

SENATE BILL No. 1125

September 26, 2018, Introduced by Senator COLBECK and referred to the Committee on Energy and Technology.

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,"

by amending sections 6l, 6m, and 10t (MCL 460.6l, 460.6m, and 460.10t), as amended by 2016 PA 341, and by adding sections 6f, 9e,

and 9g.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 6F. (1) WITHIN 90 DAYS AFTER THE EFFECTIVE DATE OF THE
2 AMENDATORY ACT THAT ADDED THIS SECTION, THE COMMISSION SHALL
3 PUBLISH AND KEEP CURRENT FOR THE PUBLIC A BOOKLET OF RESIDENTIAL
4 CUSTOMER RIGHTS THAT CONTAINS AT LEAST ALL OF THE FOLLOWING:

5 (A) HOW RESIDENTIAL CUSTOMERS MAY REQUEST A PROCEEDING BEFORE
6 THE COMMISSION.

7 (B) WHAT A CUSTOMER SHOULD DO TO ADEQUATELY PREPARE FOR A
8 PROCEEDING BEFORE THE COMMISSION.

9 (C) WHAT TO EXPECT AT A PROCEEDING BEFORE THE COMMISSION.

10 (D) POTENTIAL OUTCOMES OF A PROCEEDING BEFORE THE COMMISSION.

11 (E) HOW AND WHEN A CUSTOMER MAY APPEAL A RULING BY THE
12 COMMISSION.

13 (2) A RESIDENTIAL CUSTOMER WHO IS A PARTY IN A PROCEEDING
14 BEFORE THE COMMISSION MAY APPEAR IN PERSON, BY AN ATTORNEY LICENSED
15 IN THIS STATE, OR BY AN AUTHORIZED REPRESENTATIVE IN A PROCEEDING
16 BEFORE THE COMMISSION. AS USED IN THIS SUBSECTION, "AUTHORIZED
17 REPRESENTATIVE" MEANS A PERSON, OTHER THAN AN ATTORNEY LICENSED IN
18 THIS STATE, DESIGNATED BY A RESIDENTIAL CUSTOMER REPRESENTING OR
19 ASSISTING THAT RESIDENTIAL CUSTOMER IN A PROCEEDING.

20 Sec. 6l. (1) For purposes of implementing sections 6a, 6h, 6j,
21 6s, and 6t, this section and section 6m provide a means of insuring
22 equitable representation of the interests of energy utility
23 customers.

24 (2) As used in this section and section 6m:

25 (a) "Annual receipts" means the payments received by the fund

1 under section 6m(2)(a), (b), (c), and (d) during a calendar year.

2 (b) "Board" means the utility consumer participation board
3 created under subsection (3).

4 (c) "Commission" means the Michigan public service commission.

5 (d) "Department" means the department of licensing and
6 regulatory affairs.

7 (e) "Energy cost recovery proceeding" means any proceeding to
8 establish or implement a gas cost recovery clause or a power supply
9 cost recovery clause as provided in section 6h or 6j, to set gas
10 cost recovery factors under section 6h(17), or to set power supply
11 cost recovery factors under section 6j(18).

12 (f) "Energy utility" means each electric or gas company
13 regulated by the commission.

14 (g) "Fund" means the utility consumer representation fund
15 created in section 6m.

16 (h) "Household" means a single-family home, duplex, mobile
17 home, seasonal dwelling, farm home, cooperative, condominium, or
18 apartment that has normal household facilities such as a bathroom,
19 individual cooking facilities, and kitchen sink facilities.
20 Household does not include a penal or corrective institution, or a
21 motel, hotel, or other similar structure if used as a transient
22 dwelling.

23 (i) "Jurisdictional" means subject to rate regulation by the
24 commission.

25 (j) "Net grant proceeds" means the annual receipts of the fund
26 less the amounts reserved for the attorney general's use and the
27 amounts expended for board expenses and operation.

1 (k) "Residential energy utility consumer" or "consumer" means
2 a customer of an energy utility who receives utility service for
3 use within an individual household or an improvement reasonably
4 appurtenant to and normally associated with an individual
5 household.

6 (l) "Residential tariff sales" means those sales by an energy
7 utility that are subject to residential tariffs on file with the
8 commission.

9 (m) "Utility consuming industry" means a person, sole
10 proprietorship, partnership, association, corporation, or other
11 entity that receives utility service ordinarily and primarily for
12 use in connection with the manufacture, sale, or distribution of
13 goods or the provision of services, but does not include a
14 nonprofit organization representing residential utility customers.

15 (3) The utility consumer participation board is created within
16 the department and shall exercise its powers and duties under this
17 act independently of the department. The procurement and related
18 management functions of the board shall be performed under the
19 direction and supervision of the department. The board ~~shall~~
20 ~~consist~~ **CONSISTS** of 5 members appointed by the governor, ~~1 of whom~~
21 ~~shall be~~ **THAT INCLUDES THE FOLLOWING:**

22 (A) **ONE MEMBER** chosen from 1 or more lists of qualified
23 persons submitted by the attorney general.

24 (B) **ONE MEMBER CHOSEN FROM A LIST OF QUALIFIED INDIVIDUALS**
25 **SUBMITTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.**

26 (C) **ONE MEMBER CHOSEN FROM A LIST OF QUALIFIED INDIVIDUALS**
27 **SUBMITTED BY THE SENATE MAJORITY LEADER.**

1 (4) For the purposes of subsection (5) only, "utility" means
2 an electric or gas company located in or outside of this state.

3 (5) Each member of the board shall meet the following
4 requirements:

5 (a) ~~Shall be~~ **BE** an advocate for the interests of residential
6 utility consumers, as demonstrated by the member's knowledge of and
7 support for consumer interests and concerns in general or
8 specifically related to utility matters.

9 (b) ~~Shall not~~ **NOT** be, or ~~shall not~~ have been within the ~~5-10~~
10 years preceding appointment, a member of a governing body of, or
11 employed in a managerial or professional or consulting capacity by
12 a utility or an association representing utilities; an enterprise
13 or professional practice that received over \$1,500.00 in the year
14 preceding the appointment as a supplier of goods or services to a
15 utility or association representing utilities; or an organization
16 representing employees of such a utility, association, enterprise,
17 or professional practice, or an association that represents such an
18 organization.

19 (c) ~~Shall not~~ **NOT** have, or ~~shall not~~ have had within 1 year
20 preceding appointment, a financial interest exceeding \$1,500.00 in
21 a utility, an association representing utilities, or an enterprise
22 or professional practice that received over \$1,500.00 in the year
23 preceding the appointment as a supplier of goods or services to a
24 utility or association representing utilities.

25 (d) ~~Shall not~~ **NOT** be an officer or director of an applicant
26 for a grant under section 6m.

27 (e) ~~Shall not~~ **NOT** be a member of the immediate family of an

1 individual who would be ineligible under subdivision (a), (b), (c),
2 or (d).

3 (6) The members of the board ~~shall~~**MUST** be appointed for 2-
4 year terms beginning with the first day of a legislative session in
5 an odd-numbered year and ending on the day before the first day of
6 the legislative session in the next odd-numbered year or when the
7 members' successors are appointed, whichever occurs later. The
8 governor shall not appoint a member to the board for a term
9 commencing after the governor's term of office has ended. A vacancy
10 ~~shall~~**MUST** be filled in the same manner as the original
11 appointment. If the vacancy is created other than by expiration of
12 a term, the member ~~shall~~**MUST** be appointed for the balance of the
13 unexpired term of the member to be succeeded.

14 (7) The governor shall remove a member of the board if that
15 member is absent for any reason from either 3 consecutive board
16 meetings or more than 50% of the meetings held by the board in a
17 calendar year. However, an individual who is removed due to
18 absenteeism is eligible for reappointment to fill a vacancy that
19 occurs in the board membership. The governor also shall remove a
20 member of the board if the member is subsequently determined to be
21 ineligible under subsection (5).

22 (8) The board shall hold bimonthly meetings and additional
23 meetings as necessary. A quorum consists of 3 members. A majority
24 vote of the members appointed and serving is necessary for a
25 decision. At its first meeting following the appointment of new
26 members, or as soon as possible after the first meeting, the board
27 shall elect biennially from its membership a chairperson and a

1 vice-chairperson.

2 (9) The board shall not act directly to represent the
3 interests of residential utility consumers except through
4 administration of the fund and grant program under this section.

5 (10) The business that the board may perform ~~shall~~**MUST** be
6 conducted at a public meeting of the board held in compliance with
7 the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public
8 notice of the time, date, and place of the meeting ~~shall~~**MUST** be
9 given in the manner required by the open meetings act, 1976 PA 267,
10 MCL 15.261 to 15.275.

11 (11) A writing prepared, owned, used, in the possession of, or
12 retained by the board in the performance of an official function
13 ~~shall~~**MUST** be made available to the public in compliance with the
14 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

15 (12) A member of the board may be reimbursed for actual and
16 necessary expenses, including travel expenses to and from each
17 meeting held by the board, incurred in discharging the member's
18 duties under this section and section 6m. In addition to expense
19 reimbursement, a board member may receive remuneration from the
20 board of \$100.00 per meeting attended, not to exceed \$1,000.00 in a
21 calendar year. These limits ~~shall~~**MUST** be adjusted proportionately
22 to an adjustment in the remittance amounts under section 6m(4) to
23 allow for changes in the cost of living.

24 Sec. 6m. (1) The utility consumer representation fund is
25 created as a special fund. The state treasurer ~~shall be~~**IS** the
26 custodian of the fund and shall maintain a separate account of the
27 money in the fund. The money in the fund ~~shall~~**MUST** be invested in

1 the bonds, notes, and other evidences of indebtedness issued or
2 insured by the United States government and its agencies, and in
3 prime commercial paper. The state treasurer shall release money
4 from the fund, including interest earned, in the manner and at the
5 time directed by the board.

6 (2) Except as provided in subsection (5), each energy utility
7 that has applied to the commission for the initiation of an energy
8 cost recovery proceeding shall remit to the fund before or upon
9 filing its initial application for that proceeding, and on or
10 before the first anniversary of that application, an amount of
11 money determined by the board in the following manner:

12 (a) In the case of an energy utility company serving at least
13 100,000 customers in this state, its proportional share of
14 \$900,000.00 adjusted annually by a factor as provided in subsection
15 (4). This adjusted amount ~~shall become~~ **BECOMES** the new base amount
16 to which the factor provided in subsection (4) is applied in the
17 succeeding year. A utility's proportional share ~~shall~~ **MUST** be
18 calculated by dividing the company's jurisdictional total operating
19 revenues for the preceding year, as stated in its annual report, by
20 the total operating revenues for the preceding year of all energy
21 utility companies serving at least 100,000 customers in this state.
22 This amount ~~shall~~ **MUST** be made available by the board for use by
23 the attorney general for the purposes described in subsection (16).

24 (b) In the case of an energy utility company serving at least
25 100,000 residential customers in this state, its proportional share
26 of \$650,000.00 adjusted annually by a factor as provided in
27 subsection (4). This adjusted amount ~~shall become~~ **BECOMES** the new

1 base amount to which the factor provided in subsection (4) is
2 applied in the succeeding year. A utility's proportional share
3 ~~shall~~**MUST** be calculated by dividing the company's jurisdictional
4 gross revenues from residential tariff sales for the preceding year
5 by the gross revenues from residential tariff sales for the
6 preceding year of all energy utility companies serving at least
7 100,000 residential customers in this state. This amount ~~shall~~**MUST**
8 be used for grants under subsection (10).

9 (c) In the case of an energy utility company serving fewer
10 than 100,000 customers in this state, its proportional share of
11 \$100,000.00 adjusted annually by a factor as provided in subsection
12 (4). This adjusted amount ~~shall become~~**BECOMES** the new base amount
13 to which the factor provided in subsection (4) is applied in the
14 succeeding year. A utility's proportional share ~~shall~~**MUST** be
15 calculated by dividing the company's jurisdictional total operating
16 revenues for the preceding year, as stated in its annual report, by
17 the total operating revenues for the preceding year of all energy
18 utility companies serving fewer than 100,000 customers in this
19 state. This amount ~~shall~~**MUST** be made available by the board for
20 use by the attorney general for the purposes described in
21 subsection (16).

22 (d) In the case of an energy utility company serving fewer
23 than 100,000 residential customers in this state, its proportional
24 share of \$100,000.00 adjusted annually by a factor as provided in
25 subsection (4). This adjusted amount ~~shall become~~**BECOMES** the new
26 base amount to which the factor provided in subsection (4) is
27 applied in the succeeding year. A utility's proportional share

1 ~~shall~~**MUST** be calculated by dividing the company's jurisdictional
2 gross revenues from residential tariff sales for the preceding year
3 by the gross revenues from residential tariff sales for the
4 preceding year of all energy utility companies serving fewer than
5 100,000 residential customers in this state. This amount ~~shall~~**MUST**
6 be used for grants under subsection (10).

7 (3) Payments made by an energy utility under subsection (2)(a)
8 or (c) are operating expenses of the utility that the commission
9 shall permit the utility to charge to its customers. Payments made
10 by a utility under subsection (2)(b) or (d) are operating expenses
11 of the utility that the commission shall permit the utility to
12 charge to its residential customers.

13 (4) For purposes of subsection (2), the board shall set the
14 factor at a level not to exceed the percentage increase in the
15 index known as the ~~consumer price index~~**CONSUMER PRICE INDEX** for
16 urban wage earners and clerical workers, select areas, all items
17 indexed, for the Detroit standard metropolitan statistical area,
18 compiled by the Bureau of Labor Statistics of the United States
19 Department of Labor, or any successor agency, that has occurred
20 between January of the preceding year and January of the year in
21 which the payment is required to be made. In the event that more
22 than 1 such index is compiled, the index yielding the largest
23 payment ~~shall be~~**IS** the maximum allowable factor. The board shall
24 advise utilities of the factor.

25 (5) The remittance requirements of this section do not apply
26 to an energy utility organized as a cooperative corporation under
27 sections 98 to 109 of 1931 PA 327, MCL 450.98 to 450.109, and

1 grants from the fund ~~shall~~**MUST** not be used to participate in an
2 energy cost recovery proceeding primarily affecting such a utility.

3 (6) In the event of a dispute between the board and an energy
4 utility about the amount of payment due, the utility shall pay the
5 undisputed amount and, if the utility and the board cannot agree,
6 the board may initiate civil action in the circuit court for Ingham
7 County for recovery of the disputed amount. **IF THE COURT DETERMINES**
8 **IN AN ACTION UNDER THIS SUBSECTION THAT THE BOARD'S PROPOSED**
9 **PAYMENT WAS THE PROPER AMOUNT OF PAYMENT DUE, THE COURT SHALL ORDER**
10 **THE UTILITY TO PAY THE BOARD'S COURT COSTS AND ATTORNEY FEES. THE**
11 **COMMISSION SHALL NOT INCLUDE ANY COSTS OR ATTORNEY FEES AWARDED**
12 **UNDER THIS SUBSECTION IN ANY RATES FOR THAT UTILITY.** The commission
13 shall not accept or take action on an application for an energy
14 cost recovery proceeding from an energy utility subject to this
15 section that has not fully paid undisputed remittances required by
16 this section.

17 (7) The commission shall not accept or take action on an
18 application for an energy cost recovery proceeding from an energy
19 utility subject to this section until 30 days after it has been
20 notified by the board that the board is ready to process grant
21 applications, will transfer funds payable to the attorney general
22 immediately upon the receipt of those funds, and will within 30
23 days approve grants and remit funds to qualified grant applicants.

24 (8) The board may accept a gift or grant from any source to be
25 deposited in the fund if the conditions or purposes of the gift or
26 grant are consistent with this section.

27 (9) The costs of operation and expenses incurred by the board

1 in performing its duties under this section and section 6/,
2 including remuneration to board members, ~~shall~~**MUST** be paid from
3 the fund. A maximum of 5% of the annual receipts of the fund
4 **RECEIVED UNDER SUBSECTION (2)** may be budgeted and used to pay
5 expenses other than grants made under subsection (10).

6 (10) The net grant proceeds ~~shall~~**MUST** finance a grant program
7 from which the board may award to an applicant an amount that the
8 board determines shall be used for the purposes set forth in this
9 section.

10 (11) The board shall create and make available to applicants
11 an application form. Each applicant shall indicate on the
12 application how the applicant meets the eligibility requirements
13 provided for in this section and how the applicant proposes to use
14 a grant from the fund to participate in 1 or more proceedings as
15 authorized in subsection (16) that have been or are expected to be
16 filed. Each applicant shall also identify on the application any
17 additional funds or resources, other than the grant funds being
18 requested, that are to be used to participate in the proceeding for
19 which the grant is being requested and how those funds or resources
20 will be utilized. The board shall receive an application requesting
21 a grant from the fund only from a nonprofit organization or a unit
22 of local government in this state. The board shall consider only
23 applications for grants containing proposals that are consistent
24 with subsections (16) and (17) and that serve the interests of
25 residential utility consumers. For purposes of making grants, the
26 board may consider energy conservation, energy waste reduction,
27 demand response, and rate design options to encourage energy

1 conservation, energy waste reduction, and demand response, as well
2 as the maintenance of adequate energy resources **AND MATTERS RELATED**
3 **TO THE NEED FOR OR ENFORCEMENT OF COMMISSION RULES PERTAINING TO**
4 **THE APPLICATION FOR SERVICE, INVOLUNTARY TERMINATION OF SERVICE,**
5 **SHUT-OFF AND RESTORATION PROTECTIONS, METERS, OR CONSUMER STANDARDS**
6 **OR BILLING PRACTICES.** The board shall not consider an application
7 that primarily benefits the applicant or a service provided or
8 administered by the applicant. The board shall not consider an
9 application from a nonprofit organization if 1 of the
10 organization's principal interests or unifying principles is the
11 welfare of a utility or its investors or employees, or the welfare
12 of 1 or more businesses or industries, other than farms not owned
13 or operated by a corporation, that receive utility service
14 ordinarily and primarily for use in connection with the profit-
15 seeking manufacture, sale, or distribution of goods or services.
16 Mere ownership of securities by a nonprofit organization or its
17 members does not disqualify an application submitted by that
18 organization. **IF THE BOARD REJECTS AN APPLICATION FOR A GRANT UNDER**
19 **THIS SECTION, THE BOARD SHALL PROVIDE THE APPLICANT A DETAILED**
20 **WRITTEN STATEMENT OF ALL OF THE REASONS FOR THE REJECTION.**

21 (12) The board shall encourage the representation of the
22 interests of identifiable types of residential utility consumers
23 whose interests may differ, including various social and economic
24 classes and areas of the state, and if necessary, may make grants
25 to more than 1 applicant whose applications are related to a
26 similar issue to achieve this type of representation. In addition,
27 the board shall consider and balance the following criteria in

1 determining whether to make a grant to an applicant:

2 (a) Evidence of the applicant's competence, experience, and
3 commitment to advancing the interests of residential utility
4 consumers.

5 (b) The anticipated involvement of the attorney general in a
6 proceeding and whether activities of the applicant will be
7 duplicative or supplemental to those of the attorney general. **AN**
8 **APPLICANT'S ACTIVITIES ARE NOT DUPLICATIVE TO THOSE OF THE ATTORNEY**
9 **GENERAL MERELY BECAUSE THE ATTORNEY GENERAL IS INVOLVED IN THE SAME**
10 **PROCEEDING.**

11 (c) In the case of a nongovernmental applicant, the extent to
12 which the applicant is representative of or has a previous history
13 of advocating the interests of citizens, especially residential
14 utility consumers.

15 (d) The anticipated effect of the proposal contained in the
16 application on residential utility consumers, including the
17 immediate and long-term impacts of the proposal.

18 (e) Evidence demonstrating the potential for continuity of
19 effort and the development of expertise in relation to the proposal
20 contained in the application.

21 (f) The uniqueness or innovativeness of an applicant's
22 position or point of view as it relates to advocating for
23 residential utility consumers concerning energy costs or rates, and
24 the probability and desirability of that position or point of view
25 prevailing.

26 (13) As an alternative to choosing between 2 or more
27 applications that have similar proposals, the board may invite 2 or

1 more of the applicants to file jointly and award a grant to be
2 managed cooperatively.

3 (14) The board shall make disbursements pursuant to a grant in
4 advance of an applicant's proposed actions as set forth in the
5 application if necessary to enable the applicant to initiate,
6 continue, or complete the proposed actions.

7 (15) Any notice to utility customers and the general public of
8 hearings or other state proceedings in which grants from the fund
9 may be used ~~shall~~**MUST** contain a notice of the availability of the
10 fund and the address of the board.

11 (16) The annual receipts and interest earned, less
12 administrative costs, may be used only for participation in
13 administrative and judicial proceedings under sections 6a, 6h, 6j,
14 6s, and 6t, and in federal administrative and judicial proceedings
15 that directly affect the energy costs or rates paid by energy
16 utility customers in this state **AND IN MATTERS RELATED TO CONSUMER**
17 **PROTECTIONS AND BILLING PRACTICES THAT APPLY TO RESIDENTIAL ENERGY**
18 **UTILITY CUSTOMERS IN THIS STATE**. Amounts that have been in the fund
19 more than 12 months may be retained in the fund for future
20 proceedings and any unexpended money in the fund ~~shall~~**MUST** be
21 reserved to fulfill the purposes for which it was appropriated or
22 may be returned to energy utility companies or used to offset their
23 future remittances in proportion to their previous remittances to
24 the fund, as the board and attorney general determine will best
25 serve the interests of consumers.

26 (17) The following conditions apply to all grants from the
27 fund:

1 (a) Disbursements from the fund may be used ~~only to advocate~~
2 ~~the interests of residential energy utility customers concerning~~
3 ~~energy costs or rates and not for representation of merely~~
4 ~~individual interests.~~ **AS DESCRIBED IN SUBSECTION (16).**

5 (b) The board shall attempt to maintain a reasonable
6 relationship between the payments from a particular energy utility
7 and the benefits to consumers of that utility.

8 (c) The board shall coordinate the funded activities of grant
9 recipients with those of the attorney general to avoid duplication
10 of effort, particularly as it relates to the hiring of expert
11 witnesses, to promote supplementation of effort, and to maximize
12 the number of hearings and proceedings with intervenor
13 participation.

14 (18) A recipient of a grant under subsection (10) may use the
15 grant only for the advancement of the proposed action approved by
16 the board, including, but not limited to, costs of staff, hired
17 consultants and counsel, and research.

18 (19) A recipient of a grant under subsection (10) shall
19 prepare for and participate in all discussions among the parties
20 designed to facilitate settlement or narrowing of the contested
21 issues before a hearing in order to minimize litigation costs for
22 all parties.

23 (20) A recipient of a grant under subsection (10) shall file a
24 report with the board within 90 days following the end of the year
25 or a shorter period for which the grant is made. The report ~~shall~~
26 **MUST** be made in a form prescribed by the board and is subject to
27 audit by the board. The board shall include each report received

1 under this subsection as part of the board's annual report required
2 under subsection (22). The report under this subsection ~~shall~~**MUST**
3 include the following information:

4 (a) An account of all grant expenditures made by the grant
5 recipient. Expenditures ~~shall~~**MUST** be reported within the following
6 categories:

7 (i) Employee and contract for services costs.

8 (ii) Costs of materials and supplies.

9 (iii) Filing fees and other costs required to effectively
10 represent residential utility consumers as provided in this
11 section.

12 (b) A detailed list of the regulatory issues raised by the
13 grant recipient and how each issue was determined by the
14 commission, court, or other tribunal.

15 (c) Any additional information concerning uses of the grant
16 required by the board.

17 (21) On or before July 1 of each year, the attorney general
18 shall file a report with the house and senate committees on
19 appropriations and the house and senate committees with
20 jurisdiction over energy and utility policy issues. The report
21 ~~shall~~**MUST** include the following information:

22 (a) An account of all expenditures made by the attorney
23 general of money received under this section. Expenditures ~~shall~~
24 **MUST** be reported within the following categories:

25 (i) Employee and contract for services costs.

26 (ii) Costs of materials and supplies.

27 (iii) Filing fees and other costs required to effectively

1 represent utility consumers as provided in this section.

2 (b) Any additional information concerning uses of the money
3 received under this section required by the committees.

4 (22) On or before July 1 of each calendar year, the board
5 shall submit a detailed report to the house and senate committees
6 with jurisdiction over energy and utility policy issues regarding
7 the discharge of duties and responsibilities under this section and
8 section 6/ during the preceding calendar year.

9 SEC. 9E. (1) A UTILITY SHALL FILE WITH THE COMMISSION AT LEAST
10 QUARTERLY REPORTS THAT DISCLOSE AT LEAST ALL OF THE FOLLOWING:

11 (A) THE PAYMENT PERFORMANCE OF ITS CUSTOMERS IN RELATION TO
12 ESTABLISHED DUE AND PAYABLE PERIODS.

13 (B) THE NUMBER AND GENERAL DESCRIPTION OF ALL COMPLAINTS
14 REGISTERED WITH THE UTILITY.

15 (C) THE NUMBER OF SHUT-OFF NOTICES ISSUED BY THE UTILITY AND
16 THE REASONS FOR THE NOTICES.

17 (D) THE NUMBER OF HEARINGS HELD BY THE UTILITY, THE TYPES OF
18 DISPUTES INVOLVED, AND THE NUMBER OF COMPLAINT DETERMINATIONS
19 ISSUED.

20 (E) THE NUMBER OF WRITTEN SETTLEMENT AGREEMENTS ENTERED INTO
21 BY THE UTILITY.

22 (F) THE NUMBER OF SHUTOFFS OF SERVICE, THE NUMBER OF
23 RECONNECTIONS, AND THE REASONS FOR THE SHUTOFFS, MINIMALLY BROKEN
24 DOWN BY VOLUNTARY SHUTOFFS, INVOLUNTARY SHUTOFFS, SAFETY-RELATED
25 SHUTOFFS, NON-SAFETY-RELATED SHUTOFFS, METER-CHOICE-RELATED
26 SHUTOFFS, AND PAYMENT-RELATED SHUTOFFS. IF A SHUTOFF IS DUE TO AN
27 UNSAFE CONNECTION, THE UTILITY SHALL UNIQUELY EXPLAIN EACH OF THOSE

1 SHUTOFFS, FULLY DETAILING THE REASON THE CONNECTION WAS UNSAFE AND
2 THE ACTION TAKEN TO CURE OR ADDRESS THAT UNSAFE CONNECTION.

3 (G) THE AVERAGE TIME FOR THE UTILITY TO RESTORE SERVICE TO A
4 CUSTOMER FOLLOWING A SHUTOFF, THE AMOUNT OF TIME FOR A UTILITY TO
5 RESTORE SERVICE TO EACH CUSTOMER, AND HOW MANY TIMES THE UTILITY'S
6 RESTORATION OF SERVICE VIOLATED THIS ACT OR RULES PROMULGATED BY
7 THE COMMISSION.

8 (H) ANY OTHER CUSTOMER SERVICE QUALITY INFORMATION REQUESTED
9 BY THE COMMISSION STAFF.

10 (2) IN ADDITION TO THE ROUTINE REPORTS REQUIRED UNDER
11 SUBSECTION (1), A UTILITY SHALL COMPLY WITH ANY ADDITIONAL
12 COMMISSION STAFF REQUESTS FOR NONAGGREGATED CUSTOMER SERVICE
13 QUALITY INFORMATION AT ANY TIME, WITH THE UTILITY PROVIDING THAT
14 INDIVIDUAL CUSTOMER-RELATED INFORMATION WITHIN 1 WEEK AFTER THE
15 REQUEST.

16 (3) IF A UTILITY OR ITS AGENTS HAVE SHUT-OFF SERVICE, THE
17 UTILITY OR ITS AGENTS SHALL RESTORE SERVICE PROMPTLY UPON THE
18 CUSTOMER'S REQUEST WHEN THE CAUSE HAS BEEN CURED OR CREDIT
19 ARRANGEMENTS SATISFACTORY TO THE UTILITY HAVE BEEN MADE, OR WHEN A
20 UTILITY DISCOVERS THAT THE UTILITY HAS ERRONEOUSLY OR ILLEGALLY
21 DISCONNECTED SERVICE. WHEN A UTILITY IS REQUIRED TO RESTORE SERVICE
22 AT THE CUSTOMER'S METER MANUALLY, THE UTILITY SHALL MAKE EVERY
23 EFFORT TO RESTORE SERVICE ON THE DAY THE CUSTOMER REQUESTS
24 RESTORATION. EXCEPT WHEN PREVENTED BY A DISASTER, THE UTILITY SHALL
25 RESTORE SERVICE NOT LATER THAN THE FIRST WORKING DAY AFTER THE
26 CUSTOMER'S REQUEST. FOR UTILITIES USING METER TECHNOLOGY WITH
27 REMOTE SHUTOFF AND RESTORATION CAPABILITY, SERVICE MUST BE RESTORED

1 ON THE DAY THE CUSTOMER REQUESTS RESTORATION, EXCEPT IN THE CASE OF
2 DOCUMENTED EQUIPMENT FAILURE WHERE A UTILITY IS REQUIRED TO RESTORE
3 AT THE CUSTOMER'S METER MANUALLY.

4 (4) A UTILITY THAT SHUTS OFF SERVICE TO A CUSTOMER, EXCEPT AT
5 THE CUSTOMER'S REQUEST OR FOR THE REASONS ALLOWED BY LAW, SHALL
6 PROVIDE TO ANY AFFECTED CUSTOMER A BILL CREDIT ON THE CUSTOMER'S
7 NEXT BILL. THE AMOUNT OF THE CREDIT PROVIDED TO A RESIDENTIAL
8 CUSTOMER IS AT LEAST \$100.00 PER DAY FOR EACH FULL OR PARTIAL DAY
9 THAT THE CUSTOMER'S SERVICE IS NOT RESTORED. IF REQUESTED BY THE
10 CUSTOMER, THE UTILITY SHALL PROVIDE A PAYMENT TO THE CUSTOMER
11 INSTEAD OF A BILL CREDIT UNDER THIS SUBSECTION. A CUSTOMER'S
12 ACCEPTANCE OF A BILL CREDIT UNDER THIS SUBSECTION DOES NOT LIMIT
13 ANY RIGHTS OR REMEDIES AVAILABLE TO THAT CUSTOMER UNDER ANY OTHER
14 LAW.

15 (5) A UTILITY IS DISQUALIFIED FROM RECEIVING AN INCENTIVE
16 UNDER COMMISSION RULES IF THE COMMISSION ISSUES AN ORDER FINDING
17 THAT THE UTILITY'S RESIDENTIAL CUSTOMER SERVICE LEVELS WERE
18 UNSATISFACTORY DUE TO MULTIPLE VIOLATIONS OF THIS SECTION OR RULES
19 PERTAINING TO THE APPLICATION FOR SERVICE, INVOLUNTARY TERMINATION
20 OF SERVICE, SHUT-OFF AND RESTORATION PROTECTIONS, METERS, OR
21 CONSUMER STANDARDS OR BILLING PRACTICES.

22 (6) A GAS UTILITY SHALL NOT SHUT OFF SERVICE TO AN ELIGIBLE
23 SENIOR CITIZEN CUSTOMER DURING THE HEATING SEASON. AT THE
24 CUSTOMER'S REQUEST, A GAS UTILITY SHALL RESTORE SERVICE TO AN
25 ELIGIBLE SENIOR CITIZEN CUSTOMER'S DOCUMENTED PERSONAL RESIDENCE
26 DURING THE HEATING SEASON WITHOUT PAYMENT OF ANY AMOUNT DUE,
27 DEPOSITS, RECONNECTION FEES, OR OTHER CHARGES. AT THE CONCLUSION OF

1 THE HEATING SEASON, THE GAS UTILITY SHALL RECONCILE THE ACCOUNTS OF
2 ELIGIBLE SENIOR CITIZEN CUSTOMERS AND PERMIT THEM TO PAY ANY
3 AMOUNTS OWING IN EQUAL MONTHLY INSTALLMENTS BETWEEN APRIL 1 AND
4 OCTOBER 31. THIS SUBSECTION DOES NOT RELIEVE THE CUSTOMER OF HIS OR
5 HER OBLIGATION TO PAY FOR UTILITY SERVICE. THIS SUBSECTION DOES NOT
6 PROHIBIT A GAS UTILITY THAT OBSERVES AN UNSAFE CONNECTION AT A
7 CUSTOMER'S LOCATION THAT IS CAUSED BY UNAUTHORIZED USE OF NATURAL
8 GAS SERVICE FROM IMPLEMENTING MEASURES TO CURE OR ADDRESS THE
9 UNSAFE CONNECTION UNDER SECTION 9D. THE USE OF AN ANALOG METER DOES
10 NOT CREATE, AND SHALL NOT BE CONSTRUED TO CREATE, AN UNSAFE
11 CONNECTION OR CONDITION.

12 (7) AS USED IN THIS SECTION:

13 (A) "DISASTER" MEANS WIDESPREAD OR SEVERE DAMAGE TO UTILITY
14 INFRASTRUCTURE BEYOND THE UTILITY'S CONTROL RESULTING FROM A
15 NATURAL OR MAN-MADE CAUSE, INCLUDING, BUT NOT LIMITED TO, AN ACT OF
16 WAR, EARTHQUAKE, WILDFIRE, FLOOD, ICE STORM, SNOWSTORM, TERRORIST
17 ATTACK, TORNADO, OR WINDSTORM. WIDESPREAD OR SEVERE DAMAGE TO
18 UTILITY INFRASTRUCTURE THAT IS THE RESULT OF IMPROPER EQUIPMENT,
19 POOR MAINTENANCE, EMPLOYEE ERROR, OR OTHER PERSONNEL ISSUES IS NOT
20 A DISASTER.

21 (B) "ELIGIBLE SENIOR CITIZEN CUSTOMER" MEANS A UTILITY
22 CUSTOMER WHO MEETS BOTH OF THE FOLLOWING CRITERIA:

23 (i) HAS AN INDIVIDUAL IN THAT CUSTOMER'S RESIDENCE WHO IS 65
24 YEARS OF AGE OR OLDER.

25 (ii) THE UTILITY KNOWS OR SHOULD KNOW OF HIS OR HER
26 ELIGIBILITY OR THE CUSTOMER ADVISES THE UTILITY OF HIS OR HER
27 ELIGIBILITY.

1 (C) "HEATING SEASON" MEANS THE PERIOD BETWEEN NOVEMBER 1 AND
2 MARCH 31, OR ADDITIONAL PERIODS OF TIME MORE PROTECTIVE OF
3 CUSTOMERS IN RULES PROMULGATED BY THE COMMISSION.

4 (D) "UTILITY" MEANS AN ELECTRIC OR NATURAL GAS UTILITY
5 REGULATED BY THE COMMISSION.

6 Sec. 10t. (1) An electric utility or alternative electric
7 supplier shall not shut off service to an ~~EITHER OF THE FOLLOWING:~~

8 (A) AN eligible **LOW-INCOME** customer during the heating season
9 for nonpayment of a delinquent account if the customer ~~is an~~
10 ~~eligible senior citizen customer or if the customer pays to the~~
11 utility or supplier a monthly amount equal to 7% of the estimated
12 annual bill for the eligible **LOW-INCOME** customer and the eligible
13 **LOW-INCOME** customer demonstrates, within 14 days of requesting
14 ~~shutoff~~ **SHUT-OFF** protection, that he or she has applied for state
15 or federal heating assistance. If an arrearage exists at the time
16 an eligible **LOW-INCOME** customer applies for protection from shutoff
17 of service during the heating season, the utility or supplier shall
18 permit the customer to pay the arrearage in equal monthly
19 installments between the date of application and the start of the
20 subsequent heating season.

21 (B) AN ELIGIBLE SENIOR CITIZEN CUSTOMER DURING THE HEATING
22 SEASON OR COOLING SEASON. AT THE CUSTOMER'S REQUEST, AN ELECTRIC
23 UTILITY OR ALTERNATIVE ELECTRIC SUPPLIER SHALL RESTORE SERVICE TO
24 AN ELIGIBLE SENIOR CITIZEN CUSTOMER'S DOCUMENTED PERSONAL RESIDENCE
25 DURING THE HEATING SEASON OR COOLING SEASON WITHOUT PAYMENT OF ANY
26 AMOUNT DUE, DEPOSITS, RECONNECTION FEES, OR OTHER CHARGES. AT THE
27 CONCLUSION OF THE HEATING SEASON OR COOLING SEASON, THE ELECTRIC

1 UTILITY OR ALTERNATIVE ELECTRIC SUPPLIER SHALL RECONCILE THE
2 ACCOUNTS OF ELIGIBLE SENIOR CITIZEN CUSTOMERS AND PERMIT THEM TO
3 PAY ANY AMOUNTS OWING IN EQUAL MONTHLY INSTALLMENTS OUTSIDE OF
4 OTHERWISE PROTECTED PERIODS OF TIME. THIS SUBSECTION DOES NOT
5 RELIEVE THE CUSTOMER OF HIS OR HER OBLIGATION TO PAY FOR UTILITY
6 SERVICE. THIS SUBSECTION DOES NOT PROHIBIT AN ELECTRIC UTILITY THAT
7 OBSERVES AN UNSAFE CONNECTION AT A CUSTOMER'S LOCATION THAT IS
8 CAUSED BY UNAUTHORIZED USE OF ELECTRIC SERVICE FROM IMPLEMENTING
9 MEASURES TO CURE OR ADDRESS THE UNSAFE CONNECTION UNDER SECTION 9D.
10 THE USE OF AN ANALOG METER DOES NOT CREATE, AND SHALL NOT BE
11 CONSTRUED TO CREATE, AN UNSAFE CONNECTION OR CONDITION.

12 (2) An electric utility or alternative electric supplier may
13 shut off service to ~~a~~ **AN ELIGIBLE LOW-INCOME** customer as provided
14 in part 7 of the clean and renewable energy and energy waste
15 reduction act, 2008 PA 295, MCL 460.1201 to 460.1211, or to an
16 eligible low-income customer who does not pay the monthly amounts
17 required under subsection (1) after giving notice in the manner
18 required by rules. The utility or supplier is not required to offer
19 a settlement agreement to an eligible low-income customer who fails
20 to make the monthly payments required under subsection (1).

21 (3) If ~~a~~ **AN ELIGIBLE LOW-INCOME** customer fails to comply with
22 the terms and conditions of this section, an electric utility may
23 shut off service on its own behalf or on behalf of an alternative
24 electric supplier after giving the customer a notice, by personal
25 service or first-class mail, that contains all of the following
26 information:

27 (a) That the customer has not paid the per-meter charge

1 described in section 205 of the clean and renewable energy and
2 energy waste reduction act, 2008 PA 295, MCL 460.1205, or the
3 customer has defaulted on the winter protection plan.

4 (b) The nature of the default.

5 (c) That unless the customer makes the payments that are past
6 due within 10 days of the date of mailing, the utility or supplier
7 may shut off service.

8 (d) The date on or after which the utility or supplier may
9 shut off service, unless the customer takes appropriate action.

10 (e) That the customer has the right to file a complaint
11 disputing the claim of the utility or supplier before the date of
12 the proposed shutoff of service.

13 (f) That the customer has the right to request a hearing
14 before a hearing officer if the complaint cannot be otherwise
15 resolved and that the customer shall pay to the utility or supplier
16 that portion of the bill that is not in dispute within 3 days of
17 the date that the customer requests a hearing.

18 (g) That the customer has the right to represent himself or
19 herself, to be represented by an attorney, or to be assisted by any
20 other person of his or her choice in the complaint process.

21 (h) That the utility or supplier will not shut off service
22 pending the resolution of a complaint that is filed with the
23 utility in accordance with this section.

24 (i) The telephone number and address of the utility or
25 supplier where the customer may make inquiry, enter into a
26 settlement agreement, or file a complaint.

27 (j) That the customer should contact a social services agency

1 immediately if the customer believes he or she might be eligible
2 for emergency economic assistance.

3 (k) That the utility or supplier will postpone shutoff of
4 service if a medical emergency exists at the customer's residence.

5 (l) That the utility or supplier may require a deposit and
6 restoration charge if the supplier shuts off service for nonpayment
7 of a delinquent account.

8 (4) An electric utility is not required to shut off service
9 under this section to an eligible customer for nonpayment to an
10 alternative electric supplier.

11 (5) The commission shall establish an educational program to
12 ensure that eligible customers are informed of the requirements and
13 benefits of this section.

14 (6) As used in this section:

15 (A) **"COOLING SEASON" MEANS THE PERIOD BETWEEN JULY 1 AND**
16 **AUGUST 31, OR ADDITIONAL PERIODS OF TIME MORE PROTECTIVE OF**
17 **CUSTOMERS IN RULES PROMULGATED BY THE COMMISSION.**

18 (B) ~~(a)~~—"Eligible customer" means either an eligible low-
19 income customer or an eligible senior citizen customer.

20 (C) ~~(b)~~—"Eligible low-income customer" means a customer whose
21 household income does not exceed 150% of the poverty level, as
22 published by the United States Department of Health and Human
23 Services, or who receives any of the following:

24 (i) Assistance from a state emergency relief program.

25 (ii) Food stamps.

26 (iii) Medicaid.

27 (D) ~~(e)~~—"Eligible senior citizen customer" means a utility or

1 supplier customer who **MEETS BOTH OF THE FOLLOWING CRITERIA:**

2 **(i) HAS AN INDIVIDUAL IN THAT CUSTOMER'S RESIDENCE WHO is 65**
3 years of age or older. ~~and who~~

4 **(ii) THE UTILITY KNOWS OR SHOULD KNOW OF HIS OR HER**
5 **ELIGIBILITY OR THE CUSTOMER** advises the utility of his or her
6 eligibility.

7 **(E) "HEATING SEASON" MEANS THE PERIOD BETWEEN NOVEMBER 1 AND**
8 **MARCH 31, OR ADDITIONAL PERIODS OF TIME MORE PROTECTIVE OF**
9 **CUSTOMERS IN RULES PROMULGATED BY THE COMMISSION.**