

**SUBSTITUTE FOR  
HOUSE BILL NO. 4802**

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 certain providers of electric vehicle charging**  
 6 **services;** to provide for licensing; to include municipally owned  
 7 utilities and other providers of energy under certain provisions of  
 8 this act; to create a public service commission and to prescribe  
 9 and define its powers and duties; to abolish the Michigan public  
 10 utilities commission and to confer the powers and duties vested by  
 11 law on the public service commission; to provide for the powers and  
 12 duties of certain state governmental officers and entities; to  
 13 provide for the continuance, transfer, and completion of certain  
 14 matters and proceedings; to abolish automatic adjustment clauses;  
 15 to prohibit certain rate increases without notice and hearing; to  
 16 qualify residential energy conservation programs permitted under  
 17 state law for certain federal exemption; to create a fund; to  
 18 encourage the utilization of resource recovery facilities; to  
 19 prohibit certain acts and practices of providers of energy; to  
 20 allow for the securitization of stranded costs; to reduce rates; to  
 21 provide for appeals; to provide appropriations; to declare the  
 22 effect and purpose of this act; to prescribe remedies and



1 penalties; and to repeal acts and parts of acts.

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

3 (a) "Alternative electric supplier" means a person selling  
4 electric generation service to retail customers in this state.  
5 Alternative electric supplier does not include **a provider of**  
6 **electric vehicle charging services or** a person who physically  
7 delivers electricity directly to retail customers in this state. An  
8 alternative electric supplier is not a public utility.

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

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

14 (d) "Independent transmission owner" means an independent  
15 transmission company as that term is defined in section 2 of the  
16 electric transmission line certification act, 1995 PA 30, MCL  
17 460.562.

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

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

24 (g) "Renewable energy source" means energy generated by solar,  
25 wind, geothermal, biomass, including waste-to-energy and landfill  
26 gas, or hydroelectric.

27 (2) A school district aggregating electricity for school  
28 properties or an exclusive aggregator for public or private school  
29 properties is not an electric utility or a public utility for the



1 purpose of that aggregation.

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

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

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

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

12 (d) "Electric vehicle" means that term as defined in section  
13 2(f) (iii) of the Michigan next energy authority act, 2002 PA 593, MCL  
14 207.822.

15 (e) "Electric vehicle charging services" means the transfer of  
16 electric energy from electric vehicle service equipment to a  
17 battery or other storage device in an electric vehicle and the  
18 provision of billing services, networking, and operation and  
19 maintenance related to that transfer of electric energy to an  
20 electric vehicle.

21 (f) "Electric vehicle charging device" means an electric  
22 component assembly or cluster of component assemblies designed  
23 specifically to charge batteries within an electric vehicle by  
24 permitting the transfer of electric energy to a battery or other  
25 storage device in an electric vehicle.

26 (g) ~~(d)~~—"Financing order" means an order of the commission  
27 approving the issuance of securitization bonds and the creation of  
28 securitization charges and any corresponding utility rate  
29 reductions.



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

4           **(i)** ~~(f)~~—"Nonbypassable charge" means a charge in a financing  
 5 order payable by a customer to an electric utility or its assignees  
 6 or successors regardless of the identity of the customer's electric  
 7 generation supplier.

8           **(j)** ~~(g)~~—"Qualified costs" means an electric utility's  
 9 regulatory assets as determined by the commission, adjusted by the  
 10 applicable portion of related investment tax credits, plus any  
 11 costs that the commission determines that the electric utility  
 12 would be unlikely to collect in a competitive market, including,  
 13 but not limited to, retail open access implementation costs and the  
 14 costs of a commission approved restructuring, buyout or buy-down of  
 15 a power purchase contract, together with the costs of issuing,  
 16 supporting, and servicing securitization bonds and any costs of  
 17 retiring and refunding the electric utility's existing debt and  
 18 equity securities in connection with the issuance of securitization  
 19 bonds. Qualified costs include taxes related to the recovery of  
 20 securitization charges.

21           **(k)** ~~(h)~~—"Securitization bonds" means bonds, debentures, notes,  
 22 certificates of participation, certificates of a beneficial  
 23 interest, certificates of ownership, or other evidences of  
 24 indebtedness that are issued by an electric utility, its  
 25 successors, or an assignee under a financing order, that have a  
 26 term of not more than 15 years, and that are secured by or payable  
 27 from securitization property. If certificates of participation,  
 28 certificates of beneficial interest, or certificates of ownership  
 29 are issued, references in this act to principal, interest, or



1 premium ~~shall~~ refer to comparable amounts under those certificates.

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

8       (m) ~~(j)~~ "Securitization property" means the property described  
9 in section 10j.

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

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

15       (b) **Except as otherwise provided in this subdivision, provide**  
16 **electric vehicle charging services unless the person registers with**  
17 **the department of agriculture and rural development under the**  
18 **electric vehicle charging services registration act. The following**  
19 **are not required to register under the electric vehicle charging**  
20 **services act:**

21       (i) A private owner of an electric vehicle charging device or a  
22 nonretail provider of an electric vehicle charging device if the  
23 electric vehicle charging device is not publicly accessible.

24       (ii) An electric utility.

25       (iii) A municipally owned utility.

26       (iv) A cooperative electric utility.

27       (v) An independent transmission owner.

28       (2) In addition to any other information required by the  
29 commission in connection with a licensing application **under section**



1 **10a**, the applicant shall ~~be required to~~ do both of the following:

2 (a) Provide information, including information as to the  
3 applicant's safety record and its history of service quality and  
4 reliability, as to the applicant's technical ability, as defined  
5 under regulations of the commission, to safely and reliably  
6 generate or otherwise obtain and deliver electricity and provide  
7 any other proposed services.

8 (b) Demonstrate that the employees of the applicant that will  
9 be installing, operating, and maintaining generation or  
10 transmission facilities within this state, or any entity with which  
11 the applicant has contracted to perform those functions within this  
12 state, have the requisite knowledge, skills, and competence to  
13 perform those functions in a safe and responsible manner in order  
14 to provide safe and reliable service.

15 (3) The commission shall order the applicant **for a license**  
16 **under section 10a** to post a bond or provide a letter of credit or  
17 other financial guarantee in a reasonable amount established by the  
18 commission of not less than \$40,000.00, if the commission finds  
19 after an investigation and review that the requirement of a bond  
20 would be in the public interest.

21 (4) Only investor-owned, cooperative, or ~~municipal~~**municipally**  
22 **owned** electric utilities shall own, construct, or operate electric  
23 distribution facilities or electric meter equipment used in the  
24 distribution of electricity in this state. This subsection does not  
25 prohibit a self-service power provider from owning, constructing,  
26 or operating electric distribution facilities or electric metering  
27 equipment for the sole purpose of providing or utilizing self-  
28 service power. **This subsection does not prohibit an entity that**  
29 **provides electric vehicle charging services from owning,**



1 **constructing, or operating an electric vehicle charging device.**

2 This act does not affect the current rights, if any, of a  
3 nonutility to construct or operate a private distribution system on  
4 private property or private easements. This does not preclude  
5 crossing of public rights-of-way. **An entity that provides electric  
6 vehicle charging services is not considered a public utility  
7 notwithstanding the basis on which the service is provided or  
8 billed. However, if an entity that provides electric vehicle  
9 charging services is otherwise considered a public utility under  
10 this act, or is otherwise subject to regulation under this act,  
11 then that entity is not exempt from and remains subject to the  
12 otherwise applicable provisions of this act. An entity that  
13 provides electric vehicle charging services shall work with the  
14 applicable investor-owned, cooperative, or municipally owned  
15 electric utility to determine the appropriate method of  
16 distribution services for an electric vehicle charging device.**

17 (5) The commission shall not prohibit an electric utility from  
18 metering and billing its customers for services provided by the  
19 electric utility.

20 Enacting section 1. This amendatory act does not take effect  
21 unless House Bill No. 4801 of the 101st Legislature is enacted into  
22 law.

