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BILL ANALYSIS

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Senate Bill 1456 (as enacted) **PUBLIC ACT 297 of 2010**
Sponsor: Senator Tony Stamas
Senate Committee: Energy Policy and Public Utilities
House Committee: Energy and Technology

Date Completed: 1-27-11

RATIONALE

Hemlock Semiconductor (HSC), a manufacturer of polycrystalline silicon with semiconductor and photovoltaic applications, has been located in Michigan since 1961. Several years ago, the company began searching for a location to expand its operations. In response, legislation was enacted to provide millions of dollars in tax abatements for the company, and the Public Service Commission (PSC) approved an agreement stipulating that Consumers Energy would provide electric service to HSC at a reduced rate. Due in part to these incentives, HSC chose Michigan for the expansion.

Legislation that could have affected the contract between HSC and Consumers Energy, however, was enacted in 2008. Before that amendment took effect, electric rates in Michigan were not based on the true cost of providing service to each customer class. Large commercial and industrial customers were subsidizing residential electric rates. Under Public Act 286 of 2008, for utilities with at least 1.0 million Michigan retail customers, the PSC must "deskew" electric rates so each customer class pays its true cost of service, and phase in the new rate schedule by October 6, 2013. As a result, Public Act 286 would have prevented HSC from receiving the reduced rate established in its contract with Consumers Energy. It was suggested that the company's economic development tariff should be exempt from the deskewing requirement.

CONTENT

The bill created the "Energy for Economic Development Act of 2010" to prohibit the Public Service Commission from taking any action that would alter a contract between an electric utility and a particular industrial customer pursuant to an economic development tariff provision approved by the PSC.

The Act took effect on December 16, 2010, and will be repealed on December 1, 2015.

Specifically, if an electric utility has executed a written contract with an industrial customer providing for an increase in connected load at a single premises of at least 70.2 million kilowatt hours over 12 consecutive months pursuant to an economic development tariff provision approved by the PSC as of October 6, 2008, the Commission may not take any action that would alter the rates, terms, conditions, duration, or enforceability of the contract. Prohibited actions include an order that would eliminate, phase out, or otherwise modify the economic development tariff provision in a manner that would allow or require an electric utility to alter the rates, terms, conditions, duration, or enforceability of the contract.

In addition, the PSC must allow the utility to recover fully in a general rate case using a projected test year from all of its other electric ratepayers in all classes the full amount of the difference, if any, between the total projected revenue pursuant to the economic development tariff and the utility's cost to provide service to that customer under the tariff, both as determined by the Commission using the method in the most recent general rate case for that utility. The utility's recovery of the difference must be based on the cost allocation method identified in Section 11(1) of the PSC enabling law (MCL 460.11, which provides for a 50-25-25 method of cost allocation).

If there is a conflict between the Act and any other State statute, the Energy for Economic Development Act will control.

("Electric utility" means that term as defined under the Electric Transmission Line Certification Act, i.e., a person, partnership, corporation, association, or other legal entity whose transmission or distribution of electricity is regulated by the PSC. The term does not include a municipal utility, affiliated transmission company, or independent transmission company.)

MCL 460.991-460.995

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

As the manufacturer of a high-tech product that is being used increasingly all over the world, Hemlock Semiconductor is critical to Michigan's economic development. The discounted rate for electricity was a significant factor in HSC's decision to expand in this State. The mandatory deskewing of electric rates would have conflicted with the company's contract with Consumers Energy. The bill ensures that this contract will continue to be honored and HSC will receive the electric rate that it was promised in exchange for investing and creating jobs in Michigan.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill will have no fiscal impact on State or local government.

Fiscal Analyst: Josh Sefton