

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5476**

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 section 11 (MCL 460.11), as added by 2008 PA 286.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11. (1) ~~This subsection applies beginning January 1,~~
2 ~~2009.~~ Except as otherwise provided in this subsection, the
3 commission shall phase in electric rates equal to the cost of
4 providing service to each customer class over a period of 5 years
5 ~~from the effective date of the amendatory act that added this~~
6 ~~section.~~ **OCTOBER 6, 2008.** If the commission determines that the
7 rate impact on industrial metal melting customers will exceed the
8 2.5% limit in subsection (2), the commission may phase in cost-
9 based rates for that class over a longer period. The cost of
10 providing service to each customer class shall be based on the
11 allocation of production-related and transmission costs based on
12 using the 50-25-25 method of cost allocation. The commission may
13 modify this method to better ensure rates are equal to the cost of
14 service. ~~if this method does not result in a greater amount of~~
15 ~~production related and transmission costs allocated to primary~~
16 ~~customers.~~

17 (2) The commission shall ensure that the impact on residential
18 and industrial metal melting rates due to the cost of service
19 requirement in subsection (1) is no more than 2.5% per year.

20 **(3) WITHIN 60 DAYS OF THE EFFECTIVE DATE OF THE AMENDATORY ACT**
21 **THAT ADDED THIS SUBSECTION, THE COMMISSION SHALL COMMENCE A**
22 **PROCEEDING FOR EACH AFFECTED ELECTRIC UTILITY TO EXAMINE COST**
23 **ALLOCATION METHODS AND RATE DESIGN METHODS USED TO SET RATES. IN**
24 **EACH PROCEEDING, EACH AFFECTED UTILITY SHALL FILE WITHIN 60 DAYS OF**
25 **THE COMMENCEMENT OF THAT PROCEEDING A PROPOSAL TO MODIFY THE**
26 **EXISTING COST ALLOCATION METHODS AND RATE DESIGN METHODS THAT HAVE**
27 **BEEN USED TO SET EXISTING RATES AND SHALL PROVIDE NOTICE TO ALL OF**

1 THAT UTILITY'S CUSTOMERS OUTLINING THE PROPOSED COST ALLOCATION
2 METHODS AND RATE DESIGN METHODS. A PROPOSAL FILED BY AN AFFECTED
3 ELECTRIC UTILITY MUST MEET BOTH OF THE FOLLOWING CONDITIONS:

4 (A) BE CONSISTENT WITH SUBSECTION (1), WHICH AUTHORIZES THE
5 COMMISSION TO MODIFY THE 50-25-25 METHOD OF ALLOCATING PRODUCTION-
6 RELATED AND TRANSMISSION COSTS TO BETTER ENSURE RATES ARE EQUAL TO
7 THE COST OF SERVICE.

8 (B) EXPLORE DIFFERENT METHODS FOR ALLOCATION OF PRODUCTION,
9 TRANSMISSION, DISTRIBUTION, AND CUSTOMER-RELATED COSTS AND OVERALL
10 RATE DESIGN, BASED ON COST OF SERVICE, THAT SUPPORT AFFORDABLE AND
11 COMPETITIVE ELECTRIC RATES FOR ALL CUSTOMER CLASSES.

12 (4) THE SCOPE OF A PROCEEDING UNDER SUBSECTION (3) IS LIMITED
13 TO EXAMINING COST ALLOCATION AND RATE DESIGN METHODS PROPOSED TO
14 SET RATES FOR EACH AFFECTED ELECTRIC UTILITY THAT FILED A PROPOSAL
15 UNDER SUBSECTION (3). THE COMMISSION SHALL ALLOW ANY INTERESTED
16 PERSON TO INTERVENE IN A PROCEEDING UNDER SUBSECTION (3), INCLUDING
17 ON BEHALF OF RESIDENTIAL UTILITY CUSTOMERS. THE COMMISSION SHALL
18 NOT SCHEDULE A PREHEARING CONFERENCE FOR THE PURPOSES OF
19 CONSIDERING INTERVENTIONS UNTIL AN ELECTRIC UTILITY FILES A
20 PROPOSAL UNDER SUBSECTION (3). WITHIN 270 DAYS AFTER A PROPOSAL IS
21 FILED UNDER SUBSECTION (3), THE COMMISSION SHALL ISSUE A FINAL
22 ORDER ADOPTING THE COST ALLOCATION METHODS AND RATE DESIGN METHODS
23 CONSIDERED APPROPRIATE BY THE COMMISSION AND DOING EITHER OF THE
24 FOLLOWING:

25 (A) IMPLEMENTING RATES CONSISTENT WITH THOSE COST ALLOCATION
26 METHODS AND RATE DESIGN METHODS.

27 (B) FIXING A DATE FOR THE ESTABLISHMENT OF RATES CONSISTENT

1 WITH THOSE COST ALLOCATION METHODS AND RATE DESIGN METHODS, WHICH
2 DATE SHALL NOT BE LATER THAN DECEMBER 1, 2015.

3 (5) A UTILITY MAY FILE OTHER RATE APPLICATIONS DURING THE
4 PENDENCY OF A PROCEEDING INITIATED UNDER SUBSECTION (3). IF AN
5 AFFECTED ELECTRIC UTILITY FILES A RATE APPLICATION BEFORE DECEMBER
6 1, 2014, THE COMMISSION MAY CLOSE AND CONSOLIDATE THE PROCEEDINGS
7 INITIATED UNDER SUBSECTION (3) WITH THE CASE SO LONG AS A FINAL
8 ORDER ADDRESSING THE PROCEEDINGS INITIATED UNDER SUBSECTION (3) CAN
9 BE IMPLEMENTED BY DECEMBER 1, 2015.

10 (6) THE COMMISSION SHALL ORDER THE ADMINISTRATIVE LAW JUDGE
11 PRESIDING OVER A PROCEEDING UNDER SUBSECTION (3) OR (5) TO PREPARE
12 AN INTERIM REPORT THAT THE COMMISSION SHALL SUBMIT TO THE
13 LEGISLATURE WITHIN 150 DAYS AFTER PROPOSALS ARE FILED UNDER
14 SUBSECTION (3) OR IN A CONSOLIDATED CASE UNDER SUBSECTION (5)
15 DESCRIBING THE ACTIONS THAT HAVE BEEN TAKEN TO COMPLY WITH
16 SUBSECTION (3), INCLUDING A SUMMARY OF THE RECORD EVIDENCE AND
17 POSITIONS OF THE PARTIES SUBMITTED TO DATE REGARDING ALL OF THE
18 FOLLOWING:

19 (A) A SUMMARY OF PROCEEDINGS THAT HAVE BEEN INITIATED.

20 (B) THE SCHEDULES ADOPTED FOR THOSE PROCEEDINGS.

21 (C) THE COST ALLOCATION AND RATE DESIGN PROPOSALS MADE BY
22 PARTIES TO EACH OF THOSE PROCEEDINGS.

23 (D) THE ESTIMATED IMPACTS ON THE VARIOUS CUSTOMER CLASSES OF
24 EACH OF THE PROPOSALS, IN AGGREGATE AND FOR AN AVERAGE CUSTOMER IN
25 EACH CUSTOMER CLASS.

26 (E) A DESCRIPTION OF QUALIFICATIONS FOR ANY PROPOSED NEW RATE
27 AND ESTIMATION OF THE NUMBER OF CUSTOMERS IMPACTED BY THAT NEW

1 RATE.

2 (F) A DESCRIPTION OF PROPOSED DEFINITIONS OR METHODS THAT
3 SUPPORT AFFORDABLE AND COMPETITIVE ELECTRIC RATES FOR ALL CUSTOMER
4 CLASSES.

5 (7) NOT LATER THAN 60 DAYS BEFORE A FINAL ORDER IS REQUIRED TO
6 BE ISSUED UNDER SUBSECTION (4) OR IN A CONSOLIDATED CASE UNDER
7 SUBSECTION (5), THE COMMISSION SHALL FORWARD TO THE LEGISLATURE THE
8 PROPOSAL FOR DECISION IN EACH OF THE PROCEEDINGS INITIATED UNDER
9 SUBSECTION (3) ISSUED BY THE ADMINISTRATIVE LAW JUDGE PRESIDING
10 OVER THOSE PROCEEDINGS INCLUDING A SUMMARY OF THE EVIDENCE
11 PRESENTED BY THE PARTIES IN THE PROCEEDING ON WHICH THE
12 COMMISSION'S FINAL DECISION MUST BE MADE.

13 (8) ~~(3)~~ Notwithstanding any other provision of this act, the
14 commission may establish eligible low-income customer or eligible
15 senior citizen customer rates. Upon filing of a rate increase
16 request, a utility shall include proposed eligible low-income
17 customer and eligible senior citizen customer rates and a method to
18 allocate the revenue shortfall attributed to the implementation of
19 those rates upon all customer classes. As used in this subsection,
20 "eligible low-income customer" and "eligible senior citizen
21 customer" mean those terms as defined in section 10t.

22 (9) ~~(4)~~ Notwithstanding any other provision of this section,
23 the commission shall establish rate schedules which ensure that
24 public and private schools, universities, and community colleges
25 are charged retail electric rates that reflect the actual cost of
26 providing service to those customers. ~~Not later than 90 days after~~
27 ~~the effective date of the amendatory act that added this section,~~

1 ~~electric~~**ELECTRIC** utilities regulated under this section shall file
2 with the commission tariffs to ensure that public and private
3 schools, universities, and community colleges are charged electric
4 rates as provided in this subsection.

5 (10) ~~(5)~~Subsections (1) to ~~(4)~~**(9)** apply only to electric
6 utilities with 1,000,000 or more retail customers in this state.

7 (11) **WITHIN 2 YEARS OF THE EFFECTIVE DATE OF THE AMENDATORY**
8 **ACT THAT ADDED THIS SUBSECTION, AN ELECTRIC UTILITY SERVING FEWER**
9 **THAN 120,000 RETAIL CUSTOMERS IN THIS STATE MAY FILE AN APPLICATION**
10 **WITH THE COMMISSION TO MODIFY THE COST ALLOCATION METHODS AND RATE**
11 **DESIGN METHODS USED TO SET THAT UTILITY'S EXISTING RATES. WITHIN**
12 **180 DAYS OF THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED**
13 **THIS SUBSECTION, AN ELECTRIC UTILITY SERVING 120,000 OR MORE BUT**
14 **FEWER THAN 1,000,000 RETAIL CUSTOMERS IN THIS STATE SHALL FILE AN**
15 **APPLICATION WITH THE COMMISSION TO MODIFY THE COST ALLOCATION**
16 **METHODS AND RATE DESIGN METHODS USED TO SET THAT UTILITY'S EXISTING**
17 **RATES. THIS SUBSECTION DOES NOT APPLY TO A COOPERATIVE ELECTRIC**
18 **UTILITY THAT HAS ELECTED TO BECOME MEMBER-REGULATED UNDER THE**
19 **ELECTRIC COOPERATIVE MEMBER-REGULATION ACT, 2008 PA 167, MCL 460.31**
20 **TO 460.39. UPON RECEIPT OF AN APPLICATION UNDER THIS SUBSECTION,**
21 **THE COMMISSION SHALL COMMENCE A PROCEEDING FOR THAT ELECTRIC**
22 **UTILITY, LIMITED TO EXAMINING AND IMPLEMENTING ANY MODIFICATIONS TO**
23 **THE COST ALLOCATION METHODS AND RATE DESIGN METHODS USED BY THAT**
24 **UTILITY. AN ELECTRIC UTILITY'S APPLICATION MUST MEET BOTH OF THE**
25 **FOLLOWING CONDITIONS:**

26 (A) **BE CONSISTENT WITH THE COST OF PROVIDING SERVICE**
27 **PROVISIONS OF SUBSECTION (12).**

1 **(B) EXPLORE DIFFERENT METHODS FOR ALLOCATION OF PRODUCTION,**
2 **TRANSMISSION, DISTRIBUTION, AND CUSTOMER-RELATED COSTS AND OVERALL**
3 **RATE DESIGN, BASED ON COST OF SERVICE, THAT SUPPORT AFFORDABLE AND**
4 **COMPETITIVE ELECTRIC RATES FOR ALL CUSTOMER CLASSES.**

5 (12) ~~(6) This subsection applies beginning January 1, 2009.~~
6 The commission shall approve rates equal to the cost of providing
7 service to customers of electric utilities serving less than
8 1,000,000 retail customers in this state. The rates shall be
9 approved by the commission in each utility's first general rate
10 case filed after passage of ~~the amendatory act that added this~~
11 ~~section.~~ **2008 PA 286.** If, in the judgment of the commission, the
12 impact of imposing cost of service rates on customers of a utility
13 would have a material impact, the commission may approve an order
14 that implements those rates over a suitable number of years. The
15 commission shall ensure that any impact on rates due to the cost of
16 service requirement in this subsection is not more than 2.5% per
17 year.

18 (13) ~~(7)~~The commission shall annually retain an independent
19 consultant to verify that the requirements of this section are
20 being satisfied for each electric utility. The costs of this
21 service shall be recoverable in the utility's electric rates. This
22 subsection does not apply after December 31, 2015.

23 **(14) AN ANALYSIS OF AFFORDABLE RATES UNDER THIS SECTION SHALL**
24 **INCLUDE BOTH OF THE FOLLOWING:**

25 **(A) AN ANALYSIS OF RATE IMPACTS DIRECTLY ATTRIBUTABLE TO**
26 **PROPOSED COST ALLOCATION METHODS, NOT INCLUDING EXPIRING COSTS**
27 **ASSOCIATED WITH NON-BASE ENERGY AND NON-BASE ENERGY DELIVERY THAT**

1 HAVE, EXCEPT FOR AN EXPIRING CONTRACT DESCRIBED IN SECTION 5 OF THE
2 ENERGY FOR ECONOMIC DEVELOPMENT ACT OF 2010, 2010 PA 297, MCL
3 460.995, SPECIFIC STATUTORY TIME DURATIONS.

4 (B) AN ANALYSIS OF THE EXPECTED IMPACT OVERALL ON CUSTOMER
5 BILLS.