HOUSE BILL No. 4750

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May 21, 2013, Introduced by Reps. Price, Shirkey and Lane 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,"

by amending sections 10h and 10i (MCL 460.10h and 460.10i), as

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added by 2000 PA 142.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 10h. As used in this act:

(a) "Assignee" means an individual, corporation, or other legally recognized entity to which an interest in securitization property is transferred.

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

(c) "Electric utility" means that term as defined in section 2 of the electric transmission line certification act, 1995 PA 30, MCL 460.562.

(d) "Financing order" means an order of the commission approving the issuance of securitization bonds and the creation of securitization charges and any corresponding utility rate reductions.

(e) "Financing party" means a holder of securitization bonds, including trustees, collateral agents, and other persons acting for the benefit of the holder.

(f) "Nonbypassable charge" means a charge in a financing order payable by a customer **RECEIVING STANDARD TARIFF SERVICE** to an electric utility or its assignees or successors. ~~regardless of the identity of the customer's electric generation supplier.~~

(g) "Qualified costs" means an electric utility's ~~regulatory assets as determined by the commission, adjusted by the applicable portion of related investment tax credits, plus any costs that the commission determines that the electric utility would be unlikely to collect in a competitive market, including, but not limited to,~~

~~retail open access implementation costs and the costs of a commission approved restructuring, buyout or buy-down of a power purchase contract,~~ **INVESTMENT IN WATER AND AIR POLLUTION CONTROL EQUIPMENT,** together with the costs of issuing, supporting, and servicing securitization bonds and any costs of retiring and refunding the electric utility's existing debt and equity securities in connection with the issuance of securitization bonds. Qualified costs include taxes related to the recovery of securitization charges.

(h) "Securitization bonds" means bonds, debentures, notes, certificates of participation, certificates of a beneficial interest, certificates of ownership, or other evidences of indebtedness that are issued by an electric utility, its successors, or an assignee under a financing order, that have a term of not more than 15 years, and that are secured by or payable from securitization property. If certificates of participation, certificates of **A** beneficial interest, or certificates of ownership are issued, references in this act to principal, interest, or premium shall refer to comparable amounts under those certificates.

(i) "Securitization charges" means nonbypassable amounts to be charged for the use or availability of electric services, approved by the commission under a financing order to fully recover qualified costs, that shall be collected by an electric utility, its successors, an assignee, or other collection agents as provided for in the financing order.

(j) "Securitization property" means the property described in section 10j.

(K) "STANDARD TARIFF SERVICE" MEANS THAT TERM AS DEFINED IN SECTION 10A.

(*l*) "WATER AND AIR POLLUTION CONTROL EQUIPMENT" MEANS THAT TERM AS DEFINED IN SECTION 3 OF THE ECONOMIC DEVELOPMENT CORPORATIONS ACT, 1974 PA 338, MCL 125.1603.

Sec. 10i. (1) Upon the application of an electric utility, if the commission finds that the net present value of the revenues to be collected under the financing order is less than the amount that would be recovered over the remaining life of the qualified costs using conventional financing methods and that the financing order is consistent with the standards in subsection (2), the commission shall issue a financing order to allow the utility to recover qualified costs. **AN ELECTRIC UTILITY THAT HAS MORE THAN 1,000,000 RETAIL ELECTRIC CUSTOMERS IN THIS STATE ON JANUARY 1, 2012 SHALL APPLY FOR A FINANCING ORDER TO FINANCE ALL NEW WATER AND AIR POLLUTION CONTROL EQUIPMENT REQUIRED BY ANY RULE OR REGULATION ADOPTED BY THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY OR THE MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY THAT IS INSTALLED AFTER THE EFFECTIVE DATE OF THE 2013 AMENDATORY ACT THAT AMENDED THIS SECTION.**

(2) In a financing order, the commission shall ensure all of the following:

(a) That the proceeds of the securitization bonds are used solely for the purposes of the refinancing or retirement of debt or equity.

(b) That securitization provides tangible and quantifiable benefits to customers of the electric utility.

(c) That the expected structuring and expected pricing of the securitization bonds will result in the lowest securitization charges consistent with market conditions and the terms of the financing order.

(d) That the amount securitized does not exceed the net present value of the revenue requirement over the life of the proposed securitization bonds associated with the qualified costs sought to be securitized.

(E) THAT A CUSTOMER TAKING SERVICE FROM AN ALTERNATIVE ELECTRIC SUPPLIER WILL NOT BE ASSESSED ANY CHARGE RELATING TO THE SECURITIZATION BONDS.

(3) The financing order shall detail the amount of qualified costs to be recovered and the period over which the securitization charges are to be recovered, not to exceed 15 years**, AND ALLOCATE THE COSTS TO RATE CLASSES AS PRODUCTION COSTS**.

(4) A financing order is effective in accordance with its terms, and the financing order, together with the securitization charges authorized in the order, shall be irrevocable and not subject to reduction, impairment, or adjustment by further action of the commission, except as provided under section 10k(3).

(5) Stocks, bonds, notes, or other evidence of indebtedness issued under a financing order of the commission shall be binding in accordance with their terms notwithstanding that the order of the commission is later vacated, modified, or otherwise held to be invalid in whole or in part.

(6) The commission shall after an expedited contested case proceeding issue a financing order or an order rejecting the

application for a financing order no later than 90 days after the electric utility files its application.

(7) A financing order is only subject to rehearing by the commission on the motion of the applicant for securitization.

(8) Notwithstanding any other provision of law, a financing order may be reviewed by the court of appeals upon a filing by a party to the commission proceeding within 30 days after the financing order is issued. All appeals of a financing order shall be heard and determined as expeditiously as possible with lawful precedence over other matters. Review on appeal shall be based solely on the record before the commission and briefs to the court and shall be limited to whether the financing order conforms to the constitution and laws of this state and the United States and is within the authority of the commission under this act.

(9) At the request of an electric utility, the commission may adopt a financing order providing for retiring and refunding securitization bonds if the commission finds that the future securitization charges required to service the new securitization bonds, including transaction costs, will be less than the future securitization charges required to service the securitization bonds being refunded. On the retirement of the refunded securitization bonds, the commission shall adjust the related securitization charges accordingly.

(10) The commission shall have the authority to retain financial or legal services to assist in issuance of a financing order and to require the electric utility to pay the cost of the services. The payments shall be included as qualified costs defined

in section 10h(g).