Board of Public Utilities

Special Meeting Agenda

Thursday, July 11, 2013
9:00 a.m., DPW Conference Room

City of South Haven

1. **Call to Order**

2. **Roll Call**

3. **Approval of Agenda**

4. **Interested Citizens in the Audience Will be Heard on Items Not on the Agenda**

UNFINISHED BUSINESS

5. **Board will be requested to review Public Act 95 of 2013 and make a recommendation to City Council.**

6. **Next meeting is scheduled for Monday July 29, 2013 at 4:00 p.m. in the DPW Conference Room.**

7. **Board Member Comments**

8. **Adjourn**

RESPECTFULLY SUBMITTED,

Roger C. Huff, P.E.
Public Works Director

Agenda Item #5

Public Act 95 of 2013

City of South Haven

Background Information:

On July 1, 2013, Gov. Snyder signed Senate Bill 284 creating Public Act 95 of 2013. The bill authorizes the Public Service Commission to raise up to $50 million annually for low income energy assistance in Michigan. The money will be placed in the Low Income Energy Assistance Fund (LIEAF) and will be dispensed by the Department of Human Services. The legislation requires that the money collected from a geographic area is returned, to the extent possible, to that geographic area. Low income customers will be able to receive State assistance to pay electric, natural gas, and propane bills.

In order to raise the $50 million annual stipend, the legislation requires all electric utilities in Michigan, including municipal utilities, to place a monthly surcharge on customer bills and send the collected money to the State on an annual basis. The monthly surcharge will be established by the State but will not be more than $1.00 per customer. A customer who has multiple meters at their residence is to be billed the surcharge on only one meter.

The legislation does include an opt-out provision for all utilities. Each year, a utility may file a notice with the Public Service Commission by July 1 indicating that they desire to opt out of collecting the surcharge. A utility that opts out may not shut off service to any residential customer from November 1 to April 15 for nonpayment of a delinquent account. The deadline for the opt-out notice has been extended to July 24, 2013 to permit municipal utilities to consider the opt-out provision. Michigan's two largest electric providers, Consumers Energy and DTE, both intend to collect the surcharge. Low income customers of a utility that opts out of collecting the surcharge are still eligible to apply for assistance from the Department of Human Services.

The Michigan Municipal Electric Association (MMEA) is performing a joint filing on July 24, 2013 on behalf of its 41 members, including South Haven. As of July 3, 4 members have elected to collect the surcharge and 6 have elected to opt out.

In 2009, the legislature passed a series of bills that placed winter shutoff restrictions on municipal utilities. These bills place restrictions on performing winter shutoffs for certain customers. Eligible military customers, critical care customers, and senior citizens are provided certain shutoff protections by these bills. In addition, there are specific steps outlined that must be followed by the City to legally shut off a residential customer during the heating season (defined as November 1 through March 31). Due to the complexity of the legislation, the City's practice has been to restrict all residential shutoffs during the heating season. If the City elects to opt out of collecting the low income surcharge, we will not be permitted to shut off service to any residential customer from November 1 to April 15 for nonpayment of a delinquent account. Since we already limit winter shutoffs, utility operations will not be substantially changed if the City elects to opt out.

Recommendation:

It is recommended that the City elect to opt out of collecting the low income surcharge as outlined in PA 95 of 2013. Shut offs to residential customers for nonpayment of a delinquent account will need to be suspended from November 1 to April 15.

The Board is requested to make a recommendation to City Council for review at their July 15, 2013 regular meeting.

Support Material:

2013 Senate Bill 0284
Legislative Analysis

Respectfully submitted,

Larry Halberstadt, PE
City Engineer

STATE OF MICHIGAN
97TH LEGISLATURE
REGULAR SESSION OF 2013

Introduced by Senators Nofs, Bieda, Caswell, Hopgood, Proos, Young, Anderson, Brandenburg, Jones, Schuitmaker, Walker, Marleau and Pappageorge

ENROLLED SENATE BILL No. 284

AN ACT 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 9t.

The People of the State of Michigan enact:

Sec. 9t. (1) The low-income energy assistance fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The department of licensing and regulatory affairs shall be the administrator of the fund for auditing purposes.

(5) Subject to the limitations imposed in this section, the department of human services shall expend money from the fund, upon appropriation, as provided in the Michigan energy assistance act, 2012 PA 615, MCL 400.1231 to 400.1236. The department of human services, in consultation with the public service commission, shall ensure that all money collected for the fund from a geographic area is returned, to the extent possible, to that geographic area.

(6) Subject to the limitations imposed in this subsection, the public service commission may, after an opportunity to comment, annually approve a low-income energy assistance funding factor no later than July 31 of each year for the subsequent fiscal year. The low-income energy assistance funding factor shall be the same across all customer classes and shall not exceed $1.00. The amount used by the public service commission to calculate a low-income energy assistance funding factor during each fiscal year shall not exceed $50,000,000.00 minus both the amount appropriated from the general fund in that fiscal year for home energy assistance and the amount remaining in the fund from the prior fiscal year. An electric utility, municipally owned electric utility, or cooperative electric utility that collects money under this subsection shall remit that money to the state treasurer for deposit in the fund on a monthly basis no later than 30 days

after the last day in each calendar month. The electric utility, municipally owned electric utility, or cooperative electric utility shall list the low-income energy assistance funding factor as a separate line item on each customer's bill.

(7) An electric utility, municipally owned electric utility, or cooperative electric utility may elect to not collect a low-income energy assistance funding factor under this section by annually filing a notice with the public service commission by July 1. Notwithstanding any other provision of this act, an electric utility, municipally owned electric utility, or cooperative electric utility that elects to not collect a low-income energy assistance funding factor under this section shall not shut off service to any residential customer from November 1 to April 15 for nonpayment of a delinquent account.

(8) An electric utility, municipally owned electric utility, or cooperative electric utility that does not opt out under subsection (7), or an association representing a municipally owned electric utility or cooperative electric utility that does not opt out under subsection (7), shall annually provide to the public service commission by July 1 the number of retail billing meters it serves in this state that are subject to the low-income energy assistance funding factor.

(9) Nothing in this act gives the public service commission the power to regulate a municipally owned electric utility.

(10) As used in this section:

(a) "Fund" means the low-income energy assistance fund created in subsection (1).

(b) "Low-income energy assistance funding factor" means a nonbypassable surcharge on each retail billing meter payable monthly by every customer receiving a retail distribution service from an electric utility, municipally owned electric utility, or cooperative electric utility that does not opt out under subsection (7), regardless of the identity of the customer's electric generation supplier. The low-income energy assistance funding factor shall not be charged on more than 1 residential meter per residential site.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Gary E Randall

Clerk of the House of Representatives

Approved ____________________

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Governor

Legislative Analysis

Mary Ann Cleary, Director
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LOW-INCOME ENERGY ASSISTANCE PROGRAM

Senate Bill 284 (Proposed H-1 Substitute)
Sponsor: Sen. Mike Nofs
House Committee: Energy and Technology
Senate Committee: Energy and Technology

Complete to 6-11-13

A REVISED SUMMARY OF PROPOSED H-1 SUBSTITUTE FOR SENATE BILL 284

Briefly, Senate Bill 284 would do the following:

- Create the Low-Income Energy Assistance Fund.
- Charge DHS with expending money from the Fund as provided in the Michigan Energy Assistance Act.
- Allow the MPSC to annually approve a low-income energy assistance funding factor (as a surcharge on an electric customer's bill) no greater than $1 per month, and to cap the amount that could be collected each year.
- Allow an electric utility to opt out of the program, but then prohibit it from shutting off service to a residential customer from November 1 to April 15.
- Specify that the bill would not grant the MPSC power to regulate a municipally owned electric utility.

<u>Senate Bill 284</u> would add Section 9t to Public Act 3 of 1939, which created the Michigan Public Service Commission (MPSC) and authorizes it to regulate public utilities (except municipally-owned utilities). The bill would create a long-term program to replace the now-defunct Low Income and Energy Efficiency Fund (LIEEF). In short, the bill would allow electric utilities to place a small surcharge (no more than $1) on an electric customer's bill to generate funds to provide heating assistance to low-income individuals. (The bill would specify that nothing in PA 3 would give the MPSC the power to regulate a municipally owned electric utility.)

<u>Low-Income Energy Assistance Fund</u>
The Fund would be created in the state treasury, investments directed by the state treasurer, and money in the fund at the close of a fiscal year would remain and not lapse to the General Fund. The Department of Licensing and Regulatory Affairs would be the administrator of the fund for auditing purposes.

Subject to limitations imposed by the bill, the Department of Human Services (DHS) would expend money from the fund, upon appropriation, as provided in the Michigan Energy Assistance Act (Public Act 615 of 2012). DHS, in consultation with the MPSC, would have to ensure that all money collected for the fund from a geographic area be returned, to the extent possible, to that geographic area.

Low-Income Energy Assistance Funding Factor

After an opportunity to comment, the MPSC could annually approve a low-income energy assistance funding factor no later than July 31 of each year for the subsequent fiscal year. The term would be defined as a non-bypassable surcharge on each retail billing meter payable monthly by every customer receiving a retail distribution service from an electric utility, municipally owned electric utility, or cooperative electric utility that does not opt out under provisions of the bill, regardless of the identity of the customer's electric generation supplier. (In this sense, "retail" generally refers to an end user and thus includes both residential and commercial electric customers.) The LIEA funding factor could not be charged on more than one residential meter per residential site (for example, if a residential customer had a separate meter in a large garage or pole barn, only one LIEA funding factor would be attached to the monthly electric bill).

The LIEA funding factor would have to be the same across all customer classes and could not exceed $1 per month. The amount used by the MPSC to calculate a LIEA funding factor during each fiscal year could not exceed $50 million minus both the amount appropriated from the General Fund in that fiscal year for home energy assistance and the amount remaining in the fund from the prior fiscal year.

Electric Utilities Collections & Opt Out

The bill would allow an electric utility, municipally owned electric utility, or cooperative electric utility to collect money under the above provisions. Any of these utilities could also choose to opt out of collecting the LIEA funding factor. To opt out, the utility would have to annually file a notice with the MPSC by July 1. If a utility opted out, it could not shut off service to any residential customer from November 1 to April 15 for nonpayment of a delinquent account (generally speaking, shut-off for nonpayment is prohibited only for certain categories of customers, such as low-income, seniors, and persons with a disability).

If a utility collects the LIEA funding factor, the money must be remitted to the state treasurer on a monthly basis no later than 30 days after the last day in each calendar month. The utility would have to list the LIEA funding factor as a separate line item on each customer's bill. In addition, the utility, or an association representing a municipally owned electric utility or cooperative electric utility, would have to provide to the MPSC by July 1 the number of retail billing meters it serves in the state that are subject to the LIEA funding factor.

FISCAL IMPACT:

Senate Bill 284 would have a minimal fiscal impact on the Department of Human Services (DHS). The FY 2013-14 DHS budget appropriates $60.0 million in low-income energy assistance funds for the new Michigan Energy Assistance Program (2012 PA 615), and this bill would provide the funding mechanism for up to $50.0 million in low-income energy assistance funding[1]. The Governor did request, and the Legislature

[1] Revenues drive the amount of funding available to appropriate, so the FY 2013-14 DHS budget would be overstating how much low-income energy assistance funding is available.

provided, 1.0 additional FTE funded with low-income energy assistance funds to administer the Michigan Energy Assistance Program.

Senate Bill 284 (H-1) would have a fiscal impact on the Michigan Public Service Commission (PSC) to the extent that the PSC would have to utilize staff to approve and oversee the collection of the Low-Income Energy Assistance (LIEA) Funding Factor and ensure, to the extent possible, that the revenue generated by the LIEA Funding Factor is expended for low-income energy assistance within the geographical area from which it was collected.[2] SB 284 (H-1) does not include a separate appropriation for the PSC to administer the LIEA program. [3]

SB 284 (H-1) would also have a nominal, yet indeterminate, fiscal impact on municipally-owned electric utilities to the extent that such utilities would either have to: 1) collect and remit revenue generated by the LIEA Funding Factor to the PSC on a monthly basis, or 2) annually file a notice with the PSC to opt out of the LIEA program and thus forfeit its ability to shut-off service to any residential customer during the heating season.

The PSC estimates that there are approximately 5.0 million electric customers in Michigan, with a roughly similar number of meters for the purposes of estimating a LIEA Funding Factor, and that the number of residential (i.e. single-family detached home) customers with more than one meter is negligible. Dividing the total annual amount, stipulated by SB 284 (H-1), that may be generated by the LIEA Funding Factor ($50.0 million) by the estimated number of electric meters (5.0 million) in the state, results in a per customer LIEA Funding Factor of $10 per year, or $0.83 per month, assuming that no electric utilities opt out of collecting the LIEA Funding Factor.

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Paul Holland
Kevin Koorstra

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

[2] It is not entirely clear by what means or with what statutory authority the PSC would be able to "ensure" that revenue generated by the LIEA Funding Factor was expended in area from which it was collected, since SB 284 (H-1) appropriates the LIEA Funding Factor revenue to the Department of Human Services (DHS) pursuant to 2012 PA 615. 2012 PA 615 does stipulate that, if DHS contracts with public or private entities to provide energy assistance, it shall do so in consultation with the PSC.

[3] Under the now defunct Low-Income Energy Efficiency Fund program (LIEEF), administrative costs of the PSC were not supported with the LIEEF funds but rather with public utility assessments levied on utilities by the PSC under the Costs of Regulating Public Utilities act of 1972. The PSC did not separately account for the administrative costs of the LIEEF program which was administered by PSC staff who were also engaged in administering unrelated responsibilities. As of the date this analysis was prepared, the PSC has not provided an estimate of the costs to administer the LIEA program if SB 284 (H-1) is enacted.