

STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2011

Introduced by Senators Walker, Kahn, Caswell, Schuitmaker, Booher, Johnson, Bieda, Nofs, Proos, Emmons, Marleau, Jones, Young, Casperson, Anderson, Brandenburg, Colbeck, Green, Hansen, Hopgood, Jansen, Kowall, Meekhof, Moolenaar, Pappageorge, Richardville and Warren

ENROLLED SENATE BILL No. 864

AN ACT 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 sections 6e, 9q, and 10u (MCL 460.6e, 460.9q, and 460.10u), section 6e as added by 1980 PA 50, section 9q as added by 2009 PA 171, and section 10u as added by 2000 PA 141.

The People of the State of Michigan enact:

Sec. 6e. (1) By March 25, 1983, the standing committees of the legislature responsible for energy issues shall undertake a review and evaluation of the impact of section 6d and report to the legislature.

(2) The legislative committees shall hold a public hearing. Notice of the public hearing shall be given to interested parties who shall be given an opportunity to testify. Following the public hearing, the legislative committees shall prepare a report.

(3) The report shall be submitted to the clerk of the house and secretary of the senate and made available to all members of the legislature.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(h) The energy assistance telephone line number at the department of human services or an operating 2-1-1 system telephone number.

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

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

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

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

(b) First-class mail.

(c) A personal visit to the customer.

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

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

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

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

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

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

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

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

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

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

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

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

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

(iv) If it is feasible to provide service to the occupant as a customer without a major revision of existing distribution facilities and the occupant refuses to put the account in their name.

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

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

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

(18) The provider may assess the customer a charge for restoring service or relocating the customer's meter.

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

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

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

(a) A minor child.

(b) An eligible senior citizen.

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

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

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

(23) As used in this section:

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

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

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

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

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

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

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

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

(I) Assistance from a state emergency relief program.

(II) Food stamps.

(III) Medicaid.

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

(ii) For a customer who uses a fuel other than electricity or natural gas to heat his or her residence, a customer who meets both of the following:

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

(I) Assistance from a state emergency relief program.

(II) Food stamps.

(III) Medicaid.

(B) Has received notice from their distributor of fuel that no further deliveries will be made to his or her residence due to nonpayment of prior bills.

Sec. 10u. The commission shall compile a report by February 1 of each year that shall be posted on the commission's internet website and disseminated by any other means that the commission determines will properly notify the citizens of this state. A copy of the report shall be provided to the governor and the legislature. The report shall include all of the following:

(a) The status of competition for the supplying of electricity in this state.

(b) Recommendations for legislation, if any.

(c) Actions taken by the commission to implement measures necessary to protect consumers from unfair or deceptive business practices by utilities, alternative electric suppliers, and other market participants.

(d) Information regarding consumer education programs, approved by the commission, to inform consumers of all relevant information regarding the purchase of electricity and related services from alternative electric suppliers.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Gay E. Randall

Clerk of the House of Representatives

Approved

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Governor