

## ALLOW CONSUMER CHOICE OF TRADITIONAL OR ADVANCED UTILITY METER

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**House Bill 4220 as introduced**  
**Sponsor: Rep. Gary Glenn**  
**Committee: Energy**  
**Complete to 2-21-17**

Analysis available at  
<http://www.legislature.mi.gov>

### REVISED SUMMARY:

House Bill 4220 would amend the Michigan Public Service Commission Act by adding Section 10gg. This new section would allow a customer receiving services from a utility to choose between a traditional meter and the installation of an advanced meter. An advanced meter could not be installed unless the customer was properly notified and had not opted out. The bill applies both to utilities selling natural gas, electricity, or water to retail customers whose rates are regulated by the PSC, and to utilities owned by municipalities.

#### *Advanced meter definition*

The term "advanced meter" means a meter or metering device system that is owned or leased by a utility or its agent and that meets one or more of the following requirements:

- (1) Measures, records, or sends a customer's utility usage or other data by use of radio waves or broadband over power lines.
- (2) Allows for two-way communication between the meter and the utility or its agent.
- (3) Allows for a utility or its agent to control a customer's thermostat, appliance, or service.

#### *Traditional meter definition*

Under the bill, a "traditional meter" is an analog or similar meter that is unable to transmit usage information and is only intended to be read by an individual through a visual display. A traditional meter is not designed to be and is not capable of performing any of the functions of an advanced meter. A traditional meter also does not include an advanced meter that has certain functionality turned off or deactivated.

#### *Notice and opt-out procedures*

Before an advanced meter is installed or upgraded at a customer's address, a utility would have to notify the customer in writing of the utility's intention to do so. The notice must be separate from any billing mailing, sent by first-class mail, and a copy must be kept on file for review by the customer or commission. Additionally, each notice must do all of the following:

- Include the customer's name, service address, and anticipated date of installation.
- State the utility's desire to install an advanced meter at the customer's address, as well as the functionality of the advanced meter, its method of communication, and frequency of data communication.

- If the advanced meter the customer would be receiving is a hub meter, explain how a hub meter differs from other meters.
- State the customer's ability to choose a traditional meter or nonhub meter and the customer's rights under this section.
- Clearly explain the process for a customer to opt out of the installation of an advanced meter or hub meter or the use of an advanced meter function.

As used in Section 10gg, a "hub meter" is an advanced meter that generates stronger radio waves as a result of the meter serving as a hub for other advanced meters it communicates with in a given area.

The PSC may promulgate opt-out procedures for customers that are composed of simple, easy-to-understand steps that an average customer can understand and that do not place an undue burden on the customer. Opt-out procedures must be free of charge, other than the cost of regular mailing.

After customers are notified that they can opt out, they have 45 days to communicate with the utility their desire to opt out. The deadline must be clearly listed on the notice. An opt-out procedure or process must be narrow in construction so customers can easily inform the utility of their intentions. A customer's intention to opt out could not be made contingent upon or contain language that would require the customer to give up any rights or make any other additional agreements. A customer that does not opt out when first notified does not give up any rights regarding having an advanced meter removed in the future.

#### ***Removal of advanced meter upon opt-out notification***

A utility that receives a customer's request to opt out must remove the advanced meter and replace it with a traditional meter within 30 days. A utility may charge a one-time all-inclusive fee to remove the advanced meter and to provide and install a traditional meter. The fee would be limited to actual costs and could not exceed \$150. However, a utility could not charge a fee if the utility installed an advanced meter in violation of the notice requirements (or before the effective date of this proposed legislation).

A utility may not charge a monthly fee for using a traditional meter, unless the customer is offered the opportunity, but remains unwilling, to read and report the customer's usage to the utility. If the customer is offered the opportunity, but does not want to report his or her own usage, the utility may then charge the customer a monthly fee of not more than \$5 per month.

#### ***Meter reading***

The bill would also require a utility to allow a customer who opts out of receiving an advanced meter to read and self-report service usage, if that customer reports reasonably accurate usage on a regular basis. A utility must provide the customer with a preaddressed envelope and form upon request, or allow the customer to report meter readings on a secure website, by telephone, or by other reasonable means. (A "regular basis" means once per billing cycle.)

A utility would have to obtain an actual meter reading of a customer's energy usage at least once every 12 months, to verify the accuracy of readings reported the customer. Further,

a representative of a utility may still manually read a customer's meter on a regular basis, as permitted by law, and correct a reading as necessary. If a customer fails to report usage or the utility does not receive a customer's service usage on time, the utility could manually read a customer's meter or charge the customer based on an estimate of prior energy use in a manner approved by the PSC.

In addition, a customer that intentionally reports inaccurate information could be assessed a reasonable penalty under PSC rules, and may be subject to any other penalties provided by law. "Inaccurate information" would mean the intentional underreporting of meter data in an effort to not pay for services. It would not include minor differences in readings by less than five percent to account for variations based on the time of day that the meter is read and similar factors.

### ***Confidentiality of energy use data/encryption***

The bill specifies that a customer's energy use data and internet user information are private and confidential. The bill would prohibit a utility or its agents from selling, renting, or sharing that data or information, except as provided by competent court order or law. However, a utility may report data relating to the fueling of electric or compressed natural gas vehicles to the Michigan Department of Treasury. Treasury could only use that information for taxation purposes; it could not be shared with law enforcement without a warrant, nor would it be subject to disclosure under the Freedom of Information Act, except for aggregate data used for research purposes in a non-identifying manner.

A utility must also ensure that any data from an advanced meter communicated by networking technology is sufficiently encrypted so that the data can only be intercepted by a device used by the utility. A utility cannot communicate meter use data that includes a residential customer's name, social security number, address or other identifying information except for an independent and unique customer identification number assigned by the utility. The customer identification number must be assigned in a manner that includes safeguards to prevent a device not owned by the utility from associating the number with a particular customer or address.

A utility may not post a customer's energy use data or bill on the internet, except over a secured transfer protocol or similar secured connection that uses one or more additional security measures, such as a customer-selected password, to ensure that only the customer can access the information.

### ***Utility prohibitions and permissions***

House Bill 4220 would prohibit a utility from:

- Making the provision of any portion of utility service to a customer contingent on the customer receiving service through any meter or similar device other than a traditional meter. (In other words, a utility could not deny service to a customer merely because that customer uses a traditional meter.) However, a utility could prohibit a customer with a traditional meter from participating in certain time-of-day tariff discounts.

- Imposing any fee or disincentive on a customer for opting out of or not accepting the installation of an advanced meter or hub meter, or the use of an advanced meter function.
- Installing an advanced meter, or upgrading the functionality of the advanced meter, after the date this bill takes effect, unless the customer has been properly notified of the installation or upgrade and has not opted out. However, even if a customer has not opted out of the installation or upgrade, an on-site utility worker, or agent, may not install an advanced meter or update its functionality if the customer has posted a sign on the current meter forbidding the installation or upgrade, or if the customer verbally informs the worker not to install or upgrade the advanced meter.

***No tariff based on retaining traditional meter***

The Public Service Commission may not approve a utility tariff that alters rates for customers who do not use an advanced meter, if the utility's cost estimates are based on more than one manual meter reading per year by the utility. The commission must also consider the ability to self-read meters as part of any proceeding and fully recognize and value that customers have a legitimate interest in controlling third-party equipment placed onto their property that is not inherently necessary as a condition to receiving service.

***Shut-off protections***

A utility may not remotely or wirelessly shut off service to a customer unless both of the following occur:

- At least 48 hours before shutoff, a utility representative visits the property where the service is to be shut off, verifies that it is the correct address, and follows all other shutoff procedures required by law.
- The utility has a commission-approved, comprehensive security program that reasonably ensures that a customer's service will be shut off only through authorized access to the utility's computer system. The utility's computer system must be open to inspection and audit by the commission, and be designed to prevent unintentional shutoff due to network hacking or terrorism.

**FISCAL IMPACT:**

House Bill 4220 would not have a significant fiscal impact on the Department of Licensing and Regulatory Affairs, nor on other units of state and local government. Under the bill, the Public Service Commission has the authority to promulgate opt-out procedures for consumers to opt out of the installation of an advanced meter. The promulgation of this procedure would result in negligible costs for the Public Service Commission.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.