

HOUSE BILL No. 4702

May 7, 2013, Introduced by Reps. Franz, Kurtz, Kelly, Ananich, LaVoy, Brown, Zorn, Outman, Cotter, MacMaster, Price and Stallworth 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 6g (MCL 460.6g), as added by 1980 PA 470.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 6g. (1) As used in this section:

1

1 (a) "Attaching party" means any person, firm, corporation,
2 partnership, or cooperatively organized association, other than a
3 utility or a municipality, ~~which~~**THAT** seeks to construct
4 attachments upon, along, under, or across public ways or private
5 rights of way.

6 (b) "Attachment" means any wire, cable, facility, or apparatus
7 for the transmission of writing, signs, signals, pictures, sounds,
8 or other forms of intelligence or for the transmission of
9 electricity for light, heat, or power, installed by an attaching
10 party upon any pole or in any duct or conduit owned or controlled,
11 in whole or in part, by 1 or more utilities.

12 (c) "Commission" means the Michigan public service commission
13 created in section 1.

14 (D) **"TELECOMMUNICATION PROVIDER" MEANS THAT TERM AS DEFINED IN**
15 **SECTION 102 OF THE MICHIGAN TELECOMMUNICATIONS ACT, 1991 PA 179,**
16 **MCL 484.2102.**

17 (E) **"2011 POLE ATTACHMENT ORDER" MEANS THE ORDER OF THE**
18 **FEDERAL COMMUNICATIONS COMMISSION, WC DOCKET NO. 07-245, GN DOCKET**
19 **NO. 09-51, REPORT AND ORDER AND ORDER ON RECONSIDERATION, 26 FCC**
20 **RCD 5240 (2011).**

21 (F) ~~(d)~~"Utility" means any public utility subject to the
22 regulation and control of the commission that owns or controls, or
23 shares ownership or control of poles, ducts, or conduits used or
24 useful, in whole or in part, for supporting or enclosing wires,
25 cables, or other facilities or apparatus for the transmission of
26 writing, signs, signals, pictures, sounds, or other forms of
27 intelligence, or for the transmission of electricity for light,

1 heat, or power.

2 (2) The commission shall regulate the rates, terms, and
3 conditions of attachments by attaching parties. The commission, in
4 regulating the rates, terms, and conditions of attachments by
5 attaching parties, shall not require a hearing when approving the
6 rates, terms, and conditions unless the attaching party or utility
7 petitions the commission for a hearing. The commission shall ensure
8 that the rates, terms, and conditions are just and reasonable and
9 shall consider the interests of the attaching parties' customers as
10 well as the utility and its customers.

11 (3) An attaching party shall obtain any necessary
12 authorization before occupying public ways or private rights of way
13 with its attachment.

14 (4) Procedures under this section shall be those applicable to
15 any utility whose rates charged its customers are regulated by the
16 commission, including the right to appeal a final decision of the
17 commission to the courts.

18 (5) THE COMMISSION SHALL, NO LATER THAN OCTOBER 1, 2013, ISSUE
19 A REPORT TO THE STANDING COMMITTEES OF THE HOUSE OF REPRESENTATIVES
20 AND SENATE THAT DEAL WITH PUBLIC UTILITIES. THE REPORT SHALL
21 CONTAIN ALL OF THE FOLLOWING:

22 (A) WHETHER THE COMMISSION HAS THE STATUTORY AUTHORITY TO
23 REGULATE THE RATES, TERMS, AND CONDITIONS BY WHICH A
24 TELECOMMUNICATION PROVIDER MAY ATTACH ITS FACILITIES UPON ANY POLE
25 OR IN ANY DUCT OR CONDUIT OWNED OR CONTROLLED, IN WHOLE OR IN PART,
26 BY 1 OR MORE UTILITIES, WITHOUT REGARD TO WHETHER THAT
27 TELECOMMUNICATION PROVIDER IS AN ATTACHING PARTY.

1 (B) WHETHER THE METHODOLOGIES USED BY AND THE RESULTING
2 ATTACHMENT RATES SET BY THE COMMISSION ARE THE SAME AS THOSE
3 APPROVED BY THE FEDERAL COMMUNICATIONS COMMISSION IN THE 2011 POLE
4 ATTACHMENT ORDER.

5 (C) WHETHER THE RATES, TERMS, AND CONDITIONS DESCRIBED IN
6 SUBDIVISION (A) ARE APPLIED IN A COMPETITIVELY NEUTRAL MANNER FOR
7 ALL ATTACHING PARTIES, REGARDLESS OF THEIR REGULATORY STATUS OR
8 CLASSIFICATION.

9 (D) THE TOTAL COST PER ATTACHMENT, INCLUDING ANNUAL FEES, MAKE
10 READY COSTS, AUDITS, AND OTHER CHARGES, FOR EACH TYPE OF ATTACHING
11 PARTY ON POLES OR IN DUCTS OR CONDUITS OWNED BY THE 4 LARGEST
12 UTILITIES IN THIS STATE.