

HOUSE BILL No. 5555

May 8, 2014, Introduced by Reps. Nesbitt, MacMaster, LaVoy, Dianda and Yonker 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,"

(MCL 460.1 to 460.11) by adding section 9u.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 9U. (1) A NATURAL GAS UTILITY MAY FILE AN INFRASTRUCTURE
2 EXPANSION INVESTMENT PLAN WITH THE COMMISSION TO PROVIDE THE
3 NATURAL GAS INFRASTRUCTURE NECESSARY TO SERVE UNSERVED OR
4 UNDERSERVED AREAS. AN INFRASTRUCTURE EXPANSION INVESTMENT PLAN
5 FILED UNDER THIS SECTION SHALL INCLUDE ALL OF THE FOLLOWING:

6 (A) A 1-YEAR PLAN THAT PROJECTS INFRASTRUCTURE INVESTMENT
7 RELATED TO INFRASTRUCTURE EXPANSION INTO UNSERVED OR UNDERSERVED
8 AREAS.

9 (B) A PROPOSED INFRASTRUCTURE EXPANSION RECOVERY MECHANISM
10 THAT PROVIDES FOR THE RECOVERY OF THE INCREMENTAL REVENUE
11 REQUIREMENT ASSOCIATED WITH THE INFRASTRUCTURE EXPANSION
12 INVESTMENT.

13 (C) ALL EXPECTED COSTS AND BENEFITS ASSOCIATED WITH PROPOSED
14 INVESTMENTS, DEMONSTRATING THAT THOSE INVESTMENTS WILL AUGMENT OR
15 ENHANCE ANY CUSTOMER ATTACHMENT PROGRAMS AUTHORIZED BY THE
16 COMMISSION AND SUPPORT THE NATURAL GAS UTILITY'S ABILITY TO REACH
17 UNSERVED OR UNDERSERVED AREAS OR TO PROVIDE ADEQUATE CAPACITY FOR
18 DEMAND GROWTH IN CURRENTLY UNSERVED OR UNDERSERVED AREAS.

19 (D) AN INVESTMENT PROJECTION OF NATURAL GAS INFRASTRUCTURE
20 EXPANSION INVESTMENT UP TO 5 YEARS IN DURATION PROPOSED TO BE
21 RECOVERED IN FUTURE CONSECUTIVE INFRASTRUCTURE EXPANSION RECOVERY
22 MECHANISMS.

23 (2) WITHIN 180 DAYS AFTER THE FILING OF AN INFRASTRUCTURE
24 EXPANSION INVESTMENT PLAN UNDER SUBSECTION (1), THE COMMISSION
25 SHALL EVALUATE THE REASONABLENESS AND PRUDENCE OF THE PLAN,

1 INCLUDING ANY PROPOSED INFRASTRUCTURE EXPANSION RECOVERY MECHANISM,
2 AND SHALL ISSUE AN ORDER THAT APPROVES, DISAPPROVES, OR AMENDS THE
3 INFRASTRUCTURE EXPANSION INVESTMENT PLAN AND THE INFRASTRUCTURE
4 EXPANSION RECOVERY MECHANISM. THE COMMISSION SHALL CONDUCT THE
5 REVIEW OF A NATURAL GAS UTILITY'S PLAN AS A CONTESTED HEARING
6 PURSUANT TO CHAPTER 4 OF THE ADMINISTRATIVE PROCEDURES ACT OF 1969,
7 1969 PA 306, MCL 24.271 TO 24.287. IN ISSUING AN ORDER UNDER THIS
8 SUBSECTION, THE COMMISSION SHALL ALSO GIVE CONSIDERATION TO AND
9 MAKE ALL NECESSARY DETERMINATIONS IN ORDER TO MEET THE REQUIREMENTS
10 OF 1929 PA 69, MCL 460.501 TO 460.506.

11 (3) A NATURAL GAS UTILITY MAY IMPLEMENT CHARGES PURSUANT TO AN
12 INFRASTRUCTURE EXPANSION RECOVERY MECHANISM IN THE MANNER APPROVED
13 IN AN INFRASTRUCTURE EXPANSION INVESTMENT PLAN. A NATURAL GAS
14 UTILITY WHOSE INFRASTRUCTURE EXPANSION INVESTMENT PLAN IS APPROVED
15 BY THE COMMISSION UNDER SUBSECTION (2) SHALL RECORD INCREMENTAL
16 RATE BASE ITEMS TO ENSURE THE ABILITY TO ILLUSTRATE INCREMENTAL
17 RATE BASE TOTALS ON A MONTHLY BASIS, USING SPECIALLY DESIGNATED
18 SUBACCOUNTS WHEN POSSIBLE.

19 (4) IN ITS FINAL ORDER IN A PROCEEDING CONDUCTED UNDER
20 SUBSECTION (2), THE COMMISSION SHALL EVALUATE THE DECISIONS
21 UNDERLYING THE INVESTMENT PROJECTION FILED BY A NATURAL GAS UTILITY
22 AS PART OF THE INFRASTRUCTURE EXPANSION INVESTMENT PLAN. THE
23 COMMISSION MAY ALSO INDICATE ANY COST ITEMS IN THE INVESTMENT
24 PROJECTION THAT, ON THE BASIS OF PRESENT EVIDENCE, THE COMMISSION
25 WOULD BE UNLIKELY TO PERMIT THE NATURAL GAS UTILITY TO RECOVER FROM
26 ITS CUSTOMERS IN RATES, RATE SCHEDULES, OR INFRASTRUCTURE EXPANSION
27 INVESTMENT PLANS ESTABLISHED IN THE FUTURE.

(5) A NATURAL GAS UTILITY WHOSE INFRASTRUCTURE EXPANSION INVESTMENT PLAN AND INFRASTRUCTURE EXPANSION RECOVERY MECHANISM IS APPROVED UNDER SUBSECTION (2) SHALL ANNUALLY FILE WITH THE COMMISSION AN INFRASTRUCTURE EXPANSION RECOVERY MECHANISM RECONCILIATION. WITHIN 180 DAYS FROM THE DATE THE NATURAL GAS UTILITY FILES A RECONCILIATION UNDER THIS SUBSECTION, THE COMMISSION SHALL REVIEW THE FILING IN A CONTESTED HEARING CONDUCTED PURSUANT TO CHAPTER 4 OF THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.271 TO 24.287. IN A RECONCILIATION UNDER THIS SUBSECTION, THE COMMISSION SHALL REVIEW THE IMPLEMENTATION OF THE INFRASTRUCTURE EXPANSION INVESTMENT PLAN TO DETERMINE IF THE NATURAL GAS UTILITY EXTENDED SERVICE TO THE UNSERVED OR UNDERSERVED AREAS IDENTIFIED IN THE PLAN AND COMPARE THE ACTUAL INVESTMENT MADE BY THE NATURAL GAS UTILITY WITH THE INVESTMENT APPROVED IN THE PLAN UNDER SUBSECTION (2). THE COMMISSION SHALL ADJUST THE INFRASTRUCTURE INVESTMENT RECOVERY MECHANISM TO REFLECT THE ACTUAL LEVELS OF INVESTMENT MADE BY THE NATURAL GAS UTILITY. HOWEVER, IF THE ACTUAL AMOUNT OF INVESTMENT EXCEEDS THE AMOUNT APPROVED IN THE PLAN, A NATURAL GAS UTILITY MAY RECOVER THE EXCESS COSTS IF THE NATURAL GAS UTILITY DEMONSTRATES THE REASONABLENESS AND PRUDENCE OF THOSE COSTS IN A SUBSEQUENT PROCEEDING CONDUCTED UNDER SUBSECTION (2) OR AS PART OF A GENERAL GAS RATE APPLICATION.

(6) THIS SECTION DOES NOT DO ANY OF THE FOLLOWING:

(A) PROHIBIT A NATURAL GAS UTILITY FROM FILING A GENERAL GAS RATE APPLICATION.

(B) INHIBIT THE COMMISSION'S AUTHORITY TO APPROVE RATE ADJUSTMENT MECHANISMS FOR NATURAL GAS OR ELECTRIC UTILITIES OR

1 UTILITY CUSTOMER ATTACHMENT PROGRAMS.

2 (C) PROHIBIT THE COMMISSION FROM APPROVING AN INFRASTRUCTURE
3 EXPANSION INVESTMENT PLAN AND INFRASTRUCTURE EXPANSION RECOVERY
4 MECHANISM AS PART OF A GENERAL GAS RATE APPLICATION.

5 (7) THE COMMISSION MAY PROMULGATE ADMINISTRATIVE RULES
6 PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306,
7 MCL 24.201 TO 24.328, FOR THE PROCESSING OF ANY PROCEEDING REQUIRED
8 UNDER THIS SECTION.

9 (8) AS USED IN THIS SECTION:

10 (A) "INCREMENTAL RATE BASE" MEANS THE LEVEL OF RATE BASE ABOVE
11 THE HIGHER OF EITHER THE RATE BASE LEVEL REFLECTED IN THE NATURAL
12 GAS UTILITY'S MOST RECENT GENERAL GAS RATE CASE OR THE LEVEL OF
13 RATE BASE RECORDED AT THE YEAR ENDING BEFORE THE START OF THE PLAN
14 YEAR.

15 (B) "INCREMENTAL REVENUE REQUIREMENT" MEANS THE INCREMENTAL
16 REVENUE REQUIRED TO RECOVER THE COSTS ASSOCIATED WITH
17 INFRASTRUCTURE EXPANSION INVESTMENT THAT CONSISTS OF THE FOLLOWING:

18 (i) THE RATE OF RETURN ON THE INCREMENTAL RATE BASE, USING THE
19 RATE OF RETURN APPROVED BY THE COMMISSION IN THE MOST RECENT
20 GENERAL GAS RATE CASE FOR THE NATURAL GAS UTILITY.

21 (ii) THE ANNUAL DEPRECIATION EXPENSE ASSOCIATED WITH THE
22 INCREMENTAL RATE BASE.

23 (iii) THE ANNUAL INCREMENTAL PROPERTY TAX ASSOCIATED WITH THE
24 INCREMENTAL RATE BASE.

25 (iv) NET OF THE INCREMENTAL ALLOWANCE FOR FUNDS USED DURING
26 CONSTRUCTION.

27 (C) "INFRASTRUCTURE EXPANSION INVESTMENT" MEANS INVESTMENT IN

1 PLANNING, DEVELOPING, ACQUIRING, AND CONSTRUCTING ANY NATURAL GAS
2 PIPELINE OR FACILITIES, NOT INCLUDING SERVICE LINES, NECESSARY TO
3 THE TRANSMISSION AND DISTRIBUTION OF NATURAL GAS TO AN UNSERVED OR
4 UNDERSERVED AREA.

5 (D) "INFRASTRUCTURE EXPANSION RECOVERY MECHANISM" MEANS THE
6 ELEMENT OF RATES TO BE CHARGED FOR NATURAL GAS SERVICE TO REFLECT
7 THE INCREMENTAL REVENUE REQUIREMENT ASSOCIATED WITH AN
8 INFRASTRUCTURE EXPANSION INVESTMENT PLAN APPROVED UNDER SUBSECTION
9 (2).

10 (E) "NATURAL GAS UTILITY" MEANS AN INVESTOR-OWNED BUSINESS
11 ENGAGED IN THE SALE AND DISTRIBUTION OF NATURAL GAS IN THIS STATE
12 WHOSE RATES ARE REGULATED BY THE COMMISSION.

13 (F) "UNSERVED OR UNDERSERVED AREA" MEANS AN AREA IN THIS STATE
14 LACKING ADEQUATE NATURAL GAS PIPELINE INFRASTRUCTURE TO MEET THE
15 DEMAND OF EXISTING OR POTENTIAL END-USE CUSTOMERS.