

HOUSE BILL NO. 4706

June 07, 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 and referred to the Committee on Transportation, Mobility and Infrastructure.

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 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:

1 TITLE
 2 An act to provide for the regulation and control of public and
 3 certain private utilities and other services affected with a public
 4 interest within this state; to provide for alternative energy
 5 suppliers **and certain providers of electric vehicle charging**
 6 **services;** to provide for licensing; to include municipally owned
 7 utilities and other providers of energy under certain provisions of
 8 this act; to create a public service commission and to prescribe
 9 and define its powers and duties; to abolish the Michigan public
 10 utilities commission and to confer the powers and duties vested by
 11 law on the public service commission; to provide for the powers and
 12 duties of certain state governmental officers and entities; to
 13 provide for the continuance, transfer, and completion of certain
 14 matters and proceedings; to abolish automatic adjustment clauses;
 15 to prohibit certain rate increases without notice and hearing; to
 16 qualify residential energy conservation programs permitted under
 17 state law for certain federal exemption; to create a fund; to
 18 encourage the utilization of resource recovery facilities; to

1 prohibit certain acts and practices of providers of energy; to
2 allow for the securitization of stranded costs; to reduce rates; to
3 provide for appeals; to provide appropriations; to declare the
4 effect and purpose of this act; to prescribe remedies and
5 penalties; and to repeal acts and parts of acts.

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

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

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

15 (c) "Electric utility" means that term as defined in section 2
16 ~~of the electric transmission line certification act, 1995 PA 30,~~
17 ~~MCL 460.562.10h.~~

18 (d) "Independent transmission owner" means an independent
19 transmission company as that term is defined in section 2 of the
20 electric transmission line certification act, 1995 PA 30, MCL
21 460.562.

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

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

28 (g) "Renewable energy source" means energy generated by solar,
29 wind, geothermal, biomass, including waste-to-energy and landfill

1 gas, or hydroelectric.

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

6 Sec. 10h. As used in this act:

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

10 (b) "Commission" means the Michigan public service commission
11 ~~in the department of consumer and industry services.~~**created in**
12 **section 1.**

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

16 (d) "Electric vehicle" means that term as defined in section
17 2(f) (iii) of the Michigan next energy authority act, 2002 PA 593, MCL
18 207.822.

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

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

1 **(g)** ~~(d)~~—"Financing order" means an order of the commission
2 approving the issuance of securitization bonds and the creation of
3 securitization charges and any corresponding utility rate
4 reductions.

5 **(h)** ~~(e)~~—"Financing party" means a holder of securitization
6 bonds, including trustees, collateral agents, and other persons
7 acting for the benefit of the holder.

8 **(i)** ~~(f)~~—"Nonbypassable charge" means a charge in a financing
9 order payable by a customer to an electric utility or its assignees
10 or successors regardless of the identity of the customer's electric
11 generation supplier.

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

25 **(k)** ~~(h)~~—"Securitization bonds" means bonds, debentures, notes,
26 certificates of participation, certificates of a beneficial
27 interest, certificates of ownership, or other evidences of
28 indebtedness that are issued by an electric utility, its
29 successors, or an assignee under a financing order, that have a

1 term of not more than 15 years, and that are secured by or payable
 2 from securitization property. If certificates of participation,
 3 certificates of beneficial interest, or certificates of ownership
 4 are issued, references in this act to principal, interest, or
 5 premium ~~shall~~ refer to comparable amounts under those certificates.

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

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

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

17 (2) In addition to any other information required by the
 18 commission in connection with a licensing application **under section**
 19 **10a**, the applicant shall ~~be required to~~ do both of the following:

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

26 (b) Demonstrate that the employees of the applicant that will
 27 be installing, operating, and maintaining generation or
 28 transmission facilities within this state, or any entity with which
 29 the applicant has contracted to perform those functions within this

1 state, have the requisite knowledge, skills, and competence to
2 perform those functions in a safe and responsible manner in order
3 to provide safe and reliable service.

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

10 (4) Only investor-owned, cooperative, or ~~municipal~~**municipally**
11 **owned** electric utilities shall own, construct, or operate electric
12 distribution facilities or electric meter equipment used in the
13 distribution of electricity in this state. This subsection does not
14 prohibit a self-service power provider from owning, constructing,
15 or operating electric distribution facilities or electric metering
16 equipment for the sole purpose of providing or utilizing self-
17 service power. **This subsection does not prohibit an entity that**
18 **provides electric vehicle charging services from owning,**
19 **constructing, or operating an electric vehicle charging station.**
20 This act does not affect the current rights, if any, of a
21 nonutility to construct or operate a private distribution system on
22 private property or private easements. This does not preclude
23 crossing of public rights-of-way. **An entity that provides electric**
24 **vehicle charging services is not considered a public utility**
25 **notwithstanding the basis on which the service is provided or**
26 **billed. However, if an entity that provides electric vehicle**
27 **charging services is otherwise considered a public utility under**
28 **this act, or is otherwise subject to regulation under this act,**
29 **then that entity is not exempt from and remains subject to the**

1 otherwise applicable provisions of this act.

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