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BILL ANALYSIS

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House Bill 5476 (Substitute H-4 as passed by the House)
Sponsor: Representative Jim Stamas
House Committee: Energy and Technology
Senate Committee: Energy and Technology

Date Completed: 5-19-14

CONTENT

The bill would amend Public Act 3 of 1939, the Public Service Commission (PSC) law, to provide for the examination and modification of the cost allocation and rate design methods used to set electric utilities' rates. With regard to utilities with at least 1.0 million retail customers in Michigan, the bill would do the following:

- **Require the PSC, within 60 days after the bill took effect, to commence a proceeding for an examination of each utility's cost allocation and rate design methods.**
- **Require a utility, within 60 days after a proceeding began, to file a proposal to modify the methods that were used to set existing rates.**
- **Require the PSC, within 270 days after a proposal was filed, to issue a final order adopting the cost allocation and rate design methods it considered appropriate.**
- **Require the PSC to allow any interested person to intervene in a proceeding.**
- **Authorize the PSC to consolidate certain proceedings.**
- **Require the PSC, within 150 days after proposals were filed or in a consolidated case, to issue an interim report to the Legislature describing the actions taken to comply with the bill's proceeding requirements.**
- **Require the PSC, at least 60 days before a final order had to be issued or in a consolidated case, to forward to the Legislature for review the proposal for decision in each of the proceedings initiated under the bill.**

With regard to smaller electric utilities, excluding member-regulated electric cooperative utilities, the bill would do the following:

- **Allow a utility with fewer than 120,000 Michigan retail customers, within two years after the bill took effect, to apply to the PSC to modify the cost allocation and rate design methods used to set the utility's existing rates.**
- **Require an electric utility serving 120,000 or more but fewer than 1.0 million retail customers in Michigan, within 180 days after the bill took effect, to apply to the PSC to modify its cost allocation and rate design methods.**
- **Require the PSC, upon receiving an application, to commence a proceeding for the examination and implementation of modifications to the utility's methods.**

Utilities with at least 1.0 million Michigan Customers

With regard to electric utilities with at least 1.0 million retail customers in Michigan, the law required the PSC to phase in electric rates equal to the cost of providing service to each customer class by October 6, 2013. The cost of providing service to each customer class must be based on the allocation of production-related and transmission costs using the 50-25-25 method of cost allocation; the PSC, however, may modify this method to better ensure rates are equal to the cost of service if this method does not result in a greater amount of production-related and transmission costs allocated to primary customers. Under the bill, the PSC could modify this method to better ensure rates were equal to the cost of service under any circumstances.

Within 60 days after the bill took effect, the PSC would have to commence a proceeding for each affected electric utility to examine cost allocation and rate design methods used to set rates. Within 60 days after the proceeding was commenced, each affected utility would have to file a proposal to modify the existing methods that had been used to set existing rates, and give all of the utility's customers notice outlining the proposed methods. A proposal filed by an affected utility would have to meet both of the following conditions:

-- Be consistent with the provision requiring rates to equal the cost of providing service to each customer class (which authorizes the PSC to modify the 50-25-25 method of allocating production-related and transmission costs to better ensure rates are equal to the cost of service).
-- Explore different methods for allocation of production, transmission, distribution, and customer-related costs and overall rate design, based on cost of service, that supported affordable and competitive electric rates for all customer classes.

The scope of the proceeding would be limited to examining cost allocation and rate design methods proposed to set rates for each affected electric utility that filed a proposal. The PSC would have to allow any interested person to intervene in a proceeding, including on behalf of residential utility customers. The Commission could not schedule a prehearing conference for the purposes of considering interventions until a utility filed a proposal. Within 270 days after a proposal was filed, the Commission would have to issue a final order adopting the cost allocation and rate design methods it considered appropriate. The order would have to do either of the following:

-- Implement rates consistent with those cost allocation and rate design methods.
-- Fix a date of not later than December 1, 2015, for the establishment of rates consistent with those methods.

A utility could file other rate applications while the proceeding was pending. If an affected utility filed a rate application before December 1, 2014, the PSC could close and consolidate the proceedings initiated under the bill with the case so long as a final order addressing those proceedings could be implemented by December 1, 2015.

Within 150 days after proposals were filed or in a consolidated case, the PSC would have to issue to the Legislature an interim report describing the actions that had been taken to comply with the bill's requirements for cost allocation and rate design method proceedings. The report would have to include all of the following:

-- A summary of proceedings that had been initiated.
-- The schedules adopted for those proceedings.
-- The cost allocation and rate design proposals made by parties to each of the proceedings.
-- The estimated impacts on the various customer classes of each of the proposals, in aggregate and for an average customer in each customer class.
-- A description of qualifications for any proposed new rate and estimation of the number of customers affected by that new rate.
-- A description of proposed definitions or methods that supported affordable and competitive electric rates for all customer classes.

At least 60 days before a final order had to be issued or in a consolidated case, the PSC would have to forward to the Legislature for review the proposal for decision in each of the proceedings initiated under the bill issued by the administrative law judge presiding over those proceedings.

Utilities with fewer than 1.0 Million Michigan Customers

The law required the PSC to approve rates equal to the cost of providing service to customers of electric utilities serving fewer than 1.0 million Michigan retail customers. The Commission had to approve the rates in each utility's first general rate case filed after passage of Public Act 286 of 2008. If, in the PSC's judgment, the impact of imposing cost-of-service rates on customers of a utility would have a material impact, the Commission could approve an order that implemented those rates over a suitable number of years. The Commission must ensure that any impact on rates due to the cost-of-service requirement is not more than 2.5% per year.

Within two years after the bill took effect, an electric utility serving fewer than 120,000 retail customers in Michigan could file an application with the PSC to modify the cost allocation and rate design methods used to set that utility's existing rates. Within 180 days after the bill's effective date, an electric utility serving 120,000 or more but fewer than 1.0 million retail customers in Michigan would have to file an application with the PSC to modify the cost allocation and rate design methods used to set that utility's existing rates. These provisions would not apply to a cooperative electric utility that had elected to become member-regulated under the Electric Cooperative Member-Regulation Act.

Upon receiving an application, the PSC would have to commence a proceeding for that utility. The proceeding would have to be limited to examining and implementing any modifications to the utility's cost allocation and rate design methods. An application would have to meet both of the following conditions:

-- Be consistent with the provisions regarding the cost of providing service.
-- Explore different methods for allocation of production, transmission, distribution, and customer-related costs and overall rate design, based on cost of service, that supported affordable and competitive electric rates for all customer classes.

Affordable Rate Analysis

Under the bill, regardless of the size of a utility's customer base, an analysis of affordable rates would have to include both of the following:

-- An analysis of rate impacts directly attributable to proposed cost allocation methods, excluding expiring costs associated with non-base energy and its delivery that had, except for an expiring contract described in Section 5 of the Energy for Economic Development Act, specific statutory time durations.
-- An analysis of the expected impact overall on customer bills.

(Section 5 of the Energy for Economic Development Act pertains to an electric utility's contract with an industrial customer providing for an increase in connected load at a single premises of at least 70,200,000 kilowatt hours over 12 consecutive months pursuant to an economic development tariff provision approved by the PSC as of October 6, 2008. Until December 1, 2015, the Commission may not take any action that would alter the rates, terms, conditions, duration, or enforceability of that tariff.)

MCL 460.11 Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill would have a neutral fiscal impact on the Public Service Commission within the Department of Licensing and Regulatory Affairs, and no fiscal impact on local units of government. The bill would result in an indeterminate increase in administrative costs for the PSC related to required examinations of cost allocation and rate design methods for large public utilities. Additional increases in administrative costs would result from processing applications from smaller public utilities that applied to modify their existing cost allocations and rate designs. The fiscal impact of these increased administrative costs would be neutral, however, since the PSC has statutory authority to set the assessments it charges to regulate public utilities at a level that cover its administrative costs. To the extent that current public utility assessment collections would not be sufficient to cover these costs, the PSC could increase those assessments to compensate.

Fiscal Analyst: Josh Sefton