

Act No. 172
Public Acts of 2009
Approved by the Governor
December 14, 2009
Filed with the Secretary of State
December 15, 2009
EFFECTIVE DATE: December 15, 2009

**STATE OF MICHIGAN
95TH LEGISLATURE
REGULAR SESSION OF 2009**

Introduced by Senator Patterson

ENROLLED SENATE BILL No. 557

AN ACT 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 9p.

The People of the State of Michigan enact:

Sec. 9p. (1) The attorney general, on his or her own motion or upon a referral from the commission in a case of serious injury or death, or any customer of a municipally owned electric or natural gas utility may commence a civil action for injunctive relief or imposition of a civil fine as provided in subsection (3) against that municipally owned electric or natural gas utility if the utility fails to meet the applicable requirements of this act. A municipally owned electric utility shall establish a complaint resolution process for its customers to resolve any allegations of violations of this act that have not resulted in a death or serious injury.

(2) An action under this section shall be commenced in the circuit court for the circuit in which the principal office of the municipally owned electric or natural gas utility is located. An action shall not be filed under this section unless the prospective plaintiff has given the prospective defendant at least 60 days' written notice of the prospective plaintiff's intent to sue, the basis for the suit, and the relief sought. Within 30 days after the prospective defendant receives written notice of the prospective plaintiff's intent to sue, the prospective defendant and plaintiff shall meet and make a good faith attempt to determine if there is a credible basis for the action. If both parties agree that there is a credible basis for the action, the prospective defendant shall take all reasonable and prudent steps necessary to comply with the applicable requirements of this act within 10 days of the meeting and may enter into a compliance agreement which may include the payment of a civil fine.

(3) In issuing a final order in an action brought under this section, a court may award costs of litigation, including reasonable attorney and expert witness fees, to the prevailing or substantially prevailing party. A court may order a municipally owned electric or natural gas utility to pay a civil fine for the first offense of not less than \$1,000.00 or more than \$20,000.00. For a second offense, the court may order the person to pay a fine of not less than \$2,000.00 or more than \$40,000.00. For a third and any subsequent offense, the court may order the person to pay a fine of not less than \$5,000.00 or more than \$50,000.00. A civil fine ordered under this section shall be deposited in the low income and energy efficiency fund.

(4) A municipally owned electric or natural gas utility or a customer of a municipally owned electric or natural gas utility is subject to this act only as expressly provided in this act. Nothing in this act shall give the commission the power to regulate a municipally owned electric or natural gas utility. Nothing in this section shall be construed to prevent a party from pursuing any other legal or equitable remedy that may be available to them.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Richard J. Brown

Clerk of the House of Representatives

Approved

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Governor