

HOUSE BILL No. 5439

February 28, 2012, Introduced by Rep. Opsommer 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,"

(MCL 460.1 to 460.11) by adding sections 10ff and 10gg.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

SEC. 10FF. (1) A UTILITY SHALL NOT DO ANY OF THE FOLLOWING:

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1 (A) MAKE UTILITY SERVICE TO A RESIDENTIAL CUSTOMER CONTINGENT
2 ON THE INSTALLATION OF AN ADVANCED METER OR USE OF AN ADVANCED
3 METER FUNCTION.

4 (B) OFFER OR PROVIDE A RATE DISCOUNT, METER PRICE DISCOUNT,
5 REBATE, BONUS, OR OTHER INCENTIVE TO A RESIDENTIAL CUSTOMER FOR
6 REQUESTING OR ACCEPTING THE INSTALLATION OF AN ADVANCED METER OR
7 USE OF AN ADVANCED METER FUNCTION.

8 (C) IMPOSE ANY DISINCENTIVE ON A RESIDENTIAL CUSTOMER FOR NOT
9 REQUESTING OR ACCEPTING THE INSTALLATION OF AN ADVANCED METER OR
10 USE OF AN ADVANCED METER FUNCTION.

11 (D) CONDUCT A COMMUNITY INSTALLATION PROGRAM DURING A
12 MORATORIUM ON A COMMUNITY INSTALLATION PROGRAM ADOPTED BY
13 RESOLUTION OF THE GOVERNING BODY OF THE LOCAL UNIT OF GOVERNMENT.

14 (E) INSTALL AN ADVANCED METER AT A RESIDENCE UNLESS THE
15 RESIDENTIAL CUSTOMER HAS EXPRESSLY REQUESTED AN ADVANCED METER OR,
16 AT LEAST 180 DAYS BEFORE THE INSTALLATION, THE UTILITY NOTIFIED THE
17 RESIDENTIAL CUSTOMER OF THE UTILITY'S INTENTION TO INSTALL AN
18 ADVANCED METER AND THE CUSTOMER HAS NOT OPTED OUT. THE UTILITY
19 SHALL MAIL THE NOTICE TO THE CUSTOMER AND PLACE A COPY OF THE
20 NOTICE AT A CONSPICUOUS PLACE ON THE CUSTOMER'S PROPERTY. THE
21 UTILITY SHALL KEEP A COPY OF EACH MAILED NOTICE ON FILE FOR REVIEW
22 BY THE CUSTOMER OR THE COMMISSION. THE NOTICES SHALL MEET ALL OF
23 THE FOLLOWING REQUIREMENTS:

24 (i) INCLUDE THE CUSTOMER'S ADDRESS.

25 (ii) STATE THAT THE UTILITY INTENDS TO INSTALL AN ADVANCED
26 METER AT THE CUSTOMER'S RESIDENCE.

27 (iii) DESCRIBE THE ADVANCED METER AND THE FUNCTIONS THAT THE

1 ADVANCED METER IS CAPABLE OF PERFORMING.

2 (iv) EXPLAIN THE PROCESS FOR A CUSTOMER TO OPT OUT OF
3 INSTALLATION OF AN ADVANCED METER OR USE OF AN ADVANCED METER
4 FUNCTION.

5 (2) A UTILITY SHALL MAIL TO A CUSTOMER WHO HAS FORMALLY OPTED
6 OUT OF INSTALLATION OF AN ADVANCED METER OR USE OF AN ADVANCED
7 METER FUNCTION AN ACKNOWLEDGMENT OF THE UTILITY'S RECEIPT OF THE
8 CUSTOMER'S DECISION. A RESIDENTIAL CUSTOMER WHO HAS NOT OPTED OUT
9 OF INSTALLATION OF A FIRST GENERATION ADVANCED METER OR AN ADVANCED
10 METER FUNCTION MAY OPT OUT OF THE INSTALLATION OF A SUBSEQUENT
11 GENERATION ADVANCED METER OR AN ADVANCED METER FUNCTION THAT WAS
12 NOT DESCRIBED IN THE NOTICE REQUIRED TO BE GIVEN UNDER SUBSECTION
13 (1) (E) BEFORE THE CUSTOMER'S CURRENT ADVANCED METER WAS INSTALLED.

14 (3) IF A RESIDENTIAL CUSTOMER CURRENTLY HAS A METER THAT IS
15 NOT AN ADVANCED METER AND CONSPICUOUSLY POSTS ON OR NEAR THE METER
16 A NOTICE NOT TO INSTALL AN ADVANCED METER, THE UTILITY SHALL,
17 PROMPTLY AFTER THE NOTICE COMES TO THE ATTENTION OF A
18 REPRESENTATIVE OF THE UTILITY AND IN THE MANNER PROVIDED IN
19 SUBSECTION (1) (E), NOTIFY THE CUSTOMER HOW THE CUSTOMER CAN OPT OUT
20 OF THE INSTALLATION OR USE OF AN ADVANCED METER.

21 (4) WITHIN 15 DAYS AFTER RECEIVING A RESIDENTIAL CUSTOMER'S
22 REQUEST THAT AN ADVANCED METER BE REMOVED FROM THE CUSTOMER'S
23 RESIDENCE, THE UTILITY SHALL REMOVE THE ADVANCED METER AND REPLACE
24 IT WITH A METER THAT IS NOT AN ADVANCED METER. THE UTILITY MAY
25 CHARGE A 1-TIME ALL-INCLUSIVE FEE, NOT TO EXCEED \$50.00, TO REMOVE
26 AND REPLACE THE ADVANCED METER. HOWEVER, THE UTILITY SHALL NOT
27 CHARGE A FEE IF THE UTILITY HAS VIOLATED THIS SECTION OR SECTION

1 10GG WITH RESPECT TO THE CUSTOMER.

2 (5) AS USED IN THIS SECTION AND SECTION 10GG:

3 (A) "ADVANCED METER" MEANS A METER OR OTHER DEVICE THAT,
4 THROUGH THE USE OF EQUIPMENT OWNED OR LEASED BY THE UTILITY OR ITS
5 AGENT, MEETS 1 OR MORE OF THE FOLLOWING REQUIREMENTS:

6 (i) IS CAPABLE OF MEASURING, RECORDING, OR SENDING UTILITY
7 CUSTOMER DATA BY USE OF COMMON RADIO WAVES OR IN ANY OTHER WIRELESS
8 MANNER.

9 (ii) ALLOWS 2-WAY COMMUNICATIONS SUITED FOR DEMAND-RESPONSE
10 PROGRAMS.

11 (iii) ALLOWS FOR A UTILITY'S CONTROL OF A RESIDENTIAL
12 THERMOSTAT.

13 (B) "COMMUNITY INSTALLATION PROGRAM" MEANS A PROGRAM TO
14 INSTALL ADVANCED METERS FOR A SIGNIFICANT NUMBER OF RESIDENTIAL
15 CUSTOMERS OF A LOCAL UNIT OF GOVERNMENT, EITHER AT 1 TIME OR IN
16 PHASES.

17 (C) "UTILITY" MEANS A PERSON THAT SELLS NATURAL GAS,
18 ELECTRICITY, OR OTHER ENERGY TO RETAIL CUSTOMERS IN THIS STATE AND
19 EITHER SELLS THE NATURAL GAS, ELECTRICITY, OR OTHER ENERGY AT RATES
20 REGULATED BY THE COMMISSION OR IS OWNED BY A MUNICIPALITY.

21 SEC. 10GG. (1) A RESIDENTIAL CUSTOMER'S ENERGY USE DATA ARE
22 CONFIDENTIAL AND SHALL NOT BE SOLD, RENTED, SHARED, OR OTHERWISE
23 DISCLOSED BY A UTILITY EXCEPT TO OR WITH THE EXPRESS CONSENT OF THE
24 RESIDENTIAL CUSTOMER. HOWEVER, A UTILITY MAY REPORT GENERIC DATA
25 RELATING TO ELECTRIC VEHICLE CHARGING TO THE DEPARTMENT OF TREASURY
26 IF OTHERWISE AUTHORIZED BY LAW.

27 (2) A UTILITY SHALL NOT MAKE THE INSTALLATION OF AN ADVANCED

1 METER FOR A RESIDENTIAL CUSTOMER OR THE CUSTOMER'S USE OF CERTAIN
2 ADVANCED METER FUNCTIONS CONTINGENT ON A SECONDARY, INDEPENDENT
3 DECISION BY THE CUSTOMER PERTAINING TO DATA SHARING OR OTHER
4 ADVANCED METER FUNCTIONS.

5 (3) A UTILITY SHALL ENSURE THAT ANY DATA FROM AN ADVANCED
6 METER COMMUNICATED BY WIRELESS NETWORKING TECHNOLOGY ARE ENCRYPTED
7 SO THAT THE DATA CANNOT BE INTERCEPTED BY A WIRELESS DEVICE OTHER
8 THAN A WIRELESS DEVICE USED BY THE UTILITY. A UTILITY SHALL NOT
9 COMMUNICATE BY WIRELESS NETWORKING TECHNOLOGY METER USE DATA THAT
10 INCLUDE A RESIDENTIAL CUSTOMER'S NAME, SOCIAL SECURITY NUMBER,
11 ADDRESS, OR OTHER IDENTIFYING INFORMATION EXCEPT FOR A CUSTOMER
12 IDENTIFICATION NUMBER THAT IS ASSIGNED BY THE UTILITY. THE CUSTOMER
13 IDENTIFICATION NUMBER SHALL BE ASSIGNED IN A MANNER THAT INCLUDES
14 SAFEGUARDS TO PREVENT A WIRELESS DEVICE NOT OWNED BY THE UTILITY
15 FROM LINKING THE NUMBER WITH A PARTICULAR CUSTOMER.

16 (4) A UTILITY SHALL NOT POST A RESIDENTIAL CUSTOMER'S ENERGY
17 USE DATA OR BILL ON THE INTERNET, EXCEPT OVER A SECURED TRANSFER
18 PROTOCOL OR SIMILAR SECURED CONNECTION THAT USES 1 OR MORE
19 ADDITIONAL SECURITY MEASURES, SUCH AS A CUSTOMER-SELECTED PASSWORD,
20 TO ENSURE THAT ONLY THE RESIDENTIAL CUSTOMER CAN ACCESS THE
21 INFORMATION. ENERGY USAGE DATA FOR SPECIFIC RESIDENTIAL CUSTOMERS
22 OR ADDRESSES SHALL NOT BE ACCESSED BY LAW ENFORCEMENT OFFICERS
23 UNLESS THE ACCESS HAS BEEN APPROVED BY A COURT OF COMPETENT
24 JURISDICTION.

25 (5) A UTILITY SHALL NOT WIRELESSLY SHUT OFF SERVICE TO A
26 CUSTOMER UNLESS ALL OF THE FOLLOWING REQUIREMENTS ARE MET:

27 (A) AT LEAST 48 HOURS BEFORE SHUTOFF, A UTILITY REPRESENTATIVE

1 VISITS THE PROPERTY TO WHICH THE SERVICE IS TO BE SHUT OFF,
2 VERIFIES THAT IT IS THE CORRECT ADDRESS, AND FOLLOWS ALL OTHER
3 SHUTOFF PROCEDURES REQUIRED BY LAW.

4 (B) THE UTILITY HAS A COMMISSION-APPROVED, COMPREHENSIVE
5 SECURITY PROGRAM WHICH REASONABLY ENSURES THAT A CUSTOMER'S SERVICE
6 WILL BE SHUT OFF ONLY THROUGH AUTHORIZED ACCESS TO THE UTILITY'S
7 COMPUTER SYSTEM AND WHICH IS OPEN TO INSPECTION AND AUDIT BY THE
8 COMMISSION.

9 Enacting section 1. This amendatory act takes effect June 30,
10 2012.