application of Section III.C of the Code of Conduct the MPSC—on behalf of all the utility ratepayers of Michigan—stated that while the MPSC rules

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**Electric Ratepayers Subsidize Gas Users**  
...continued from front...

unequivocally require the ASP program pay fair market value for the electric utility envelopes illegally used to deliver its ASP advertisements with the monthly electric utility bills, the same rule does not apply to the postage used on the same electric utility envelopes used for delivering ASP advertisements with the electric bills.

The MPSC stated that the electric utility division of Consumers Energy provided a service to the ASP program by illicitly allowing over 3 million ASP advertisements to be included and delivered with the monthly electric utility bills and therefore the ASP program needs to pay the higher of fair market value (\$0.1040 per unit) over the fully allocated embedded costs (\$0.0610 per unit) for the electric utility envelopes and billing machinery used.

However the MPSC then misconstrues its own rule to conclude that if the ASP was required to fully account for the electric utility postage used on the same electric utility envelopes that delivered the illegal ASP advertisements and the electric utility bills; the ASP would effectively be providing a subsidy to the electric utility.

Stating that any service provided, even a hypothetical one, to an electric utility, including a "subsidy" service, shall be at the lower of market price or 10% over fully allocated embedded costs; which in effect means that the electric utility ratepayers should never receive fair market value for any service provided to the ASP program.

On the one hand the MPSC has found that because the ASP program violated the Code of Conduct it must pay \$0.1040 per unit for the 3 times it illegally used of the electric utility envelopes to advertise the ASP program with the electric utility bill; which in effect will lower Consumers Energy's electric utility rates.

Ironically, on the other hand the MPSC

**IS YOUR BUSINESS DOWN?**  
Can you blame it all on the poor economy or have you lost customers to utility appliance repair plans?  
We have received reports from contractors from across Michigan who have been surprised at the number of longtime customers who now have utility repair plans. Get involved to end unfair utility competition! Please send in your renewal today.  
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is allowing electric utility ratepayers of Consumers Energy to subsidize and pay for the cost-free delivery of the illicit ASP advertisement with the electric utility bills.

This means that the Consumers Energy's gas utility rates and or ASP program costs will be approximately be \$1,000,000 less—at the expense of electric ratepayers. Given that this is the first case

to address the Code of Conduct compensation requirements the MAFC is confident that the Michigan Court of Appeals will provide a reasoned and supported decision that makes clear that delivery, including postage, of the ASP advertisements with the monthly electric bill was a service provided by the electric utility and therefore is fully chargeable to the ASP program at fair market value.

**Yes! Count Me In To Get The Job Done To End Unfair Utility Competition!**  
Copy this entire page and send it back with your contribution

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**DUES:**

[ ] Enclosed is \$300 for my annual dues.  
[ ] Enclosed is an additional amount for legal debt retirement \$ \_\_\_\_\_.  
[ ] Contact me for more info on how I can be involved.

**Please Copy & send to: MAFC  
3225 W. St. Joseph  
Lansing, MI 48917**

**GET INVOLVED WITH MAFC!**  
MAFC is a volunteer organization made up of busy people just like you. We need you to roll up your sleeves and get involved in the struggle against unfair utility competition because 'many hands make light work'. Will you join with those who have already picked up the 'utility gauntlet'?