SUBSTITUTE FOR

HOUSE BILL NO. 4297

A bill to amend 2008 PA 295, entitled

"Clean, renewable, and efficient energy act,"

by amending the title and sections 1, 3, 5, 7, 9, 11, 13, 21, 27, 39, 43, 45, 77, 89, 91, 93, and 95 (MCL 460.1001, 460.1003, 460.1005, 460.1007, 460.1009, 460.1011, 460.1013, 460.1021, 460.1027, 460.1039, 460.1043, 460.1045, 460.1077, 460.1089, 460.1091, 460.1093, and 460.1095), section 93 as amended by 2010 PA 269, and by adding section 5a and part 7; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An act to require certain providers of electric service to establish renewable energy programs; to require certain providers

of electric or natural gas service to establish energy optimization programs; to authorize the use of certain energy systems to meet the requirements of those programs; to provide for the approval of energy optimization service companies; to provide for certain charges on electric and natural gas bills; to promote energy conservation by state agencies and the public; to create a wind energy resource zone board and provide for its power and duties; to authorize the creation and implementation of wind energy resource zones; to provide for expedited transmission line siting certificates; to provide for a net metering program and the responsibilities of certain providers of electric service and customers with respect to net metering; to provide for fees; to prescribe the powers and duties of certain state agencies and officials; to require the promulgation of rules and the issuance of orders; **TO AUTHORIZE THE ESTABLISHMENT OF ENERGY IMPROVEMENT PROGRAMS BY PROVIDERS OF ELECTRIC OR NATURAL GAS SERVICE FOR ENERGY CUSTOMERS;** and to provide for civil sanctions, remedies, and penalties.

Sec. 1. (1) This act shall be known and may be cited as the "clean, renewable, and efficient energy act".

(2) The purpose of this act is to promote the development of clean energy ~~, and energy optimization~~ **, AND** renewable energy through the implementation of a ~~clean, and efficient~~ renewable energy standard that will cost-effectively do all of the following:

(a) Diversify the resources used to reliably meet the energy needs of consumers in this state.

(b) Provide greater energy security through the use of indigenous energy resources available within ~~the~~ **THIS** state.

(c) Encourage private investment in renewable energy**.** ~~and energy efficiency.~~

(d) Provide improved air quality and other benefits to energy consumers and citizens of this state.

(E) REMOVE UNNECESSARY BURDENS ON THE APPROPRIATE USE OF SOLID WASTE AS A CLEAN ENERGY SOURCE.

Sec. 3. As used in this act:

(a) "Advanced cleaner energy" means electricity generated using an advanced cleaner energy system.

(b) "Advanced cleaner energy credit" means a credit certified under section 43 that represents generated advanced cleaner energy.

(c) "Advanced cleaner energy system" means any of the following:

(*i*) A gasification facility.

(*ii*) An industrial cogeneration facility.

(*iii*) A coal-fired electric generating facility if 85% or more of the carbon dioxide emissions are captured and permanently geologically sequestered.

(*iv*) An electric generating facility or system that uses technologies not in commercial operation on ~~the effective date of this act.~~**OCTOBER 6, 2008.**

(d) "Affiliated transmission company" means that term as defined in **SECTION 2 OF** the electric transmission line certification act, 1995 PA 30, MCL 460.562.

(e) "Applicable regional transmission organization" means a

nonprofit, member-based organization governed by an independent board of directors that serves as the federal energy regulatory ~~commission-approved~~ **COMMISSION APPROVED** regional transmission organization with oversight responsibility for the region that includes the provider's service territory.

(f) "Biomass" means any organic matter that is not derived from fossil fuels, that can be converted to usable fuel for the production of energy, and that replenishes over a human, not a geological, time frame, including, but not limited to, all of the following:

(*i*) Agricultural crops and crop wastes.

(*ii*) Short-rotation energy crops.

(*iii*) Herbaceous plants.

(*iv*) Trees and wood**.** ~~, but only if derived from sustainably managed forests or procurement systems, as defined in section 261c of the management and budget act, 1984 PA 431, MCL 18.1261c.~~

(*v*) Paper and pulp products.

(*vi*) Precommercial wood thinning waste, brush, or yard waste.

(*vii*) Wood wastes and residues from the processing of wood products or paper.

(*viii*) Animal wastes.

(*ix*) Wastewater sludge or sewage.

(*x*) Aquatic plants.

(*xi*) Food production and processing waste.

(*xii*) Organic by-products from the production of biofuels.

(g) "Board" means the wind energy resource zone board created under section 143.

(h) "Carbon dioxide emissions benefits" means that the carbon dioxide emissions per megawatt hour of electricity generated by the advanced cleaner energy system are at least 85% less or, for an integrated gasification combined cycle facility **OR AN INTEGRATED PYROLYSIS COMBINED CYCLE FACILITY**, 70% less than the average carbon dioxide emissions per megawatt hour of electricity generated from all coal-fired electric generating facilities operating in this state on January 1, 2008.

(i) "Commission" means the Michigan public service commission.

(j) "Customer meter" means an electric meter of a provider's retail customer. Customer meter does not include a municipal water pumping meter or additional meters at a single site that were installed specifically to support interruptible air conditioning, interruptible water heating, net metering, or time-of-day tariffs.

Sec. 5. As used in this act:

(a) "Electric provider", subject to sections 21(1), 23(1), and 25(1), means any of the following:

(*i*) Any person or entity that is regulated by the commission for the purpose of selling electricity to retail customers in this state.

(*ii*) A municipally-owned electric utility in this state. **BEGINNING 180 DAYS AFTER THE ENACTMENT DATE OF THE 2016 ACT THAT AMENDED THIS SECTION, THIS SUBPARAGRAPH DOES NOT APPLY TO THE TERM ELECTRIC PROVIDER OR THE TERM PROVIDER AS USED IN SECTIONS 71 TO 87.**

(*iii*) A cooperative electric utility in this state. **BEGINNING 180 DAYS AFTER THE ENACTMENT DATE OF THE 2016 ACT THAT AMENDED THIS**

SECTION, THIS SUBPARAGRAPH DOES NOT APPLY TO THE TERM ELECTRIC PROVIDER OR THE TERM PROVIDER AS USED IN SECTIONS 71 TO 87.

(*iv*) Except as used in subpart B of part 2, an alternative electric supplier licensed under section 10a of 1939 PA 3, MCL 460.10a.

(b) "Eligible electric generator" means ~~that a~~ a methane digester or renewable energy system with a generation capacity limited to the customer's electric need and that does not exceed the following:

(*i*) For a renewable energy system, 150 kilowatts of aggregate generation at a single site.

(*ii*) For a methane digester, 550 kilowatts of aggregate generation at a single site.

(c) "Energy conservation" means the reduction of customer energy use through the installation of measures or changes in energy usage behavior. Energy conservation does not include the use of advanced cleaner energy systems.

(d) "Energy efficiency" means a decrease in customer consumption of electricity or natural gas achieved through measures or programs that target customer behavior, equipment, devices, or materials without reducing the quality of energy services.

(e) "Energy optimization", subject to subdivision (f), means all of the following:

(*i*) Energy efficiency.

(*ii*) Load management, to the extent that the load management reduces overall energy usage.

(*iii*) Energy conservation, but only to the extent that the

decreases in the consumption of electricity produced by energy conservation are objectively measurable and attributable to an energy optimization plan.

(f) Energy optimization does not include electric provider infrastructure projects that are approved for cost recovery by the commission other than as provided in this act.

(g) "Energy optimization credit" means a credit certified pursuant to section 87 that represents achieved energy optimization.

(h) "Energy optimization plan" or "EO plan" means a plan **APPROVED** under section ~~71.~~**73.**

(i) "Energy optimization standard" means the minimum energy savings required to be achieved under section 77.

(j) "Energy star" means the voluntary partnership among the United States department of energy, the United States environmental protection agency, product manufacturers, local utilities, and retailers to help promote energy efficient products by labeling with the energy star logo, **TO** educate consumers about the benefits of energy efficiency, and **TO** help promote energy efficiency in buildings by benchmarking and rating energy performance.

(k) "Federal approval" means approval by the applicable regional transmission organization or other federal energy regulatory commission approved transmission planning process of a transmission project that includes the transmission line. Federal approval may be evidenced in any of the following manners:

(*i*) The proposed transmission line is part of a transmission project included in the applicable regional transmission

organization's board-approved transmission expansion plan.

(*ii*) The applicable regional transmission organization has informed the electric utility, affiliated transmission company, or independent transmission company that a transmission project submitted for an out-of-cycle project review has been approved by the applicable regional transmission organization, and the approved transmission project includes the proposed transmission line.

(*iii*) If, after ~~the effective date of this act,~~ **OCTOBER 6, 2008,** the applicable regional transmission organization utilizes another approval process for transmission projects proposed by an electric utility, affiliated transmission company, or independent transmission company, the proposed transmission line is included in a transmission project approved by the applicable regional transmission organization through the approval process developed after ~~the effective date of this act.~~**OCTOBER 6, 2008.**

(*iv*) Any other federal energy regulatory commission approved transmission planning process for a transmission project.

SEC. 5A. AS USED IN THIS ACT:

(A) "ELECTRIC PROVIDER", SUBJECT TO SECTIONS 21(1), 23(1), AND 25(1), MEANS ANY OF THE FOLLOWING:

(*i*) ANY PERSON OR ENTITY THAT IS REGULATED BY THE COMMISSION FOR THE PURPOSE OF SELLING ELECTRICITY TO RETAIL CUSTOMERS IN THIS STATE.

(*ii*) A MUNICIPALLY-OWNED ELECTRIC UTILITY IN THIS STATE. BEGINNING 180 DAYS AFTER THE ENACTMENT DATE OF THE 2016 ACT THAT ADDED THIS SECTION, THIS SUBPARAGRAPH DOES NOT APPLY TO THE TERM ELECTRIC PROVIDER OR THE TERM PROVIDER AS USED IN SECTIONS 71 TO

87.

(*iii*) A COOPERATIVE ELECTRIC UTILITY IN THIS STATE. BEGINNING 180 DAYS AFTER THE ENACTMENT DATE OF THE 2016 ACT THAT ADDED THIS SECTION, THIS SUBPARAGRAPH DOES NOT APPLY TO THE TERM ELECTRIC PROVIDER OR THE TERM PROVIDER AS USED IN SECTIONS 71 TO 87.

(*iv*) EXCEPT AS USED IN SUBPART B OF PART 2, AN ALTERNATIVE ELECTRIC SUPPLIER LICENSED UNDER SECTION 10A OF 1939 PA 3, MCL 460.10A.

(B) "ELIGIBLE ELECTRIC GENERATOR" MEANS A METHANE DIGESTER OR RENEWABLE ENERGY SYSTEM WITH A GENERATION CAPACITY LIMITED TO THE CUSTOMER'S ELECTRIC NEED AND THAT DOES NOT EXCEED THE FOLLOWING:

(*i*) FOR A RENEWABLE ENERGY SYSTEM, 150 KILOWATTS OF AGGREGATE GENERATION AT A SINGLE SITE.

(*ii*) FOR A METHANE DIGESTER, 550 KILOWATTS OF AGGREGATE GENERATION AT A SINGLE SITE.

(C) "ENERGY CONSERVATION" MEANS THE REDUCTION OF CUSTOMER ENERGY USE THROUGH THE INSTALLATION OF MEASURES OR CHANGES IN ENERGY USAGE BEHAVIOR. ENERGY CONSERVATION DOES NOT INCLUDE THE USE OF ADVANCED CLEANER ENERGY SYSTEMS.

(D) "ENERGY EFFICIENCY" MEANS A DECREASE IN CUSTOMER CONSUMPTION OF ELECTRICITY OR NATURAL GAS ACHIEVED THROUGH MEASURES OR PROGRAMS THAT TARGET CUSTOMER BEHAVIOR, EQUIPMENT, DEVICES, OR MATERIALS WITHOUT REDUCING THE QUALITY OF ENERGY SERVICES.

(E) "ENERGY STAR" MEANS THE VOLUNTARY PARTNERSHIP AMONG THE UNITED STATES DEPARTMENT OF ENERGY, THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, PRODUCT MANUFACTURERS, LOCAL UTILITIES, AND RETAILERS TO HELP PROMOTE ENERGY EFFICIENT PRODUCTS BY LABELING

WITH THE ENERGY STAR LOGO, TO EDUCATE CONSUMERS ABOUT THE BENEFITS OF ENERGY EFFICIENCY, AND TO HELP PROMOTE ENERGY EFFICIENCY IN BUILDINGS BY BENCHMARKING AND RATING ENERGY PERFORMANCE.

(F) "FEDERAL APPROVAL" MEANS APPROVAL BY THE APPLICABLE REGIONAL TRANSMISSION ORGANIZATION OR OTHER FEDERAL ENERGY REGULATORY COMMISSION APPROVED TRANSMISSION PLANNING PROCESS OF A TRANSMISSION PROJECT THAT INCLUDES THE TRANSMISSION LINE. FEDERAL APPROVAL MAY BE EVIDENCED IN ANY OF THE FOLLOWING MANNERS:

(*i*) THE PROPOSED TRANSMISSION LINE IS PART OF A TRANSMISSION PROJECT INCLUDED IN THE APPLICABLE REGIONAL TRANSMISSION ORGANIZATION'S BOARD-APPROVED TRANSMISSION EXPANSION PLAN.

(*ii*) THE APPLICABLE REGIONAL TRANSMISSION ORGANIZATION HAS INFORMED THE ELECTRIC UTILITY, AFFILIATED TRANSMISSION COMPANY, OR INDEPENDENT TRANSMISSION COMPANY THAT A TRANSMISSION PROJECT SUBMITTED FOR AN OUT-OF-CYCLE PROJECT REVIEW HAS BEEN APPROVED BY THE APPLICABLE REGIONAL TRANSMISSION ORGANIZATION, AND THE APPROVED TRANSMISSION PROJECT INCLUDES THE PROPOSED TRANSMISSION LINE.

(*iii*) IF, AFTER OCTOBER 6, 2008, THE APPLICABLE REGIONAL TRANSMISSION ORGANIZATION UTILIZES ANOTHER APPROVAL PROCESS FOR TRANSMISSION PROJECTS PROPOSED BY AN ELECTRIC UTILITY, AFFILIATED TRANSMISSION COMPANY, OR INDEPENDENT TRANSMISSION COMPANY, THE PROPOSED TRANSMISSION LINE IS INCLUDED IN A TRANSMISSION PROJECT APPROVED BY THE APPLICABLE REGIONAL TRANSMISSION ORGANIZATION THROUGH THE APPROVAL PROCESS DEVELOPED AFTER OCTOBER 6, 2008.

(*iv*) ANY OTHER FEDERAL ENERGY REGULATORY COMMISSION APPROVED TRANSMISSION PLANNING PROCESS FOR A TRANSMISSION PROJECT.

Sec. 7. As used in this act:

(a) "Gasification facility" means a facility located in this state that uses a thermochemical process that does not involve direct combustion to produce synthesis gas, composed of carbon monoxide and hydrogen, from carbon-based feedstocks (such as coal, petroleum coke, wood, biomass, hazardous waste, medical waste, industrial waste, and solid waste, including, but not limited to, municipal solid waste, electronic waste, and waste described in section 11514 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11514) and that uses the synthesis gas or a mixture of the synthesis gas and methane to generate electricity for commercial use. Gasification facility includes the transmission lines, gas transportation lines and facilities, and associated property and equipment specifically attributable to such a facility. Gasification facility includes, but is not limited to, an integrated gasification combined cycle facility and a plasma arc gasification facility.

(b) "Incremental costs of compliance" means the net revenue required by an electric provider to comply with the renewable energy standard, calculated as provided under section 47.

(c) "Independent transmission company" means that term as defined in section 2 of the electric transmission line certification act, 1995 PA 30, MCL 460.562.

(d) "Industrial cogeneration facility" means a facility that generates electricity using industrial thermal energy or industrial waste energy.

(e) "Industrial thermal energy" means thermal energy that is a by-product of an industrial or manufacturing process and that would

otherwise be wasted. For the purposes of this subdivision, industrial or manufacturing process does not include the generation of electricity.

(f) "Industrial waste energy" means exhaust gas or flue gas that is a by-product of an industrial or manufacturing process and that would otherwise be wasted. For the purposes of this subdivision, industrial or manufacturing process does not include the generation of electricity.

(g) "Integrated gasification combined cycle facility" means a gasification facility that uses a thermochemical process, including high temperatures and controlled amounts of air and oxygen, to break substances down into their molecular structures and that uses exhaust heat to generate electricity.

(H) "INTEGRATED PYROLYSIS COMBINED CYCLE FACILITY" MEANS A PYROLYSIS FACILITY THAT USES EXHAUST HEAT TO GENERATE ELECTRICITY.

(I) ~~(h)~~ "LEED" means the leadership in energy and environmental design green building rating system developed by the United States green building council.

(J) ~~(i)~~ "Load management" means measures or programs that target equipment or devices to result in decreased peak electricity demand such as by shifting demand from a peak to an off-peak period.

(K) "MEGAWATT", "MEGAWATT HOUR", OR "MEGAWATT HOUR OF ELECTRICITY", UNLESS THE CONTEXT IMPLIES OTHERWISE, INCLUDES THE STEAM EQUIVALENT OF A MEGAWATT OR MEGAWATT HOUR OF ELECTRICITY.

(*l*) ~~(j)~~ "Modified net metering" means a utility billing method that applies the power supply component of the full retail rate to

the net of the bidirectional flow of kilowatt hours across the customer interconnection with the utility distribution system, during a billing period or time-of-use pricing period. A negative net metered quantity during the billing period or during each time-of-use pricing period within the billing period reflects net excess generation for which the customer is entitled to receive credit under section 177(4). Standby charges for modified net metering customers on an energy rate schedule shall be equal to the retail distribution charge applied to the imputed customer usage during the billing period. The imputed customer usage is calculated as the sum of the metered on-site generation and the net of the bidirectional flow of power across the customer interconnection during the billing period. The commission shall establish standby charges for modified net metering customers on demand-based rate schedules that provide an equivalent contribution to utility system costs.

Sec. 9. As used in this act:

(a) "Natural gas provider" means an investor-owned business engaged in the sale and distribution of natural gas within this state whose rates are regulated by the commission. However, as used in subpart B of part 2, natural gas provider does not include an alternative gas supplier licensed under section 9b of 1939 PA 3, MCL 460.9b.

(B) "PET COKE" MEANS A SOLID CARBONACEOUS RESIDUE PRODUCED FROM A COKER AFTER CRACKING AND DISTILLATION FROM PETROLEUM REFINING OPERATIONS.

(C) ~~(b)~~ "Plasma arc gasification facility" means a

gasification facility that uses a plasma torch to break substances down into their molecular structures.

(D) ~~(c)~~ "Provider" means an electric provider or a natural gas provider.

(E) ~~(d)~~ "PURPA" means the public utility regulatory policies act of 1978, Public Law 95-617.

(F) "PYROLYSIS FACILITY" MEANS A FACILITY THAT EFFECTS THERMOCHEMICAL DECOMPOSITION AT ELEVATED TEMPERATURES WITHOUT THE PARTICIPATION OF OXYGEN, FROM CARBON-BASED FEEDSTOCKS INCLUDING, BUT NOT LIMITED TO, COAL, WOOD, BIOMASS, INDUSTRIAL WASTE, OR SOLID WASTE, BUT NOT INCLUDING PET COKE, HAZARDOUS WASTE, COAL WASTE, OR SCRAP TIRES. PYROLYSIS FACILITY INCLUDES THE TRANSMISSION LINES, GAS TRANSPORTATION LINES AND FACILITIES, AND ASSOCIATED PROPERTY AND EQUIPMENT SPECIFICALLY ATTRIBUTABLE TO THE FACILITY. PYROLYSIS FACILITY INCLUDES, BUT IS NOT LIMITED TO, AN INTEGRATED PYROLYSIS COMBINED CYCLE FACILITY.

(G) ~~(e)~~ "Qualifying small power production facility" means that term as defined in 16 USC 824a-3.

Sec. 11. As used in this act:

(a) "Renewable energy" means electricity **OR STEAM** generated using a renewable energy system.

(b) "Renewable energy capacity portfolio" means the number of megawatts calculated under section 27(2) for a particular year.

(c) "Renewable energy contract" means a contract to acquire renewable energy and the associated renewable energy credits from 1 or more renewable energy systems.

(d) "Renewable energy credit" means a credit granted pursuant

to section 41 that represents generated renewable energy.

(e) "Renewable energy credit portfolio" means the sum of the renewable energy credits achieved by a provider for a particular year.

(f) "Renewable energy credit standard" means a minimum renewable energy portfolio required under section ~~27.~~**27(3).**

(g) "Renewable energy generator" means a person that, together with its affiliates, has constructed or has owned and operated 1 or more renewable energy systems with combined gross generating capacity of at least 10 megawatts.

(h) "Renewable energy plan" or "plan", means a plan approved under section 21 or 23 or found to comply with this act under section 25, with any amendments adopted under this act.

(i) "Renewable energy resource" means a resource that naturally replenishes over a human, not a geological, time frame and that is ultimately derived from solar power, water power, or wind power. Renewable energy resource does not include petroleum, nuclear, natural gas, or coal. A renewable energy resource comes from the sun or from thermal inertia of the earth and minimizes the output of toxic material in the conversion of the energy and includes, but is not limited to, all of the following:

(*i*) Biomass.

(*ii*) Solar and solar thermal energy.

(*iii*) Wind energy.

(*iv*) Kinetic energy of moving water, including all of the following:

(A) Waves, tides, or currents.

(B) Water released through a dam.

(*v*) Geothermal energy.

(*vi*) THERMAL ENERGY PRODUCED FROM A GEOTHERMAL HEAT PUMP.

(*vii*) ~~*(vi)*~~ **ANY OF THE FOLLOWING CLEANER ENERGY RESOURCES:**

(A) Municipal solid waste.

(B) ~~*(vii)*~~ Landfill gas produced by municipal solid waste.

(C) FUEL THAT HAS BEEN MANUFACTURED IN WHOLE OR SIGNIFICANT PART FROM WASTE, INCLUDING, BUT NOT LIMITED TO, MUNICIPAL SOLID WASTE. FUEL THAT MEETS THE REQUIREMENTS OF THIS SUB-SUBPARAGRAPH INCLUDES, BUT IS NOT LIMITED TO, MATERIAL THAT IS LISTED UNDER 40 CFR 241.3(B) OR 241.4(A) OR FOR WHICH A NON-WASTE DETERMINATION IS MADE BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY PURSUANT TO 40 CFR 241.3(C). PET COKE, HAZARDOUS WASTE, COAL WASTE, OR SCRAP TIRES ARE NOT FUEL THAT MEETS THE REQUIREMENTS OF THIS SUB-SUBPARAGRAPH.

(j) "Renewable energy standard" means the minimum renewable energy capacity portfolio, if applicable, and the renewable energy credit portfolio required to be achieved under section 27.

(k) "Renewable energy system" means a facility, electricity generation system, or set of electricity generation systems that use 1 or more renewable energy resources to generate electricity **OR STEAM**. Renewable energy system does not include any of the following:

(*i*) A hydroelectric pumped storage facility.

~~(*ii*) A hydroelectric facility that uses a dam constructed after the effective date of this act unless the dam is a repair or replacement of a dam in existence on the effective date of this act~~

~~or an upgrade of a dam in existence on the effective date of this act that increases its energy efficiency.~~

(*ii*) ~~(*iii*)~~ An incinerator unless the incinerator is a municipal solid waste incinerator as defined in section 11504 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11504**.** ~~, that was brought into service before the effective date of this act, including any of the following:~~

~~(A) Any upgrade of such an incinerator that increases energy efficiency.~~

~~(B) Any expansion of such an incinerator before the effective date of this act.~~

~~(C) Any expansion of such an incinerator on or after the effective date of this act to an approximate design rated capacity of not more than 950 tons per day pursuant to the terms of a final request for proposals issued on or before October 1, 1986.~~

(*l*) "Revenue recovery mechanism" means the mechanism for recovery of incremental costs of compliance established under section 21.

Sec. 13. As used in this act:

(a) "Site" means a contiguous site, regardless of the number of meters at that site. A site that would be contiguous but for the presence of a street, road, or highway shall be considered to be contiguous for the purposes of this subdivision.

(b) "Transmission line" means all structures, equipment, and real property necessary to transfer electricity at system bulk supply voltage of 100 kilovolts or more.

(c) "True net metering" means a utility billing method that

applies the full retail rate to the net of the bidirectional flow of kilowatt hours across the customer interconnection with the utility distribution system, during a billing period or time-of-use pricing period. A negative net metered quantity during the billing period or during each time-of-use pricing period within the billing period reflects net excess generation for which the customer is entitled to receive credit under section 177(4).

~~(d) "Utility system resource cost test" means a standard that is met for an investment in energy optimization if, on a life cycle basis, the total avoided supply-side costs to the provider, including representative values for electricity or natural gas supply, transmission, distribution, and other associated costs, are greater than the total costs to the provider of administering and delivering the energy optimization program, including net costs for any provider incentives paid by customers and capitalized costs recovered under section 89.~~

(D) ~~(e)~~ "Wind energy conversion system" means a renewable energy system that uses 1 or more wind turbines to generate electricity and has a nameplate capacity of 100 kilowatts or more.

(E) ~~(f)~~ "Wind energy resource zone" or "wind zone" means an area designated by the commission under section 147.

Sec. 21. (1) This section applies only to electric providers whose rates are regulated by the commission.

(2) Each electric provider shall file a proposed renewable energy plan with the commission within 90 days after the commission issues a temporary order under section ~~171.~~ **191.** The proposed plan shall meet all of the following requirements:

(a) Describe how the electric provider will meet the renewable energy standards.

(b) Specify whether the number of megawatt hours of electricity used in the calculation of the renewable energy credit portfolio will be weather-normalized or based on the average number of megawatt hours of electricity sold by the electric provider annually during the previous 3 years to retail customers in this state. Once the plan is approved by the commission, this option shall not be changed.

(c) Include the expected incremental cost of compliance with the renewable energy standards for a 20-year period beginning when the plan is approved by the commission.

(d) For an electric provider that had 1,000,000 or more retail customers in this state on January 1, 2008, describe the bidding process to be used by the electric provider under section 33. The description shall include measures to be employed in the preparation of requests for proposals and the handling and evaluation of proposals received to ensure that any bidder that is an affiliate of the electric utility is not afforded a competitive advantage over any other bidder and that each bidder, including any bidder that is an affiliate of the electric provider, is treated in a fair and nondiscriminatory manner.

(3) The proposed plan shall establish a nonvolumetric mechanism for the recovery of the incremental costs of compliance within the electric provider's customer rates. The revenue recovery mechanism shall not result in rate impacts that exceed the monthly maximum retail rate impacts specified under section 45. The revenue

recovery mechanism is subject to adjustment under sections 47(4) and 49. A customer participating in a commission-approved voluntary renewable energy program under an agreement in effect on ~~the effective date of this act~~ **OCTOBER 6, 2008** shall not incur charges under the revenue recovery mechanism ~~unless~~ **EXCEPT TO THE EXTENT THAT** the charges under the revenue recovery mechanism exceed the charges the customer is incurring for the voluntary renewable energy program. ~~In that case, the customer shall only incur the difference between the charge assessed under the revenue recovery mechanism and the charges the customer is incurring for the voluntary renewable energy program.~~ The limitation on charges applies only during the term of the agreement, not including automatic agreement renewals, or until ~~1 year after the effective date of this act,~~ **OCTOBER 6, 2009,** whichever is later. Before entering an agreement with a customer to participate in a commission-approved voluntary renewable energy program and before the last automatic monthly renewal of such an agreement that will occur ~~less than 1 year after the effective date of this act,~~ **BEFORE OCTOBER 6, 2009,** an electric provider shall notify the customer that the customer will be responsible for the full applicable charges under the revenue recovery mechanism and under the voluntary renewable energy program as provided under this subsection.

(4) If proposed by the electric provider in its proposed plan, the revenue recovery mechanism shall result in an accumulation of reserve funds in advance of expenditure and the creation of a regulatory liability that accrues interest at the average short-

term borrowing rate available to the electric provider during the appropriate period. If proposed by the electric provider in its proposed plan, the commission shall establish a minimum balance of accumulated reserve funds for the purposes of section 47(4).

(5) The commission shall conduct a contested case hearing on the proposed plan filed under subsection (2), pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. If a renewable energy generator files a petition to intervene in the contested case in the manner prescribed by the commission's rules for interventions generally, the commission shall grant the petition. Subject to subsections (6) and (10), after the hearing and within 90 days after the proposed plan is filed with the commission, the commission shall approve, with any changes consented to by the electric provider, or reject the plan.

(6) The commission shall not approve an electric provider's plan unless the commission determines both of the following:

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

(b) That the life-cycle cost of renewable energy acquired or generated under the plan less the projected life-cycle net savings associated with the provider's **FORMER** energy optimization plan **APPROVED UNDER FORMER SECTION 73** does not exceed the expected life-cycle cost of electricity generated by a new conventional coal-fired facility. In ~~determining the expected life-cycle cost of electricity generated by a new conventional coal-fired facility,~~

MAKING THIS DETERMINATION, the commission shall consider data from this state and the states of Ohio, Indiana, Illinois, Wisconsin, and Minnesota, including, if applicable, the life-cycle costs of the renewable energy system and new conventional coal-fired facilities. When determining the life-cycle costs of the renewable energy system and new conventional coal-fired facilities, the commission shall use a methodology that includes, but is not limited to, consideration of the value of energy, capacity, and ancillary services. The commission shall also consider other costs such as transmission, economic benefits, and environmental costs, including, but not limited to, greenhouse gas constraints or taxes. In performing its assessment, the commission may utilize other available data, including national or regional reports and data published by federal or state governmental agencies, industry associations, and consumer groups.

(7) An electric provider shall not begin recovery of the incremental costs of compliance within its rates until the commission has approved its proposed plan.

(8) Every 2 years after initial approval of a plan under subsection (5), the commission shall review the plan. The commission shall conduct a contested case hearing on the plan pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The annual renewable cost reconciliation under section 49 for that year may be joined with the overall plan review in the same contested case hearing. Subject to subsections (6) and (10), after the hearing, the commission shall approve, with any changes consented to by the electric provider, or reject the

plan and any proposed amendments to the plan.

(9) If an electric provider proposes to amend its plan at a time other than during the biennial review process under subsection (8), the electric provider shall file the proposed amendment with the commission. If the proposed amendment would modify the revenue recovery mechanism, the commission shall conduct a contested case hearing on the amendment pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The annual renewable cost reconciliation under section 49 may be joined with the plan amendment in the same contested case proceeding. Subject to subsections (6) and (10), after the hearing and within 90 days after the amendment is filed, the commission shall approve, with any changes consented to by the electric provider, or reject the plan and the proposed amendment or amendments to the plan.

(10) If the commission rejects a proposed plan or amendment under this section, the commission shall explain in writing the reasons for its determination.

Sec. 27. (1) Subject to sections 31 and 45, and in addition to the requirements of subsection (3), an electric provider that is an electric utility with 1,000,000 or more retail customers in this state as of January 1, 2008 shall achieve a renewable energy capacity portfolio of not less than the following:

(a) For an electric provider with more than 1,000,000 but less than 2,000,000 retail electric customers in this state on January 1, 2008, a renewable energy capacity portfolio of 200 megawatts by December 31, 2013 and 500 megawatts by December 31, 2015.

(b) For an electric provider with more than 2,000,000 retail

electric customers in this state on January 1, 2008, a renewable energy capacity portfolio of 300 megawatts by December 31, 2013 and 600 megawatts by December 31, 2015.

(2) An electric provider's renewable energy capacity portfolio shall be calculated by adding the following:

(a) The nameplate capacity in megawatts of renewable energy systems owned by the electric provider that were not in commercial operation before ~~the effective date of this act.~~**OCTOBER 6, 2008.**

(b) The capacity in megawatts of renewable energy that the electric provider is entitled to purchase under contracts that were not in effect before ~~the effective date of this act.~~**OCTOBER 6, 2008.**

(3) Subject to sections 31 and 45, an electric provider shall achieve a renewable energy credit portfolio as follows:

(a) In 2012, 2013, 2014, and 2015, a renewable energy credit portfolio based on the sum of the following:

(*i*) The number of renewable energy credits from electricity generated in the 1-year period preceding ~~the effective date of this act~~ **OCTOBER 6, 2008** that would have been transferred to the electric provider pursuant to section 35(1), if this act had been in effect during that 1-year period.

(*ii*) The number of renewable energy credits equal to the number of megawatt hours of electricity produced or obtained by the electric provider in the 1-year period preceding ~~the effective date of this act~~ **OCTOBER 6, 2008** from renewable energy systems for which recovery in electric rates was approved ~~on the effective date of this act.~~**AS OF OCTOBER 6, 2008.**

(*iii*) Renewable energy credits in an amount calculated as follows:

(A) Taking into account the number of renewable energy credits under subparagraphs (*i*) and (*ii*), determine the number of additional renewable energy credits that the electric provider would need to reach a 10% renewable energy portfolio in that year.

(B) Multiply the number under sub-subparagraph (A) by 20% for 2012, 33% for 2013, 50% for 2014, and 100% for 2015.

(b) In 2016 and each year thereafter, maintain a renewable energy credit portfolio that consists of at least the same number of renewable energy credits as were required in 2015 under subdivision (a).

(4) An electric provider's renewable energy credit portfolio shall be calculated as follows:

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

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

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

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

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

(5) Subject to subsection (6), each electric provider shall meet the renewable energy credit standards with renewable energy

credits obtained by 1 or more of the following means:

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

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

(6) An electric provider may substitute energy optimization credits, advanced cleaner energy credits with or without the associated advanced cleaner energy, or a combination thereof for renewable energy credits otherwise required to meet the renewable energy credit standards if the substitution is approved by the commission. However, commission approval is not required to substitute advanced cleaner energy from industrial cogeneration for renewable energy credits. The commission shall not approve a substitution unless the commission determines that the substitution is cost-effective compared to other sources of renewable energy credits and, if the substitution involves advanced cleaner energy credits, that the advanced cleaner energy system provides carbon dioxide emissions benefits. In determining whether the substitution of advanced cleaner energy credits is cost-effective, the commission shall include as part of the costs of the system the environmental costs attributed to the advanced cleaner energy system, including the costs of environmental control equipment or greenhouse gas constraints or taxes. The commission's determinations shall be made after a contested case hearing that includes consultation with the department of environmental quality on the issue of carbon dioxide emissions benefits, if relevant, and environmental costs.

(7) Under subsection (6), energy optimization credits, advanced cleaner energy credits, or a combination thereof shall not be used by a provider to meet more than 10% of the renewable energy credit standards. Advanced cleaner energy from advanced cleaner energy systems in existence on January 1, 2008 shall not be used by a provider to meet more than 70% of this 10% limit. This 10% limit does not apply to advanced cleaner energy credits from plasma arc gasification.

(8) Substitutions under subsection (6) shall be made at the following rates per renewable energy credit:

(a) One energy optimization credit.

(b) One advanced cleaner energy credit from plasma arc gasification or industrial cogeneration.

(c) Ten advanced cleaner energy credits other than from plasma arc gasification or industrial cogeneration.

(9) WHEN AN ENERGY OPTIMIZATION CREDIT IS SUBSTITUTED FOR A RENEWABLE ENERGY CREDIT, THE ENERGY OPTIMIZATION CREDIT EXPIRES. THE COMMISSION SHALL ENSURE THAT EACH ENERGY OPTIMIZATION CREDIT SUBSTITUTED FOR A RENEWABLE ENERGY CREDIT IS PROPERLY ACCOUNTED FOR. ANY ENERGY OPTIMIZATION CREDITS OUTSTANDING ON JANUARY 1, 2017 EXPIRE ON THAT DATE.

Sec. 39. (1) Except as otherwise provided in section 35(1), 1 renewable energy credit shall be granted to the owner of a renewable energy system for each megawatt hour of electricity generated from the renewable energy system, subject to all of the following:

(a) If a renewable energy system uses both a renewable energy

resource and a nonrenewable energy resource to generate electricity **OR STEAM**, the number of renewable energy credits granted shall be based on the percentage of the electricity **OR STEAM, OR BOTH,** generated from the renewable energy resource.

~~(b) A renewable energy credit shall not be granted for renewable energy generated from a municipal solid waste incinerator to the extent that the renewable energy was generated by operating the incinerator in excess of the greater of the following, as applicable:~~

~~(*i*) The incinerator's nameplate capacity rating on January 1, 2008.~~

~~(*ii*) If the incinerator is expanded after the effective date of this act to an approximate continuous design rated capacity of not more than 950 tons per day pursuant to the terms of a final request for proposals issued not later than October 1986, the nameplate capacity rating required to accommodate that expansion.~~

(B) ~~(c)~~ A renewable energy credit shall not be granted for renewable energy the renewable attributes of which are used by an electric provider in a commission-approved voluntary renewable energy program.

(2) ~~Subject to subsection (3), the~~ **THE** following additional renewable energy credits, to be known as Michigan incentive renewable energy credits, shall be granted under the following circumstances:

(a) 2 renewable energy credits for each megawatt hour of electricity from solar power.

(b) 1/5 renewable energy credit for each megawatt hour of

electricity generated from a renewable energy system, other than wind, at peak demand time as determined by the commission.

(c) 1/5 renewable energy credit for each megawatt hour of electricity generated from a renewable energy system during off-peak hours, stored using advanced electric storage technology or a hydroelectric pumped storage facility, and used during peak hours. However, the number of renewable energy credits shall be calculated based on the number of megawatt hours of renewable energy used to charge the advanced electric storage technology or fill the pumped storage facility, not the number of megawatt hours actually discharged or generated by discharge from the advanced energy storage ~~facility~~ **TECHNOLOGY** or pumped storage facility.

~~(d) 1/10 renewable energy credit for each megawatt hour of electricity generated from a renewable energy system constructed using equipment made in this state as determined by the commission. The additional credit under this subdivision is available for the first 3 years after the renewable energy system first produces electricity on a commercial basis.~~

~~(e) 1/10 renewable energy credit for each megawatt hour of electricity from a renewable energy system constructed using a workforce composed of residents of this state as determined by the commission. The additional credit under this subdivision is available for the first 3 years after the renewable energy system first produces electricity on a commercial basis.~~

(3) A renewable energy credit expires at the earliest of the following times:

(a) When used by an electric provider to comply with its

renewable energy credit standard.

~~(b) When substituted for an energy optimization credit under section 77.~~

(B) ~~(c)~~ Three years after the end of the month in which the renewable energy credit was generated.

(4) A renewable energy credit associated with renewable energy generated within 120 days after the start of a calendar year may be used to satisfy the prior year's renewable energy standard and expires when so used.

Sec. 43. (1) One advanced cleaner energy credit shall be granted to the owner of an advanced cleaner energy system for each megawatt hour of electricity generated from the advanced cleaner energy system. However, if an advanced cleaner energy system uses both an advanced cleaner energy technology and an energy technology that is not an advanced cleaner energy technology to generate electricity, the number of advanced cleaner energy credits granted shall be based on the percentage of the electricity generated from the advanced cleaner energy technology. If a facility or system, such as a gasification facility using biomass as feedstock, qualifies as both an advanced cleaner energy system and a renewable energy system, at the owner's option, either an advanced cleaner energy credit or a renewable energy credit, but not both, may be granted for any given megawatt hour of electricity generated by the facility or system.

(2) An advanced cleaner energy credit expires at the earliest of the following times:

(a) When substituted for a renewable energy credit under

section 27. ~~or an energy optimization credit under section 77.~~

(b) 3 years after the end of the month in which the advanced cleaner energy credit was generated.

(3) Advanced cleaner energy credits may be traded, sold, or otherwise transferred.

(4) The commission shall establish an advanced cleaner energy credit certification and tracking program. The certification and tracking program may be contracted to and performed by a third party through a system of competitive bidding. The program shall include all of the following:

(a) A process to certify advanced cleaner energy systems, including all ~~existing~~ advanced cleaner energy systems operating on ~~the effective date of this act,~~ **OCTOBER 6, 2008,** as eligible to receive advanced cleaner energy credits.

(b) A process for verifying that the operator of an advanced cleaner energy system is in compliance with state and federal law applicable to the operation of the advanced cleaner energy system when certification is granted. If an advanced cleaner energy system becomes noncompliant with state or federal law, advanced cleaner energy credits shall not be granted for advanced cleaner energy generated by that advanced cleaner energy system during the period of noncompliance.

(c) A method for determining the date on which an advanced cleaner energy credit is generated and valid for transfer.

(d) A method for transferring advanced cleaner energy credits.

(e) A method for ensuring that each advanced cleaner energy credit transferred is properly accounted for.

(f) Allowance for issuance, transfer, and use of advanced cleaner energy credits in electronic form.

(g) A method for ensuring that both a renewable energy credit and an advanced cleaner energy credit are not awarded for the same megawatt hour of electricity.

(5) An advanced cleaner energy credit purchased from an advanced cleaner energy system in this state is not required to be used in this state.

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

(2) An electric provider shall recover the incremental cost of compliance with the renewable energy standards by an itemized charge on the customer's bill for billing periods beginning not earlier than 90 days after the commission approves the electric provider's renewable energy plan under section 21 or 23 or determines under section 25 that the plan complies with this act. An electric provider shall not comply with the renewable energy standards to the extent that, as determined by the commission, recovery of the incremental cost of compliance will have a retail rate impact that exceeds any of the following:

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

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

(c) $187.50 per month per commercial primary or industrial customer meter.

(3) The retail rate impact limits of subsection (2) apply only to the incremental costs of compliance and do not apply to costs approved for recovery by the commission other than as provided in this act.

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

(5) In its billing statements for a residential customer, each provider shall report to the residential customer all of the following in a format consistent with other information on the customer bill:

(a) An itemized monthly charge, expressed in dollars and cents, collected from the customer for implementing the renewable energy program requirements of this act. In the first bill issued after the close of the previous year, an electric provider shall notify each residential customer that the customer may be entitled to an income tax credit to offset some of the annual amounts collected for the renewable energy program.

~~(b) An itemized monthly charge, expressed in dollars and cents, collected from the customer for implementing the energy optimization program requirements of this act.~~

~~(c) An estimated monthly savings, expressed in dollars and cents, for that customer to reflect the reductions in the monthly energy bill produced by the energy optimization program under this act.~~

(B) ~~(d)~~ An estimated monthly savings, expressed in dollars and cents, for that customer to reflect the long-term, life-cycle,

levelized costs of building and operating new conventional coal-fired electric generating power plants avoided under this act as determined by the commission.

(C) ~~(c)~~ The website address at which the commission's annual report under section 51 is posted.

(6) For the first year of the programs under this part, the values reported under subsection (5) shall be estimates by the commission. The values in following years shall be based on the provider's actual customer experiences. ~~If the provider is unable to provide customer-specific information under subsection (5)(b) or (c), it shall instead specify the state average itemized charge or savings, as applicable, for residential customers. The provider shall make this calculation based on a method approved by the commission.~~

(7) In determining long-term, life-cycle, levelized costs of building and operating and acquiring nonrenewable electric generating capacity and energy for the purpose of subsection ~~(5)(d),~~ **(5)(B),** the commission shall consider historic and predicted costs of financing, construction, operation, maintenance, fuel supplies, environmental protection, and other appropriate elements of energy production. For purposes of this comparison, the capacity of avoided new conventional coal-fired electric generating facilities shall be expressed in megawatts and avoided new conventional coal-fired electricity generation shall be expressed in megawatt hours. Avoided costs shall be measured in cents per kilowatt hour.

Sec. 77. (1) Except as provided in section 81 and subject to

the sales revenue expenditure limits in section 89, an electric provider's energy optimization programs under this subpart shall collectively achieve the following minimum energy savings:

(a) Biennial incremental energy savings in 2008-2009 equivalent to 0.3% of total annual retail electricity sales in megawatt hours in 2007.

(b) Annual incremental energy savings in 2010 equivalent to 0.5% of total annual retail electricity sales in megawatt hours in 2009.

(c) Annual incremental energy savings in 2011 equivalent to 0.75% of total annual retail electricity sales in megawatt hours in 2010.

(d) Annual incremental energy savings in 2012, 2013, 2014, and 2015 and, subject to section 97, each year thereafter equivalent to 1.0% of total annual retail electricity sales in megawatt hours in the preceding year. **HOWEVER, FOR A MUNICIPALLY-OWNED ELECTRIC UTILITY OR A COOPERATIVE ELECTRIC UTILITY, THE 1.0% ENERGY OPTIMIZATION STANDARD SHALL BE PRORATED FOR THE PARTIAL FINAL CALENDAR YEAR OF THE ENERGY OPTIMIZATION PROGRAM UNDER THIS ACT. THE ENERGY OPTIMIZATION PROGRAM FOR A MUNICIPALLY-OWNED ELECTRIC UTILITY OR A COOPERATIVE ELECTRIC UTILITY ENDS 180 DAYS AFTER THE ENACTMENT DATE OF THE 2016 ACT THAT AMENDED THIS SECTION.**

(2) **SUBSECTION (1) DOES NOT APPLY TO AN ELECTRIC PROVIDER FOR WHICH AN INTEGRATED RESOURCE PLAN THAT INCLUDES ENERGY OPTIMIZATION REQUIREMENTS HAS BEEN APPROVED UNDER SECTION 6T OF 1939 PA 3, MCL 460.6T.** If an electric provider uses load management to achieve energy savings under its energy optimization plan, the minimum

energy savings required under subsection (1) shall be adjusted by an amount such that the ratio of the minimum energy savings to the sum of maximum expenditures under section 89 and the load management expenditures remains constant.

(3) ~~A~~ **SUBJECT TO THE SALES REVENUE EXPENDITURE LIMITS IN SECTION 89, A** natural gas provider shall meet the following minimum energy optimization standards using energy efficiency programs under this subpart:

(a) Biennial incremental energy savings in 2008-2009 equivalent to 0.1% of total annual retail natural gas sales in decatherms or equivalent MCFs in 2007.

(b) Annual incremental energy savings in 2010 equivalent to 0.25% of total annual retail natural gas sales in decatherms or equivalent MCFs in 2009.

(c) Annual incremental energy savings in 2011 equivalent to 0.5% of total annual retail natural gas sales in decatherms or equivalent MCFs in 2010.

(d) Annual incremental energy savings in 2012, 2013, 2014, and 2015 and, subject to section 97, each year thereafter equivalent to 0.75% of total annual retail natural gas sales in decatherms or equivalent MCFs in the preceding year.

(4) Incremental energy savings under subsection (1) or (3) for the 2008-2009 biennium or any year thereafter shall be determined for a provider by adding the energy savings expected to be achieved during a 1-year period by energy optimization measures implemented during the 2008-2009 biennium or any year thereafter under any energy efficiency programs consistent with the provider's energy

~~efficiency~~ **OPTIMIZATION** plan.

(5) For purposes of calculations under subsection (1) or (3), total annual retail electricity or natural gas sales in a year shall be based on 1 of the following at the option of the provider as specified in its energy optimization plan:

(a) The number of weather-normalized megawatt hours or decatherms or equivalent MCFs sold by the provider to retail customers in this state during the year preceding the biennium or year for which incremental energy savings are being calculated.

(b) The average number of megawatt hours or decatherms or equivalent MCFs sold by the provider during the 3 years preceding the biennium or year for which incremental energy savings are being calculated.

(6) For any year after 2012, an electric provider may substitute renewable energy credits associated with renewable energy generated that year from a renewable energy system constructed after ~~the effective date of this act,~~ **OCTOBER 6, 2008,** advanced cleaner energy credits other than credits from industrial cogeneration using industrial waste energy, load management that reduces overall energy usage, or a combination thereof for energy optimization credits otherwise required to meet the energy optimization ~~performance~~ standard, if the substitution is approved by the commission. The commission shall not approve a substitution unless the commission determines that the substitution is cost-effective and, if the substitution involves advanced cleaner energy credits, that the advanced cleaner energy system provides carbon dioxide emissions benefits. In determining whether the substitution

of advanced cleaner energy credits is cost-effective compared to other available energy optimization measures, the commission shall consider the environmental costs related to the advanced cleaner energy system, including the costs of environmental control equipment or greenhouse gas constraints or taxes. The commission's determinations shall be made after a contested case hearing that includes consultation with the department of environmental quality on the issue of carbon dioxide emissions benefits, if relevant, and environmental costs.

(7) Renewable energy credits, advanced cleaner energy credits, load management that reduces overall energy usage, or a combination thereof shall not be used by a provider to meet more than 10% of the energy optimization standard. Substitutions for energy optimization credits shall be made at the following rates per energy optimization credit:

(a) 1 renewable energy credit.

(b) 1 advanced cleaner energy credit from plasma arc gasification.

(c) 4 advanced cleaner energy credits other than from plasma arc gasification.

Sec. 89. (1) The commission shall allow a provider whose rates are regulated by the commission to recover the actual costs of implementing its approved energy optimization plan **INCURRED BEFORE JANUARY 1, 2019**. However, ~~costs~~ **ALL OF THE FOLLOWING APPLY:**

(A) THE COMMISSION SHALL ALLOW A COOPERATIVE ELECTRIC UTILITY WHOSE RATES ARE REGULATED BY THE COMMISSION TO RECOVER SUCH COSTS ONLY IF INCURRED BEFORE 180 DAYS AFTER THE ENACTMENT DATE OF THE

2016 ACT THAT AMENDED THIS SECTION.

(B) COSTS exceeding the overall funding levels specified in the energy optimization plan are not recoverable unless those costs are reasonable and prudent and meet the utility system resource cost test. ~~Furthermore, costs~~

(C) COSTS for load management undertaken pursuant to an energy optimization plan are not recoverable as energy optimization program costs under this section, but may be recovered as described in section 95.

(2) Under subsection (1), costs shall be recovered from all natural gas customers and from residential electric customers by volumetric charges, from all other metered electric customers by per-meter charges, and from unmetered electric customers by an appropriate charge, applied to utility bills as an itemized charge.

(3) For the electric primary customer rate class customers of electric providers and customers of natural gas providers with an aggregate annual natural gas billing demand of more than 100,000 decatherms or equivalent MCFs for all sites in the natural gas utility's service territory, the cost recovery under subsection (1) shall not exceed 1.7% of total retail sales revenue for that customer class **FOR THE PERIOD FOR WHICH COSTS ARE BEING RECOVERED**. For electric secondary customers and for residential customers, the cost recovery shall not exceed 2.2% of total retail sales revenue for those customer classes **FOR THE PERIOD FOR WHICH COSTS ARE BEING RECOVERED**.

(4) Upon petition by a provider whose rates are regulated by the commission, the commission shall authorize the provider to

capitalize all energy efficiency and energy conservation equipment, materials, and installation costs with an expected economic life greater than 1 year incurred in implementing its energy optimization plan, including such costs paid to third parties, such as customer rebates and customer incentives. The provider shall also propose depreciation treatment with respect to its capitalized costs in its energy optimization plan, and the commission shall order reasonable depreciation treatment related to these capitalized costs. A provider shall not capitalize payments made to an independent energy optimization program administrator under section 91.

(5) The established funding level for low income residential programs shall be provided from each customer rate class in proportion to that customer rate class's funding of the provider's total energy optimization programs. Charges shall be applied to distribution customers regardless of the source of their electricity or natural gas supply.

(6) The commission shall authorize a natural gas provider that spends a minimum of 0.5% of total natural gas retail sales revenues, including natural gas commodity costs, in a year on commission-approved energy optimization programs to implement a symmetrical revenue decoupling true-up mechanism that adjusts for sales volumes that are above or below the projected levels that were used to determine the revenue requirement authorized in the natural gas provider's most recent rate case. In determining the symmetrical revenue decoupling true-up mechanism utilized for each provider, the commission shall give deference to the proposed

mechanism submitted by the provider. The commission may approve an alternative mechanism if the commission determines that the alternative mechanism is reasonable and prudent. The commission shall authorize the natural gas provider to decouple rates regardless of whether the natural gas provider's energy optimization programs are administered by the provider or an independent energy optimization program administrator under section 91.

(7) A natural gas provider or an electric provider shall not spend more than the following percentage of total utility retail sales revenues, including electricity or natural gas commodity costs, in any year to comply with ~~the~~ **AN APPLICABLE** energy optimization performance standard without specific approval from the commission:

(a) In 2009, 0.75% of total retail sales revenues for 2007.

(b) In 2010, 1.0% of total retail sales revenues for 2008.

(c) In 2011, 1.5% of total retail sales revenues for 2009.

(d) In 2012 and each year thereafter **THROUGH 2018**, 2.0% of total retail sales revenues for the 2 years preceding. **HOWEVER, FOR A MUNICIPALLY-OWNED ELECTRIC UTILITY OR A COOPERATIVE ELECTRIC UTILITY, THE 2.0% SPENDING CAP SHALL BE PRORATED FOR THE PARTIAL FINAL CALENDAR YEAR OF ITS ENERGY OPTIMIZATION PROGRAM.**

Sec. 91. (1) Except for section 89(6), sections ~~71 to~~ **87 AND** 89 do not apply to a provider that pays the following percentage of total utility sales revenues, including electricity or natural gas commodity costs, each year to an independent energy optimization program administrator selected by the commission:

(a) In 2009, 0.75% of total retail sales revenues for 2007.

(b) In 2010, 1.0% of total retail sales revenues for 2008.

(c) In 2011, 1.5% of total retail sales revenues for 2009.

(d) In 2012 and each year thereafter **THROUGH 2018**, 2.0% of total retail sales revenues for the 2 years preceding **THAT YEAR**. **HOWEVER, FOR A MUNICIPALLY-OWNED ELECTRIC UTILITY OR A COOPERATIVE ELECTRIC UTILITY, THE 2.0% FIGURE IN THIS SUBDIVISION SHALL BE PRORATED FOR THE PARTIAL FINAL CALENDAR YEAR OF ITS ENERGY OPTIMIZATION PROGRAM.**

(2) An alternative compliance payment received from a provider by the energy optimization program administrator under subsection (1) shall be used to administer energy efficiency programs for the provider. Money unspent in a year shall be carried forward to be spent in the subsequent year.

(3) The commission shall allow a provider to recover an alternative compliance payment under subsection (1). This cost shall be recovered from residential customers by volumetric charges, from all other metered customers by per-meter charges, and from unmetered customers by an appropriate charge, applied to utility bills.

(4) An alternative compliance payment under subsection (1) shall only be used to fund energy optimization programs for that provider's customers. To the extent feasible, charges collected from a particular customer rate class and paid to the energy optimization program administrator under subsection (1) shall be devoted to energy optimization programs and services for that rate class.

(5) Money paid to the energy optimization program administrator under subsection (1) and not spent by the administrator that year shall remain available for expenditure the following year, subject to the requirements of subsection (4).

(6) The commission shall select a qualified nonprofit organization to serve as an energy optimization program administrator under this section, through a competitive bid process.

(7) The commission shall arrange for a biennial independent audit of the energy optimization program administrator.

Sec. 93. (1) An eligible electric customer is exempt from charges the customer would otherwise incur as an electric customer under section 89 or 91 if the customer files with its electric provider and implements **THROUGH DECEMBER 31, 2018** a self-directed energy optimization plan as provided in this section. **HOWEVER, TO BE EXEMPT FROM THOSE CHARGES, THE CUSTOMER OF A MUNICIPALLY-OWNED ELECTRIC UTILITY OR A COOPERATIVE ELECTRIC UTILITY SHALL IMPLEMENT ITS SELF-DIRECTED ENERGY OPTIMIZATION PLAN UNTIL 180 DAYS AFTER THE ENACTMENT DATE OF THE 2016 ACT THAT AMENDED THIS SECTION.**

(2) Subject to subsection (3), an electric customer is not eligible under subsection (1) unless it is a commercial or industrial electric customer and meets all of the following requirements:

(a) In 2009 or 2010, the customer must have had an annual peak demand in the preceding year of at least 2 megawatts at each site to be covered by the self-directed plan or 10 megawatts in the aggregate at all sites to be covered by the plan.

(b) In 2011, 2012, or 2013, the customer or customers must have had an annual peak demand in the preceding year of at least 1 megawatt at each site to be covered by the self-directed plan or 5 megawatts in the aggregate at all sites to be covered by the plan.

(c) In 2014 or any year thereafter, the customer or customers must have had an annual peak demand in the preceding year of at least 1 megawatt in the aggregate at all sites to be covered by the self-directed plan.

(3) The eligibility requirements of subsection (2) do not apply to a commercial or industrial customer that installs or modifies an electric energy efficiency improvement under a property assessed clean energy program pursuant to the property assessed clean energy act**, 2010 PA 270, MCL 460.931 TO 460.949**.

(4) The commission shall by order establish the rates, terms, and conditions of service for customers related to this subpart.

(5) The commission shall by order do all of the following:

(a) Require a customer to utilize the services of an energy optimization service company to develop and implement a self-directed plan. This subdivision does not apply to a customer that had an annual peak demand in the preceding year of at least 2 megawatts at each site to be covered by the self-directed plan or 10 megawatts in the aggregate at all sites to be covered by the self-directed plan.

(b) Provide a mechanism to recover from customers under subdivision (a) the costs for provider level review and evaluation.

(c) Provide a mechanism to cover the costs of the low income energy optimization program under section 89.

(6) All of the following apply to a self-directed energy optimization plan under subsection (1):

(a) The self-directed plan shall be a multiyear plan for an ongoing energy optimization program.

(b) The self-directed plan shall provide for aggregate energy savings that each year meet or exceed the energy optimization standards based on the electricity purchases in the previous year for the site or sites covered by the self-directed plan.

(c) Under the self-directed plan, energy optimization shall be calculated based on annual electricity usage. Annual electricity usage shall be normalized so that none of the following are included in the calculation of the percentage of incremental energy savings:

(*i*) Changes in electricity usage because of changes in business activity levels not attributable to energy optimization.

(*ii*) Changes in electricity usage because of the installation, operation, or testing of pollution control equipment.

(d) The self-directed plan shall specify whether electricity usage will be weather-normalized or based on the average number of megawatt hours of electricity sold by the electric provider annually during the previous 3 years to retail customers in this state. Once the self-directed plan is submitted to the provider, this option shall not be changed.

(e) The self-directed plan shall outline how the customer intends to achieve the incremental energy savings specified in the self-directed plan.

(7) A self-directed energy optimization plan shall be

incorporated into the relevant electric provider's energy optimization plan. The self-directed plan and information submitted by the customer under subsection ~~(10)~~ **(9)** are confidential and exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. Projected energy savings from measures implemented under a self-directed plan shall be attributed to the relevant provider's energy optimization programs for the purposes of determining annual incremental energy savings achieved by the provider**.** ~~under section 77 or 81, as applicable.~~

(8) Once a customer begins to implement a self-directed plan at a site covered by the self-directed plan, that site is exempt from energy optimization program charges under section 89 or 91 and is not eligible to participate in the relevant electric provider's energy optimization programs.

(9) A customer implementing a self-directed energy optimization plan under this section shall annually submit to the customer's electric provider a brief report documenting the energy efficiency measures taken under the self-directed plan during the previous year, and the corresponding energy savings that will result. The report shall provide sufficient information for the provider and the commission to monitor progress toward the goals in the self-directed plan and to develop reliable estimates of the energy savings that are being achieved from self-directed plans. The customer report shall indicate the level of incremental energy savings achieved for the year covered by the report and whether that level of incremental energy savings meets the goal set forth in the customer's self-directed plan. If a customer submitting a

report under this subsection wishes to amend its self-directed plan, the customer shall submit with the report an amended self-directed plan. A report under this subsection shall be accompanied by an affidavit from a knowledgeable official of the customer that the information in the report is true and correct to the best of the official's knowledge and belief. If the customer has retained an independent energy optimization service company, the requirements of this subsection shall be met by the energy optimization service company.

(10) An electric provider shall provide an annual report to the commission that identifies customers implementing self-directed energy optimization plans and summarizes the results achieved cumulatively under those self-directed plans. The commission may request additional information from the electric provider. If the commission has sufficient reason to believe the information is inaccurate or incomplete, it may request additional information from the customer to ensure accuracy of the report.

(11) If the commission determines after a contested case hearing that the minimum energy optimization goals under subsection (6)(b) have not been achieved at the sites covered by a self-directed plan, in aggregate, the commission shall order the customer or customers collectively to pay to this state an amount calculated as follows:

(a) Determine the proportion of the shortfall in achieving the minimum energy optimization goals under subsection (6)(b).

(b) Multiply the figure under subdivision (a) by the energy optimization charges from which the customer or customers

collectively were exempt under subsection (1).

(c) Multiply the product under subdivision (b) by a number not less than 1 or greater than 2, as determined by the commission based on the reasons for failure to meet the minimum energy optimization goals.

(12) If a customer has submitted a self-directed plan to an electric provider, the customer, the customer's energy optimization service company, if applicable, or the electric provider shall provide a copy of the self-directed plan to the commission upon request.

(13) By September 1, 2010, following a public hearing, the commission shall establish an approval process for energy optimization service companies. The approval process shall ensure that energy optimization service companies have the expertise, resources, and business practices to reliably provide energy optimization services that meet the requirements of this section. The commission may adopt by reference the past or current standards of a national or regional certification or licensing program for energy optimization service companies. However, the approval process shall also provide an opportunity for energy optimization service companies that are not recognized by such a program to be approved by posting a bond in an amount determined by the commission and meeting any other requirements adopted by the commission for the purposes of this subsection. The approval process for energy optimization service companies shall require adherence to a code of conduct governing the relationship between energy optimization service companies and electric providers.

(14) The department of ~~energy, labor, and economic growth~~ **LICENSING AND REGULATORY AFFAIRS** shall maintain on the department's website a list of energy optimization service companies approved under subsection (13).

Sec. 95. (1) The commission shall do all of the following:

(a) Promote load management in appropriate circumstances.

(b) Actively pursue increasing public awareness of load management techniques.

(c) Engage in regional load management efforts to reduce the annual demand for energy whenever possible.

(d) Work with residential, commercial, and industrial customers to reduce annual demand and conserve energy through load management techniques and other activities it considers appropriate. The commission shall file a report with the legislature by December 31, 2010 on the effort to reduce peak demand. The report shall also include any recommendations for legislative action concerning load management that the commission considers necessary.

(2) The commission may allow a provider whose rates are regulated by the commission to recover costs for load management undertaken **BEFORE JANUARY 1, 2019** pursuant to an energy optimization plan through base rates as part of a proceeding under section 6 of 1939 PA 3, MCL 460.6, if the costs are reasonable and prudent and meet the utility systems resource cost test. **HOWEVER, THE COMMISSION MAY ALLOW A COOPERATIVE ELECTRIC UTILITY WHOSE RATES ARE REGULATED BY THE COMMISSION TO SO RECOVER COSTS FOR LOAD MANAGEMENT UNDERTAKEN BEFORE 180 DAYS AFTER THE ENACTMENT DATE OF**

THE 2016 ACT THAT AMENDED THIS SECTION.

(3) The commission shall do all of the following:

(a) Promote energy efficiency and energy conservation.

(b) Actively pursue increasing public awareness of energy conservation and energy efficiency.

(c) Actively engage in energy conservation and energy efficiency efforts with providers.

(d) Engage in regional efforts to reduce demand for energy through energy conservation and energy efficiency.

(e) By November 30, 2009, and each year thereafter, submit to the standing committees of the senate and house of representatives with primary responsibility for energy and environmental issues a report on the effort to implement energy conservation and energy efficiency programs or measures. The report may include any recommendations of the commission for energy conservation legislation.

(4) This subpart does not limit the authority of the commission, following an integrated resource plan proceeding and as part of a rate-making process, to allow a provider whose rates are regulated by the commission to recover for ~~additional~~ prudent energy efficiency and energy conservation measures. ~~not included in the provider's energy optimization plan if the provider has met the requirements of the energy optimization program.~~

PART 7.

CUSTOMER ENERGY IMPROVEMENTS

SEC. 201. AS USED IN THIS PART:

(A) "CLEAN ENERGY RESOURCE" MEANS AN ELECTRIC GENERATION

TECHNOLOGY THAT MEETS ALL CURRENT STATE AND FEDERAL AIR EMISSIONS REGULATIONS OR QUALIFIES UNDER UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGULATIONS AS BEING CARBON NEUTRAL. CLEAN ENERGY RESOURCE INCLUDES, BUT IS NOT LIMITED TO, A FOSSIL FUEL GENERATION TECHNOLOGY IN WHICH AT LEAST 85% OF THE CARBON DIOXIDE EMISSIONS ARE CAPTURED AND PERMANENTLY SEQUESTERED OR USED FOR OTHER COMMERCIAL OR INDUSTRIAL PURPOSES THAT DO NOT RESULT IN THE RELEASE OF CARBON DIOXIDE INTO THE ATMOSPHERE.

(B) "CLEAN ENERGY SYSTEM" MEANS A FACILITY, ELECTRICITY GENERATION SYSTEM, OR SET OF ELECTRICITY GENERATION SYSTEMS THAT USE 1 OR MORE CLEAN ENERGY RESOURCES TO GENERATE ELECTRICITY.

(C) "CUSTOMER ENERGY PROJECTS PROGRAM" OR "PROGRAM" MEANS A PROGRAM AS DESCRIBED IN SECTION 203.

(D) "ENERGY AUDIT" MEANS AN EVALUATION OF THE ENERGY PERFORMANCE OF A STRUCTURE THAT MEETS ALL OF THE FOLLOWING REQUIREMENTS:

(*i*) IS PERFORMED BY A QUALIFIED PERSON USING BUILDING-PERFORMANCE DIAGNOSTIC EQUIPMENT.

(*ii*) COMPLIES WITH 1 OF THE FOLLOWING:

(A) FOR RESIDENTIAL PROPERTY, THE ANSI/BPI-1100-T-2014 HOME ENERGY AUDITING STANDARD PROMULGATED BY THE AMERICAN NATIONAL STANDARDS INSTITUTE AND THE BUILDING PERFORMANCE INSTITUTE, INC., UPDATES OF THAT STANDARD APPROVED AS BEING REASONABLE AND CONSISTENT WITH THE PURPOSES OF THIS PART BY ORDER OF THE COMMISSION, OR OTHER INDUSTRY STANDARDS SO APPROVED BY THE COMMISSION.

(B) FOR COMMERCIAL OR INDUSTRIAL PROPERTY, THE U.S. GREEN

BUILDING COUNCIL'S LEED GREEN BUILDING CERTIFICATION PROGRAM STANDARDS IN EFFECT ON THE EFFECTIVE DATE OF THIS SECTION, UPDATES OF THOSE STANDARDS APPROVED AS BEING REASONABLE AND CONSISTENT WITH THE PURPOSES OF THIS PART BY ORDER OF THE COMMISSION, OR OTHER INDUSTRY STANDARDS SO APPROVED BY THE COMMISSION.

(*iii*) DETERMINES HOW BEST TO OPTIMIZE ENERGY PERFORMANCE WHILE MAINTAINING OR IMPROVING HUMAN COMFORT AND SAFETY.

(*iv*) INCLUDES A BASELINE ENERGY MODEL AND COST-BENEFIT ANALYSIS FOR RECOMMENDED ENERGY WASTE REDUCTION IMPROVEMENTS.

(E) "ENERGY PROJECT" MEANS THE INSTALLATION OR MODIFICATION OF AN ENERGY WASTE REDUCTION IMPROVEMENT OR THE ACQUISITION, INSTALLATION, OR IMPROVEMENT OF A CLEAN ENERGY SYSTEM.

(F) "ENERGY WASTE REDUCTION IMPROVEMENT" MEANS EQUIPMENT, DEVICES, OR MATERIALS INTENDED TO DECREASE ENERGY CONSUMPTION, INCLUDING, BUT NOT LIMITED TO, ALL OF THE FOLLOWING:

(*i*) INSULATION IN WALLS, ROOFS, FLOORS, FOUNDATIONS, OR HEATING AND COOLING DISTRIBUTION SYSTEMS.

(*ii*) STORM WINDOWS AND DOORS; MULTI-GLAZED WINDOWS AND DOORS; HEAT-ABSORBING OR HEAT-REFLECTIVE GLAZED AND COATED WINDOW AND DOOR SYSTEMS; AND ADDITIONAL GLAZING, REDUCTIONS IN GLASS AREA, AND OTHER WINDOW AND DOOR MODIFICATIONS THAT REDUCE ENERGY CONSUMPTION.

(*iii*) AUTOMATED ENERGY CONTROL SYSTEMS.

(*iv*) HEATING, VENTILATING, OR AIR-CONDITIONING AND DISTRIBUTION SYSTEM MODIFICATIONS OR REPLACEMENTS.

(*v*) AIR SEALING, CAULKING, AND WEATHER-STRIPPING.

(*vi*) LIGHTING FIXTURES THAT REDUCE THE ENERGY USE OF THE LIGHTING SYSTEM.

(*vii*) ENERGY RECOVERY SYSTEMS.

(*viii*) DAY LIGHTING SYSTEMS.

(*ix*) ELECTRICAL WIRING OR OUTLETS TO CHARGE A MOTOR VEHICLE THAT IS FULLY OR PARTIALLY POWERED BY ELECTRICITY.

(*x*) MEASURES TO REDUCE THE USAGE OF WATER OR INCREASE THE EFFICIENCY OF WATER USAGE.

(*xi*) ANY OTHER INSTALLATION OR MODIFICATION OF EQUIPMENT, DEVICES, OR MATERIALS APPROVED AS A UTILITY COST-SAVINGS MEASURE BY THE GOVERNING BODY.

(G) "PROPERTY" MEANS REAL PROPERTY.

(H) "RECORD OWNER" MEANS THE PERSON OR PERSONS WITH THE MOST RECENT FEE TITLE OR LAND CONTRACT VENDEE'S INTEREST IN PROPERTY AS SHOWN BY THE RECORDS OF THE COUNTY REGISTER OF DEEDS.

SEC. 203. PURSUANT TO SECTION 205, A PROVIDER MAY ESTABLISH A PROGRAM UNDER WHICH A RECORD OWNER OF PROPERTY IN THE PROVIDER'S SERVICE TERRITORY MAY OBTAIN FINANCING OR REFINANCING OF AN ENERGY PROJECT ON THE PROPERTY FROM A COMMERCIAL LENDER OR OTHER LEGAL ENTITY, INCLUDING AN INDEPENDENT SUBSIDIARY OF THE PROVIDER, AND THE LOAN WILL BE REPAID THROUGH ITEMIZED CHARGES ON THE PROVIDER'S UTILITY BILL FOR THAT PROPERTY. THE ITEMIZED CHARGES MAY COVER THE COST OF MATERIALS AND LABOR NECESSARY FOR INSTALLATION, ENERGY AUDIT COSTS, PERMIT FEES, INSPECTION FEES, APPLICATION AND ADMINISTRATIVE FEES, BANK FEES, AND ALL OTHER FEES THAT MAY BE INCURRED BY THE RECORD OWNER FOR THE INSTALLATION ON A SPECIFIC OR PRO RATA BASIS, AS DETERMINED BY THE PROVIDER.

SEC. 205. (1) A CUSTOMER ENERGY PROJECTS PROGRAM SHALL BE ESTABLISHED AND IMPLEMENTED PURSUANT TO A PLAN APPROVED BY THE

COMMISSION. A PROVIDER SEEKING TO ESTABLISH A CUSTOMER ENERGY PROJECTS PROGRAM SHALL FILE A PROPOSED PLAN WITH THE COMMISSION.

(2) A PLAN UNDER SUBSECTION (1) SHALL INCLUDE ALL OF THE FOLLOWING:

(A) THE ESTIMATED COSTS OF ADMINISTRATION OF THE CUSTOMER ENERGY PROJECTS PROGRAM.

(B) WHETHER THE CUSTOMER ENERGY PROJECTS PROGRAM WILL BE ADMINISTERED BY A THIRD PARTY.

(C) AN APPLICATION PROCESS AND ELIGIBILITY REQUIREMENTS FOR A RECORD OWNER TO PARTICIPATE IN THE CUSTOMER ENERGY PROJECTS PROGRAM.

(D) AN APPLICATION FORM GOVERNING THE TERMS AND CONDITIONS FOR A RECORD OWNER'S PARTICIPATION IN THE PROGRAM, INCLUDING AN EXPLANATION OF BILLING UNDER SUBDIVISION (F) OF SECTION 207.

(E) A DESCRIPTION OF ANY FEES TO COVER APPLICATION, ADMINISTRATION, OR OTHER PROGRAM COSTS TO BE CHARGED TO A RECORD OWNER PARTICIPATING IN THE PROGRAM, INCLUDING THE AMOUNT OF EACH FEE, IF KNOWN, OR PROCEDURES TO DETERMINE THE AMOUNT. A FEE SHALL NOT EXCEED THE COSTS INCURRED BY THE PROVIDER FOR THE ACTIVITY FOR WHICH THE FEES ARE CHARGED.

(F) PROVISIONS FOR BILLING THE CUSTOMER OF THE PROVIDER ANY FEES OWED BY THE CUSTOMER UNDER SUBDIVISION (E) AND THE CUSTOMER'S MONTHLY INSTALLMENT PAYMENTS AS A PER-METER CHARGE ON THE BILL FOR ELECTRIC OR NATURAL GAS SERVICES.

(G) PROVISIONS FOR MARKETING AND PARTICIPANT EDUCATION.

(3) THE COMMISSION SHALL NOT APPROVE A PROVIDER'S PROPOSED CUSTOMER ENERGY PROJECTS PLAN UNLESS THE COMMISSION DETERMINES THAT

THE PLAN IS REASONABLE AND PRUDENT.

(4) IF THE COMMISSION REJECTS A PROPOSED PLAN OR AMENDMENT UNDER THIS SECTION, THE COMMISSION SHALL EXPLAIN IN WRITING THE REASONS FOR ITS DETERMINATION.

(5) EVERY 4 YEARS AFTER INITIAL APPROVAL OF A PLAN UNDER SUBSECTION (1), THE COMMISSION SHALL REVIEW THE PLAN.

SEC. 207. (1) A BASELINE ENERGY AUDIT SHALL BE CONDUCTED BEFORE AN ENERGY PROJECT TO BE REPAID THROUGH CHARGES ON THE UTILITY BILL UNDER THIS PART IS UNDERTAKEN. AFTER THE ENERGY PROJECT IS COMPLETED, THE PROVIDER SHALL OBTAIN VERIFICATION THAT THE ENERGY PROJECT WAS PROPERLY INSTALLED AND IS OPERATING AS INTENDED.

(2) ELECTRIC OR NATURAL GAS SERVICE MAY BE SHUT OFF FOR NONPAYMENT OF THE PER-METER CHARGE DESCRIBED UNDER SECTION 205 IN THE SAME MANNER AND PURSUANT TO THE SAME PROCEDURES AS USED TO ENFORCE NONPAYMENT OF OTHER CHARGES FOR THE PROVIDER'S ELECTRIC OR NATURAL GAS SERVICE. IF NOTICE OF A LOAN UNDER THE PROGRAM IS RECORDED WITH THE REGISTER OF DEEDS FOR THE COUNTY IN WHICH THE PROPERTY IS LOCATED, THE OBLIGATION TO PAY THE PER-METER CHARGE SHALL RUN WITH THE LAND AND BE BINDING ON FUTURE CUSTOMERS CONTRACTING FOR ELECTRIC SERVICE OR NATURAL GAS SERVICE, AS APPLICABLE, TO THE PROPERTY.

SEC. 209. (1) THE TERM OF A LOAN PAID THROUGH A CUSTOMER ENERGY PROJECTS PROGRAM SHALL NOT EXCEED THE ANTICIPATED USEFUL LIFE OF THE ENERGY PROJECT FINANCED BY THE LOAN OR 180 MONTHS, WHICHEVER IS LESS. THE LOAN SHALL BE REPAID IN MONTHLY INSTALLMENTS.

(2) THE LENDER SHALL COMPLY WITH ALL STATE AND FEDERAL LAWS APPLICABLE TO THE EXTENSION OF CREDIT FOR THE IMPROVEMENTS.

(3) IF A NONPROFIT CORPORATION MAKES LOANS TO OWNERS OF PROPERTY TO BE REPAID UNDER A CUSTOMER ENERGY PROJECTS PROGRAM, INTEREST SHALL BE CHARGED ON THE UNPAID BALANCE AT A RATE OF NOT MORE THAN THE ADJUSTED PRIME RATE AS DETERMINED UNDER SECTION 23 OF 1941 PA 122, MCL 205.23, PLUS 4%.

SEC. 211. (1) PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328, THE COMMISSION SHALL PROMULGATE RULES TO IMPLEMENT THIS PART WITHIN 1 YEAR AFTER THE EFFECTIVE DATE OF THIS SECTION.

(2) EVERY 5 YEARS AFTER THE PROMULGATION OF RULES UNDER SUBSECTION (1), THE COMMISSION SHALL SUBMIT TO THE STANDING COMMITTEES OF THE SENATE AND HOUSE OF REPRESENTATIVES WITH PRIMARY RESPONSIBILITY FOR ENERGY ISSUES A REPORT ON THE IMPLEMENTATION OF THIS PART AND ANY RECOMMENDATIONS FOR LEGISLATION TO AMEND THIS PART. THE REPORT MAY BE COMBINED WITH THE ANNUAL REPORT UNDER SECTION 5A OF 1939 PA 3, MCL 460.5A.

Enacting section 1. (1) The title and sections 1, 3, 5, 7, 9, 11, 39, 77, 89, 91, 93, and 95 of the clean, renewable, and efficient energy act, 2008 PA 295, MCL 460.1001, 460.1003, 460.1005, 460.1007, 460.1009, 460.1011, 460.1039, 460.1077, 460.1089, 460.1091, 460.1093, and 460.1095, as amended by this amendatory act, and part 7 of the clean, renewable, and efficient energy act, 2008 PA 295, MCL 460.1201 to 460.1211, as added by this amendatory act, take effect 90 days after the date this amendatory act is enacted into law. Section 29 of the clean, renewable, and

efficient energy act, 2008 PA 295, MCL 460.1029, is repealed effective 90 days after the date this amendatory act is enacted into law.

(2) Sections 21, 27, and 43 of the clean, renewable, and efficient energy act, 2008 PA 295, MCL 460.1021, 460.1027, and 460.1043, as amended by this amendatory act, take effect January 1, 2019. Sections 71 to 83 and 93 of the clean, renewable, and efficient energy act, 2008 PA 295, MCL 460.1071 to 460.1083 and 460.1093, are repealed effective January 1, 2019.

(3) Section 5a of the clean, renewable, and efficient energy act, 2008 PA 295, MCL 460.1005a, as added by this amendatory act, and sections 13 and 45 of the clean, renewable, and efficient energy act, 2008 PA 295, MCL 460.1013 and 460.1045, as amended by this amendatory act, take effect January 1, 2020. Sections 5, 85 to 91, and 97 of the clean, renewable, and efficient energy act, 2008 PA 295, MCL 460.1005, 460.1085 to 460.1091, and 460.1097, are repealed effective January 1, 2020.