



HOUSE BILL No. 5201

December 9, 1999, Introduced by Reps. Middaugh, Bisbee, Bradstreet, Birkholz, Howell, Kuipers, Stallworth, Toy and Mortimer 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 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,"

(MCL 460.1 to 460.8) by amending the title, as amended by 1989 PA 2, and by adding sections 9a, 9b, and 9c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

1
2 An act to provide for the regulation and control of public
3 utilities and other services affected with a public interest
4 within this state; to create a public service commission and to
5 prescribe and define its powers and duties; to abolish the
6 Michigan public utilities commission and to confer the powers and
7 duties vested by law therein on the public service commission; to
8 provide for the continuance, transfer, and completion of certain
9 matters and proceedings; to abolish automatic adjustment clauses;
10 to prohibit rate increases without notice and hearing; to qualify
11 residential energy conservation programs permitted under state
12 law for certain federal exemption; to provide for a restructuring
13 of rates for certain utilities; to encourage the utilization of
14 resource recovery facilities; TO PROVIDE FOR COMPETITION IN THE
15 NATIONAL GAS SUPPLY MARKET; TO ALLOW FOR THE RIGHT OF RETAIL CUS-
16 TOMERS TO CHOOSE THEIR NATURAL GAS SUPPLIER; TO PROVIDE FOR THE
17 LICENSING OF GAS COMMODITY SUPPLIERS; to provide for appeals; to
18 provide appropriations; to declare the effect of this act; to
19 prescribe penalties; and to repeal all acts contrary to this
20 act.

21 SEC. 9A. AS USED IN THIS SECTION AND SECTIONS 9B, 9C, 9D,
22 9E, 9F, 9G, 9H, 9I, 9J, AND 9K:

23 (A) "CUSTOMER" MEANS AN END-USER OF NATURAL GAS.

24 (B) "CUSTOMER CHOICE" MEANS THE RIGHT OF A RETAIL CUSTOMER
25 TO CHOOSE ITS GAS COMMODITY SUPPLIER.

26 (C) "CUSTOMER CHOICE PLAN" OR "PLAN" MEANS THE PLAN FILED BY
27 A LOCAL DISTRIBUTION COMPANY UNDER SECTION 9C.

1 (D) "FERC" MEANS THE FEDERAL ENERGY REGULATORY COMMISSION.

2 (E) "GAS COMMODITY SUPPLIER" MEANS AN INDIVIDUAL, CORPORA-
3 TION, PARTNERSHIP, COOPERATIVE, MUNICIPALITY, OR ANY OTHER LEGAL
4 ENTITY THAT SELLS NATURAL GAS TO A RETAIL CUSTOMER.

5 (F) "LOCAL DISTRIBUTION COMPANY" OR "COMPANY" MEANS THE NAT-
6 URAL GAS PUBLIC UTILITY THAT PROVIDES REGULATED SERVICE TO RETAIL
7 CUSTOMERS.

8 (G) "MARKET-BASED GAS COMMODITY SERVICE" MEANS THE SALE OF
9 NATURAL GAS TO A RETAIL CUSTOMER AT UNREGULATED, MARKET-BASED
10 PRICES.

11 (H) "NATURAL GAS DISTRIBUTOR" OR "DISTRIBUTOR" MEANS A
12 PERSON THAT PHYSICALLY DELIVERS NATURAL GAS TO RETAIL CUSTOMERS.

13 (I) "NATURAL GAS FUTURES CONTRACT" MEANS A STANDARDIZED CON-
14 TRACT FOR THE PURCHASE OR SALE OF NATURAL GAS THAT IS TRADED FOR
15 FUTURE DELIVERY UNDER THE PROVISIONS OF NYMEX REGULATIONS.

16 (J) "NATURAL GAS SUPPLIER" OR "SUPPLIER" MEANS A PERSON WHO
17 SELLS NATURAL GAS TO NATURAL GAS RETAIL CUSTOMERS LOCATED IN THIS
18 STATE.

19 (K) "NATURAL GAS UTILITY" MEANS A PUBLIC UTILITY THAT PRO-
20 VIDED NATURAL GAS SERVICE BEFORE THE EFFECTIVE DATE OF THE AMEN-
21 DATORY ACT THAT ADDED THIS SECTION.

22 (L) "NYMEX" MEANS THE NEW YORK MERCANTILE EXCHANGE.

23 (M) "NYMEX 12-MONTH FORWARD STRIP" MEANS THE NYMEX NATURAL
24 GAS FUTURES CONTRACT SETTLEMENT PRICES FOR THE SUCCEEDING
25 12-MONTH PERIOD.

1 (N) "NYMEX 3-MONTH FORWARD STRIP" MEANS THE NYMEX NATIONAL
2 GAS FUTURES CONTRACT SETTLEMENT PRICES FOR THE SUCCEEDING 3-MONTH
3 PERIOD.

4 (O) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION,
5 ASSOCIATION, GOVERNMENTAL ENTITY, OR ANY OTHER LEGAL ENTITY.

6 (P) "REGULATED SERVICE" MEANS THE TRANSPORTATION, STORAGE,
7 LOAD BALANCING, AND DISTRIBUTION OF NATURAL GAS TO OR ON BEHALF
8 OF RETAIL CUSTOMERS BY A LOCAL DISTRIBUTION COMPANY, AS DEFINED
9 IN COMMISSION-APPROVED TARIFFS FOR EACH LOCAL DISTRIBUTION
10 COMPANY.

11 (Q) "RETAIL CUSTOMER" MEANS AN END-USER OF THE GAS
12 COMMODITY.

13 (R) "SAFE HAVEN GAS COMMODITY SERVICE" MEANS THE SALE OF
14 NATURAL GAS TO A RETAIL CUSTOMER BY A LOCAL DISTRIBUTION COMPANY
15 UNDER SECTION 9D.

16 (S) "UNREGULATED SERVICES" MEANS ALL SERVICES NOT INCLUDED
17 UNDER THE DEFINITION OF REGULATED SERVICES.

18 SEC. 9B. (1) THE COMMISSION SHALL HAVE THE JURISDICTION AND
19 AUTHORITY TO ISSUE ORDERS OR PROMULGATE RULES TO ADMINISTER SEC-
20 TIONS 9A THROUGH 9K.

21 (2) AFTER CONSULTING WITH GAS COMMODITY SUPPLIERS AND CUS-
22 TOMERS, THE COMMISSION SHALL ESTABLISH GOALS AND OBJECTIVES AND
23 PROGRAM DETAILS FOR A CUSTOMER AWARENESS AND EDUCATION PROGRAM TO
24 BE IMPLEMENTED BY GAS COMMODITY SUPPLIERS.

25 SEC. 9C. (1) NO LATER THAN 180 DAYS BEFORE THE TERMINATION
26 OF AN APPROVED CUSTOMER CHOICE PLAN THAT EXISTED BEFORE THE
27 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION, THE

1 LOCAL DISTRIBUTION COMPANY SHALL FILE A NEW CUSTOMER CHOICE PLAN
2 WITH THE COMMISSION.

3 (2) IF A LOCAL DISTRIBUTION COMPANY DOES NOT HAVE AN
4 APPROVED CUSTOMER CHOICE PLAN AS PROVIDED UNDER SUBSECTION (1),
5 IT SHALL FILE A CUSTOMER CHOICE PLAN WITH THE COMMISSION BY NO
6 LATER THAN OCTOBER 1, 2003.

7 (3) UPON FILING UNDER SUBSECTION (1) OR (2), THE LOCAL DIS-
8 TRIBUTION COMPANY SHALL PROVIDE NOTICE OF THE FILING TO ITS CUS-
9 TOMERS AND ALL GAS COMMODITY SUPPLIERS SERVING ITS CUSTOMERS.
10 THE NOTICE SHALL INCLUDE INFORMATION AS TO HOW A PERSON CAN FILE
11 COMMENTS WITH THE COMMISSION.

12 (4) THE PLAN FILED UNDER THIS SECTION SHALL INCLUDE A SCHED-
13 ULE FOR THE PHASE-IN OF CUSTOMER CHOICE THAT COMPLIES WITH THE
14 FOLLOWING REQUIREMENTS:

15 (A) IF THE LOCAL DISTRIBUTION COMPANY SERVES 300,000 OR MORE
16 RETAIL CUSTOMERS IN THIS STATE, IT ALLOWS CUSTOMER CHOICE FOR AT
17 LEAST 40% OF THE LOCAL DISTRIBUTION COMPANY'S RETAIL CUSTOMERS BY
18 NO LATER THAN APRIL 1, 2002, FOR AT LEAST 60% OF THE RETAIL CUS-
19 TOMERS BY NO LATER THAN APRIL 1, 2003, AND FOR ALL OF ITS RETAIL
20 CUSTOMERS BY NO LATER THAN APRIL 1, 2004.

21 (B) IF THE LOCAL DISTRIBUTION COMPANY SERVES BETWEEN 200,000
22 AND 300,000 RETAIL CUSTOMERS IN THIS STATE, IT ALLOWS CUSTOMER
23 CHOICE FOR AT LEAST 40% OF THE LOCAL DISTRIBUTION COMPANY'S
24 RETAIL CUSTOMERS BY NO LATER THAN APRIL 1, 2003, FOR AT LEAST 60%
25 OF THE RETAIL CUSTOMERS BY NO LATER THAN APRIL 1, 2004, AND FOR
26 ALL OF ITS RETAIL CUSTOMERS BY NO LATER THAN APRIL 1, 2005.

1 (C) IF THE LOCAL DISTRIBUTION COMPANY SERVES LESS THAN
2 200,000 RETAIL CUSTOMERS IN THIS STATE, IT ALLOWS CUSTOMER CHOICE
3 FOR AT LEAST 10% OF ITS CUSTOMERS BEGINNING BY NO LATER THAN
4 APRIL 1, 2004 AND FOR ALL OF ITS RETAIL CUSTOMERS BY NO LATER
5 THAN APRIL 1, 2005. AFTER NOTICE AND HEARING, THE COMMISSION MAY
6 APPROVE A MORE EXTENDED SCHEDULE FOR INTRODUCTION OF CUSTOMER
7 CHOICE UNDER THIS SUBDIVISION IF THE COMMISSION FINDS THAT AN
8 EXTENDED SCHEDULE IS REASONABLE AND IN THE PUBLIC INTEREST.

9 (5) THE COMMISSION SHALL REQUIRE ALL OF THE FOLLOWING FOR
10 EACH PLAN SUBMITTED UNDER THIS SECTION:

11 (A) THAT THE PLAN DOES NOT RESTRICT RETAIL CUSTOMERS' ABIL-
12 ITY TO SELECT MARKET-BASED GAS COMMODITY SERVICE SUPPLIERS TO
13 ONLY CERTAIN TIME PERIODS.

14 (B) THAT THE PLAN DOES NOT RESTRICT THE SELECTION OF
15 MARKET-BASED GAS COMMODITY SUPPLIERS TO AFFILIATES OF THE LOCAL
16 DISTRIBUTION COMPANY.

17 (C) THAT THE PLAN ALLOWS RETAIL CUSTOMERS TO SWITCH GAS COM-
18 MODITY SUPPLIERS NO LESS FREQUENTLY THAN QUARTERLY.

19 (D) THE PLAN DESCRIBES THE MANNER IN WHICH CUSTOMER ENROLL-
20 MENTS WITH A MARKET-BASED GAS COMMODITY SERVICE SUPPLIER WILL BE
21 ACCEPTED, PROCESSED, AND IMPLEMENTED.

22 (E) THE PLAN DESCRIBES HOW THE RETAIL CUSTOMERS WILL BE
23 BILLED UNDER THE CUSTOMER CHOICE PLAN.

24 (F) THE PLAN INDICATES ANY CUSTOMER ELIGIBILITY REQUIRE-
25 MENTS, CHARGES, FEES, OR DEPOSITS RELATED TO THE CUSTOMER CHOICE
26 PLAN.

1 (G) THE PLAN DESCRIBES CUSTOMER PORTABILITY WITHIN THE LOCAL
2 DISTRIBUTION COMPANY'S SERVICE TERRITORY OF ITS CUSTOMER CHOICE
3 PLAN.

4 (6) THE PLAN SHALL NOT CONTAIN PROVISIONS THAT ARE UNDULY
5 BURDENSOME, UNREASONABLE, OR UNFAIR TO RETAIL CUSTOMERS.

6 (7) THE COMMISSION SHALL ALLOW INTERESTED PARTIES AN OPPOR-
7 TUNITY TO REVIEW AND COMMENT ON THE CUSTOMER CHOICE PLANS, AND
8 MAY REQUIRE THE LOCAL DISTRIBUTION COMPANY TO FURNISH ANY ADDI-
9 TIONAL INFORMATION THAT THE COMMISSION MAY NEED TO MAKE ITS
10 DETERMINATION.

11 (8) WITHIN 90 DAYS OF THE DATE THE PLAN IS FILED, THE COM-
12 MISSION SHALL APPROVE THE PLAN IN WHOLE OR IN PART TO THE EXTENT
13 THAT THE PLAN COMPLIES WITH THIS SECTION.

14 (9) IF THE PLAN IS PARTIALLY APPROVED OR REJECTED, THE COM-
15 MISSION SHALL INDICATE THE MODIFICATIONS REQUIRED TO CORRECT
16 DEFICIENCIES IN THE PLAN, AND THE COMPANY SHALL FILE AN AMENDED
17 PLAN WITH THE MODIFICATIONS WITHIN 30 DAYS.

18 (10) A CONTESTED CASE PROCEEDING OR OTHER HEARING SHALL NOT
19 BE HELD BEFORE THE COMMISSION ON ANY PLAN FILED UNDER THIS
20 SECTION.

21 Enacting section 1. This amendatory act does not take
22 effect unless all of the following bills of the 90th Legislature
23 are enacted into law:

24 (a) Senate Bill No. _____ or House Bill No. 5202 (request
25 no. 04283'99 a).

26 (b) Senate Bill No. _____ or House Bill No. 5203 (request
27 no. 04283'99 b*).

1 (c) Senate Bill No. _____ or House Bill No. 5204 (request
2 no. 04283'99 c*).

3 (d) Senate Bill No. _____ or House Bill No. 5205 (request
4 no. 04283'99 d).

5 (e) Senate Bill No. _____ or House Bill No. 5207 (request
6 no. 04283'99 e).