

HOUSE BILL NO. 5221

October 24, 2023, Introduced by Reps. Neeley and Scott and referred to the Committee on Energy, Communications, and Technology.

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:

1 (a) Proves that the person is the legal owner of the property
2 by providing property ownership information and, ~~prior to~~ **before**
3 reconnection of service, pays for the actual cost to repair the
4 utility's equipment and facilities located on the owner's property,
5 all fees and deposits required under the utility's approved
6 schedule of rates and tariffs, and all charges due to the utility
7 for the prior unauthorized use that occurred during ~~his or her~~ **the**
8 **person's** ownership.

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

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

25 (5) If a person requesting electric or natural gas service
26 cannot provide property ownership information, a utility may
27 reestablish service if the person can provide all of the following,
28 **as applicable:**

29 (a) Residency information.

1 (b) All documentation, fees, and deposits required by R
2 460.106, R 460.109, ~~R 460.110,~~ and R 460.144 of the Michigan
3 ~~administrative code.~~ **Administrative Code.**

4 (c) Payment of any additional fee for reestablishing electric
5 ~~or~~ natural gas service at a location with multiple prior
6 occurrences of unauthorized use as specified in the utility's
7 approved schedule of rates and tariffs.

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

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

23 (8) This section only applies to the unauthorized use of
24 electric or natural gas service and does not apply to the providing
25 of a telecommunication service or cable service or the attachment
26 of facilities by a telecommunication or cable service provider to
27 the utility poles, ducts, conduits, or trenches owned or controlled
28 by an electric or natural gas utility. This section does not
29 supersede, modify, or affect the validity of any statutes,

1 administrative rules, utility tariffs, contracts, commission
 2 orders, or common law governing the rates, terms, and conditions of
 3 the use of electric or natural gas utility poles, ducts, conduits,
 4 and trenches.

5 (9) As used in this section:

6 (a) "Bypassing" means unmetered service that flows through a
 7 device connected between a service line and customer-owned
 8 facilities.

9 (b) "Meter tampering" means any act that affects the proper
 10 registration of service through a meter and affects the flow of
 11 energy.

12 (c) "Positive identification information" means a ~~driver's~~
 13 **driver** license or identification card issued by this or another
 14 state, a military identification card, a passport, or other
 15 government-issued identification containing a photograph.

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

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

21 (i) Positive identification information.

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

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

28 (f) "Unauthorized use of electric or natural gas service" or
 29 "unauthorized use" means theft, fraud, interference, or diversion

1 of electric or natural gas service, including, but not limited to,
2 meter tampering, bypassing, and service restoration by anyone other
3 than the utility or its representative.

4 (g) "Utility" means an electric or natural gas utility
5 regulated by the public service commission.

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

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

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

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

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

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

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

26 (f) The customer misrepresented ~~his or her~~**the customer's**
27 identity for the purpose of obtaining a provider service or put
28 service in another person's name without permission of the other
29 person.

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

4 (h) An individual living in the customer's residence meets
5 both of the following:

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

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

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

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

1 conditions of a payment plan within the last 12 months.

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

4 (a) The name and address of the customer, and the address at
5 which service is provided, if different.

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

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

10 (d) That the customer has the right to enter into a payment
11 plan with the provider for an amount owed to the provider that is
12 not in dispute and that the customer is presently unable to pay in
13 full.

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

17 (f) That the provider will postpone the shutoff of service if
18 a certified medical emergency exists at the customer's residence
19 and the customer informs and provides documentation to the provider
20 of that medical emergency.

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

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

1 (6) Subject to the requirements of this act, a provider may
2 shut off service to a customer on the date specified in the notice
3 of shutoff or at a reasonable time following that date. If a
4 provider does not shut off service and mails a subsequent notice,
5 then the provider shall not shut off service before the date
6 specified in the subsequent notice. Shutoff shall occur only
7 between the hours of 8 a.m. and 4 p.m.

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

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

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

18 (b) First-class mail.

19 (c) A personal visit to the customer.

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

21 (e) Any other method approved by the commission for regulated
22 utilities.

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

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

27 (11) Immediately before the shutoff of service, an employee of
28 the provider who is designated to perform that function may
29 identify ~~himself or herself~~ to the customer, or another responsible

1 individual at the premises, **who the employee is** and may announce
2 the purpose of ~~his or her~~ **the employee's** presence.

3 (12) When a provider employee shuts off service, the employee
4 shall leave a notice. The notice ~~shall~~ **must** state that service has
5 been shut off and ~~shall~~ **must** contain the address and telephone
6 number of the provider where the customer may arrange to have
7 service restored.

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

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

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

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

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

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

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

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

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

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

26 (17) For providers using meter technology with remote shutoff
27 and restoration capability, service ~~shall~~**must** be restored on the
28 first working day after the customer requests restoration, except
29 in the case of documented equipment failure.

1 (18) The provider may assess the customer a charge for
 2 ~~restoring~~**remote restoration of service** ~~or that is not more than~~
 3 **\$25.00, unless the customer has entered into and made at least 1**
 4 **payment under a payment plan or has otherwise provided a deposit or**
 5 **guarantee as required by the provider, in which case the provider**
 6 **shall not assess the customer a charge for remote restoration of**
 7 **service. A provider may assess the customer a charge for** relocating
 8 the customer's meter.

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

21 (20) Money from the fund, ~~upon~~**on** appropriation, ~~shall~~**must** be
 22 used to provide payment or partial payment of bills for
 23 electricity, natural gas, propane, heating oil, or any other type
 24 of fuel used to heat the primary residence of a vulnerable customer
 25 during the 2011-2012 heating season. A payment under this
 26 subsection ~~shall~~**must** be in the form of a voucher or direct payment
 27 to the utility, provider, cooperative, or distributor of fuel. The
 28 amount accumulated in the fund ~~shall~~**must** not exceed
 29 \$48,000,000.00.

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

5 (a) A minor child.

6 (b) An eligible senior citizen.

7 (c) A paraplegic, hemiplegic, quadriplegic, or totally and
 8 permanently disabled individual.

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

1 completed rate case of the electric utility or natural gas utility
 2 before the effective date of the amendatory act that added this
 3 subsection.

4 (23) As used in this section:

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

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

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

10 (d) "Provider" means a municipally owned electric or natural
 11 gas utility.

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

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

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

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

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

20 (II) Food stamps.

21 (III) Medicaid.

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

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

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

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

29 (II) Food stamps.

1 (III) Medicaid.

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

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

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

26 (a) That the customer has defaulted on the winter protection
27 payment plan.

28 (b) The nature of the default.

29 (c) That unless the customer makes the payments that are past

1 due within 10 days of the date of mailing, the municipally owned
2 electric utility may shut off service.

3 (d) The date on or after which the municipally owned electric
4 utility may shut off service, unless the customer takes appropriate
5 action.

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

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

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

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

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

21 (j) That the utility may require a deposit ~~and~~ **or** restoration
22 charge if the ~~supplier-utility~~ shuts off service for nonpayment of
23 a delinquent account. **A restoration charge under this subdivision**
24 **must not be more than \$25.00, unless the customer has provided the**
25 **required deposit, in which case the utility shall not require a**
26 **restoration charge.**

27 (3) As used in this section:

28 (a) "Eligible customer" means either an eligible low-income
29 customer or ~~an~~ eligible senior citizen customer who demonstrates to

1 the utility ~~his or her~~ **the customer's** eligibility.

2 (b) "Eligible low-income customer" means a customer whose
3 household income does not exceed 150% of the poverty level, as
4 published by the United States ~~department~~ **Department** of health
5 **Health** and ~~human services,~~ **Human Services**, or who receives any of
6 the following:

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

8 (ii) Food stamps.

9 (iii) Medicaid.

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

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

14 Enacting section 1. This amendatory act does not take effect
15 unless all of the following bills of the 102nd Legislature are
16 enacted into law:

17 (a) Senate Bill No. _____ or House Bill No. 5216 (request no.
18 04427'23 *).

19 (b) Senate Bill No. _____ or House Bill No. 5222 (request no.
20 04428'23 *).

21 (c) Senate Bill No. _____ or House Bill No. 5220 (request no.
22 04429'23 *).

23 (d) Senate Bill No. _____ or House Bill No. _____ (request no.
24 04646'23 *).

25 (e) Senate Bill No. _____ or House Bill No. 5217 (request no.
26 04647'23 *).

27 (f) Senate Bill No. _____ or House Bill No. 5219 (request no.
28 04648'23 *).