

MICHIGAN PUBLIC SERVICE COMMISSION (EXCERPT)
Act 3 of 1939

460.9p Failure of utility to meet requirements of act; commencement of civil action; notice; compliance agreement; final order; costs of litigation; fines; construction and limitation of act.

Sec. 9p.

(1) The attorney general, on his or her own motion or upon a referral from the commission in a case of serious injury or death, or any customer of a municipally owned electric or natural gas utility may commence a civil action for injunctive relief or imposition of a civil fine as provided in subsection (3) against that municipally owned electric or natural gas utility if the utility fails to meet the applicable requirements of this act. A municipally owned electric utility shall establish a complaint resolution process for its customers to resolve any allegations of violations of this act that have not resulted in a death or serious injury.

(2) An action under this section shall be commenced in the circuit court for the circuit in which the principal office of the municipally owned electric or natural gas utility is located. An action shall not be filed under this section unless the prospective plaintiff has given the prospective defendant at least 60 days' written notice of the prospective plaintiff's intent to sue, the basis for the suit, and the relief sought. Within 30 days after the prospective defendant receives written notice of the prospective plaintiff's intent to sue, the prospective defendant and plaintiff shall meet and make a good faith attempt to determine if there is a credible basis for the action. If both parties agree that there is a credible basis for the action, the prospective defendant shall take all reasonable and prudent steps necessary to comply with the applicable requirements of this act within 10 days of the meeting and may enter into a compliance agreement which may include the payment of a civil fine.

(3) In issuing a final order in an action brought under this section, a court may award costs of litigation, including reasonable attorney and expert witness fees, to the prevailing or substantially prevailing party. A court may order a municipally owned electric or natural gas utility to pay a civil fine for the first offense of not less than \$1,000.00 or more than \$20,000.00. For a second offense, the court may order the person to pay a fine of not less than \$2,000.00 or more than \$40,000.00. For a third and any subsequent offense, the court may order the person to pay a fine of not less than \$5,000.00 or more than \$50,000.00. A civil fine ordered under this section shall be deposited in the low income and energy efficiency fund.

(4) A municipally owned electric or natural gas utility or a customer of a municipally owned electric or natural gas utility is subject to this act only as expressly provided in this act. Nothing in this act shall give the commission the power to regulate a municipally owned electric or natural gas utility. Nothing in this section shall be construed to prevent a party from pursuing any other legal or equitable remedy that may be available to them.

History: Add. 2009, Act 172, Imd. Eff. Dec. 15, 2009