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Senate Bill 535 (as introduced 5-5-09)

Sponsor: Senator Jim Barcia

Committee: Energy Policy and Public Utilities

Date Completed: 9-17-09

CONTENT

The bill would amend Public Act 3 of 1939, the Public Service Commission (PSC) law, to require a provider (a municipally owned utility) to comply with particular PSC rules concerning the shut-off of utility service.

Specifically, a provider would have to comply with R 460.147, 460.148, 460.149, and 460.151 of the Michigan Administrative Code as in effect on the bill's effective date. (Those rules pertain to medical emergencies, winter protection for low-income customers, winter protection for senior citizens, and billing disputes, respectively. The rules apply to a person, firm, corporation, cooperative, association, or other legal entity that is subject to the PSC's jurisdiction and that provides electric or gas service for residential use. They are described in detail below.)

If the PSC amended those rules after the bill took effect, a provider could elect to operate in compliance with the updated rules.

Proposed MCL 460.9a

BACKGROUND

R 460.147

Under R 460.147, a utility must postpone the shut-off of service for up to 21 days if the customer or a member of the customer's household is a critical care customer or has a certified medical emergency. The certificate must identify the medical condition, any medical or life supporting equipment being used, and the specific time period during which the shut-off will aggravate the medical emergency. The utility must extend the postponement for further periods of up to 21 days, for a total postponement of up to 63 days, only if the customer provides additional certificates. If shut-off has occurred without any postponement being obtained, the utility must restore service unconditionally for up to 21 days, and must continue the restoration for further periods of up to 21 days, up to a total of 63 days in any 12-month period per household member. Annually, a utility may not be required to grant shut-off extensions totaling more than 126 days per household.

(Under the Administrative Code, "critical care customer" means a customer who requires, or has a household member who requires home medical equipment or a life support system, and who has provided appropriate documentation from a physician or medical facility to the utility identifying the equipment or life support system and certifying that an interruption of

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service would be immediately life-threatening. "Medical emergency" means an existing medical condition of a customer or a member of his or her household, as defined and certified by a physician or public health official, that will be aggravated by the lack of utility service.)

R 460.148

Under R 460.148, except where unauthorized use of utility service has occurred, a utility may not shut off service to an eligible low-income customer during the space heating season for nonpayment of a delinquent account if the customer pays a monthly amount equal to 7% of his or her estimated annual bill and he or she demonstrates that he or she has applied for State or Federal heating assistance. If an arrearage exists when the customer applies for shut-off protection, the utility must allow the customer to pay the arrearage in equal monthly installments between the date of application and the start of the subsequent space heating season.

("Eligible low-income customer" means a utility customer whose household income does not exceed 150% of the Federal poverty guidelines, or who receives supplemental security income or low-income assistance through the Department of Human Services, food stamps, or Medicaid.)

A utility may shut off service to an eligible low-income customer who does not pay the required monthly amounts after giving notice as required in the rules. The utility is not required to offer a settlement agreement to a customer who fails to make the monthly payments.

If the customer fails to comply with the applicable terms and conditions, the utility may shut off service after notifying the customer of the following:

- -- That he or she has defaulted on the winter protection plan.
- -- The nature of the default.
- -- That unless he or she makes the payments that are past due within 10 days of the mailing date, the utility may shut off service.
- -- The date on or after which the utility may shut off service, unless the customer takes appropriate action.
- -- That the customer has the right to file a complaint disputing the utility's claim before the proposed shut-off date by calling the company.
- -- That the customer has the right to request a hearing before a hearing officer if the complaint cannot be otherwise resolved and that the customer must pay the utility the portion of the bill that is not in dispute within seven business days of the date that he or she requests a hearing.
- -- That the customer has the right to represent himself or herself, to be represented by counsel, or to be assisted by other people of his or her choice in the complaint process.
- -- That the utility will not shut off service pending the resolution of a complaint that is filed with the utility or the PSC according to the rules.
- -- The telephone number and address of the utility where the customer may inquire, enter into a settlement agreement, or file a complaint.
- -- That the customer should contact a social services agency immediately if he or she believes he or she might be eligible for emergency economic assistance.
- -- That the utility will postpone shut-off if a medical emergency exists and the customer provides the required documentation.
- -- That the utility may require a deposit and restoration charge if it shuts off service for nonpayment of winter protection monthly amounts.
- -- That the utility will not shut off service if the customer or his or her spouse is on active military duty.

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At the conclusion of the space heating season, the utility must reconcile the accounts of eligible low-income customers and allow them to pay any amounts owing in equal monthly installments between April 1 and October 31. A utility may shut off service to customers who fail to make installment payments on a timely basis as provided in the rules.

Except where unauthorized use of utility service has occurred at a customer's premises within the past two years and the bill remains unpaid, during the space heating season a utility may not require an eligible low-income customer whose service has been shut off to pay a fee for restoring service or a security deposit before applying for protection. In addition, a utility may not require an amount greater than 1/12 of an arrearage owed in order to restore service or initiate participation in the winter protection plan.

Winter protection provisions do not apply to customers who have been shut off or who have a pending shut-off for unauthorized use of service within the past two years until all charges are paid or satisfactory payment arrangements are made with the utility.

Upon request, the utility must give customers who enroll in the winter protection program documentation that they are participating in the program. Bills issued to customers participating in the program must identify clearly the minimum amount that the customer must pay to prevent shut-off. Utilities may bill at higher amounts to recover past due amounts and may encourage customers to pay amounts in excess of the minimum if the minimum payment is clearly designated on the bill.

Subject to prior PSC approval, a utility may offer an optional shut-off protection program to its customers, if the optional program offers eligibility and protection that meets or exceeds the eligibility criteria and customer protections contained in the rules.

R 460.149

Under this rule, a utility may not shut off service to an eligible senior citizen customer during the space heating season.

("Eligible senior citizen customer" means a utility customer who is at least 65 years old and who advises the utility of his or her eligibility.)

At the customer's request, the utility must restore service during the space heating season without payment of the amount due, deposits, reconnection fees, or other charges. At the conclusion of the space heating season, the utility must reconcile the accounts of eligible senior citizen customers and allow them to pay any amounts owing in equal monthly installments between April 1 and October 1.

R 460.151

Under this rule, if a customer advises a utility, or if a regulation officer notifies a utility on behalf of a customer, before the date of the proposed shut-off of service that all or part of a bill is in dispute, the utility must do all of the following:

- -- Immediately record the time, date, and place the customer made the complaint and transmit verification to the customer.
- -- Investigate the dispute promptly and completely.
- -- Advise the customer of the results of the investigation.
- -- Attempt to resolve the dispute informally in a manner that is satisfactory to both parties.
- -- Give the customer an opportunity to settle the disputed claim or to satisfy any liability that is not in dispute.

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A customer may advise a utility that a claim is in dispute in any reasonable manner. A utility, in attempting to resolve the dispute, may employ telephone communication, personal meetings, on-site visits, or any other method that is reasonably conducive to obtaining a settlement.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Elizabeth Pratt

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.