

**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 6a, 6m, and 6t (MCL 460.6a, 460.6m, and 460.6t), 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. 6a. (1) A gas utility, electric utility, or steam utility  
 2 shall not increase its rates and charges or alter, change, or amend  
 3 any rate or rate schedules, the effect of which will be to increase  
 4 the cost of services to its customers, without first receiving  
 5 commission approval as provided in this section. A utility shall  
 6 coordinate with the commission staff in advance of filing its  
 7 general rate case application under this section to avoid resource  
 8 challenges with applications being filed at the same time as  
 9 applications filed under this section by other utilities. In the  
 10 case of electric utilities serving more than 1,000,000 customers in  
 11 this state, the commission may, if necessary, order a delay in  
 12 filing an application to establish a 21-day spacing between filings  
 13 of electric utilities serving more than 1,000,000 customers in this  
 14 state. The utility shall place in evidence facts relied upon to  
 15 support the utility's petition or application to increase its rates  
 16 and charges, or to alter, change, or amend any rate or rate  
 17 schedules. The commission shall require notice to be given to all  
 18 interested parties within the service area to be affected, and ~~all~~  
 19 **allow** interested parties ~~shall have~~ a reasonable opportunity for a  
 20 full and complete hearing. A utility may use projected costs and  
 21 revenues for a future consecutive 12-month period in developing its  
 22 requested rates and charges. The commission shall notify the  
 23 utility within 30 days after filing, whether the utility's petition

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

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

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

26 (3) This section does not impair the commission's ability to  
27 issue a show cause order as part of its rate-making authority. An  
28 alteration or amendment in rates or rate schedules applied for by a  
29 public utility that will not result in an increase in the cost of

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

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

29 (5) Except as otherwise provided in this subsection and

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

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

17 (7) The commission shall, if requested by a gas utility,  
18 establish load retention transportation rate schedules or approve  
19 gas transportation contracts as required for the purpose of serving  
20 industrial or commercial customers whose individual annual  
21 transportation volumes exceed 500,000 decatherms on the gas  
22 utility's system. The commission shall approve these rate schedules  
23 or approve transportation contracts entered into by the utility in  
24 good faith if the industrial or commercial customer has the  
25 installed capability to use an alternative fuel or otherwise has a  
26 viable alternative to receiving natural gas transportation service  
27 from the utility, the customer can obtain the alternative fuel or  
28 gas transportation from an alternative source at a price that would  
29 cause them not to use the gas utility's system, and the customer,

1 as a result of their use of the system and receipt of  
2 transportation service, makes a significant contribution to the  
3 utility's fixed costs. The commission shall adopt accounting and  
4 rate-making policies to ensure that the discounts associated with  
5 the transportation rate schedules and contracts are recovered by  
6 the gas utility through charges applicable to other customers if  
7 the incremental costs related to the discounts are no greater than  
8 the costs that would be passed on to those customers as the result  
9 of a loss of the industrial or commercial customer's contribution  
10 to a utility's fixed costs.

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

20 (9) If, on or before January 1, 2008, a merchant plant entered  
21 into a contract with an initial term of 20 years or more to sell  
22 electricity to an electric utility whose rates are regulated by the  
23 commission with 1,000,000 or more retail customers in this state  
24 and if, before January 1, 2008, the merchant plant generated  
25 electricity under that contract, in whole or in part, from wood or  
26 solid wood wastes, then the merchant plant shall, upon petition by  
27 the merchant plant, and subject to the limitation set forth in  
28 subsection (10), recover the amount, if any, by which the merchant  
29 plant's reasonably and prudently incurred actual fuel and variable

1 operation and maintenance costs exceed the amount that the merchant  
2 plant is paid under the contract for those costs. This subsection  
3 does not apply to landfill gas plants, hydro plants, municipal  
4 solid waste plants, or to merchant plants engaged in litigation  
5 against an electric utility seeking higher payments for power  
6 delivered pursuant to contract.

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



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

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

23 (12) Subject to subsection (13), if requested by an electric  
24 utility with less than 200,000 customers in this state, the  
25 commission shall approve an appropriate revenue decoupling  
26 mechanism that adjusts for decreases in actual sales compared to  
27 the projected levels used in that utility's most recent rate case  
28 that are the result of implemented energy waste reduction,  
29 conservation, demand-side programs, and other waste reduction

1 measures, if the utility first demonstrates the following to the  
2 commission:

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

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

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

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

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

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

7 (14) ~~Within 1 year after the effective date of the amendatory~~  
8 ~~act that added this subsection,~~ **By April 20, 2018**, the commission  
9 shall conduct a study on an appropriate tariff reflecting equitable  
10 cost of service for utility revenue requirements for customers who  
11 participate in a net metering program or distributed generation  
12 program under the clean and renewable energy and energy waste  
13 reduction act, 2008 PA 295, MCL 460.1001 to 460.1211. In any rate  
14 case filed after June 1, 2018, the commission shall, **subject to**  
15 **section 173(7) of the clean and renewable energy and energy waste**  
16 **reduction act, 2008 PA 295, MCL 460.1173**, approve such a tariff for  
17 inclusion in the rates of all customers participating in a net  
18 metering or distributed generation program under the clean and  
19 renewable energy and energy waste reduction act, 2008 PA 295, MCL  
20 460.1001 to 460.1211. A tariff established under this subsection  
21 does not apply to customers participating in a net metering program  
22 under the clean and renewable energy and energy waste reduction  
23 act, 2008 PA 295, MCL 460.1001 to 460.1211, before the date that  
24 the commission establishes a tariff under this subsection, who  
25 continues to participate in the program at their current site or  
26 facility.

27 (15) Except as otherwise provided in this act, "utility" and  
28 "electric utility" do not include a municipally owned electric  
29 utility.

1 (16) As used in this section:

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

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

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

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

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

29 (a) In the case of an energy utility company serving at least

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

13 (b) In the case of an energy utility company serving at least  
 14 100,000 residential customers in this state, its proportional share  
 15 of ~~\$650,000.00~~ **\$2,000,000.00** adjusted annually by a factor as  
 16 provided in subsection (4). This adjusted amount ~~shall become~~ **is**  
 17 the new base amount to which the factor provided in subsection (4)  
 18 is applied in the succeeding year. A utility's proportional share  
 19 ~~shall~~ **must** be calculated by dividing the company's jurisdictional  
 20 gross revenues from residential tariff sales for the preceding year  
 21 by the gross revenues from residential tariff sales for the  
 22 preceding year of all energy utility companies serving at least  
 23 100,000 residential customers in this state. This amount ~~shall~~ **must**  
 24 be used for grants under subsection (10).

25 (c) In the case of an energy utility company serving fewer  
 26 than 100,000 customers in this state, its proportional share of  
 27 \$100,000.00 adjusted annually by a factor as provided in subsection  
 28 (4). This adjusted amount ~~shall become~~ **is** the new base amount to  
 29 which the factor provided in subsection (4) is applied in the

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

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

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

27 (4) For purposes of subsection (2), the board shall set the  
28 factor at a level not to exceed the percentage increase in the  
29 index known as the ~~consumer price index~~**Consumer Price Index** for

1 urban wage earners and clerical workers, select areas, all items  
2 indexed, for the Detroit standard metropolitan statistical area,  
3 compiled by the Bureau of Labor Statistics of the United States  
4 Department of Labor, or any successor agency, that has occurred  
5 between January of the preceding year and January of the year in  
6 which the payment is required to be made. In the event that more  
7 than 1 such index is compiled, the index yielding the largest  
8 payment ~~shall be~~ **is** the maximum allowable factor. The board shall  
9 advise utilities of the factor.

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

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

24 (7) The commission shall not accept or take action on an  
25 application for an energy cost recovery proceeding from an energy  
26 utility subject to this section until 30 days after it has been  
27 notified by the board that the board is ready to process grant  
28 applications, will transfer funds payable to the attorney general  
29 immediately upon the receipt of those funds, and will within 30

1 days approve grants and remit funds to qualified grant applicants.

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

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

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

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



1 residential utility consumers. **The interest of residential**  
2 **consumers includes, but is not limited to, considerations of the**  
3 **affordability of utility service in this state, the reduction of**  
4 **greenhouse gas emission from the utility sector and protection of**  
5 **public health, equitable access to energy efficiency,**  
6 **weatherization, efficient electrification measures, programs, and**  
7 **services, and clean energy technologies.** For purposes of making  
8 grants, the board may consider energy conservation, energy waste  
9 reduction, demand response, and rate design options to encourage  
10 energy conservation, energy waste reduction, and demand response,  
11 as well as the maintenance of adequate energy resources. The board  
12 shall not consider an application that primarily benefits the  
13 applicant or a service provided or administered by the applicant.  
14 The board shall not consider an application from a nonprofit  
15 organization if 1 of the organization's principal interests or  
16 unifying principles is the welfare of a utility or its investors or  
17 employees, or the welfare of 1 or more businesses or industries,  
18 other than farms not owned or operated by a corporation, that  
19 receive utility service ordinarily and primarily for use in  
20 connection with the profit-seeking manufacture, sale, or  
21 distribution of goods or services. Mere ownership of securities by  
22 a nonprofit organization or its members does not disqualify an  
23 application submitted by that organization.

24 (12) The board shall encourage ~~the representation of grant~~  
25 **making to nonprofits representing environmental justice communities**  
26 **and communities with the highest energy burdens. The board shall**  
27 **also encourage** the interests of identifiable types of residential  
28 utility consumers whose interests may differ, including various  
29 social and economic classes and areas of the state, and if

1 necessary, may make grants to more than 1 applicant whose  
2 applications are related to a similar issue to achieve this type of  
3 representation. In addition, the board shall consider and balance  
4 the following criteria in determining whether to make a grant to an  
5 applicant:

6 (a) Evidence of the applicant's competence, experience, and  
7 commitment to advancing the interests of residential utility  
8 consumers.

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

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

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

19 (e) Evidence demonstrating the potential for continuity of  
20 effort and the development of expertise in relation to the proposal  
21 contained in the application.

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

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

1 managed cooperatively.

2 (14) The board shall make disbursements pursuant to a grant in  
3 advance of an applicant's proposed actions as set forth in the  
4 application if necessary to enable the applicant to initiate,  
5 continue, or complete the proposed actions.

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

10 (16) The annual receipts and interest earned, less  
11 administrative costs, may be used only for participation in  
12 administrative and judicial proceedings under sections 6a, 6h, 6j,  
13 6s, ~~and 6t~~, **and 6w, the electric transmission line certification**  
14 **act, 1995 PA 30, MCL 460.561 to 460.575, and sections 22 and 73 of**  
15 **the clean and renewable energy and energy waste reduction act, 2008**  
16 **PA 295, MCL 460.1022 and 460.1073**, and in federal administrative  
17 and judicial proceedings that directly affect the energy costs or  
18 rates paid by energy utility customers in this state. Amounts that  
19 have been in the fund more than 12 months may be retained in the  
20 fund for future proceedings and any unexpended money in the fund  
21 ~~shall be~~**is** reserved to fulfill the purposes for which it was  
22 appropriated or may be returned to energy utility companies or used  
23 to offset their future remittances in proportion to their previous  
24 remittances to the fund, as the board and attorney general  
25 determine will best serve the interests of consumers.

26 (17) The following conditions apply to all grants from the  
27 fund:

28 (a) Disbursements from the fund may be used only to advocate  
29 the interests of residential energy utility customers concerning

1 energy costs or rates and not for representation of merely  
2 individual interests.

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

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

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

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

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

29 (a) An account of all grant expenditures made by the grant

1 recipient. Expenditures ~~shall~~**must** be reported within the following  
2 categories:

3 (i) Employee and contract for services costs.

4 (ii) Costs of materials and supplies.

5 (iii) Filing fees and other costs required to effectively  
6 represent residential utility consumers as provided in this  
7 section.

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

11 (c) Any additional information concerning uses of the grant  
12 required by the board.

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

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

21 (i) Employee and contract for services costs.

22 (ii) Costs of materials and supplies.

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

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

27 (22) On or before July 1 of each calendar year, the board  
28 shall submit a detailed report to the house and senate committees  
29 with jurisdiction over energy and utility policy issues regarding

1 the discharge of duties and responsibilities under this section and  
2 section 6l during the preceding calendar year.

3 **(23) As used in this section, "environmental justice**  
4 **communities" means that term as defined in section 6t(23).**

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

12 (a) Conduct an assessment of the potential for energy waste  
13 reduction in this state. ~~, based on what is economically and~~  
14 ~~technologically feasible, as well as what is reasonably achievable.~~

15 (b) Conduct an assessment for the use of demand response  
16 programs in this state, based on what is economically and  
17 technologically feasible, as well as what is reasonably achievable.  
18 The assessment ~~shall~~ **must** expressly account for advanced metering  
19 infrastructure that has already been installed in this state and  
20 seek to fully maximize potential benefits to ratepayers in lowering  
21 utility bills.

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

25 (d) Identify any formally proposed state or federal  
26 environmental regulation, law, or rule that has been published in  
27 the Michigan Register or the Federal Register and how the proposed  
28 regulation, law, or rule would affect electric utilities in this  
29 state.

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

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

8 (i) Any required planning reserve margins and local clearing  
9 requirements.

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

12 (iii) Any supply-side and demand-side resources that reasonably  
13 could address any need for additional generation capacity,  
14 including, but not limited to, the type of generation technology  
15 for any proposed generation facility, projected energy waste  
16 reduction savings, **projected load impact due to electrification**,  
17 and projected load management and demand response savings.

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

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

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

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

27 (i) Before issuing the final modeling scenarios and  
28 assumptions each electric utility should include in developing its  
29 integrated resource plan, receive written comments and hold

1 hearings to solicit public input regarding the proposed modeling  
2 scenarios and assumptions.

3       **(j) Conduct an assessment of the potential for electrification**  
4 **of transportation, buildings, and industries consistent with**  
5 **economy-wide elimination of greenhouse gas emissions in this state,**  
6 **based on what is economically and technically feasible, as well as**  
7 **what is reasonably achievable.**

8       **(k) Identify environmental justice communities.**

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

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



1 requirements, including application forms and instructions, and  
2 filing deadlines for an integrated resource plan filed by an  
3 electric utility whose rates are regulated by the commission. The  
4 electric utility's plan may include alternative modeling scenarios  
5 and assumptions in addition to those identified under subsection  
6 (1).

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

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

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

1 (b) The type of generation technology proposed for a  
2 generation facility contained in the plan and the proposed capacity  
3 of the generation facility, including projected fuel costs under  
4 various reasonable scenarios. **A review of the reasonably**  
5 **anticipated environmental justice impacts must be provided for any**  
6 **plan that includes the construction of a new natural-gas-fired**  
7 **generation facility. If a plan proposes retiring or retaining 1 or**  
8 **more fossil fuel peaking plants, a review of the reasonably**  
9 **anticipated environmental justice impacts for each generation**  
10 **facility must be provided. As used in this subdivision, "reasonably**  
11 **anticipated environmental justice impacts" include, but are not**  
12 **limited to, impacts to the environment, human health, and economic**  
13 **and social impacts.**

14 (c) Projected energy purchased or produced by the electric  
15 utility from a renewable energy resource. If the level of renewable  
16 energy purchased or produced is projected to drop over the planning  
17 periods set forth in subsection (3), the electric utility must  
18 demonstrate why the reduction is in the best interest of  
19 ratepayers.

20 ~~(d) Details regarding the utility's plan to eliminate energy~~  
21 ~~waste, including the total amount of energy waste reduction~~  
22 ~~expected to be achieved annually, the cost of the plan, and the~~  
23 ~~expected savings for its retail customers.~~

24 ~~(e) An analysis of how the combined amounts of renewable~~  
25 ~~energy and energy waste reduction achieved under the plan compare~~  
26 ~~to the renewable energy resources and energy waste reduction goal~~  
27 ~~provided in section 1 of the clean and renewable energy and energy~~  
28 ~~waste reduction act, 2008 PA 295, MCL 460.1001. This analysis and~~  
29 ~~comparison may include renewable energy and capacity in any form,~~

1 ~~including generating electricity from renewable energy systems for~~  
2 ~~sale to retail customers or purchasing or otherwise acquiring~~  
3 ~~renewable energy credits with or without associated renewable~~  
4 ~~energy, allowed under section 27 of the clean and renewable energy~~  
5 ~~and energy waste reduction act, 2008 PA 295, MCL 460.1027, as it~~  
6 ~~existed before the effective date of the amendatory act that added~~  
7 ~~this section.~~

8       **(d) An analysis of how the electric utility's plan complies**  
9 **with the renewable energy plan requirements and goals of section 28**  
10 **of the clean and renewable energy and energy waste reduction act,**  
11 **2008 PA 295, MCL 460.1028, the clean energy requirements of section**  
12 **51 of the clean and renewable energy and energy waste reduction**  
13 **act, 2008 PA 295, MCL 460.1051, the energy waste reduction measures**  
14 **in section 77 of the clean and renewable energy and energy waste**  
15 **reduction act, 2008 PA 295, MCL 460.1077, and the energy storage**  
16 **target of section 101 of the clean and renewable energy and energy**  
17 **waste reduction act, 2008 PA 295, MCL 460.1101.**

18       **(e) ~~(f)~~**—Projected load management and demand response savings  
19 for the electric utility and the projected costs for those  
20 programs.

21       **(f) ~~(g)~~**—Projected energy and capacity purchased or produced by  
22 the electric utility from a cogeneration resource.

23       **(g) ~~(h)~~**—An analysis of potential new or upgraded electric  
24 transmission options for the electric utility.

25       **(h) ~~(i)~~**—Data regarding the utility's current generation  
26 portfolio, including the age, capacity factor, licensing status,  
27 and remaining estimated time of operation for each facility in the  
28 portfolio.

29       **(i) ~~(j)~~**—Plans for meeting current and future capacity needs

1 with the cost estimates for all proposed construction and major  
2 investments, including any transmission or distribution  
3 infrastructure that would be required to support the proposed  
4 construction or investment, and power purchase agreements.

5 **(j)** ~~(k)~~—An analysis of the cost, capacity factor, and  
6 viability of all reasonable options available to meet projected  
7 energy and capacity needs, including, but not limited to, existing  
8 electric generation facilities in this state.

9 **(k)** ~~(l)~~ Projected rate **and affordability** impact for the periods  
10 covered by the plan.

11 **(l)** ~~(m)~~—How the utility will comply with all applicable state  
12 and federal environmental regulations, laws, and rules, and the  
13 projected costs of complying with those regulations, laws, and  
14 rules.

15 **(m)** ~~(n)~~—A forecast of the utility's peak demand and details  
16 regarding the amount of peak demand reduction the utility expects  
17 to achieve and the actions the utility proposes to take in order to  
18 achieve that peak demand reduction.

19 **(n)** ~~(o)~~—The projected long-term firm gas transportation  
20 contracts or natural gas storage the electric utility will hold to  
21 provide an adequate supply of natural gas to any new generation  
22 facility.

23 **(o)** **The projected long-term forecast of greenhouse gas**  
24 **emissions and other pollutants from power generated or purchased by**  
25 **the electric utility. The electric utility may include details on**  
26 **the broader emissions impact of shifting to electrification of**  
27 **transportation, buildings, and industries.**

28 **(p)** **An environmental justice impact analysis that includes a**  
29 **review of the reasonably anticipated environmental justice impacts**

1 for any plan that includes the construction of a new natural-gas-  
2 fired generation facility and an analysis of whether the facility  
3 complies with the requirements for clean energy systems established  
4 in the clean and renewable energy and energy waste reduction act,  
5 2008 PA 295, MCL 460.1001 to 460.1211. If a plan proposes retiring  
6 or retaining 1 or more fossil fuel peaking plants, in an  
7 environmental justice community, a review of the reasonably  
8 anticipated environmental justice impacts for each generation  
9 facility.

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

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

1 encouraged, but not required, to partner with other electric  
2 providers in the same local resource zone as the utility's load is  
3 served in the development of any new supply-side generation  
4 capacity resources included as part of its integrated resource  
5 plan.

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

1 commission to issue an order approving or denying the integrated  
 2 resource plan. ~~The commission shall review~~ **following are applicable**  
 3 **to an integrated resource plan filed under this section:**

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

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

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

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

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

27 **(B) Whether the integrated resource plan can reasonably be**  
 28 **expected to achieve compliance with the regulations, laws, or rules**  
 29 **identified in subsection (1).**



1           (C) The potential impacts of proposed energy generation  
 2 resources and of any prudent and feasible alternatives identified  
 3 by the department on whether the plan makes adequate progress  
 4 toward achieving the clean energy standard established in section  
 5 51 of the clean and renewable energy and energy waste reduction  
 6 act, 2008 PA 295, MCL 460.1051.

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

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

15           (F) Whether the plan in comparison to any prudent and feasible  
 16 alternatives adequately reduces harms to the health, safety, and  
 17 welfare of individuals in environmental justice communities. As  
 18 used in this sub-sub paragraph, "environmental justice communities"  
 19 means that term as defined in subsection (23).

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

21           (i) **Take** official notice of the opinion issued by the  
 22 department of ~~environmental quality~~ **environment, Great Lakes, and**  
 23 **energy** under this subsection pursuant to R 792.10428 of the  
 24 Michigan Administrative Code. Information submitted by the  
 25 department of ~~environmental quality~~ **environment, Great Lakes, and**  
 26 **energy** under this subsection is advisory and is not binding on  
 27 future determinations by the department of ~~environmental quality~~  
 28 **environment, Great Lakes, and energy** or the commission in any  
 29 proceeding or permitting process. This section does not prevent an

1 electric utility from applying for, or receiving, any necessary  
2 permits from the department of ~~environmental quality~~**environment,**  
3 **Great Lakes, and energy.**

4 ~~(ii) The commission may invite~~**Invite** other state agencies to  
5 provide testimony regarding other relevant regulatory requirements  
6 related to the integrated resource plan. The commission shall  
7 permit reasonable discovery after an integrated resource plan is  
8 filed and during the hearing in order to assist parties and  
9 interested persons in obtaining evidence concerning the integrated  
10 resource plan, including, but not limited to, the reasonableness  
11 and prudence of the plan and alternatives to the plan raised by  
12 intervening parties.

13 (8) The commission shall approve the integrated resource plan  
14 under subsection (7) if the commission determines all of the  
15 following:

16 (a) The proposed integrated resource plan represents the most  
17 reasonable and prudent means of meeting the electric utility's  
18 energy and capacity needs. To determine whether the integrated  
19 resource plan is the most reasonable and prudent means of meeting  
20 energy and capacity needs, the commission shall consider whether  
21 the plan appropriately balances all of the following factors:

22 (i) Resource adequacy and capacity to serve anticipated peak  
23 electric load, applicable planning reserve margin, and local  
24 clearing requirement.

25 (ii) Compliance with applicable state and federal environmental  
26 regulations.

27 (iii) Competitive pricing.

28 (iv) Reliability.

29 (v) Commodity price risks.

1           (vi) Diversity of generation supply.

2           (vii) Whether the proposed levels of peak load reduction and  
3 energy waste reduction are reasonable and ~~cost effective. Exceeding~~  
4 ~~the renewable energy resources and energy waste reduction goal in~~  
5 ~~section 1 of the clean and renewable energy and energy waste~~  
6 ~~reduction act, 2008 PA 295, MCL 460.1001, by a utility shall not,~~  
7 ~~in and of itself, be grounds for determining that the proposed~~  
8 ~~levels of peak load reduction, renewable energy, and energy waste~~  
9 ~~reduction are not reasonable and cost effective.~~**cost-effective.**

10           **(viii) Affordability.**

11           **(ix) Overall cost-effectiveness in providing utility service.**

12           (b) To the extent practicable, the construction or investment  
13 in a new or existing capacity resource in this state is completed  
14 using a workforce composed of residents of this state as determined  
15 by the commission. This subdivision does not apply to a capacity  
16 resource that is located in a county that lies on the border with  
17 another state.

18           **(c) The construction and maintenance of new or existing**  
19 **capacity resources in this state includes using apprenticeship**  
20 **programs registered and in good standing with the United States**  
21 **Department of Labor, the workers employed for the construction or**  
22 **maintenance of the energy facility are paid a minimum wage standard**  
23 **not less than the wage and fringe benefit rates prevailing in the**  
24 **locality in which the work is to be performed as determined under**  
25 **2023 PA 10, MCL 408.1101 to 408.1126, or 40 USC 3141 to 3148,**  
26 **whichever provides the higher wage and fringe benefit rates, and,**  
27 **to the extent permitted by law, the entities performing the**  
28 **construction or maintenance work enter into a project labor**  
29 **agreement or operate under a collective bargaining agreement for**

1 the work to be performed.

2 (d) The plan is consistent with the renewable energy plan  
3 requirements and goals of section 28 of the clean and renewable  
4 energy and energy waste reduction act, 2008 PA 295, MCL 460.1028,  
5 the clean energy requirements of section 51 of the clean and  
6 renewable energy and energy waste reduction act, 2008 PA 295, MCL  
7 460.1051, the energy waste reduction measures in section 77 of the  
8 clean and renewable energy and energy waste reduction act, 2008 PA  
9 295, MCL 460.1077, and the energy storage target of section 101 of  
10 the clean and renewable energy and energy waste reduction act, 2008  
11 PA 295, MCL 460.1101.

12 (e) The plan promotes environmental quality and public health  
13 and reasonably mitigates adverse effects on human health due to  
14 power generation, with a priority on mitigating impacts and  
15 prioritizing benefits to communities disproportionately impacted by  
16 pollution and other environmental harms.

17 (f) ~~(e)~~—The plan meets the requirements of subsection (5).

18 (9) If the commission denies a utility's integrated resource  
19 plan, the utility, within 60 days after the date of the final order  
20 denying the integrated resource plan, may submit revisions to the  
21 integrated resource plan to the commission for approval. The  
22 commission shall commence a new contested case hearing under  
23 chapter 4 of the administrative procedures act of 1969, 1969 PA  
24 306, MCL 24.271 to ~~24.287.~~ **24.288**. Not later than 90 days after the  
25 date that the utility submits the revised integrated resource plan  
26 to the commission under this subsection, the commission shall issue  
27 an order approving or denying, with recommendations, the revised  
28 integrated resource plan if the revisions are not substantial or  
29 inconsistent with the original integrated resource plan filed under

1 this section. If the revisions are substantial or inconsistent with  
2 the original integrated resource plan, the commission has up to 150  
3 days to issue an order approving or denying, with recommendations,  
4 the revised integrated resource plan.

5 (10) If the commission denies an electric utility's integrated  
6 resource plan, the electric utility may proceed with a proposed  
7 construction, purchase, investment, or power purchase agreement  
8 contained in the integrated resource plan without the assurances  
9 granted under this section.

10 (11) In approving an integrated resource plan under this  
11 section, the commission shall specify the costs approved for the  
12 construction of or significant investment in an electric generation  
13 **or energy storage** facility, the purchase of an existing electric  
14 generation **or energy storage** facility, the purchase of power under  
15 the terms of the power purchase **or energy storage** agreement, or  
16 other investments or resources used to meet energy and capacity  
17 needs that are included in the approved integrated resource plan.  
18 The costs for specifically identified investments, including the  
19 costs for facilities under subsection (12), included in an approved  
20 integrated resource plan that are commenced within 3 years after  
21 the commission's order approving the initial plan, amended plan, or  
22 plan review are considered reasonable and prudent for cost recovery  
23 purposes.

24 (12) Except as otherwise provided in subsection (13), for a  
25 new electric generation **or energy storage** facility approved in an  
26 integrated resource plan that is to be owned by the electric  
27 utility and that is commenced within 3 years after the commission's  
28 order approving the plan, the commission shall finalize the  
29 approved costs for the **electric generation or energy storage**

1 facility only after the utility has done all of the following and  
2 filed the results, analysis, and recommendations with the  
3 commission:

4 (a) Implemented a competitive bidding process for all major  
5 engineering, procurement, and construction contracts associated  
6 with the construction of the **electric generation or energy storage**  
7 facility.

8 (b) Implemented a competitive bidding process that allows  
9 third parties to submit firm and binding bids for the construction  
10 of an electric generation **or energy storage** facility on behalf of  
11 the utility that would meet all of the technical, commercial, and  
12 other specifications required by the utility for the generation **or**  
13 **energy storage** facility, such that ownership of the electric  
14 generation **or energy storage** facility vests with the utility no  
15 later than the date the electric generation **or energy storage**  
16 facility becomes commercially available.

17 (c) Demonstrated to the commission that the finalized costs  
18 for the new electric generation **or energy storage** facility are not  
19 significantly higher than the initially approved costs under  
20 subsection (11). If the finalized costs are found to be  
21 significantly higher than the initially approved costs, the  
22 commission shall review and approve the proposed costs if the  
23 commission determines those costs are reasonable and prudent.

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

1 (14) An electric utility shall annually, or more frequently if  
2 required by the commission, file reports to the commission  
3 regarding the status of any projects included in the initial 3-year  
4 period of an integrated resource plan approved under subsection  
5 (7).

6 (15) For power purchase agreements **for renewable energy**  
7 **resources, third-party contracts for energy storage systems, or**  
8 **clean energy systems** that ~~a~~ **an electric** utility enters into after  
9 ~~the effective date of the amendatory act that added this section~~  
10 with an entity that is not affiliated with that utility, the  
11 commission shall ~~consider and may authorize~~ a financial incentive  
12 for that utility ~~that does not exceed the utility's weighted~~  
13 ~~average cost of capital.~~ **calculated as the product of contract**  
14 **payments in that year multiplied by the electric provider's pretax**  
15 **weighted average cost of permanent capital comprised of long-term**  
16 **debt obligations and equity of the electric provider's total**  
17 **capital structure, at the time of contract execution, for the**  
18 **entire term of the contract. This section applies to all contracts**  
19 **entered into after the effective date of the amendatory act that**  
20 **added section 6aa.**

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 (23) **As used in this section, "environmental justice**  
28 **communities" means that term as defined by the commission on**  
29 **consultation with the department of environment, Great Lakes, and**

1 energy, and the office of the environmental justice public advocate.

2       Sec. 6aa. (1) The commission shall annually conduct at least 4  
3 public meetings, hearings, townhalls, or other opportunities for  
4 public engagement in areas geographically dispersed throughout this  
5 state. The commission shall set the time, place, and manner of  
6 opportunities for public engagement under this subsection to take  
7 comments from and encourage meaningful participation by low-income  
8 residential customers, residential customers who experience high  
9 energy burdens, and individuals and communities likely to be  
10 impacted by the outcome of commission proceedings. Any public  
11 meeting, hearing, townhall, or other opportunity for public  
12 engagement the commission is otherwise required by law to conduct  
13 may count toward fulfilling this requirement.

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

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

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

25       (c) The responsiveness of commission decisions to community  
26 needs and priorities.

27       (3) Not later than June 1, 2024, the commission shall open a  
28 proceeding to investigate opportunities for improving the process  
29 by which it reviews applications filed under section 6a.

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

4           (a) Senate Bill No. 271.

5           (b) Senate Bill No. 273.