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BILL ANALYSIS

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Senate Bill 216 (as introduced 2-20-07)
Sponsor: Senator Bruce Patterson
Committee: Energy Policy and Public Utilities

Date Completed: 9-12-07

CONTENT

The bill would add Section 10dd to the Customer Choice and Electricity Reliability Act to do the following:

-- Create the Low Income Energy Assistance and Efficiency Program within the Public Service Commission (PSC).
-- Require the PSC to implement a low income energy assistance and efficiency factor that would be a nonbypassable surcharge payable by every customer receiving a distribution service from a natural gas or electric utility with rates regulated by the PSC.
-- Create the "Low Income Energy Assistance and Efficiency Fund" within the State Treasury, and require money collected through the surcharge to be deposited into the Fund.
-- Allow the PSC to authorize the State Treasurer to make disbursements from the Fund through a grant process to any entity that provided assistance to utility customers.
-- Repeal Section 6c of the Act, which allows the PSC to approve energy conservation programs for residential customers, and fund those programs through general utility rates.

Section 10dd would be repealed effective July 1, 2009.

Purpose

The bill states, "The legislature finds and declares that there is a need to provide assistance to low income individuals in paying their energy costs and to develop measures to reduce residential energy use in this state." The bill states that the purpose of Section 10dd would be to do all of the following:

-- Protect the health and safety of Michigan citizens by assisting low income customers in maintaining life-sustaining electric and natural gas service.
-- Provide payment assistance to low income customers for electric and natural gas service.
-- Help certain low income customers conserve energy and reduce residential utility bills.
-- Ensure that low income energy assistance and efficiency programs receiving funds under the bill were operated in a cost-effective and efficient manner.

Low Income Energy Assistance & Efficiency Program

The bill would create the Low Income Energy Assistance and Efficiency Program within the PSC, and require the Program to be funded by the proposed Low Income Energy Assistance and Efficiency Fund. Within 90 days of the bill's effective date, the PSC by order would have to terminate the existing Low Income and Energy Efficiency Fund, vacate any portion of a Commission order continuing the funding of that program, and transfer any balance in the Fund to the proposed Fund. The PSC could provide low income energy assistance and efficiency only as provided under Section 10dd.

The bill would define "energy assistance" as financial support provided to an electric or natural gas utility customer to prevent imminent shut-off, as demonstrated on a disconnect notice or significant balance due, or the need for restoration of service. The bill specifies that payment of electric or natural gas bills would be targeted to low income customers who accumulated arrears during the heating season, or to provide electricity or natural gas service to a household with a member who was elderly, disabled, or a young child where the loss of electric service would be especially dangerous to health, or to provide electricity to a household where the loss of electric service would make the operation of necessary medical or life-support equipment impossible or impractical.

"Energy efficiency" would mean energy education or measures, including weatherization, with the goal and effect of reducing energy use by residential customers.

"Low income" would mean a household that either 1) has a total income that does not exceed the greater of the amount equal to 150% of the Federal poverty guidelines as published by the U.S. Department of Health and Human Services, or an amount equal to 60% of the State median income, or 2) has at least one individual receiving assistance under any of the following:

-- Part A of Title IV of the Social Security Act (which provides for block grants to states for Temporary Assistance to Needy Families).
-- Supplemental security income payments under Title XVI of the Social Security Act (which provides for supplemental security income to individuals who are at least 65, blind, or disabled, and who meet specific income guidelines).
-- Food stamps under the Food Stamp Act.
-- Payment of a pension for a nonservice-connected disability or death under the Veterans' and Survivors' Pension Improvement Act, or payment of compensation to the parents of a deceased veteran.

<u>Low Income Energy Assistance & Efficiency Fund</u>

The bill would create the Fund within the State Treasury. The Fund would have to be administered by the PSC as provided in the bill. Money collected through the proposed surcharge would have to be deposited with the State Treasurer and credited to the Fund. An account would have to be created within the Fund for each utility imposing the surcharge, and all money collected from a particular utility's customers under the bill would have to be deposited into that utility's account.

The State Treasurer could receive money or other assets from any source for deposit into the Fund, and would have to direct the Fund's investments and credit the interest and earnings to the Fund. No Fund money could be spent except as authorized specifically under the bill. Money in the Fund at the close of the fiscal year would remain in the Fund and would not lapse to the General Fund.

The PSC would have to issue an annual report to the Legislature and the Governor by May 1 regarding the Fund's use and effectiveness. The Attorney General would have to have full access to all of the PSC's documents pertaining to the administration of the Fund.

<u>Surcharge</u>

After notice and hearing, the PSC annually would have to approve a low income energy assistance and efficiency factor that would be a nonbypassable surcharge payable by every customer receiving a distribution service from a natural gas or electric utility with rates regulated by the PSC. In establishing the surcharge, the PSC would have to consider the amount of alternative funds or sources of funding for energy assistance and energy efficiency. In no event could the surcharge exceed $1 per month per billing meter or customer location for residential and commercial customers, or $20 per month per billing meter or customer location for industrial customers. A residential customer could not be assessed a surcharge for more than two meters. Customers purchasing energy from suppliers other than the local electric or natural gas utility would have to pay an amount equal to what they would have paid had they been a full service customer of the local utility. Customers who received electric and natural gas service at a single location would have to pay one surcharge for the electric service and one surcharge for the natural gas service. Only money actually collected could be used to calculate the amount of a utility's surcharge revenue.

The surcharge for each utility would have to be set at a level designed to collect an annual amount not exceeding the lesser of a reasonable amount determined by the PSC to be required in the utility's service area for low income and energy efficiency assistance or the amount specified above.

Grants

The PSC could authorize the State Treasurer to make disbursements from the Fund through a grant process to any governmental or nongovernmental entity that provided assistance to utility customers. The PSC would have to issue requests for proposals and allow at least 30 days for responses. After the Commission received responses and made them available to the public, including by posting them on its website, the PSC would have to hold a public hearing to take comment on the various proposals.

As a condition to receiving a grant, the PSC would have to require all of the following:

-- A written grant proposal providing detailed information regarding the grantee and the services or assistance the grantee proposed to offer.
-- Written quarterly progress reports and a final report at the end of the grant funding submitted to the PSC.
-- That the grantee would maintain records of expenditures and submit monthly financial reports to the PSC.
-- That the grantee would be subject to an audit by the PSC staff or as otherwise designated by the Commission.
-- That, if the grantee received at least $100,000 in any 12-month period, it would submit an audited financial report prepared by an independent certified public accountant for that period to the PSC.
-- To the extent possible, that the funds received under the grant program that were collected by a particular utility would be used only to provide energy assistance to low income customers for the services provided by that utility.

In awarding a grant, the PSC would have to consider the amount of funds allocated to the proposed purpose and take into account the preexisting sources of funding for that purpose. The bill states that the PSC "should" give priority to any use of funds as leverage for any other additional governmental or private resources that provided low income energy assistance and efficiency. The PSC would have to consider the benefits received relative to the cost of the proposal. Proposals could be funded for one to three years. Grantees could not use more than 10% of the funds received through the Program for planning and administration. At least 90% of the funds would have to be disbursed for direct energy assistance. A maximum of 10% of the funds could be used for energy efficiency.

The low income energy assistance grants would have to be used only to provide bill payment assistance to low income electric and natural gas utility customers. The energy efficiency grants would have to target, to the extent practicable, high-cost, high-volume use structures occupied by customers eligible for the Low Income Energy Assistance Program.

Record-Keeping & Audits

The PSC would have to maintain detailed records of its activities under the bill. At least every two years, the Auditor General or a certified public accountant appointed by the Auditor General would have to conduct and remit to the Legislature an audit of the Fund.

The PSC would have to conduct audits and investigations to ensure that money was disbursed from the Fund as required under the bill and by law. If the PSC conducted an audit or investigation, a report would have to be filed with the Commission with a copy sent to the grantee and the Attorney General.

Criminal Proceedings & Civil Action

If an audit report by the PSC disclosed activity for which a criminal penalty was provided by law, the Attorney General or, upon his or her direction, the prosecuting attorney would have to institute criminal proceedings against the grantee. The Attorney General or prosecuting attorney also would have to institute civil action in any court of competent jurisdiction for the recovery of any funds that were illegally spent or unaccounted for.

Exemption

The bill would not apply to an investor owned electric or natural gas utility with 100,000 customers or fewer or a cooperative electric utility in Michigan, unless it proposed a surcharge in a general rate case or in an application filed with the Commission. A proposed surcharge for a cooperative electric utility would have include a plan for the allocation and distribution of the funds collected based on the utility's service area.

The PSC would have the authority only to approve or deny a proposed plan.

Section 6c Repeal

The bill would repeal Section 6c of the Act, which allows the PSC to approve energy conservation programs, including energy conservation loan programs, for residential customers of electric and gas utilities. Under Section 6c, the costs of money, bad debt expense, administrative costs, and the cost of residential energy audits associated with an authorized program, other than a loan program, must be included only in general utility rates. The costs of a loan program must be included only in residential utility rates.

The conservation programs must provide conservation devices, services, and materials and may include ceiling and wall insulation, flue dampers, caulking, and weather stripping in compliance with State laws and rules. A residential energy audit or preinspection must be completed by the utility before the installation of any device or material or approval of a loan. A participating residential customer must be given cost benefit information regarding those conservation devices, services, and materials. The PSC must promulgate rules to established standards for energy conservation loan programs.

Proposed MCL 460.10dd

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill would establish a Low Income Energy Assistance and Efficiency Fund that would be administered by the Public Service Commission (PSC) within the Department of Labor and Economic Growth (DLEG). This fund would replace the current Low Income/Energy Efficiency Fund.

The existing Fund is operated by the PSC to provide low income energy assistance (shut-off protection), low income energy efficiency grants, and general energy efficiency assistance. The program is funded by fees paid by DTE and Consumers Power ratepayers and it supports programs statewide. Annual revenue to the Fund is estimated by the PSC at approximately $83.8 million. In FY 2006-07, $82.0 million was appropriated in the DLEG budget for Low Income/Energy Efficiency Fund grants.

The bill would change the funding source for energy assistance and energy efficiency programs. The bill would require that every natural gas or electric customer of a utility regulated by the PSC pay a surcharge that would fund these programs. The amount of the surcharge would be approved annually by the PSC for each regulated utility, at an amount not to exceed $1 per month per billing meter for residential and commercial consumers, and $20 per month for industrial customers. The amount of the surcharge for each utility would be based on the projected needs for low income and energy efficiency assistance within that utility service area. It is estimated that the maximum amount of revenue that could be raised from the required surcharges is approximately $90.0 million; however, the rates could be set lower than the maximum allowable. In addition, some smaller utilities or cooperative utilities could propose to participate in the program as part of a rate application, increasing the total amount of funds available.

Each utility would have a separate account within the proposed Fund, to receive revenue from that utility's customers and pay for services to low income customers within that utility service area.

The bill would require that 90% of the funds granted be disbursed for low income direct energy assistance (bill payment assistance). Not more than 10% of the funds could be used for low income energy efficiency. This would be a change from the distributions under the existing program. The PSC reports that over the life of the program, it has spent 76.6% of the funds for energy assistance grants, 17.2% for low income energy efficiency projects, and 6.2% for energy efficiency technology grants for all classes of consumers, although no funds have been provided for energy efficiency technology grants since 2005.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.