

**SUBSTITUTE FOR
HOUSE BILL NO. 5798**

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 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 provide for a restructuring of the manner in which energy is provided in this state; 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,"

(MCL 460.1 to 460.10cc) by adding section 6r.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 6R. (1) AS USED IN THIS SECTION:

2 (A) "BOOKED COST OF STEAM" INCLUDES ALL OF THE FOLLOWING:

3 (i) RETAIL GAS PURCHASES CONSISTING OF ALL COSTS FOR GAS
4 SERVICE INCLUDING CUSTOMER CHARGES, DISTRIBUTION CHARGES, AND ANY
5 GAS COST RECOVERY FACTOR.

6 (ii) WHOLESALE GAS PURCHASES, CONSISTING OF THE CONTRACT COST
7 OF GAS, TRANSPORTATION FUEL, PIPELINE TRANSPORTATION FEES, AND ANY
8 LOCAL TRANSPORTATION OR DISTRIBUTION FEES.

9 (iii) STORAGE GAS CHARGES, INCLUDING THE COST OF GAS, FUEL, GAS
10 INJECTION FEES, WITHDRAWAL FEES, AND ASSOCIATED TRANSPORTATION
11 FEES.

12 (iv) THE COST OF FINANCIAL HEDGING INSTRUMENTS APPROVED BY THE
13 COMMISSION SUCH AS FUTURES AND OPTIONS, INCLUDING PREMIUMS,
14 SETTLEMENT GAINS AND LOSSES, AND COMMODITY EXCHANGE AND
15 ADMINISTRATION FEES.

16 (v) STEAM PURCHASES, CONSISTING OF ALL COSTS FOR STEAM
17 PURCHASED INCLUDING CUSTOMER CHARGES, DISTRIBUTION CHARGES, AND
18 ASSOCIATED TRANSPORTATION FEES.

19 (vi) COSTS FOR OTHER FUEL PURCHASES INCLUDING, BUT NOT LIMITED
20 TO, ANY COAL, WOOD, GARBAGE, TIRES, WASTE OIL, FUEL OIL OR OTHER
21 MATERIALS USED AS A FUEL FOR THE PRODUCTION OF STEAM, AND ALL
22 CUSTOMER CHARGES, DISTRIBUTION CHARGES, AND ASSOCIATED
23 TRANSPORTATION AND STORAGE FEES.

24 (B) "STEAM SUPPLY COST RECOVERY CLAUSE" MEANS A CLAUSE IN THE
25 RATES OR RATE SCHEDULE OF A UTILITY WHICH PERMITS THE MONTHLY
26 ADJUSTMENT OF RATES FOR STEAM SUPPLY TO ALLOW THE UTILITY TO
27 RECOVER THE BOOKED COSTS OF FUEL BURNED BY THE UTILITY FOR STEAM

1 GENERATION AND THE BOOKED COSTS OF PURCHASED STEAM TRANSACTIONS BY
2 THE UTILITY INCURRED UNDER REASONABLE AND PRUDENT POLICIES AND
3 PRACTICES.

4 (C) "STEAM SUPPLY COST RECOVERY FACTOR" MEANS THAT ELEMENT OF
5 THE RATES TO BE CHARGED FOR STEAM SERVICE TO REFLECT STEAM SUPPLY
6 COSTS INCURRED BY A UTILITY AND MADE PURSUANT TO A STEAM SUPPLY
7 COST RECOVERY CLAUSE INCORPORATED IN THE RATES OR RATE SCHEDULE OF
8 A UTILITY.

9 (D) "UTILITY" MEANS A STEAM DISTRIBUTION COMPANY REGULATED BY
10 THE COMMISSION.

11 (2) PURSUANT TO ITS AUTHORITY UNDER THIS ACT, THE COMMISSION
12 MAY INCORPORATE A STEAM SUPPLY COST RECOVERY CLAUSE IN THE STEAM
13 RATES OR RATE SCHEDULE OF A UTILITY. AN ORDER INCORPORATING A STEAM
14 SUPPLY COST RECOVERY CLAUSE SHALL BE THE RESULT OF A HEARING SOLELY
15 ON THE QUESTION OF THE INCLUSION OF THE CLAUSE IN THE RATES OR RATE
16 SCHEDULE. THE HEARING SHALL BE CONDUCTED AS A CONTESTED CASE
17 PURSUANT TO CHAPTER 4 OF THE ADMINISTRATIVE PROCEDURES ACT OF 1969,
18 1969 PA 306, MCL 24.271 TO 24.287.

19 (3) IN ORDER TO IMPLEMENT THE STEAM SUPPLY COST RECOVERY
20 CLAUSE ESTABLISHED PURSUANT TO SUBSECTION (2), A UTILITY ANNUALLY
21 SHALL FILE A COMPLETE STEAM SUPPLY COST RECOVERY PLAN DESCRIBING
22 THE EXPECTED SOURCES OF STEAM SUPPLY AND CHANGES IN THE COST OF
23 STEAM SUPPLY ANTICIPATED OVER A FUTURE 12-MONTH PERIOD SPECIFIED BY
24 THE COMMISSION AND REQUESTING FOR EACH OF THOSE 12 MONTHS A
25 SPECIFIC STEAM SUPPLY COST RECOVERY FACTOR. THE UTILITY SHALL FILE
26 THE STEAM SUPPLY COST RECOVERY PLAN AT LEAST 3 MONTHS BEFORE THE
27 BEGINNING OF THE 12-MONTH PERIOD COVERED BY THE PLAN. THE PLAN

1 SHALL DESCRIBE ALL MAJOR CONTRACTS AND STEAM SUPPLY ARRANGEMENTS
2 ENTERED INTO BY THE UTILITY FOR PROVIDING STEAM SUPPLY DURING THE
3 SPECIFIED 12-MONTH PERIOD INCLUDING THE PRICE OF FUEL, THE DURATION
4 OF THE CONTRACT OR ARRANGEMENT, AND AN EXPLANATION OR DESCRIPTION
5 OF ANY OTHER TERM OR PROVISION OF THE CONTRACT OR ARRANGEMENT AS
6 REQUIRED BY THE COMMISSION. THE PLAN SHALL ALSO INCLUDE THE
7 UTILITY'S EVALUATION OF THE REASONABLENESS AND PRUDENCE OF ITS
8 DECISIONS TO PROVIDE STEAM SUPPLY IN THE MANNER DESCRIBED IN THE
9 PLAN, IN LIGHT OF ITS EXISTING SOURCES OF STEAM GENERATION, AND AN
10 EXPLANATION OF THE ACTIONS TAKEN BY THE UTILITY TO MINIMIZE THE
11 COST OF FUEL TO THE UTILITY.

12 (4) IN ORDER TO IMPLEMENT THE STEAM SUPPLY COST RECOVERY
13 CLAUSE ESTABLISHED PURSUANT TO SUBSECTION (2), A UTILITY SHALL
14 FILE, CONTEMPORANEOUSLY WITH THE STEAM SUPPLY COST RECOVERY PLAN
15 REQUIRED BY SUBSECTION (3), A 3-YEAR FORECAST OF THE STEAM SUPPLY
16 REQUIREMENTS OF ITS CUSTOMERS, ITS ANTICIPATED SOURCES OF SUPPLY,
17 AND PROJECTIONS OF STEAM SUPPLY COSTS, IN LIGHT OF ITS EXISTING
18 SOURCES OF STEAM GENERATION AND SOURCES OF STEAM GENERATION UNDER
19 CONSTRUCTION. THE FORECAST SHALL INCLUDE A DESCRIPTION OF ALL
20 RELEVANT MAJOR CONTRACTS AND STEAM SUPPLY ARRANGEMENTS ENTERED INTO
21 OR CONTEMPLATED BY THE UTILITY, AND ANY OTHER INFORMATION THE
22 COMMISSION MAY REQUIRE.

23 (5) IF A UTILITY FILES A STEAM SUPPLY COST RECOVERY PLAN AND A
24 3-YEAR FORECAST AS PROVIDED IN SUBSECTIONS (3) AND (4), THE
25 COMMISSION SHALL CONDUCT A PROCEEDING, TO BE KNOWN AS A STEAM
26 SUPPLY AND COST REVIEW, TO EVALUATE THE REASONABLENESS AND PRUDENCE
27 OF THE STEAM SUPPLY COST RECOVERY PLAN FILED BY A UTILITY PURSUANT

1 TO SUBSECTION (3), AND ESTABLISH THE STEAM SUPPLY COST RECOVERY
2 FACTORS TO IMPLEMENT A STEAM SUPPLY COST RECOVERY CLAUSE
3 INCORPORATED IN THE RATES OR RATE SCHEDULE OF THE UTILITY. THE
4 STEAM SUPPLY AND COST REVIEW SHALL BE CONDUCTED AS A CONTESTED CASE
5 PURSUANT TO CHAPTER 4 OF THE ADMINISTRATIVE PROCEDURES ACT OF 1969,
6 1969 PA 306, MCL 24.271 TO 24.287.

7 (6) IN ITS FINAL ORDER IN A STEAM SUPPLY AND COST REVIEW, THE
8 COMMISSION SHALL EVALUATE THE REASONABLENESS AND PRUDENCE OF THE
9 DECISIONS UNDERLYING THE STEAM SUPPLY COST RECOVERY PLAN FILED BY
10 THE UTILITY PURSUANT TO SUBSECTION (3), AND SHALL APPROVE,
11 DISAPPROVE, OR AMEND THE STEAM SUPPLY COST RECOVERY PLAN
12 ACCORDINGLY. IN EVALUATING THE DECISIONS UNDERLYING THE STEAM
13 SUPPLY COST RECOVERY PLAN, THE COMMISSION SHALL CONSIDER THE COST
14 AND AVAILABILITY OF THE STEAM GENERATION AVAILABLE TO THE UTILITY,
15 THE COST OF SHORT-TERM FIRM PURCHASES AVAILABLE TO THE UTILITY,
16 WHETHER THE UTILITY HAS TAKEN ALL APPROPRIATE ACTIONS TO MINIMIZE
17 THE COST OF FUEL, AND OTHER RELEVANT FACTORS. THE COMMISSION SHALL
18 APPROVE, REJECT, OR AMEND THE 12 MONTHLY STEAM SUPPLY COST
19 RECOVERY FACTORS REQUESTED BY THE UTILITY IN ITS STEAM SUPPLY COST
20 RECOVERY PLAN. THE FACTORS ORDERED SHALL BE DESCRIBED IN FIXED
21 DOLLAR AMOUNTS PER UNIT OF STEAM, BUT MAY INCLUDE SPECIFIC AMOUNTS
22 CONTINGENT ON FUTURE EVENTS.

23 (7) IN ITS FINAL ORDER IN A STEAM SUPPLY AND COST REVIEW, THE
24 COMMISSION SHALL EVALUATE THE DECISIONS UNDERLYING THE 3-YEAR
25 FORECAST FILED BY A UTILITY PURSUANT TO SUBSECTION (4). THE
26 COMMISSION MAY ALSO INDICATE ANY COST ITEMS IN THE 3-YEAR FORECAST
27 THAT, ON THE BASIS OF PRESENT EVIDENCE, THE COMMISSION WOULD BE

1 UNLIKELY TO PERMIT THE UTILITY TO RECOVER FROM ITS CUSTOMERS IN
2 RATES, RATE SCHEDULES, OR STEAM SUPPLY COST RECOVERY FACTORS
3 ESTABLISHED IN THE FUTURE.

4 (8) THE COMMISSION, ON ITS OWN MOTION OR THE MOTION OF ANY
5 PARTY, MAY MAKE A FINDING AND ENTER A TEMPORARY ORDER GRANTING
6 APPROVAL OR PARTIAL APPROVAL OF A STEAM SUPPLY COST
7 RECOVERY PLAN IN A STEAM SUPPLY AND COST RECOVERY REVIEW AFTER
8 FIRST HAVING GIVEN NOTICE TO THE PARTIES TO THE REVIEW AND GIVING
9 THOSE PARTIES A REASONABLE OPPORTUNITY FOR A FULL AND COMPLETE
10 HEARING. A TEMPORARY ORDER MADE PURSUANT TO THIS SUBSECTION IS
11 CONSIDERED A FINAL ORDER FOR PURPOSES OF JUDICIAL REVIEW.

12 (9) IF THE COMMISSION HAS MADE A FINAL OR TEMPORARY ORDER IN A
13 STEAM SUPPLY AND COST REVIEW, THE UTILITY MAY EACH MONTH
14 INCORPORATE IN ITS RATES FOR THE PERIOD COVERED BY THE ORDER ANY
15 AMOUNT UP TO THE STEAM SUPPLY COST RECOVERY FACTORS PERMITTED IN
16 THAT ORDER. IF THE COMMISSION HAS NOT MADE A FINAL OR TEMPORARY
17 ORDER WITHIN 3 MONTHS OF THE SUBMISSION OF A COMPLETE STEAM SUPPLY
18 COST RECOVERY PLAN, OR BY THE BEGINNING OF THE PERIOD COVERED IN
19 THE PLAN, WHICHEVER COMES LATER, OR IF A TEMPORARY ORDER HAS
20 EXPIRED WITHOUT BEING EXTENDED OR REPLACED, THEN, PENDING AN ORDER
21 WHICH DETERMINES THE STEAM SUPPLY COST RECOVERY FACTORS, A UTILITY
22 MAY EACH MONTH ADJUST ITS RATES TO INCORPORATE ALL OR A PART OF THE
23 STEAM SUPPLY COST RECOVERY FACTORS REQUESTED IN ITS PLAN. ANY
24 AMOUNT COLLECTED UNDER THE STEAM SUPPLY COST RECOVERY FACTORS
25 BEFORE THE COMMISSION MAKES ITS FINAL ORDER SHALL BE SUBJECT TO
26 PROMPT REFUND WITH INTEREST TO THE EXTENT THAT THE TOTAL AMOUNT
27 COLLECTED EXCEEDS THE TOTAL AMOUNT DETERMINED IN THE COMMISSION'S

1 FINAL ORDER TO BE REASONABLE AND PRUDENT FOR THE SAME PERIOD OF
2 TIME.

3 (10) NOT LESS THAN 3 MONTHS BEFORE THE BEGINNING OF THE THIRD
4 QUARTER OF THE 12-MONTH PERIOD, A UTILITY MAY FILE A REVISED STEAM
5 SUPPLY COST RECOVERY PLAN WHICH SHALL COVER THE REMAINDER OF THE
6 12-MONTH PERIOD. UPON RECEIPT OF A REVISED STEAM SUPPLY COST
7 RECOVERY PLAN, THE COMMISSION SHALL REOPEN THE STEAM SUPPLY AND
8 COST REVIEW. IN ADDITION, THE COMMISSION MAY REOPEN THE STEAM
9 SUPPLY AND COST REVIEW ON ITS OWN MOTION OR ON THE SHOWING OF GOOD
10 CAUSE BY ANY PARTY IF AT LEAST 6 MONTHS HAVE ELAPSED SINCE THE
11 UTILITY SUBMITTED ITS COMPLETE FILING AND IF THERE ARE AT LEAST 60
12 DAYS REMAINING IN THE 12-MONTH PERIOD UNDER CONSIDERATION. A
13 REOPENED STEAM SUPPLY AND COST REVIEW SHALL BE CONDUCTED AS A
14 CONTESTED CASE PURSUANT TO CHAPTER 4 OF THE ADMINISTRATIVE
15 PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.271 TO 24.287, AND IN
16 ACCORDANCE WITH SUBSECTIONS (3), (6), (8), AND (9).

17 (11) NOT MORE THAN 45 DAYS FOLLOWING THE LAST DAY OF EACH
18 BILLING MONTH IN WHICH A STEAM SUPPLY COST RECOVERY FACTOR HAS BEEN
19 APPLIED TO CUSTOMERS' BILLS, A UTILITY SHALL FILE WITH THE
20 COMMISSION A DETAILED STATEMENT FOR THAT MONTH OF THE REVENUES
21 RECORDED PURSUANT TO THE STEAM SUPPLY COST RECOVERY FACTOR AND THE
22 ALLOWANCE FOR COST OF STEAM SUPPLY INCLUDED IN THE BASE RATES
23 ESTABLISHED IN THE LATEST COMMISSION ORDER FOR THE UTILITY, AND THE
24 COST OF STEAM SUPPLY. THE DETAILED STATEMENT SHALL BE IN THE MANNER
25 AND FORM PRESCRIBED BY THE COMMISSION. THE COMMISSION SHALL
26 ESTABLISH PROCEDURES FOR INSURING THAT THE DETAILED STATEMENT IS
27 PROMPTLY VERIFIED AND CORRECTED IF NECESSARY.

1 (12) NOT LESS THAN ONCE A YEAR, AND NOT LATER THAN 3 MONTHS
2 AFTER THE END OF THE 12-MONTH PERIOD COVERED BY A UTILITY'S STEAM
3 SUPPLY COST RECOVERY PLAN, THE COMMISSION SHALL COMMENCE A
4 PROCEEDING, TO BE KNOWN AS A STEAM SUPPLY COST RECONCILIATION, AS A
5 CONTESTED CASE PURSUANT TO CHAPTER 4 OF THE ADMINISTRATIVE
6 PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.271 TO 24.287.
7 REASONABLE DISCOVERY SHALL BE PERMITTED BEFORE AND DURING THE
8 RECONCILIATION PROCEEDING IN ORDER TO ASSIST PARTIES AND INTERESTED
9 PERSONS IN OBTAINING EVIDENCE CONCERNING RECONCILIATION ISSUES,
10 INCLUDING, BUT NOT LIMITED TO, THE REASONABLENESS AND PRUDENCE OF
11 EXPENDITURES AND THE AMOUNTS COLLECTED PURSUANT TO THE CLAUSE. AT
12 THE STEAM SUPPLY COST RECONCILIATION, THE COMMISSION SHALL
13 RECONCILE THE REVENUES RECORDED PURSUANT TO THE STEAM SUPPLY COST
14 RECOVERY FACTORS AND THE ALLOWANCE FOR COST OF STEAM SUPPLY
15 INCLUDED IN THE BASE RATES ESTABLISHED IN THE LATEST COMMISSION
16 ORDER FOR THE UTILITY WITH THE AMOUNTS ACTUALLY EXPENSED AND
17 INCLUDED IN THE COST OF STEAM SUPPLY BY THE UTILITY. THE COMMISSION
18 SHALL CONSIDER ANY ISSUE REGARDING THE REASONABLENESS AND PRUDENCE
19 OF EXPENSES FOR WHICH CUSTOMERS WERE CHARGED IF THE ISSUE WAS NOT
20 CONSIDERED ADEQUATELY AT A PREVIOUSLY CONDUCTED STEAM SUPPLY AND
21 COST REVIEW.

22 (13) IN ITS ORDER IN A STEAM SUPPLY COST RECONCILIATION, THE
23 COMMISSION SHALL REQUIRE A UTILITY TO REFUND TO CUSTOMERS OR CREDIT
24 TO CUSTOMERS' BILLS ANY NET AMOUNT DETERMINED TO HAVE BEEN
25 RECOVERED OVER THE PERIOD COVERED IN EXCESS OF THE AMOUNTS
26 DETERMINED TO HAVE BEEN ACTUALLY EXPENSED BY THE UTILITY FOR STEAM
27 SUPPLY, AND TO HAVE BEEN INCURRED THROUGH REASONABLE AND PRUDENT

1 ACTIONS NOT PRECLUDED BY THE COMMISSION ORDER IN THE STEAM SUPPLY
2 AND COST REVIEW. THE REFUNDS OR CREDITS SHALL BE APPORTIONED AMONG
3 THE CUSTOMERS OF THE UTILITY UTILIZING PROCEDURES THAT THE
4 COMMISSION DETERMINES ARE REASONABLE. THE COMMISSION MAY ADOPT
5 DIFFERENT PROCEDURES WITH RESPECT TO CUSTOMERS SERVED UNDER THE
6 VARIOUS RATE SCHEDULES OF THE UTILITY AND MAY, IN APPROPRIATE
7 CIRCUMSTANCES, ORDER REFUNDS OR CREDITS IN PROPORTION TO THE EXCESS
8 AMOUNTS ACTUALLY COLLECTED FROM EACH CUSTOMER DURING THE PERIOD
9 COVERED.

10 (14) IN ITS ORDER IN A STEAM SUPPLY COST RECONCILIATION, THE
11 COMMISSION SHALL AUTHORIZE A UTILITY TO RECOVER FROM CUSTOMERS ANY
12 NET AMOUNT BY WHICH THE AMOUNT DETERMINED TO HAVE BEEN RECOVERED
13 OVER THE PERIOD COVERED WAS LESS THAN THE AMOUNT DETERMINED TO HAVE
14 BEEN ACTUALLY EXPENSED BY THE UTILITY FOR STEAM SUPPLY, AND TO HAVE
15 BEEN INCURRED THROUGH REASONABLE AND PRUDENT ACTIONS NOT PRECLUDED
16 BY THE COMMISSION ORDER IN THE STEAM SUPPLY AND COST REVIEW. FOR
17 EXCESS COSTS INCURRED THROUGH MANAGEMENT ACTIONS CONTRARY TO THE
18 COMMISSION'S STEAM SUPPLY AND COST REVIEW ORDER, THE COMMISSION
19 SHALL AUTHORIZE A UTILITY TO RECOVER COSTS INCURRED FOR STEAM
20 SUPPLY IN THE RECONCILIATION PERIOD IN EXCESS OF THE
21 AMOUNT RECOVERED OVER THE PERIOD ONLY IF THE UTILITY DEMONSTRATES
22 BY CLEAR AND CONVINCING EVIDENCE THAT THE EXCESS EXPENSES WERE
23 BEYOND THE ABILITY OF THE UTILITY TO CONTROL THROUGH REASONABLE AND
24 PRUDENT ACTIONS. FOR EXCESS COSTS INCURRED THROUGH MANAGEMENT
25 ACTIONS CONSISTENT WITH THE COMMISSION'S STEAM SUPPLY AND COST
26 REVIEW ORDER, THE COMMISSION SHALL AUTHORIZE A UTILITY TO RECOVER
27 COSTS INCURRED FOR STEAM SUPPLY IN THE RECONCILIATION PERIOD IN

1 EXCESS OF THE AMOUNT RECOVERED OVER THE PERIOD ONLY IF THE UTILITY
2 DEMONSTRATES THAT THE LEVEL OF THE EXPENSES RESULTED FROM
3 REASONABLE AND PRUDENT MANAGEMENT ACTIONS. THE AMOUNTS IN EXCESS OF
4 THE AMOUNTS ACTUALLY RECOVERED BY THE UTILITY FOR STEAM SUPPLY
5 SHALL BE APPORTIONED AMONG AND CHARGED TO THE CUSTOMERS OF THE
6 UTILITY UTILIZING PROCEDURES THAT THE COMMISSION DETERMINES ARE
7 REASONABLE. THE COMMISSION MAY ADOPT DIFFERENT PROCEDURES WITH
8 RESPECT TO CUSTOMERS SERVED UNDER THE VARIOUS RATE SCHEDULES OF THE
9 UTILITY AND MAY, IN APPROPRIATE CIRCUMSTANCES, ORDER CHARGES TO BE
10 MADE IN PROPORTION TO THE AMOUNTS WHICH WOULD HAVE BEEN PAID BY
11 THOSE CUSTOMERS IF THE AMOUNTS IN EXCESS OF THE AMOUNTS ACTUALLY
12 RECOVERED BY THE UTILITY FOR COST OF STEAM SUPPLY HAD BEEN INCLUDED
13 IN THE STEAM SUPPLY COST RECOVERY FACTORS WITH RESPECT TO THOSE
14 CUSTOMERS DURING THE PERIOD COVERED. CHARGES FOR THE EXCESS AMOUNTS
15 SHALL BE SPREAD OVER A PERIOD THAT THE COMMISSION DETERMINES IS
16 APPROPRIATE.

17 (15) IF THE COMMISSION ORDERS REFUNDS OR CREDITS PURSUANT TO
18 SUBSECTION (13), OR ADDITIONAL CHARGES TO CUSTOMERS PURSUANT TO
19 SUBSECTION (14), IN ITS FINAL ORDER IN A STEAM SUPPLY COST
20 RECONCILIATION, THE REFUNDS, CREDITS, OR ADDITIONAL CHARGES SHALL
21 INCLUDE INTEREST. IN DETERMINING THE INTEREST INCLUDED IN A REFUND,
22 CREDIT, OR ADDITIONAL CHARGE PURSUANT TO THIS SUBSECTION, THE
23 COMMISSION SHALL CONSIDER, TO THE EXTENT MATERIAL AND PRACTICABLE,
24 THE TIME AT WHICH THE EXCESS RECOVERIES OR INSUFFICIENT RECOVERIES,
25 OR BOTH, OCCURRED. THE COMMISSION SHALL DETERMINE A RATE OF
26 INTEREST FOR EXCESS RECOVERIES, REFUNDS, AND CREDITS EQUAL TO THE
27 GREATER OF THE AVERAGE SHORT-TERM BORROWING RATE AVAILABLE TO THE

1 UTILITY DURING THE APPROPRIATE PERIOD, OR THE AUTHORIZED RATE OF
2 RETURN ON THE COMMON STOCK OF THE UTILITY DURING THAT SAME PERIOD.
3 COSTS INCURRED BY THE UTILITY FOR REFUNDS AND INTEREST ON REFUNDS
4 SHALL NOT BE CHARGED TO CUSTOMERS. THE COMMISSION SHALL DETERMINE A
5 RATE OF INTEREST FOR INSUFFICIENT RECOVERIES AND ADDITIONAL CHARGES
6 EQUAL TO THE AVERAGE SHORT-TERM BORROWING RATE AVAILABLE TO THE
7 UTILITY DURING THE APPROPRIATE PERIOD.

8 (16) FIVE YEARS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT
9 THAT ADDED THIS SUBSECTION, AND EVERY 5 YEARS THEREAFTER, THE
10 STANDING COMMITTEES OF THE HOUSE AND SENATE THAT DEAL WITH PUBLIC
11 UTILITIES SHALL REVIEW THE AMENDATORY ACT THAT ADDED THIS
12 SUBSECTION.