

SENATE BILL No. 216

February 20, 2007, Introduced by Senators PATTERSON, RICHARDVILLE, JELINEK, KAHN, PAPPAGEORGE, THOMAS, HUNTER and OLSHOVE and referred to the Committee on Energy Policy.

A bill to amend 1939 PA 3, entitled

"An act to provide for the regulation and control of public utilities and other services affected with a public interest within this state; to provide for alternative energy suppliers; to provide for licensing; to include municipally owned utilities and other providers of energy under certain provisions of this act; to create a public service commission and to prescribe and define its powers and duties; to abolish the Michigan public utilities commission and to confer the powers and duties vested by law on the public service commission; to provide for the continuance, transfer, and completion of certain matters and proceedings; to abolish automatic adjustment clauses; to prohibit certain rate increases without notice and hearing; to qualify residential energy conservation programs permitted under state law for certain federal exemption; to create a fund; to provide for a restructuring of the manner in which energy is provided in this state; to encourage the utilization of resource recovery facilities; to prohibit certain acts and practices of providers of energy; to allow for the securitization of stranded costs; to reduce rates; to provide for appeals; to provide appropriations; to declare the effect and purpose of this act; to prescribe remedies and penalties; and to repeal acts and parts of acts,"

(MCL 460.1 to 460.10cc) by adding section 10dd; and to repeal acts

and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 10DD. (1) THE LEGISLATURE FINDS AND DECLARES THAT THERE
2 IS A NEED TO PROVIDE ASSISTANCE TO LOW INCOME INDIVIDUALS IN PAYING
3 THEIR ENERGY COSTS AND TO DEVELOP MEASURES TO REDUCE RESIDENTIAL
4 ENERGY USE IN THIS STATE.

5 (2) THE PURPOSE OF THIS SECTION IS TO DO ALL OF THE FOLLOWING:

6 (A) TO PROTECT THE HEALTH AND SAFETY OF THE CITIZENS OF THIS
7 STATE BY ASSISTING LOW INCOME CUSTOMERS IN MAINTAINING LIFE-
8 SUSTAINING ELECTRIC AND NATURAL GAS SERVICE.

9 (B) TO PROVIDE PAYMENT ASSISTANCE TO LOW INCOME CUSTOMERS FOR
10 ELECTRIC AND NATURAL GAS SERVICE.

11 (C) TO HELP CERTAIN LOW INCOME CUSTOMERS CONSERVE ENERGY AND
12 REDUCE RESIDENTIAL UTILITY BILLS.

13 (D) TO ENSURE THAT LOW INCOME ENERGY ASSISTANCE AND EFFICIENCY
14 PROGRAMS RECEIVING FUNDS UNDER THIS SECTION ARE OPERATED IN A COST-
15 EFFECTIVE AND EFFICIENT MANNER.

16 (3) THE LOW INCOME ENERGY ASSISTANCE AND EFFICIENCY PROGRAM IS
17 CREATED WITHIN THE COMMISSION AND SHALL BE FUNDED BY THE FUND
18 CREATED UNDER SUBSECTION (4). WITHIN 90 DAYS OF THE EFFECTIVE DATE
19 OF THE AMENDATORY ACT THAT ADDED THIS SECTION, THE COMMISSION BY
20 ORDER SHALL TERMINATE THE LOW INCOME AND ENERGY EFFICIENCY FUND
21 CREATED UNDER SECTION 10D(7), VACATE ANY PORTION OF A COMMISSION
22 ORDER CONTINUING THE FUNDING OF THAT PROGRAM, AND TRANSFER ANY
23 BALANCES IN THE FUND TO THE FUND CREATED UNDER SUBSECTION (4). THE
24 COMMISSION SHALL PROVIDE LOW INCOME ENERGY ASSISTANCE AND
25 EFFICIENCY ONLY AS PROVIDED UNDER THIS SECTION.

1 (4) THE LOW INCOME ENERGY ASSISTANCE AND EFFICIENCY FUND IS
2 CREATED IN THE STATE TREASURY AND SHALL BE ADMINISTERED BY THE
3 COMMISSION AS PROVIDED UNDER THIS SECTION. THE MONEY COLLECTED
4 THROUGH THE SURCHARGE AUTHORIZED UNDER SUBSECTION (5) SHALL BE
5 DEPOSITED WITH THE STATE TREASURER AND CREDITED TO THE FUND. AN
6 ACCOUNT SHALL BE CREATED INSIDE THE FUND FOR EACH UTILITY IMPOSING
7 A SURCHARGE UNDER THIS SECTION. ALL MONEY COLLECTED FROM A
8 PARTICULAR UTILITY'S CUSTOMERS UNDER THIS SECTION SHALL BE
9 DEPOSITED INTO THAT UTILITY'S ACCOUNT. THE STATE TREASURER MAY
10 RECEIVE MONEY OR OTHER ASSETS FROM ANY SOURCE FOR DEPOSIT INTO THE
11 FUND. THE STATE TREASURER SHALL DIRECT THE INVESTMENTS OF THE FUND
12 AND CREDIT TO THE FUND INTEREST AND EARNINGS FROM FUND INVESTMENTS.
13 NO MONEY SHALL BE EXPENDED FROM THE FUNDS EXCEPT AS SPECIFICALLY
14 AUTHORIZED BY THIS SECTION. MONEY IN THE FUND AT THE CLOSE OF THE
15 FISCAL YEAR SHALL REMAIN IN THE FUND AND NOT LAPSE TO THE GENERAL
16 FUND.

17 (5) THE COMMISSION SHALL, AFTER NOTICE AND HEARING, ANNUALLY
18 APPROVE A LOW INCOME ENERGY ASSISTANCE AND EFFICIENCY FACTOR THAT
19 SHALL BE A NONBYPASSABLE SURCHARGE PAYABLE BY EVERY CUSTOMER
20 RECEIVING A DISTRIBUTION SERVICE FROM A NATURAL GAS OR ELECTRIC
21 UTILITY WITH RATES REGULATED BY THE COMMISSION. IN ESTABLISHING THE
22 SURCHARGE, THE COMMISSION SHALL CONSIDER THE AMOUNT OF ALTERNATIVE
23 FUNDS OR SOURCES OF FUNDING FOR ENERGY ASSISTANCE AND ENERGY
24 EFFICIENCY. IN NO EVENT SHALL THE SURCHARGE EXCEED \$1.00 PER MONTH,
25 PER BILLING METER OR CUSTOMER LOCATION FOR RESIDENTIAL AND
26 COMMERCIAL CUSTOMERS, AND SHALL NOT EXCEED \$20.00 PER MONTH, PER
27 BILLING METER OR CUSTOMER LOCATION FOR INDUSTRIAL CUSTOMERS. A

1 RESIDENTIAL CUSTOMER SHALL NOT BE ASSESSED A SURCHARGE FOR MORE
2 THAN 2 METERS. CUSTOMERS PURCHASING ENERGY FROM SUPPLIERS OTHER
3 THAN THE LOCAL ELECTRIC OR NATURAL GAS UTILITY SHALL PAY AN AMOUNT
4 EQUAL TO WHAT THEY WOULD HAVE PAID HAD THEY BEEN A FULL SERVICE
5 CUSTOMER OF THE LOCAL UTILITY. CUSTOMERS WHO RECEIVE ELECTRIC AND
6 NATURAL GAS SERVICE AT A SINGLE LOCATION SHALL PAY 1 SURCHARGE FOR
7 THE ELECTRIC SERVICE AND 1 SURCHARGE FOR THE NATURAL GAS SERVICE.
8 ONLY MONEY ACTUALLY COLLECTED SHALL BE USED TO CALCULATE THE AMOUNT
9 OF A UTILITY'S SURCHARGE REVENUE UNDER THIS SECTION.

10 (6) THE SURCHARGE FOR EACH UTILITY UNDER THIS SECTION SHALL BE
11 SET AT A LEVEL DESIGNED TO COLLECT AN ANNUAL AMOUNT NOT EXCEEDING
12 THE LESSER OF A REASONABLE AMOUNT DETERMINED BY THE COMMISSION TO
13 BE REQUIRED IN THE UTILITY'S SERVICE AREA FOR LOW INCOME AND ENERGY
14 EFFICIENCY ASSISTANCE OR THE AMOUNT ALLOWED UNDER SUBSECTION (5).

15 (7) THE COMMISSION MAY AUTHORIZE THE STATE TREASURER TO MAKE
16 DISBURSEMENTS FROM THE FUND THROUGH A COMPETITIVE GRANT PROCESS TO
17 ANY GOVERNMENTAL OR NONGOVERNMENTAL ENTITY THAT PROVIDES ASSISTANCE
18 TO ELECTRIC OR NATURAL GAS UTILITY CUSTOMERS. THE COMMISSION SHALL
19 ISSUE REQUESTS FOR PROPOSALS AND PERMIT AT LEAST 30 DAYS FOR
20 RESPONSES. AFTER RESPONSES ARE RECEIVED AND MADE AVAILABLE TO THE
21 PUBLIC, INCLUDING BY POSTING THEM ON THE COMMISSION'S WEBSITE, THE
22 COMMISSION SHALL HOLD A PUBLIC HEARING TO TAKE COMMENT ON THE
23 VARIOUS PROPOSALS. AS A CONDITION TO RECEIVING A GRANT, THE
24 COMMISSION SHALL REQUIRE ALL OF THE FOLLOWING:

25 (A) A WRITTEN GRANT PROPOSAL PROVIDING DETAILED INFORMATION
26 REGARDING THE GRANTEE AND THE SERVICES OR ASSISTANCE THE GRANTEE
27 PROPOSES TO OFFER.

1 (B) WRITTEN QUARTERLY PROGRESS REPORTS AND A FINAL REPORT AT
2 THE END OF THE GRANT FUNDING SUBMITTED TO THE COMMISSION.

3 (C) THAT THE GRANTEE MAINTAIN RECORDS OF EXPENDITURES AND
4 SUBMIT MONTHLY FINANCIAL REPORTS TO THE COMMISSION.

5 (D) THAT THE GRANTEE BE SUBJECT TO AN AUDIT BY THE COMMISSION
6 STAFF OR AS OTHERWISE DESIGNATED BY THE COMMISSION.

7 (E) FOR GRANTEES WHO RECEIVE \$100,000.00 OR MORE IN ANY 12-
8 MONTH PERIOD, THAT THE GRANTEE SUBMIT AN AUDITED FINANCIAL REPORT
9 PREPARED BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT FOR THE 12-
10 MONTH PERIOD TO THE COMMISSION.

11 (F) TO THE EXTENT POSSIBLE, THAT THE FUNDS RECEIVED UNDER THE
12 GRANT PROGRAM THAT WERE COLLECTED BY A PARTICULAR UTILITY SHALL
13 ONLY BE USED TO PROVIDE ENERGY ASSISTANCE AND ENERGY EFFICIENCY TO
14 LOW INCOME CUSTOMERS FOR THE SERVICES PROVIDED BY THAT SAME
15 UTILITY.

16 (8) A GRANT AWARDED UNDER THIS SECTION IS SUPPLEMENTAL TO
17 EXISTING FEDERAL FUNDING AND SHALL NOT BE AWARDED TO A GRANTEE IF
18 IT WILL RESULT IN THE REDIRECTION OF ANY FEDERAL FUNDS TO A
19 NONPARTICIPATING UTILITY.

20 (9) IN AWARDING A GRANT, THE COMMISSION SHALL CONSIDER THE
21 AMOUNT OF FUNDS ALLOCATED TO THE PROPOSED PURPOSE AND TAKE INTO
22 ACCOUNT THE PREEXISTING SOURCES OF FUNDING FOR THAT PURPOSE. THE
23 COMMISSION SHOULD GIVE PRIORITY TO ANY USE OF FUNDS AS LEVERAGE FOR
24 ANY OTHER ADDITIONAL GOVERNMENTAL OR PRIVATE RESOURCES THAT PROVIDE
25 LOW INCOME ENERGY ASSISTANCE AND EFFICIENCY. THE COMMISSION SHALL
26 CONSIDER THE BENEFITS RECEIVED RELATIVE TO THE COST OF THE
27 PROPOSAL. PROPOSALS MAY BE FUNDED FOR 1 TO 3 YEARS. GRANTEES SHALL

1 NOT USE MORE THAN 10% OF THE GRANT FUNDS RECEIVED THROUGH THIS
2 PROGRAM FOR PLANNING AND ADMINISTERING OF THE FUNDS BY GRANTEEES.

3 (10) NOT LESS THAN 90% OF THE FUNDS GRANTED UNDER THIS SECTION
4 SHALL BE DISBURSED FOR DIRECT ENERGY ASSISTANCE. NOT MORE THAN 10%
5 OF THE FUNDS GRANTED CAN BE USED FOR ENERGY EFFICIENCY.

6 (11) GRANTS FOR LOW INCOME ENERGY ASSISTANCE SHALL BE USED
7 ONLY TO PROVIDE BILL PAYMENT ASSISTANCE TO LOW INCOME ELECTRIC AND
8 NATURAL GAS UTILITY CUSTOMERS. GRANTS FOR ENERGY EFFICIENCY GRANTS
9 SHALL TARGET, TO THE EXTENT PRACTICABLE, TO HIGH-COST, HIGH-VOLUME
10 USE STRUCTURES OCCUPIED BY CUSTOMERS ELIGIBLE FOR THE LOW INCOME
11 ENERGY ASSISTANCE PROGRAM.

12 (12) THE COMMISSION SHALL ISSUE AN ANNUAL REPORT TO THE
13 LEGISLATURE AND THE GOVERNOR ON OR BEFORE MAY 1 OF EACH YEAR
14 REGARDING THE EFFECTIVENESS AND USE OF THE FUND. THE ATTORNEY
15 GENERAL SHALL HAVE FULL ACCESS TO ALL OF THE COMMISSION'S DOCUMENTS
16 PERTAINING TO THE ADMINISTRATION OF THE FUND.

17 (13) THE COMMISSION SHALL MAINTAIN DETAILED RECORDS OF ITS
18 ACTIVITIES UNDER THIS SECTION. NOT LESS THAN EVERY 2 YEARS, THE
19 AUDITOR GENERAL, OR A CERTIFIED PUBLIC ACCOUNTANT APPOINTED BY THE
20 AUDITOR GENERAL, SHALL CONDUCT AND REMIT TO THE LEGISLATURE AN
21 AUDIT OF THE FUND.

22 (14) ON OR AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT
23 ADDED THIS SECTION, THE COMMISSION SHALL NOT APPROVE A SPECIAL
24 CONTRACT BETWEEN AN ELECTRIC OR NATURAL GAS UTILITY WITH RATES
25 REGULATED BY THE COMMISSION AND A CUSTOMER THAT DOES NOT INCLUDE
26 THE APPLICABLE LOW INCOME ENERGY ASSISTANCE AND EFFICIENCY
27 SURCHARGE DETERMINED UNDER SUBSECTION (5).

1 (15) THE COMMISSION SHALL CONDUCT AUDITS AND INVESTIGATIONS TO
2 ENSURE THAT FUNDS ARE DISBURSED FROM THE FUND AS REQUIRED UNDER
3 THIS SECTION AND BY LAW. IF AN AUDIT OR INVESTIGATION IS CONDUCTED
4 UNDER THIS SUBSECTION, A REPORT SHALL BE FILED WITH THE COMMISSION
5 WITH A COPY SENT TO THE GRANTEE AND THE ATTORNEY GENERAL. IF THE
6 REPORT DISCLOSES ACTIVITY FOR WHICH A CRIMINAL PENALTY IS PROVIDED
7 BY LAW, THE ATTORNEY GENERAL, OR UPON HIS OR HER DIRECTION THE
8 PROSECUTING ATTORNEY, SHALL INSTITUTE CRIMINAL PROCEEDINGS AGAINST
9 THE GRANTEE. THE ATTORNEY GENERAL OR THE PROSECUTING ATTORNEY SHALL
10 ALSO INSTITUTE CIVIL ACTION IN ANY COURT OF COMPETENT JURISDICTION
11 FOR THE RECOVERY OF ANY FUNDS THAT HAVE BEEN ILLEGALLY EXPENDED OR
12 NOT ACCOUNTED FOR.

13 (16) THIS SECTION DOES NOT APPLY TO AN INVESTOR OWNED ELECTRIC
14 OR NATURAL GAS UTILITY WITH NOT MORE THAN 100,000 CUSTOMERS OR A
15 COOPERATIVE ELECTRIC UTILITY IN THIS STATE, UNLESS THE INVESTOR
16 OWNED ELECTRIC OR NATURAL GAS OR COOPERATIVE ELECTRIC UTILITY
17 PROPOSES A SURCHARGE IN A GENERAL RATE CASE OR IN AN APPLICATION
18 FILED WITH THE COMMISSION. A PROPOSED SURCHARGE UNDER THIS
19 SUBSECTION SHALL INCLUDE A PLAN FOR THE ALLOCATION AND DISTRIBUTION
20 OF THE FUNDS COLLECTED BASED ON THE UTILITY'S SERVICE AREA. THE
21 COMMISSION SHALL ONLY HAVE THE AUTHORITY TO EITHER APPROVE OR DENY
22 A PLAN PROPOSED UNDER THIS SUBSECTION.

23 (17) AS USED IN THIS SECTION:

24 (A) "ENERGY ASSISTANCE" MEANS FINANCIAL SUPPORT PROVIDED TO AN
25 ELECTRIC OR NATURAL GAS UTILITY CUSTOMER TO PREVENT IMMINENT SHUT-
26 OFF, AS DEMONSTRATED ON A DISCONNECT NOTICE OR SIGNIFICANT BALANCE
27 DUE, OR THE NEED FOR RESTORATION OF SERVICE. PAYMENT OF ELECTRIC OR

1 NATURAL GAS BILLS IS TARGETED TO LOW INCOME CUSTOMERS WHO
2 ACCUMULATE ARREARS DURING THE HEATING SEASON, OR TO PROVIDE
3 ELECTRICITY OR NATURAL GAS SERVICE TO A HOUSEHOLD HAVING A MEMBER
4 WHO IS ELDERLY, DISABLED, OR A YOUNG CHILD WHERE THE LOSS OF
5 ELECTRIC SERVICE WOULD BE ESPECIALLY DANGEROUS TO HEALTH, OR TO
6 PROVIDE ELECTRICITY TO A HOUSEHOLD WHERE THE LOSS OF ELECTRIC
7 SERVICE WOULD MAKE THE OPERATION OF NECESSARY MEDICAL OR LIFE-
8 SUPPORT EQUIPMENT IMPOSSIBLE OR IMPRACTICAL.

9 (B) "ENERGY EFFICIENCY" MEANS ENERGY EDUCATION OR MEASURES,
10 INCLUDING WEATHERIZATION, WITH THE GOAL AND EFFECT OF REDUCING
11 ENERGY USE BY RESIDENTIAL CUSTOMERS.

12 (C) "FUND" MEANS THE LOW INCOME ENERGY ASSISTANCE AND
13 EFFICIENCY FUND CREATED UNDER SUBSECTION (4).

14 (D) "LOW INCOME" MEANS A HOUSEHOLD IN WHICH 1 OF THE FOLLOWING
15 EXISTS:

16 (i) A HOUSEHOLD WITH A TOTAL INCOME THAT DOES NOT EXCEED THE
17 GREATER OF THE AMOUNT EQUAL TO 150% OF THE FEDERAL POVERTY
18 GUIDELINES AS PUBLISHED BY THE UNITED STATES DEPARTMENT OF HEALTH
19 AND HUMAN SERVICES OR AN AMOUNT EQUAL TO 60% OF THE STATE MEDIAN
20 INCOME.

21 (ii) ONE OR MORE INDIVIDUALS IN THE HOUSEHOLD RECEIVE
22 ASSISTANCE UNDER ANY OF THE FOLLOWING:

23 (A) PART A OF TITLE IV OF THE SOCIAL SECURITY ACT, 42 USC 601
24 TO 619.

25 (B) SUPPLEMENTAL SECURITY INCOME PAYMENTS UNDER TITLE XVI OF
26 THE SOCIAL SECURITY ACT, 42 USC 1381 TO 1385.

27 (C) FOOD STAMPS UNDER THE FOOD STAMP ACT OF 1977, 7 USC 2011

1 TO 2036.

2 (D) PAYMENT UNDER SECTION 38 USC 1315, 38 USC 521, OR 38 USC
3 542 OR UNDER SECTION 306 OF THE VETERANS' AND SURVIVORS' PENSION
4 IMPROVEMENT ACT OF 1978, 38 USC 1521.

5 (E) "NATURAL GAS UTILITY" MEANS A NATURAL GAS COMPANY
6 PROVIDING LOCAL DISTRIBUTION SERVICE TO RETAIL CUSTOMERS, SUBJECT
7 TO THE JURISDICTION OF THE COMMISSION UNDER SECTION 6A.

8 (F) "UTILITY" MEANS A SEPARATE, COMBINED, OR AFFILIATED
9 ELECTRIC OR NATURAL GAS COMPANY.

10 (18) THIS SECTION IS REPEALED EFFECTIVE JULY 1, 2009.

11 Enacting section 1. Section 6c of 1939 PA 3, MCL 460.6c, is
12 repealed.