

HOUSE BILL NO. 5653

December 15, 2021, Introduced by Reps. Shannon, Steckloff, Hertel, Yaroch, Howell, Sneller, Steenland and Sowerby and referred to the Committee on Regulatory Reform.

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 section 9q (MCL 460.9q), as amended by 2011 PA 274.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 9q. (1) A provider may **immediately** shut off service
2 ~~temporarily~~ **for any of the following** reasons:

3 **(a) Temporarily for reasons** of health or safety or in a state
4 or national emergency. When a provider shuts off service for
5 reasons of health or safety, the provider shall leave a notice at
6 the premises **and notify the fire code official no later than 24**
7 **hours after the service shutoff of the reasons for the shutoff. A**
8 **fire code official shall contact the customer whose service was**
9 **shut off within 24 hours after receiving notification under this**
10 **subdivision.**

11 **(b) At the direction or request of a fire code official when**
12 **the fire code official has determined that a high-hazard condition**
13 **exists. Upon request, a provider shall provide the fire code**
14 **official a report identifying all addresses within the fire code**
15 **official's jurisdiction for customers whose usage rate during the**
16 **preceding 90 days constituted a high-hazard condition.**

17 (2) Subject to the requirements of this act, a provider may
18 shut off or terminate service to a residential customer for any of
19 the following reasons:

1 (a) The customer has not paid a delinquent account that
2 accrued within the last 6 years.

3 (b) The customer has failed to provide a deposit or guarantee
4 as required by the provider.

5 (c) The customer has engaged in unauthorized use of a
6 provider's service.

7 (d) The customer has failed to comply with the terms and
8 conditions of a payment plan entered into with the provider in
9 accordance with the provider's rules.

10 (e) The customer has refused to arrange access at reasonable
11 times for the purpose of inspection, meter reading, maintenance, or
12 replacement of equipment that is installed upon the premises or for
13 the removal of a meter.

14 (f) The customer misrepresented his or her identity for the
15 purpose of obtaining a provider service or put service in another
16 person's name without permission of the other person.

17 (g) The customer has violated any rules of the provider so as
18 to adversely affect the safety of the customer or other individuals
19 or the integrity of the provider's system.

20 (h) An individual living in the customer's residence meets
21 both of the following:

22 (i) Has a delinquent account for service with the provider
23 within the past 3 years that remains unpaid.

24 (ii) The individual lived in the customer's residence when all
25 or part of the debt was incurred. The provider may transfer a
26 prorated amount of the debt to the customer's account, based upon
27 the length of time that the individual resided at the customer's
28 residence. This subdivision does not apply if the individual was a
29 minor while living in the customer's residence.

1 (3) ~~A~~**Except as otherwise provided in subsection (1), a**
2 provider shall not shut off service unless it sends a notice to the
3 customer by first-class mail or personally serves the notice not
4 less than 10 days before the date of the proposed shutoff. A
5 provider shall maintain a record of the date the notice was sent.

6 (4) Subject to the requirements of sections 9r and 9s, a
7 provider's governing body shall establish a policy to allow a
8 customer the opportunity to enter into a payment plan for an amount
9 owed to the provider that is not in dispute, if a customer claims
10 an inability to pay in full. A provider is not required to enter
11 into a subsequent payment plan with a customer until the customer
12 has complied fully with the terms of an existing or previous
13 payment plan unless the customer demonstrates a significant change
14 in economic circumstances and requests a modification of the
15 payment plan. A provider is not required to enter into a subsequent
16 payment plan with a customer who defaulted on the terms and
17 conditions of a payment plan within the last 12 months.

18 (5) A notice of shutoff under subsection (3) ~~shall~~**must**
19 contain all of the following information:

20 (a) The name and address of the customer, and the address at
21 which service is provided, if different.

22 (b) A clear and concise statement of the reason for the
23 proposed shutoff of service.

24 (c) The date on or after which the provider may shut off
25 service, unless the customer takes appropriate action.

26 (d) That the customer has the right to enter into a payment
27 plan with the provider for an amount owed to the provider that is
28 not in dispute and that the customer is presently unable to pay in
29 full.

1 (e) The telephone number and address of the provider where the
2 customer may make inquiry, enter into a payment plan, or file a
3 complaint.

4 (f) That the provider will postpone the shutoff of service if
5 a certified medical emergency exists at the customer's residence
6 and the customer informs and provides documentation to the provider
7 of that medical emergency.

8 (g) That during the heating season the provider will postpone
9 shutoff of service if a customer is an eligible low-income customer
10 that enters into a winter protection payment plan with the provider
11 and the customer provides documentation that the customer is
12 actively seeking emergency assistance from an energy assistance
13 program.

14 (h) The energy assistance telephone line number at the
15 department of **health and** human services or an operating 2-1-1
16 system telephone number.

17 (6) Subject to the requirements of this act **and except as**
18 **otherwise provided in subsection (1)**, a provider may shut off
19 service to a customer on the date specified in the notice of
20 shutoff or at a reasonable time following that date. If a provider
21 does not shut off service and mails a subsequent notice, then the
22 provider shall not shut off service before the date specified in
23 the subsequent notice. Shutoff ~~shall~~**must** occur only between the
24 hours of 8 a.m. and 4 p.m.

25 (7) ~~A~~**Except as otherwise provided in subsection (1)**, a
26 provider shall not shut off service on a day, or a day immediately
27 preceding a day, when the services of the provider are not
28 available to the general public for the purpose of restoring
29 service.

1 (8) ~~For~~ **Except as otherwise provided in subsection (1), for** an
2 involuntary shutoff, at least 1 day before shutoff of service, the
3 provider shall make at least 2 attempts to contact the customer by
4 1 or more of the following methods:

5 (a) A personal or automated telephone call where direct
6 contact is made with a member of the customer's household or a
7 message is recorded on an answering machine or voice mail.

8 (b) First-class mail.

9 (c) A personal visit to the customer.

10 (d) A written notice left at or on the customer's door.

11 (e) Any other method approved by the commission for regulated
12 utilities.

13 (9) A notice of shutoff sent under subsection (3) ~~shall be~~ **is**
14 considered as 1 attempt under subsection (8).

15 (10) The provider shall document all attempts to contact the
16 customer under subsection (8).

17 (11) Immediately before the shutoff of service, an employee of
18 the provider who is designated to perform that function may
19 identify himself or herself to the customer or another responsible
20 individual at the premises and may announce the purpose of his or
21 her presence.

22 (12) When a provider employee shuts off service, the employee
23 shall leave a notice. The notice ~~shall~~ **must** state that service has
24 been shut off and ~~shall~~ contain the address and telephone number of
25 the provider where the customer may arrange to have service
26 restored.

27 (13) For an involuntary shutoff using meters with remote
28 shutoff and restoration ability, **except as otherwise provided in**
29 **subsection (1)**, at least 1 day before shutoff of service, the

1 provider shall make at least 2 attempts to contact the customer by
2 1 of the methods listed in subsection (8). Any notice ~~shall~~**must**
3 state that the disconnection of service will be done remotely and
4 that a provider representative will not return to the premises
5 before disconnection. The provider shall document all attempts to
6 contact the customer. If the provider contacts the customer or
7 other responsible individual in the customer's household by
8 telephone on the day service is to be shut off, the provider shall
9 inform the customer or other responsible individual that shutoff of
10 service is imminent and of the steps necessary to avoid shutoff.
11 Unless the customer presents evidence that reasonably demonstrates
12 that the claim is satisfied or is in dispute, or the customer makes
13 payment, the employee may shut off service. If the provider
14 complies with the notice requirements of this subsection, no
15 further customer contact is required on the day service is to be
16 shut off and the provider may shut off service.

17 (14) A provider shall not shut off service for any of the
18 following reasons:

19 (a) The customer has not paid for concurrent service received
20 at a separate metering point, residence, or location.

21 (b) The customer has not paid for service at a premises
22 occupied by another person. A provider may shut off service in any
23 of the following circumstances where proper notice has been given:

24 (i) If the customer supplies a written, notarized statement
25 that the premises are unoccupied.

26 (ii) If the premises are occupied and the occupant agrees, in
27 writing, to the shutoff of service.

28 (iii) If it is not feasible to provide service to the occupant
29 as a customer without a major revision of existing distribution

1 facilities.

2 (iv) If it is feasible to provide service to the occupant as a
3 customer without a major revision of existing distribution
4 facilities and the occupant refuses to put the account in their
5 name.

6 (15) After a provider has shut off service, it shall restore
7 service upon the customer's request when the cause has been cured
8 or credit arrangements satisfactory to the provider have been made.

9 **When a provider has shut off service under subsection (1) for a**
10 **high-hazard condition, the provider shall only restore service upon**
11 **the customer's request if the provider has given notice of the**
12 **customer's request to the fire code official and the fire code**
13 **official has confirmed to the provider that a high-hazard condition**
14 **no longer exists.**

15 (16) When a provider is required to restore service at the
16 customer's meter manually, the provider shall make reasonable
17 efforts to restore service on the day the customer requests
18 restoration. Except for reasons beyond its control, the provider
19 shall restore service not later than the first working day after
20 the customer's request.

21 (17) For providers using meter technology with remote shutoff
22 and restoration capability, service shall be restored on the first
23 working day after the customer requests restoration, except in the
24 case of documented equipment failure.

25 (18) The provider may assess the customer a charge for
26 restoring service or relocating the customer's meter.

27 ~~(19) The vulnerable household warmth fund is created within~~
28 ~~the state treasury. The state treasurer may receive money or other~~
29 ~~assets from any source for deposit into the fund. The state~~

~~1 treasurer shall direct the investment of the fund. The state
2 treasurer shall credit to the fund interest and earnings from fund
3 investments. Money in the fund at the close of the fiscal year
4 shall be refunded among each rate schedule, based on the rate
5 schedules in effect when the money was collected, proportional to
6 the amount paid by each rate schedule. The commission shall ensure
7 that each utility refunds those amounts to its customers. The
8 commission shall be the administrator of the fund for auditing
9 purposes.~~

~~10 (20) Money from the fund, upon appropriation, shall be used to
11 provide payment or partial payment of bills for electricity,
12 natural gas, propane, heating oil, or any other type of fuel used
13 to heat the primary residence of a vulnerable customer during the
14 2011-2012 heating season. A payment under this subsection shall be
15 in the form of a voucher or direct payment to the utility,
16 provider, cooperative, or distributor of fuel. The amount
17 accumulated in the fund shall not exceed \$48,000,000.00.~~

~~18 (21) The department of human services and the commission shall
19 ensure that, in distributing money from the fund, first priority is
20 given to households that contain at least 1 of the following:~~

~~21 (a) A minor child.~~

~~22 (b) An eligible senior citizen.~~

~~23 (c) A paraplegic, hemiplegic, quadriplegic, or totally and
24 permanently disabled individual.~~

~~25 (22) Amounts that were, before the amendatory act that added
26 this subsection, authorized by the commission to be collected in
27 retail rates from the customers of an electric utility or natural
28 gas utility with more than 1,000,000 customers in this state for
29 contribution by the electric utility or natural gas utility to fund~~

~~1 grants authorized by the commission in the June 28, 2011 order~~
~~2 awarding low-income energy assistance grants in docket No. U-13129~~
~~3 are authorized for a period commencing with the effective date of~~
~~4 the amendatory act that added this subsection, and continuing~~
~~5 through September 30, 2012, or until \$48,000,000.00 is accumulated~~
~~6 in the fund from retail rates or appropriated funds, whichever~~
~~7 occurs first. An electric utility or natural gas utility that~~
~~8 collects money under this subsection shall remit that money to the~~
~~9 state treasurer for deposit in the fund on a monthly basis no later~~
~~10 than 30 days after the last day in each calendar month. The~~
~~11 commission shall issue orders no later than September 30, 2012~~
~~12 reducing the retail rates of an electric utility or natural gas~~
~~13 utility that collects money under this subsection by the annualized~~
~~14 amount authorized for collection by this subsection and included in~~
~~15 the retail rates of each electric utility or natural gas utility as~~
~~16 established by the most recently completed rate case of the~~
~~17 electric utility or natural gas utility before the effective date~~
~~18 of the amendatory act that added this subsection.~~

19 **(19)** ~~(23)~~ As used in this section:

20 ~~(a) "Eligible senior citizen" means an individual who is 65~~
 21 ~~years of age or older.~~

22 ~~(b) "Fund" means the vulnerable household warmth fund created~~
 23 ~~in subsection (19).~~

24 **(a) "Fire code official" means the fire chief or other**
 25 **designated authority of a local unit of government having**
 26 **jurisdiction over a building, structure, or residence, and who is**
 27 **charged with the administration and enforcement of the fire code.**

28 **(b) (c) "Heating season" means that term as defined in section**
 29 **9r.**

1 (c) "High-hazard condition" means the existence of a condition
2 on a provider's distribution system that meets all of the
3 following:

4 (i) Consistently exceeds the relevant distribution system
5 equipment capacity.

6 (ii) Is incapable of remediation or is impractical to remediate
7 due to the extent of work or expense.

8 (iii) Constitutes a high risk to distribution system integrity,
9 service to other customers of the provider, individual safety,
10 public safety, or real property.

11 (d) "Provider" means a municipally owned electric or natural
12 gas utility.

13 ~~(e) "Totally and permanently disabled" means a disability as~~
14 ~~defined in 42 USC 416.~~

15 ~~(f) "Vulnerable customer" means either of the following:~~

16 ~~(i) For an electric utility, provider, cooperative, or natural~~
17 ~~gas utility customer, a customer who meets both of the following:~~

18 ~~(A) Has a household income that does not exceed 60% of the~~
19 ~~state median income, or receives any of the following:~~

20 ~~(I) Assistance from a state emergency relief program.~~

21 ~~(II) Food stamps.~~

22 ~~(III) Medicaid.~~

23 ~~(B) Has received a shut-off notice from the energy provider.~~

24 ~~(ii) For a customer who uses a fuel other than electricity or~~
25 ~~natural gas to heat his or her residence, a customer who meets both~~
26 ~~of the following:~~

27 ~~(A) Has a household income that does not exceed 60% of the~~
28 ~~state median income, or receives any of the following:~~

29 ~~(I) Assistance from a state emergency relief program.~~

1 ~~(II) Food stamps.~~

2 ~~(III) Medicaid.~~

3 ~~(B) Has received notice from their distributor of fuel that no~~
4 ~~further deliveries will be made to his or her residence due to~~
5 ~~nonpayment of prior bills.~~