

HOUSE BILL No. 4220

February 15, 2017, Introduced by Reps. Glenn, Lucido, Howrylak, McCready, Barrett, Liberati, Zemke, Runestad, Hernandez, Allor, Kelly, Canfield, Noble, Hornberger, Hoitenga, Wentworth, Garrett and Robinson and referred to the Committee on Energy Policy.

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 section 10gg.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 10GG. (1) A UTILITY CUSTOMER MAY CHOOSE BETWEEN THE
2 PLACEMENT OR USE OF A TRADITIONAL METER OR AN ADVANCED METER
3 REGARDLESS OF THE UTILITY THAT PROVIDES SERVICE TO THAT CUSTOMER.

4 (2) A UTILITY SHALL NOT DO ANY OF THE FOLLOWING:

5 (A) MAKE THE PROVISION OF ANY PORTION OF UTILITY SERVICE TO A
6 CUSTOMER CONTINGENT ON THE CUSTOMER RECEIVING SERVICE THROUGH ANY
7 METER OR SIMILAR DEVICE OTHER THAN A TRADITIONAL METER. A UTILITY
8 MAY PROHIBIT A CUSTOMER WITH A TRADITIONAL METER FROM PARTICIPATING
9 IN CERTAIN TIME-OF-DAY TARIFF DISCOUNTS.

10 (B) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, IMPOSE ANY
11 FEE OR DISINCENTIVE ON A CUSTOMER FOR OPTING OUT OF OR NOT
12 ACCEPTING THE INSTALLATION OF AN ADVANCED METER OR HUB METER OR THE
13 USE OF AN ADVANCED METER FUNCTION.

14 (C) INSTALL AN ADVANCED METER OR UPGRADE THE FUNCTIONALITY OF
15 THE ADVANCED METER AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT
16 THAT ADDED THIS SECTION UNLESS THE CUSTOMER HAS BEEN PROPERLY
17 NOTIFIED AND HAS NOT OPTED OUT OF THE INSTALLATION OR UPGRADE. IF A
18 CUSTOMER HAS NOT OPTED OUT OF THE INSTALLATION OR UPGRADE, AN ON-
19 SITE UTILITY WORKER OR HIS OR HER AGENT SHALL NEVERTHELESS NOT
20 INSTALL AN ADVANCED METER OR UPGRADE THE FUNCTIONALITY OF THE
21 ADVANCED METER IF THE CUSTOMER HAS POSTED A SIGN ON THE CURRENT
22 METER FORBIDDING THE INSTALLATION OR UPGRADE OF AN ADVANCED METER
23 OR THE CUSTOMER VERBALLY INFORMS THE WORKER AT THE TIME OF
24 INSTALLATION NOT TO INSTALL OR UPGRADE THE ADVANCED METER.

25 (3) A UTILITY SHALL NOTIFY A CUSTOMER IN WRITING OF THE

1 UTILITY'S INTENTION TO INSTALL AN ADVANCED METER AT THE CUSTOMER'S
2 ADDRESS OR TO UPGRADE THE FUNCTIONALITY OF A PREVIOUSLY INSTALLED
3 ADVANCED METER. THE UTILITY SHALL SEND THE NOTICE BY FIRST-CLASS
4 MAIL SEPARATE FROM ANY BILLING MAILING. THE UTILITY SHALL KEEP A
5 COPY OF EACH MAILED NOTICE ON FILE FOR REVIEW BY THE CUSTOMER OR
6 THE COMMISSION. EACH NOTICE MUST DO ALL OF THE FOLLOWING:

7 (A) INCLUDE THE CUSTOMER'S NAME, SERVICE ADDRESS, AND
8 ANTICIPATED DATE OF INSTALLATION.

9 (B) STATE THE UTILITY'S DESIRE TO INSTALL AN ADVANCED METER AT
10 THE CUSTOMER'S ADDRESS, AS WELL AS THE FUNCTIONALITY OF THE
11 ADVANCED METER, ITS METHOD OF COMMUNICATION, AND FREQUENCY OF DATA
12 COMMUNICATION.

13 (C) IF THE ADVANCED METER THE CUSTOMER WOULD BE RECEIVING IS A
14 HUB METER, EXPLAIN HOW A HUB METER DIFFERS FROM OTHER METERS.

15 (D) STATE THE CUSTOMER'S ABILITY TO CHOOSE A TRADITIONAL METER
16 OR NONHUB METER AND THE CUSTOMER'S RIGHTS UNDER THIS SECTION.

17 (E) CLEARLY EXPLAIN THE PROCESS FOR A CUSTOMER TO OPT OUT OF
18 THE INSTALLATION OF AN ADVANCED METER OR HUB METER OR THE USE OF AN
19 ADVANCED METER FUNCTION.

20 (4) THE COMMISSION MAY PROMULGATE OPT-OUT PROCEDURES THAT ARE
21 COMPOSED OF SIMPLE, EASY-TO-UNDERSTAND STEPS THAT AN AVERAGE
22 CUSTOMER CAN EASILY UNDERSTAND THAT DO NOT PLACE ANY UNDUE BURDEN
23 ON THE CUSTOMER. AFTER BEING NOTIFIED THAT THEY CAN OPT OUT,
24 CUSTOMERS MUST BE PROVIDED WITH AT LEAST 45 DAYS TO COMMUNICATE
25 WITH THE UTILITY THEIR DESIRE TO OPT OUT, WITH A CLEAR DEADLINE
26 LISTED ON THE NOTICE. OPT-OUT PROCEDURES MUST BE FREE OF CHARGE
27 OTHER THAN THE COST OF REGULAR MAILING. AN OPT-OUT PROCEDURE OR

1 PROCESS MUST BE NARROW IN CONSTRUCTION SO AS TO INFORM THE UTILITY
2 OF THE CUSTOMER'S INTENTIONS AND NOT BE MADE CONTINGENT UPON OR
3 CONTAIN LANGUAGE THAT WOULD REQUIRE THE CUSTOMER'S GIVING UP ANY
4 RIGHTS OR MAKING ANY OTHER ANCILLARY AGREEMENTS. A CUSTOMER THAT
5 DOES NOT OPT OUT WHEN FIRST NOTIFIED DOES NOT GIVE UP ANY RIGHTS
6 REGARDING HAVING AN ADVANCED METER REMOVED IN THE FUTURE.

7 (5) WITHIN 30 DAYS AFTER RECEIVING A CUSTOMER'S REQUEST THAT
8 AN ADVANCED METER BE REMOVED FROM THE CUSTOMER'S RESIDENCE OR
9 BUSINESS, A UTILITY SHALL REMOVE THE ADVANCED METER AND REPLACE IT
10 WITH A TRADITIONAL METER THAT IS NOT AN ADVANCED METER. LIMITED TO
11 ACTUAL COSTS, A UTILITY MAY CHARGE A 1-TIME ALL-INCLUSIVE FEE, NOT
12 TO EXCEED \$150.00, TO REMOVE THE ADVANCED METER AND TO PROVIDE AND
13 INSTALL A TRADITIONAL METER. HOWEVER, A UTILITY SHALL NOT CHARGE A
14 FEE IF THE UTILITY INSTALLED THE ADVANCED METER IN VIOLATION OF THE
15 NOTICE REQUIREMENTS IN THIS SECTION OR BEFORE THE EFFECTIVE DATE OF
16 THE AMENDATORY ACT THAT ADDED THIS SECTION. A UTILITY SHALL NOT
17 CHARGE A MONTHLY FEE FOR USING A TRADITIONAL METER UNLESS THE
18 CUSTOMER IS OFFERED THE OPPORTUNITY, BUT IS UNWILLING, TO READ AND
19 REPORT THE CUSTOMER'S USAGE UNDER SUBSECTION (6). ANY MONTHLY FEE
20 FOR USING A TRADITIONAL METER SHALL NOT EXCEED \$5.00 PER MONTH.

21 (6) A UTILITY SHALL ALLOW EACH CUSTOMER TO READ AND REPORT
22 THAT CUSTOMER'S SERVICE USAGE IF THE CUSTOMER REPORTS REASONABLY
23 ACCURATE USAGE ON A REGULAR BASIS. A UTILITY SHALL PROVIDE A
24 CUSTOMER WITH A PREAMBITTERED ENVELOPE AND FORM UPON REQUEST OR
25 PERMIT A CUSTOMER TO REPORT METER READINGS ON A SECURE WEBSITE, BY
26 TELEPHONE, OR BY OTHER REASONABLE MEANS. AT LEAST ONCE EVERY 12
27 MONTHS, THE UTILITY SHALL OBTAIN AN ACTUAL METER READING OF A

1 CUSTOMER'S ENERGY USAGE TO VERIFY THE ACCURACY OF READINGS REPORTED
2 UNDER THIS SECTION. NOTWITHSTANDING THIS SUBSECTION, A
3 REPRESENTATIVE OF A UTILITY MAY MANUALLY READ A CUSTOMER'S METER ON
4 A REGULAR BASIS AS OTHERWISE PERMITTED BY LAW AND CORRECT A READING
5 AS NECESSARY. IF A CUSTOMER FAILS TO REPORT USAGE OR THE UTILITY
6 DOES NOT RECEIVE A CUSTOMER'S SERVICE USAGE ON TIME, THE UTILITY
7 MAY MANUALLY READ A CUSTOMER'S METER OR CHARGE THAT CUSTOMER BASED
8 ON AN ESTIMATE OF PRIOR ENERGY USE IN A MANNER APPROVED BY THE
9 COMMISSION. A CUSTOMER THAT INTENTIONALLY REPORTS INACCURATE
10 INFORMATION MAY BE ASSESSED A REASONABLE PENALTY UNDER RULES
11 PROMULGATED BY THE COMMISSION AND MAY BE SUBJECT TO ANY OTHER
12 PENALTIES PROVIDED BY LAW. AS USED IN THIS SUBSECTION:

13 (A) "INACCURATE INFORMATION" MEANS THE INTENTIONAL
14 UNDERREPORTING OF METER DATA IN AN EFFORT TO NOT PAY FOR SERVICES.
15 INACCURATE INFORMATION DOES NOT MEAN MINOR DIFFERENCES IN READINGS
16 BY LESS THAN 5% TO ACCOUNT FOR VARIATIONS BASED ON THE TIME OF DAY
17 THAT THE METER IS READ AND SIMILAR FACTORS.

18 (B) "REGULAR BASIS" MEANS ONCE PER BILLING CYCLE.

19 (7) SUBJECT TO SUBSECTION (2), THE COMMISSION SHALL NOT
20 APPROVE A UTILITY TARIFF THAT ALTERS RATES FOR CUSTOMERS THAT DO
21 NOT USE AN ADVANCED METER IF THE UTILITY'S COST ESTIMATES ARE BASED
22 ON MORE THAN 1 MANUAL METER READING PER YEAR BY THE UTILITY. THE
23 COMMISSION SHALL CONSIDER THE ABILITY TO SELF-READ METERS AS PART
24 OF ANY PROCEEDING AND SHALL FULLY RECOGNIZE AND VALUE THAT
25 CUSTOMERS HAVE A LEGITIMATE INTEREST IN CONTROLLING THIRD-PARTY
26 EQUIPMENT PLACED ONTO THEIR PROPERTY THAT IS NOT INHERENTLY
27 NECESSARY AS A CONDITION TO RECEIVING SERVICE.

1 (8) A CUSTOMER'S ENERGY USE DATA AND INTERNET USER INFORMATION
2 ARE PRIVATE AND CONFIDENTIAL AND A UTILITY OR ITS AGENTS SHALL NOT
3 SELL, RENT, OR SHARE THAT DATA OR INFORMATION EXCEPT AS PROVIDED BY
4 COMPETENT COURT ORDER OR LAW. A UTILITY MAY REPORT DATA RELATING TO
5 ELECTRIC OR COMPRESSED NATURAL GAS VEHICLE FUELING TO THE
6 DEPARTMENT OF TREASURY. THE DEPARTMENT OF TREASURY SHALL USE THAT
7 INFORMATION STRICTLY FOR TAXATION PURPOSES AND SHALL NOT SHARE THAT
8 INFORMATION WITH LAW ENFORCEMENT WITHOUT A WARRANT, AND THAT
9 INFORMATION IS NOT SUBJECT TO DISCLOSURE UNDER THE FREEDOM OF
10 INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246, EXCEPT FOR
11 AGGREGATE DATA USED FOR RESEARCH PURPOSES IN A NONIDENTIFYING
12 MANNER.

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

25 (10) A UTILITY SHALL NOT POST A CUSTOMER'S ENERGY USE DATA OR
26 BILL ON THE INTERNET, EXCEPT OVER A SECURED TRANSFER PROTOCOL OR
27 SIMILAR SECURED CONNECTION THAT USES 1 OR MORE ADDITIONAL SECURITY

1 MEASURES, SUCH AS A CUSTOMER-SELECTED PASSWORD, TO ENSURE THAT ONLY
2 THE CUSTOMER CAN ACCESS THE INFORMATION.

3 (11) A UTILITY SHALL NOT WIRELESSLY OR OTHERWISE REMOTELY SHUT
4 OFF SERVICE TO A CUSTOMER UNLESS BOTH OF THE FOLLOWING REQUIREMENTS
5 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 THAT REASONABLY ENSURES THAT A CUSTOMER'S SERVICE
12 WILL BE SHUT OFF ONLY THROUGH AUTHORIZED ACCESS TO THE UTILITY'S
13 COMPUTER SYSTEM, THAT IS OPEN TO INSPECTION AND AUDIT BY THE
14 COMMISSION, AND THAT IS DESIGNED TO PREVENT UNINTENTIONAL SHUTOFF
15 DUE TO NETWORK HACKING OR TERRORISM.

16 (12) AS USED IN THIS SECTION:

17 (A) "ADVANCED METER" MEANS A METER OR METERING DEVICE SYSTEM
18 THAT IS OWNED OR LEASED BY A UTILITY OR ITS AGENT AND THAT MEETS 1
19 OR MORE OF THE FOLLOWING REQUIREMENTS:

20 (i) IS A DEVICE THAT MEASURES, RECORDS, OR SENDS A CUSTOMER'S
21 UTILITY USAGE OR OTHER DATA BY USE OF RADIO WAVES OR BROADBAND OVER
22 POWER LINES.

23 (ii) ALLOWS FOR 2-WAY COMMUNICATION BETWEEN THE METER AND THE
24 UTILITY OR ITS AGENT.

25 (iii) ALLOWS FOR A UTILITY OR ITS AGENT TO CONTROL A
26 CUSTOMER'S THERMOSTAT, APPLIANCE, OR SERVICE.

27 (B) "HUB METER" MEANS AN ADVANCED METER THAT GENERATES

1 STRONGER RADIO WAVES AS A RESULT OF THE METER SERVING AS A HUB FOR
2 OTHER ADVANCED METERS IT COMMUNICATES WITH IN A GIVEN AREA.

3 (C) "TRADITIONAL METER" MEANS AN ANALOG OR SIMILAR METER THAT
4 IS UNABLE TO TRANSMIT USAGE INFORMATION AND IS ONLY INTENDED TO BE
5 READ BY AN INDIVIDUAL THROUGH A VISUAL DISPLAY. A TRADITIONAL METER
6 IS NOT DESIGNED TO BE AND IS NOT CAPABLE OF TRANSMITTING USAGE DATA
7 BY USING RADIO WAVES OR BROADBAND OVER POWER LINES, ALLOWING 2-WAY
8 COMMUNICATION BETWEEN THE METER AND THE UTILITY OR ITS AGENTS, OR
9 ALLOWING A UTILITY OR ITS AGENTS TO CONTROL A CUSTOMER'S
10 THERMOSTAT, APPLIANCE, OR SERVICE. A TRADITIONAL METER DOES NOT
11 INCLUDE AN ADVANCED METER THAT HAS CERTAIN FUNCTIONALITY TURNED OFF
12 OR DEACTIVATED.

13 (D) "UTILITY" MEANS A PERSON THAT SELLS NATURAL GAS,
14 ELECTRICITY, OR WATER TO RETAIL CUSTOMERS IN THIS STATE AND THAT
15 EITHER SELLS THE NATURAL GAS, ELECTRICITY, OR WATER AT RATES
16 REGULATED BY THE COMMISSION OR IS OWNED BY A MUNICIPALITY.