

SENATE BILL No. _____

Date: _____

Introduced by State Senators _____

UTILITY METER FREEDOM OF CHOICE AMENDMENT

A bill to amend Chapter 460
Michigan Public Act 3 of 1939, 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 460.12

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

460.12 Any utility customer, residential or commercial, shall be afforded the choice of whether or not to have an advanced meter for measurement of electric, gas or water usage, and shall not be subjected to special fees or penalties for choosing to have only a 'basic' meter, as that term is hereinafter defined. It is recognized that advanced meters may have certain benefits for some customers, yet, for others, risks to their health, safety and privacy, as well as to the health of their visitors, employees and customers, may be deemed by the customer to outweigh any possible benefits.

Sec.1 Definitions:

Basic Meter: Minimum requirement for any residential or business customer to receive a utility service: A meter, such as the traditional electro-mechanical analog meter, or other device that shall have only the capability to record and store the cumulative usage of the product and only for billing purposes. This basic meter shall have the following attributes:

(a) In order to ensure transparency, i.e. that the only data being collected is the cumulative usage of the product, this cumulative usage shall be provided only by means of a visual display located on the customer's premises. In particular:

- (i) Electric meters: usage is already provided today on a visual only basis by the traditional electro-mechanical analog meter. With advances in

technology other types of meters may evolve that comply with this requirement.

(ii) Water meters: Most water meters now in service afford a visual display though most are located within structures. Water meters are typically read less often than monthly. For those customers insisting on only a basic meter, the water meter would be compliant through the removal of any radio transmitting module attached or linked to the meter. Until outside visual displays become generally available, this will require either a utility employee going into a structure to read, or alternatively establishing some combination of self reporting plus an annual audit for customers with established usage patterns. It shall not be unlawful for the industry to develop a visual only readout display, hard-wired to the interior meter, that can be read from outside the structure.

(iii) Gas meters: Most gas meters now in service afford a visual display. Many such meters have already been moved from inside a structure to a location on the exterior of a structure for convenience of meter readers. Making them compliant, for those customers insisting on only a basic meter, would only involve removal of any radio transmitting module which many of them now have. This will require a utility employee to manually read the meter, whether inside or outside the structure receiving service , or alternatively establishing some combination of self reporting plus an annual audit for customers with established use

patterns. Where gas meters are located inside of the structure, and as an alternative to meter move out, it shall not be unlawful for the industry to develop a visual only readout display, hard-wired to the interior meter, that can be read from outside the structure.

(b) In order to protect the safety and health of utility customers and other building occupants, the basic meter shall not have the capability to either receive or transmit radio signals, nor shall it have any power supply or other circuitry capable of putting any spikes or frequencies other than 60 cycles per second (Hz) on the wiring of the structure.

Alternate Basic Meter: Required for those customers choosing to participate in a time-of-use rate plan: An instrument that shall have:

(a) the capability to record and store in one register, and for monthly billing purposes only, the cumulative consumption of the product that occurs during peak load hours, and to record and store in a second register the cumulative consumption of the product that occurs in off peak hours.

(b) Such usage shall be readable through a visual display only, and subject to all other requirements of the "Basic Meter".

Advanced Meter: An instrument capable of performing functions in addition to those shown above for the basic or

the alternate basic meters. Such additional functions could include, the ability to transmit readings or other information to the utility provider by radio or hard-wired electrical means, ability to receive information or commands by radio or hard-wired electrical means, remote service turn on or turn off, automatic meter reading, net metering, ability to remotely monitor or control individual "smart appliances". .

Utility Customer: The party responsible for paying the utility bill, whether an owner or a renter.

Utility Provider: An electric, gas or water supply/distribution organization, whether it is owned privately, publicly or is a cooperative, and which is the provider of such service to the public within a given geographic area.

Smart Appliance: Any device installed by or used by the utility customer that has the ability to either receive a radio signal from an advanced meter or from a transmitter outside the customer's premises, or to transmit a radio signal to an advanced meter or to a receiver outside the customer's premises. Such devices may include, but are not limited to, thermostats, lighting devices, television sets, sound systems, computers, dishwashing machines, washing machines, dryers, hot water heaters, furnaces, air conditioning equipment, office machines and factory machinery.

Surveillance: Any method, technology, or process for collecting or aggregating personal data, or event data

reflecting customer's usage of electronic devices and appliances, shall be considered as illegal surveillance except to the extent the customer has consented to it by signing up for an optional meter. In particular:

(a) For customers choosing the "basic meter", the collection of any data other than the cumulative total use of the utility's service for the monthly billing period, shall be considered illegal surveillance.

(b) For customers choosing the "alternate basic meter", the collection of any data other than the cumulative use of service during peak hours and during off peak hours for purposes of monthly billing, shall be considered illegal surveillance.

(c) For customers choosing the "advanced meter", additional data may be collected by the utility to the extent that the nature of that data is fully disclosed to the customer. The collection of data not so disclosed shall be considered illegal surveillance.

Sec.2 Protecting Choice: In order to protect the right of choice for the utility customer, no advanced meter not expressly requested by the customer, in writing, shall be installed. Further, at the time a customer signs up for service, that customer shall be informed that there is a choice of either a basic, alternate basic or advanced meter. If an advanced meter is already on the premises, the customer may request its removal and replacement with a 'basic meter' or 'alternate basic meter' as these terms are herein defined. Such removal and replacement shall be accomplished by the utility provider in a timely manner and without either an initial charge or a monthly charge for reading a meter that does not transmit. A one-time charge

may be made for such service only in the case where a customer who had previously requested an advanced meter subsequently asks for its removal.

Sec.3 Disclosure and Liability:

(a) In the event that a customer chooses to retain or have an advanced meter installed, he or she must do so by written agreement. As part of this agreement the customer must be told the make and model number of the advanced meter to be installed, the full capabilities of that meter, and whether or not this particular model is approved by Underwriters Laboratories or other independent testing organization. As part of this agreement the customer must also be informed that while there may be benefits for the customer in the use of advanced meter technology, there are also risks inherent in such technology, including, but not limited to, fire, adverse health-related effects, increased costs, loss of privacy, possible interference with or damage to appliances or home medical devices and possible third party cyberspace hacking.

(b) As part of this agreement there must also be a clear MPSC approved statement as to what liability, if any, the utility assumes for compensation of a utility customer in the event the customer can demonstrate that a loss has been sustained as a result of any of the risks identified above.

(c) As part of this agreement the provider must agree to notify a customer in advance whenever an existing advanced meter is to be replaced with a different advanced meter or the existing one is to have new modules added or reprogrammed to add new or different capabilities. Upon receipt of such notice, a utility customer may request and receive a full disclosure of any and all capabilities of

the different or modified meter and whether or not it will still be under approval of Underwriters Laboratories or other independent testing laboratory. The provider shall not install the different type advanced meter or make modifications to the existing meter until the customer has agreed to this meter change or modification, or until 30 days shall have passed from notice date with no objection being made.

Sec.4 Data Security: Where a customer has agreed to have an advanced meter:

- (a) The utility provider shall take all necessary steps to ensure that transmission of the customer's data, whether by radio signal or hard-wired means, shall be encrypted.
- (b) The utility provider shall ensure that such data is not sold or otherwise transferred to a third party except as may be required by law.

Sec.5 Meter Installation and Exchange Fees: The utility provider shall not charge for installing a basic meter or an alternate basic meter, except for a one-time charge where the customer had previously consented to the installation of an advanced meter under MCL 406.12 Sec.3.

Sec.6 Hard-Wired Transmissions: Provided there are no local or county restrictions, and required easements and right of ways have been properly executed, the utility provider may use telephone and cable lines, for customers who have chosen to have an advanced meter, to receive information from and transmit information to that meter.

Sec. 7 Freedom from Surveillance: Collecting data about activities or events within a home or business without customer consent shall constitute illegal surveillance. This would include the collection of such data by hard-wired transmissions, or the collection of radio signals from smart appliances within the customer's premises. The collection of such data from customers who have not chosen an advanced meter shall constitute illegal surveillance and, for each instance of such data collection, subject the utility provider to a fine of not more than \$200,000 and shall subject any employee of such provider found to have committed a willful act in furtherance of such illegal surveillance to a felony charge and possible imprisonment of not more than 2 years for a first offense and not more than 5 years for any subsequent offense.

Sec.8 Self Reporting, Audits and Meter Reading Fees:

Because the basic and alternate basic meters provide only for a visual display of the product usage, these meters will require manual reading. When a new customer begins service, the utility may elect to manually read the meter on a monthly schedule for the first year, or require a security deposit not to exceed an estimated 6 months billing. After the first year, with a pattern of usage established, the customer shall have security deposit applied to billing and may elect to self report readings. Where timely and reliable readings are being reported monthly by a customer, the utility provider shall be permitted to perform an audit read not more often than once each calendar quarter and may not charge any recurring fee for meter reading or for not choosing an advanced meter. Where the customer has not elected to self report or timely

and reliable readings are not being so reported, the utility provider shall be permitted to perform its own monthly reads and may impose a charge for such manual reads based on cost of providing that service.

Sec.9 Community Opt-Out: In order to provide for the possibility of safe havens for electro-sensitive persons, every city, village, township or county government shall have the power, by zoning ordinance, to establish areas or neighborhoods within its jurisdiction that shall be designated as "hard-wired only zones for advanced metering". In any zone so designated it shall be unlawful for the utility providers to install an advanced meter of a type that has any capacity to transmit or receive radio signals to or from the utility or to or from "smart appliances" as herein defined.

Sec.10 Actions Required Upon Passage: This amendment to P.A.3, MCL Chapter 460, shall take effect immediately upon its passage, and shall then require utility providers who have an advanced meter program to do the following:

(a) Notify all of their customers who have an advanced meter, that they have the right to make a choice between the three meter types defined in MCL 460.12 section 1, and that no special fees or penalties shall apply if they request removal of the advanced meter and its replacement with a basic or alternate basic meter.

(b) Notify all of their customers who do not have an advanced meter that they may elect to have one if or when their neighborhood has been mass installed for advanced

meters, subject to the utility provider's policy of continuing to offer that option in that neighborhood.

(c) Notify all city, village, township and county governments where advanced meters are installed that their local government may elect to enact a zoning ordinance declaring their respective jurisdictions, or any desired neighborhoods within their jurisdictions, as "hard-wired only zones for advanced metering".

(d) Under any of the above three cases, the notice shall include language, subject to approval by the Michigan Public Service Commission, that reasonably informs the customer or local government of both the advantages of getting or retaining an advanced meter, and the possible disadvantages or risks of this meter type and the liabilities attended thereto.

(e) Proceed in a timely manner to exchange any meters so requested, on a first-come basis, with no less expediency than was put into installing the advanced meters, including the use of outside contractors should the work load so require, with work to begin immediately upon enactment of this amendment.