

# HOUSE BILL No. 4093

January 26, 2017, Introduced by Rep. Roberts and referred to the Committee on Energy Policy.

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; and to repeal acts and  
parts of acts.

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. THE AMOUNT A NATURAL GAS UTILITY SPENDS ANNUALLY  
5        ON AN INFRASTRUCTURE EXPANSION INVESTMENT PLAN UNDER THIS SECTION  
6        MUST NOT EXCEED \$5,000,000.00 OR 25% OF THAT UTILITY'S ANNUAL  
7        SPENDING ON REPLACING CAST IRON, UNPROTECTED STEEL, AND VINTAGE  
8        PLASTIC PIPE, WHICHEVER IS GREATER. AN INFRASTRUCTURE EXPANSION  
9        INVESTMENT PLAN FILED UNDER THIS SECTION MUST INCLUDE ALL OF THE  
10       FOLLOWING:

11       (A) A 1-YEAR PLAN THAT PROJECTS INFRASTRUCTURE INVESTMENT  
12       RELATED TO INFRASTRUCTURE EXPANSION INTO UNSERVED OR UNDERSERVED  
13       AREAS.

14       (B) A PROPOSED INFRASTRUCTURE EXPANSION RECOVERY MECHANISM  
15       THAT PROVIDES FOR THE RECOVERY OF THE INCREMENTAL REVENUE  
16       REQUIREMENT ASSOCIATED WITH THE INFRASTRUCTURE EXPANSION  
17       INVESTMENT.

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

1 DEMONSTRATING THE BENEFITS OF THE PROPOSED INVESTMENTS, A UTILITY  
2 SHALL IDENTIFY ALL OF THE FOLLOWING:

3 (i) THE PROJECTED NUMBER OF CUSTOMERS THAT WILL BE PROVIDED  
4 ACCESS OR INCREASED ACCESS TO NATURAL GAS SERVICE BY THE PROPOSED  
5 INVESTMENT.

6 (ii) THE PROJECTED NATURAL GAS DEMAND OR GROWTH IN DEMAND  
7 GENERATED BY THE PROPOSED INVESTMENT.

8 (iii) ANY ECONOMIC IMPACTS OF THE PROPOSED INVESTMENT,  
9 INCLUDING PROJECTED CUSTOMER FUEL COST SAVINGS.

10 (iv) ANY IMPACTS THE PROPOSED INVESTMENT MAY HAVE ON THE  
11 RELIABILITY OF NATURAL GAS SERVICE IN THIS STATE.

12 (D) AN INVESTMENT PROJECTION OF NATURAL GAS INFRASTRUCTURE  
13 EXPANSION INVESTMENT UP TO 5 YEARS IN DURATION PROPOSED TO BE  
14 RECOVERED IN FUTURE CONSECUTIVE INFRASTRUCTURE EXPANSION RECOVERY  
15 MECHANISMS.

16 (2) WITHIN 180 DAYS AFTER THE FILING OF AN INFRASTRUCTURE  
17 EXPANSION INVESTMENT PLAN UNDER SUBSECTION (1), THE COMMISSION  
18 SHALL EVALUATE THE REASONABLENESS AND PRUDENCE OF THE PLAN,  
19 INCLUDING ANY PROPOSED INFRASTRUCTURE EXPANSION RECOVERY MECHANISM,  
20 AND SHALL ISSUE AN ORDER THAT APPROVES, DISAPPROVES, OR AMENDS THE  
21 INFRASTRUCTURE EXPANSION INVESTMENT PLAN AND THE INFRASTRUCTURE  
22 EXPANSION RECOVERY MECHANISM. THE COMMISSION SHALL CONDUCT THE  
23 REVIEW OF A NATURAL GAS UTILITY'S PLAN AS A CONTESTED HEARING  
24 PURSUANT TO CHAPTER 4 OF THE ADMINISTRATIVE PROCEDURES ACT OF 1969,  
25 1969 PA 306, MCL 24.271 TO 24.287. IN ISSUING AN ORDER UNDER THIS  
26 SUBSECTION, THE COMMISSION SHALL ALSO GIVE CONSIDERATION TO AND  
27 MAKE ALL NECESSARY DETERMINATIONS IN ORDER TO MEET THE REQUIREMENTS

1 OF 1929 PA 69, MCL 460.501 TO 460.506.

2 (3) A NATURAL GAS UTILITY MAY IMPLEMENT CHARGES PURSUANT TO AN  
3 INFRASTRUCTURE EXPANSION RECOVERY MECHANISM IN THE MANNER APPROVED  
4 IN AN INFRASTRUCTURE EXPANSION INVESTMENT PLAN. A NATURAL GAS  
5 UTILITY WHOSE INFRASTRUCTURE EXPANSION INVESTMENT PLAN IS APPROVED  
6 BY THE COMMISSION UNDER SUBSECTION (2) SHALL RECORD INCREMENTAL  
7 RATE BASE ITEMS TO ENSURE THE ABILITY TO ILLUSTRATE INCREMENTAL  
8 RATE BASE TOTALS ON A MONTHLY BASIS, USING SPECIALLY DESIGNATED  
9 SUBACCOUNTS WHEN POSSIBLE.

10 (4) IN ITS FINAL ORDER IN A PROCEEDING CONDUCTED UNDER  
11 SUBSECTION (2), THE COMMISSION SHALL EVALUATE THE DECISIONS  
12 UNDERLYING THE INVESTMENT PROJECTION FILED BY A NATURAL GAS UTILITY  
13 AS PART OF THE INFRASTRUCTURE EXPANSION INVESTMENT PLAN. THE  
14 COMMISSION MAY ALSO INDICATE ANY COST ITEMS IN THE INVESTMENT  
15 PROJECTION THAT, ON THE BASIS OF PRESENT EVIDENCE, THE COMMISSION  
16 WOULD BE UNLIKELY TO PERMIT THE NATURAL GAS UTILITY TO RECOVER FROM  
17 ITS CUSTOMERS IN RATES, RATE SCHEDULES, OR INFRASTRUCTURE EXPANSION  
18 INVESTMENT PLANS ESTABLISHED IN THE FUTURE.

19 (5) A NATURAL GAS UTILITY WHOSE INFRASTRUCTURE EXPANSION  
20 INVESTMENT PLAN AND INFRASTRUCTURE EXPANSION RECOVERY MECHANISM IS  
21 APPROVED UNDER SUBSECTION (2) SHALL ANNUALLY FILE WITH THE  
22 COMMISSION AN INFRASTRUCTURE EXPANSION RECOVERY MECHANISM  
23 RECONCILIATION. WITHIN 180 DAYS AFTER THE DATE THE NATURAL GAS  
24 UTILITY FILES A RECONCILIATION UNDER THIS SUBSECTION, THE  
25 COMMISSION SHALL REVIEW THE FILING IN A CONTESTED HEARING CONDUCTED  
26 PURSUANT TO CHAPTER 4 OF THE ADMINISTRATIVE PROCEDURES ACT OF 1969,  
27 1969 PA 306, MCL 24.271 TO 24.287. IN A RECONCILIATION UNDER THIS

1 SUBSECTION, THE COMMISSION SHALL REVIEW THE IMPLEMENTATION OF THE  
2 INFRASTRUCTURE EXPANSION INVESTMENT PLAN TO DETERMINE IF THE  
3 NATURAL GAS UTILITY EXTENDED SERVICE TO THE UNSERVED OR UNDERSERVED  
4 AREAS IDENTIFIED IN THE PLAN AND COMPARE THE ACTUAL INVESTMENT MADE  
5 BY THE NATURAL GAS UTILITY WITH THE INVESTMENT APPROVED IN THE PLAN  
6 UNDER SUBSECTION (2). THE COMMISSION SHALL ADJUST THE  
7 INFRASTRUCTURE INVESTMENT RECOVERY MECHANISM TO REFLECT THE ACTUAL  
8 LEVELS OF INVESTMENT MADE BY THE NATURAL GAS UTILITY. HOWEVER, IF  
9 THE ACTUAL AMOUNT OF INVESTMENT EXCEEDS THE AMOUNT APPROVED IN THE  
10 PLAN, A NATURAL GAS UTILITY MAY RECOVER THE EXCESS COSTS IF THE  
11 NATURAL GAS UTILITY DEMONSTRATES THE REASONABLENESS AND PRUDENCE OF  
12 THOSE COSTS IN A SUBSEQUENT PROCEEDING CONDUCTED UNDER SUBSECTION  
13 (2) OR AS PART OF A GENERAL GAS RATE APPLICATION.

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

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

17 (B) INHIBIT THE COMMISSION'S AUTHORITY TO APPROVE RATE  
18 ADJUSTMENT MECHANISMS FOR NATURAL GAS OR ELECTRIC UTILITIES OR  
19 UTILITY CUSTOMER ATTACHMENT PROGRAMS.

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

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

27 (8) AS USED IN THIS SECTION:

1 (A) "INCREMENTAL RATE BASE" MEANS THE LEVEL OF RATE BASE ABOVE  
2 THE HIGHER OF EITHER THE RATE BASE LEVEL REFLECTED IN THE NATURAL  
3 GAS UTILITY'S MOST RECENT GENERAL GAS RATE CASE OR THE LEVEL OF  
4 RATE BASE RECORDED AT THE YEAR ENDING BEFORE THE START OF THE PLAN  
5 YEAR.

6 (B) "INCREMENTAL REVENUE REQUIREMENT" MEANS THE INCREMENTAL  
7 REVENUE REQUIRED TO RECOVER THE COSTS ASSOCIATED WITH  
8 INFRASTRUCTURE EXPANSION INVESTMENT THAT CONSISTS OF ALL OF THE  
9 FOLLOWING:

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

13 (ii) THE ANNUAL DEPRECIATION EXPENSE ASSOCIATED WITH THE  
14 INCREMENTAL RATE BASE.

15 (iii) THE ANNUAL INCREMENTAL PROPERTY TAX ASSOCIATED WITH THE  
16 INCREMENTAL RATE BASE.

17 (iv) NET OF THE INCREMENTAL ALLOWANCE FOR FUNDS USED DURING  
18 CONSTRUCTION.

19 (C) "INFRASTRUCTURE EXPANSION INVESTMENT" MEANS INVESTMENT IN  
20 PLANNING, DEVELOPING, ACQUIRING, AND CONSTRUCTING ANY NATURAL GAS  
21 PIPELINE OR FACILITIES, NOT INCLUDING SERVICE LINES, NECESSARY TO  
22 THE TRANSMISSION AND DISTRIBUTION OF NATURAL GAS TO AN UNSERVED OR  
23 UNDERSERVED AREA. INFRASTRUCTURE EXPANSION INVESTMENT DOES NOT  
24 INCLUDE EITHER OF THE FOLLOWING:

25 (i) INVESTMENTS IN PLANNING, DEVELOPING, ACQUIRING, AND  
26 CONSTRUCTING ANY NATURAL GAS PIPELINE OR FACILITIES TO PROVIDE  
27 NATURAL GAS SERVICE TO CUSTOMERS THAT ARE NOT LOCATED IN THE

1 UNSERVED OR UNDERSERVED AREA ON THE EFFECTIVE DATE OF THE  
2 AMENDATORY ACT THAT ADDED THIS SECTION.

3 (ii) CUSTOMER SERVICE CONNECTION CHARGES OR FEES.

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

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

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

15 (9) THIS SECTION IS REPEALED EFFECTIVE 10 YEARS AFTER THE  
16 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION.

17 Enacting section 1. This amendatory act takes effect 90 days  
18 after the date it is enacted into law.