



# HOUSE BILL No. 5202

December 9, 1999, Introduced by Reps. Middaugh, Bradstreet, Howell, Stallworth, Kuipers, Birkholz, Toy and Mortimer 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 utilities and other services affected with a public interest within this state; 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 therein 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 rate increases without notice and hearing; to qualify residential energy conservation programs permitted under state law for certain federal exemption; to provide for a restructuring of rates for certain utilities; to encourage the utilization of resource recovery facilities; to provide for appeals; to provide appropriations; to declare the effect of this act; to prescribe penalties; and to repeal all acts contrary to this act,"

(MCL 460.1 to 460.8) by adding sections 9d and 9e.

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

1           SEC. 9D. (1) UPON TERMINATION OF THE COMMODITY RATES THAT  
2 REMAIN IN EFFECT FOR THE TERM OF THE APPROVED CUSTOMER CHOICE  
3 PLAN THAT EXISTED BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT  
4 THAT ADDED THIS SECTION, OR UPON COMMENCEMENT OF THE CUSTOMER

1 CHOICE PLAN FILED UNDER SECTION 9C, WHICHEVER IS LATER, EACH  
2 LOCAL DISTRIBUTION COMPANY SHALL PROVIDE SAFE HAVEN GAS COMMODITY  
3 SERVICE AS REQUIRED BY THIS SECTION.

4 (2) UPON ALL RETAIL CUSTOMERS BECOMING ELIGIBLE FOR CUSTOMER  
5 CHOICE, RETAIL CUSTOMERS WHO DO NOT ELECT TO CHOOSE A DIFFERENT  
6 GAS COMMODITY SUPPLIER SHALL BE PROVIDED SAFE HAVEN GAS COMMODITY  
7 SERVICE FROM THEIR LOCAL DISTRIBUTION COMPANY AT A UNIT PRICE  
8 REDETERMINED ON THE SAME FREQUENCY AS THE CUSTOMERS ARE ALLOWED  
9 TO SWITCH SUPPLIERS. THE UNIT PRICE SHALL NOT EXCEED THE SUM OF  
10 ALL OF THE FOLLOWING:

11 (A) THE AVERAGE OF THE SETTLEMENT PRICES OF THE NYMEX  
12 12-MONTH FORWARD STRIP, AS OF THE DAY BEFORE THE DATE OF THE  
13 FILING UNDER SUBSECTION (3), PROVIDED THAT THE LOCAL DISTRIBUTION  
14 COMPANY HAS THE OPTION AT THE TIME OF EACH FILING OF USING EITHER  
15 THE NYMEX 12-MONTH OR 3-MONTH FORWARD STRIP IF THE UNIT PRICE IS  
16 ONLY BEING REDETERMINED QUARTERLY.

17 (B) A CHARGE NOT TO EXCEED 12% OF SUBDIVISION (A) IF THE  
18 LOCAL DISTRIBUTION COMPANY HAS PERMITTED CUSTOMER CHOICE FOR AT  
19 LEAST 40% OF ITS RETAIL CUSTOMERS, A CHARGE NOT TO EXCEED 14% OF  
20 SUBDIVISION (A) IF THE LOCAL DISTRIBUTION COMPANY HAS PERMITTED  
21 CUSTOMER CHOICE FOR AT LEAST 60% OF ITS RETAIL CUSTOMERS, OR A  
22 CHARGE NOT TO EXCEED 16% OF SUBDIVISION (A) IF THE LOCAL DISTRI-  
23 BUTION COMPANY HAS PERMITTED CUSTOMER CHOICE FOR ALL OF ITS  
24 RETAIL CUSTOMERS.

25 (C) THE PROJECTED CHARGES FOR TRANSPORTATION SERVICE,  
26 INCLUDING CHARGES FOR GATHERING AND FUEL.

1           (3) EACH LOCAL DISTRIBUTION COMPANY SHALL MAKE A MONTHLY OR  
2 QUARTERLY FILING WITH THE COMMISSION THAT SPECIFIES THE UNIT  
3 PRICE TO BE CHARGED UNDER SUBSECTION (2) FOR THE FOLLOWING MONTH  
4 OR QUARTER. THE COMPANY SHALL PROVIDE NOTICE TO ITS RETAIL CUS-  
5 TOMERS 30 DAYS BEFORE IMPLEMENTING AN INCREASE IN THE UNIT  
6 PRICE.

7           (4) RETAIL CUSTOMERS WHO SWITCH TO A GAS COMMODITY SUPPLIER  
8 DIFFERENT FROM THEIR LOCAL DISTRIBUTION COMPANY AND ARE SUBSE-  
9 QUENTLY TERMINATED BY THAT SUPPLIER, OR WHO OTHERWISE SWITCHES  
10 BACK TO THE LOCAL DISTRIBUTION COMPANY ON LESS THAN 12 MONTHS'  
11 NOTICE SHALL BE PROVIDED SAFE HAVEN GAS COMMODITY SERVICE BY THE  
12 LOCAL DISTRIBUTION COMPANY AT A UNIT PRICE, REDETERMINED MONTHLY,  
13 THAT DOES NOT EXCEED THE SUM OF ALL OF THE FOLLOWING:

14           (A) THE SETTLEMENT PRICE FOR THE CURRENT MONTH NYMEX NATURAL  
15 GAS FUTURES CONTRACT PRICE AS OF THE DATE BEFORE THE DATE OF THE  
16 FILING UNDER SUBSECTION (3).

17           (B) A CHARGE NOT TO EXCEED 12% OF SUBDIVISION (A) IF THE  
18 LOCAL DISTRIBUTION COMPANY HAS PERMITTED CUSTOMER CHOICE FOR AT  
19 LEAST 40% OF ITS RETAIL CUSTOMERS, A CHARGE NOT TO EXCEED 14% OF  
20 SUBDIVISION (A) IF THE LOCAL DISTRIBUTION COMPANY HAS PERMITTED  
21 CUSTOMER CHOICE FOR AT LEAST 60% OF ITS RETAIL CUSTOMERS, OR A  
22 CHARGE NOT TO EXCEED 16% OF SUBDIVISION (A) IF THE LOCAL DISTRI-  
23 BUTION COMPANY HAS PERMITTED CUSTOMER CHOICE FOR ALL OF ITS  
24 RETAIL CUSTOMERS.

25           (C) THE PROJECTED CHARGES FOR TRANSPORTATION SERVICE,  
26 INCLUDING CHARGES FOR GATHERING AND FUEL.

1 (5) EACH LOCAL DISTRIBUTION COMPANY SHALL MAKE A MONTHLY  
2 FILING WITH THE COMMISSION THAT SPECIFIES THE UNIT PRICE TO BE  
3 CHARGED UNDER SUBSECTION (4) FOR THE FOLLOWING MONTH. RETAIL  
4 CUSTOMERS WHO HAVE RECEIVED SERVICE FOR THE PREVIOUS 12 MONTHS  
5 SHALL BE PROVIDED SAFE HAVEN GAS COMMODITY SERVICE FROM THEIR  
6 LOCAL DISTRIBUTION COMPANY ON THE SAME TERMS SET FORTH IN SUBSEC-  
7 TION (2).

8 (6) THE COMMISSION SHALL ESTABLISH PROCEDURES TO ENSURE THAT  
9 THE FILED UNIT PRICES UNDER SUBSECTION (5) COMPLY WITH SUBSEC-  
10 TIONS (2) AND (4).

11 (7) AS AN ALTERNATIVE TO THE UNIT PRICING UNDER SUBSECTIONS  
12 (2) AND (4), THE LOCAL DISTRIBUTION COMPANY MAY, AT ITS OPTION,  
13 ELECT TO PROVIDE A REGULATED GAS COMMODITY SERVICE UNDER A GAS  
14 COST RECOVERY CLAUSE ADOPTED UNDER SECTION 6H. AS PART OF THE  
15 GAS CUSTOMER CHOICE PLAN FILED UNDER SECTION 9C, EACH LOCAL DIS-  
16 TRIBUTION COMPANY SHALL MAKE AN ELECTION TO PROVIDE SAFE HAVEN  
17 GAS COMMODITY SERVICE UNDER SUBSECTIONS (2) AND (4) OR TO PROVIDE  
18 A REGULATED GAS COMMODITY SERVICE UNDER SECTION 6H. THE ELECTION  
19 MAY NOT BE MODIFIED MORE OFTEN THAN ONCE DURING A 3-YEAR PERIOD.

20 (8) RETAIL CUSTOMERS WITH ANNUAL NATURAL GAS REQUIREMENTS IN  
21 EXCESS OF 20 MILLION CUBIC FEET WHO, ON THE EFFECTIVE DATE OF THE  
22 AMENDATORY ACT THAT ADDED THIS SECTION, ARE RECEIVING SERVICE  
23 FROM A GAS COMMODITY SUPPLIER OTHER THAN THE LOCAL DISTRIBUTION  
24 COMPANY ARE NOT ELIGIBLE FOR SAFE HAVEN GAS COMMODITY SERVICE  
25 UNLESS THEY GIVE THE LOCAL DISTRIBUTION COMPANY 12 MONTHS' NOTICE  
26 AND AGREE TO REMAIN ON THE SAFE HAVEN GAS COMMODITY SERVICE FOR  
27 AT LEAST 1 YEAR. ALL OTHER RETAIL CUSTOMERS WITH ANNUAL NATURAL

1 GAS REQUIREMENTS IN EXCESS OF 20 MILLION CUBIC FEET ARE ELIGIBLE  
2 FOR SAFE HAVEN GAS SERVICE UNTIL THE CUSTOMERS CHOOSE TO OBTAIN  
3 SERVICE FROM A GAS COMMODITY SERVICE SUPPLIER OTHER THAN THE  
4 LOCAL DISTRIBUTION COMPANY AND ARE THEN SUBJECT TO THIS SUBSEC-  
5 TION REGARDING NOTICE AND MINIMUM TERM OF CONTRACT BEFORE THEY  
6 CAN RETURN TO THE SAFE HAVEN GAS COMMODITY SERVICE.

7 (9) SECTION 6A DOES NOT APPLY TO THE IMPLEMENTATION OF THE  
8 UNIT PRICING UNDER SUBSECTIONS (2) AND (4).

9 (10) THIS SECTION DOES NOT AFFECT OR VOID SECTION 4 OF 1919  
10 PA 419, MCL 460.54, WITH RESPECT TO RATES OR CHARGES FIXED OR  
11 REGULATED BY ANY CITY, VILLAGE, OR TOWNSHIP FRANCHISE OR  
12 AGREEMENT.

13 SEC. 9E. MARKET-BASED GAS COMMODITY SERVICE PROVIDED BY A  
14 PERSON LICENSED UNDER SECTION 9F SHALL BE AT PRICES AGREED UPON  
15 BY THE RETAIL CUSTOMER AND THE GAS COMMODITY SUPPLIER. LOCAL  
16 DISTRIBUTION COMPANIES MAY NOT PROVIDE A MARKET-BASED GAS COMMOD-  
17 ITY SERVICE WITHIN THEIR DISTRIBUTION SERVICE TERRITORIES.

18 Enacting section 1. This amendatory act does not take  
19 effect unless all of the following bills of the 90th Legislature  
20 are enacted into law:

21 (a) Senate Bill No. \_\_\_\_\_ or House Bill No. 5201 (request  
22 no. 04283'99).

23 (b) Senate Bill No. \_\_\_\_\_ or House Bill No. 5203 (request  
24 no. 04283'99 b\*).

25 (c) Senate Bill No. \_\_\_\_\_ or House Bill No. 5204 (request  
26 no. 04283'99 c\*).

1 (d) Senate Bill No. \_\_\_\_\_ or House Bill No. 5205 (request  
2 no. 04283'99 d).

3 (e) Senate Bill No. \_\_\_\_\_ or House Bill No. 5207 (request  
4 no. 04283'99 e).