

**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) ON BEHALF
17 OF RESIDENTIAL UTILITY CUSTOMERS. THE COMMISSION SHALL NOT SCHEDULE
18 A PREHEARING CONFERENCE FOR THE PURPOSES OF CONSIDERING
19 INTERVENTIONS UNTIL AN ELECTRIC UTILITY FILES A PROPOSAL UNDER
20 SUBSECTION (3). WITHIN 270 DAYS AFTER A PROPOSAL IS FILED UNDER
21 SUBSECTION (3), THE COMMISSION SHALL ISSUE A FINAL ORDER ADOPTING
22 THE COST ALLOCATION METHODS AND RATE DESIGN METHODS CONSIDERED
23 APPROPRIATE BY THE COMMISSION AND DOING EITHER OF THE FOLLOWING:

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

26 (B) FIXING A DATE FOR THE ESTABLISHMENT OF RATES CONSISTENT
27 WITH THOSE COST ALLOCATION METHODS AND RATE DESIGN METHODS, WHICH

1 DATE SHALL NOT BE LATER THAN DECEMBER 1, 2015.

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

9 (6) THE COMMISSION SHALL, WITHIN 150 DAYS AFTER PROPOSALS ARE
10 FILED UNDER SUBSECTION (3) OR IN A CONSOLIDATED CASE UNDER
11 SUBSECTION (5), ISSUE AN INTERIM REPORT TO THE LEGISLATURE
12 DESCRIBING THE ACTIONS THAT HAVE BEEN TAKEN TO COMPLY WITH
13 SUBSECTION (3), INCLUDING ALL OF THE FOLLOWING:

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

15 (B) THE SCHEDULES ADOPTED FOR THOSE PROCEEDINGS.

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

18 (D) THE ESTIMATED IMPACTS ON THE VARIOUS CUSTOMER CLASSES OF
19 EACH OF THE PROPOSALS, IN AGGREGATE AND FOR AN AVERAGE CUSTOMER IN
20 EACH CUSTOMER CLASS.

21 (E) A DESCRIPTION OF QUALIFICATIONS FOR ANY PROPOSED NEW RATE
22 AND ESTIMATION OF THE NUMBER OF CUSTOMERS IMPACTED BY THAT NEW
23 RATE.

24 (F) A DESCRIPTION OF PROPOSED DEFINITIONS OR METHODS THAT
25 SUPPORT AFFORDABLE AND COMPETITIVE ELECTRIC RATES FOR ALL CUSTOMER
26 CLASSES.

27 (7) NOT LATER THAN 60 DAYS BEFORE A FINAL ORDER IS REQUIRED TO

1 BE ISSUED UNDER SUBSECTION (4) OR IN A CONSOLIDATED CASE UNDER
2 SUBSECTION (5), THE COMMISSION SHALL FORWARD TO THE LEGISLATURE FOR
3 REVIEW THE PROPOSAL FOR DECISION IN EACH OF THE PROCEEDINGS
4 INITIATED UNDER SUBSECTION (3) ISSUED BY THE ADMINISTRATIVE LAW
5 JUDGE PRESIDING OVER THOSE PROCEEDINGS.

6 (8) ~~(3)~~—Notwithstanding any other provision of this act, the
7 commission may establish eligible low-income customer or eligible
8 senior citizen customer rates. Upon filing of a rate increase
9 request, a utility shall include proposed eligible low-income
10 customer and eligible senior citizen customer rates and a method to
11 allocate the revenue shortfall attributed to the implementation of
12 those rates upon all customer classes. As used in this subsection,
13 "eligible low-income customer" and "eligible senior citizen
14 customer" mean those terms as defined in section 10t.

15 (9) ~~(4)~~—Notwithstanding any other provision of this section,
16 the commission shall establish rate schedules which ensure that
17 public and private schools, universities, and community colleges
18 are charged retail electric rates that reflect the actual cost of
19 providing service to those customers. ~~Not later than 90 days after~~
20 ~~the effective date of the amendatory act that added this section,~~
21 ~~electric~~**ELECTRIC** utilities regulated under this section shall file
22 with the commission tariffs to ensure that public and private
23 schools, universities, and community colleges are charged electric
24 rates as provided in this subsection.

25 (10) ~~(5)~~—Subsections (1) to ~~(4)~~**(9)** apply only to electric
26 utilities with 1,000,000 or more retail customers in this state.

27 (11) **WITHIN 2 YEARS OF THE EFFECTIVE DATE OF THE AMENDATORY**

1 ACT THAT ADDED THIS SUBSECTION, AN ELECTRIC UTILITY SERVING FEWER
2 THAN 120,000 RETAIL CUSTOMERS IN THIS STATE MAY FILE AN APPLICATION
3 WITH THE COMMISSION TO MODIFY THE COST ALLOCATION METHODS AND RATE
4 DESIGN METHODS USED TO SET THAT UTILITY'S EXISTING RATES. WITHIN
5 180 DAYS OF THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED
6 THIS SUBSECTION, AN ELECTRIC UTILITY SERVING 120,000 OR MORE BUT
7 FEWER THAN 1,000,000 RETAIL CUSTOMERS IN THIS STATE SHALL FILE AN
8 APPLICATION WITH THE COMMISSION TO MODIFY THE COST ALLOCATION
9 METHODS AND RATE DESIGN METHODS USED TO SET THAT UTILITY'S EXISTING
10 RATES. UPON RECEIPT OF AN APPLICATION UNDER THIS SUBSECTION, THE
11 COMMISSION SHALL COMMENCE A PROCEEDING FOR THAT ELECTRIC UTILITY,
12 LIMITED TO EXAMINING AND IMPLEMENTING ANY MODIFICATIONS TO THE COST
13 ALLOCATION METHODS AND RATE DESIGN METHODS USED BY THAT UTILITY. AN
14 ELECTRIC UTILITY'S APPLICATION MUST MEET BOTH OF THE FOLLOWING
15 CONDITIONS:

16 (A) BE CONSISTENT WITH THE COST OF PROVIDING SERVICE
17 PROVISIONS OF SUBSECTION (12).

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

22 (12) ~~(6) This subsection applies beginning January 1, 2009.~~
23 The commission shall approve rates equal to the cost of providing
24 service to customers of electric utilities serving less than
25 1,000,000 retail customers in this state. The rates shall be
26 approved by the commission in each utility's first general rate
27 case filed after passage of ~~the amendatory act that added this~~

1 ~~section.~~ 2008 PA 286. If, in the judgment of the commission, the
2 impact of imposing cost of service rates on customers of a utility
3 would have a material impact, the commission may approve an order
4 that implements those rates over a suitable number of years. The
5 commission shall ensure that any impact on rates due to the cost of
6 service requirement in this subsection is not more than 2.5% per
7 year.

8 (13) ~~(7)~~—The commission shall annually retain an independent
9 consultant to verify that the requirements of this section are
10 being satisfied for each electric utility. The costs of this
11 service shall be recoverable in the utility's electric rates. This
12 subsection does not apply after December 31, 2015.

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

15 (A) AN ANALYSIS OF RATE IMPACTS DIRECTLY ATTRIBUTABLE TO
16 PROPOSED COST ALLOCATION METHODS, NOT INCLUDING EXPIRING COSTS
17 ASSOCIATED WITH NON-BASE ENERGY AND NON-BASE ENERGY DELIVERY THAT
18 HAVE, EXCEPT FOR AN EXPIRING CONTRACT DESCRIBED IN SECTION 5 OF THE
19 ENERGY FOR ECONOMIC DEVELOPMENT ACT OF 2010, 2010 PA 297, MCL
20 460.995, SPECIFIC STATUTORY TIME DURATIONS.

21 (B) AN ANALYSIS OF THE EXPECTED IMPACT OVERALL ON CUSTOMER
22 BILLS.