

## **UNAUTHORIZED USE OF ENERGY: REFUSAL TO PROVIDE ADDITIONAL SERVICE; RECONNECTION**

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**Senate Bill 1310 (Substitute S-2)**  
**Sponsor: Sen. Tupac A. Hunter**  
**House Committee: Energy and Technology**  
**Senate Committee: Judiciary**

**Complete to 6-28-10**

### **A SUMMARY OF SENATE BILL 1310 AS PASSED BY THE SENATE 6-22-10**

The bill would add Section 9d to the Public Service Commission (PSC) Law (Public Act 3 of 1939) to do the following things:

- Allow a PSC-regulated electric or natural gas utility to take steps to cure or address an unsafe connection caused by the unauthorized use of electric or natural gas service, and to take steps to deter future unauthorized use, including installing additional utility facilities.
- Allow a utility to refuse to provide electric or natural gas service at any customer location where electric or natural gas service has been shut off at least twice during the previous 24 months because of unauthorized use of electricity or natural gas, if the utility determined that refusing to provide service at that location would prevent a recurrence of the unauthorized use. (This would apply notwithstanding any other administrative rules or statutes.)
- Require a utility to reestablish electric or natural gas service if either (1) the person requesting service can prove legal ownership of the property and agrees to pay, before service is reestablished, all repair costs, required fees and deposits, and all charges due for the previous unauthorized use occurring while the person owned the property; or (2) the person can prove legal ownership of the property and provide a lease agreement establishing the identity of the tenant responsible for the prior unauthorized use.
- Allow, but not require, a utility to reestablish electric or natural gas service if the person can prove legal ownership and pay the additional fee for reestablishing electric or natural gas service at a location with multiple prior occurrences of unauthorized use included in the utility's rate and tariff schedule.
- Allow, but not require, a utility to reestablish service if the person requesting service cannot prove ownership but can provide specified residency information, provide documentation and pay fees and deposits required by specified administrative rules, and pay the additional fee for reestablishing service at a location with multiple prior occurrences of unauthorized service under the utility's rate and tariff schedule.
- Make a property owner jointly and severally liable for any unauthorized use occurring at property abandoned or surrendered by the owner unless the owner notified the utility within 30 days after abandoning or surrendering it.

- Require large utilities (those serving one million or more customers) to establish and maintain a service allowing landlords of rental properties in the utility's service territory who register for the service to be notified of locations where electric and natural gas services have been shutoff because of unauthorized use.
- Specify that the bill applies only to the unauthorized use of electric or natural gas service, not to the use of telecommunication or cable services or telecommunication or cable facilities attached to equipment owned or controlled by electric or natural gas utilities.

MCL 460.9d

## **FISCAL IMPACT:**

The bill would have no fiscal impact on the state or local units of government.

## **DETAILED SUMMARY:**

Unsafe connections; deterrence of future unauthorized use. If a utility observed an unsafe electric or natural gas service connection at a customer's location caused by unauthorized use of electric or natural gas service, the utility would have to implement measures "consistent with good utility practices" intended to cure or to otherwise address the unsafe connection. The utility could also take appropriate action to deter future unauthorized use of electric or natural gas service at that location, including, but not limited to, installation of additional utility facilities.

("Utility" would mean "an electric or natural gas utility regulated the Public Service Commission." "Unauthorized use of electric or natural gas service" or "unauthorized use" would mean "theft, fraud, interference, or diversion of electric or natural gas service, including, but not limited to, meter tampering, bypassing, and service restoration by anyone other than the utility or its representative." "Meter tampering" would mean "any act that affects the proper registration of service through a meter and affects the flow of energy." "Bypassing" would mean "unmetered service that flows through a device connected between a service line and customer-owned facilities.")

Refusal to provide service. At any customer location where a utility has shut off electric or natural gas service two or more times during the previous 24 months because of unauthorized use of electric or natural gas service, a utility could refuse to provide electric or natural gas service to that location *notwithstanding any other administrative rules or statutes* if the utility determined that "denying electric or natural gas service at that location will prevent the [recurrence] of the unauthorized use."

Reconnection. A utility would have to reestablish electric or natural gas service at a customer location if the person requesting service does one of the following:

- Proves legal ownership of the property by providing property ownership information, as defined in the bill, and, before the service is reconnected, pays the

actual cost of repairing the utility's equipment and facilities located on the owner's property, all fees and deposits required under the utility's approved schedule of rates and tariffs, and all charges due to the utility for the prior unauthorized use that occurred during his or her ownership.

(Property ownership information" would mean "a recorded warranty deed, notarized closing papers, tax records, mortgage payment book, or a copy of an insurance policy for the address identifying an individual or entity as the owner." )

- Proves legal ownership of the property by providing property ownership information, as defined in the bill, and provides a signed lease agreement that has been certified by the landlord that establishes the identity of the tenant responsible for the prior unauthorized use.

Alternative for reconnection; legal owner. If the legal owner could not do either of these things (proving ownership and identifying the tenant responsible for the prior unauthorized use or proving ownership and agreeing to pay all charges due the utility), a utility could, but would not be required to, reestablish electric or natural gas service if the person requesting service proved legal ownership and agreed to pay the additional fee for reestablishing electric or natural gas service at a location with multiple prior occurrences of unauthorized use as specified in the utility's approved schedule of rates and tariffs.

Alternative for reconnection; resident. If a person requesting electric or natural gas service could not provide property ownership information, a utility could, but would not be required to, reestablish service if the person could provide residency information and all of the documentation, fees and deposits required by R 460.106, R 460.109, and R 460.144 of the Michigan Administrative Code. (See the **Background Information** section for a description of these rules.) The person would also have to pay any additional fee for reestablishing electric or natural gas service at a location with multiple prior occurrences of unauthorized use included in the utility's approved schedule of rates and tariffs.

("Residency information" would mean all of the all of the following things: (1) positive identification information (meaning a driver's license or identification card issued by Michigan or another state, a military identification card, a passport, or other government-issued identification containing a photograph); (2) a signed lease that had been certified by the landlord for the location where electric or natural gas service is being requested; and (3) any first-class mail sent to the person requesting electric or natural gas service within the last three months at that person's *previous* residence.)

Notice to utility of abandoned or surrendered property. A property owner would have to provide notice to a utility within 30 days after abandoning or surrendering a property. If a property owner did not do so, the property owner is liable, jointly and severally, for any unauthorized use that occurred at the property after the owner's abandonment or surrender of the property.

Landlord notification system for large utilities. Within 150 days after the bill took effect, electric and natural gas utilities serving one million or more customers would have to establish and maintain a service in which landlords of rental properties in the utility's service territory, who have registered with the utility for shut-off notifications, would be notified of locations where electric and natural gas services have been shut off because of unauthorized use.

Telecommunication or cable service. Section 9d would apply only to the unauthorized use of electric or natural gas service and not to telecommunication or cable service or the attachment of facilities by a telecommunication or cable service provider to the utility poles, ducts, conduits, or trenches owned or controlled by an electric or natural gas utility. Section 9d would not supersede, modify, or affect the validity of any statutes, administrative rules, utility tariffs, contracts, commission orders, or common law regarding the use of electric or natural gas utility poles, ducts, conduits, and trenches.

## **BACKGROUND INFORMATION:**

The following descriptions of administrative rules referred to in the bill are taken from the Senate Fiscal Agency's analysis of SB 1310 dated June 3, 2010:

R 460.106. This rule specifies the methods by which applicants may request service from a utility and requires an applicant to do the following:

- Provide positive identification (i.e., a consistently used appropriate identification such as a driver license or state ID card, U.S. military card or military dependent's ID card, Native American tribal document, or passport).
- Pay a deposit, if required by R 460.109 or R 460.110.

The utility also may require payment of a delinquent account as a condition of providing or continuing service if the following conditions apply:

- The delinquent account is in the customer's or applicant's name.
- The delinquent account is not in dispute, owed to the utility, and accrued within the last six years.

R 460.109. Under this rule, a utility may require a deposit as a condition of providing service to a new customer if any of the following apply:

- At the time of the request for service, the applicant has a delinquent bill with any electric or gas provider that accrued within the last six years and that remains unpaid and is not in dispute.
- The applicant misrepresents his or her identity or credit standing.
- The applicant fails to provide positive identification information upon request when applying for new service.
- The applicant requests service for a location at which he or she does not reside.

- The applicant engaged in unauthorized use of utility service within the last six years.
- The applicant has sought relief under Federal bankruptcy laws within the last six years.

A utility also may require a deposit if, within the past three years, the applicant lived in a residence with a person who accrued a delinquent account for electric or gas service to the shared residence, during the time the applicant lived there, that remains unpaid and is not in dispute, and the person with the delinquent account now resides with the applicant.

Notwithstanding any of these provisions, a utility may not require a deposit as a condition of providing service to a new customer if any of the following apply:

- The Department of Human Services is responsible for making utility payments on behalf of the applicant.
- The applicant secures a guarantor who is a customer in good standing with the utility.
- The applicant is at least 65 years old and has a satisfactory payment history for the past three years with any gas or electric provider.

R 460.110. This rule allows a utility to require a deposit as a condition of providing or restoring service to a previous customer or continuing service to a current customer if any of the following apply:

- At the time of the request for service, the customer or applicant has a prior service account that is delinquent, that accrued within the last six years, and that remains unpaid and is not in dispute, or litigation was required to obtain full payment of an account that was not in dispute.
- The customer or applicant misrepresents his or her identity or credit standing.
- The customer or applicant fails to provide positive identification information upon request at the time of application for service.
- The customer or applicant engaged in unauthorized use of utility service within the last six years.
- The utility has shut off service to the customer for nonpayment of a delinquent account that is not in dispute.
- The utility has had at least one check issued from the customer's account returned from a financial institution for insufficient funds or no account, or has had at least one payment from the customer's debit or credit card or other form of payment denied within the last 12 months, excluding financial institution error.
- The applicant has sought relief under federal bankruptcy laws within the last six years.

A utility also may require a deposit to restore or continue service if, within the last three years, the applicant lived in a residence with a person who accrued a delinquent account for electric or gas service to the shared residence, during the time the applicant lived

there, that remains unpaid and is not in dispute, and the person with the delinquent account now resides with the applicant.

The same conditions that prohibit a utility from requiring a deposit under R 460.109 also apply under this rule.

R 460.144. This rule requires a utility, after it has shut off service, to restore service promptly upon the customer's request when the cause has been cured or credit arrangements satisfactory to the utility have been made.

When a utility is required to restore service at the customer's meter manually, the utility must make every effort to restore service on the day the customer requests it. Except for reasons beyond its control, the utility must restore service by the first working day after the customer's request. For utilities using meter technology with remote shut-off and restoration capability, service must be restored on the day the customer requests it, except in the case of documented equipment failure.

The utility may assess the customer a charge, including reasonable costs, for restoring service and relocating the customer's meter as specified in the utility's approved schedule of rates and tariffs.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.