

# Legislative Analysis



## PSC OVERSIGHT OF MERGERS, SALES, AND ACQUISITIONS OF PUBLIC UTILITIES

Mitchell Bean, Director  
Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

**House Bill 6358**

**Sponsor: Rep. John Proos**

**Committee: Energy and Technology**

**Complete to 9-5-06**

### **A SUMMARY OF HOUSE BILL 6358 AS INTRODUCED 8-23-06**

The bill would add a new section to the Public Service Commission Law to provide for review by the Public Service Commission (PSC) of certain transactions involving a change in ownership or control of a regulated utility.

Oversight would be required if the proposed action would result in a party owning, directly or indirectly, 10 percent or more of the voting securities of the regulated utility. A regulated utility means any utility subject to the jurisdiction of the Public Service Commission. Telecommunication providers and motor carriers are not covered.

The bill says that "[a] person shall not acquire, control, or merge, directly or indirectly, in whole or in part, with a regulated utility nor shall a regulated utility sell, assign, transfer or encumber its assets to another person without first complying with the requirements of this [bill]."

Orders and rules. The bill requires the PSC to issue an order, after notice and hearing, defining what constitutes acquisition, transfer, or merger activities subject to the review process. In addition, the Commission is required to promulgate procedural rules for the review process, including materials required for filings.

Review procedure. A proponent of a covered action would be required to file materials with the PSC at least 180 days before the effective date of the proposed action. The PSC would have 120 days from receipt of all required materials to investigate and hold hearings on the impact of the proposed action. At the end of the 120-day period, the Commission would be required to issue an advisory opinion and findings as to whether the proposed action "is in the best interest of the ratepayers of the regulated utility and what impact the action may have on energy service in this state."

Access to books and records. All parties to a proposed action would be required to provide the PSC with access to any books, records, accounts, documents, or other data that the Commission needs for a review limited to the factors set forth in the bill, although a party would be permitted to withhold information it could substantiate as being not germane to the review.

Relevant factors. The bill prohibits the PSC from issuing a favorable conclusion or finding if it finds that the proposed action would have one or more of the following effects:

- An adverse impact on affected customers' rates.
- An adverse effect on the safety, reliability, or adequacy of energy service.
- That rates paid by the customers of the regulated utility would subsidize a nonregulated activity of the new entity.

In addition, the Commission is permitted to consider any of the following:

- Whether the action would significantly impair the regulated utility's ability to raise capital or maintain a reasonable capital structure.
- The impact on competition.
- Whether the action is otherwise inconsistent with public policy and interest.

MCL 460.6r

#### **FISCAL IMPACT:**

This bill has the potential to increase Public Service Commission administrative expenditures as a result of their expanded oversight. Additional full-time equivalent employees may be needed to analyze the impact of proposed utility mergers and acquisitions, or such analysis may need to be provided by an independent third party. The estimated amount and nature of such additional expenditures, if any, will need to be provided by the Public Service Commission.

Legislative Analyst: Shannan Kane  
Fiscal Analyst: Richard Child

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