

# HOUSE BILL No. 5523

December 4, 2007, Introduced by Reps. Clemente, Miller, Angerer, Mayes, Accavitti, Hopgood, Gaffney, LaJoy and Hune 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 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,"

by amending section 6a (MCL 460.6a), as amended by 1992 PA 37.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 6a. (1) When a finding or order is sought by a gas or

1 electric utility to increase its rates and charges or to alter,  
2 change, or amend any rate or rate schedules, the effect of which  
3 will be to increase the cost of services to its customers, notice  
4 shall be given within the service area to be affected. The utility  
5 shall place in evidence facts relied upon to support the utility's  
6 petition or application to increase its rates and charges, or to  
7 alter, change, or amend any rate or rate schedules. ~~After first~~  
8 ~~having given notice to the interested parties within the service~~  
9 ~~area to be affected and affording interested parties a reasonable~~  
10 ~~opportunity for a full and complete hearing, the commission, after~~  
11 ~~submission of all proofs by any interested party, may in its~~  
12 ~~discretion and upon written motion by the utility make a finding~~  
13 ~~and enter an order granting partial and immediate relief. A finding~~  
14 ~~or order shall not be authorized or approved ex parte, nor until~~  
15 ~~the commission's technical staff has made an investigation and~~  
16 ~~report.~~ **A UTILITY MAY USE PROJECTED COSTS AND REVENUES FOR A FUTURE**  
17 **PERIOD IN DEVELOPING ITS REQUESTED RATES AND CHARGES. IF THE**  
18 **COMMISSION HAS NOT ISSUED A FINAL ORDER WITHIN 90 DAYS OF THE**  
19 **FILING OF THE APPLICATION, THE UTILITY MAY IMPLEMENT THE PROPOSED**  
20 **RATES OR CHARGES. IF A UTILITY IMPLEMENTS INCREASED RATES OR**  
21 **CHARGES UNDER THIS SUBSECTION BEFORE THE COMMISSION ISSUES THE**  
22 **FINAL ORDER, THAT UTILITY SHALL REFUND TO CUSTOMERS, WITH INTEREST,**  
23 **ANY PORTION OF THE RATES OR CHARGES THAT PRODUCE TOTAL REVENUES**  
24 **GREATER THAN THOSE REVENUES PRODUCED BY THE RATES OR CHARGES**  
25 **SUBSEQUENTLY ORDERED BY THE COMMISSION IN ITS FINAL ORDER. THE**  
26 **COMMISSION SHALL DETERMINE A RATE OF INTEREST FOR REFUNDS EQUAL TO**  
27 **THE GREATER OF THE AVERAGE SHORT-TERM BORROWING RATE AVAILABLE TO**

1 THE UTILITY DURING THE APPROPRIATE PERIOD, OR THE AUTHORIZED RATE  
2 OF RETURN ON THE COMMON STOCK OF THE UTILITY DURING THAT SAME  
3 PERIOD. THE COMMISSION SHALL APPORTION THE REFUNDED AMOUNT OF  
4 REVENUES AMONG CUSTOMERS USING PROCEDURES IT DETERMINES ARE  
5 REASONABLE. An alteration or amendment in rates or rate schedules  
6 applied for by a public utility that will not result in an increase  
7 in the cost of service to its customers may be authorized and  
8 approved without notice or hearing. There shall be no increase in  
9 rates based upon changes in cost of fuel or purchased gas unless  
10 notice has been given within the service area to be affected, and  
11 there has been an opportunity for a full and complete hearing on  
12 the cost of fuel or purchased gas. The rates charged by any utility  
13 pursuant to an automatic fuel or purchased gas adjustment clause  
14 shall not be altered, changed, or amended unless notice has been  
15 given within the service area to be affected, and there has been an  
16 opportunity for a full and complete hearing on the cost of the fuel  
17 or purchased gas.

18 (2) The commission shall adopt rules and procedures for the  
19 filing, investigation, and hearing of petitions or applications to  
20 increase or decrease utility rates and charges as the commission  
21 finds necessary or appropriate to enable it to reach a final  
22 decision with respect to petitions or applications within a period  
23 of 9 months from the filing of the petitions or applications. The  
24 commission shall not authorize or approve adjustment clauses that  
25 operate without notice and an opportunity for a full and complete  
26 hearing, and all such clauses shall be abolished. The commission  
27 may hold a full and complete hearing to determine the cost of fuel,

1 purchased gas, or purchased power separately from a full and  
2 complete hearing on general rate case and may be held concurrently  
3 with the general rate case. The commission shall authorize a  
4 utility to recover the cost of fuel, purchased gas, or purchased  
5 power only to the extent that the purchases are reasonable and  
6 prudent. As used in this section:

7 (a) "Full and complete hearing" means a hearing that provides  
8 interested parties a reasonable opportunity to present and cross-  
9 examine evidence and present arguments relevant to the specific  
10 element or elements of the request that are the subject of the  
11 hearing.

12 (b) "General rate case" means a proceeding initiated by a  
13 utility in an application filed with the commission that alleges a  
14 revenue deficiency and requests an increase in the schedule of  
15 rates or charges based on the utility's total cost of providing  
16 service.

17 (3) If a final decision has not been reached upon a petition  
18 or application to increase or decrease utility rates within the 9-  
19 month period required by subsection (2), the commission shall give  
20 priority to the case and shall take ~~such~~**ANY** other action ~~as~~ it  
21 finds necessary or appropriate to expedite a final decision. If the  
22 commission fails to reach a final decision with respect to a  
23 petition or application to increase or decrease utility rates  
24 within the 9-month period following the filing of the petition or  
25 application, the commission, within 15 days after expiration of the  
26 9-month period, shall submit a written report to the governor and  
27 to the president of the senate and the speaker of the house of

1 representatives stating the reasons a decision was not reached  
 2 within the 9-month period and the actions being taken to expedite  
 3 the decision. The commission shall submit a further report upon  
 4 reaching a final decision providing full details with respect to  
 5 the conduct of the case, including the time required for issuance  
 6 of the commission's decision following the conclusion of hearings.

7       **(4) A UTILITY SHALL NOT FILE A GENERAL RATE CASE APPLICATION**  
 8 **FOR AN INCREASE IN RATES EARLIER THAN 9 MONTHS AFTER THE DATE OF**  
 9 **THE FILING OF A PRIOR GENERAL RATE CASE APPLICATION WITHOUT FIRST**  
 10 **SEEKING AND OBTAINING THE APPROVAL OF THE COMMISSION. IF THE**  
 11 **COMMISSION HAS NOT ISSUED A FINAL ORDER WITHIN 9 MONTHS OF THE DATE**  
 12 **OF THE FILING OF A GENERAL RATE CASE APPLICATION, A UTILITY MAY**  
 13 **FILE A NEW GENERAL RATE CASE APPLICATION.**

14       Enacting section 1. This amendatory act does not take effect  
 15 unless all of the following bills of the 94th Legislature are  
 16 enacted into law:

17       (a) Senate Bill No.\_\_\_\_ or House Bill No. 5524(request no.  
 18 02552'07 \*).

19       (b) Senate Bill No.\_\_\_\_ or House Bill No. 5521(request no.  
 20 04883'07 \*).

21       (c) Senate Bill No.\_\_\_\_ or House Bill No. 5522(request no.  
 22 04884'07 \*).

23       (d) Senate Bill No.\_\_\_\_ or House Bill No. 5520(request no.  
 24 04885'07 \*).

25       (e) Senate Bill No.\_\_\_\_ or House Bill No.\_\_\_\_ (request no.  
 26 05570'07).

27       (f) Senate Bill No.\_\_\_\_ or House Bill No.\_\_\_\_ (request no.

1 05919'07).

2 (g) Senate Bill No. \_\_\_\_\_ or House Bill No. 5525 (request no.

3 05920'07).

4 (h) House Bill No. 5383.

5 (i) House Bill No. 5384.