

HOUSE BILL NO. 5606

March 10, 2020, Introduced by Reps. Allor and Steven Johnson and referred to the Committee on Energy.

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 powers and duties of certain state governmental officers and entities; to provide for the continuance, transfer, and completion of certain matters and proceedings; to abolish automatic adjustment clauses;



KHS



02609'19

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 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 460.11) by adding section 10hh.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **Sec. 10hh. (1) A utility customer may choose between the**
 2 **placement or use of a traditional meter or an advanced meter**
 3 **regardless of the utility that provides service to that customer.**

4 **(2) A utility shall not do any of the following:**

5 **(a) Make providing any portion of utility service to a**
 6 **customer contingent on the customer receiving service through any**
 7 **meter or similar device other than a traditional meter. A utility**
 8 **may prohibit a customer with a traditional meter from participating**
 9 **in certain time-of-day tariff discounts.**

10 **(b) Except as otherwise provided in this section, impose any**
 11 **fee or disincentive on a customer for opting out of or not**
 12 **accepting the installation of an advanced meter or hub meter or the**
 13 **use of an advanced meter function.**

14 **(c) Install an advanced meter or upgrade the functionality of**
 15 **the advanced meter after the effective date of the amendatory act**
 16 **that added this section unless the customer has been properly**
 17 **notified and has not opted out of the installation or upgrade. If a**
 18 **customer has not opted out of the installation or upgrade, an on-**
 19 **site utility worker or his or her agent shall not install an**
 20 **advanced meter or upgrade the functionality of the advanced meter**
 21 **if the customer has posted a sign on the current meter forbidding**



1 the installation or upgrade of an advanced meter or the customer
2 verbally informs the worker at the time of installation not to
3 install or upgrade the advanced meter.

4 (d) Install an advanced meter unless that meter is properly
5 grounded and contains at least a 120 kilovolt surge protector or a
6 surge protector that is rated to divert a lightning strike.

7 (3) A utility shall notify a customer in writing of the
8 utility's intention to install an advanced meter at the customer's
9 address or to upgrade the functionality of a previously installed
10 advanced meter. The utility shall send the notice by first-class
11 mail separate from any billing mailing. The utility shall keep a
12 copy of each mailed notice on file for review by the customer or
13 the commission. Each notice must do all of the following:

14 (a) Include the customer's name, service address, and
15 anticipated date of installation or upgrade.

16 (b) State the utility's desire to install an advanced meter at
17 the customer's address, as well as the functionality of the
18 advanced meter, its method of communication, what data is to be
19 collected, and frequency of data communication.

20 (c) If the advanced meter the customer would be receiving is a
21 hub meter, explain how a hub meter differs from other meters.

22 (d) State the customer's ability to choose a traditional meter
23 or nonhub meter and the customer's rights under this section.

24 (e) Clearly explain the process for a customer to opt out of
25 the installation of an advanced meter or hub meter or the use of an
26 advanced meter function.

27 (4) The commission shall promulgate opt-out procedures that
28 are composed of simple, easy-to-understand steps that an average
29 customer can easily understand and that do not place any undue



1 burden on the customer. After being notified that they can opt out,
2 customers must be provided with at least 45 days to communicate
3 with the utility their desire to opt out, with a clear deadline
4 listed on the notice. Opt-out procedures must be free of charge
5 other than the cost of regular mailing. An opt-out procedure or
6 process must be narrow in construction so as to inform the utility
7 of the customer's intentions and not be made contingent upon or
8 contain language that would require the customer giving up any
9 rights or making any other ancillary agreements. A customer that
10 does not opt out when first notified does not give up any rights
11 regarding having an advanced meter removed in the future.

12 (5) Within 30 days after receiving a customer's request that
13 an advanced meter be removed from the customer's residence or
14 business, a utility shall remove the advanced meter and replace it
15 with a traditional meter that is not an advanced meter. Limited to
16 actual costs, a utility may charge a 1-time all-inclusive fee, not
17 to exceed \$150.00, to remove the advanced meter and to provide and
18 install a traditional meter. However, a utility shall not charge a
19 fee if the utility installed the advanced meter in violation of the
20 notice requirements in this section or before the effective date of
21 the amendatory act that added this section. A utility shall not
22 charge a monthly fee for using a traditional meter unless the
23 customer is offered the opportunity, but is unwilling, to read and
24 report the customer's usage under subsection (6). Any monthly fee
25 for using a traditional meter shall not exceed \$5.00 per month. A
26 utility shall refund to a customer any advanced meter removal fee
27 or traditional meter installation fee along with any associated
28 monthly fees if that customer opted out before the effective date
29 of the amendatory act that added this section.



1 (6) A utility shall allow each customer to read and report
2 that customer's service usage if the customer reports reasonably
3 accurate usage on a regular basis. A utility shall provide a
4 customer with a preaddressed envelope and form upon request or
5 permit a customer to report meter readings on a secure website, by
6 telephone, or by other reasonable means. At least once every 12
7 months, the utility shall obtain an actual meter reading of a
8 customer's energy usage to verify the accuracy of readings reported
9 under this section. Notwithstanding this subsection, a
10 representative of a utility may manually read a customer's meter on
11 a regular basis as otherwise permitted by law and correct a reading
12 as necessary. If a customer fails to report usage or the utility
13 does not receive a customer's service usage on time, the utility
14 may manually read a customer's meter or charge that customer based
15 on an estimate of prior energy use in a manner approved by the
16 commission. A customer that intentionally reports inaccurate
17 information may be assessed a reasonable penalty under rules
18 promulgated by the commission and may be subject to any other
19 penalties provided by law. As used in this subsection:

20 (a) "Inaccurate information" means the intentional
21 underreporting of meter data in an effort to not pay for services.
22 Inaccurate information does not mean minor differences in readings
23 by less than 5% to account for variations based on the time of day
24 that the meter is read and similar factors.

25 (b) "Regular basis" means once per billing cycle.

26 (7) Subject to subsection (2), the commission shall not
27 approve a utility tariff that alters rates for customers that do
28 not use an advanced meter if the utility's cost estimates are based
29 on more than 1 manual meter reading per year by the utility. The



1 commission shall consider the ability to self-read meters as part
2 of any proceeding and shall fully recognize and value that
3 customers have a legitimate interest in controlling third-party
4 equipment placed onto their property that is not inherently
5 necessary as a condition to receiving service.

6 (8) A customer's energy use data and internet user information
7 are private and confidential and a utility or its agents shall not
8 sell, rent, or share that data or information except as provided by
9 competent court order or law. A utility may report data relating to
10 electric or compressed natural gas vehicle fueling to the
11 department of treasury. The department of treasury shall use that
12 information strictly for taxation purposes and shall not share that
13 information with law enforcement without a warrant, and that
14 information is not subject to disclosure under the freedom of
15 information act, 1976 PA 442, MCL 15.231 to 15.246, except for
16 aggregate data used for research purposes in a nonidentifying
17 manner.

18 (9) A utility shall ensure that any data from an advanced
19 meter communicated by networking technology is sufficiently
20 encrypted so that the data cannot be intercepted by a device other
21 than a device used by the utility. A utility shall not communicate
22 by networking technology meter use data that include a residential
23 customer's name, social security number, address, or other
24 identifying information except for an independent and unique
25 customer identification number that is assigned by the utility. The
26 utility shall assign a customer identification number in a manner
27 that includes safeguards to prevent a device not owned by the
28 utility from associating the number with a particular customer or
29 address.



1 (10) A utility shall not post a customer's energy use data or
2 bill on the internet, except over a secured transfer protocol or
3 similar secured connection that uses 1 or more additional security
4 measures, such as a customer-selected password, to ensure that only
5 the customer can access the information.

6 (11) A utility shall not wirelessly or otherwise remotely shut
7 off service to a customer unless both of the following requirements
8 are met:

9 (a) At least 48 hours before shutoff, a utility representative
10 visits the property to which the service is to be shut off,
11 verifies that it is the correct address, and follows all other
12 shutoff procedures required by law.

13 (b) The utility has a commission-approved, comprehensive
14 security program that reasonably ensures that a customer's service
15 will be shut off only through authorized access to the utility's
16 computer system, that is open to inspection and audit by the
17 commission, and that is designed to prevent unintentional shutoff
18 due to network hacking or terrorism.

19 (12) As used in this section:

20 (a) "Advanced meter" means a meter or metering device system
21 that is owned or leased by a utility or its agent and that meets 1
22 or more of the following requirements:

23 (i) Is a device that measures, records, or sends a customer's
24 utility usage or other data by use of radio waves or broadband over
25 power lines.

26 (ii) Allows for 2-way communication between the meter and the
27 utility or its agent.

28 (iii) Allows for a utility or its agent to control a customer's
29 thermostat, appliance, or service.



1 (b) "Hub meter" means an advanced meter that generates
2 stronger radio waves as a result of the meter serving as a hub for
3 other advanced meters it communicates within a given area.

4 (c) "Traditional meter" means an analog or electromechanical
5 meter that is unable to transmit usage information and is only
6 intended to be read by an individual through a visual display. A
7 traditional meter is neither electronic or digital requiring switch
8 mode power to operate and is not designed to be and is not capable
9 of transmitting usage data by using radio waves or broadband over
10 power lines, allowing 2-way communication between the meter and the
11 utility or its agents, or allowing a utility or its agents to
12 control a customer's thermostat, appliance, or service. A
13 traditional meter does not include an advanced meter that has
14 certain functionality turned off or deactivated.

15 (d) "Utility" means a person that sells natural gas,
16 electricity, or water to retail customers in this state and that
17 either sells the natural gas, electricity, or water at rates
18 regulated by the commission or is owned by a municipality.

