

HOUSE BILL NO. 4802

May 06, 2021, Introduced by Reps. Kuppa and LaGrand 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;

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,"

by amending the title and sections 10g, 10h, and 10q (MCL 460.10g, 460.10h, and 460.10q), the title as amended by 2016 PA 341, section 10g as amended by 2008 PA 286, section 10h as added by 2000 PA 142, and section 10q as added by 2000 PA 141.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE
 2 An act to provide for the regulation and control of public and
 3 certain private utilities and other services affected with a public
 4 interest within this state; to provide for alternative energy
 5 suppliers **and certain providers of electric vehicle charging**
 6 **services;** to provide for licensing; to include municipally owned
 7 utilities and other providers of energy under certain provisions of
 8 this act; to create a public service commission and to prescribe
 9 and define its powers and duties; to abolish the Michigan public
 10 utilities commission and to confer the powers and duties vested by
 11 law on the public service commission; to provide for the powers and
 12 duties of certain state governmental officers and entities; to
 13 provide for the continuance, transfer, and completion of certain
 14 matters and proceedings; to abolish automatic adjustment clauses;
 15 to prohibit certain rate increases without notice and hearing; to
 16 qualify residential energy conservation programs permitted under
 17 state law for certain federal exemption; to create a fund; to
 18 encourage the utilization of resource recovery facilities; to

1 prohibit certain acts and practices of providers of energy; to
2 allow for the securitization of stranded costs; to reduce rates; to
3 provide for appeals; to provide appropriations; to declare the
4 effect and purpose of this act; to prescribe remedies and
5 penalties; and to repeal acts and parts of acts.

6 Sec. 10g. (1) As used in sections 10 through 10bb:

7 (a) "Alternative electric supplier" means a person selling
8 electric generation service to retail customers in this state.
9 Alternative electric supplier does not include **a provider of**
10 **electric vehicle charging services or** a person who physically
11 delivers electricity directly to retail customers in this state. An
12 alternative electric supplier is not a public utility.

13 (b) "Commission" means the Michigan public service commission
14 created in section 1.

15 (c) "Electric utility" means that term as defined in section 2
16 ~~of the electric transmission line certification act, 1995 PA 30,~~
17 ~~MCL 460.562.10h.~~

18 (d) "Independent transmission owner" means an independent
19 transmission company as that term is defined in section 2 of the
20 electric transmission line certification act, 1995 PA 30, MCL
21 460.562.

22 (e) "Merchant plant" means electric generating equipment and
23 associated facilities with a capacity of more than 100 kilowatts
24 located in this state that are not owned and operated by an
25 electric utility.

26 (f) "Relevant market" means either the Upper Peninsula or the
27 Lower Peninsula of this state.

28 (g) "Renewable energy source" means energy generated by solar,
29 wind, geothermal, biomass, including waste-to-energy and landfill

1 gas, or hydroelectric.

2 (2) A school district aggregating electricity for school
3 properties or an exclusive aggregator for public or private school
4 properties is not an electric utility or a public utility for the
5 purpose of that aggregation.

6 Sec. 10h. As used in this act:

7 (a) "Assignee" means an individual, corporation, or other
8 legally recognized entity to which an interest in securitization
9 property is transferred.

10 (b) "Commission" means the Michigan public service commission
11 ~~in the department of consumer and industry services.~~**created in**
12 **section 1.**

13 (c) "Electric utility" means that term as defined in section 2
14 of the electric transmission line certification act, 1995 PA 30,
15 MCL 460.562.

16 (d) "Electric vehicle" means that term as defined in section
17 **2(f) (iii) of the Michigan next energy authority act, 2002 PA 593, MCL**
18 **207.822.**

19 (e) "Electric vehicle charging services" means the transfer of
20 electric energy from electric vehicle service equipment to a
21 battery or other storage device in an electric vehicle, and the
22 provision of billing services, networking, and operation and
23 maintenance related to that transfer of electric energy to an
24 electric vehicle.

25 (f) "Electric vehicle charging station" means an electric
26 component assembly or cluster of component assemblies designed
27 specifically to charge batteries within an electric vehicle by
28 permitting the transfer of electric energy to a battery or other
29 storage device in an electric vehicle.

1 **(g)** ~~(d)~~—"Financing order" means an order of the commission
2 approving the issuance of securitization bonds and the creation of
3 securitization charges and any corresponding utility rate
4 reductions.

5 **(h)** ~~(e)~~—"Financing party" means a holder of securitization
6 bonds, including trustees, collateral agents, and other persons
7 acting for the benefit of the holder.

8 **(i)** ~~(f)~~—"Nonbypassable charge" means a charge in a financing
9 order payable by a customer to an electric utility or its assignees
10 or successors regardless of the identity of the customer's electric
11 generation supplier.

12 **(j)** ~~(g)~~—"Qualified costs" means an electric utility's
13 regulatory assets as determined by the commission, adjusted by the
14 applicable portion of related investment tax credits, plus any
15 costs that the commission determines that the electric utility
16 would be unlikely to collect in a competitive market, including,
17 but not limited to, retail open access implementation costs and the
18 costs of a commission approved restructuring, buyout or buy-down of
19 a power purchase contract, together with the costs of issuing,
20 supporting, and servicing securitization bonds and any costs of
21 retiring and refunding the electric utility's existing debt and
22 equity securities in connection with the issuance of securitization
23 bonds. Qualified costs include taxes related to the recovery of
24 securitization charges.

25 **(k)** ~~(h)~~—"Securitization bonds" means bonds, debentures, notes,
26 certificates of participation, certificates of a beneficial
27 interest, certificates of ownership, or other evidences of
28 indebtedness that are issued by an electric utility, its
29 successors, or an assignee under a financing order, that have a

1 term of not more than 15 years, and that are secured by or payable
2 from securitization property. If certificates of participation,
3 certificates of beneficial interest, or certificates of ownership
4 are issued, references in this act to principal, interest, or
5 premium ~~shall~~ refer to comparable amounts under those certificates.

6 (l) ~~(i)~~ "Securitization charges" means nonbypassable amounts to
7 be charged for the use or availability of electric services,
8 approved by the commission under a financing order to fully recover
9 qualified costs, that shall be collected by an electric utility,
10 its successors, an assignee, or other collection agents as provided
11 for in the financing order.

12 (m) ~~(j)~~ "Securitization property" means the property described
13 in section 10j.

14 Sec. 10q. (1) A person shall not ~~engage~~ **do either of the**
15 **following:**

16 (a) **Engage** in the business of an alternative electric supplier
17 in this state unless the person obtains and maintains a license
18 issued under section 10a.

19 (b) **Except as otherwise provided in this subdivision, provide**
20 **electric vehicle charging services unless the person registers with**
21 **the department of agriculture and rural development under the**
22 **electric vehicle charging services registration act. The following**
23 **are not required to register under the electric vehicle charging**
24 **services act:**

25 (i) **A private owner of an electric vehicle charging station or**
26 **a nonretail provider of an electric vehicle charging station if the**
27 **electric vehicle charging station is not publicly accessible or if**
28 **that private owner or nonretail provider will provide electric**
29 **vehicle charging services at no cost to users of the electric**

1 **vehicle charging station.**

2 **(ii) An electric utility.**

3 **(iii) A municipally owned utility.**

4 **(iv) A cooperative electric utility.**

5 **(v) An independent transmission owner.**

6 (2) In addition to any other information required by the
7 commission in connection with a licensing application **under section**
8 **10a**, the applicant shall ~~be required to do~~ both of the following:

9 (a) Provide information, including information as to the
10 applicant's safety record and its history of service quality and
11 reliability, as to the applicant's technical ability, as defined
12 under regulations of the commission, to safely and reliably
13 generate or otherwise obtain and deliver electricity and provide
14 any other proposed services.

15 (b) Demonstrate that the employees of the applicant that will
16 be installing, operating, and maintaining generation or
17 transmission facilities within this state, or any entity with which
18 the applicant has contracted to perform those functions within this
19 state, have the requisite knowledge, skills, and competence to
20 perform those functions in a safe and responsible manner in order
21 to provide safe and reliable service.

22 (3) The commission shall order the applicant **for a license**
23 **under section 10a** to post a bond or provide a letter of credit or
24 other financial guarantee in a reasonable amount established by the
25 commission of not less than \$40,000.00, if the commission finds
26 after an investigation and review that the requirement of a bond
27 would be in the public interest.

28 (4) Only investor-owned, cooperative, or ~~municipal~~**municipally**
29 **owned** electric utilities shall own, construct, or operate electric

1 distribution facilities or electric meter equipment used in the
2 distribution of electricity in this state. This subsection does not
3 prohibit a self-service power provider from owning, constructing,
4 or operating electric distribution facilities or electric metering
5 equipment for the sole purpose of providing or utilizing self-
6 service power. **This subsection does not prohibit an entity that
7 provides electric vehicle charging services from owning,
8 constructing, or operating an electric vehicle charging station.**

9 This act does not affect the current rights, if any, of a
10 nonutility to construct or operate a private distribution system on
11 private property or private easements. This does not preclude
12 crossing of public rights-of-way. **An entity that provides electric
13 vehicle charging services is not considered a public utility
14 notwithstanding the basis on which the service is provided or
15 billed. However, if an entity that provides electric vehicle
16 charging services is otherwise considered a public utility under
17 this act, or is otherwise subject to regulation under this act,
18 then that entity is not exempt from and remains subject to the
19 otherwise applicable provisions of this act.**

20 (5) The commission shall not prohibit an electric utility from
21 metering and billing its customers for services provided by the
22 electric utility.

23 Enacting section 1. This amendatory act does not take effect
24 unless Senate Bill No.____ or House Bill No.4801(request no.
25 00384'21) of the 101st Legislature is enacted into law.