

HOUSE BILL No. 5520

December 4, 2007, Introduced by Reps. Miller, Angerer, Mayes, Accavitti, Hopgood, Gaffney, LaJoy and Hune 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 460.10cc) by adding section 6q.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

SEC. 6Q. (1) AN ELECTRIC UTILITY SHALL OBTAIN THE APPROVAL OF

1

1 THE COMMISSION AS PROVIDED IN THIS SECTION BEFORE COMPLETING THE
2 SALE OF AN EXISTING ELECTRIC GENERATING PLANT WITH A CAPACITY OF
3 200 MEGAWATTS OR MORE THAT IS USED IN PROVIDING REGULATED ELECTRIC
4 UTILITY SERVICE IN THIS STATE. FOR THE PURPOSE OF COMPUTING THE
5 200-MEGAWATT THRESHOLD UNDER THIS SECTION, SALE INCLUDES ANY SERIES
6 OF TRANSFERS OF ELECTRIC GENERATING UNITS THAT TAKE PLACE WITHIN A
7 12-MONTH PERIOD AND ARE ASSOCIATED WITH A SINGLE TRANSACTION.

8 (2) AN ELECTRIC UTILITY SHALL SUBMIT AN APPLICATION TO THE
9 COMMISSION FOR APPROVAL OF A SALE UNDER SUBSECTION (1). THE
10 APPLICATION SHALL INCLUDE THE FOLLOWING INFORMATION:

11 (A) A CONCISE SUMMARY OF THE TERMS AND CONDITIONS OF THE
12 PROPOSED TRANSACTION.

13 (B) COPIES OF THE MATERIAL TRANSACTION DOCUMENTS IF AVAILABLE.

14 (C) A SUMMARY OF THE PROJECTED IMPACTS OF THE TRANSACTION ON
15 RATES AND REGULATED ELECTRIC UTILITY SERVICE IN THIS STATE.

16 (D) PRO FORMA FINANCIAL STATEMENTS THAT ARE RELEVANT TO THE
17 TRANSACTION.

18 (E) COPIES OF THE PARTIES' PUBLIC FILINGS WITH OTHER STATE OR
19 FEDERAL REGULATORY AGENCIES REGARDING THE SAME TRANSACTION,
20 INCLUDING ANY REGULATORY ORDERS ISSUED BY THE AGENCIES REGARDING
21 THE TRANSACTION.

22 (3) WITHIN 60 DAYS FROM THE DATE AN APPLICATION IS FILED UNDER
23 THIS SECTION, INTERESTED PARTIES MAY FILE COMMENTS WITH THE
24 COMMISSION ON THE PROPOSED TRANSACTION.

25 (4) WITHIN 180 DAYS FROM THE DATE AN APPLICATION IS FILED
26 UNDER THIS SECTION, THE COMMISSION SHALL ISSUE AN ORDER APPROVING
27 OR REJECTING THE PROPOSED TRANSACTION.

1 (5) IF RETAIL CUSTOMERS OF THE ELECTRIC UTILITY SUBMITTING AN
2 APPLICATION ARE ELIGIBLE TO TAKE RETAIL GENERATION SERVICE FROM AN
3 ALTERNATIVE ELECTRIC SUPPLIER, THE COMMISSION SHALL ISSUE AN ORDER
4 APPROVING THE PROPOSED TRANSACTION.

5 (6) IF RETAIL CUSTOMERS OF THE ELECTRIC UTILITY SUBMITTING AN
6 APPLICATION ARE NOT ELIGIBLE TO TAKE RETAIL GENERATION SERVICE FROM
7 AN ALTERNATIVE ELECTRIC SUPPLIER, THE COMMISSION SHALL ISSUE AN
8 ORDER APPROVING THE PROPOSED TRANSACTION UNLESS IT FINDS 1 OF THE
9 FOLLOWING:

10 (A) THE PROPOSED TRANSACTION IS LIKELY TO HAVE A MATERIAL
11 ADVERSE IMPACT ON THE RATES REGULATED BY THE COMMISSION UNDER
12 SECTION 6A.

13 (B) THE PROPOSED TRANSACTION IS LIKELY TO HAVE A MATERIAL
14 ADVERSE IMPACT ON THE PROVISION OF SAFE, RELIABLE, AND ADEQUATE
15 ELECTRIC SERVICE IN THIS STATE.

16 (C) THE PROPOSED TRANSACTION IS LIKELY TO SIGNIFICANTLY IMPAIR
17 AN ELECTRIC UTILITY'S ABILITY TO RAISE NECESSARY CAPITAL OR TO
18 MAINTAIN A REASONABLE CAPITAL STRUCTURE.

19 (D) THE PROPOSED TRANSACTION IS LIKELY TO HAVE A MATERIAL
20 ADVERSE IMPACT ON COMPETITION IN THIS STATE.

21 (7) NONPUBLIC INFORMATION AND MATERIALS SUBMITTED BY AN
22 ELECTRIC UTILITY UNDER THIS SECTION CLEARLY DESIGNATED BY THAT
23 UTILITY AS CONFIDENTIAL ARE EXEMPT FROM THE FREEDOM OF INFORMATION
24 ACT, 1976 PA 442, MCL 15.231 TO 15.246. THE COMMISSION SHALL ISSUE
25 PROTECTIVE ORDERS AS NECESSARY TO PROTECT INFORMATION DESIGNATED BY
26 THAT UTILITY AS CONFIDENTIAL.

27 Enacting section 1. This amendatory act does not take effect

1 unless all of the following bills of the 94th Legislature are
2 enacted into law:

3 (a) Senate Bill No. _____ or House Bill No. 5524 (request
4 no. 02552'07*).

5 (b) Senate Bill No. _____ or House Bill No. 5521 (request
6 no. 04883'07*).

7 (c) Senate Bill No. _____ or House Bill No. 5522 (request
8 no. 04884'07*).

9 (d) Senate Bill No. _____ or House Bill No. 5523 (request
10 no. 05023'07*).

11 (e) Senate Bill No. _____ or House Bill No. _____ (request
12 no. 05570'07).

13 (f) Senate Bill No. _____ or House Bill No. _____ (request
14 no. 05919'07).

15 (g) Senate Bill No. _____ or House Bill No. 5525 (request
16 no. 05920'07).

17 (h) House Bill No. 5383.

18 (i) House Bill No. 5384.