

HOUSE BILL NO. 5222

October 24, 2023, Introduced by Reps. Aiyash and Scott and referred to the Committee on Energy, Communications, 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 section 10p (MCL 460.10p), as amended by 2016 PA 341, and by adding section 6y.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **Sec. 6y. (1) Not later than January 1, 2024, each electric**
 2 **utility operating in this state shall consult with an independent**
 3 **third party for the purpose of conducting an engineering audit to**
 4 **review distribution systems, including all equipment and operations**
 5 **of the electric utility. An engineering audit described under this**
 6 **section must be conducted once every 10 years with the goal of**
 7 **addressing the actions necessary to reduce the total number and**
 8 **duration of outages and to address public safety and 2-way**
 9 **generation capacity.**

10 **(2) An engineering audit conducted under this section must**
 11 **consist of the following components:**

12 **(a) A physical audit of the existing installed infrastructure**
 13 **to determine whether the infrastructure matches the electric**
 14 **utility's records. A physical audit must include, but is not**
 15 **limited to, both of the following:**

16 **(i) Measurements of the existing installed infrastructure.**

17 **(ii) A comparison of the condition of the utility's**
 18 **infrastructure to that of other utilities.**

19 **(b) A programs and processes audit to determine whether**
 20 **existing programs and processes are sufficient and equitable and**

1 properly plan for climate change and changing load profiles. A
2 programs and processes audit must include, but is not limited to, a
3 review of all of the following:

4 (i) Emergency preparedness.

5 (ii) Storm restoration.

6 (iii) System maintenance, including maintenance prioritization.

7 (iv) Accounting processes.

8 (v) Personnel and company management, including internal
9 policies and procedures regarding outages, distribution management,
10 safety, and planning.

11 (3) The commission shall develop a report and present it to
12 the house and senate committees with jurisdiction over energy
13 issues on the findings of the engineering audit and how the
14 findings impact the following:

15 (a) Performance-based rate making.

16 (b) Multiyear rates.

17 (c) Grid resiliency.

18 (d) Grid reliability.

19 (e) Accuracy of each utility's grid distribution plans.

20 (f) Identifiable gaps in the state energy plan and current
21 infrastructure.

22 (g) Legislative recommendations.

23 (4) The commission shall develop a method for covering the
24 cost of third-party engineering audits.

25 (5) Engineering audits must be completed only in 10 year
26 cycles.

27 Sec. 10p. (1) Each electric utility operating in this state
28 shall establish an industry worker transition program that, in
29 consultation with employees or applicable collective bargaining

1 representatives, provides skills upgrades, apprenticeship and
2 training programs, voluntary separation packages consistent with
3 reasonable business practices, and job banks to coordinate and
4 assist placement of employees into comparable employment at no less
5 than the wage rates and substantially equivalent fringe benefits
6 received before the transition.

7 (2) The costs resulting from subsection (1) include audited
8 and verified employee-related restructuring costs that are incurred
9 as a result of 2000 PA 141 or as a result of prior commission
10 restructuring orders, including employee severance costs, employee
11 retraining programs, early retirement programs, outplacement
12 programs, and similar costs and programs, that have been approved
13 and found to be prudently incurred by the commission.

14 (3) In the event of a sale, purchase, or any other transfer of
15 ownership of 1 or more Michigan divisions or business units, or
16 generating stations or generating units, of an electric utility, to
17 either a third party or a utility subsidiary, the electric
18 utility's contract and agreements with the acquiring entity or
19 persons ~~shall~~**must** require all of the following for a period of at
20 least 30 months:

21 (a) That the acquiring entity or persons hire a sufficient
22 number of nonsupervisory employees to safely and reliably operate
23 and maintain the station, division, or unit by making offers of
24 employment to the nonsupervisory workforce of the electric
25 utility's division, business unit, generating station, or
26 generating unit.

27 (b) That the acquiring entity or persons not employ
28 nonsupervisory employees from outside the electric utility's
29 workforce unless offers of employment have been made to all

1 qualified nonsupervisory employees of the acquired business unit or
2 facility.

3 (c) That the acquiring entity or persons have a dispute
4 resolution mechanism culminating in a final and binding decision by
5 a neutral third party for resolving employee complaints or disputes
6 over wages, fringe benefits, and working conditions.

7 (d) That the acquiring entity or persons offer employment at
8 no less than the wage rates and substantially equivalent fringe
9 benefits and terms and conditions of employment that are in effect
10 at the time of transfer of ownership of the division, business
11 unit, generating station, or generating unit. The wage rates and
12 substantially equivalent fringe benefits and terms and conditions
13 of employment ~~shall~~**must** continue for at least 30 months ~~from~~**after**
14 the time of the transfer of ownership unless the employees, or
15 where applicable collective bargaining representative, and the new
16 employer mutually agree to different terms and conditions of
17 employment within that 30-month period.

18 (4) The electric utility shall offer a transition plan to
19 those employees who are not offered jobs by the entity because the
20 entity has a need for fewer workers. If there is litigation
21 concerning the sale, or other transfer of ownership of the electric
22 utility's divisions, business units, generating stations, or
23 generating units, the 30-month period under subsection (3) begins
24 on the date the acquiring entity or persons take control or
25 management of the divisions, business units, generating stations,
26 or generating units of the electric utility.

27 (5) The commission shall adopt generally applicable service
28 quality and reliability standards for the transmission, generation,
29 and distribution systems of electric utilities and other entities

1 subject to its jurisdiction. ~~including,~~ **In setting service**
 2 **quality and reliability standards, the commission shall consider**
 3 **safety, costs, local geography and weather, applicable codes,**
 4 **national electric industry practices, sound engineering judgment,**
 5 **and experience. The service quality and reliability standards**
 6 **adopted under this section must include, but are not limited to,**
 7 ~~standards~~ **the following:**

8 (a) **Standards** for service outages. ~~distribution~~

9 (b) **Distribution** facility upgrades. ~~repairs~~

10 (c) **Repairs** and maintenance. ~~telephone service,~~

11 (d) **Telephone and** billing service. ~~operational~~

12 (e) **Operational** reliability. ~~and public~~

13 (f) **Public** and worker safety. ~~In setting service quality and~~
 14 ~~reliability standards, the commission shall consider safety, costs,~~
 15 ~~local geography and weather, applicable codes, national electric~~
 16 ~~industry practices, sound engineering judgment, and experience. The~~
 17 ~~commission shall also include provisions~~

18 (g) **Provisions** to upgrade the service quality of distribution
 19 circuits that historically have experienced significantly below-
 20 average performance in relationship to similar distribution
 21 circuits.

22 (h) **Procedures and standards for the submission of**
 23 **infrastructure development plans and vegetation management**
 24 **programs. In developing procedures and standards under this**
 25 **subdivision, the commission shall require that infrastructure**
 26 **development plans or vegetation management plans be approved or**
 27 **rejected at the beginning of every multiyear rate case.**

28 (6) Annually, each jurisdictional utility or entity shall file
 29 its report with the commission detailing actions to be taken to

1 comply with the service quality and reliability standards during
2 the next calendar year and its performance in relation to the
3 service quality and reliability standards during the prior calendar
4 year. The annual reports ~~shall~~**must** contain that data as required
5 by the commission, including the estimated cost of achieving
6 improvements in the jurisdictional utility's or entity's
7 performance with respect to the service quality and reliability
8 standards.

9 (7) The commission shall analyze the data to determine whether
10 the jurisdictional entities are properly operating and maintaining
11 their systems and take corrective action if needed.

12 (8) By ~~December 31, 2009,~~**January 1, 2025,** the commission
13 shall review its existing rules under this section and amend the
14 rules, if needed, under the administrative procedures act of 1969,
15 1969 PA 306, MCL 24.201 to 24.328, to implement performance
16 standards for generation facilities and for distribution facilities
17 to protect end-use customers from power quality disturbances.

18 (9) Any standards or rules developed under this section ~~shall~~
19 **must** be designed to do the following, as applicable:

20 (a) Establish different requirements for each customer class,
21 whenever those different requirements are appropriate to carry out
22 the provisions of this section, and to reflect different load and
23 service characteristics of each customer class.

24 (b) Consider the availability and associated cost of necessary
25 equipment and labor required to maintain or upgrade distribution
26 and generating facilities.

27 (c) Ensure that the most cost-effective means of addressing
28 power quality disturbances are promoted for each utility, including
29 consideration of the installation of equipment or adoption of

1 operating practices at the end-user's location.

2 (d) Take into account the extent to which the benefits
3 associated with achieving a specified standard or improvement are
4 offset by the incremental capital, fuel, and operation and
5 maintenance expenses associated with meeting the specified standard
6 or improvement.

7 (e) Carefully consider the time frame for achieving a
8 specified standard, taking into account the time required to
9 implement needed investments or modify operating practices.

10 (10) The commission shall also create benchmarks for
11 individual jurisdictional entities within their rate-making process
12 in order to accomplish the goals of this section to alleviate end-
13 use customer power quality disturbances and promote power plant
14 generating cost efficiency.

15 (11) The commission shall establish a method for gathering
16 data from the industrial customer class to assist in monitoring
17 power quality and reliability standards related to service
18 characteristics of the industrial customer class.

19 (12) The commission may levy financial incentives and
20 penalties upon any jurisdictional entity which exceeds or fails to
21 meet the service quality and reliability standards.

22 (13) As used in this section, "jurisdictional utility" or
23 "jurisdictional entity" means a jurisdictional regulated utility as
24 that term is defined in section 6q.

25 Enacting section 1. This amendatory act does not take effect
26 unless all of the following bills of the 102nd Legislature are
27 enacted into law:

28 (a) Senate Bill No. _____ or House Bill No. 5216 (request no.
29 04427'23 *).

- 1 (b) Senate Bill No. _____ or House Bill No. 5220 (request no.
2 04429'23 *).
- 3 (c) Senate Bill No. _____ or House Bill No. 5221 (request no.
4 04430'23 *).
- 5 (d) Senate Bill No. _____ or House Bill No. _____ (request no.
6 04646'23 *).
- 7 (e) Senate Bill No. _____ or House Bill No. 5217 (request no.
8 04647'23 *).
- 9 (f) Senate Bill No. _____ or House Bill No. 5219 (request no.
10 04648'23 *).