

**SUBSTITUTE FOR
HOUSE BILL NO. 5221**

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 sections 9d, 9q, and 9r (MCL 460.9d, 460.9q, and 460.9r), section 9d as added by 2010 PA 128, section 9q as amended by 2011 PA 274, and section 9r as added by 2009 PA 174.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 9d. (1) If a utility observes an unsafe electric or
2 natural gas service connection at a customer's location caused by
3 unauthorized use of electric or natural gas service, the utility
4 shall implement measures consistent with good utility practices
5 intended to cure or ~~to~~ otherwise address the unsafe connection and
6 may take appropriate action to deter future unauthorized use of
7 electric or natural gas service at that location, including, but
8 not limited to, installation of additional utility facilities.

9 (2) At any customer location where a utility has shut off
10 electric or natural gas service 2 or more times during the prior 24
11 months because of unauthorized use of electric or natural gas
12 service, a utility may refuse to provide electric or natural gas
13 service to that location notwithstanding any other administrative
14 rules or statutes if the utility determines that denying electric
15 or natural gas service at that location will prevent the
16 reoccurrence of the unauthorized use.

17 (3) A utility shall reestablish electric or natural gas
18 service at a customer location if the person requesting service
19 does 1 of the following:

20 (a) Proves that the person is the legal owner of the property
21 by providing property ownership information and, ~~prior to~~ **before**
22 reconnection of service, pays for the actual cost to repair the
23 utility's equipment and facilities located on the owner's property,



1 all fees and deposits required under the utility's approved
 2 schedule of rates and tariffs, and all charges due to the utility
 3 for the prior unauthorized use that occurred during ~~his or her~~ **the**
 4 **person's** ownership.

5 (b) Proves that the person is the legal owner of the property
 6 by providing property ownership information and provides a signed
 7 lease agreement that ~~has been~~ **is** certified by the landlord that
 8 establishes the identity of the tenant responsible for the prior
 9 unauthorized use.

10 (4) If the legal owner cannot provide documentation
 11 establishing the identity of the tenant responsible for the prior
 12 unauthorized use and the owner does not agree to pay for the
 13 charges due to the utility for the prior unauthorized use, a
 14 utility may still reestablish electric or natural gas service if
 15 the owner proves that the owner is the legal owner of the property
 16 by providing property ownership information and agrees to payment
 17 of the additional fee for reestablishing electric or natural gas
 18 service at the location with multiple prior occurrences of
 19 unauthorized use as specified in the utility's approved schedule of
 20 rates and tariffs.

21 (5) If a person requesting electric or natural gas service
 22 cannot provide property ownership information, a utility may
 23 reestablish service if the person can provide all of the following,
 24 **as applicable:**

25 (a) Residency information.

26 (b) All documentation, fees, and deposits required by R
 27 460.106, R 460.109, ~~R 460.110,~~ and R 460.144 of the Michigan
 28 ~~administrative code.~~ **Administrative Code.**

29 (c) Payment of any additional fee for reestablishing ~~electric~~



1 ~~or~~ natural gas service at a location with multiple prior
 2 occurrences of unauthorized use as specified in the utility's
 3 approved schedule of rates and tariffs.

4 (6) A property owner shall provide notice to a utility within
 5 30 days after the owner abandons or surrenders a property. If a
 6 property owner does not provide notice to the utility within 30
 7 days after the property owner's abandonment or surrender of a
 8 property, that property owner is liable, jointly and severally, for
 9 any unauthorized use that occurs at the property after the owner's
 10 abandonment or surrender of the property.

11 (7) ~~Within 150 days of the effective date of the amendatory~~
 12 ~~act that added this section, **By December 18, 2010,**~~ electric and
 13 natural gas utilities serving 1,000,000 or more customers shall
 14 establish and maintain a service in which landlords of rental
 15 properties in the utility's service territory ~~who~~**that** have
 16 registered with the utility for shut-off notifications are notified
 17 of locations where electric and natural gas services have been shut
 18 off because of unauthorized use.

19 (8) This section only applies to the unauthorized use of
 20 electric or natural gas service and does not apply to the providing
 21 of a telecommunication service or cable service or the attachment
 22 of facilities by a telecommunication or cable service provider to
 23 the utility poles, ducts, conduits, or trenches owned or controlled
 24 by an electric or natural gas utility. This section does not
 25 supersede, modify, or affect the validity of any statutes,
 26 administrative rules, utility tariffs, contracts, commission
 27 orders, or common law governing the rates, terms, and conditions of
 28 the use of electric or natural gas utility poles, ducts, conduits,
 29 and trenches.



1 (9) As used in this section:

2 (a) "Bypassing" means unmetered service that flows through a
3 device connected between a service line and customer-owned
4 facilities.

5 (b) "Meter tampering" means any act that affects the proper
6 registration of service through a meter and affects the flow of
7 energy.

8 (c) "Positive identification information" means a ~~driver's~~
9 **driver** license or identification card issued by this or another
10 state, a military identification card, a passport, or other
11 government-issued identification containing a photograph.

12 (d) "Property ownership information" means a recorded warranty
13 deed, notarized closing papers, tax records, mortgage payment book,
14 or copy of an insurance policy for the address identifying an
15 individual or entity as the owner.

16 (e) "Residency information" means all of the following:

17 (i) Positive identification information.

18 (ii) A signed lease agreement that ~~has been~~**is** certified by the
19 landlord for the location where electric or natural gas service is
20 being requested.

21 (iii) Any first-class mail sent to the person requesting
22 electric or natural gas service within the last 3 months at that
23 person's previous residence.

24 (f) "Unauthorized use of electric or natural gas service" or
25 "unauthorized use" means theft, fraud, interference, or diversion
26 of electric or natural gas service, including, but not limited to,
27 meter tampering, bypassing, and service restoration by anyone other
28 than the utility or its representative.

29 (g) "Utility" means an electric or natural gas utility



1 regulated by the public service commission.

2 Sec. 9q. (1) A provider may shut off service temporarily for
3 reasons of health or safety or in a state or national emergency.
4 When a provider shuts off service for reasons of health or safety,
5 the provider shall leave a notice at the premises.

6 (2) Subject to the requirements of this act, a provider may
7 shut off or terminate service to a residential customer for any of
8 the following reasons:

9 (a) The customer has not paid a delinquent account that
10 accrued within the last 6 years.

11 (b) The customer has failed to provide a deposit or guarantee
12 as required by the provider.

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

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

18 (e) The customer has refused to arrange access at reasonable
19 times for the purpose of inspection, meter reading, maintenance, or
20 replacement of equipment that is installed ~~upon~~**on** the premises or
21 for the removal of a meter.

22 (f) The customer misrepresented ~~his or her~~**the customer's**
23 identity for the purpose of obtaining a provider service or put
24 service in another person's name without permission of the other
25 person.

26 (g) The customer has violated any rules of the provider so as
27 to adversely affect the safety of the customer or other individuals
28 or the integrity of the provider's system.

29 (h) An individual living in the customer's residence meets



1 both of the following:

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

4 (ii) The individual lived in the customer's residence when all
5 or part of the debt was incurred. The provider may transfer a
6 prorated amount of the debt to the customer's account, based ~~upon~~
7 **on** the length of time that the individual resided at the customer's
8 residence. This subdivision does not apply if the individual was a
9 minor while living in the customer's residence.

10 (3) A provider shall not shut off service unless it sends a
11 notice to the customer by first-class mail or personally serves the
12 notice not less than 10 days before the date of the proposed
13 shutoff. A provider shall maintain a record of the date the notice
14 was sent.

15 (4) Subject to the requirements of sections 9r and 9s, a
16 provider's governing body shall establish a policy to allow a
17 customer the opportunity to enter into a payment plan for an amount
18 owed to the provider that is not in dispute, if a customer claims
19 an inability to pay in full. A provider is not required to enter
20 into a subsequent payment plan with a customer until the customer
21 has complied fully with the terms of an existing or previous
22 payment plan unless the customer demonstrates a significant change
23 in economic circumstances and requests a modification of the
24 payment plan. A provider is not required to enter into a subsequent
25 payment plan with a customer who defaulted on the terms and
26 conditions of a payment plan within the last 12 months.

27 (5) A notice of shutoff under subsection (3) ~~shall~~**must**
28 contain all of the following information:

29 (a) The name and address of the customer, and the address at



1 which service is provided, if different.

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

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

6 (d) That the customer has the right to enter into a payment
7 plan with the provider for an amount owed to the provider that is
8 not in dispute and that the customer is presently unable to pay in
9 full.

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

13 (f) That the provider will postpone the shutoff of service if
14 a certified medical emergency exists at the customer's residence
15 and the customer informs and provides documentation to the provider
16 of that medical emergency.

17 (g) That during the heating season the provider will postpone
18 shutoff of service if a customer is an eligible low-income customer
19 that enters into a winter protection payment plan with the provider
20 and the customer provides documentation that the customer is
21 actively seeking emergency assistance from an energy assistance
22 program.

23 (h) The energy assistance telephone line number at the
24 department of **health and** human services or an operating 2-1-1
25 system telephone number.

26 (6) Subject to the requirements of this act, a provider may
27 shut off service to a customer on the date specified in the notice
28 of shutoff or at a reasonable time following that date. If a
29 provider does not shut off service and mails a subsequent notice,



1 then the provider shall not shut off service before the date
2 specified in the subsequent notice. Shutoff shall occur only
3 between the hours of 8 a.m. and 4 p.m.

4 (7) A provider shall not shut off service on a day, or a day
5 immediately preceding a day, when the services of the provider are
6 not available to the general public for the purpose of restoring
7 service.

8 (8) For an involuntary shutoff, at least 1 day before shutoff
9 of service, the provider shall make at least 2 attempts to contact
10 the customer by 1 or more of the following methods:

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

14 (b) First-class mail.

15 (c) A personal visit to the customer.

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

17 (e) Any other method approved by the commission for regulated
18 utilities.

19 (9) A notice of shutoff sent under subsection (3) ~~shall be is~~
20 considered as 1 attempt under subsection (8).

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

23 (11) Immediately before the shutoff of service, an employee of
24 the provider who is designated to perform that function may
25 identify ~~himself or herself~~ to the customer, or another responsible
26 individual at the premises, **who the employee is** and may announce
27 the purpose of ~~his or her~~ **the employee's** presence.

28 (12) When a provider employee shuts off service, the employee
29 shall leave a notice. The notice ~~shall~~ **must** state that service has



1 been shut off and ~~shall~~**must** contain the address and telephone
 2 number of the provider where the customer may arrange to have
 3 service restored.

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

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

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

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



1 (i) If the customer supplies a written, notarized statement
2 that the premises are unoccupied.

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

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

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

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

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

22 (17) For providers using meter technology with remote shutoff
23 and restoration capability, service ~~shall~~**must** be restored on the
24 first working day after the customer requests restoration, except
25 in the case of documented equipment failure. **For eligible low-**
26 **income customers, a provider may assess the customer a charge for**
27 **remote service restoration that is not more than \$25.00. A provider**
28 **shall waive a remote service restoration charge if a customer has**
29 **made at least 1 payment under a payment plan or has otherwise**



1 provided a deposit or guarantee as required by the provider.

2 (18) ~~The Subject to subsection (17),~~ a provider may assess the
3 customer a charge for restoring service or relocating the
4 customer's meter.

5 (19) The vulnerable household warmth fund is created within
6 the state treasury. The state treasurer may receive money or other
7 assets from any source for deposit into the fund. The state
8 treasurer shall direct the investment of the fund ~~. The state~~
9 ~~treasurer shall~~ **and** credit to the fund interest and earnings from
10 fund investments. Money in the fund at the close of the fiscal year
11 ~~shall~~ **must** be refunded among each rate schedule, based on the rate
12 schedules in effect when the money was collected, proportional to
13 the amount paid by each rate schedule. The commission shall ensure
14 that each utility refunds those amounts to its customers. The
15 commission ~~shall be~~ **is** the administrator of the fund for auditing
16 purposes.

17 (20) Money from the fund, ~~upon~~ **on** appropriation, ~~shall~~ **must** be
18 used to provide payment or partial payment of bills for
19 electricity, natural gas, propane, heating oil, or any other type
20 of fuel used to heat the primary residence of a vulnerable customer
21 during the 2011-2012 heating season. A payment under this
22 subsection ~~shall~~ **must** be in the form of a voucher or direct payment
23 to the utility, provider, cooperative, or distributor of fuel. The
24 amount accumulated in the fund ~~shall~~ **must** not exceed
25 \$48,000,000.00.

26 (21) The department of **health and** human services and the
27 commission shall ensure that, in distributing money from the fund,
28 first priority is given to households that contain at least 1 of
29 the following:



1 (a) A minor child.

2 (b) An eligible senior citizen.

3 (c) A paraplegic, hemiplegic, quadriplegic, or totally and
4 permanently disabled individual.

5 (22) Amounts that were, before ~~the amendatory act that added~~
6 ~~this subsection, December 20, 2011,~~ authorized by the commission to
7 be collected in retail rates from the customers of an electric
8 utility or natural gas utility with more than 1,000,000 customers
9 in this state for contribution by the electric utility or natural
10 gas utility to fund grants authorized by the commission in the June
11 28, 2011 order awarding low-income energy assistance grants in
12 docket No. U-13129 are authorized for a period commencing ~~with the~~
13 ~~effective date of the amendatory act that added this subsection,~~
14 **December 20, 2011,** and continuing through September 30, 2012, or
15 until \$48,000,000.00 is accumulated in the fund from retail rates
16 or appropriated funds, whichever occurs first. An electric utility
17 or natural gas utility that collects money under this subsection
18 shall remit that money to the state treasurer for deposit in the
19 fund on a monthly basis no later than 30 days after the last day in
20 each calendar month. The commission shall issue orders no later
21 than September 30, 2012 reducing the retail rates of an electric
22 utility or natural gas utility that collects money under this
23 subsection by the annualized amount authorized for collection by
24 this subsection and included in the retail rates of each electric
25 utility or natural gas utility as established by the most recently
26 completed rate case of the electric utility or natural gas utility
27 before the effective date of the amendatory act that added this
28 subsection.

29 (23) As used in this section:



1 (a) "Eligible senior citizen" means an individual who is 65
2 years of age or older.

3 (b) "Fund" means the vulnerable household warmth fund created
4 in subsection (19).

5 (c) "Heating season" means that term as defined in section 9r.

6 (d) "Provider" means a municipally owned electric or natural
7 gas utility.

8 (e) "Totally and permanently disabled" means a disability as
9 defined in 42 USC 416.

10 (f) "Vulnerable customer" means either of the following:

11 (i) For an electric utility, provider, cooperative, or natural
12 gas utility customer, a customer who meets both of the following:

13 (A) Has a household income that does not exceed 60% of the
14 state median income, or receives any of the following:

15 (I) Assistance from a state emergency relief program.

16 (II) Food stamps.

17 (III) Medicaid.

18 (B) Has received a shut-off notice from the ~~energy~~ provider.

19 (ii) For a customer who uses a fuel other than electricity or
20 natural gas to heat ~~his or her~~ **the customer's** residence, a customer
21 who meets both of the following:

22 (A) Has a household income that does not exceed 60% of the
23 state median income, or receives any of the following:

24 (I) Assistance from a state emergency relief program.

25 (II) Food stamps.

26 (III) Medicaid.

27 (B) Has received notice from their distributor of fuel that no
28 further deliveries will be made to ~~his or her~~ **the customer's**
29 residence due to nonpayment of prior bills.



1 Sec. 9r. (1) A municipally owned electric utility shall not
2 shut off service to an eligible customer during the heating season
3 for nonpayment of a delinquent account if the customer is an
4 eligible senior citizen customer or if the eligible customer enters
5 into a winter protection payment plan to pay to the utility a
6 monthly amount equal to 7% of the estimated annual bill for the
7 eligible customer or the eligible customer and the utility mutually
8 agree ~~upon~~**on** a winter protection payment plan with different terms
9 and the eligible customer demonstrates, within 14 days of
10 requesting shut-off protection, that ~~he or she~~**eligible customer**
11 has applied for state or federal heating assistance. If an
12 arrearage exists at the time an eligible customer applies for
13 protection from shutoff of service during the heating season, the
14 utility shall permit the customer to pay the arrearage in equal
15 monthly installments between the date of application and the start
16 of the subsequent heating season.

17 (2) If a customer fails to comply with the terms and
18 conditions of a winter protection payment plan, a municipally owned
19 electric utility may shut off service after giving the customer a
20 notice, by personal service or first-class mail, that contains all
21 of the following information:

22 (a) That the customer has defaulted on the winter protection
23 payment plan.

24 (b) The nature of the default.

25 (c) That unless the customer makes the payments that are past
26 due within 10 days of the date of mailing, the municipally owned
27 electric utility may shut off service.

28 (d) The date on or after which the municipally owned electric
29 utility may shut off service, unless the customer takes appropriate



1 action.

2 (e) That the customer may petition the municipally owned
3 electric utility in accordance with the utility's rules disputing
4 the claim before the date of the proposed shutoff of service, or
5 bring an action pursuant to section 9p.

6 (f) That the utility will not shut off service pending the
7 resolution of a dispute that is filed with the utility in
8 accordance with this section.

9 (g) The telephone number and address of the utility where the
10 customer may make inquiry, enter into a payment plan, or file a
11 complaint.

12 (h) The energy assistance telephone line number at the
13 department of **health and** human services or an operating 2-1-1
14 system telephone number.

15 (i) That the utility will postpone shutoff of service if a
16 medical emergency exists at the customer's residence.

17 (j) That the utility may require a deposit ~~and~~**or** restoration
18 charge if the ~~supplier~~**utility** shuts off service for nonpayment of
19 a delinquent account. **A restoration charge of a smart meter for an**
20 **eligible low-income customer under this subsection must not exceed**
21 **\$25.00. If an eligible low-income customer has provided the**
22 **required deposit, the utility shall not require a restoration**
23 **charge.**

24 (3) As used in this section:

25 (a) "Eligible customer" means either an eligible low-income
26 customer or ~~an~~eligible senior citizen customer who demonstrates to
27 the utility ~~his or her~~**the customer's** eligibility.

28 (b) "Eligible low-income customer" means a customer whose
29 household income does not exceed 150% of the poverty level, as



1 published by the United States ~~department~~**Department** of health
2 **Health** and ~~human services,~~**Human Services**, or who receives any of
3 the following:

4 (i) Assistance from a state emergency relief program.

5 (ii) Food stamps.

6 (iii) Medicaid.

7 (c) "Eligible senior citizen customer" means a utility
8 customer who is 65 years of age or older and who advises the
9 utility of ~~his or her~~**the customer's** eligibility.

10 (d) "Heating season" means November 1 through March 31.

