

HOUSE BILL No. 6428

October 4, 2018, Introduced by Reps. Lower and Miller 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 powers and duties of certain state governmental officers and entities; 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 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,"

House Bill No. 6428 as amended December 11, 2018
by amending section 10y (MCL 460.10y), as amended by 2008 PA 286.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 10y. (1) The governing body of a municipally owned
2 utility shall determine whether it will permit retail customers
3 receiving delivery service from the municipally owned utility ~~the~~
4 ~~opportunity of choosing~~ **TO CHOOSE** an alternative electric supplier,
5 subject to the implementation of rates, charges, terms, and
6 conditions referred to in subsection (5).

7 (2) Except with the written consent of the municipally owned
8 utility, a person shall not provide delivery service or customer
9 account service to a ~~retail~~ customer that ~~was~~ **IS CURRENTLY**
10 receiving **OR WITHIN THE PREVIOUS 3 YEARS HAS RECEIVED** that service
11 from a municipally owned utility. ~~as of June 5, 2000, or is~~
12 ~~receiving the service from a municipally owned utility. For~~
13 ~~purposes of~~ **AS USED IN** this subsection, "customer" means **[ONLY]** the
14 building or facilities served rather than the individual,
15 association, partnership, corporation, governmental body, or ~~any~~
16 other entity taking service.

17 (3) With respect to any electric utility regarding delivery
18 service to customers located outside of the municipal boundaries of
19 the municipality that owns the utility, a governing body of a
20 municipally owned utility may elect to operate in compliance with R
21 460.3411 of the Michigan ~~administrative code,~~ **ADMINISTRATIVE CODE,**
22 as in effect on June 5, 2000. However, compliance with R
23 460.3411(13) of the Michigan ~~administrative code~~ **ADMINISTRATIVE**
24 **CODE** is not required for the municipally owned utility. Concurrent
25 with the filing of an election under this subsection with the

1 commission, the municipally owned utility shall serve a copy of the
2 election on the electric utility. Beginning 30 days after service
3 of the copy of the election, the electric utility shall, as to the
4 electing municipally owned utility, be subject to the terms of R
5 460.3411 of the Michigan ~~administrative code~~ **ADMINISTRATIVE CODE** as
6 in effect on June 5, 2000. The commission shall decide disputes
7 arising under this subsection subject to judicial review and
8 enforcement.

9 (4) A municipally owned utility and an electric utility that
10 provides delivery service in the same municipality as the
11 municipally owned utility may enter into a written agreement to
12 define the territorial boundaries of each utility's delivery
13 service area and any other terms and conditions as necessary to
14 provide delivery service. The agreement is not effective unless
15 approved by the governing body of the municipally owned utility and
16 the commission. The governing body of the municipally owned utility
17 and the commission shall annually review and supervise compliance
18 with the terms of the agreement. At the request of a party to the
19 agreement, disputes arising under the agreement shall be decided by
20 the commission subject to judicial review and enforcement.

21 (5) If the governing body of a municipally owned utility
22 establishes a program to permit any of its customers the
23 opportunity to choose an alternative electric supplier, the
24 governing body of the municipally owned utility ~~shall have~~ **HAS**
25 exclusive jurisdiction to do all of the following:

26 (a) Set delivery service rates applicable to services provided
27 by the municipally owned utility that shall not be unduly

1 discriminatory.

2 (b) Determine the amount and types of, and recovery mechanism
3 for, stranded and transition costs that will be charged.

4 (c) Establish rules, terms of access, and conditions that it
5 considers appropriate for the implementation of a program to allow
6 customers ~~the opportunity of choosing~~ **TO CHOOSE** an alternative
7 electric supplier.

8 (6) Complaints alleging unduly discriminatory rates or other
9 noncompliance arising under subsection (5) ~~shall~~ **MUST** be filed in
10 the circuit court for the county in which the municipally owned
11 utility is located.

12 (7) This section does not prevent or limit a municipally owned
13 utility from selling electricity at wholesale. A municipally owned
14 utility selling at wholesale is not considered to be an alternative
15 electric supplier and is not subject to regulation by the
16 commission.

17 (8) This section ~~shall not be construed to~~ **DOES NOT** impair the
18 contractual rights of a municipally owned utility or customer under
19 an existing contract.

20 (9) Contracts or other records pertaining to the sale of
21 electricity by a municipally owned utility that are in the
22 possession of a public body and that contain specific pricing or
23 other confidential or proprietary information may be exempted from
24 public disclosure requirements by the governing body of a
25 municipally owned utility. Upon a showing of good cause, **A COURT OR**
26 **THE COMMISSION MAY ORDER** disclosure subject to appropriate
27 confidentiality provisions. ~~may be ordered by a court or the~~

1 ~~commission.~~

2 (10) This section does not affect the validity of the order
3 relating to the terms and conditions of service in the Traverse
4 City area that was issued August 25, 1994, by the commission at the
5 request of consumers power company and the light and power board of
6 the city of Traverse City.

7 (11) As provided in section 6, the commission does not have
8 jurisdiction over a municipally owned utility.

9 ~~— (12) As used in this section:~~

10 ~~— (a) "Delivery service" means the providing of electric~~
11 ~~transmission or distribution to a retail customer.~~

12 ~~— (b) "Municipality" means any city, village, or township.~~

13 ~~— (c) "Customer account services" means billing and collection,~~
14 ~~provision of a meter, meter maintenance and testing, meter reading,~~
15 ~~and other administrative activity associated with maintaining a~~
16 ~~customer account.~~

17 (12) ~~(13) In the event that~~ **IF** an entity purchases 1 or more
18 divisions or business units, or generating stations or generating
19 units, of a municipal electric utility, the acquiring entity's
20 contract and agreements with the selling municipality shall require
21 all of the following for a period of at least 30 months:

22 (a) That the acquiring entity or persons hires a sufficient
23 number of employees to safely and reliably operate and maintain the
24 station, division, or unit by first making offers of employment to
25 the workforce of the municipal electric utility's division,
26 business unit, or generating unit.

27 (b) That the acquiring entity or persons not employ employees

1 from outside the municipal electric utility's workforce unless
2 offers of employment have been made to all qualified employees of
3 the acquired business unit or facility.

4 (c) That the acquiring entity or persons have a dispute
5 resolution mechanism culminating in a final and binding decision by
6 a neutral third party for resolving employee complaints or disputes
7 over wages, fringe benefits, and working conditions.

8 (d) That the acquiring entity or persons offer employment at
9 no less than the wage rates and substantially equivalent fringe
10 benefits and terms and conditions of employment that are in effect
11 at the time of transfer of ownership of the division, business
12 unit, generating station, or generating unit. The wage rates and
13 substantially equivalent fringe benefits and terms and conditions
14 of employment ~~shall~~**MUST** continue for at least 30 months from the
15 time of the transfer of ownership unless the employees, or where
16 applicable collective bargaining representative, and the new
17 employer mutually agree to different terms and conditions of the
18 employment within that 30-month period.

19 (e) An acquiring entity is exempt from the obligations in this
20 subsection if the selling municipality transfers all displaced
21 municipal electric utility employees to positions of employment
22 within the municipality at no less than the wage rates and
23 substantially equivalent fringe benefits and terms and conditions
24 of employment that are in effect at the time of transfer. The wage
25 rates and substantially equivalent fringe benefits and terms and
26 conditions of employment ~~shall~~**MUST** continue for at least 30 months
27 from the time of the transfer unless the employees, or where

1 applicable collective bargaining representative, and the
2 municipality mutually agree to different terms and conditions of
3 the employment within that 30-month period.

4 (13) AS USED IN THIS SECTION:

5 (A) "DELIVERY SERVICE" MEANS THE PROVIDING OF ELECTRIC
6 TRANSMISSION OR DISTRIBUTION TO A RETAIL CUSTOMER.

7 (B) "MUNICIPALITY" MEANS ANY CITY, VILLAGE, OR TOWNSHIP.

8 (C) "CUSTOMER ACCOUNT SERVICES" MEANS BILLING AND COLLECTION,
9 PROVISION OF A METER, METER MAINTENANCE AND TESTING, METER READING,
10 AND OTHER ADMINISTRATIVE ACTIVITY ASSOCIATED WITH MAINTAINING A
11 CUSTOMER ACCOUNT.