

HOUSE BILL No. 4792

June 20, 2017, Introduced by Reps. Hoadley, Lasinski, Pagan, Sowerby, Hertel, Hammoud, Yanez, Green, Sabo, Zemke, Ellison, Sneller, LaGrand, Rabhi, Faris, Brinks, Dianda, Chang, Garrett, Geiss, Love, Peterson, Chirkun and Cochran and referred to the Committee on Energy Policy.

A bill to amend 2008 PA 295, entitled
"Clean and renewable energy and energy waste reduction act,"
by amending sections 22, 28, and 45 (MCL 460.1022, 460.1028, and
460.1045), sections 22 and 28 as added and section 45 as amended by
2016 PA 342, and by adding section 32.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 22. (1) Renewable energy plans and associated revenue
2 recovery mechanisms filed by an electric provider, approved under
3 former section 21 or 23 or found to comply with this act under
4 former section 25 and in effect on ~~the effective date of the 2016~~
5 ~~amendatory act that added this section,~~ **APRIL 20, 2017**, remain in
6 effect, subject to amendments as provided for under subsections (3)
7 and (4).

8 (2) For an electric provider whose rates are regulated by the

1 commission, amended renewable energy plans shall establish a
2 nonvolumetric mechanism for the recovery of the incremental costs
3 of compliance within the electric provider's customer rates. The
4 revenue recovery mechanism shall not result in rate impacts that
5 exceed the monthly maximum retail rate impacts specified under
6 section 45. The revenue recovery mechanism is subject to adjustment
7 under sections 47(4) and 49.

8 (3) ~~Within 1 year after the effective date of the 2016~~
9 ~~amendatory act that added this section, BY APRIL 20, 2018, the~~
10 commission shall review each electric provider's plan pursuant to a
11 filing schedule established by the commission. For an electric
12 provider whose rates are regulated by the commission, the
13 commission shall conduct a contested case hearing on the plan
14 pursuant to the administrative procedures act of 1969, 1969 PA 306,
15 MCL 24.201 to 24.328. After the hearing, the commission shall
16 approve, with any changes consented to by the electric provider, or
17 reject the plan and any amendments to the plan. For all other
18 electric providers, the commission shall provide an opportunity for
19 public comment on the plan. After the applicable opportunity for
20 public comment, the commission shall determine whether any
21 amendment to the plan proposed by the provider complies with this
22 act. For alternative electric suppliers, the commission shall
23 approve, with any changes consented to by the electric provider, or
24 reject any proposed amendments to the plan. For cooperative
25 electric utilities and municipally owned utilities, the proposed
26 amendment is adopted if the commission determines that it complies
27 with this act.

1 (4) THE REVIEW PROCESS UNDER SUBSECTION (3) SHALL INCLUDE A
2 PLAN AMENDMENT TO COMPLY WITH THE INCREASED RENEWABLE ENERGY CREDIT
3 STANDARDS ESTABLISHED BY 2016 PA 342 AND, EXCEPT AS PROVIDED IN
4 THIS SUBSECTION, WITH THE AMENDATORY ACT THAT ADDED THIS
5 SUBSECTION. IF THE REVIEW PROCESS COMMENCED BEFORE THE EFFECTIVE
6 DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION AND DID NOT
7 ACCOUNT FOR THE INCREASED RENEWABLE ENERGY CREDIT STANDARDS
8 ESTABLISHED BY THAT AMENDATORY ACT, THE COMMISSION SHALL
9 SUBSEQUENTLY REVIEW THE PLAN UNDER SUBSECTION (3) WITHIN 1 YEAR
10 AFTER THE EFFECTIVE DATE OF THAT AMENDATORY ACT, AND THAT REVIEW
11 PROCESS SHALL INCLUDE A PLAN AMENDMENT TO COMPLY WITH THE INCREASED
12 RENEWABLE ENERGY CREDIT STANDARDS ESTABLISHED BY THAT AMENDATORY
13 ACT.

14 (5) ~~(4)~~—If an electric provider proposes to amend its plan
15 after the review process under ~~subsection (3)~~, **SUBSECTIONS (3) AND**
16 **(4)**, the electric provider shall file the proposed amendment with
17 the commission. For an electric provider whose rates are regulated
18 by the commission, if the proposed amendment would modify the
19 revenue recovery mechanism, the commission shall conduct a
20 contested case hearing on the amendment pursuant to the
21 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
22 24.328. After the hearing and within 90 days after the amendment is
23 filed, the commission shall approve, with any changes consented to
24 by the electric provider, or reject the plan and the proposed
25 amendment or amendments to the plan. For all other electric
26 providers, the commission shall provide an opportunity for public
27 comment on the amendment. After the applicable opportunity for

1 public comment and within 90 days after the amendment is filed, the
2 commission shall determine whether the proposed amendment to the
3 plan complies with this act. For alternative electric suppliers,
4 the commission shall approve, with any changes consented to by the
5 electric provider, or reject any proposed amendments to the plan.
6 For cooperative electric utilities and municipally owned utilities,
7 the proposed amendment is adopted if the commission determines that
8 it complies with this act.

9 **(6)** ~~(5)~~—For an electric provider whose rates are regulated by
10 the commission, the commission shall approve the plan or amendments
11 to the plan if the commission determines:

12 (a) That the plan is reasonable and prudent. In making this
13 determination, the commission shall take into consideration
14 projected costs and whether or not projected costs in prior plans
15 were exceeded.

16 (b) That the plan is consistent with the purpose and goal set
17 forth in section 1(2) and (3) and meets the renewable energy credit
18 standard through ~~2021~~**2035**.

19 **(7)** ~~(6)~~—If the commission rejects a proposed plan or amendment
20 under this section, the commission shall explain in writing the
21 reasons for its determination.

22 Sec. 28. (1) An electric provider shall achieve a renewable
23 energy credit portfolio as follows:

24 (a) In 2016 through 2018, a renewable energy credit portfolio
25 that consists of at least the same number of renewable energy
26 credits as were required under former section 27.

27 (b) In 2019 and 2020, a renewable energy credit portfolio of

1 at least 12.5%. ~~as calculated under subsection (2).~~

2 (c) In 2021 **AND EACH YEAR THEREAFTER THROUGH 2034**, a renewable
3 energy credit portfolio of at least 15%. ~~as calculated under~~
4 ~~subsection (2).~~

5 **(D) IN 2035 AND EACH YEAR THEREAFTER, A RENEWABLE ENERGY**
6 **CREDIT PORTFOLIO OF AT LEAST 50%.**

7 (2) An electric provider's renewable energy credit portfolio
8 **UNDER SUBSECTION (1) (B) TO (D)** shall be calculated as follows:

9 (a) Determine the number of renewable energy credits used to
10 comply with this subpart during the applicable year.

11 (b) Divide by 1 of the following at the option of the electric
12 provider as specified in its renewable energy plan:

13 (i) The number of weather normalized megawatt hours of
14 electricity sold by the electric provider during the previous year
15 to retail customers in this state.

16 (ii) The average number of megawatt hours of electricity sold
17 by the electric provider annually during the previous 3 years to
18 retail customers in this state.

19 (c) Multiply the quotient under subdivision (b) by 100.

20 (3) Subject to subsection (5), each electric provider shall
21 meet the renewable energy credit standards with renewable energy
22 credits obtained by 1 or more of the following means:

23 (a) Generating electricity from renewable energy systems for
24 sale to retail customers.

25 (b) Purchasing or otherwise acquiring renewable energy credits
26 with or without the associated renewable energy.

27 (4) For an electric provider whose rates are regulated by the

1 commission, the electric provider shall submit a contract entered
2 into for the purposes of subsection (3) to the commission for
3 review and approval. If the commission approves the contract, it
4 shall be considered consistent with the electric provider's
5 renewable energy plan. The commission shall not approve a contract
6 based on an unsolicited proposal unless the commission determines
7 that the unsolicited proposal provides opportunities that may not
8 otherwise be available or commercially practical through a
9 competitive bid process.

10 (5) An electric provider may substitute energy waste reduction
11 credits for renewable energy credits otherwise required to meet the
12 renewable energy credit standards if the substitution is approved
13 by the commission. Under this subsection, energy waste reduction
14 credits shall not be used by a provider to meet more than 10% of
15 the renewable energy credit standard. One renewable energy credit
16 shall be awarded per 1 energy waste reduction credit.

17 **SEC. 32. (1) UPON PETITION BY AN ELECTRIC PROVIDER, THE**
18 **COMMISSION MAY FOR GOOD CAUSE GRANT 2 EXTENSIONS OF THE 2035**
19 **RENEWABLE ENERGY STANDARD DEADLINE UNDER SECTION 27. EACH EXTENSION**
20 **SHALL BE FOR UP TO 1 YEAR.**

21 **(2) IF 2 EXTENSIONS OF THE 2035 RENEWABLE ENERGY STANDARD**
22 **DEADLINE HAVE BEEN GRANTED TO AN ELECTRIC PROVIDER UNDER SUBSECTION**
23 **(1), UPON SUBSEQUENT PETITION BY THE ELECTRIC PROVIDER AT LEAST 3**
24 **MONTHS BEFORE THE EXPIRATION OF THE SECOND EXTENSION, THE**
25 **COMMISSION SHALL, AFTER CONSIDERATION OF PRIOR EXTENSION REQUESTS**
26 **UNDER THIS SECTION AND FOR GOOD CAUSE, ESTABLISH A REVISED**
27 **RENEWABLE ENERGY STANDARD ATTAINABLE BY THE ELECTRIC PROVIDER. IF**

1 THE ELECTRIC PROVIDER ACHIEVES THE REVISED RENEWABLE ENERGY
2 STANDARD, THE PROVIDER IS CONSIDERED TO BE IN COMPLIANCE WITH THE
3 RENEWABLE ENERGY STANDARD OTHERWISE REQUIRED TO BE ACHIEVED UNDER
4 THIS SUBPART BY 2035.

5 (3) AN ELECTRIC PROVIDER THAT MAKES A GOOD-FAITH EFFORT TO
6 SPEND THE FULL AMOUNT OF INCREMENTAL COSTS OF COMPLIANCE, AS
7 OUTLINED IN ITS APPROVED RENEWABLE ENERGY PLAN AND SUBJECT TO
8 SECTION 47(6), AND THAT COMPLIES WITH ITS APPROVED PLAN, SUBJECT TO
9 ANY APPROVED EXTENSIONS OR REVISIONS, SHALL BE CONSIDERED TO BE IN
10 COMPLIANCE WITH THIS SUBPART.

11 (4) AS USED IN THIS SECTION, "GOOD CAUSE" INCLUDES, BUT IS NOT
12 LIMITED TO, THE ELECTRIC PROVIDER'S INABILITY, AS DETERMINED BY THE
13 COMMISSION, TO MEET A RENEWABLE ENERGY STANDARD BECAUSE OF A
14 RENEWABLE ENERGY SYSTEM FEASIBILITY LIMITATION INCLUDING, BUT NOT
15 LIMITED TO, ANY OF THE FOLLOWING:

16 (A) RENEWABLE ENERGY SYSTEM SITE REQUIREMENTS; ZONING, SITING,
17 OR LAND USE ISSUES; PERMITS, INCLUDING ENVIRONMENTAL PERMITS; ANY
18 CERTIFICATE OF NECESSITY PROCESS UNDER SECTION 6S OF 1939 PA 3, MCL
19 460.6S; OR ANY OTHER NECESSARY GOVERNMENTAL APPROVALS THAT
20 EFFECTIVELY LIMIT AVAILABILITY OF RENEWABLE ENERGY SYSTEMS, IF THE
21 ELECTRIC PROVIDER EXERCISED REASONABLE DILIGENCE IN ATTEMPTING TO
22 SECURE THE NECESSARY GOVERNMENTAL APPROVALS. FOR PURPOSES OF THIS
23 SUBDIVISION, "REASONABLE DILIGENCE" INCLUDES, BUT IS NOT LIMITED
24 TO, SUBMITTING TIMELY APPLICATIONS FOR THE NECESSARY GOVERNMENTAL
25 APPROVALS AND MAKING GOOD-FAITH EFFORTS TO ENSURE THAT THE
26 APPLICATIONS ARE ADMINISTRATIVELY COMPLETE AND TECHNICALLY
27 SUFFICIENT.

(B) HIGH COSTS OF OR SHORTAGES OF RENEWABLE ENERGY SYSTEM COMPONENTS OR ELECTRICAL EQUIPMENT IF THE HIGH COSTS OR SHORTAGES EFFECTIVELY LIMIT AVAILABILITY OF RENEWABLE ENERGY SYSTEMS.

(C) COST, AVAILABILITY, OR TIME REQUIREMENTS FOR ELECTRIC TRANSMISSION AND INTERCONNECTION.

(D) PROJECTED OR ACTUAL UNFAVORABLE ELECTRIC SYSTEM RELIABILITY OR OPERATIONAL IMPACTS.

(E) LABOR SHORTAGES THAT EFFECTIVELY LIMIT AVAILABILITY OF RENEWABLE ENERGY SYSTEMS.

(F) AN ORDER OF A COURT OF COMPETENT JURISDICTION THAT EFFECTIVELY LIMITS THE AVAILABILITY OF RENEWABLE ENERGY SYSTEMS.

Sec. 45. (1) For an electric provider whose rates are regulated by the commission, the commission shall determine the appropriate charges for the electric provider's tariffs that permit recovery of the ~~incremental cost of compliance~~ **COSTS AUTHORIZED FOR RECOVERY UNDER SECTION 47** subject to the retail rate impact limits set forth in subsection (2).

(2) ~~An electric provider shall recover the incremental cost of compliance with the renewable energy standards.~~ An electric provider shall not comply with the renewable energy standards to the extent that, as determined by the commission, recovery of the ~~incremental cost of compliance~~ **COSTS AUTHORIZED FOR RECOVERY UNDER SECTION 47** will have a retail rate impact that exceeds any of the following:

(a) \$3.00 per month per residential customer meter.

(b) \$16.58 per month per commercial secondary customer meter.

(c) \$187.50 per month per commercial primary or industrial

1 customer meter.

2 (3) The retail rate impact limits of subsection (2) apply only
3 to the ~~incremental costs of compliance~~ **COSTS AUTHORIZED FOR**
4 **RECOVERY UNDER SECTION 47** and do not apply to costs approved for
5 recovery by the commission other than as provided in this act.

6 (4) The incremental cost of compliance shall be calculated for
7 a 20-year period beginning with approval of the renewable energy
8 plan and shall be recovered on a levelized basis.

9 Enacting section 1. This amendatory act takes effect 90 days
10 after the date it is enacted into law.