

SENATE BILL No. 621

June 3, 2009, Introduced by Senator SANBORN and referred to the Committee on Energy Policy and Public Utilities.

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 10ee.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 10EE. (1) AS USED IN THIS SECTION:

2 (A) "AFFECTED PROPERTY OWNER" MEANS THE RECORD OWNER OF REAL
3 PROPERTY ON WHICH A TRANSMISSION COMPANY PLANS TO PERFORM TREE-
4 CUTTING ACTIVITY, BUT DOES NOT INCLUDE A PROPERTY OWNER THAT IS A
5 GOVERNMENTAL UNIT.

6 (B) "TRANSMISSION COMPANY" MEANS AN AFFILIATED TRANSMISSION
7 COMPANY OR INDEPENDENT TRANSMISSION COMPANY AS THOSE TERMS ARE
8 DEFINED IN SECTION 2 OF THE ELECTRIC TRANSMISSION LINE
9 CERTIFICATION ACT, 1995 PA 30, MCL 460.562.

10 (C) "TREE-CUTTING ACTIVITY" MEANS THE CUTTING DOWN AND REMOVAL
11 OF 1 OR MORE TREES.

12 (2) IN PERFORMING ANY TREE-CUTTING ACTIVITY, A TRANSMISSION
13 COMPANY SHALL FOLLOW THE TREE CARE AND MAINTENANCE STANDARD
14 PRACTICES SET FORTH BY THE AMERICAN NATIONAL STANDARDS INSTITUTE.

15 (3) NOT LATER THAN JANUARY 1, 2010, A TRANSMISSION COMPANY
16 SHALL ESTABLISH WRITTEN POLICIES THAT DO BOTH OF THE FOLLOWING:

17 (A) PROVIDE DISPUTE RESOLUTION PROCEDURES FOR AFFECTED
18 PROPERTY OWNERS.

19 (B) DESCRIBE OTHER RIGHTS AND REMEDIES, IF ANY, THAT THE
20 TRANSMISSION COMPANY PROVIDES TO AFFECTED PROPERTY OWNERS.

21 (4) THE POLICIES REQUIRED UNDER SUBSECTION (3) SHALL PROVIDE
22 THAT AN AFFECTED PROPERTY OWNER IS ENTITLED TO APPEAL TO THE
23 COMMISSION ANY RESOLUTION OF A CASE REACHED THROUGH THE
24 TRANSMISSION COMPANY'S DISPUTE RESOLUTION PROCEDURES.

25 (5) NOT LATER THAN JANUARY 1, 2010, A TRANSMISSION COMPANY
26 SHALL MAKE THE POLICIES REQUIRED UNDER SUBSECTION (3) AVAILABLE TO

1 THE PUBLIC THROUGH THE FOLLOWING MEANS:

2 (A) A WRITTEN COPY OF THE POLICIES SHALL BE KEPT ON FILE AND
3 MADE OPEN TO PUBLIC INSPECTION IN EVERY STATION OR OFFICE OF THE
4 TRANSMISSION COMPANY.

5 (B) A WRITTEN COPY OF THE POLICIES SHALL BE KEPT ON FILE AS A
6 PUBLIC RECORD IN THE OFFICE OF THE COMMISSION.

7 (C) THE POLICIES SHALL BE AVAILABLE ON A PUBLICLY ACCESSIBLE
8 WEBSITE OF THE TRANSMISSION COMPANY.

9 (6) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (12), NOT MORE
10 THAN 90 DAYS BEFORE OR LESS THAN 21 DAYS BEFORE PERFORMING ANY
11 TREE-CUTTING ACTIVITY PLANNED TO OCCUR AFTER MARCH 15, 2010, A
12 TRANSMISSION COMPANY SHALL SEND NOTICE BY FIRST-CLASS MAIL OF THE
13 PLANNED TREE-CUTTING ACTIVITY TO THE EXECUTIVE OF A MUNICIPALITY OR
14 TOWNSHIP IN WHICH ANY PART OF THE TREE-CUTTING ACTIVITY WILL OCCUR.
15 THE NOTICE SHALL INCLUDE MAPS, A DESCRIPTION BY STREET ADDRESS, IF
16 ANY, OR ANOTHER COMMON DESCRIPTION OF THE AREA TO BE AFFECTED BY
17 THE TREE-CUTTING ACTIVITY. THE MUNICIPAL OR TOWNSHIP EXECUTIVE
18 SHALL KEEP ON FILE AND MAKE OPEN FOR PUBLIC INSPECTION THE
19 MATERIALS RECEIVED UNDER THIS SUBSECTION.

20 (7) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (12), NOT MORE
21 THAN 90 DAYS BEFORE OR LESS THAN 21 DAYS BEFORE PERFORMING ANY
22 TREE-CUTTING ACTIVITY PLANNED TO OCCUR AFTER MARCH 15, 2010, A
23 TRANSMISSION COMPANY SHALL PROVIDE THE FOLLOWING NOTICE OF THE
24 PLANNED TREE-CUTTING ACTIVITY TO AFFECTED PROPERTY OWNERS:

25 (A) NOTICE BY PUBLICATION IN 1 NEWSPAPER OF GENERAL
26 CIRCULATION IN THE MUNICIPALITY OR COUNTY WHERE THE TREE-CUTTING
27 ACTIVITY WILL OCCUR. THE NOTICE REQUIRED BY THIS SUBDIVISION SHALL

1 INCLUDE A DESCRIPTION BY STREET ADDRESS, IF ANY, OR OTHER COMMON
2 DESCRIPTION OF THE AREA TO BE AFFECTED BY THE TREE-CUTTING
3 ACTIVITY.

4 (B) NOTICE BY FIRST-CLASS MAIL TO EACH AFFECTED PROPERTY
5 OWNER. THE NOTICE REQUIRED BY THIS SUBDIVISION SHALL INCLUDE THE
6 FOLLOWING:

7 (i) A STATEMENT OF THE TREE-CUTTING ACTIVITY PLANNED.

8 (ii) A STATEMENT THAT THE WRITTEN POLICIES REQUIRED UNDER
9 SUBSECTION (3) ARE AVAILABLE FOR PUBLIC INSPECTION IN THE PUBLIC
10 OFFICES OF THE TRANSMISSION COMPANY AND THE OFFICE OF THE
11 COMMISSION, AS REQUIRED UNDER SUBSECTION (5).

12 (iii) THE WEBSITE ADDRESS REQUIRED UNDER SUBSECTION (5).

13 (iv) A STATEMENT THAT AN AFFECTED PROPERTY OWNER MAY APPEAL THE
14 PLANNED TREE-CUTTING ACTIVITY THROUGH THE DISPUTE RESOLUTION
15 PROCEDURES OF THE TRANSMISSION COMPANY. THE STATEMENT SHALL INFORM
16 THE AFFECTED PROPERTY OWNER OF THE RIGHT TO APPEAL TO THE
17 COMMISSION ANY RESOLUTION REACHED THROUGH THE TRANSMISSION
18 COMPANY'S DISPUTE RESOLUTION PROCEDURES.

19 (v) A STATEMENT THAT MAPS, A DESCRIPTION BY STREET ADDRESS, OR
20 ANOTHER COMMON DESCRIPTION OF THE AFFECTED AREA IS AVAILABLE FOR
21 PUBLIC INSPECTION IN THE OFFICE OF THE COUNTY OR MUNICIPAL
22 EXECUTIVE.

23 (8) THE DUTY OF A TRANSMISSION COMPANY TO PROVIDE NOTICE UNDER
24 SUBSECTION (7) (B) REQUIRES THE TRANSMISSION COMPANY TO NOTIFY ONLY
25 AFFECTED PROPERTY OWNERS. IF A PERSON OTHER THAN THE AFFECTED
26 PROPERTY OWNER RESIDES ON AN AFFECTED PARCEL OF LAND, IT IS THE
27 RESPONSIBILITY OF THE AFFECTED PROPERTY OWNER TO NOTIFY THE

1 RESIDENT OF THE PLANNED TREE-CUTTING ACTIVITY. A TRANSMISSION
2 COMPANY DOES NOT HAVE A DUTY TO EXTEND RIGHTS, REMEDIES, OR
3 POLICIES ESTABLISHED UNDER SUBSECTION (3) TO A RESIDENT WHO IS NOT
4 AN AFFECTED PROPERTY OWNER.

5 (9) IF AN AFFECTED PROPERTY OWNER WISHES TO APPEAL THE PLANNED
6 TREE-CUTTING ACTIVITY DESCRIBED IN THE NOTICE UNDER SUBSECTION
7 (7) (B), THE AFFECTED PROPERTY OWNER MUST INITIATE THE DISPUTE
8 RESOLUTION PROCEDURES PROVIDED BY THE TRANSMISSION COMPANY NO LATER
9 THAN 14 DAYS AFTER RECEIVING THE NOTICE.

10 (10) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (12), IF AN
11 AFFECTED PROPERTY OWNER HAS INITIATED DISPUTE RESOLUTION PROCEDURES
12 UNDER SUBSECTION (9), A TRANSMISSION COMPANY SHALL NOT PERFORM ANY
13 TREE-CUTTING ACTIVITY ON THE AFFECTED PROPERTY OWNER'S PROPERTY
14 WHILE THE DISPUTE RESOLUTION PROCEDURES ARE PENDING. IF THE
15 AFFECTED PROPERTY OWNER WISHES TO APPEAL THE RESOLUTION OF THE CASE
16 REACHED THROUGH THE TRANSMISSION COMPANY'S DISPUTE RESOLUTION
17 PROCEDURES, THE AFFECTED PROPERTY OWNER SHALL INITIATE AN APPEAL
18 WITH THE COMMISSION AND NOTIFY THE TRANSMISSION COMPANY OF THE
19 APPEAL NO LATER THAN 10 DAYS AFTER THE DATE OF THE CASE'S
20 RESOLUTION. IF THE TRANSMISSION COMPANY DOES NOT RECEIVE NOTICE OF
21 AN APPEAL WITHIN THE TIME PRESCRIBED IN THIS SUBSECTION, THE
22 TRANSMISSION COMPANY MAY BEGIN THE PLANNED TREE-CUTTING ACTIVITY,
23 SUBJECT TO ANY SPECIFICATIONS OR LIMITATIONS REACHED THROUGH THE
24 DISPUTE RESOLUTION PROCEDURES.

25 (11) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (12), IF A
26 TRANSMISSION COMPANY RECEIVES NOTICE OF AN APPEAL TO THE COMMISSION
27 WITHIN THE TIME PRESCRIBED IN SUBSECTION (10), A TRANSMISSION

1 COMPANY SHALL NOT PERFORM ANY TREE-CUTTING ACTIVITY ON THE AFFECTED
2 PROPERTY OWNER'S PROPERTY WHILE THE APPEAL IS PENDING.

3 (12) A TRANSMISSION COMPANY IS NOT SUBJECT TO THE NOTICE
4 REQUIREMENTS SET FORTH IN SUBSECTIONS (6) AND (7) OR THE
5 PROHIBITION AGAINST PERFORMING TREE-CUTTING ACTIVITY DURING A
6 PENDING DISPUTE OR APPEAL SET FORTH IN SUBSECTION (10) IF THE
7 TRANSMISSION COMPANY PERFORMS TREE-CUTTING ACTIVITY THAT IS
8 NECESSARY TO RESTORE RELIABLE ELECTRIC SERVICE IN AN EMERGENCY, AS
9 DETERMINED BY THE COMMISSION.

10 (13) THE COMMISSION HAS THE SOLE AUTHORITY TO HEAR AND
11 DETERMINE COMPLAINTS THAT A TRANSMISSION COMPANY HAS FAILED TO
12 COMPLY WITH THIS SECTION.