

HOUSE BILL No. 4315

February 26, 2013, Introduced by Reps. McMillin, Lauwers, Kelly, Hooker, Heise, Somerville, MacMaster and Franz 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 460.11) by adding sections 10ff and 10gg.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

SEC. 10FF. (1) A UTILITY SHALL NOT DO ANY OF THE FOLLOWING:

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1 (A) MAKE UTILITY SERVICE TO A RESIDENTIAL CUSTOMER CONTINGENT
2 ON THE INSTALLATION OF AN ADVANCED METER OR USE OF AN ADVANCED
3 METER FUNCTION.

4 (B) OFFER OR PROVIDE A RATE DISCOUNT, METER PRICE DISCOUNT,
5 REBATE, BONUS, OR OTHER INCENTIVE TO A RESIDENTIAL CUSTOMER FOR
6 REQUESTING OR ACCEPTING THE INSTALLATION OF AN ADVANCED METER OR
7 USE OF AN ADVANCED METER FUNCTION.

8 (C) IMPOSE ANY DISINCENTIVE ON A RESIDENTIAL CUSTOMER FOR NOT
9 REQUESTING OR ACCEPTING THE INSTALLATION OF AN ADVANCED METER OR
10 USE OF AN ADVANCED METER FUNCTION.

11 (D) CONDUCT A COMMUNITY INSTALLATION PROGRAM DURING A
12 MORATORIUM ON A COMMUNITY INSTALLATION PROGRAM ADOPTED BY
13 RESOLUTION OF THE GOVERNING BODY OF THE LOCAL UNIT OF GOVERNMENT.

14 (E) INSTALL AN ADVANCED METER AT A RESIDENCE UNLESS THE
15 RESIDENTIAL CUSTOMER HAS EXPRESSLY REQUESTED AN ADVANCED METER OR,
16 AT LEAST 30 DAYS BEFORE THE INSTALLATION, THE UTILITY NOTIFIED THE
17 RESIDENTIAL CUSTOMER OF THE UTILITY'S INTENTION TO INSTALL AN
18 ADVANCED METER AND THE CUSTOMER HAS NOT OPTED OUT. THE UTILITY
19 SHALL MAIL THE NOTICE TO THE CUSTOMER AND PLACE A COPY OF THE
20 NOTICE AT A CONSPICUOUS PLACE ON THE CUSTOMER'S PROPERTY. THE
21 UTILITY SHALL KEEP A COPY OF EACH MAILED NOTICE ON FILE FOR REVIEW
22 BY THE CUSTOMER OR THE COMMISSION. THE NOTICES SHALL MEET ALL OF
23 THE FOLLOWING REQUIREMENTS:

24 (i) INCLUDE THE CUSTOMER'S ADDRESS.

25 (ii) STATE THAT THE UTILITY INTENDS TO INSTALL AN ADVANCED
26 METER AT THE CUSTOMER'S RESIDENCE.

27 (iii) DESCRIBE THE ADVANCED METER AND THE FUNCTIONS THAT THE

1 ADVANCED METER IS CAPABLE OF PERFORMING.

2 (iv) EXPLAIN THE PROCESS FOR A CUSTOMER TO OPT OUT OF
3 INSTALLATION OF AN ADVANCED METER OR USE OF AN ADVANCED METER
4 FUNCTION.

5 (F) OBTAIN DATA FROM AN ADVANCED METER MORE THAN ONCE PER
6 MONTH, UNLESS REQUESTED BY A CUSTOMER.

7 (2) A UTILITY SHALL MAIL TO A CUSTOMER WHO HAS FORMALLY OPTED
8 OUT OF INSTALLATION OF AN ADVANCED METER OR USE OF AN ADVANCED
9 METER FUNCTION AN ACKNOWLEDGMENT OF THE UTILITY'S RECEIPT OF THE
10 CUSTOMER'S DECISION. A RESIDENTIAL CUSTOMER WHO HAS NOT OPTED OUT
11 OF INSTALLATION OF A FIRST GENERATION ADVANCED METER OR AN ADVANCED
12 METER FUNCTION MAY OPT OUT OF THE INSTALLATION OF A SUBSEQUENT
13 GENERATION ADVANCED METER OR AN ADVANCED METER FUNCTION THAT WAS
14 NOT DESCRIBED IN THE NOTICE REQUIRED TO BE GIVEN UNDER SUBSECTION
15 (1) (E) BEFORE THE CUSTOMER'S CURRENT ADVANCED METER WAS INSTALLED.

16 (3) IF A RESIDENTIAL CUSTOMER CURRENTLY HAS A METER THAT IS
17 NOT AN ADVANCED METER AND CONSPICUOUSLY POSTS ON OR NEAR THE METER
18 A NOTICE NOT TO INSTALL AN ADVANCED METER, THE UTILITY SHALL,
19 PROMPTLY AFTER THE NOTICE COMES TO THE ATTENTION OF A
20 REPRESENTATIVE OF THE UTILITY AND IN THE MANNER PROVIDED IN
21 SUBSECTION (1) (E), NOTIFY THE CUSTOMER HOW THE CUSTOMER CAN OPT OUT
22 OF THE INSTALLATION OR USE OF AN ADVANCED METER.

23 (4) WITHIN 15 DAYS AFTER RECEIVING A RESIDENTIAL CUSTOMER'S
24 REQUEST THAT AN ADVANCED METER BE REMOVED FROM THE CUSTOMER'S
25 RESIDENCE, THE UTILITY SHALL REMOVE THE ADVANCED METER AND REPLACE
26 IT WITH A METER THAT IS NOT AN ADVANCED METER. THE UTILITY MAY
27 CHARGE A 1-TIME ALL-INCLUSIVE FEE, NOT TO EXCEED \$50.00, TO REMOVE

1 AND REPLACE THE ADVANCED METER. HOWEVER, THE UTILITY SHALL NOT
2 CHARGE A FEE IF THE UTILITY HAS VIOLATED THIS SECTION OR SECTION
3 10GG WITH RESPECT TO THE CUSTOMER.

4 (5) THE COMMISSION SHALL ISSUE A REPORT EACH YEAR TO THE HOUSE
5 AND SENATE STANDING COMMITTEES WITH OVERSIGHT OF PUBLIC UTILITIES
6 ISSUES OUTLINING UTILITIES' COMPLIANCE WITH THIS SECTION AND
7 SECTION 10GG.

8 (6) AS USED IN THIS SECTION AND SECTION 10GG:

9 (A) "ADVANCED METER" MEANS A METER OR OTHER DEVICE THAT,
10 THROUGH THE USE OF EQUIPMENT OWNED OR LEASED BY THE UTILITY OR ITS
11 AGENT, MEETS 1 OR MORE OF THE FOLLOWING REQUIREMENTS:

12 (i) IS CAPABLE OF MEASURING, RECORDING, OR SENDING UTILITY
13 CUSTOMER DATA BY USE OF COMMON RADIO WAVES OR IN ANY OTHER WIRELESS
14 MANNER.

15 (ii) ALLOWS 2-WAY COMMUNICATIONS SUITED FOR DEMAND-RESPONSE
16 PROGRAMS.

17 (iii) ALLOWS FOR A UTILITY'S CONTROL OF A RESIDENTIAL
18 THERMOSTAT.

19 (B) "COMMUNITY INSTALLATION PROGRAM" MEANS A PROGRAM TO
20 INSTALL ADVANCED METERS FOR A SIGNIFICANT NUMBER OF RESIDENTIAL
21 CUSTOMERS OF A LOCAL UNIT OF GOVERNMENT, EITHER AT 1 TIME OR IN
22 PHASES.

23 (C) "UTILITY" MEANS A PERSON THAT SELLS NATURAL GAS,
24 ELECTRICITY, OR OTHER ENERGY TO RETAIL CUSTOMERS IN THIS STATE AND
25 EITHER SELLS THE NATURAL GAS, ELECTRICITY, OR OTHER ENERGY AT RATES
26 REGULATED BY THE COMMISSION OR IS OWNED BY A MUNICIPALITY.

27 SEC. 10GG. (1) A RESIDENTIAL CUSTOMER'S ENERGY USE DATA ARE

1 CONFIDENTIAL AND SHALL NOT BE SOLD, RENTED, SHARED, OR OTHERWISE
2 DISCLOSED BY A UTILITY EXCEPT TO OR WITH THE EXPRESS CONSENT OF THE
3 RESIDENTIAL CUSTOMER. HOWEVER, A UTILITY MAY REPORT GENERIC DATA
4 RELATING TO ELECTRIC VEHICLE CHARGING TO THE DEPARTMENT OF TREASURY
5 IF OTHERWISE AUTHORIZED BY LAW.

6 (2) A UTILITY SHALL NOT MAKE THE INSTALLATION OF AN ADVANCED
7 METER FOR A RESIDENTIAL CUSTOMER OR THE CUSTOMER'S USE OF CERTAIN
8 ADVANCED METER FUNCTIONS CONTINGENT ON A SECONDARY, INDEPENDENT
9 DECISION BY THE CUSTOMER PERTAINING TO DATA SHARING OR OTHER
10 ADVANCED METER FUNCTIONS.

11 (3) A UTILITY SHALL ENSURE THAT ANY DATA FROM AN ADVANCED
12 METER COMMUNICATED BY WIRELESS NETWORKING TECHNOLOGY ARE ENCRYPTED
13 SO THAT THE DATA CANNOT BE INTERCEPTED BY A WIRELESS DEVICE OTHER
14 THAN A WIRELESS DEVICE USED BY THE UTILITY. A UTILITY SHALL NOT
15 COMMUNICATE BY WIRELESS NETWORKING TECHNOLOGY METER USE DATA THAT
16 INCLUDE A RESIDENTIAL CUSTOMER'S NAME, SOCIAL SECURITY NUMBER,
17 ADDRESS, OR OTHER IDENTIFYING INFORMATION EXCEPT FOR A CUSTOMER
18 IDENTIFICATION NUMBER THAT IS ASSIGNED BY THE UTILITY. THE CUSTOMER
19 IDENTIFICATION NUMBER SHALL BE ASSIGNED IN A MANNER THAT INCLUDES
20 SAFEGUARDS TO PREVENT A WIRELESS DEVICE NOT OWNED BY THE UTILITY
21 FROM LINKING THE NUMBER WITH A PARTICULAR CUSTOMER.

22 (4) A UTILITY SHALL NOT POST A RESIDENTIAL CUSTOMER'S ENERGY
23 USE DATA OR BILL ON THE INTERNET, EXCEPT OVER A SECURED TRANSFER
24 PROTOCOL OR SIMILAR SECURED CONNECTION THAT USES 1 OR MORE
25 ADDITIONAL SECURITY MEASURES, SUCH AS A CUSTOMER-SELECTED PASSWORD,
26 TO ENSURE THAT ONLY THE RESIDENTIAL CUSTOMER CAN ACCESS THE
27 INFORMATION. ENERGY USAGE DATA FOR SPECIFIC RESIDENTIAL CUSTOMERS

1 OR ADDRESSES SHALL NOT BE ACCESSED BY LAW ENFORCEMENT OFFICERS
2 UNLESS THE ACCESS HAS BEEN APPROVED BY A COURT OF COMPETENT
3 JURISDICTION.

4 (5) A UTILITY SHALL NOT WIRELESSLY SHUT OFF SERVICE TO A
5 CUSTOMER UNLESS ALL OF THE FOLLOWING REQUIREMENTS ARE MET:

6 (A) AT LEAST 48 HOURS BEFORE SHUTOFF, A UTILITY REPRESENTATIVE
7 VISITS THE PROPERTY TO WHICH THE SERVICE IS TO BE SHUT OFF,
8 VERIFIES THAT IT IS THE CORRECT ADDRESS, AND FOLLOWS ALL OTHER
9 SHUTOFF PROCEDURES REQUIRED BY LAW.

10 (B) THE UTILITY HAS A COMMISSION-APPROVED, COMPREHENSIVE
11 SECURITY PROGRAM WHICH REASONABLY ENSURES THAT A CUSTOMER'S SERVICE
12 WILL BE SHUT OFF ONLY THROUGH AUTHORIZED ACCESS TO THE UTILITY'S
13 COMPUTER SYSTEM AND WHICH IS OPEN TO INSPECTION AND AUDIT BY THE
14 COMMISSION.