

# HOUSE BILL No. 5902

May 1, 2018, Introduced by Reps. Lauwers, Glenn, Elder, Guerra, Kelly, Hauck, Lucido, Frederick, Lower, Bellino, Wentworth, Cole and Sneller 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 powers and duties of certain state governmental officers and entities; 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 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 10gg.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1        SEC. 10GG. (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS  
2 ACT, THE COMMISSION MAY ESTABLISH LONG-TERM ELECTRICITY RATES FOR  
3 INDUSTRIAL CUSTOMERS. AN ELECTRIC UTILITY MAY PROPOSE A LONG-TERM  
4 INDUSTRIAL LOAD RATE IN A GENERAL RATE CASE FILING OR IN A STAND-  
5 ALONE PROCEEDING. THE COMMISSION SHALL APPROVE THE LONG-TERM  
6 INDUSTRIAL LOAD RATE PROPOSED BY THE ELECTRIC UTILITY IF THE  
7 COMMISSION FINDS ALL OF THE FOLLOWING:

8        (A) THE COST OF SERVICE FOR THE CAPACITY NEEDED TO SERVE THE  
9 INDUSTRIAL CUSTOMER UNDER THE PROPOSED LONG-TERM INDUSTRIAL LOAD  
10 RATE IS BASED ON 1 OR MORE DESIGNATED POWER SUPPLY RESOURCES.

11        (B) THE PROPOSED LONG-TERM INDUSTRIAL LOAD RATE REQUIRES THE  
12 INDUSTRIAL CUSTOMER TO ENTER INTO A CONTRACT FOR A TERM EQUAL TO  
13 EITHER OF THE FOLLOWING:

14        (i) THE TERM OF THE POWER PURCHASE AGREEMENT OR AGREEMENTS,  
15 THAT MUST NOT BE LESS THAN 15 YEARS, FOR 1 OR MORE DESIGNATED POWER  
16 SUPPLY RESOURCES IF THE RESOURCES ARE NOT UTILITY-OWNED RESOURCES.

17        (ii) THE EXPECTED REMAINING LIFE OF 1 OR MORE DESIGNATED POWER  
18 SUPPLY RESOURCES IF THE RESOURCES ARE UTILITY-OWNED RESOURCES.

19        (C) THE PROPOSED LONG-TERM INDUSTRIAL LOAD RATE REQUIRES THAT  
20 THE INDUSTRIAL CUSTOMER HAVE AN ANNUAL AVERAGE ELECTRIC DEMAND OF  
21 AT LEAST 200 MEGAWATTS AT 1 SITE AT THE TIME THE CONTRACT FOR A  
22 TERM IS ENTERED INTO, HAVE AN ANNUAL LOAD FACTOR OF AT LEAST 75% AT  
23 THE TIME THE CONTRACT FOR A TERM IS ENTERED INTO, AND MUST  
24 DEMONSTRATE THAT THE INDUSTRIAL CUSTOMER WOULD NOT PURCHASE  
25 STANDARD TARIFF SERVICE FROM THE ELECTRIC UTILITY EXCEPT UNDER THE  
26 LONG-TERM INDUSTRIAL LOAD RATE. THE INDUSTRIAL CUSTOMER  
27 DEMONSTRATES THAT IT WOULD NOT PURCHASE STANDARD TARIFF SERVICE

1 FROM THE ELECTRIC UTILITY EXCEPT UNDER THE LONG-TERM INDUSTRIAL  
2 LOAD RATE IF ANY OF THE FOLLOWING CONDITIONS EXIST:

3 (i) THE CUSTOMER HAS AVAILABLE SELF-SERVICE POWER IN A  
4 QUANTITY EQUAL TO THE CONTRACT DEMAND LEVEL.

5 (ii) THE CUSTOMER, OR AN ENTITY ACTING ON THE CUSTOMER'S  
6 BEHALF, HAS ENTERED THE APPLICABLE REGIONAL TRANSMISSION  
7 ORGANIZATION'S GENERATION INTERCONNECTION QUEUE FOR A NEW  
8 GENERATION RESOURCE THAT, IF CONSTRUCTED, WOULD QUALIFY AS SELF-  
9 SERVICE POWER IN A QUANTITY EQUAL TO THE CONTRACT DEMAND LEVEL.

10 ENTERING THE REGIONAL TRANSMISSION ORGANIZATION'S INTERCONNECTION  
11 QUEUE MEANS COMPLIANCE WITH ALL APPLICABLE INTERCONNECTION  
12 APPLICATION REQUIREMENTS, SUCH AS PAYMENT OF THE APPLICATION FEE,  
13 DISCLOSURE OF THE TECHNICAL REQUIREMENTS, PAYMENT OF THE DEFINITIVE  
14 PLANNING PHASE STUDYING FUNDING DEPOSIT, DEMONSTRATION OF SITE  
15 CONTROL, AND PAYMENT OF ALL OTHER APPLICABLE PER-MEGAWATT FEES OR  
16 DEPOSITS, AS REQUIRED BY THE REGIONAL TRANSMISSION ORGANIZATION.

17 (D) THE PROPOSED LONG-TERM INDUSTRIAL LOAD RATE IS ONLY  
18 AVAILABLE TO THE INDUSTRIAL CUSTOMER FOR SERVICE AT A SITE WHERE  
19 THE INDUSTRIAL CUSTOMER'S ANNUAL AVERAGE ELECTRIC DEMAND IS AT  
20 LEAST 200 MEGAWATTS AT THE TIME THE CONTRACT FOR A TERM IS ENTERED  
21 INTO. THE CONTRACT FOR A TERM MUST BE FOR A MINIMUM OF 100  
22 MEGAWATTS OF FIRM CONTRACTED CAPACITY.

23 (E) IF THE RESOURCE DESIGNATED IN A CONTRACT EXECUTED UNDER  
24 THE LONG-TERM INDUSTRIAL LOAD RATE IS A UTILITY-OWNED RESOURCE,  
25 THEN THE PROPOSED LONG-TERM INDUSTRIAL LOAD RATE IS BASED ON ALL OF  
26 THE FOLLOWING:

27 (i) THE ELECTRIC UTILITY'S LEVELIZED COST OF CAPACITY,

1 INCLUDING FIXED OPERATION AND MAINTENANCE EXPENSE, ASSOCIATED WITH  
2 THE DESIGNATED POWER SUPPLY RESOURCE AT THE TIME THE CUSTOMER  
3 CONTRACT IS EXECUTED.

4 (ii) THE ELECTRIC UTILITY'S ACTUAL VARIABLE FUEL AND ACTUAL  
5 VARIABLE OPERATION AND MAINTENANCE EXPENSE BASED ON THE CUSTOMER'S  
6 ACTUAL ENERGY CONSUMPTION AND ASSOCIATED WITH THE DESIGNATED POWER  
7 SUPPLY RESOURCE.

8 (iii) THE ELECTRIC UTILITY'S ACTUAL ENERGY AND CAPACITY MARKET  
9 PURCHASES, IF ANY, BASED ON THE CUSTOMER'S ACTUAL CONSUMPTION. THE  
10 AMOUNT OF CAPACITY NEEDED TO SERVE A QUALIFYING LONG-TERM  
11 INDUSTRIAL LOAD IS BASED ON THE CAPACITY NEEDED BY THE ELECTRIC  
12 UTILITY TO COMPLY WITH ITS REGIONAL TRANSMISSION ORGANIZATION'S  
13 LOAD-SERVING RESOURCE REQUIREMENT BASED ON THE AMOUNT OF  
14 CONTRACTUAL FIRM AND INTERRUPTIBLE CAPACITY SUPPLIED TO THE  
15 INDUSTRIAL CUSTOMER.

16 (F) IF THE DESIGNATED RESOURCE ASSOCIATED WITH A CONTRACT  
17 EXECUTED UNDER THE LONG-TERM INDUSTRIAL LOAD RATE IS NOT A UTILITY-  
18 OWNED RESOURCE, THEN THE PROPOSED LONG-TERM INDUSTRIAL LOAD RATE IS  
19 BASED ON RECOVERING ALL COSTS ASSOCIATED WITH THE DESIGNATED POWER  
20 PURCHASE AGREEMENT OR AGREEMENTS.

21 (2) A LONG-TERM INDUSTRIAL LOAD RATE MAY CONTAIN OTHER TERMS  
22 AND CONDITIONS PROPOSED BY THE ELECTRIC UTILITY.

23 (3) THE COMMISSION SHALL APPROVE ANY CONTRACT FOR A TERM  
24 PROPOSED BY AN ELECTRIC UTILITY UNDER A LONG-TERM INDUSTRIAL LOAD  
25 RATE AUTHORIZED UNDER THIS SECTION IF THERE IS A NET BENEFIT TO THE  
26 ELECTRIC UTILITY'S CUSTOMERS RESULTING FROM THE INDUSTRIAL CUSTOMER  
27 TAKING SERVICE UNDER THE LONG-TERM INDUSTRIAL LOAD RATE COMPARED TO

1 THE INDUSTRIAL CUSTOMER NOT PURCHASING STANDARD TARIFF SERVICE FROM  
2 THE ELECTRIC UTILITY. IN DETERMINING WHETHER A NET BENEFIT EXISTS,  
3 THE COMMISSION MAY CONSIDER ANY BENEFIT, INCLUDING, BUT NOT LIMITED  
4 TO, BENEFITS TO CUSTOMERS AS A RESULT OF THE FOLLOWING:

5 (A) SYSTEM PEAK DEMAND REDUCTION DUE TO ABILITY TO CURTAIL,  
6 ENGAGE IN DEMAND RESPONSE, OR PARTICIPATE IN FEDERAL LOAD  
7 MANAGEMENT PROGRAMS.

8 (B) AVOIDANCE OF NEW PRODUCTION CAPACITY COSTS AND RISKS FOR  
9 OTHER RATEPAYERS.

10 (C) ABILITY TO REDUCE SYSTEM COSTS, SUCH AS BY CONTRIBUTING TO  
11 VOLT-VAR CONTROL.

12 (4) IF THE CUSTOMER TAKING SERVICE UNDER A LONG-TERM  
13 INDUSTRIAL LOAD RATE WILL CONTRIBUTE TO THE ELECTRIC UTILITY'S  
14 FIXED DISTRIBUTION OR TRANSMISSION COSTS THAT OTHERWISE WOULD HAVE  
15 BEEN RECOVERED FROM THE ELECTRIC UTILITY'S OTHER CUSTOMERS AS  
16 COMPARED TO THE CUSTOMER NOT PURCHASING STANDARD TARIFF SERVICE  
17 FROM THE ELECTRIC UTILITY, THEN THE COMMISSION SHALL DETERMINE THAT  
18 A NET BENEFIT EXISTS UNDER SUBSECTION (3).

19 (5) AN ELECTRIC UTILITY MAY SUBMIT A PROPOSAL FOR A LONG-TERM  
20 INDUSTRIAL LOAD RATE AND A PROPOSED CONTRACT FOR A TERM UNDER THE  
21 PROPOSED LONG-TERM INDUSTRIAL LOAD RATE IN THE SAME PROCEEDING.

22 (6) IF AN ELECTRIC UTILITY PROPOSES A LONG-TERM INDUSTRIAL  
23 LOAD RATE IN A STAND-ALONE PROCEEDING, THAT PROCEEDING MUST BE  
24 CONDUCTED AS A CONTESTED CASE UNDER CHAPTER 4 OF THE ADMINISTRATIVE  
25 PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.271 TO 24.287, AND MUST  
26 BE SUPPORTED BY A COMPLETE COST OF SERVICE STUDY, RATE DESIGN, AND  
27 PROPOSED TARIFFS REFLECTING THE IMPACT OF THE LONG-TERM INDUSTRIAL

1 LOAD RATE ON OTHER CUSTOMER RATES. A STAND-ALONE PROCEEDING FILED  
2 UNDER THIS SECTION MUST NOT BE EXPANDED TO RESULT IN ANY CHANGES TO  
3 THE ELECTRIC UTILITY'S OVERALL REVENUE REQUIREMENT. THE COMMISSION  
4 SHALL ISSUE A FINAL ORDER IN A STAND-ALONE PROCEEDING CONDUCTED  
5 UNDER THIS SECTION NO LATER THAN 270 DAYS AFTER AN ELECTRIC UTILITY  
6 FILES AN APPLICATION REQUESTING APPROVAL OF A LONG-TERM INDUSTRIAL  
7 LOAD RATE.

8 (7) A CONTRACT FOR A TERM EXECUTED UNDER A LONG-TERM  
9 INDUSTRIAL LOAD RATE APPROVED UNDER THIS SECTION IS CONSIDERED  
10 REASONABLE AND PRUDENT FOR THE CONTRACT'S ENTIRE TERM.

11 (8) A DESIGNATED POWER SUPPLY RESOURCE THAT IS NOT A UTILITY-  
12 OWNED RESOURCE MAY BE A POWER PURCHASE AGREEMENT WITH AN AFFILIATE  
13 OF THE ELECTRIC UTILITY.

14 (9) AS USED IN THIS SECTION:

15 (A) "ANNUAL LOAD FACTOR" MEANS A LOAD FACTOR CALCULATED AS AN  
16 AVERAGE OF THE PRIOR 12 MONTHLY LOAD FACTORS. EACH MONTHLY LOAD  
17 FACTOR MUST BE DETERMINED BY DIVIDING THE CUSTOMER'S ACTUAL MONTHLY  
18 KILOWATT HOURS CONSUMPTION BY THE PRODUCT OF THE CUSTOMER'S MONTHLY  
19 MAXIMUM DEMAND AND THE NUMBER OF HOURS IN THE MONTH.

20 (B) "CONTRACT FOR A TERM" MEANS AN AGREEMENT EXECUTED BETWEEN  
21 AN ELECTRIC UTILITY AND INDUSTRIAL CUSTOMER UNDER A LONG-TERM  
22 INDUSTRIAL LOAD RATE AUTHORIZED BY THIS SECTION.

23 (C) "LONG-TERM INDUSTRIAL LOAD RATE" MEANS A RATE APPROVED BY  
24 THE COMMISSION UNDER THIS SECTION.

25 (D) "SELF-SERVICE POWER" MEANS THAT TERM AS DEFINED IN SECTION  
26 10A(4).

27 (E) "SITE" MEANS AN INDUSTRIAL SITE OR CONTIGUOUS INDUSTRIAL

1 SITE OR SINGLE COMMERCIAL ESTABLISHMENT. A SITE THAT IS DIVIDED BY  
2 AN INLAND BODY OF WATER OR BY A PUBLIC HIGHWAY, ROAD, OR STREET BUT  
3 THAT OTHERWISE MEETS THIS DEFINITION MEETS THE CONTIGUOUS  
4 REQUIREMENT.

5 (F) "STANDARD TARIFF SERVICE" MEANS THE RETAIL RATES, TERMS,  
6 AND CONDITIONS OF SERVICE APPROVED BY THE COMMISSION FOR SERVICE TO  
7 CUSTOMERS THAT DO NOT PURCHASE POWER UNDER THE LONG-TERM INDUSTRIAL  
8 LOAD RATE.