

HOUSE BILL No. 5190

November 30, 2011, Introduced by Rep. Horn and referred to the Committee on Energy 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 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 section 10d (MCL 460.10d), as amended by 2008 PA 286.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 10d. (1) If an electric utility serving less than

1 1,000,000 retail customers in this state as of May 1, 2000 issues
2 securitization bonds as allowed under this act, it ~~shall have~~ **HAS**
3 the same rights, duties, and obligations under this section as an
4 electric utility serving 1,000,000 or more retail customers in this
5 state as of May 1, 2000.

6 (2) The commission shall take the necessary steps to ensure
7 that all electrical power generating facilities in this state
8 comply with all rules, regulations, and standards of the federal
9 environmental protection agency regarding mercury emissions.

10 (3) A covered utility may apply to the commission to recover
11 enhanced security costs for an electric generating facility through
12 a security recovery factor. If the commission ~~action under~~
13 ~~subsection (5) is approval of~~ **APPROVES** a security recovery factor
14 **UNDER SUBSECTION (5)**, the covered utility may recover those
15 enhanced security costs.

16 (4) The commission shall require that notice of the
17 application filed under subsection (3) be published by the covered
18 utility within 30 days from the date the application was filed. The
19 initial hearing by the commission shall be held within 20 days of
20 the date the notice was published in newspapers of general
21 circulation in the service territory of the covered utility.

22 (5) The commission may issue an order approving, rejecting, or
23 modifying the security recovery factor. If the commission issues an
24 order approving a security recovery factor, that order shall be
25 issued within 120 days of the initial hearing required under
26 subsection (4). In determining the security recovery factor, the
27 commission shall only include costs that the commission determines

1 are reasonable and prudent and that are jurisdictionally assigned
2 to retail customers of the covered utility in this state. The costs
3 included shall be net of any proceeds that have been or will be
4 received from another source, including, but not limited to, any
5 applicable insurance settlements received by the covered utility or
6 any grants or other emergency relief from federal, state, or local
7 governmental agencies for the purpose of defraying enhanced
8 security costs. In its order, the commission shall designate a
9 period for recovery of enhanced security costs, including a
10 reasonable return on the unamortized balance, over a period not to
11 exceed 5 years. The security recovery factor shall not be less than
12 zero.

13 (6) No later than February 18, 2003, the commission shall by
14 order prescribe the form for the filing of an application for a
15 security recovery factor under subsection (3). If the commission or
16 its designee determines that a filing is incomplete, it shall
17 notify the covered utility within 10 days of the filing.

18 (7) Records or other information supplied by the covered
19 utility in an application for recovery of security costs under
20 subsection (3) that describe security measures, including, but not
21 limited to, emergency response plans, risk planning documents,
22 threat assessments, domestic preparedness strategies, and other
23 plans for responding to acts of terrorism are not subject to the
24 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and
25 shall be treated as confidential by the commission.

26 (8) The commission shall issue protective orders as are
27 necessary to protect the information found by the commission to be

1 confidential under this section.

2 (9) A UTILITY SHALL NOT CHARGE A CUSTOMER TO HELP FUND ANY
3 LOW-INCOME AND ENERGY EFFICIENCY FUND. THE COMMISSION SHALL NOT
4 INCLUDE A LOW-INCOME AND ENERGY EFFICIENCY CHARGE IN AN ELECTRIC
5 UTILITY'S OR NATURAL GAS UTILITY'S BASE RATES. SUBJECT TO THIS
6 SUBSECTION, THE COMMISSION SHALL REFUND ALL MONEY BEING HELD IN
7 ESCROW FOR THE LOW-INCOME AND ENERGY EFFICIENCY FUND TO THE
8 CUSTOMERS FROM WHOM IT WAS COLLECTED IN THE MANNER IN WHICH IT WAS
9 COLLECTED. BEFORE REFUNDING THE MONEY TO CUSTOMERS UNDER THIS
10 SUBSECTION, THE COMMISSION SHALL PAY ANY ENTITY THE AMOUNT APPROVED
11 BY THE COMMISSION FOR AN ENERGY EFFICIENCY GRANT IF THAT ENTITY
12 COMPLETED THE ENERGY EFFICIENCY PROJECT BEFORE THE EFFECTIVE DATE
13 OF THE 2011 AMENDATORY ACT THAT AMENDED THIS SECTION.

14 (10) ~~(9)~~—As used in this section:

15 (a) "Act of terrorism" means a willful and deliberate act that
16 is all of the following:

17 (i) An act that would be a violent felony under the laws of
18 this state, whether or not committed in this state.

19 (ii) An act that the person knows or has reason to know is
20 dangerous to human life.

21 (iii) An act that is intended to intimidate or coerce a civilian
22 population or influence or affect the conduct of government or a
23 unit of government through intimidation or coercion.

24 (b) "Covered utility" means an electric utility with 1,000,000
25 or more retail customers in this state as of May 1, 2000 or an
26 electric utility subject to the rate provisions of commission
27 orders in case numbers U-11181-R and U-12204.

1 (c) "Enhanced security costs" means reasonable and prudent
2 costs of new and enhanced security measures incurred before January
3 1, 2006 for an electric generating facility by a covered utility
4 that are required by federal or state regulatory security
5 requirements issued after September 11, 2001 or determined to be
6 necessary by the commission to provide reasonable security from an
7 act of terrorism. Enhanced security costs include increases in the
8 cost of insurance that are attributable to an increased terror
9 related risk and the costs of maintaining or restoring electric
10 service as the result of an act of terrorism.

11 (d) "Security recovery factor" means an unbundled charge for
12 all retail customers, except for customers of alternative electric
13 suppliers, to recover enhanced security costs that have been
14 approved by the commission.