

**SUBSTITUTE FOR
SENATE BILL NO. 502**

A bill 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 powers and duties of certain state governmental officers and entities; 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 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,"

by amending sections 6, 6a, 6m, and 6t (MCL 460.6, 460.6a, 460.6m, and 460.6t), section 6 as amended by 2005 PA 190 and sections 6a and 6m as amended and section 6t as added by 2016 PA 341, and by adding section 6aa.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 6. (1) The public service commission is vested with
2 complete power and jurisdiction to regulate all public utilities in
3 the state except a municipally owned utility, the owner of a
4 renewable resource power production facility as provided in section
5 6d, and except as otherwise restricted by law. The public service
6 commission is vested with the power and jurisdiction to regulate
7 all rates, fares, fees, charges, services, rules, conditions of
8 service, and all other matters pertaining to the formation,
9 operation, or direction of public utilities. The public service
10 commission is further granted the power and jurisdiction to hear
11 and pass upon all matters pertaining to, necessary, or incident to
12 the regulation of public utilities, including electric light and
13 power companies, whether private, corporate, or cooperative; water,
14 telegraph, oil, gas, and pipeline companies; motor carriers;
15 private wastewater treatment facilities; and all public
16 transportation and communication agencies other than railroads and
17 railroad companies.

18 (2) A private, investor-owned wastewater utility may apply to
19 the commission for rate regulation. If an application is filed
20 under this subsection, the commission is vested with the specific
21 grant of jurisdictional authority to regulate the rates, fares,
22 fees, and charges of private, investor-owned wastewater utilities.



1 As used in this subsection, "private, investor-owned wastewater
2 utilities" means a utility that delivers wastewater treatment
3 services through a sewage system and the physical assets of which
4 are wholly owned by an individual or group of individual
5 shareholders.

6 (3) In executing its duties, powers, and regulatory functions
7 under this act, the commission shall prioritize the following
8 goals:

9 (a) The reliability, safety, and resilience of the utility
10 system in this state.

11 (b) Service quality in this state.

12 (c) The affordability of utility service in this state. This
13 goal does not affect the cost of service allocation in section 11.
14 As used in this subdivision, "affordability" includes, but is not
15 limited to, all of the following:

16 (i) The ability of residential customers in this state,
17 including low-income residential customers, to access safe and
18 reliable utility services at a price the customer can pay without
19 compromising the customer's ability to meet other essential needs.

20 (ii) Any definitions of affordability adopted by the
21 commission.

22 (d) Minimization of harm and prioritization of benefits to
23 census tracts within this state that are subjected to factors such
24 as socioeconomic stressors, disproportionate cost and environmental
25 burdens, vulnerability to environmental degradation, and lack of
26 accessibility to public participation that may act cumulatively to
27 affect public health and the environment.

28 (e) Ensuring availability and equitable access to energy
29 efficiency, weatherization, efficient electrification measures,



1 programs, and services, and clean energy technologies.

2 (f) Compliance with the renewable energy plan requirements of
3 section 28 of the clean and renewable energy and energy waste
4 reduction act, 2008 PA 295, MCL 460.1028, and the clean energy
5 requirements of section 51 of the clean and renewable energy and
6 energy waste reduction act, 2008 PA 295, MCL 460.1051.

7 (g) Overall cost-effectiveness and nondiscrimination in
8 providing utility service in this state.

9 Sec. 6a. (1) A gas utility, electric utility, or steam utility
10 shall not increase its rates and charges or alter, change, or amend
11 any rate or rate schedules, the effect of which will be to increase
12 the cost of services to its customers, without first receiving
13 commission approval as provided in this section. A utility shall
14 coordinate with the commission staff in advance of filing its
15 general rate case application under this section to avoid resource
16 challenges with applications being filed at the same time as
17 applications filed under this section by other utilities. In the
18 case of electric utilities serving more than 1,000,000 customers in
19 this state, the commission may, if necessary, order a delay in
20 filing an application to establish a 21-day spacing between filings
21 of electric utilities serving more than 1,000,000 customers in this
22 state. The utility shall place in evidence facts relied upon to
23 support the utility's petition or application to increase its rates
24 and charges, or to alter, change, or amend any rate or rate
25 schedules. The commission shall require notice to be given to all
26 interested parties within the service area to be affected, and ~~all~~
27 **allow** interested parties ~~shall have~~ a reasonable opportunity for a
28 full and complete hearing. A utility may use projected costs and
29 revenues for a future consecutive 12-month period in developing its



1 requested rates and charges. The commission shall notify the
2 utility within 30 days after filing, whether the utility's petition
3 or application is complete. A petition or application is considered
4 complete if it complies with the rate application filing forms and
5 instructions adopted under subsection (8). If the application is
6 not complete, the commission shall notify the utility of all
7 information necessary to make that filing complete. If the
8 commission has not notified the utility within 30 days of whether
9 the utility's petition or application is complete, the application
10 is considered complete. Concurrently with filing a complete
11 application, or at any time after filing a complete application, a
12 gas utility serving fewer than 1,000,000 customers in this state
13 may file a motion seeking partial and immediate rate relief. After
14 providing notice to the interested parties within the service area
15 to be affected and affording interested parties a reasonable
16 opportunity to present written evidence and written arguments
17 relevant to the motion seeking partial and immediate rate relief,
18 the commission shall make a finding and enter an order granting or
19 denying partial and immediate relief within 180 days after the
20 motion seeking partial and immediate rate relief was submitted. The
21 commission has 12 months to issue a final order in a case in which
22 a gas utility has filed a motion seeking partial and immediate rate
23 relief.

24 (2) If the commission has not issued an order within 180 days
25 ~~of~~ **after** the filing of a complete application, the utility may
26 implement up to the amount of the proposed annual rate request
27 through equal percentage increases or decreases applied to all base
28 rates. If the utility uses projected costs and revenues for a
29 future period in developing its requested rates and charges, the



1 utility may not implement the equal percentage increases or
 2 decreases before the calendar date corresponding to the start of
 3 the projected 12-month period. For good cause, the commission may
 4 issue a temporary order preventing or delaying a utility from
 5 implementing its proposed rates or charges. If a utility implements
 6 increased rates or charges under this subsection before the
 7 commission issues a final order, that utility shall refund to
 8 customers, with interest, any portion of the total revenues
 9 collected through application of the equal percentage increase that
 10 exceed the total that would have been produced by the rates or
 11 charges subsequently ordered by the commission in its final order.
 12 The commission shall allocate any refund required by this
 13 subsection among primary customers based upon their pro rata share
 14 of the total revenue collected through the applicable increase, and
 15 among secondary and residential customers in a manner to be
 16 determined by the commission. The rate of interest for refunds
 17 ~~shall equal~~ **is** 5% plus the London interbank offered rate (LIBOR)
 18 for the appropriate time period. For any portion of the refund
 19 that, exclusive of interest, exceeds 25% of the annual revenue
 20 increase awarded by the commission in its final order, the rate of
 21 interest ~~shall be~~ **is** the authorized rate of return on the common
 22 stock of the utility during the appropriate period. Any refund or
 23 interest awarded under this subsection ~~shall~~ **must** not be included,
 24 in whole or in part, in any application for a rate increase by a
 25 utility. This subsection only applies to completed applications
 26 filed with the commission before ~~the effective date of the~~
 27 ~~amendatory act that added section 6t.~~ **April 20, 2017.**

28 (3) This section does not impair the commission's ability to
 29 issue a show cause order as part of its rate-making authority. An



1 alteration or amendment in rates or rate schedules applied for by a
2 public utility that will not result in an increase in the cost of
3 service to its customers may be authorized and approved without
4 notice or hearing. There shall be no increase in rates based upon
5 changes in cost of fuel, purchased gas, or purchased steam unless
6 notice has been given within the service area to be affected, and
7 there has been an opportunity for a full and complete hearing on
8 the cost of fuel, purchased gas, or purchased steam. The rates
9 charged by any utility under an automatic fuel, purchased gas, or
10 purchased steam adjustment clause shall not be altered, changed, or
11 amended unless notice has been given within the service area to be
12 affected, and there has been an opportunity for a full and complete
13 hearing on the cost of the fuel, purchased gas, or purchased steam.

14 (4) The commission shall adopt rules and procedures for the
15 filing, investigation, and hearing of petitions or applications to
16 increase or decrease utility rates and charges as the commission
17 finds necessary or appropriate to enable it to reach a final
18 decision with respect to petitions or applications within a period
19 of time allotted by law to issue a final order after the filing of
20 the complete petitions or applications. The commission shall not
21 authorize or approve adjustment clauses that operate without notice
22 and an opportunity for a full and complete hearing, and all such
23 clauses are abolished. The commission may hold a full and complete
24 hearing to determine the cost of fuel, purchased gas, purchased
25 steam, or purchased power separately from a full and complete
26 hearing on a general rate case and may hold that hearing
27 concurrently with the general rate case. The commission shall
28 authorize a utility to recover the cost of fuel, purchased gas,
29 purchased steam, or purchased power only to the extent that the



1 purchases are reasonable and prudent.

2 (5) Except as otherwise provided in this subsection and
3 subsection (1), if the commission fails to reach a final decision
4 with respect to a completed petition or application to increase or
5 decrease utility rates within the 10-month period following the
6 filing of the completed petition or application, the petition or
7 application is considered approved. If a utility makes any
8 significant amendment to its filing, the commission has an
9 additional 10 months after the date of the amendment to reach a
10 final decision on the petition or application. If the utility files
11 for an extension of time, the commission shall extend the 10-month
12 period by the amount of additional time requested by the utility.

13 (6) A utility shall not file a general rate case application
14 for an increase in rates earlier than 12 months after the date of
15 the filing of a complete prior general rate case application. A
16 utility may not file a new general rate case application until the
17 commission has issued a final order on a prior general rate case or
18 until the rates are approved under subsection (5).

19 (7) The commission shall, if requested by a gas utility,
20 establish load retention transportation rate schedules or approve
21 gas transportation contracts as required for the purpose of serving
22 industrial or commercial customers whose individual annual
23 transportation volumes exceed 500,000 decatherms on the gas
24 utility's system. The commission shall approve these rate schedules
25 or approve transportation contracts entered into by the utility in
26 good faith if the industrial or commercial customer has the
27 installed capability to use an alternative fuel or otherwise has a
28 viable alternative to receiving natural gas transportation service
29 from the utility, the customer can obtain the alternative fuel or



1 gas transportation from an alternative source at a price that would
2 cause them not to use the gas utility's system, and the customer,
3 as a result of their use of the system and receipt of
4 transportation service, makes a significant contribution to the
5 utility's fixed costs. The commission shall adopt accounting and
6 rate-making policies to ensure that the discounts associated with
7 the transportation rate schedules and contracts are recovered by
8 the gas utility through charges applicable to other customers if
9 the incremental costs related to the discounts are no greater than
10 the costs that would be passed on to those customers as the result
11 of a loss of the industrial or commercial customer's contribution
12 to a utility's fixed costs.

13 (8) The commission shall adopt standard rate application
14 filing forms and instructions for use in all general rate cases
15 filed by utilities whose rates are regulated by the commission. For
16 cooperative electric utilities whose rates are regulated by the
17 commission, in addition to rate applications filed under this
18 section, the commission shall continue to allow for rate filings
19 based on the cooperative's times interest earned ratio. The
20 commission may modify the standard rate application forms and
21 instructions adopted under this subsection.

22 (9) If, on or before January 1, 2008, a merchant plant entered
23 into a contract with an initial term of 20 years or more to sell
24 electricity to an electric utility whose rates are regulated by the
25 commission with 1,000,000 or more retail customers in this state
26 and if, before January 1, 2008, the merchant plant generated
27 electricity under that contract, in whole or in part, from wood or
28 solid wood wastes, then the merchant plant shall, upon petition by
29 the merchant plant, and subject to the limitation set forth in



1 subsection (10), recover the amount, if any, by which the merchant
 2 plant's reasonably and prudently incurred actual fuel and variable
 3 operation and maintenance costs exceed the amount that the merchant
 4 plant is paid under the contract for those costs. This subsection
 5 does not apply to landfill gas plants, hydro plants, municipal
 6 solid waste plants, or to merchant plants engaged in litigation
 7 against an electric utility seeking higher payments for power
 8 delivered pursuant to contract.

9 (10) The total aggregate additional amounts recoverable by
 10 merchant plants under subsection (9) in excess of the amounts paid
 11 under the contracts ~~shall~~**must** not exceed \$1,000,000.00 per month
 12 for each affected electric utility. The \$1,000,000.00 per month
 13 limit specified in this subsection ~~shall~~**must** be reviewed by the
 14 commission upon petition of the merchant plant filed no more than
 15 once per year and may be adjusted if the commission finds that the
 16 eligible merchant plants reasonably and prudently incurred actual
 17 fuel and variable operation and maintenance costs exceed the amount
 18 that those merchant plants are paid under the contract by more than
 19 \$1,000,000.00 per month. The annual amount of the adjustments ~~shall~~
 20 **must** not exceed a rate equal to the United States ~~consumer price~~
 21 ~~index.~~ **Consumer Price Index**. The commission shall not make an
 22 adjustment unless each affected merchant plant files a petition
 23 with the commission. If the total aggregate amount by which the
 24 eligible merchant plants reasonably and prudently incurred actual
 25 fuel and variable operation and maintenance costs determined by the
 26 commission exceed the amount that the merchant plants are paid
 27 under the contract by more than \$1,000,000.00 per month, the
 28 commission shall allocate the additional \$1,000,000.00 per month
 29 payment among the eligible merchant plants based upon the



1 relationship of excess costs among the eligible merchant plants.
2 The \$1,000,000.00 limit specified in this subsection, as adjusted,
3 does not apply to actual fuel and variable operation and
4 maintenance costs that are incurred due to changes in federal or
5 state environmental laws or regulations that are implemented after
6 October 6, 2008. The \$1,000,000.00 per month payment limit under
7 this subsection does not apply to merchant plants eligible under
8 subsection (9) whose electricity is purchased by a utility that is
9 using wood or wood waste or fuels derived from those materials for
10 fuel in their power plants. As used in this subsection, "~~United~~
11 ~~States consumer price index~~" **Consumer Price Index**" means the United
12 ~~States consumer price index~~ **Consumer Price Index** for all urban
13 consumers as defined and reported by the United States Department
14 of Labor, Bureau of Labor Statistics.

15 (11) The commission shall issue orders to permit the recovery
16 authorized under subsections (9) and (10) upon petition of the
17 merchant plant. The merchant plant is not required to alter or
18 amend the existing contract with the electric utility in order to
19 obtain the recovery under subsections (9) and (10). The commission
20 shall permit or require the electric utility whose rates are
21 regulated by the commission to recover from its ratepayers all fuel
22 and variable operation and maintenance costs that the electric
23 utility is required to pay to the merchant plant as reasonably and
24 prudently incurred costs.

25 (12) Subject to subsection (13), if requested by an electric
26 utility with less than 200,000 customers in this state, the
27 commission shall approve an appropriate revenue decoupling
28 mechanism that adjusts for decreases in actual sales compared to
29 the projected levels used in that utility's most recent rate case



1 that are the result of implemented energy waste reduction,
 2 conservation, demand-side programs, and other waste reduction
 3 measures, if the utility first demonstrates the following to the
 4 commission:

5 (a) That the projected sales forecast in the utility's most
 6 recent rate case is reasonable.

7 (b) That the electric utility has achieved annual incremental
 8 energy savings at least equal to the lesser of the following:

9 ~~(i) One percent of its total annual retail electricity sales in~~
 10 ~~the previous year.~~ **The incremental energy savings requirement of**
 11 **section 77(1) of the clean and renewable energy and energy waste**
 12 **reduction act, 2008 PA 295, MCL 460.1077.**

13 (ii) The amount of any incremental savings yielded by energy
 14 waste reduction, conservation, demand-side programs, and other
 15 waste reduction measures approved by the commission in that
 16 utility's most recent integrated resource plan.

17 (13) The commission shall consider the aggregate revenues
 18 attributable to revenue decoupling mechanisms, financial
 19 incentives, and shared savings mechanisms the commission has
 20 approved for an electric utility relative to energy waste
 21 reduction, conservation, demand-side programs, peak load reduction,
 22 and other waste reduction measures. The commission may approve an
 23 alternative methodology for a revenue decoupling mechanism
 24 authorized under subsection (12) ~~or~~ a financial incentive
 25 authorized under section 75 of the clean and renewable energy and
 26 energy waste reduction act, 2008 PA 295, MCL 460.1075, ~~or a shared~~
 27 ~~savings mechanism authorized under section 6x~~ if the commission
 28 determines that the resulting aggregate revenues from those
 29 mechanisms would not result in a reasonable and cost-effective



1 method to ensure that investments in energy waste reduction,
 2 demand-side programs, peak load reduction, and other waste
 3 reduction measures are not disfavored when compared to utility
 4 supply-side investments. The commission's consideration of an
 5 alternative methodology under this subsection ~~shall~~**must** be
 6 conducted as a contested case ~~pursuant to~~**in accordance with**
 7 chapter 4 of the administrative procedures act of 1969, 1969 PA
 8 306, MCL 24.271 to ~~24.287~~**24.288**.

9 (14) ~~Within 1 year after the effective date of the amendatory~~
 10 ~~act that added this subsection,~~**By April 20, 2018**, the commission
 11 shall conduct a study on an appropriate tariff reflecting equitable
 12 cost of service for utility revenue requirements for customers who
 13 participate in a net metering program or distributed generation
 14 program under the clean and renewable energy and energy waste
 15 reduction act, 2008 PA 295, MCL 460.1001 to 460.1211. In any rate
 16 case filed after June 1, 2018, the commission shall, **subject to**
 17 **section 173(7) of the clean and renewable energy and energy waste**
 18 **reduction act, 2008 PA 295, MCL 460.1073**, approve such a tariff for
 19 inclusion in the rates of all customers participating in a net
 20 metering or distributed generation program under the clean and
 21 renewable energy and energy waste reduction act, 2008 PA 295, MCL
 22 460.1001 to 460.1211. A tariff established under this subsection
 23 does not apply to customers participating in a net metering program
 24 under the clean and renewable energy and energy waste reduction
 25 act, 2008 PA 295, MCL 460.1001 to 460.1211, before the date that
 26 the commission establishes a tariff under this subsection, who
 27 continues to participate in the program at their current site or
 28 facility.

29 (15) Except as otherwise provided in this act, "utility" and



1 "electric utility" do not include a municipally owned electric
2 utility.

3 (16) As used in this section:

4 (a) "Full and complete hearing" means a hearing that provides
5 interested parties a reasonable opportunity to present and cross-
6 examine evidence and present arguments relevant to the specific
7 element or elements of the request that are the subject of the
8 hearing.

9 (b) "General rate case" means a proceeding initiated by a
10 utility in an application filed with the commission that alleges a
11 revenue deficiency and requests an increase in the schedule of
12 rates or charges based on the utility's total cost of providing
13 service.

14 (c) "Steam utility" means a steam distribution company
15 regulated by the commission.

16 Sec. 6m. (1) The utility consumer representation fund is
17 created as a special fund. The state treasurer ~~shall be~~ **is** the
18 custodian of the fund and shall maintain a separate account of the
19 money in the fund. The money in the fund ~~shall~~ **must** be invested in
20 the bonds, notes, and other evidences of indebtedness issued or
21 insured by the United States government and its agencies, and in
22 prime commercial paper. The state treasurer shall release money
23 from the fund, including interest earned, in the manner and at the
24 time directed by the board.

25 (2) Except as provided in subsection (5), each energy utility
26 that has applied to the commission for the initiation of an energy
27 cost recovery proceeding shall remit to the fund before or upon
28 filing its initial application for that proceeding, and on or
29 before the first anniversary of that application, an amount of



1 money determined by the board in the following manner:

2 (a) In the case of an energy utility company serving at least
 3 100,000 customers in this state, its proportional share of
 4 ~~\$900,000.00~~ **\$1,800,000.00** adjusted annually by a factor as provided
 5 in subsection (4). This adjusted amount ~~shall become~~ **is** the new
 6 base amount to which the factor provided in subsection (4) is
 7 applied in the succeeding year. A utility's proportional share
 8 ~~shall~~ **must** be calculated by dividing the company's jurisdictional
 9 total operating revenues for the preceding year, as stated in its
 10 annual report, by the total operating revenues for the preceding
 11 year of all energy utility companies serving at least 100,000
 12 customers in this state. ~~This amount~~ **The board** shall ~~be made~~ **make**
 13 **this amount** available ~~by the board~~ for use by the attorney general
 14 for the purposes described in subsection (16).

15 (b) In the case of an energy utility company serving at least
 16 100,000 residential customers in this state, its proportional share
 17 of ~~\$650,000.00~~ **\$2,000,000.00** adjusted annually by a factor as
 18 provided in subsection (4). This adjusted amount ~~shall become~~ **is**
 19 the new base amount to which the factor provided in subsection (4)
 20 is applied in the succeeding year. A utility's proportional share
 21 ~~shall~~ **must** be calculated by dividing the company's jurisdictional
 22 gross revenues from residential tariff sales for the preceding year
 23 by the gross revenues from residential tariff sales for the
 24 preceding year of all energy utility companies serving at least
 25 100,000 residential customers in this state. This amount ~~shall~~ **must**
 26 be used for grants under subsection (10).

27 (c) In the case of an energy utility company serving fewer
 28 than 100,000 customers in this state, its proportional share of
 29 \$100,000.00 adjusted annually by a factor as provided in subsection



1 (4). This adjusted amount ~~shall become~~ **is** the new base amount to
 2 which the factor provided in subsection (4) is applied in the
 3 succeeding year. A utility's proportional share ~~shall~~ **must** be
 4 calculated by dividing the company's jurisdictional total operating
 5 revenues for the preceding year, as stated in its annual report, by
 6 the total operating revenues for the preceding year of all energy
 7 utility companies serving fewer than 100,000 customers in this
 8 state. ~~This amount~~ **The board** shall ~~be made~~ **make this amount**
 9 available ~~by the board~~ for use by the attorney general for the
 10 purposes described in subsection (16).

11 (d) In the case of an energy utility company serving fewer
 12 than 100,000 residential customers in this state, its proportional
 13 share of \$100,000.00 adjusted annually by a factor as provided in
 14 subsection (4). This adjusted amount ~~shall become~~ **is** the new base
 15 amount to which the factor provided in subsection (4) is applied in
 16 the succeeding year. A utility's proportional share ~~shall~~ **must** be
 17 calculated by dividing the company's jurisdictional gross revenues
 18 from residential tariff sales for the preceding year by the gross
 19 revenues from residential tariff sales for the preceding year of
 20 all energy utility companies serving fewer than 100,000 residential
 21 customers in this state. This amount ~~shall~~ **must** be used for grants
 22 under subsection (10).

23 (3) Payments made by an energy utility under subsection (2) (a)
 24 or (c) are operating expenses of the utility that the commission
 25 shall permit the utility to charge to its customers. Payments made
 26 by a utility under subsection (2) (b) or (d) are operating expenses
 27 of the utility that the commission shall permit the utility to
 28 charge to its residential customers.

29 (4) For purposes of subsection (2), the board shall set the



1 factor at a level not to exceed the percentage increase in the
 2 index known as the ~~consumer price index~~ **Consumer Price Index** for
 3 urban wage earners and clerical workers, select areas, all items
 4 indexed, for the Detroit standard metropolitan statistical area,
 5 compiled by the Bureau of Labor Statistics of the United States
 6 Department of Labor, or any successor agency, that has occurred
 7 between January of the preceding year and January of the year in
 8 which the payment is required to be made. In the event that more
 9 than 1 such index is compiled, the index yielding the largest
 10 payment ~~shall be~~ **is** the maximum allowable factor. The board shall
 11 advise utilities of the factor.

12 (5) The remittance requirements of this section do not apply
 13 to an energy utility organized as a cooperative corporation under
 14 sections 98 to 109 of 1931 PA 327, MCL 450.98 to 450.109, and
 15 grants from the fund ~~shall~~ **must** not be used to participate in an
 16 energy cost recovery proceeding primarily affecting such a utility.

17 (6) In the event of a dispute between the board and an energy
 18 utility about the amount of payment due, the utility shall pay the
 19 undisputed amount and, if the utility and the board cannot agree,
 20 the board may initiate civil action in the circuit court for Ingham
 21 County for recovery of the disputed amount. The commission shall
 22 not accept or take action on an application for an energy cost
 23 recovery proceeding from an energy utility subject to this section
 24 that has not fully paid undisputed remittances required by this
 25 section.

26 (7) The commission shall not accept or take action on an
 27 application for an energy cost recovery proceeding from an energy
 28 utility subject to this section until 30 days after it has been
 29 notified by the board that the board is ready to process grant



1 applications, will transfer funds payable to the attorney general
2 immediately upon the receipt of those funds, and will within 30
3 days approve grants and remit funds to qualified grant applicants.

4 (8) The board may accept a gift or grant from any source to be
5 deposited in the fund if the conditions or purposes of the gift or
6 grant are consistent with this section.

7 (9) The costs of operation and expenses incurred by the board
8 in performing its duties under this section and section 61,
9 including remuneration to board members, ~~shall~~**must** be paid from
10 the fund. A maximum of 5% of the annual receipts of the fund may be
11 budgeted and used to pay expenses other than grants made under
12 subsection (10).

13 (10) The net grant proceeds ~~shall~~**must** finance a grant program
14 from which the board may award to an applicant an amount that the
15 board determines shall be used for the purposes set forth in this
16 section.

17 (11) The board shall create and make available to applicants
18 an application form. Each applicant shall indicate on the
19 application how the applicant meets the eligibility requirements
20 provided for in this section and how the applicant proposes to use
21 a grant from the fund to participate in 1 or more proceedings as
22 authorized in subsection (16) that have been or are expected to be
23 filed. Each applicant shall also identify on the application any
24 additional funds or resources, other than the grant funds being
25 requested, that are to be used to participate in the proceeding for
26 which the grant is being requested and how those funds or resources
27 will be utilized. The board shall receive an application requesting
28 a grant from the fund only from a nonprofit organization or a unit
29 of local government in this state. The board shall consider only



1 applications for grants containing proposals that are consistent
 2 with subsections (16) and (17) and that serve the interests of
 3 residential utility consumers. **The interests of residential utility**
 4 **consumers include those goals listed in section 6(3).** For purposes
 5 of making grants, the board may consider energy conservation,
 6 energy waste reduction, demand response, and rate design options to
 7 encourage energy conservation, energy waste reduction, and demand
 8 response, as well as the maintenance of adequate energy resources.
 9 The board shall not consider an application that primarily benefits
 10 the applicant or a service provided or administered by the
 11 applicant. The board shall not consider an application from a
 12 nonprofit organization if 1 of the organization's principal
 13 interests or unifying principles is the welfare of a utility or its
 14 investors or employees, or the welfare of 1 or more businesses or
 15 industries, other than farms not owned or operated by a
 16 corporation, that receive utility service ordinarily and primarily
 17 for use in connection with the profit-seeking manufacture, sale, or
 18 distribution of goods or services. Mere ownership of securities by
 19 a nonprofit organization or its members does not disqualify an
 20 application submitted by that organization.

21 (12) The board shall encourage ~~the representation of grant~~
 22 **making to nonprofits representing environmental justice communities**
 23 **and communities with the highest energy burdens. The board shall**
 24 **also encourage** the interests of identifiable types of residential
 25 utility consumers whose interests may differ, including various
 26 social and economic classes and areas of the state, and if
 27 necessary, may make grants to more than 1 applicant whose
 28 applications are related to a similar issue to achieve this type of
 29 representation. In addition, the board shall consider and balance



1 the following criteria in determining whether to make a grant to an
2 applicant:

3 (a) Evidence of the applicant's competence, experience, and
4 commitment to advancing the interests of residential utility
5 consumers.

6 (b) The anticipated involvement of the attorney general in a
7 proceeding and whether activities of the applicant will be
8 duplicative or supplemental to those of the attorney general.

9 (c) In the case of a nongovernmental applicant, the extent to
10 which the applicant is representative of or has a previous history
11 of advocating the interests of citizens, especially residential
12 utility consumers.

13 (d) The anticipated effect of the proposal contained in the
14 application on residential utility consumers, including the
15 immediate and long-term impacts of the proposal.

16 (e) Evidence demonstrating the potential for continuity of
17 effort and the development of expertise in relation to the proposal
18 contained in the application.

19 (f) The uniqueness or innovativeness of an applicant's
20 position or point of view as it relates to advocating for
21 residential utility consumers concerning energy costs or rates, and
22 the probability and desirability of that position or point of view
23 prevailing.

24 (13) As an alternative to choosing between 2 or more
25 applications that have similar proposals, the board may invite 2 or
26 more of the applicants to file jointly and award a grant to be
27 managed cooperatively.

28 (14) The board shall make disbursements pursuant to a grant in
29 advance of an applicant's proposed actions as set forth in the



1 application if necessary to enable the applicant to initiate,
2 continue, or complete the proposed actions.

3 (15) Any notice to utility customers and the general public of
4 hearings or other state proceedings in which grants from the fund
5 may be used ~~shall~~**must** contain a notice of the availability of the
6 fund and the address of the board.

7 (16) The annual receipts and interest earned, less
8 administrative costs, may be used only for participation in
9 administrative and judicial proceedings ~~under sections 6a, 6h, 6j,~~
10 ~~6s, and 6t,~~**before and involving the public service commission** and
11 in federal administrative and judicial proceedings that directly
12 affect the energy costs or rates paid by energy utility customers
13 in this state. Amounts that have been in the fund more than 12
14 months may be retained in the fund for future proceedings and any
15 unexpended money in the fund ~~shall be~~**is** reserved to fulfill the
16 purposes for which it was appropriated or may be returned to energy
17 utility companies or used to offset their future remittances in
18 proportion to their previous remittances to the fund, as the board
19 and attorney general determine will best serve the interests of
20 consumers.

21 (17) The following conditions apply to all grants from the
22 fund:

23 (a) Disbursements from the fund may be used only to advocate
24 the interests of residential energy utility customers concerning
25 energy costs or rates and not for representation of merely
26 individual interests.

27 (b) The board shall attempt to maintain a reasonable
28 relationship between the payments from a particular energy utility
29 and the benefits to consumers of that utility.



1 (c) The board shall coordinate the funded activities of grant
 2 recipients with those of the attorney general to avoid duplication
 3 of effort, particularly as it relates to the hiring of expert
 4 witnesses, to promote supplementation of effort, and to maximize
 5 the number of hearings and proceedings with intervenor
 6 participation.

7 (18) A recipient of a grant under subsection (10) may use the
 8 grant only for the advancement of the proposed action approved by
 9 the board, including, but not limited to, costs of staff, hired
 10 consultants and counsel, and research.

11 (19) A recipient of a grant under subsection (10) shall
 12 prepare for and participate in all discussions among the parties
 13 designed to facilitate settlement or narrowing of the contested
 14 issues before a hearing in order to minimize litigation costs for
 15 all parties.

16 (20) A recipient of a grant under subsection (10) shall file a
 17 report with the board ~~within~~ **not later than** 90 days following the
 18 end of the year or a shorter period for which the grant is made.
 19 The report ~~shall~~ **must** be made in a form prescribed by the board and
 20 is subject to audit by the board. The board shall include each
 21 report received under this subsection as part of the board's annual
 22 report required under subsection (22). The report under this
 23 subsection ~~shall~~ **must** include the following information:

24 (a) An account of all grant expenditures made by the grant
 25 recipient. Expenditures ~~shall~~ **must** be reported within the following
 26 categories:

27 (i) Employee and contract for services costs.

28 (ii) Costs of materials and supplies.

29 (iii) Filing fees and other costs required to effectively



1 represent residential utility consumers as provided in this
2 section.

3 (b) A detailed list of the regulatory issues raised by the
4 grant recipient and how each issue was determined by the
5 commission, court, or other tribunal.

6 (c) Any additional information concerning uses of the grant
7 required by the board.

8 (21) On or before July 1 of each year, the attorney general
9 shall file a report with the house and senate committees on
10 appropriations and the house and senate committees with
11 jurisdiction over energy and utility policy issues. The report
12 ~~shall~~**must** include the following information:

13 (a) An account of all expenditures made by the attorney
14 general of money received under this section. Expenditures ~~shall~~
15 **must** be reported ~~within~~**in** the following categories:

16 (i) Employee and contract for services costs.

17 (ii) Costs of materials and supplies.

18 (iii) Filing fees and other costs required to effectively
19 represent utility consumers as provided in this section.

20 (b) Any additional information concerning uses of the money
21 received under this section required by the committees.

22 (22) On or before July 1 of each calendar year, the board
23 shall submit a detailed report to the house and senate committees
24 with jurisdiction over energy and utility policy issues regarding
25 the discharge of duties and responsibilities under this section and
26 section 6l during the preceding calendar year.

27 **(23) As used in this section, "environmental justice**
28 **communities" means census tracts in this state that are subjected**
29 **to factors such as socioeconomic stressors, disproportionate cost**



1 and environmental burdens, high residential energy burdens,
 2 vulnerability to environmental degradation, and lack of
 3 accessibility to public participation that may act cumulatively to
 4 affect public health and the environment as identified through
 5 environmental justice screening tools and in consultation with the
 6 department of environment, Great Lakes, and energy and the office
 7 of the environmental justice public advocate.

8 Sec. 6t. (1) The commission shall, ~~within 120 days of the~~
 9 ~~effective date of the amendatory act that added this section~~
 10 **beginning August 18, 2022**, and every ~~5~~**4** years thereafter, commence
 11 a proceeding and, in consultation with the ~~Michigan agency for~~
 12 ~~energy, the department of environmental quality,~~**environment, Great**
 13 **Lakes, and energy**, and other interested parties, do all of the
 14 following as part of the proceeding:

15 (a) Conduct an assessment of the potential for energy waste
 16 reduction in this state. ~~, based on what is economically and~~
 17 ~~technologically feasible, as well as what is reasonably~~
 18 ~~achievable.~~**An assessment under this subdivision must include an**
 19 **assessment of the feasibility and costs of the incremental energy**
 20 **savings requirements and goals specified under section 77 of the**
 21 **clean and renewable energy and energy waste reduction act, 2008 PA**
 22 **295, MCL 460.1077.**

23 (b) Conduct an assessment for the use of demand response
 24 programs in this state, based on what is economically and
 25 technologically feasible, as well as what is reasonably achievable.
 26 The assessment ~~shall~~**must** expressly account for advanced metering
 27 infrastructure that has already been installed in this state and
 28 seek to fully maximize potential benefits to ratepayers in lowering
 29 utility bills.



1 (c) Identify significant state or federal environmental
2 regulations, laws, or rules and how each regulation, law, or rule
3 would affect electric utilities in this state.

4 (d) Identify any formally proposed state or federal
5 environmental regulation, law, or rule that has been published in
6 the Michigan Register or the Federal Register and how the proposed
7 regulation, law, or rule would affect electric utilities in this
8 state.

9 (e) Identify any required planning reserve margins and local
10 clearing requirements in areas of this state.

11 (f) Establish the modeling scenarios and assumptions each
12 electric utility should include in addition to its own scenarios
13 and assumptions in developing its integrated resource plan filed
14 under subsection (3), including, but not limited to, all of the
15 following:

16 (i) Any required planning reserve margins and local clearing
17 requirements.

18 (ii) All applicable state and federal environmental
19 regulations, laws, and rules identified in this subsection.

20 (iii) Any supply-side and demand-side resources that reasonably
21 could address any need for additional generation capacity,
22 including, but not limited to, the type of generation technology
23 for any proposed generation facility, projected energy waste
24 reduction savings, **projected electrification of transportation,**
25 **building, and industries savings,** and projected load management and
26 demand response savings.

27 (iv) Any regional infrastructure limitations in this state.

28 (v) The projected costs of different types of **technologies and**
29 fuel used for electric generation.



1 (g) Allow other state agencies to provide input regarding any
2 other regulatory requirements that should be included in modeling
3 scenarios or assumptions.

4 (h) Publish a copy of the proposed modeling scenarios and
5 assumptions to be used in integrated resource plans on the
6 commission's website.

7 (i) Before issuing the final modeling scenarios and
8 assumptions each electric utility should include in developing its
9 integrated resource plan, receive written comments and hold
10 hearings to solicit public input regarding the proposed modeling
11 scenarios and assumptions.

12 (j) Conduct an assessment of the requirements to support
13 electrification of transportation, buildings, and industries
14 consistent with economy-wide elimination of greenhouse gas
15 emissions in this state and the potential for utility programs to
16 promote electrification of transportation, buildings, and
17 industries, based on what is economically and technologically
18 feasible, as well as what is reasonably achievable.

19 (k) Identify environmental justice communities. As used in
20 this subdivision, "environmental justice communities" means census
21 tracts within this state that are subjected to factors such as
22 socioeconomic stressors, disproportionate cost and environmental
23 burdens, high residential energy burdens, vulnerability to
24 environmental degradation, and lack of accessibility to public
25 participation that may act cumulatively to affect public health and
26 the environment as identified through environmental justice
27 screening tools and in consultation with the department of
28 environment, Great Lakes, and energy, and the office of the
29 environmental justice public advocate.



1 (l) Identify how the electric utility will promote
 2 electrification of transportation, buildings, and industries,
 3 including the effects on electricity requirements, the cost of the
 4 plan, and the expected effects on retail customer rates, customer
 5 and societal costs avoided by electrification of transportation,
 6 buildings, and industries, and the impact of the electrification
 7 plans on the total energy cost burden of retail customers.

8 (2) A proceeding commenced under subsection (1) ~~shall~~**must** be
 9 completed within 120 days, and ~~shall~~**is** not be a contested case
 10 under chapter 4 of the administrative procedures act of 1969, 1969
 11 PA 306, MCL 24.271 to ~~24.287~~**24.288**. The determination of the
 12 modeling assumptions for integrated resource plans made under
 13 subsection (1) is not considered a final order for purposes of
 14 judicial review. The determinations made under subsection (1) are
 15 only subject to judicial review as part of the final commission
 16 order approving an integrated resource plan under this section.

17 (3) Not later than ~~2 years after the effective date of the~~
 18 ~~amendatory act that added this section,~~ **April 20, 2019**, each
 19 electric utility whose rates are regulated by the commission shall
 20 file with the commission an integrated resource plan that provides
 21 a 5-year, 10-year, and 15-year projection of the utility's load
 22 obligations and a plan to meet those obligations, to meet the
 23 utility's requirements to provide generation reliability, including
 24 meeting planning reserve margin and local clearing requirements
 25 determined by the commission or the appropriate independent system
 26 operator, and to meet all applicable state and federal reliability
 27 and environmental regulations over the ensuing term of the plan.
 28 The commission shall issue an order establishing filing
 29 requirements, including application forms and instructions, and



1 filing deadlines for an integrated resource plan filed by an
2 electric utility whose rates are regulated by the commission. The
3 electric utility's plan may include alternative modeling scenarios
4 and assumptions in addition to those identified under subsection
5 (1).

6 (4) For an electric utility with fewer than 1,000,000
7 customers in this state whose rates are regulated by the
8 commission, the commission may issue an order implementing separate
9 filing requirements, review criteria, and approval standards that
10 differ from those established under subsection (3). An electric
11 utility providing electric tariff service to customers both in this
12 state and in at least 1 other state may design its integrated
13 resource plan to cover all its customers on that multistate basis.
14 If an electric utility has filed a multistate integrated resource
15 plan that includes its service area in this state with the relevant
16 utility regulatory commission in another state in which it provides
17 tariff service to retail customers, the commission shall accept
18 that integrated resource plan filing for filing purposes in this
19 state. However, the commission may require supplemental information
20 if necessary as part of its evaluation and determination of whether
21 to approve the plan. Upon request of an electric utility, the
22 commission may adjust the filing dates for a multistate integrated
23 resource plan filing in this state to place its review on the same
24 timeline as other relevant state reviews.

25 (5) An integrated resource plan ~~shall~~**must** include all of the
26 following:

27 (a) A long-term forecast of the electric utility's sales and
28 peak demand under various reasonable scenarios.

29 (b) The type of generation technology proposed for a



1 generation facility contained in the plan and the proposed capacity
2 of the generation facility, including projected fuel costs under
3 various reasonable scenarios.

4 (c) Projected energy purchased or produced by the electric
5 utility from a renewable energy resource. If the level of renewable
6 energy purchased or produced is projected to drop over the planning
7 periods set forth in subsection (3), the electric utility must
8 demonstrate why the reduction is in the best interest of
9 ratepayers.

10 (d) Details regarding the utility's plan to eliminate energy
11 waste, including the total amount of energy waste reduction
12 expected to be achieved annually, the cost of the plan, and the
13 expected savings for its retail customers.

14 ~~(e) An analysis of how the combined amounts of renewable
15 energy and energy waste reduction achieved under the plan compare
16 to the renewable energy resources and energy waste reduction goal
17 provided in section 1 of the clean and renewable energy and energy
18 waste reduction act, 2008 PA 295, MCL 460.1001. This analysis and
19 comparison may include renewable energy and capacity in any form,
20 including generating electricity from renewable energy systems for
21 sale to retail customers or purchasing or otherwise acquiring
22 renewable energy credits with or without associated renewable
23 energy, allowed under section 27 of the clean and renewable energy
24 and energy waste reduction act, 2008 PA 295, MCL 460.1027, as it
25 existed before the effective date of the amendatory act that added
26 this section.~~

27 **(e) An analysis of how the electric utility's plan complies**
28 **with the renewable energy plan requirements of section 28 of the**
29 **clean and renewable energy and energy waste reduction act, 2008 PA**



1 295, MCL 460.1028, and the clean energy requirements of section 51
2 of the clean and renewable energy and energy waste reduction act,
3 2008 PA 295, MCL 460.1051.

4 (f) Projected load management and demand response savings for
5 the electric utility and the projected costs for those programs.

6 (g) Projected energy and capacity purchased or produced by the
7 electric utility from a cogeneration resource.

8 (h) An analysis of potential new or upgraded electric
9 transmission options for the electric utility.

10 (i) Data regarding the utility's current generation portfolio,
11 including the age, capacity factor, licensing status, and remaining
12 estimated time of operation for each facility in the portfolio.

13 (j) Plans for meeting current and future capacity needs with
14 the cost estimates for all proposed construction and major
15 investments, including any transmission or distribution
16 infrastructure that would be required to support the proposed
17 construction or investment, and power purchase agreements.

18 (k) An analysis of the cost, capacity factor, and viability of
19 all reasonable options available to meet projected energy and
20 capacity needs, including, but not limited to, existing electric
21 generation facilities in this state.

22 (l) Projected rate impact for the periods covered by the plan.

23 (m) How the utility will comply with all applicable state and
24 federal environmental regulations, laws, and rules, and the
25 projected costs of complying with those regulations, laws, and
26 rules.

27 (n) A forecast of the utility's peak demand and details
28 regarding the amount of peak demand reduction the utility expects
29 to achieve and the actions the utility proposes to take in order to



1 achieve that peak demand reduction.

2 (o) The projected long-term firm gas transportation contracts
3 or natural gas storage the electric utility will hold to provide an
4 adequate supply of natural gas to any new generation facility.

5 (p) **The projected long-term forecast of greenhouse gas
6 emissions and other pollutants from power generated or purchased by
7 the electric utility. The electric utility may include details on
8 the broader emissions impact of shifting to electrification of
9 transportation, buildings, and industries.**

10 (q) **The impact of the plan on the goals identified in section
11 6(3).**

12 (6) Before filing an integrated resource plan under this
13 section, each electric utility whose rates are regulated by the
14 commission shall issue a request for proposals to provide any new
15 supply-side generation capacity resources needed to serve the
16 utility's reasonably projected electric load, applicable planning
17 reserve margin, and local clearing requirement for its customers in
18 this state and customers the utility serves in other states during
19 the initial 3-year planning period to be considered in each
20 integrated resource plan to be filed under this section. An
21 electric utility shall define qualifying performance standards,
22 contract terms, technical competence, capability, reliability,
23 creditworthiness, past performance, and other criteria that
24 responses and respondents to the request for proposals must meet in
25 order to be considered by the utility in its integrated resource
26 plan to be filed under this section. Respondents to a request for
27 proposals may request that certain proprietary information be
28 exempt from public disclosure as allowed by the commission. A
29 utility that issues a request for proposals under this subsection



1 shall use the resulting proposals to inform its integrated resource
2 plan filed under this section and include all of the submitted
3 proposals as attachments to its integrated resource plan filing
4 regardless of whether the proposals met the qualifying performance
5 standards, contract terms, technical competence, capability,
6 reliability, creditworthiness, past performance, or other criteria
7 specified for the utility's request for proposals under this
8 section. An existing supplier of electric generation capacity
9 currently producing at least 200 megawatts of firm electric
10 generation capacity resources located in the independent system
11 operator's zone in which the utility's load is served that seeks to
12 provide electric generation capacity resources to the utility may
13 submit a written proposal directly to the commission as an
14 alternative to any supply-side generation capacity resource
15 included in the electric utility's integrated resource plan
16 submitted under this section, and has standing to intervene in the
17 contested case proceeding conducted under this section. This
18 subsection does not require an entity that submits an alternative
19 under this subsection to submit an integrated resource plan. This
20 subsection does not limit the ability of any other person to submit
21 to the commission an alternative proposal to any supply-side
22 generation capacity resource included in the electric utility's
23 integrated resource plan submitted under this section and to
24 petition for and be granted leave to intervene in the contested
25 case proceeding conducted under this section under the rules of
26 practice and procedure of the commission. The commission shall only
27 consider an alternative proposal submitted under this subsection as
28 part of its approval process under subsection (8). The electric
29 utility submitting an integrated resource plan under this section



1 is not required to adopt any proposals submitted under this
2 subsection. To the extent practicable, each electric utility is
3 encouraged, but not required, to partner with other electric
4 providers in the same local resource zone as the utility's load is
5 served in the development of any new supply-side generation
6 capacity resources included as part of its integrated resource
7 plan.

8 (7) Not later than 300 days after an electric utility files an
9 integrated resource plan under this section, the commission shall
10 state if the commission has any recommended changes, and if so,
11 describe them in sufficient detail to allow their incorporation in
12 the integrated resource plan. If the commission does not recommend
13 changes, it shall issue a final, appealable order approving or
14 denying the plan filed by the electric utility. If the commission
15 recommends changes, the commission shall set a schedule allowing
16 parties at least 15 days after that recommendation to file comments
17 regarding those recommendations, and allowing the electric utility
18 at least 30 days to consider the recommended changes and submit a
19 revised integrated resource plan that incorporates 1 or more of the
20 recommended changes. If the electric utility submits a revised
21 integrated resource plan under this section, the commission shall
22 issue a final, appealable order approving the plan as revised by
23 the electric utility or denying the plan. The commission shall
24 issue a final, appealable order no later than 360 days after an
25 electric utility files an integrated resource plan under this
26 section. Up to 150 days after an electric utility makes its initial
27 filing, the electric utility may file to update its cost estimates
28 if those cost estimates have materially changed. A utility shall
29 not modify any other aspect of the initial filing unless the



1 utility withdraws and refiles the application. A utility's filing
 2 updating its cost estimates does not extend the period for the
 3 commission to issue an order approving or denying the integrated
 4 resource plan. ~~The commission shall review~~ **following are applicable**
 5 **to an integrated resource plan filed under this section:**

6 (a) **The commission shall do all of the following:**

7 (i) **Review** the integrated resource plan in a contested case
 8 proceeding conducted ~~pursuant to~~ **in accordance with** chapter 4 of
 9 the administrative procedures act of 1969, 1969 PA 306, MCL 24.271
 10 to ~~24.287-24.288~~.

11 (ii) ~~The commission shall allow~~ **Allow** intervention by
 12 interested persons including electric customers of the utility,
 13 respondents to the utility's request for proposals under this
 14 section, or other parties approved by the commission.

15 (iii) ~~The commission shall request~~ **Request** an advisory opinion
 16 from the department of ~~environmental quality~~ **environment, Great**
 17 **Lakes, and energy** regarding ~~whether any potential decrease in~~
 18 ~~emissions of sulfur dioxide, oxides of nitrogen, mercury, and~~
 19 ~~particulate matter would reasonably be expected to result if the~~
 20 ~~integrated resource plan proposed by the electric utility under~~
 21 ~~subsection (3) was approved and whether the integrated resource~~
 22 ~~plan can reasonably be expected to achieve compliance with the~~
 23 ~~regulations, laws, or rules identified in subsection (1).~~ **all of the**
 24 **following:**

25 (A) **Whether any potential decrease in emissions of sulfur**
 26 **dioxide, oxides of nitrogen, mercury, and particulate matter would**
 27 **reasonably be expected to result if the integrated resource plan**
 28 **proposed by the electric utility under subsection (3) was approved.**

29 (B) **Whether the integrated resource plan can reasonably be**



1 expected to achieve compliance with the regulations, laws, or rules
2 identified in subsection (1).

3 (C) The potential impacts of proposed energy generation
4 resources and of any prudent and feasible alternatives identified
5 by the department on whether the plan makes adequate progress
6 toward the elimination of greenhouse gas emissions from power
7 generation in this state or for import to this state by 2040.

8 (D) The potential impacts of the plan and of any prudent and
9 feasible alternatives identified by the department on whether the
10 plan makes adequate progress toward the economy-wide virtual
11 elimination of greenhouse gas emissions in this state by 2050.

12 (E) Whether the plan in comparison to any prudent and feasible
13 alternatives makes adequate progress toward the elimination of
14 adverse effects on human health due to power generation in this
15 state.

16 (F) Whether the plan in comparison to any prudent and feasible
17 alternatives adequately reduces harms to the health, safety, and
18 welfare of individuals in environmental justice communities. As
19 used in this sub-sub paragraph, "environmental justice communities"
20 means census tracts in this state that are subjected to factors
21 such as socioeconomic stressors, disproportionate cost and
22 environmental burdens, high residential energy burdens,
23 vulnerability to environmental degradation, and lack of
24 accessibility to public participation that may act cumulatively to
25 affect public health and the environment as identified through
26 environmental justice screening tools and in consultation with the
27 department of environment, Great Lakes, and energy, and the office
28 of the environmental justice public advocate.

29 (b) The commission may ~~take~~ do 1 or both of the following:



1 (i) **Take** official notice of the opinion issued by the
 2 department of ~~environmental quality~~ **environment, Great Lakes, and**
 3 **energy** under this subsection pursuant to R 792.10428 of the
 4 Michigan Administrative Code. Information submitted by the
 5 department of ~~environmental quality~~ **environment, Great Lakes, and**
 6 **energy** under this subsection is advisory and is not binding on
 7 future determinations by the department of ~~environmental quality~~
 8 **environment, Great Lakes, and energy** or the commission in any
 9 proceeding or permitting process. This section does not prevent an
 10 electric utility from applying for, or receiving, any necessary
 11 permits from the department of ~~environmental quality~~ **environment,**
 12 **Great Lakes, and energy.**

13 (ii) ~~The commission may invite~~ **Invite** other state agencies to
 14 provide testimony regarding other relevant regulatory requirements
 15 related to the integrated resource plan. The commission shall
 16 permit reasonable discovery after an integrated resource plan is
 17 filed and during the hearing in order to assist parties and
 18 interested persons in obtaining evidence concerning the integrated
 19 resource plan, including, but not limited to, the reasonableness
 20 and prudence of the plan and alternatives to the plan raised by
 21 intervening parties.

22 (8) The commission shall approve the integrated resource plan
 23 under subsection (7) if the commission determines all of the
 24 following:

25 (a) The proposed integrated resource plan represents the most
 26 reasonable and prudent means of meeting the electric utility's
 27 energy and capacity needs. To determine whether the integrated
 28 resource plan is the most reasonable and prudent means of meeting
 29 energy and capacity needs, the commission shall consider whether



1 the plan appropriately balances all of the following factors:

2 (i) Resource adequacy and capacity to serve anticipated peak
3 electric load, applicable planning reserve margin, and local
4 clearing requirement.

5 (ii) Compliance with applicable state and federal environmental
6 regulations.

7 (iii) Competitive pricing.

8 (iv) Reliability.

9 (v) Commodity price risks.

10 (vi) Diversity of generation supply.

11 (vii) Whether the proposed levels of peak load reduction and
12 energy waste reduction are reasonable and ~~cost effective. Exceeding~~
13 ~~the renewable energy resources and energy waste reduction goal in~~
14 ~~section 1 of the clean and renewable energy and energy waste~~
15 ~~reduction act, 2008 PA 295, MCL 460.1001, by a utility shall not,~~
16 ~~in and of itself, be grounds for determining that the proposed~~
17 ~~levels of peak load reduction, renewable energy, and energy waste~~
18 ~~reduction are not reasonable and cost effective.~~**cost-effective.**

19 (b) To the extent practicable, the construction or investment
20 in a new or existing capacity resource in this state is completed
21 using a workforce composed of residents of this state as determined
22 by the commission. This subdivision does not apply to a capacity
23 resource that is located in a county that lies on the border with
24 another state.

25 (c) **Subject to this subdivision, the applicant pays workers**
26 **employed for the construction of the energy facility not less than**
27 **the wage and fringe benefit rates prevailing in the locality in**
28 **which the work is to be performed as determined under 2023 PA 10,**
29 **MCL 408.1101 to 408.1126, or 40 USC 3141 to 3148, whichever**



1 provides the higher wage and fringe benefit rates, and the
2 applicant certifies that workers employed for the construction of
3 the energy facility are paid not less than the wage and fringe
4 benefit rates prevailing in the locality in which the work is to be
5 performed as determined under 2023 PA 10, MCL 408.1101 to 408.1126,
6 or 40 USC 3141 to 3148, whichever provides the higher wage and
7 fringe benefit rates. This subdivision does not apply if the
8 contract for the construction of the energy facility contains
9 minimum wage schedules that are the same as prevailing wages in the
10 locality as determined by collective bargaining agreements or
11 understandings between bona fide organizations of workers and the
12 relevant employers.

13 (d) The plan is consistent with the renewable energy plan
14 requirements of section 28 of the clean and renewable energy and
15 energy waste reduction act, 2008 PA 295, MCL 460.1028, and the
16 clean energy requirements of section 51 of the clean and renewable
17 energy and energy waste reduction act, 2008 PA 295, MCL 460.1051.

18 (e) The plan is consistent with the energy waste reduction
19 requirements of section 77 of the clean and renewable energy and
20 energy waste reduction act, 2008 PA 295, MCL 460.1077.

21 (f) The plan promotes environmental quality and public health
22 and minimizes adverse effects on human health due to power
23 generation, including through the reduction of localized air
24 pollutants, with a priority on improvements in communities
25 disproportionately impacted by pollution and other environmental
26 harms.

27 (g) The plan promotes the public interest. In assessing
28 whether the petition or application promotes the public interest,
29 the commission shall consider the goals in section 6(3).



1 **(h)** ~~(e)~~—The plan meets the requirements of subsection (5).

2 (9) If the commission denies a utility's integrated resource
3 plan, the utility, within 60 days after the date of the final order
4 denying the integrated resource plan, may submit revisions to the
5 integrated resource plan to the commission for approval. The
6 commission shall commence a new contested case hearing under
7 chapter 4 of the administrative procedures act of 1969, 1969 PA
8 306, MCL 24.271 to ~~24.287.~~ **24.288**. Not later than 90 days after the
9 date that the utility submits the revised integrated resource plan
10 to the commission under this subsection, the commission shall issue
11 an order approving or denying, with recommendations, the revised
12 integrated resource plan if the revisions are not substantial or
13 inconsistent with the original integrated resource plan filed under
14 this section. If the revisions are substantial or inconsistent with
15 the original integrated resource plan, the commission has up to 150
16 days to issue an order approving or denying, with recommendations,
17 the revised integrated resource plan.

18 (10) If the commission denies an electric utility's integrated
19 resource plan, the electric utility may proceed with a proposed
20 construction, purchase, investment, or power purchase agreement
21 contained in the integrated resource plan without the assurances
22 granted under this section.

23 (11) In approving an integrated resource plan under this
24 section, the commission shall specify the costs approved for the
25 construction of or significant investment in an electric generation
26 facility, the purchase of an existing electric generation facility,
27 the purchase of power under the terms of the power purchase
28 agreement, or other investments or resources used to meet energy
29 and capacity needs that are included in the approved integrated



1 resource plan. The costs for specifically identified investments,
2 including the costs for facilities under subsection (12), included
3 in an approved integrated resource plan that are commenced within 3
4 years after the commission's order approving the initial plan,
5 amended plan, or plan review are considered reasonable and prudent
6 for cost recovery purposes.

7 (12) Except as otherwise provided in subsection (13), for a
8 new electric generation facility approved in an integrated resource
9 plan that is to be owned by the electric utility and that is
10 commenced within 3 years after the commission's order approving the
11 plan, the commission shall finalize the approved costs for the
12 **electric generation** facility only after the utility has done all of
13 the following and filed the results, analysis, and recommendations
14 with the commission:

15 (a) Implemented a competitive bidding process for all major
16 engineering, procurement, and construction contracts associated
17 with the construction of the **electric generation** facility.

18 (b) Implemented a competitive bidding process that allows
19 third parties to submit firm and binding bids for the construction
20 of an electric generation facility on behalf of the utility that
21 would meet all of the technical, commercial, and other
22 specifications required by the utility for the generation facility,
23 such that ownership of the electric generation facility vests with
24 the utility no later than the date the electric generation facility
25 becomes commercially available.

26 (c) Demonstrated to the commission that the finalized costs
27 for the new electric generation facility are not significantly
28 higher than the initially approved costs under subsection (11). If
29 the finalized costs are found to be significantly higher than the



1 initially approved costs, the commission shall review and approve
2 the proposed costs if the commission determines those costs are
3 reasonable and prudent.

4 (13) If the capacity resource under subsection (12) is for the
5 construction of an electric generation facility of 225 megawatts or
6 more or for the construction of an additional generating unit or
7 units totaling 225 megawatts or more at an existing electric
8 generation facility, the utility shall submit an application to the
9 commission seeking a certificate of necessity under section 6s.

10 (14) An electric utility shall annually, or more frequently if
11 required by the commission, file reports to the commission
12 regarding the status of any projects included in the initial 3-year
13 period of an integrated resource plan approved under subsection
14 (7).

15 (15) For power purchase agreements that a utility enters into
16 after ~~the effective date of the amendatory act that added this~~
17 ~~section~~ **April 20, 2017** with an entity that is not affiliated with
18 that utility, the commission shall consider and may authorize a
19 financial incentive for that utility that does not exceed the
20 utility's weighted average cost of capital.

21 (16) Notwithstanding any other provision of law, an order by
22 the commission approving an integrated resource plan may be
23 reviewed by the court of appeals upon a filing by a party to the
24 commission proceeding within 30 days after the order is issued. All
25 appeals of the order ~~shall~~ **must** be heard and determined as
26 expeditiously as possible with lawful precedence over other
27 matters. Review on appeal ~~shall be~~ **is** based solely on the record
28 before the commission and briefs to the court and is limited to
29 whether the order conforms to the constitution and laws of this



1 state and the United States and is within the authority of the
2 commission under this act.

3 (17) The commission shall include in an electric utility's
4 retail rates all reasonable and prudent costs specified under
5 subsections (11) and (12) that have been incurred to implement an
6 integrated resource plan approved by the commission. The commission
7 shall not disallow recovery of costs an electric utility incurs in
8 implementing an approved integrated resource plan, if the costs do
9 not exceed the costs approved by the commission under subsections
10 (11) and (12). If the actual costs incurred by the electric utility
11 exceed the costs approved by the commission, the electric utility
12 has the burden of proving by a preponderance of the evidence that
13 the costs are reasonable and prudent. The portion of the cost of a
14 plant, facility, power purchase agreement, or other investment in a
15 resource that meets a demonstrated need for capacity that exceeds
16 the cost approved by the commission is presumed to have been
17 incurred due to a lack of prudence. The commission may include any
18 or all of the portion of the cost in excess of the cost approved by
19 the commission if the commission finds by a preponderance of the
20 evidence that the costs are reasonable and prudent. The commission
21 shall disallow costs the commission finds have been incurred as the
22 result of fraud, concealment, gross mismanagement, or lack of
23 quality controls amounting to gross mismanagement. The commission
24 shall also require refunds with interest to ratepayers of any of
25 these costs already recovered through the electric utility's rates
26 and charges. If the assumptions underlying an approved integrated
27 resource plan materially change, or if the commission believes it
28 is unlikely that a project or program will become commercially
29 operational, an electric utility may request, or the commission on



1 its own motion may initiate, a proceeding to review whether it is
2 reasonable and prudent to complete an unfinished project or program
3 included in an approved integrated resource plan. If the commission
4 finds that completion of the project or program is no longer
5 reasonable and prudent, the commission may modify or cancel
6 approval of the project or program and unincurred costs in the
7 electric utility's integrated resource plan. Except for costs the
8 commission finds an electric utility has incurred as the result of
9 fraud, concealment, gross mismanagement, or lack of quality
10 controls amounting to gross mismanagement, if commission approval
11 is modified or canceled, the commission shall not disallow
12 reasonable and prudent costs already incurred or committed to by
13 contract by an electric utility. Once the commission finds that
14 completion of the project or program is no longer reasonable and
15 prudent, the commission may limit future cost recovery to those
16 costs that could not be reasonably avoided.

17 (18) The commission may allow financing interest cost recovery
18 in an electric utility's base rates on construction work in
19 progress for capital improvements approved under this section prior
20 to the assets' being considered used and useful. Regardless of
21 whether or not the commission authorizes base rate treatment for
22 construction work in progress financing interest expense, an
23 electric utility may recognize, accrue, and defer the allowance for
24 funds used during construction.

25 (19) An electric utility may seek to amend an approved
26 integrated resource plan. Except as otherwise provided under this
27 subsection, the commission shall consider the amendments under the
28 same process and standards that govern the review and approval of a
29 revised integrated resource plan under subsection (9). The



1 commission may order an electric utility that seeks to amend an
2 approved integrated resource plan under this subsection to file a
3 plan review under subsection (21).

4 (20) An electric utility shall file an application for review
5 of its integrated resource plan not later than 5 years after the
6 effective date of the most recent commission order approving a
7 plan, a plan amendment, or a plan review. The commission shall
8 consider a plan review under the same process and standards
9 established in this section for review and approval of an
10 integrated resource plan. A commission order approving a plan
11 review has the same effect as an order approving an integrated
12 resource plan.

13 (21) The commission may, on its own motion or at the request
14 of the electric utility, order an electric utility to file a plan
15 review. The department of ~~environmental quality~~**environment, Great**
16 **Lakes, and energy** may request the commission to order a plan review
17 to address material changes in environmental regulations and
18 requirements that occur after the commission's approval of an
19 integrated resource plan. An electric utility must file a plan
20 review within 270 days after the commission orders the utility to
21 file a plan review.

22 (22) As used in this section, "long-term firm gas
23 transportation" means a binding agreement entered into between the
24 electric utility and a natural gas transmission provider for a set
25 period of time to provide firm delivery of natural gas to an
26 electric generation facility.

27 **Sec. 6aa. (1) The commission shall annually conduct at least 4**
28 **public meetings, hearings, townhalls, or other opportunities for**
29 **public engagement in areas geographically dispersed throughout this**



1 state. The commission shall set the time, place, and manner of
 2 opportunities for public engagement under this subsection to take
 3 comments from and encourage meaningful participation by low-income
 4 residential customers, residential customers who experience high
 5 energy burdens, and individuals and communities likely to be
 6 impacted by the outcome of commission proceedings. Any public
 7 meeting, hearing, townhall, or other opportunity for public
 8 engagement the commission is otherwise required by law to conduct
 9 may count toward fulfilling this requirement.

10 (2) Not later than June 1, 2024, the commission shall open a
 11 proceeding to consider options to expand opportunities for public
 12 engagement in its decision-making processes and procedures with
 13 respect to all of the following:

14 (a) The accessibility and transparency of the commission's
 15 decision-making processes.

16 (b) Opportunities for participation in the commission's
 17 decision-making processes, especially by low-income residential
 18 customers, residential customers that experience high energy
 19 burdens, and individuals and communities impacted by commission
 20 decisions.

21 (c) The responsiveness of commission decisions to community
 22 needs and priorities.

23 Enacting section 1. This amendatory act does not take effect
 24 unless all of the following bills of the 102nd Legislature are
 25 enacted into law:

26 (a) Senate Bill No. 271.

27 (b) Senate Bill No. 273.

