

SUBSTITUTE FOR
HOUSE BILL NO. 4659

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 460.11) by adding section 9q.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 9Q. (1) A PROVIDER MAY SHUT OFF SERVICE TEMPORARILY FOR
2 REASONS OF HEALTH OR SAFETY OR IN A STATE OR NATIONAL EMERGENCY.
3 WHEN A PROVIDER SHUTS OFF SERVICE FOR REASONS OF HEALTH OR SAFETY,
4 THE PROVIDER SHALL LEAVE A NOTICE AT THE PREMISES.

5 (2) SUBJECT TO THE REQUIREMENTS OF THIS ACT, A PROVIDER MAY
6 SHUT OFF OR TERMINATE SERVICE TO A RESIDENTIAL CUSTOMER FOR ANY OF
7 THE FOLLOWING REASONS:

8 (A) THE CUSTOMER HAS NOT PAID A DELINQUENT ACCOUNT THAT
9 ACCRUED WITHIN THE LAST 6 YEARS.

10 (B) THE CUSTOMER HAS FAILED TO PROVIDE A DEPOSIT OR GUARANTEE
11 AS REQUIRED BY THE PROVIDER.

12 (C) THE CUSTOMER HAS ENGAGED IN UNAUTHORIZED USE OF A
13 PROVIDER'S SERVICE.

14 (D) THE CUSTOMER HAS FAILED TO COMPLY WITH THE TERMS AND
15 CONDITIONS OF A PAYMENT PLAN ENTERED INTO WITH THE PROVIDER IN
16 ACCORDANCE WITH THE PROVIDER'S RULES.

17 (E) THE CUSTOMER HAS REFUSED TO ARRANGE ACCESS AT REASONABLE
18 TIMES FOR THE PURPOSE OF INSPECTION, METER READING, MAINTENANCE, OR
19 REPLACEMENT OF EQUIPMENT THAT IS INSTALLED UPON THE PREMISES OR FOR
20 THE REMOVAL OF A METER.

21 (F) THE CUSTOMER MISREPRESENTED HIS OR HER IDENTITY FOR THE
22 PURPOSE OF OBTAINING A PROVIDER SERVICE OR PUT SERVICE IN ANOTHER
23 PERSON'S NAME WITHOUT PERMISSION OF THE OTHER PERSON.

24 (G) THE CUSTOMER HAS VIOLATED ANY RULES OF THE PROVIDER SO AS
25 TO ADVERSELY AFFECT THE SAFETY OF THE CUSTOMER OR OTHER PERSONS OR
26 THE INTEGRITY OF THE PROVIDER'S SYSTEM.

1 (H) A PERSON LIVING IN THE CUSTOMER'S RESIDENCE MEETS BOTH OF
2 THE FOLLOWING:

3 (i) HAS A DELINQUENT ACCOUNT FOR SERVICE WITH THE PROVIDER
4 WITHIN THE PAST 3 YEARS THAT REMAINS UNPAID.

5 (ii) THE CUSTOMER LIVED IN THE PERSON'S RESIDENCE WHEN ALL OR
6 PART OF THE DEBT WAS INCURRED. THE PROVIDER MAY TRANSFER A PRORATED
7 AMOUNT OF THE DEBT TO THE CUSTOMER'S ACCOUNT, BASED UPON THE LENGTH
8 OF TIME THAT THE CUSTOMER RESIDED AT THE PERSON'S RESIDENCE. THIS
9 SUBDIVISION DOES NOT APPLY IF THE CUSTOMER WAS A MINOR WHILE LIVING
10 IN THE PERSON'S RESIDENCE.

11 (3) A PROVIDER SHALL NOT SHUT OFF SERVICE UNLESS IT SENDS A
12 NOTICE TO THE CUSTOMER BY FIRST-CLASS MAIL OR PERSONALLY SERVES THE
13 NOTICE NOT LESS THAN 10 DAYS BEFORE THE DATE OF THE PROPOSED
14 SHUTOFF. A PROVIDER SHALL MAINTAIN A RECORD OF THE DATE THE NOTICE
15 WAS SENT.

16 (4) A NOTICE OF SHUTOFF UNDER SUBSECTION (3) SHALL CONTAIN ALL
17 OF THE FOLLOWING INFORMATION:

18 (A) THE NAME AND ADDRESS OF THE CUSTOMER, AND THE ADDRESS AT
19 WHICH SERVICE IS PROVIDED, IF DIFFERENT.

20 (B) A CLEAR AND CONCISE STATEMENT OF THE REASON FOR THE
21 PROPOSED SHUTOFF OF SERVICE.

22 (C) THE DATE ON OR AFTER WHICH THE PROVIDER MAY SHUT OFF
23 SERVICE, UNLESS THE CUSTOMER TAKES APPROPRIATE ACTION.

24 (D) THAT THE CUSTOMER HAS THE RIGHT TO ENTER INTO A PAYMENT
25 PLAN WITH THE PROVIDER IF THE CLAIM IS FOR AN AMOUNT THAT IS NOT IN
26 DISPUTE AND THE CUSTOMER IS PRESENTLY UNABLE TO PAY IN FULL.

27 (E) THE TELEPHONE NUMBER AND ADDRESS OF THE PROVIDER WHERE THE

1 CUSTOMER MAY MAKE INQUIRY, ENTER INTO A PAYMENT PLAN, OR FILE A
2 COMPLAINT.

3 (F) THAT THE PROVIDER WILL POSTPONE THE SHUTOFF OF SERVICE IF
4 A CERTIFIED MEDICAL EMERGENCY EXISTS AT THE CUSTOMER'S RESIDENCE
5 AND THE CUSTOMER INFORMS AND PROVIDES DOCUMENTATION TO THE PROVIDER
6 OF THAT MEDICAL EMERGENCY.

7 (G) THAT THE PROVIDER WILL POSTPONE SHUTOFF OF SERVICE IF A
8 CUSTOMER IS AN ELIGIBLE LOW-INCOME CUSTOMER AND THE CUSTOMER
9 PROVIDES DOCUMENTATION THAT THE CUSTOMER IS ACTIVELY SEEKING
10 EMERGENCY ASSISTANCE FROM AN ENERGY ASSISTANCE PROGRAM.

11 (5) SUBJECT TO THE REQUIREMENTS OF THIS ACT, A PROVIDER MAY
12 SHUT OFF SERVICE TO A CUSTOMER ON THE DATE SPECIFIED IN THE NOTICE
13 OF SHUTOFF OR AT A REASONABLE TIME FOLLOWING THAT DATE. IF A
14 PROVIDER DOES NOT SHUT OFF SERVICE AND MAILES A SUBSEQUENT NOTICE,
15 THEN THE PROVIDER SHALL NOT SHUT OFF SERVICE BEFORE THE DATE
16 SPECIFIED IN THE SUBSEQUENT NOTICE. SHUTOFF SHALL OCCUR ONLY
17 BETWEEN THE HOURS OF 8 A.M. AND 4 P.M.

18 (6) A PROVIDER SHALL NOT SHUT OFF SERVICE ON A DAY, OR A DAY
19 IMMEDIATELY PRECEDING A DAY, WHEN THE SERVICES OF THE PROVIDER ARE
20 NOT AVAILABLE TO THE GENERAL PUBLIC FOR THE PURPOSE OF RESTORING
21 SERVICE.

22 (7) FOR AN INVOLUNTARY SHUTOFF, AT LEAST 1 DAY BEFORE SHUTOFF
23 OF SERVICE, THE PROVIDER SHALL MAKE NOT FEWER THAN 2 ATTEMPTS TO
24 CONTACT THE CUSTOMER BY 1 OR MORE OF THE FOLLOWING METHODS:

25 (A) A PERSONAL OR AUTOMATED TELEPHONE CALL WHERE DIRECT
26 CONTACT IS MADE WITH A MEMBER OF THE CUSTOMER'S HOUSEHOLD OR A
27 MESSAGE IS RECORDED ON AN ANSWERING MACHINE OR VOICE MAIL.

1 (B) FIRST-CLASS MAIL.

2 (C) A PERSONAL VISIT TO THE CUSTOMER.

3 (D) A WRITTEN NOTICE LEFT AT OR ON THE CUSTOMER'S DOOR.

4 (E) ANY OTHER METHOD APPROVED BY THE COMMISSION.

5 (8) THE PROVIDER SHALL DOCUMENT ALL ATTEMPTS TO CONTACT THE
6 CUSTOMER UNDER SUBSECTION (7).

7 (9) IMMEDIATELY PRECEDING THE SHUTOFF OF SERVICE, AN EMPLOYEE
8 OF THE PROVIDER WHO IS DESIGNATED TO PERFORM THAT FUNCTION MAY
9 IDENTIFY HIMSELF OR HERSELF TO THE CUSTOMER OR ANOTHER RESPONSIBLE
10 PERSON AT THE PREMISES AND MAY ANNOUNCE THE PURPOSE OF HIS OR HER
11 PRESENCE.

12 (10) WHEN A PROVIDER EMPLOYEE SHUTS OFF SERVICE, THE EMPLOYEE
13 SHALL LEAVE A NOTICE. THE NOTICE SHALL STATE THAT SERVICE HAS BEEN
14 SHUT OFF AND SHALL CONTAIN THE ADDRESS AND TELEPHONE NUMBER OF THE
15 PROVIDER WHERE THE CUSTOMER MAY ARRANGE TO HAVE SERVICE RESTORED.

16 (11) FOR AN INVOLUNTARY SHUTOFF USING METERS WITH REMOTE
17 SHUTOFF AND RESTORATION ABILITY, AT LEAST 1 DAY BEFORE SHUTOFF OF
18 SERVICE, THE PROVIDER SHALL MAKE AT LEAST 2 ATTEMPTS TO CONTACT THE
19 CUSTOMER BY 1 OF THE METHODS LISTED IN SUBSECTION (7). ANY NOTICE
20 SHALL STATE THAT THE DISCONNECTION OF SERVICE WILL BE DONE REMOTELY
21 AND THAT A PROVIDER REPRESENTATIVE WILL NOT RETURN TO THE PREMISES
22 BEFORE DISCONNECTION. THE PROVIDER SHALL DOCUMENT ALL ATTEMPTS TO
23 CONTACT THE CUSTOMER. IF THE PROVIDER CONTACTS THE CUSTOMER OR
24 OTHER RESPONSIBLE PERSON IN THE CUSTOMER'S HOUSEHOLD BY TELEPHONE
25 ON THE DAY SERVICE IS TO BE SHUT OFF, THE PROVIDER SHALL INFORM THE
26 CUSTOMER OR OTHER RESPONSIBLE PERSON THAT SHUTOFF OF SERVICE IS
27 IMMINENT AND OF THE STEPS NECESSARY TO AVOID SHUTOFF. UNLESS THE

1 CUSTOMER PRESENTS EVIDENCE THAT REASONABLY DEMONSTRATES THAT THE
2 CLAIM IS SATISFIED OR IS IN DISPUTE, OR THE CUSTOMER MAKES PAYMENT,
3 THE EMPLOYEE MAY SHUT OFF SERVICE. IF THE PROVIDER COMPLIES WITH
4 THE NOTICE REQUIREMENTS OF THIS SUBSECTION, NO FURTHER CUSTOMER
5 CONTACT IS REQUIRED ON THE DAY SERVICE IS TO BE SHUT OFF AND THE
6 PROVIDER MAY SHUT OFF SERVICE.

7 (12) A PROVIDER SHALL NOT SHUT OFF SERVICE FOR ANY OF THE
8 FOLLOWING REASONS:

9 (A) THE CUSTOMER HAS NOT PAID FOR CONCURRENT SERVICE RECEIVED
10 AT A SEPARATE METERING POINT, RESIDENCE, OR LOCATION.

11 (B) THE CUSTOMER HAS NOT PAID FOR SERVICE AT A PREMISES
12 OCCUPIED BY ANOTHER PERSON. A PROVIDER MAY SHUT OFF SERVICE IN ANY
13 OF THE FOLLOWING CIRCUMSTANCES WHERE PROPER NOTICE HAS BEEN GIVEN:

14 (i) IF THE CUSTOMER SUPPLIES A WRITTEN, NOTARIZED STATEMENT
15 THAT THE PREMISES ARE UNOCCUPIED.

16 (ii) IF THE PREMISES ARE OCCUPIED AND THE OCCUPANT AGREES, IN
17 WRITING, TO THE SHUTOFF OF SERVICE.

18 (iii) IF IT IS NOT FEASIBLE TO PROVIDE SERVICE TO THE OCCUPANT
19 AS A CUSTOMER WITHOUT A MAJOR REVISION OF EXISTING DISTRIBUTION
20 FACILITIES.

21 (13) AFTER A PROVIDER HAS SHUT OFF SERVICE, IT SHALL RESTORE
22 SERVICE UPON THE CUSTOMER'S REQUEST WHEN THE CAUSE HAS BEEN CURED
23 OR CREDIT ARRANGEMENTS SATISFACTORY TO THE PROVIDER HAVE BEEN MADE.

24 (14) WHEN A PROVIDER IS REQUIRED TO RESTORE SERVICE AT THE
25 CUSTOMER'S METER MANUALLY, THE PROVIDER SHALL MAKE REASONABLE
26 EFFORTS TO RESTORE SERVICE ON THE DAY THE CUSTOMER REQUESTS
27 RESTORATION. EXCEPT FOR REASONS BEYOND ITS CONTROL, THE PROVIDER

1 SHALL RESTORE SERVICE NOT LATER THAN THE FIRST WORKING DAY AFTER
2 THE CUSTOMER'S REQUEST.

3 (15) FOR PROVIDERS USING METER TECHNOLOGY WITH REMOTE SHUTOFF
4 AND RESTORATION CAPABILITY, SERVICE SHALL BE RESTORED ON THE FIRST
5 WORKING DAY AFTER THE CUSTOMER REQUESTS RESTORATION, EXCEPT IN THE
6 CASE OF DOCUMENTED EQUIPMENT FAILURE.

7 (16) THE PROVIDER MAY ASSESS THE CUSTOMER A CHARGE FOR
8 RESTORING SERVICE OR RELOCATING THE CUSTOMER'S METER.

9 (17) AS USED IN THIS SECTION, "PROVIDER" MEANS A MUNICIPALLY
10 OWNED ELECTRIC OR NATURAL GAS UTILITY.

11 Enacting section 1. This amendatory act takes effect November
12 1, 2009.