

SENATE BILL No. 1165

March 4, 2008, Introduced by Senators BARCIA, KAHN, BROWN, KUIPERS, HARDIMAN, PAPPAGEORGE, RICHARDVILLE, GLEASON and ALLEN and referred to the Committee on Energy Policy and Public Utilities.

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,"

(MCL 460.1 to 460.10cc) by adding section 6q.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 6Q. (1) AS USED IN THIS SECTION:

2 (A) "GASIFIER" MEANS A FACILITY LOCATED IN THIS STATE THAT
3 PRODUCES SYNTHETIC OR METHANIZED SYNTHETIC GAS FROM CARBON-BASED
4 FEEDSTOCK, INCLUDING, BUT NOT LIMITED TO, COAL, PETROLEUM COKE,
5 WOOD, BIOMASS, AND OTHER AGRICULTURAL PRODUCTS.

6 (B) "IGCC FACILITY" MEANS AN INTEGRATED GASIFICATION COMBINED
7 CYCLE PLANT LOCATED IN THIS STATE THAT PRODUCES SYNTHETIC OR
8 METHANIZED SYNTHETIC GAS FROM CARBON-BASED FEEDSTOCK, INCLUDING,
9 BUT NOT LIMITED TO, COAL, PETROLEUM COKE, WOOD, BIOMASS, AND OTHER
10 AGRICULTURAL PRODUCTS, AND USES THAT SYNTHETIC GAS TO GENERATE
11 ELECTRICITY. AN IGCC FACILITY INCLUDES THE TRANSMISSION LINES AND
12 FACILITIES, GAS TRANSPORTATION LINES AND FACILITIES, AND ASSOCIATED
13 PROPERTY AND EQUIPMENT EMPLOYED SPECIFICALLY TO SERVE THAT
14 FACILITY.

15 (C) "PILOT IGCC FACILITY" MEANS A FACILITY DESCRIBED IN
16 SUBSECTION (2).

17 (D) "QUALIFIED CONTRACT" MEANS A CONTRACT FOR A PERIOD OF NOT
18 GREATER THAN 30 YEARS FOR THE SALE OF SUBSTITUTE NATURAL GAS OR
19 ELECTRIC POWER TO A PUBLIC UTILITY. THE COMMISSION MAY APPROVE A
20 CONTRACT FOR A PERIOD OF GREATER THAN 30 YEARS AS A QUALIFIED
21 CONTRACT UPON A SHOWING THAT THE LONGER PERIOD IS REQUIRED BY A
22 LENDER OR A STATE OR FEDERAL LOAN OR GRANT PROGRAM.

23 (E) "QUALIFIED COST" MEANS ANY COST INCURRED BY A PUBLIC
24 UTILITY IN PURCHASING SUBSTITUTE NATURAL GAS OR ELECTRIC POWER
25 UNDER A QUALIFIED CONTRACT.

26 (F) "QUALIFIED ORDER" MEANS A FINAL AND IRREVOCABLE ORDER

1 ISSUED BY THE COMMISSION THAT APPROVES A QUALIFIED CONTRACT ADOPTED
2 IN ACCORDANCE WITH THIS SECTION.

3 (G) "SUBSTITUTE NATURAL GAS" MEANS PIPELINE QUALITY SYNTHETIC
4 METHANE GAS PRODUCED BY AN IGCC FACILITY OR A GASIFIER THAT IS
5 CAPABLE OF BEING USED FOR ANY OF THE FOLLOWING:

6 (i) TO GENERATE ELECTRIC POWER TO BE SOLD TO ELECTRIC UTILITIES
7 IN THIS STATE FOR RESALE TO THEIR CUSTOMERS IN THIS STATE.

8 (ii) TO SUPPLY GAS UTILITY SERVICE TO CUSTOMERS IN THIS STATE.

9 (iii) AS A FUEL TO GENERATE ELECTRIC POWER TO SUPPLY ELECTRIC
10 UTILITY SERVICE TO CUSTOMERS IN THIS STATE.

11 (2) NOTWITHSTANDING ANY OTHER LAW TO THE CONTRARY, IN ORDER TO
12 ENCOURAGE ELECTRIC UTILITIES TO PARTICIPATE AS INVESTORS IN THE
13 PILOT IGCC FACILITY, THE COMMISSION SHALL IMPLEMENT PROCEDURES TO
14 PROVIDE FOR BOTH OF THE FOLLOWING:

15 (A) ASSURANCES, THROUGH THE ISSUANCE OF A FINAL ORDER PRIOR TO
16 THE COMMENCEMENT OF CONSTRUCTION, AUTHORIZING EACH ELECTRIC UTILITY
17 INVESTING AT LEAST 20% OF THE TOTAL COST OF THE PILOT IGCC FACILITY
18 TO RECOVER FROM CUSTOMERS THE UTILITY'S FRACTIONAL SHARE OF THE
19 COSTS REASONABLY AND PRUDENTLY INCURRED IN CONNECTION WITH THE
20 DEVELOPMENT, CONSTRUCTION, OPERATION, AND MAINTENANCE OF THE PILOT
21 IGCC FACILITY.

22 (B) INCLUSION OF THE ELECTRIC UTILITY'S FRACTIONAL SHARE OF
23 THE ELECTRIC POWER GENERATED BY THE IGCC FACILITY TOWARD ANY
24 RENEWABLE PORTFOLIO STANDARD FOR THAT UTILITY.

25 (3) A UTILITY SEEKING TO RECOVER THE COSTS DESCRIBED IN THIS
26 SECTION SHALL APPLY TO THE COMMISSION FOR APPROVAL OF A COST
27 RECOVERY MECHANISM IN THE MANNER DETERMINED BY THE COMMISSION. A

1 COST RECOVERY MECHANISM PROPOSED BY AN ELECTRIC UTILITY UNDER THIS
2 SUBSECTION MAY BE BASED ON ACTUAL OR FORECASTED DATA. IF FORECASTED
3 DATA ARE USED, THE COST RECOVERY MECHANISM SHALL CONTAIN A
4 RECONCILIATION MECHANISM TO CORRECT FOR ANY VARIANCE BETWEEN THE
5 FORECASTED COSTS AND THE ACTUAL COSTS.

6 (4) THE COMMISSION MAY PROVIDE, IN ADDITION TO INCENTIVES
7 DESCRIBED IN THIS SECTION, ANY OTHER INCENTIVES FOR ELECTRIC
8 UTILITIES THAT PARTICIPATE AS INVESTORS IN THE PILOT IGCC FACILITY
9 THAT THE COMMISSION CONSIDERS PRUDENT.

10 (5) NOTWITHSTANDING ANY OTHER LAW TO THE CONTRARY, IN ORDER TO
11 ENCOURAGE ELECTRIC AND GAS UTILITIES TO ENTER INTO LONG-TERM SUPPLY
12 CONTRACTS FOR THE PURCHASE OF SUBSTITUTE NATURAL GAS OR ELECTRIC
13 POWER PRODUCED BY AN IGCC FACILITY OR A GASIFIER, THE COMMISSION
14 MAY ISSUE A QUALIFIED ORDER THAT APPROVES THE TERMS OF A QUALIFIED
15 CONTRACT AND AUTHORIZES THE RECOVERY OF QUALIFIED COSTS BY A
16 UTILITY FROM ITS CUSTOMERS.

17 (6) A QUALIFIED ORDER ISSUED UNDER THIS SECTION MAY NOT BE
18 RESCINDED, NULLIFIED, OR MODIFIED IN A MANNER THAT REDUCES OR
19 OTHERWISE IMPAIRS THE VALUE OF A QUALIFIED CONTRACT.

20 (7) NOTWITHSTANDING ANY OTHER LAW TO THE CONTRARY, IF THE
21 COMMISSION APPROVES A QUALIFIED CONTRACT FOR THE PURCHASE OF
22 SUBSTITUTE NATURAL GAS OR ELECTRIC POWER GENERATED IN CONNECTION
23 WITH THE PRODUCTION OF SUBSTITUTE NATURAL GAS, THE COMMISSION SHALL
24 ALLOW THE UTILITY TO RECOVER THE FOLLOWING COSTS ON A TIMELY BASIS
25 THROUGHOUT THE TERM OF THE QUALIFIED CONTRACT:

26 (A) ALL COSTS INCURRED IN CONNECTION WITH AND RESULTING FROM
27 THE UTILITY'S PURCHASES UNDER THE CONTRACT, INCLUDING THE COST OF

1 THE SUBSTITUTE NATURAL GAS OR ELECTRIC POWER AND RELATED COSTS FOR
2 GENERATION, TRANSMISSION, TRANSPORTATION, AND STORAGE SERVICES.

3 (B) ALL COSTS THE UTILITY INCURS IN OBTAINING REPLACEMENT GAS
4 OR ELECTRIC POWER IF THE SELLER FAILS TO DELIVER SUBSTITUTE NATURAL
5 GAS OR ELECTRIC POWER REQUIRED TO BE DELIVERED UNDER THE QUALIFIED
6 CONTRACT, INCLUDING THE PRICE OF THE REPLACEMENT GAS OR ELECTRIC
7 POWER AND THE RELATED TRANSPORTATION, TRANSMISSION, STORAGE, AND
8 HEDGING COSTS, TO THE EXTENT THAT THOSE COSTS ARE NOT PAID BY THE
9 SELLER.

10 (C) UPON PETITION BY THE UTILITY, ANY OTHER COSTS THAT THE
11 COMMISSION FINDS ARE REASONABLY NECESSARY IN ASSOCIATION WITH THE
12 QUALIFIED CONTRACT.

13 (8) ANY COSTS RECOVERED UNDER SUBSECTION (7) SHALL BE IN
14 ADDITION TO THE RECOVERY OF OTHER COSTS.