

**SUBSTITUTE FOR
SENATE BILL NO. 864**

A bill to amend 1939 PA 3, entitled

"An act to provide for the regulation and control of public and certain private 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,"

by amending sections 6e, 9q, and 10u (MCL 460.6e, 460.9q, and 460.10u), section 6e as added by 1980 PA 50, section 9q as added by 2009 PA 171, and section 10u as added by 2000 PA 141.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 6e. (1) ~~Three years after the effective date of section~~
2 ~~6d,~~ **BY MARCH 25, 1983**, the standing committees of the legislature
3 responsible for energy issues shall undertake a review and
4 evaluation of the impact of section 6d and report to the
5 legislature.

6 (2) The legislative committees shall hold a public hearing.
7 Notice of the public hearing shall be given to interested parties
8 who shall be given an opportunity to testify. Following the public
9 hearing, the legislative committees shall prepare a report.

10 (3) The report shall be submitted to the clerk of the house
11 and secretary of the senate and made available to all members of
12 the legislature.

13 Sec. 9q. (1) A provider may shut off service temporarily for
14 reasons of health or safety or in a state or national emergency.
15 When a provider shuts off service for reasons of health or safety,
16 the provider shall leave a notice at the premises.

17 (2) Subject to the requirements of this act, a provider may
18 shut off or terminate service to a residential customer for any of
19 the following reasons:

20 (a) The customer has not paid a delinquent account that
21 accrued within the last 6 years.

22 (b) The customer has failed to provide a deposit or guarantee
23 as required by the provider.

24 (c) The customer has engaged in unauthorized use of a
25 provider's service.

26 (d) The customer has failed to comply with the terms and

1 conditions of a payment plan entered into with the provider in
2 accordance with the provider's rules.

3 (e) The customer has refused to arrange access at reasonable
4 times for the purpose of inspection, meter reading, maintenance, or
5 replacement of equipment that is installed upon the premises or for
6 the removal of a meter.

7 (f) The customer misrepresented his or her identity for the
8 purpose of obtaining a provider service or put service in another
9 person's name without permission of the other person.

10 (g) The customer has violated any rules of the provider so as
11 to adversely affect the safety of the customer or other ~~persons~~
12 **INDIVIDUALS** or the integrity of the provider's system.

13 (h) ~~A person~~ **AN INDIVIDUAL** living in the customer's residence
14 meets both of the following:

15 (i) Has a delinquent account for service with the provider
16 within the past 3 years that remains unpaid.

17 (ii) The ~~customer~~ **INDIVIDUAL** lived in the ~~person's~~ **CUSTOMER'S**
18 residence when all or part of the debt was incurred. The provider
19 may transfer a prorated amount of the debt to the customer's
20 account, based upon the length of time that the ~~customer~~ **INDIVIDUAL**
21 resided at the ~~person's~~ **CUSTOMER'S** residence. This subdivision does
22 not apply if the ~~customer~~ **INDIVIDUAL** was a minor while living in
23 the ~~person's~~ **CUSTOMER'S** residence.

24 (3) A provider shall not shut off service unless it sends a
25 notice to the customer by first-class mail or personally serves the
26 notice not less than 10 days before the date of the proposed
27 shutoff. A provider shall maintain a record of the date the notice

1 was sent.

2 (4) Subject to the requirements of sections **9R AND 9s**, and ~~9r~~,
3 a provider's governing body shall establish a policy to allow a
4 customer the opportunity to enter into a payment plan for an amount
5 owed to the provider that is not in dispute, if a customer claims
6 an inability to pay in full. A provider is not required to enter
7 into a subsequent payment plan with a customer until the customer
8 has complied fully with the terms of an existing or previous
9 payment plan unless the customer demonstrates a significant change
10 in economic circumstances and requests a modification of the
11 payment plan. A provider is not required to enter into a subsequent
12 payment plan with a customer who defaulted on the terms and
13 conditions of a payment plan within the last 12 months.

14 (5) A notice of shutoff under subsection (3) shall contain all
15 of the following information:

16 (a) The name and address of the customer, and the address at
17 which service is provided, if different.

18 (b) A clear and concise statement of the reason for the
19 proposed shutoff of service.

20 (c) The date on or after which the provider may shut off
21 service, unless the customer takes appropriate action.

22 (d) That the customer has the right to enter into a payment
23 plan with the provider for an amount owed to the provider that is
24 not in dispute and that the customer is presently unable to pay in
25 full.

26 (e) The telephone number and address of the provider where the
27 customer may make inquiry, enter into a payment plan, or file a

1 complaint.

2 (f) That the provider will postpone the shutoff of service if
3 a certified medical emergency exists at the customer's residence
4 and the customer informs and provides documentation to the provider
5 of that medical emergency.

6 (g) That during the heating season the provider will postpone
7 shutoff of service if a customer is an eligible low-income customer
8 that enters into a winter protection payment plan with the provider
9 and the customer provides documentation that the customer is
10 actively seeking emergency assistance from an energy assistance
11 program.

12 (h) The energy assistance telephone line number at the
13 department of human services or an operating 2-1-1 system telephone
14 number.

15 (6) Subject to the requirements of this act, a provider may
16 shut off service to a customer on the date specified in the notice
17 of shutoff or at a reasonable time following that date. If a
18 provider does not shut off service and mails a subsequent notice,
19 then the provider shall not shut off service before the date
20 specified in the subsequent notice. Shutoff shall occur only
21 between the hours of 8 a.m. and 4 p.m.

22 (7) A provider shall not shut off service on a day, or a day
23 immediately preceding a day, when the services of the provider are
24 not available to the general public for the purpose of restoring
25 service.

26 (8) For an involuntary shutoff, at least 1 day before shutoff
27 of service, the provider shall make ~~not fewer than~~ **AT LEAST 2**

1 attempts to contact the customer by 1 or more of the following
2 methods:

3 (a) A personal or automated telephone call where direct
4 contact is made with a member of the customer's household or a
5 message is recorded on an answering machine or voice mail.

6 (b) First-class mail.

7 (c) A personal visit to the customer.

8 (d) A written notice left at or on the customer's door.

9 (e) Any other method approved by the commission for regulated
10 utilities.

11 (9) A notice of shutoff sent under subsection (3) shall be
12 considered as 1 attempt under subsection (8).

13 (10) The provider shall document all attempts to contact the
14 customer under subsection (8).

15 (11) Immediately ~~preceding~~**BEFORE** the shutoff of service, an
16 employee of the provider who is designated to perform that function
17 may identify himself or herself to the customer or another
18 responsible ~~person~~**INDIVIDUAL** at the premises and may announce the
19 purpose of his or her presence.

20 (12) When a provider employee shuts off service, the employee
21 shall leave a notice. The notice shall state that service has been
22 shut off and shall contain the address and telephone number of the
23 provider where the customer may arrange to have service restored.

24 (13) For an involuntary shutoff using meters with remote
25 shutoff and restoration ability, at least 1 day before shutoff of
26 service, the provider shall make at least 2 attempts to contact the
27 customer by 1 of the methods listed in subsection (8). Any notice

1 shall state that the disconnection of service will be done remotely
2 and that a provider representative will not return to the premises
3 before disconnection. The provider shall document all attempts to
4 contact the customer. If the provider contacts the customer or
5 other responsible ~~person~~**INDIVIDUAL** in the customer's household by
6 telephone on the day service is to be shut off, the provider shall
7 inform the customer or other responsible ~~person~~**INDIVIDUAL** that
8 shutoff of service is imminent and of the steps necessary to avoid
9 shutoff. Unless the customer presents evidence that reasonably
10 demonstrates that the claim is satisfied or is in dispute, or the
11 customer makes payment, the employee may shut off service. If the
12 provider complies with the notice requirements of this subsection,
13 no further customer contact is required on the day service is to be
14 shut off and the provider may shut off service.

15 (14) A provider shall not shut off service for any of the
16 following reasons:

17 (a) The customer has not paid for concurrent service received
18 at a separate metering point, residence, or location.

19 (b) The customer has not paid for service at a premises
20 occupied by another person. A provider may shut off service in any
21 of the following circumstances where proper notice has been given:

22 (i) If the customer supplies a written, notarized statement
23 that the premises are unoccupied.

24 (ii) If the premises are occupied and the occupant agrees, in
25 writing, to the shutoff of service.

26 (iii) If it is not feasible to provide service to the occupant
27 as a customer without a major revision of existing distribution

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1 facilities.

2 (iv) If it is feasible to provide service to the occupant as a
3 customer without a major revision of existing distribution
4 facilities and the occupant refuses to put the account in their
5 name.

6 (15) After a provider has shut off service, it shall restore
7 service upon the customer's request when the cause has been cured
8 or credit arrangements satisfactory to the provider have been made.

9 (16) When a provider is required to restore service at the
10 customer's meter manually, the provider shall make reasonable
11 efforts to restore service on the day the customer requests
12 restoration. Except for reasons beyond its control, the provider
13 shall restore service not later than the first working day after
14 the customer's request.

15 (17) For providers using meter technology with remote shutoff
16 and restoration capability, service shall be restored on the first
17 working day after the customer requests restoration, except in the
18 case of documented equipment failure.

19 (18) The provider may assess the customer a charge for
20 restoring service or relocating the customer's meter.

21 (19) BY FEBRUARY 1, 2012, THE COMMISSION SHALL COMMENCE ON ITS
22 OWN MOTION A PROCEEDING FOR EACH AFFECTED UTILITY TO DETERMINE THE
23 MANNER IN WHICH ALL MONEY BEING HELD IN ESCROW FOR THE LOW-INCOME
24 AND ENERGY EFFICIENCY FUND WILL BE REFUNDED TO CUSTOMERS. THE
25 REFUND AMOUNT SHALL BE ALLOCATED AMONG EACH CUSTOMER CLASS<<, BASED
ON THE RATE SCHEDULES IN EFFECT WHEN THE MONEY WAS COLLECTED,>> IN
THE
26 SAME PROPORTION IN WHICH THE MONEY WAS COLLECTED. AS USED IN THIS
27 SUBSECTION, "AFFECTED UTILITY" MEANS A REGULATED ELECTRIC OR

1 NATURAL GAS UTILITY THAT WAS AUTHORIZED BY THE COMMISSION TO
2 COLLECT IN RETAIL RATES AN AMOUNT THAT WAS DESIGNATED TO BE
3 CONTRIBUTED TO THE LOW-INCOME AND ENERGY EFFICIENCY FUND, AND THAT
4 SINCE JULY 21, 2011 HAS BEEN HOLDING THAT COLLECTED AMOUNT IN
5 ESCROW.

6 (20) THE VULNERABLE HOUSEHOLD WARMTH FUND IS CREATED WITHIN
7 THE STATE TREASURY. THE STATE TREASURER MAY RECEIVE MONEY OR OTHER
8 ASSETS FROM ANY SOURCE FOR DEPOSIT INTO THE FUND. THE STATE
9 TREASURER SHALL DIRECT THE INVESTMENT OF THE FUND. THE STATE
10 TREASURER SHALL CREDIT TO THE FUND INTEREST AND EARNINGS FROM FUND
11 INVESTMENTS. MONEY IN THE FUND AT THE CLOSE OF THE FISCAL YEAR
12 SHALL BE REFUNDED PROPORTIONALLY TO EACH ELECTRIC UTILITY AND
13 NATURAL GAS UTILITY THAT COLLECTED MONEY UNDER SUBSECTION (23). THE
14 COMMISSION SHALL ENSURE THAT EACH UTILITY REFUNDS THOSE AMOUNTS TO
15 ITS CUSTOMERS. THE COMMISSION SHALL BE THE ADMINISTRATOR OF THE
16 FUND FOR AUDITING PURPOSES.

17 (21) MONEY FROM THE FUND, UPON APPROPRIATION, SHALL BE USED TO
18 PROVIDE PAYMENT OR PARTIAL PAYMENT OF BILLS FOR ELECTRICITY,
19 NATURAL GAS, PROPANE, HEATING OIL, OR ANY OTHER TYPE OF FUEL USED
20 TO HEAT THE PRIMARY RESIDENCE OF A VULNERABLE CUSTOMER DURING THE
21 2011-2012 HEATING SEASON. A PAYMENT UNDER THIS SUBSECTION SHALL BE
22 IN THE FORM OF A VOUCHER OR DIRECT PAYMENT TO THE UTILITY,
23 PROVIDER, COOPERATIVE, OR DISTRIBUTOR OF FUEL. A VOUCHER OR PAYMENT
24 SHALL NOT BE PROVIDED UNDER THIS SUBSECTION UNLESS THE VULNERABLE
25 CUSTOMER MAKES A CONTRIBUTION TOWARD HIS OR HER FUEL BILL AT THE
26 TIME ASSISTANCE IS RECEIVED. THE AMOUNT ACCUMULATED IN THE FUND
27 SHALL NOT EXCEED \$58,000,000.00.

1 (22) THE DEPARTMENT OF HUMAN SERVICES AND THE COMMISSION SHALL
2 ENSURE THAT, IN DISTRIBUTING MONEY FROM THE FUND, FIRST PRIORITY IS
3 GIVEN TO HOUSEHOLDS THAT CONTAIN AT LEAST 1 OF THE FOLLOWING:

4 (A) A MINOR CHILD.

5 (B) AN ELIGIBLE SENIOR CITIZEN.

6 (C) A PARAPLEGIC, HEMIPLEGIC, QUADRIPLAGIC, OR TOTALLY AND
7 PERMANENTLY DISABLED INDIVIDUAL.

8 (23) AMOUNTS THAT WERE, BEFORE THE AMENDATORY ACT THAT ADDED
9 THIS SUBSECTION, AUTHORIZED BY THE COMMISSION TO BE COLLECTED IN
10 RETAIL RATES FROM THE CUSTOMERS OF AN ELECTRIC UTILITY OR NATURAL
11 GAS UTILITY WITH MORE THAN 1,000,000 CUSTOMERS IN THIS STATE FOR
12 CONTRIBUTION BY THE ELECTRIC UTILITY OR NATURAL GAS UTILITY TO FUND
13 GRANTS AUTHORIZED BY THE COMMISSION IN DOCKET NO. U-13129 ARE
14 AUTHORIZED FOR A PERIOD COMMENCING WITH THE EFFECTIVE DATE OF THE
15 AMENDATORY ACT THAT ADDED THIS SUBSECTION, AND CONTINUING THROUGH
16 SEPTEMBER 30, 2012, OR UNTIL \$58,000,000.00 IS ACCUMULATED IN THE
17 FUND FROM RETAIL RATES OR APPROPRIATED FUNDS, WHICHEVER OCCURS
18 FIRST. AN ELECTRIC UTILITY OR NATURAL GAS UTILITY THAT COLLECTS
19 MONEY UNDER THIS SUBSECTION SHALL DEPOSIT THAT MONEY IN THE FUND ON
20 A MONTHLY BASIS NO LATER THAN 30 DAYS AFTER THE LAST DAY IN EACH
21 CALENDAR MONTH. THE COMMISSION SHALL ISSUE ORDERS NO LATER THAN
22 SEPTEMBER 30, 2012 REDUCING THE RETAIL RATES OF AN ELECTRIC UTILITY
23 OR NATURAL GAS UTILITY THAT COLLECTS MONEY UNDER THIS SUBSECTION BY
24 THE ANNUALIZED AMOUNT INCLUDED IN THE RETAIL RATES OF EACH ELECTRIC
25 UTILITY OR NATURAL GAS UTILITY AS ESTABLISHED BY THE MOST RECENTLY
26 COMPLETED RATE CASE OF THE ELECTRIC UTILITY OR NATURAL GAS UTILITY
27 BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS

1 SUBSECTION.

2 (24) ~~(19)~~ As used in this section: ~~"provider"~~

3 (A) "ELIGIBLE SENIOR CITIZEN" MEANS AN INDIVIDUAL WHO IS 65
4 YEARS OF AGE OR OLDER.

5 (B) "FUND" MEANS THE VULNERABLE HOUSEHOLD WARMTH FUND CREATED
6 IN SUBSECTION (20).

7 (C) "HEATING SEASON" MEANS THAT TERM AS DEFINED IN SECTION 9R.

8 (D) "PROVIDER" means a municipally owned electric or natural
9 gas utility.

10 (E) "TOTALLY AND PERMANENTLY DISABLED" MEANS A DISABILITY AS
11 DEFINED IN 42 USC 416.

12 (F) "VULNERABLE CUSTOMER" MEANS EITHER OF THE FOLLOWING:

13 (i) FOR AN ELECTRIC UTILITY, PROVIDER, COOPERATIVE, OR NATURAL
14 GAS UTILITY CUSTOMER, A CUSTOMER WHO MEETS BOTH OF THE FOLLOWING:

15 (A) HAS A HOUSEHOLD INCOME THAT DOES NOT EXCEED 150% OF THE
16 POVERTY LEVEL, AS PUBLISHED BY THE UNITED STATES DEPARTMENT OF
17 HEALTH AND HUMAN SERVICES, OR RECEIVES ANY OF THE FOLLOWING:

18 (I) ASSISTANCE FROM A STATE EMERGENCY RELIEF PROGRAM.

19 (II) FOOD STAMPS.

20 (III) MEDICAID.

21 (B) HAS RECEIVED A SHUT-OFF NOTICE UNDER SECTION 10T(3).

22 (ii) FOR A CUSTOMER WHO USES A FUEL OTHER THAN ELECTRICITY OR
23 NATURAL GAS TO HEAT HIS OR HER RESIDENCE, A CUSTOMER WHO MEETS BOTH
24 OF THE FOLLOWING:

25 (A) HAS A HOUSEHOLD INCOME THAT DOES NOT EXCEED 150% OF THE
26 POVERTY LEVEL, AS PUBLISHED BY THE UNITED STATES DEPARTMENT OF
27 HEALTH AND HUMAN SERVICES, OR RECEIVES ANY OF THE FOLLOWING:

1 (I) ASSISTANCE FROM A STATE EMERGENCY RELIEF PROGRAM.

2 (II) FOOD STAMPS.

3 (III) MEDICAID.

4 (B) HAS RECEIVED NOTICE FROM THEIR DISTRIBUTOR OF FUEL THAT NO
5 FURTHER DELIVERIES WILL BE MADE TO HIS OR HER RESIDENCE DUE TO
6 NONPAYMENT OF PRIOR BILLS.

7 Sec. 10u. The commission shall ~~file~~ **COMPILE** a report ~~with the~~
8 ~~governor and legislature~~ by February 1 of each year that **SHALL BE**
9 **POSTED ON THE COMMISSION'S INTERNET WEBSITE AND DISSEMINATED BY ANY**
10 **OTHER MEANS THAT THE COMMISSION DETERMINES WILL PROPERLY NOTIFY THE**
11 **CITIZENS OF THIS STATE. A COPY OF THE REPORT SHALL BE PROVIDED TO**
12 **THE GOVERNOR AND THE LEGISLATURE. THE REPORT** shall include all of
13 the following:

14 (a) The status of competition for the supplying of electricity
15 in this state.

16 (b) Recommendations for legislation, if any.

17 (c) Actions taken by the commission to implement measures
18 necessary to protect consumers from unfair or deceptive business
19 practices by utilities, alternative electric suppliers, and other
20 market participants.

21 (d) Information regarding consumer education programs,
22 approved by the commission, to inform consumers of all relevant
23 information regarding the purchase of electricity and related
24 services from alternative electric suppliers.