

SENATE BILL No. 864

December 1, 2011, Introduced by Senators WALKER, KAHN, CASWELL, SCHUITMAKER, BOOHER, JOHNSON, BIEDA, NOFS, PROOS, EMMONS, MARLEAU, JONES, YOUNG and CASPERSON and referred to the Committee on Energy and Technology.

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, **AND POSTED ON THE COMMISSION'S INTERNET WEBSITE.**

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.

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

3 (d) The customer has failed to comply with the terms and
4 conditions of a payment plan entered into with the provider in
5 accordance with the provider's rules.

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

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

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

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

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

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

27 (3) A provider shall not shut off service unless it sends a

1 notice to the customer by first-class mail or personally serves the
2 notice not less than 10 days before the date of the proposed
3 shutoff. A provider shall maintain a record of the date the notice
4 was sent.

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

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

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

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

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

27 (d) That the customer has the right to enter into a payment

1 plan with the provider for an amount owed to the provider that is
2 not in dispute and that the customer is presently unable to pay in
3 full.

4 (e) The telephone number and address of the provider where the
5 customer may make inquiry, enter into a payment plan, or file a
6 complaint.

7 (f) That the provider will postpone the shutoff of service if
8 a certified medical emergency exists at the customer's residence
9 and the customer informs and provides documentation to the provider
10 of that medical emergency.

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

17 (h) The energy assistance telephone line number at the
18 department of human services or an operating 2-1-1 system telephone
19 number.

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

27 (7) A provider shall not shut off service on a day, or a day

1 immediately preceding a day, when the services of the provider are
2 not available to the general public for the purpose of restoring
3 service.

4 (8) For an involuntary shutoff, at least 1 day before shutoff
5 of service, the provider shall make ~~not fewer than~~ **AT LEAST** 2
6 attempts to contact the customer by 1 or more of the following
7 methods:

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

11 (b) First-class mail.

12 (c) A personal visit to the customer.

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

14 (e) Any other method approved by the commission for regulated
15 utilities.

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

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

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

25 (12) When a provider employee shuts off service, the employee
26 shall leave a notice. The notice shall state that service has been
27 shut off and shall contain the address and telephone number of the

1 provider where the customer may arrange to have service restored.

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

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

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

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

27 (i) If the customer supplies a written, notarized statement

1 that the premises are unoccupied.

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

4 (iii) If it is not feasible to provide service to the occupant
5 as a customer without a major revision of existing distribution
6 facilities.

7 (iv) If it is feasible to provide service to the occupant as a
8 customer without a major revision of existing distribution
9 facilities and the occupant refuses to put the account in their
10 name.

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

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

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

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

26 (19) As used in this section, "provider" means a municipally
27 owned electric or natural gas utility.

1 Sec. 10u. The commission shall ~~file~~ **COMPILE** a report with the
2 ~~governor and legislature~~ by February 1 of each year that **SHALL BE**
3 **POSTED ON THE COMMISSION'S INTERNET WEBSITE AND DISSEMINATED BY ANY**
4 **OTHER MEANS THAT THE COMMISSION DETERMINES WILL PROPERLY NOTIFY THE**
5 **CITIZENS OF THIS STATE. A COPY OF THE REPORT SHALL BE PROVIDED TO**
6 **THE GOVERNOR, THE CLERK OF THE HOUSE OF REPRESENTATIVES, AND THE**
7 **SECRETARY OF THE SENATE. THE REPORT** shall include all of the
8 following:

9 (a) The status of competition for the supplying of electricity
10 in this state.

11 (b) Recommendations for legislation, if any.

12 (c) Actions taken by the commission to implement measures
13 necessary to protect consumers from unfair or deceptive business
14 practices by utilities, alternative electric suppliers, and other
15 market participants.

16 (d) Information regarding consumer education programs,
17 approved by the commission, to inform consumers of all relevant
18 information regarding the purchase of electricity and related
19 services from alternative electric suppliers.