

Act No. 245
Public Acts of 2023
Approved by the Governor
November 29, 2023
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**STATE OF MICHIGAN
102ND LEGISLATURE
REGULAR SESSION OF 2023**

Introduced by Reps. MacDonell, Paiz, Arbit, Andrews, Byrnes, Rogers, Brabec, Martus, Puri, Rheingans, Skaggs, Conlin, Breen, Miller, Brenda Carter, Steckloff, Farhat, Morgan, Wegela, Hill and Churches

ENROLLED HOUSE BILL No. 4706

AN ACT 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,” by amending the title and sections 10g, 10h, and 10q (MCL 460.10g, 460.10h, and 460.10q), the title as amended by 2016 PA 341, section 10g as amended by 2008 PA 286, section 10h as added by 2000 PA 142, and section 10q as added by 2000 PA 141.

The People of the State of Michigan enact:

TITLE

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 and certain providers of electric vehicle charging services; 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.

Sec. 10g. (1) As used in sections 10 through 10bb:

(a) "Alternative electric supplier" means a person selling electric generation service to retail customers in this state. Alternative electric supplier does not include a provider of electric vehicle charging services or a person who physically delivers electricity directly to retail customers in this state. An alternative electric supplier is not a public utility.

(b) "Commission" means the Michigan public service commission created in section 1.

(c) "Electric utility" means that term as defined in section 10h.

(d) "Independent transmission owner" means an independent transmission company as that term is defined in section 2 of the electric transmission line certification act, 1995 PA 30, MCL 460.562.

(e) "Merchant plant" means electric generating equipment and associated facilities with a capacity of more than 100 kilowatts located in this state that are not owned and operated by an electric utility.

(f) "Relevant market" means either the Upper Peninsula or the Lower Peninsula of this state.

(g) "Renewable energy source" means energy generated by solar, wind, geothermal, biomass, including waste-to-energy and landfill gas, or hydroelectric.

(2) A school district aggregating electricity for school properties or an exclusive aggregator for public or private school properties is not an electric utility or a public utility for the purpose of that aggregation.

Sec. 10h. As used in this act:

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

(b) "Commission" means the Michigan public service commission created in section 1.

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

(d) "Electric vehicle" means that term as defined in section 2(f)(iii) of the Michigan next energy authority act, 2002 PA 593, MCL 207.822.

(e) "Electric vehicle charging services" means the transfer of electric energy from electric vehicle service equipment to a battery or other storage device in an electric vehicle, and the provision of billing services, networking, and operation and maintenance related to that transfer of electric energy to an electric vehicle.

(f) "Electric vehicle charging station" means an electric component assembly or cluster of component assemblies designed specifically to charge batteries within an electric vehicle by permitting the transfer of electric energy to a battery or other storage device in an electric vehicle.

(g) "Financing order" means an order of the commission approving the issuance of securitization bonds and the creation of securitization charges and any corresponding utility rate reductions.

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

(i) "Nonbypassable charge" means a charge in a financing order payable by a customer to an electric utility or its assignees or successors regardless of the identity of the customer's electric generation supplier.

(j) "Qualified costs" means an electric utility's regulatory assets as determined by the commission, adjusted by the applicable portion of related investment tax credits, plus any costs that the commission determines that the electric utility would be unlikely to collect in a competitive market, including, but not limited to, retail open access implementation costs and the costs of a commission approved restructuring, buyout or buy-down of a power purchase contract, together with the costs of issuing, supporting, and servicing securitization bonds and any costs of retiring and refunding the electric utility's existing debt and equity securities in connection with the issuance of securitization bonds. Qualified costs include taxes related to the recovery of securitization charges.

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

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

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

Sec. 10q. (1) A person shall not engage in the business of an alternative electric supplier in this state unless the person obtains and maintains a license issued under section 10a.

(2) In addition to any other information required by the commission in connection with a licensing application under section 10a, the applicant shall do both of the following:

(a) Provide information, including information as to the applicant's safety record and its history of service quality and reliability, as to the applicant's technical ability, as defined under regulations of the commission, to safely and reliably generate or otherwise obtain and deliver electricity and provide any other proposed services.

(b) Demonstrate that the employees of the applicant that will be installing, operating, and maintaining generation or transmission facilities within this state, or any entity with which the applicant has contracted to perform those functions within this state, have the requisite knowledge, skills, and competence to perform those functions in a safe and responsible manner in order to provide safe and reliable service.

(3) The commission shall order the applicant for a license under section 10a to post a bond or provide a letter of credit or other financial guarantee in a reasonable amount established by the commission of not less than \$40,000.00, if the commission finds after an investigation and review that the requirement of a bond would be in the public interest.

(4) Only investor-owned, cooperative, or municipally owned electric utilities shall own, construct, or operate electric distribution facilities or electric meter equipment used in the distribution of electricity in this state. This subsection does not prohibit a self-service power provider from owning, constructing, or operating electric distribution facilities or electric metering equipment for the sole purpose of providing or utilizing self-service power. This subsection does not prohibit an entity that provides electric vehicle charging services from owning, constructing, or operating an electric vehicle charging station. This act does not affect the current rights, if any, of a nonutility to construct or operate a private distribution system on private property or private easements. This does not preclude crossing of public rights-of-way. An entity that provides electric vehicle charging services is not a public utility and may not be prohibited from charging a customer for electric vehicle charging services on a volumetric basis, including for, but not limited to, charging a volumetric rate for the electricity transferred to the battery or other storage device. An entity that is a public utility that engages in the sale of electric vehicle charging services remains subject to regulation under this act and is not exempt from that regulation due solely to the provision of electric vehicle charging services.

(5) The commission shall not prohibit an electric utility from metering and billing its customers for services provided by the electric utility.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor