

MICHIGAN PUBLIC SERVICE COMMISSION (EXCERPT)
Act 3 of 1939

460.9 Definitions; customer switched to alternative gas supplier or natural gas utility; prohibitions; standards; rules; violation; remedies and penalties.

Sec. 9. (1) As used in this section:

(a) "Alternative gas supplier" or "supplier" means a person who sells natural gas at unregulated retail rates to customers located in this state, where the gas is delivered to customers by a natural gas utility that has a customer choice program. Retail sales in a customer choice program by an alternative gas supplier do not constitute public utility service.

(b) "Commission" means the Michigan public service commission in the department of consumer and industry services.

(c) "Customer" means an end-user of natural gas.

(d) "Customer choice program" means a program approved by the commission on application by a natural gas utility that allows retail customers to choose an alternative gas supplier.

(e) "Natural gas utility" means an investor-owned business engaged in the sale and distribution of natural gas within this state whose rates are regulated by the commission.

(2) An alternative gas supplier or natural gas utility shall not switch a customer to its gas supply without authorization of the customer. A natural gas utility shall not be found in violation of this subsection or a commission order issued under subsection (3), if the customer's service was switched by the natural gas utility under the applicable terms and conditions of a commission approved gas customer choice program or as the result of the default of an alternative gas supplier.

(3) The commission may issue orders to ensure that an alternative gas supplier or natural gas utility does not switch a customer to another supplier without the customer's written confirmation, confirmation through an independent third party, or other verification procedures subject to commission approval, confirming the customer's intent to make a switch and that the customer has approved the specific details of the switch.

(4) An alternative gas supplier or natural gas utility shall not include or add optional services in a customer's service package without the authorization of the customer.

(5) The commission may issue orders to ensure that an alternative gas supplier or natural gas utility does not include or add optional services in a customer's service package without the customer's written confirmation, confirmation through an independent third party, or other verification procedures approved by the commission confirming the customer's intent to receive the optional services.

(6) An alternative gas supplier or natural gas utility shall not solicit or enter into contracts subject to this section with customers in this state in a misleading, fraudulent, or deceptive manner.

(7) The commission may by order establish minimum standards for the form and content of all disclosures, explanations, or sales information relating to the sale of a natural gas commodity in a customer choice program and disseminated by an alternative gas supplier or natural gas utility to ensure that the disclosures, explanations, and sales information contain accurate and understandable information and enable a customer to make an informed decision relating to the purchase of a natural gas commodity. Any standards established under this subsection shall be developed to do all of the following:

(a) Not be unduly burdensome.

(b) Not unnecessarily delay or inhibit the initiation and development of competition among alternative gas suppliers or natural gas utilities in any market.

(c) Establish different requirements for disclosures, explanations, or sales information relating to different services or similar services to different natural gas supply classes of customers, whenever such different requirements are appropriate to carry out the provisions of this section.

(8) The commission may adopt rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to implement this section.

(9) If after notice and hearing the commission finds a person has violated this section, the commission may order remedies and penalties to protect and make whole another person who has suffered an economic loss as a result of the violation, including, but not limited to, 1 or more of the following:

(a) Order the person to pay a fine for the first offense of not less than \$20,000.00 or more than \$30,000.00. For a second and any subsequent offense, the commission shall order the person to pay a fine of not less than \$30,000.00 or more than \$50,000.00. If the commission finds that the second or any of the subsequent offenses were knowingly made in violation of subsection (2) or (4), the commission shall order the person to pay a fine of not more than \$70,000.00. Each switch made in violation of subsection (2) or service added in violation of subsection (4) shall be a separate offense under this subdivision.

(b) Order an unauthorized supplier to refund to the customer any amount greater than the customer would

have paid to an authorized supplier.

(c) Order a portion between 10% to 50% of the fine assessed under subdivision (a) be paid directly to the customer who suffered the violation of subsection (2) or (4).

(d) Order the person to reimburse an authorized supplier an amount equal to the amount paid by the customer that should have been paid to the authorized supplier.

(e) If the person is licensed under this act, revoke the license if the commission finds a pattern of violations of subsection (2) or (4).

(f) Issue cease and desist orders.

(10) Notwithstanding subsection (9), a fine shall not be imposed for a violation if the person shows that the violation was an unintentional and bona fide error which occurred notwithstanding the maintenance of procedures reasonably adopted to avoid the error.

(11) A natural gas utility shall not be found in violation of this section for switching a customer's supplier or adding optional services to a customer's account if the switch or addition was made pursuant to the request or notice of an alternative gas supplier that is responsible under a customer choice program for obtaining the customer's approval.

History: Add. 2002, Act 634, Imd. Eff. Dec. 23, 2002.