

HOUSE BILL No. 4631

May 20, 2015, Introduced by Reps. Price, Glenn, Lucido, Lane and Byrd and referred to the Committee on Energy Policy.

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 sections 10h and 10i (MCL 460.10h and 460.10i), as

added by 2000 PA 142.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 10h. As used in this act:

2 (a) "Assignee" means an individual, corporation, or other
3 legally recognized entity to which an interest in securitization
4 property is transferred.

5 (b) "Commission" means the Michigan public service commission.
6 ~~in the department of consumer and industry services.~~

7 (c) "Electric utility" means that term as defined in section 2
8 of the electric transmission line certification act, 1995 PA 30,
9 MCL 460.562.

10 (d) "Financing order" means an order of the commission
11 approving the issuance of securitization bonds and the creation of
12 securitization charges and any corresponding utility rate
13 reductions.

14 (e) "Financing party" means a holder of securitization bonds,
15 including trustees, collateral agents, and other persons acting for
16 the benefit of the holder.

17 (f) "Nonbypassable charge" means a charge in a financing order
18 payable by a customer **RECEIVING STANDARD TARIFF SERVICE** to an
19 electric utility or its assignees or successors. ~~regardless of the~~
20 ~~identity of the customer's electric generation supplier.~~

21 (g) "Qualified costs" means an electric utility's regulatory
22 assets as determined by the commission, adjusted by the applicable
23 portion of related investment tax credits, plus any costs that the
24 commission determines that the electric utility would be unlikely
25 to collect in a competitive market, including, but not limited to,

1 retail open access implementation costs and the costs of a
2 commission approved restructuring, buyout or buy-down of a power
3 purchase contract, together with the costs of issuing, supporting,
4 and servicing securitization bonds and any costs of retiring and
5 refunding the electric utility's existing debt and equity
6 securities in connection with the issuance of securitization bonds.
7 Qualified costs include taxes related to the recovery of
8 securitization charges.

9 (h) "Securitization bonds" means bonds, debentures, notes,
10 certificates of participation, certificates of a beneficial
11 interest, certificates of ownership, or other evidences of
12 indebtedness that are issued by an electric utility, its
13 successors, or an assignee under a financing order, that have a
14 term of not more than 15 years, and that are secured by or payable
15 from securitization property. If certificates of participation,
16 certificates of **A** beneficial interest, or certificates of ownership
17 are issued, references in this act to principal, interest, or
18 premium shall refer to comparable amounts under those certificates.

19 (i) "Securitization charges" means nonbypassable amounts to be
20 charged for the use or availability of electric services, approved
21 by the commission under a financing order to fully recover
22 qualified costs, that shall be collected by an electric utility,
23 its successors, an assignee, or other collection agents as provided
24 for in the financing order.

25 (j) "Securitization property" means the property described in
26 section 10j.

27 **(K) "STANDARD TARIFF SERVICE" MEANS THAT TERM AS DEFINED IN**

1 **SECTION 10A.**

2 Sec. 10i. (1) Upon the application of an electric utility, if
3 the commission finds that the net present value of the revenues to
4 be collected under the financing order is less than the amount that
5 would be recovered over the remaining life of the qualified costs
6 using conventional financing methods and that the financing order
7 is consistent with the standards in subsection (2), the commission
8 shall issue a financing order to allow the utility to recover
9 qualified costs. **AN ELECTRIC UTILITY SHALL APPLY FOR A FINANCING
10 ORDER TO FINANCE THE UNRECOVERED BOOK VALUE OF AND DEMOLITION COSTS
11 ASSOCIATED WITH RETIRING ANY ELECTRIC GENERATION FACILITY AFTER THE
12 EFFECTIVE DATE OF THE 2015 AMENDATORY ACT THAT AMENDED THIS
13 SECTION.**

14 (2) In a financing order, the commission shall ensure all of
15 the following:

16 (a) That the proceeds of the securitization bonds are used
17 solely for the purposes of the refinancing or retirement of debt or
18 equity.

19 (b) That securitization provides tangible and quantifiable
20 benefits to customers of the electric utility.

21 (c) That the expected structuring and expected pricing of the
22 securitization bonds will result in the lowest securitization
23 charges consistent with market conditions and the terms of the
24 financing order.

25 (d) That the amount securitized does not exceed the net
26 present value of the revenue requirement over the life of the
27 proposed securitization bonds associated with the qualified costs

1 sought to be securitized.

2 **(E) THAT A CUSTOMER TAKING SERVICE FROM AN ALTERNATIVE**
3 **ELECTRIC SUPPLIER WILL NOT BE ASSESSED ANY CHARGE RELATING TO THE**
4 **RETIREMENT OF ANY ELECTRIC GENERATION FACILITY.**

5 (3) The financing order shall detail the amount of qualified
6 costs to be recovered and the period over which the securitization
7 charges are to be recovered, not to exceed 15 years.

8 (4) A financing order is effective in accordance with its
9 terms, and the financing order, together with the securitization
10 charges authorized in the order, ~~shall be~~ **IS** irrevocable and not
11 subject to reduction, impairment, or adjustment by further action
12 of the commission, except as provided under section 10k(3).

13 (5) Stocks, bonds, notes, or other evidence of indebtedness
14 issued under a financing order of the commission ~~shall be~~ **ARE**
15 binding in accordance with their terms notwithstanding that the
16 order of the commission is later vacated, modified, or otherwise
17 held to be invalid in whole or in part.

18 (6) The commission shall after an expedited contested case
19 proceeding issue a financing order or an order rejecting the
20 application for a financing order no later than 90 days after the
21 electric utility files its application.

22 (7) A financing order is only subject to rehearing by the
23 commission on the motion of the applicant for securitization.

24 (8) Notwithstanding any other provision of law, a financing
25 order may be reviewed by the court of appeals upon a filing by a
26 party to the commission proceeding within 30 days after the
27 financing order is issued. All appeals of a financing order shall

1 be heard and determined as expeditiously as possible with lawful
2 precedence over other matters. Review on appeal shall be based
3 solely on the record before the commission and briefs to the court
4 and shall be limited to whether the financing order conforms to the
5 constitution and laws of this state and the United States and is
6 within the authority of the commission under this act.

7 (9) At the request of an electric utility, the commission may
8 adopt a financing order providing for retiring and refunding
9 securitization bonds if the commission finds that the future
10 securitization charges required to service the new securitization
11 bonds, including transaction costs, will be less than the future
12 securitization charges required to service the securitization bonds
13 being refunded. On the retirement of the refunded securitization
14 bonds, the commission shall adjust the related securitization
15 charges accordingly.

16 (10) The commission ~~shall have the authority to~~ **MAY** retain
17 financial or legal services to assist in issuance of a financing
18 order and to require the electric utility to pay the cost of the
19 services. The payments shall be included as qualified costs defined
20 in section 10h(g).

21 Enacting section 1. This amendatory act takes effect 90 days
22 after the date it is enacted into law.