

HOUSE BILL No. 5048

July 25, 1991, Introduced by Reps. Griffin and Hoffman and referred to the Committee on Public Utilities.

A bill to amend section 6 of Act No. 3 of the Public Acts of 1939, entitled as amended

"An act to provide for the regulation and control of public utilities and other services affected with a public interest within this state; 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 therein 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 rate increases without notice and hearing; to qualify residential energy conservation programs permitted under state law for certain federal exemption; to provide for a restructuring of rates for certain utilities; to encourage the utilization of resource recovery facilities; to provide for appeals; to provide appropriations; to declare the effect of this act; to prescribe penalties; and to repeal all acts contrary to this act,"

as amended by Act No. 50 of the Public Acts of 1980, being section 460.6 of the Michigan Compiled Laws; and to add section 6p.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 6 of Act No. 3 of the Public Acts of
2 1939, as amended by Act No. 50 of the Public Acts of 1980, being

1 section 460.6 of the Michigan Compiled Laws, is amended and
2 section 6p is added to read as follows:

3 Sec. 6. (1) The public service commission is vested with
4 complete power and jurisdiction to regulate all public utilities
5 in the state except a municipally owned utility, the owner of a
6 renewable resource power production facility as provided in sec-
7 tion 6d, and except as otherwise restricted by law. The public
8 service commission is vested with the power and jurisdiction to
9 regulate all rates, fares, fees, charges, services, rules, condi-
10 tions of service, and all other matters pertaining to the forma-
11 tion, operation, or direction of ~~such~~ THOSE public utilities.
12 The public service commission is further granted the power and
13 jurisdiction to hear and pass upon all matters pertaining to,
14 necessary, or incident to the regulation of all public utilities,
15 including electric light and power companies, whether private,
16 corporate, or cooperative, gas companies, water, telephone, tele-
17 graph, oil, gas, and pipeline companies, motor carriers, and all
18 public transportation and communication agencies other than rail-
19 roads and railroad companies.

20 (2) The commission ~~shall have~~ HAS the same measure of
21 authority with respect to railroads and railroad companies as is
22 granted and conferred under the various provisions of law creat-
23 ing the Michigan railroad commission and its successor, the
24 Michigan public utilities commission, and defining their powers
25 and duties.

1 (3) TO THE EXTENT PROVIDED IN SECTION 6P, THE COMMISSION HAS
2 JURISDICTION OVER A PARENT COMPANY OR AFFILIATE OF A PUBLIC
3 UTILITY.

4 SEC. 6P. (1) IN ADDITION TO ANY OTHER POWER PROVIDED BY
5 LAW, THE COMMISSION HAS AUTHORITY TO REGULATE A NONECONOMIC MAN-
6 AGEMENT PRACTICE OF A PUBLIC UTILITY OR A MANAGEMENT PRACTICE
7 THAT IMPAIRS OR IMPEDES THE UTILITY'S ABILITY TO PROVIDE SERVICE
8 TO ITS RATEPAYERS. PURSUANT TO THIS SECTION, THE COMMISSION MAY
9 DO ANY OF THE FOLLOWING:

10 (A) ENTER AN ORDER LIMITING OR PROHIBITING AN INVESTMENT BY
11 THE PUBLIC UTILITY.

12 (B) ENTER AN ORDER LIMITING OR PROHIBITING A DISTRIBUTION BY
13 THE PUBLIC UTILITY TO ITS PARENT COMPANY OR AFFILIATE.

14 (C) ENTER AN ORDER REQUIRING THE PUBLIC UTILITY TO ALTER,
15 AVOID, OR REVERSE A NONECONOMIC MANAGEMENT PRACTICE OR A PRACTICE
16 THAT IMPAIRS OR IMPEDES THE UTILITY'S ABILITY TO PROVIDE SERVICE
17 TO ITS RATEPAYERS.

18 (2) THE COMMISSION HAS AUTHORITY OVER A PARENT COMPANY OR
19 AFFILIATE TO THE EXTENT NECESSARY TO PERFORM ITS DUTIES UNDER
20 SUBSECTION (1). THE PARENT COMPANY OR AFFILIATE SHALL PROVIDE
21 THE COMMISSION WITH ACCESS TO ITS BOOKS AND RECORDS TO THE EXTENT
22 NECESSARY FOR THE COMMISSION TO PERFORM ITS DUTIES UNDER SUBSEC-
23 TION (1).

24 (3) UPON THE APPLICATION OF AN INTERESTED PARTY, OR UPON THE
25 COMMISSION'S OWN MOTION, THE COMMISSION SHALL COMMENCE A PROCEED-
26 ING UNDER THIS SECTION AS A CONTESTED CASE PURSUANT TO CHAPTER 4
27 OF THE ADMINISTRATIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE

1 PUBLIC ACTS OF 1969, BEING SECTIONS 24.271 TO 24.287 OF THE
2 MICHIGAN COMPILED LAWS. UPON THE MOTION OF A PARTY OR UPON THE
3 COMMISSION'S OWN MOTION, A PROCEEDING UNDER THIS SECTION MAY ALSO
4 OCCUR IN CONJUNCTION WITH AN ONGOING RATE CASE, RECONCILIATION
5 PROCEEDING, OR SECURITY ISSUANCE PROCEEDING INVOLVING THE PUBLIC
6 UTILITY.

7 (4) AS USED IN THIS SECTION:

8 (A) "AFFILIATE" MEANS A CORPORATION OF WHICH THE PUBLIC
9 UTILITY OWNS OR CONTROLS SHARES.

10 (B) "DISTRIBUTION" MEANS A DIRECT OR INDIRECT TRANSFER OF
11 MONEY OR OTHER PROPERTY, EXCEPT THE PUBLIC UTILITY'S SHARES, OR
12 THE INCURRENCE OF INDEBTEDNESS BY THE PUBLIC UTILITY TO OR FOR
13 THE BENEFIT OF ITS SHAREHOLDERS IN RESPECT TO THE PUBLIC
14 UTILITY'S SHARES. A DISTRIBUTION MAY BE IN THE FORM OF A DIVI-
15 DEND, A PURCHASE, REDEMPTION OR OTHER ACQUISITION OF SHARES, AN
16 ISSUANCE OF INDEBTEDNESS, OR ANY OTHER DECLARATION OR PAYMENT TO
17 OR FOR THE BENEFIT OF THE SHAREHOLDERS.

18 (C) "PARENT COMPANY" MEANS A PERSON, PARTNERSHIP, CORPORA-
19 TION, ASSOCIATION, OR OTHER LEGAL ENTITY THAT OWNS OR CONTROLS
20 20% OR MORE OF THE VOTING SHARES OF A PUBLIC UTILITY.

21 (D) "SHARES" MEANS THE UNITS INTO WHICH PROPRIETARY INTER-
22 ESTS IN A PUBLIC UTILITY ARE DIVIDED.