

HOUSE BILL NO. 4806

July 02, 2019, Introduced by Reps. Schroeder, Bellino, O'Malley, Markkanen, Hornberger, Frederick, Mueller and Kuppa and referred to the Committee on Energy.

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 powers and duties of certain state governmental officers and entities; 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 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 the title and sections 10g, 10h, and 10q (MCL 460.10g, 460.10h, and 460.10q), the title as amended by 2016 PA 341, section 10g as amended by 2008 PA 286, section 10h as added by 2000 PA 142, and section 10q as added by 2000 PA 141.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE

2 An act to provide for the regulation and control of public and

3 certain private utilities and other services affected with a public

4 interest within this state; to provide for alternative energy

5 suppliers **and electric vehicle charging station operators**; to

6 provide for licensing; to include municipally owned utilities and

7 other providers of energy under certain provisions of this act; to

8 create a public service commission and to prescribe and define its

9 powers and duties; to abolish the Michigan public utilities

10 commission and to confer the powers and duties vested by law on the

11 public service commission; to provide for the powers and duties of

12 certain state governmental officers and entities; to provide for

13 the continuance, transfer, and completion of certain matters and

14 proceedings; to abolish automatic adjustment clauses; to prohibit

15 certain rate increases without notice and hearing; to qualify

16 residential energy conservation programs permitted under state law

17 for certain federal exemption; to create a fund; to encourage the

18 utilization of resource recovery facilities; to prohibit certain

1 acts and practices of providers of energy; to allow for the
 2 securitization of stranded costs; to reduce rates; to provide for
 3 appeals; to provide appropriations; to declare the effect and
 4 purpose of this act; to prescribe remedies and penalties; and to
 5 repeal acts and parts of acts.

6 Sec. 10g. (1) As used in sections 10 through 10bb:

7 (a) "Alternative electric supplier" means a person selling
 8 electric generation service to retail customers in this state.
 9 Alternative electric supplier does not include **an electric vehicle**
 10 **charging station operator or** a person who physically delivers
 11 electricity directly to retail customers in this state. An
 12 alternative electric supplier is not a public utility.

13 (b) "Commission" means the Michigan public service commission
 14 created in section 1.

15 (c) "Electric utility" means that term as defined in section 2
 16 ~~of the electric transmission line certification act, 1995 PA 30,~~
 17 ~~MCL 460.562.10h.~~

18 (d) "Independent transmission owner" means an independent
 19 transmission company as that term is defined in section 2 of the
 20 electric transmission line certification act, 1995 PA 30, MCL
 21 460.562.

22 (e) "Merchant plant" means electric generating equipment and
 23 associated facilities with a capacity of more than 100 kilowatts
 24 located in this state that are not owned and operated by an
 25 electric utility.

26 (f) "Relevant market" means either the Upper Peninsula or the
 27 Lower Peninsula of this state.

28 (g) "Renewable energy source" means energy generated by solar,
 29 wind, geothermal, biomass, including waste-to-energy and landfill



1 gas, or hydroelectric.

2 (2) A school district aggregating electricity for school
3 properties or an exclusive aggregator for public or private school
4 properties is not an electric utility or a public utility for the
5 purpose of that aggregation.

6 Sec. 10h. As used in this act:

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

10 (b) "Commission" means the Michigan public service commission
11 ~~in the department of consumer and industry services.~~**created in**
12 **section 1.**

13 (c) "Electric utility" means ~~that term as defined in section 2~~
14 ~~of the electric transmission line certification act, 1995 PA 30,~~
15 ~~MCL 460.562.~~**a person, partnership, corporation, association, or**
16 **other legal entity whose transmission or distribution of**
17 **electricity the commission regulates under 1909 PA 106, MCL 460.551**
18 **to 460.559, or this act. Electric utility does not include any of**
19 **the following:**

20 (i) A municipally owned utility.

21 (ii) An affiliated transmission company as that term is defined
22 in section 2 of the electric transmission line certification act,
23 1995 PA 30, MCL 460.562.

24 (iii) An independent transmission company as that term is
25 defined in section 2 of the electric transmission line
26 certification act, 1995 PA 30, MCL 460.562.

27 (iv) An electric vehicle charging station operator.

28 (d) "Electric vehicle" means that term as defined in section
29 2(f) (iii) of the Michigan next energy authority act, 2002 PA 593, MCL



1 207.822.

2 (e) "Electric vehicle charging station" means an electric
3 component assembly or cluster of component assemblies designed
4 specifically to charge batteries within an electric vehicle by
5 permitting the transfer of electric energy to a battery or other
6 storage device in an electric vehicle.

7 (f) "Electric vehicle charging station operator" means a
8 retail seller of electricity that is used solely to operate an
9 electric vehicle charging station.

10 (g) ~~(d)~~—"Financing order" means an order of the commission
11 approving the issuance of securitization bonds and the creation of
12 securitization charges and any corresponding utility rate
13 reductions.

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

17 (i) ~~(f)~~—"Nonbypassable charge" means a charge in a financing
18 order payable by a customer to an electric utility or its assignees
19 or successors regardless of the identity of the customer's electric
20 generation supplier.

21 (j) ~~(g)~~—"Qualified costs" means an electric utility's
22 regulatory assets as determined by the commission, adjusted by the
23 applicable portion of related investment tax credits, plus any
24 costs that the commission determines that the electric utility
25 would be unlikely to collect in a competitive market, including,
26 but not limited to, retail open access implementation costs and the
27 costs of a commission approved restructuring, buyout or buy-down of
28 a power purchase contract, together with the costs of issuing,
29 supporting, and servicing securitization bonds and any costs of



1 retiring and refunding the electric utility's existing debt and
 2 equity securities in connection with the issuance of securitization
 3 bonds. Qualified costs include taxes related to the recovery of
 4 securitization charges.

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

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

21 (m) ~~(j)~~—"Securitization property" means the property described
 22 in section 10j.

23 Sec. 10q. (1) A person shall not ~~engage~~ **do either of the**
 24 **following:**

25 (a) **Engage** in the business of an alternative electric supplier
 26 in this state unless the person obtains and maintains a license
 27 issued under section 10a.

28 (b) **Engage in the business of an electric vehicle charging**
 29 **station operator unless the person obtains and maintains a license**



1 issued under subsection (2).

2 (2) The commission shall issue orders establishing a licensing
3 procedure for electric vehicle charging station operators. The
4 commission shall allow electric vehicle charging station operators
5 to sell that electricity at a profit. To ensure adequate service to
6 customers in this state, the commission shall require that electric
7 vehicle charging station operators do all of the following:

8 (a) Maintain an office in this state.

9 (b) Have financial, managerial, and technical capabilities
10 that the commission considers necessary.

11 (c) Maintain records that the commission considers necessary.

12 (d) Remain accessible to the commission, to consumers, and to
13 electric utilities in this state.

14 (e) Collect and remit all applicable taxes.

15 (3) ~~(2)~~—In addition to any other information required by the
16 commission in connection with a licensing application **under section**
17 **10a or subsection (2)**, the applicant shall ~~be required to~~ do both
18 of the following:

19 (a) Provide information, including information as to the
20 applicant's safety record and its history of service quality and
21 reliability, as to the applicant's technical ability, as defined
22 under regulations of the commission, to safely and reliably
23 generate or otherwise obtain and deliver electricity and provide
24 any other proposed services.

25 (b) Demonstrate that the employees of the applicant that will
26 be installing, operating, and maintaining generation ~~or~~ **facilities**,
27 transmission facilities, **or electric vehicle charging stations**
28 within this state, or any entity with which the applicant has
29 contracted to perform those functions within this state, have the



1 requisite knowledge, skills, and competence to perform those
2 functions in a safe and responsible manner in order to provide safe
3 and reliable service.

4 **(4) (3)**—The commission shall order the applicant **for a license**
5 **under section 10a or subsection (2)** to post a bond or provide a
6 letter of credit or other financial guarantee in a reasonable
7 amount established by the commission of not less than \$40,000.00,
8 if the commission finds after an investigation and review that the
9 requirement of a bond would be in the public interest.

10 **(5) (4)**—Only investor-owned, cooperative, or ~~municipal~~
11 **municipally owned** electric utilities shall own, construct, or
12 operate electric distribution facilities or electric meter
13 equipment used in the distribution of electricity in this state.
14 This subsection does not prohibit a self-service power provider
15 from owning, constructing, or operating electric distribution
16 facilities or electric metering equipment for the sole purpose of
17 providing or utilizing self-service power. **This subsection does not**
18 **prohibit an electric vehicle charging station operator from owning,**
19 **constructing, or operating an electric vehicle charging station.**
20 This act does not affect the current rights, if any, of a
21 nonutility to construct or operate a private distribution system on
22 private property or private easements. This does not preclude
23 crossing of public rights-of-way.

24 **(6) (5)**—The commission shall not prohibit an electric utility
25 from metering and billing its customers for services provided by
26 the electric utility.

