SUBSTITUTE FOR

SENATE BILL NO. 271

A bill to amend 2008 PA 295, entitled

"Clean and renewable energy and energy waste reduction act,"

by amending the title, the heading of subpart A of part 2, and sections 1, 3, 5, 7, 9, 11, 13, 22, 28, 29, 39, 45, 47, 49, 173, 177, and 191 (MCL 460.1001, 460.1003, 460.1005, 460.1007, 460.1009, 460.1011, 460.1013, 460.1022, 460.1028, 460.1029, 460.1039, 460.1045, 460.1047, 460.1049, 460.1173, 460.1177, and 460.1191), the title and sections 1, 3, 5, 7, 9, 11, 13, 29, 39, 45, 47, 49, 173, and 177 as amended and sections 22 and 28 as added by 2016 PA 342, and by adding sections 32, 51, 53, 101, and 103.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An act to require certain providers of electric service to

establish and recover costs for renewable energy **and clean energy** programs; to require certain providers of electric or natural gas service to establish, **and recover costs for,** energy waste reduction programs; **to ensure that any energy cost savings from renewable energy, clean energy, and energy waste reduction programs are ultimately returned to customers;** to authorize the use of certain energy systems to meet the requirements of those programs; to provide for the approval of energy waste reduction service companies; to reduce energy waste 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 customer generation and net metering programs and the responsibilities of certain providers of electric service and customers with respect to customer generation and 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 residential energy improvement programs by providers of electric or natural gas service; and to provide for civil sanctions, remedies, and penalties.

Sec. 1. (1) This act ~~shall be known and~~ may be cited as the "clean and renewable energy and energy waste reduction act".

(2) The purpose of this act is to promote the development and use of clean and renewable energy resources and the reduction of energy waste through programs 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 waste reduction.

(d) Coordinate with federal regulations to 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.~~

~~(3) As a goal, not less than 35% of this state's electric needs should be met through a combination of energy waste reduction and renewable energy by 2025, if the investments in energy waste reduction and renewable energy are the most reasonable means of meeting an electric utility's energy and capacity needs relative to other resource options. Both of the following count toward achievement of the goal:~~

~~(a) All renewable energy, including renewable energy credits purchased or otherwise acquired with or without the associated renewable energy, and any banked renewable energy credits, that counted toward the renewable energy standard on the effective date of the 2016 amendatory act that added this subsection, as well as renewable energy credits granted as a result of any investments made in renewable energy by the utility or a utility customer after that effective date.~~

~~(b) The sum of the annual electricity savings since October 6, 2008, as recognized by the commission through annual reconciliation proceedings, that resulted from energy waste reduction measures implemented under an energy optimization plan or energy waste reduction plan approved under section 73.~~

(e) Provide more reliable and resilient energy supplies during periods of extreme weather.

(3) Pursuant to the reconciliation processes provided for in this act, the commission shall determine the costs and savings resulting from compliance with the renewable energy, clean energy, and energy waste reduction programs required under this act and include those costs and savings in the determination of the rates charged to customers of the electric and natural gas providers. This section does not prohibit the commission from authorizing shared savings or incentive programs as provided for in this act.

Sec. 3. As used in this act:

(a) "Applicable regional transmission organization" means a nonprofit, member-based organization governed by an independent board of directors that serves as the regional transmission organization approved by the Federal Energy Regulatory Commission with oversight responsibility for the region that includes the provider's service territory.

(b) "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.

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

(d) "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.

~~(e) "Cogeneration facility" means a facility that produces both electricity and useful thermal energy, such as heat or steam, in a way that is more efficient than the separate production of those forms of energy.~~

(e) "Carbon capture and storage" means a process that involves collecting carbon dioxide at its source and storing, or sequestering, it to prevent its release into the atmosphere.

(f) "Clean energy" means electricity or steam generated using a clean energy system.

(g) "Clean energy plan" means an electric provider's plan to meet the clean energy standard approved under section 51.

(h) "Clean energy portfolio" means the percentage of an electric provider's total retail electric sales consisting of clean energy or renewable energy.

(i) "Clean energy standard" means the clean energy portfolio required under section 51(1).

(j) "Clean energy system" means an electricity generation facility or system or set of electricity generation systems that meets any of the following requirements:

(*i*) Generates electricity or steam without emitting greenhouse gas, including nuclear generation.

(*ii*) Is fueled by natural gas and uses carbon capture and storage that is at least 90% effective in capturing and permanently storing carbon dioxide. If the department of environment, Great Lakes, and energy determines, through a facility-specific major source permitting analysis consistent with applicable United States Environmental Protection Agency rules, that a capture rate higher than 90% meets the best available control technology standard, as applicable, that higher percentage shall be used instead of 90% for facilities permitted after the effective date of the amendatory act that added section 51. Using carbon dioxide for enhanced oil recovery is not considered to be permanent storage for the purposes of this subparagraph.

(*iii*) Is defined as a clean energy system in rules adopted by the commission consistent with the purposes of this subdivision.

(k) ~~(f)~~ "Commission" means the Michigan public service commission.

(*l*) ~~(g)~~ "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.

(m) "Distributed generation" means the generation of electricity under the distributed generation program.

(n) ~~(h)~~ "Distributed generation program" means the program established by the commission under section 173.

Sec. 5. As used in this act:

(a) "Electric provider" 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.

(*iii*) A cooperative electric utility in this state.

(*iv*) Except as used in subpart C 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 **110% of** 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.~~**reasonably anticipated electricity consumption for the next 12 months.**

(c) "Energy conservation" means the reduction of customer energy use through the installation of measures or changes in energy usage behavior.

(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, educate consumers about the benefits of energy efficiency, and help promote energy efficiency in buildings by benchmarking and rating energy performance.

(f) "Energy storage system" means any technology that is capable of absorbing energy, storing the energy for a period of time, and redelivering the energy. Energy storage system does not include either of the following:

(*i*) Fossil fuel storage.

(*ii*) Power-to-gas storage that directly uses fossil fuel inputs.

(g) ~~(f)~~ "Energy waste reduction", subject to subdivision ~~(g),~~ **(h)**, means all of the following:

(*i*) Energy efficiency.

(*ii*) Load management, to the extent that the load management reduces provider costs.

(*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 waste reduction plan.

(h) ~~(g)~~ Energy waste reduction does not include electric provider infrastructure projects that are approved for cost

recovery by the commission other than as provided in this act.

(i) ~~(h)~~ "Energy waste reduction credit" means a credit certified pursuant to section 87 that represents achieved energy waste reduction.

(j) ~~(i)~~ "Energy waste reduction plan" means a plan under section 71.

(k) ~~(j)~~ "Energy waste reduction standard" means the minimum energy savings required to be achieved under section 77 or 78(1), as applicable.

(*l*) ~~(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 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, using a thermochemical process that does not involve direct combustion, produces 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.~~

(a) "Greenhouse gas" means carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, or sulfur hexafluoride.

(b) "Grid reliability" means the ability of the bulk power system, as defined by the regional transmission organization, to withstand sudden, unexpected disturbances, such as short circuits or unanticipated loss of system elements because of natural causes.

(c) ~~(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.

(d) ~~(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) "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.~~

~~(e) "Integrated pyrolysis combined cycle facility" means a pyrolysis facility that uses exhaust heat to generate electricity.~~

(e) ~~(f)~~ "LEED" means the leadership in energy and environmental design green building rating system developed by the United States Green Building Council.

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

(g) "Long-duration energy storage system" means an energy storage system capable of continuously discharging electricity at its full rated capacity for more than 10 hours.

(h) "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.

(i) "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).~~ **177(2).** Under modified net metering, standby charges for distributed generation 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 under modified net metering for distributed generation customers on demand-based rate schedules that provide an equivalent contribution to utility system costs. A charge for net metering and distributed generation customers established pursuant to section 6a of 1939 PA 3, MCL 460.6a, shall not be recovered more than once. ~~This subdivision is subject to section 177(5).~~

(j) "Multiday energy storage system" means an energy storage system capable of continuously discharging electricity at its full rated capacity for more than 24 hours.

Sec. 9. As used in this act:

(a) "Natural gas provider" means an investor-owned business engaged in the sale and distribution at retail of natural gas within this state whose rates are regulated by the commission.

(b) "Pet coke" means a solid carbonaceous residue produced from a coker after cracking and distillation from petroleum refining operations.

~~(c) "Plasma arc gasification facility" means a gasification facility that uses a plasma torch to break substances down into~~

~~their molecular structures.~~

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

(d) ~~(e)~~ "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.~~

Sec. 11. As used in this act:

(a) "Renewable energy" means electricity or steam generated using a renewable energy system.

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

(c) "Renewable energy credit" means a credit granted under a certification and tracking program established under section 41, which represents generated renewable energy.

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

(e) "Renewable energy credit standard" means a minimum renewable energy credit portfolio required under section 28 or

former section 27.

(f) "Renewable energy plan" or "plan" means a plan approved under section 22 or former section 21 or 23 or found to comply with this act under former section 25, with any amendments adopted under this act.

(g) "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, **industrial waste**, **tires**, **tire-derived fuel**, 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, **as described in any of the following:**

(A) Landfill gas as described in subparagraph (*vii*).

(B) Gas from a methane digester using only feedstock as described in subparagraph (*viii*).

(C) Biomass used by renewable energy systems that are in commercial operation on the effective date of the amendatory act that added section 51.

(*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*) ~~Any of the following cleaner energy resources:~~**Landfill gas produced from solid waste facilities.**

(*viii*) ~~(A) Municipal solid waste, including the biogenic and anthropogenic factions.~~**Any of the following if used as feedstock in a methane digester:**

(A) Municipal wastewater treatment sludge, wastewater, and sewage.

(B) ~~Landfill gas produced by municipal solid waste.~~**Food waste and food production and processing 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 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 nonwaste 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 subparagraph.~~**Animal manure.**

(h) "Renewable energy standard" means the minimum renewable energy capacity portfolio, if applicable, and the renewable energy credit portfolio required to be achieved under section 28 or former section 27.

(i) "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 **includes the following:**

(*i*) A landfill gas recovery and electricity generation facility located in a landfill whose operator employs best practices for methane gas collection and control and emissions monitoring, as

determined by the department of environment, Great Lakes, and energy.

(*ii*) A methane digester, if it processes only 1 or more of the following:

(A) Municipal wastewater treatment sludge, wastewater, or sewage.

(B) Food waste or food production and processing waste.

(C) Animal manure.

(j) 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 October 6, 2008 unless the dam is a repair or replacement of a dam in existence on October 6, 2008 or an upgrade of a dam in existence on October 6, 2008 that increases its energy efficiency.

(*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 generating power before January 1, 2023.**

(*iv*) A gasification facility.

(*v*) A facility that cofires biomass with tires or tire-derived fuel.

(k) "Resource adequacy" describes having sufficient resources to provide customers with a continuous supply of electricity at the proper voltage and frequency, virtually always and across a range of reasonably foreseeable conditions.

(*l*) ~~(j)~~ "Revenue recovery mechanism" means the mechanism for recovery of incremental costs of compliance provided for under section 22.

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 is 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). This subdivision is subject to section 177(5).~~

(c) ~~(d)~~ "Utility system resource cost test" means a standard that is met for an investment in energy waste reduction 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 waste reduction 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 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.

PART 2

ENERGY STANDARDS

SUBPART A

RENEWABLE **AND CLEAN** ENERGY

Sec. 22. (1) Renewable energy plans and associated revenue recovery mechanisms filed by an electric provider, approved under former section 21 or 23 or found to comply with this act under former section 25 and in effect on ~~the effective date of the 2016 amendatory act that added this section,~~ **the effective date of the amendatory act that added section 51**, remain in effect, subject to amendments ~~as provided for under subsections (3) and (4).~~**under subsection (3) or (4).**

(2) For an electric provider whose rates are regulated by the commission, amended renewable energy plans 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.~~ **be consistent with the production allocation approved in the provider's most recent general rate case under section 6a of 1939 PA 3, MCL 460.6a.** The revenue recovery mechanism is subject to adjustment ~~under sections 47(4) and 49.~~**in amended renewable energy plans under subsection (3) or (4) or as provided in section 49.**

(3) Within 1 year after the effective date of the ~~2016~~ amendatory act that added ~~this section, the commission shall review each electric provider's plan~~ **section 51, and within 2 years after the commission issues an order approving the electric provider's**

last amended renewable energy plan, an electric provider shall file an amended renewable energy plan that includes a forecast of the renewable energy resources needed to comply with the renewable energy credit standard pursuant to a filing schedule established by the commission. For an electric provider whose rates are regulated by the commission, the commission shall conduct a contested case hearing on the **amended renewable energy** plan pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. After the hearing **and within 300 days after the date on which the amended renewable energy plan was filed**, the commission shall approve, with any changes consented to by the electric provider, or reject the **amended renewable energy** plan. ~~and any amendments to the plan.~~ For all other electric providers, the commission shall provide an opportunity for public comment on the **amended renewable energy** plan. After the applicable opportunity for public comment, the commission shall determine whether any amendment to the **renewable energy** plan proposed by the provider complies with this act. For alternative electric suppliers, the commission shall approve, with any changes consented to by the electric provider, or reject any proposed amendments to the **renewable energy** plan. For cooperative electric utilities and municipally owned utilities, the proposed amendment is adopted if the commission determines that it complies with this act.

(4) If an electric provider proposes to amend its **renewable energy** plan ~~after the~~ **at a time other than a scheduled** review process under subsection (3), the electric provider shall file the proposed amendment with the commission. For an electric provider whose rates are regulated by 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. 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 **renewable energy** plan. For all other electric providers, the commission shall provide an opportunity for public comment on the amendment. After the applicable opportunity for public comment and within ~~90~~ **300** days after the amendment is filed, the commission shall determine whether the proposed amendment to the **renewable energy** plan complies with this act. For alternative electric suppliers, the commission shall approve, with any changes consented to by the electric provider, or reject any proposed amendments to the **renewable energy** plan. For cooperative electric utilities and municipally owned utilities, the proposed amendment is adopted if the commission determines that it complies with this act.

(5) For an electric provider whose rates are regulated by the commission, the commission shall approve ~~the plan or~~ amendments to the **renewable energy** plan if the commission determines **both of the following**:

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

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

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

commission, the commission shall review the projected costs of the renewable energy plan and approve, in whole or in part, the projected costs if the commission finds those projected costs, in whole or in part, to be reasonable and prudent. In making this determination, the commission shall consider whether projected costs in prior renewable energy plans were exceeded.

(7) ~~(6)~~ If the commission rejects a proposed **renewable energy** plan, ~~or~~ **an** amendment, **or projected costs** under this section, the commission shall explain in writing the reasons for its determination.

Sec. 28. (1) An electric provider shall achieve a renewable energy credit portfolio ~~as follows:~~**of at least the following:**

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

~~(b) In 2019 and 2020, a renewable energy credit portfolio of at least 12.5%, as calculated under subsection (2).~~

~~(c) In 2021,a renewable energy credit portfolio of at least 15%, as calculated under subsection (2).~~

(a) Through 2027, 15%.

(b) In 2030 through 2034, 50%.

(c) In 2035 and each year thereafter, 60%.

(2) 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, **less the amount of sales attributable to customers participating in an electric provider's voluntary green pricing program under section 61 and the outflow from customers participating in the distributed generation program under section 173 for that year.**

(*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, **less the amount of sales attributable to customers participating in an electric provider's voluntary green pricing program under section 61 and the outflow from customers participating in the distributed generation program under section 173 for that year.**

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

(3) Notwithstanding subsection (1) and subject to subsection (4), in any year a cooperative electric provider or a multistate electric provider may calculate its maximum renewable energy credit portfolio requirement as follows:

(a) Determine the number of megawatt hours of electricity sold by the electric provider to retail customers in this state using the option the electric provider selected under subsection (2)(b).

(b) Subtract the number of megawatt hours of nuclear energy that the electric provider obtained from a system located in this state that the electric provider owned or from which the electric provider had contracted to receive nuclear energy on or before January 1, 2024.

(4) An electric provider described in subsection (3) is required to achieve a renewable energy credit portfolio equal only to the electric provider's maximum renewable energy credit

portfolio requirement if the electric provider's maximum renewable energy credit portfolio requirement is less than the number of renewable energy credits required to comply with the applicable standard in subsection (1). If the electric provider is a multistate electric provider, and the electric provider's maximum renewable energy credit portfolio requirement is less than the number of renewable energy credits required to comply with the applicable standard in subsection (1), then the electric provider is required to achieve a renewable energy credit portfolio equal only to the electric provider's maximum renewable energy credit portfolio requirement if all of the following requirements are met:

(a) The electric provider's electricity generation systems located within this state produce energy exceeding the electric provider's electricity sales in this state.

(b) All of the electric provider's electricity generation systems located within this state are clean energy systems.

(c) All of the renewable energy credits generated in this state are used by the electric provider toward compliance with the renewable energy credit portfolio as prescribed in subsection (2).

(d) Renewable energy and clean energy generated in this state equal to or exceeding the provider's electricity sales in this state are not used by the provider or any other provider to comply with any similar standards.

(5) ~~(3) Subject to subsection (5), each~~ **Each** electric provider shall meet the renewable energy credit standards, **subject to subsection (3)** with renewable energy credits obtained by ~~1 or more~~ **any** 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.~~**and capacity.**

(c) Purchasing or otherwise acquiring renewable energy credits without the associated renewable energy or capacity. Renewable energy credits acquired pursuant to this subdivision shall be produced within the territory of the regional transmission organization of which the electric provider is a member, shall not exceed 5% of an electric provider's renewable energy credits annually used to comply with the renewable energy standard, and may not be used to comply with the renewable energy standard after 2035. Renewable energy credits purchased under this subdivision are not subject to the requirements of section 29.

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

(7) ~~(5)~~ An electric provider **that has achieved annual incremental energy savings of greater than 2% under an energy waste reduction plan approved under section 73** may substitute energy waste reduction credits for renewable energy credits otherwise required to meet the renewable energy credit standards if the substitution is approved by the commission. Under this subsection, energy waste reduction credits shall not be used by a provider to

meet more than 10% of the renewable energy credit standard. One renewable energy credit shall be awarded per 1 energy waste reduction credit.

(8) If an electric provider whose rates are regulated by the commission enters into a purchase power agreement for renewable energy resources or a third-party contract for an energy storage system or clean energy system with an entity that is not an affiliate, the commission shall authorize an annual financial incentive for the electric provider. The financial incentive shall be calculated as the product of contract payments in that year multiplied by the electric provider's pre-tax weighted average cost of permanent capital comprised of long-term debt obligations and equity of the electric provider's total capital structure as determined by the commission's final order in the electric provider's most recent general rate case. The pre-tax weighted average cost of permanent capital used to calculate the financial incentive shall not be fixed throughout the entire term of the contract at the pre-tax weighted average cost of capital applicable in the first year but shall be updated based on the commission's final order in each succeeding general rate case for the electric provider. The financial incentive shall apply to each contract described in this section from the date the commission approves the contract for the entire term of the contract. This section applies to all contracts entered into after the effective date of the amendatory act that added this subsection to implement amended renewable energy plans or amended integrated resource plans under section 6t of 1939 PA 3, MCL 460.6t.

(9) As used in this section, "cooperative electric provider" means an entity that is a member of or that purchases energy from

an entity that is either of the following:

(a) Organized as a cooperative corporation under sections 98 to 109 of 1931 PA 327, MCL 450.98 to 450.109.

(b) A cooperative corporation in the business of generating or transmitting electricity

Sec. 29. (1) Subject to ~~subsection (2),~~ **subsections (2) to (4),** a renewable energy system that is the source of renewable energy credits used to satisfy the renewable energy standards shall be ~~either~~ located ~~outside~~ **as described in either of the following:**

(a) Anywhere in this state.

(b) Outside of this state**, but only if the electric provider includes the capacity from the renewable energy system toward meeting its resource adequacy obligations to the applicable regional transmission organization.** ~~in the retail electric customer service territory of any provider that is not an alternative electric supplier or located anywhere in this state. For the purposes of this subsection, a retail electric customer service territory shall be considered to be the territory recognized by the commission on January 1, 2008 and any expansion of retail electric customer service territory recognized by the commission after January 1, 2008 under 1939 PA 3, MCL 460.1 to 460.11. The commission may also expand a service territory for the purposes of this subsection if a lack of transmission lines limits the ability to obtain sufficient renewable energy from renewable energy systems that meet the location requirement of this subsection.~~

~~(2) The renewable energy system location requirements in subsection (1) do not apply if 1 or more of the following requirements are met:~~

~~(a) The renewable energy system is a wind energy conversion~~

~~system and the electricity generated by the wind energy system, or the renewable energy credits associated with that electricity, is being purchased under a contract in effect on January 1, 2008. If the electricity and associated renewable energy credits purchased under such a contract are used by an electric provider to meet renewable energy requirements established after January 1, 2008 by the legislature of the state in which the wind energy conversion system is located, the electric provider may, for the purpose of meeting the renewable energy credit standard under this act, obtain, by any means authorized under section 28, up to the same number of replacement renewable energy credits from any other wind energy conversion systems located in that state. This subdivision shall not be utilized by an alternative electric supplier unless the alternative electric supplier was licensed in this state on January 1, 2008. Renewable energy credits from a renewable energy system under a contract with an alternative electric supplier under this subdivision shall not be used by another electric provider to meet its requirements under this part.~~

~~(b) The renewable energy system is a wind energy conversion system that was under construction or operational and owned by an electric provider on January 1, 2008. This subdivision shall not be utilized by an alternative electric supplier.~~

~~(c) The renewable energy system is a wind energy conversion system that includes multiple wind turbines, at least 1 of the wind turbines meets the location requirements of this section, and the remaining wind turbines are within 15 miles of a wind turbine that is part of that wind energy conversion system and that meets the location requirements of this section.~~

~~(d) Before January 1, 2008, an electric provider serving not~~

~~more than 75,000 retail electric customers in this state filed an application for a certificate of authority for the renewable energy system with a state regulatory commission in another state that is also served by the electric provider. However, renewable energy credits shall not be granted under this subdivision for electricity generated using more than 10.0 megawatts of nameplate capacity of the renewable energy system.~~

~~(e) Electricity~~

(2) Subsection (1) does not require an electric provider to procure firm transmission rights to ensure deliverability to the resource adequacy zone where the load is served

(3) Subsection (1) does not apply if electricity generated from the renewable energy system is sold by a not-for-profit entity located in Indiana, Ohio, or Wisconsin to a municipally-owned electric utility in this state or cooperative electric utility in this state, and the electricity is not being used to meet another state's standard for renewable energy.

~~(f) All of the following requirements are met:~~

~~(*i*) The renewable energy system is a wind energy system, is interconnected to the electric provider's transmission system, and is located in a state in which the electric provider has service territory.~~

~~(*ii*) The electric provider competitively bid any contract for engineering, procurement, or construction of the renewable energy system, if the electric provider owns the renewable energy system, or for purchase of the renewable energy and associated renewable energy credits from the renewable energy system, if the provider does not own the renewable energy system, in a process open to renewable energy systems sited in this state.~~

~~(*iii*) The renewable energy credits from the renewable energy system are only used by that electric provider to meet the renewable energy standard.~~

~~(*iv*) The electric provider is not an alternative electric supplier.~~

(4) Renewable energy credits produced in the continental United States and owned by a commercial or industrial electric customer of an electric provider may be utilized by the electric provider to meet the renewable energy credit standards if the customer chooses to report renewable energy credits to its electric provider as attributable to the customer's electric load. If the electric provider's rates are regulated by the commission and the electric provider uses the reported renewable energy credits to comply with the renewable energy credit portfolio standard, the electric provider shall grant the customer an appropriate cost-based rate credit against the cost of compliance under section 47.

Sec. 32. (1) Upon petition by an electric provider, the commission may, upon a showing of good cause, grant an extension of a renewable energy credit portfolio deadline under section 28. Each extension shall not exceed 2 years. An extension of a deadline does not affect a subsequent deadline.

(2) In a petition under subsection (1), an electric provider must include a plan for resolving the barrier to compliance and must make a showing of good cause by demonstrating any of the following:

(a) Despite all commercially reasonable efforts by the electric provider to comply with the deadline, compliance is not practically feasible for reasons that may include, but are not limited to, zoning, siting, permitting, supply chains, transmission

interconnection, labor shortages, delays in project deliverability from developers, or unanticipated load growth. Issuing a request for proposals to purchase renewable energy and not receiving a commercially viable offer creates a rebuttable presumption that compliance with the deadline is not practically feasible.

(b) Compliance would be excessively costly to customers despite commercially reasonable efforts by the electric provider to contain costs.

(c) Compliance would result in a deficiency in meeting resource adequacy requirements in the electric provider's service territory.

(d) Compliance would result in a local reliability issue determined by the applicable regional transmission organization methodology and procedures and would require a generator to remain running.

(3) Upon granting an additional extension for a particular renewable energy credit portfolio deadline beyond the first 2 extensions, the commission shall notify the speaker of the house, the majority leader of the senate, and the chairpersons of the committees of the legislature having jurisdiction over energy issues that it has granted an additional extension to the electric provider and the reasons for the extension.

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 the renewable attributes of which are used by an electric provider in a commission-approved voluntary renewable energy program.

(2) 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 generated by a renewable energy system that was approved in a renewable energy plan before ~~the effective date of the 2016 amendatory act that amended this section.~~**April 20, 2017.**

(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~~ **an energy storage system** 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~~ **energy storage system** or fill the pumped storage facility, not the number of megawatt hours actually discharged or generated by discharge from the ~~advanced energy storage facility~~ **energy storage system** 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 standard.

(b) When substituted for an energy waste reduction credit under section 77.

~~(c) When used by an electric provider whose rates are regulated by the commission to contribute to achievement of the goal under section 1(3).~~

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

Sec. 45. (1) For an electric provider whose rates are regulated by the commission, the commission shall determine ~~the appropriate charges~~ **a revenue recovery mechanism, subject to section 47,** 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. 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.~~**to implement the amended renewable energy plan.**

(2) An electric provider's incremental cost of compliance shall be recovered through a revenue recovery mechanism that is designed consistent with the production allocation approved in the provider's most recent general rate case under section 6a of 1939 PA 3, MCL 460.6a. An electric provider may propose a mechanism in an amended renewable energy plan to include all or a portion of the electric provider's incremental cost of compliance in base rates. If an electric provider proposes to include all or a portion of the incremental cost of compliance in base rates, the commission shall review and approve, approve with modifications, or deny the mechanism proposed by the electric provider.

(3) ~~(4)~~ The incremental cost of compliance shall be calculated for ~~a 20-year period beginning with approval of the renewable energy plan and shall~~ **the period required to demonstrate compliance with the renewable energy credit standard and may** be recovered on a

levelized basis.

Sec. 47. (1) ~~Subject to the retail rate impact limits under section 45, the~~ **The** commission shall consider all actual costs reasonably and prudently incurred in good faith to implement ~~a commission-approved~~ **an amended** renewable energy plan by an electric provider whose rates are regulated by the commission to be a cost of service to be recovered by the electric provider. ~~Subject to the retail rate impact limits under section 45, an~~ **An** electric provider whose rates are regulated by the commission shall recover through its retail electric rates all of the electric provider's incremental costs of compliance ~~during the 20-year period~~ beginning when the electric provider's **amended renewable energy** plan is approved by the commission. ~~and all reasonable and prudent ongoing costs of compliance during and after that period.~~ The recovery shall include, but is not limited to, the electric provider's authorized rate of return on equity for costs approved under this section. ~~, which shall remain fixed at the rate of return and debt to equity ratio that was in effect in the electric provider's base rates when the electric provider's renewable energy plan was approved.~~**The authorized rate of return on equity for costs of any renewable energy system approved through the electric provider's amended renewable energy plan to comply with the renewable energy standard in effect before the effective date of the amendatory act that added section 51 shall remain fixed at the rate of return and debt-to-equity ratio that was in effect when the electric provider's amended renewable energy plan that first included the renewable energy system was approved by the commission.**

(2) Incremental costs of compliance shall be calculated as follows:

(a) Determine the sum of the following costs to the extent those costs are reasonable and prudent and not already approved for recovery in electric rates as of October 6, 2008:

(*i*) Capital, operating, and maintenance costs of renewable energy systems, ~~or advanced cleaner energy systems,~~ including property taxes, insurance, and return on equity associated with an electric provider's renewable energy systems, ~~or advanced cleaner energy systems,~~ including the electric provider's renewable energy portfolio established to achieve compliance with the renewable energy standards and any additional renewable energy systems ~~or advanced cleaner energy systems~~ that are built or acquired by the electric provider to maintain compliance with the renewable energy standards. ~~during the 20-year period beginning when the electric provider's plan is approved by the commission.~~

(*ii*) Financing costs attributable to capital, operating, and maintenance costs of capital facilities associated with renewable energy systems ~~or advanced cleaner energy systems~~ used to meet the renewable energy standard.

(*iii*) Costs that are not otherwise recoverable in rates approved by the Federal Energy Regulatory Commission and that are related to the infrastructure required to bring renewable energy systems ~~or advanced cleaner energy systems~~ used to achieve compliance with the renewable energy standards on to the transmission system, including interconnection and substation costs for renewable energy systems ~~or advanced cleaner energy systems~~ used to meet the renewable energy standard.

(*iv*) Ancillary service costs determined by the commission to be necessarily incurred to ensure the quality and reliability of renewable energy ~~or advanced cleaner energy~~ used to meet the

renewable energy standards, regardless of the ownership of a renewable energy system. ~~or advanced cleaner energy technology.~~

(*v*) Except to the extent the costs are allocated under a different subparagraph, all of the following:

(A) The costs of renewable energy credits purchased under this act.

(B) The costs of contracts described in former section 33(1).

(C) The financial compensation mechanism for all renewable energy contracts established under section 28(8).

(*vi*) Expenses incurred as a result of state or federal governmental actions related to renewable energy systems ~~or advanced cleaner energy systems~~ attributable to the renewable energy standards, including changes in tax or other law.

(*vii*) Any additional electric provider costs determined by the commission to be necessarily incurred to ensure the quality and reliability of renewable energy ~~or advanced cleaner energy~~ used to meet the renewable energy standards.

(b) Subtract from the sum of costs not already included in electric rates determined under subdivision (a) the sum of the following revenues:

(*i*) Revenue derived from the sale of environmental attributes associated with the generation of renewable energy ~~or advanced cleaner energy systems~~ attributable to the renewable energy standards. Such revenue shall not be considered in determining power supply cost recovery factors under section 6j of 1939 PA 3, MCL 460.6j.

(*ii*) Interest on regulatory liabilities.

(*iii*) Tax credits specifically designed to promote renewable energy. ~~or advanced cleaner energy.~~

(*iv*) Revenue derived from the provision of renewable energy ~~or advanced cleaner energy~~ to retail electric customers subject to a power supply cost recovery clause under section 6j of 1939 PA 3, MCL 460.6j, of an electric provider whose rates are regulated by the commission. After providing an opportunity for a contested case hearing for an electric provider whose rates are regulated by the commission, the commission shall annually establish a price per megawatt hour. An electric provider whose rates are regulated by the commission may at any time petition the commission to revise the price. In setting the price per megawatt hour under this subparagraph, the commission shall consider factors, including, but not limited to, projected capacity, energy, maintenance, and operating costs; information filed under section 6j of 1939 PA 3, MCL 460.6j; and information from wholesale markets, including, but not limited to, locational marginal pricing. This price shall be multiplied by the sum of the number of megawatt hours of renewable energy ~~and the number of megawatt hours of advanced cleaner energy~~ used to maintain compliance with the renewable energy standard. The product shall be considered a booked cost of purchased and net interchanged power transactions under section 6j of 1939 PA 3, MCL 460.6j. For energy purchased by such an electric provider under a renewable energy contract, ~~or advanced cleaner energy contract,~~ the price shall be the lower of the amount established by the commission or the actual price paid and shall be multiplied by the number of megawatt hours of renewable energy ~~or advanced cleaner energy~~ purchased. The resulting value shall be considered a booked cost of purchased and net interchanged power under section 6j of 1939 PA 3, MCL 460.6j.

(*v*) Revenue from wholesale renewable energy sales. ~~and~~

~~advanced cleaner energy sales.~~ Such revenue shall not be considered in determining power supply cost recovery factors under section 6j of 1939 PA 3, MCL 460.6j.

(*vi*) Any additional electric provider revenue considered by the commission to be attributable to the renewable energy standards.

(*vii*) Any revenues recovered in rates for renewable energy costs that are included under subdivision (a).

(3) The commission shall authorize an electric provider whose rates are regulated by the commission to spend in any given month more to comply with this act and implement an ~~approved~~ **amended** renewable energy plan than the revenue actually generated by the revenue recovery mechanism. An electric provider whose rates are regulated by the commission shall recover its commission approved pre-tax rate of return on regulatory assets during the appropriate period. An electric provider whose rates are regulated by the commission shall record interest on regulatory liabilities at the average short-term borrowing rate available to the electric provider during the appropriate period. Any regulatory assets or liabilities resulting from the recovery of costs of renewable energy ~~or advanced cleaner energy~~ attributable to renewable energy standards through the power supply cost recovery clause under section 6j of 1939 PA 3, MCL 460.6j, shall continue to be reconciled under that section.

~~(4) If an electric provider's incremental costs of compliance in any given month during the 20-year period beginning when the electric provider's plan is approved by the commission are in excess of the revenue recovery mechanism as adjusted under section 49 and in excess of the balance of any accumulated reserve funds, subject to the minimum balance established under section 49, the~~

~~electric provider shall immediately notify the commission. The commission shall promptly commence a contested case hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, and modify the revenue recovery mechanism so that the minimum balance is restored. However, if the commission determines that recovery of the incremental costs of compliance would otherwise exceed the maximum retail rate impacts specified under section 45, it shall set the revenue recovery mechanism for that electric provider to correspond to the maximum retail rate impacts. Excess costs shall be accrued and deferred for recovery. Not later than the expiration of the 20-year period beginning when the electric provider's plan is approved by the commission, for an electric provider whose rates are regulated by the commission, the commission shall determine the amount of deferred costs to be recovered under the revenue recovery mechanism and the recovery period, which shall not extend more than 5 years beyond the expiration of the 20-year period beginning when the electric provider's plan is approved by the commission. The recovery of excess costs shall be proportional to the retail rate impact limits in section 45 for each customer class. The recovery of excess costs alone, or, if begun before the expiration of the 20-year period, in combination with the recovery of incremental costs of compliance under the revenue recovery mechanism, shall not exceed the retail rate impact limits of section 45 for each customer class.~~

~~(5) If, at the expiration of the 20-year period beginning when the electric provider's plan is approved by the commission, an electric provider whose rates are regulated by the commission has a regulatory liability, the refund to customer classes shall be proportional to the amounts paid by those customer classes under~~

~~the revenue recovery mechanism.~~

~~(6) After achieving compliance with the renewable energy standard for 2015, the actual costs reasonably and prudently incurred to continue to comply with this subpart both during and after the conclusion of the 20-year period beginning when the electric provider's plan is approved by the commission shall be considered costs of service. The commission shall determine a mechanism for an electric provider whose rates are regulated by the commission to recover these costs in its retail electric rates, subject to the retail rate impact limits in section 45. Remaining and future regulatory assets shall be recovered consistent with subsections (3) and (4) and section 49.~~

~~(7) As used in this section:~~

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

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

~~(*i*) A gasification facility.~~

~~(*ii*) A cogeneration facility.~~

~~(*iii*) A coal-fired electric generating facility if 85% or more of the carbon dioxide emissions are captured and permanently geologically sequestered or used for other commercial or industrial purposes that do not result in release of carbon dioxide to the atmosphere.~~

~~(*iv*) A hydroelectric pumped storage facility.~~

~~(*v*) An electric generating facility or system that uses technologies not in commercial operation on October 6, 2008 and that the commission determines has carbon dioxide emissions benefits or will significantly reduce other regulated air~~

~~emissions.~~

Sec. 49. (1) This section applies only to an electric provider whose rates are regulated by the commission **and that has recorded a regulatory asset or regulatory liability under this subpart for the last 12 months**. The commission shall commence an annual proceeding, to be known as a renewable cost reconciliation, for each electric provider whose rates are regulated by the commission. The renewable cost reconciliation proceeding shall be conducted as a contested case pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Reasonable discovery shall be permitted before and during the reconciliation proceeding to assist in obtaining evidence concerning reconciliation issues, including, but not limited to, the reasonableness and prudence of expenditures and the amounts collected pursuant to the revenue recovery mechanism.

(2) At the renewable cost reconciliation, an electric provider may propose any necessary modifications of the revenue recovery mechanism to ensure the electric provider's recovery of its incremental cost of compliance with the renewable energy standards.

(3) The commission shall reconcile the pertinent revenues recorded and the allowance for the nonvolumetric revenue recovery mechanism with the amounts actually expensed and projected according to the electric provider's **amended** renewable energy plan. The commission shall consider any issue regarding the reasonableness and prudence of expenses for which customers were charged in the relevant reconciliation period. In its order, the commission shall do all of the following:

(a) Make a determination of an electric provider's compliance with the renewable energy standards.

(b) Adjust the revenue recovery mechanism for the incremental

costs of compliance. ~~The commission shall ensure that the retail rate impacts under this renewable cost reconciliation revenue recovery mechanism do not exceed the maximum retail rate impacts specified under section 45. The commission shall ensure that the recovery mechanism is projected to maintain a minimum balance of accumulated reserve so that a regulatory asset does not accrue.~~**Any regulatory asset or regulatory liability accrued during the reconciliation period shall be used to adjust the revenue recovery mechanism and reflected in the incremental cost of compliance for the following calendar year.**

(c) Establish the price per megawatt hour for renewable energy ~~and advanced cleaner energy~~ capacity and for renewable energy ~~and advanced cleaner energy~~ to be recovered through the power supply cost recovery clause under section 6j of 1939 PA 3, MCL 460.6j, as outlined in section 47(2)(b)(*iv*).

~~(d) Adjust, if needed, the minimum balance of accumulated reserve funds described in subdivision (b).~~

~~(4) If an electric provider has recorded a regulatory liability in any given month during the 20-year period beginning when the electric provider's renewable energy plan was approved by the commission, interest on the regulatory liability balance shall be accrued at the average short-term borrowing rate available to the electric provider during the appropriate period, and shall be used to fund incremental costs of compliance incurred in subsequent periods within the 20-year period beginning when the electric provider'splan was approved by the commission.~~

~~(5) As used in this section, "advanced cleaner energy" means that term as defined in section 47.~~

(4) In its order in a renewable energy cost reconciliation,

the commission shall require an electric provider to adjust the revenue recovery mechanism by any difference between the net amount determined to have been recovered and the net amount needed to recover the electric provider's incremental cost of compliance.

Sec. 51. (1) An electric provider shall achieve a clean energy portfolio of at least the following:

(a) In 2035 through 2039, 80%.

(b) In 2040 and each year thereafter, 100%.

(2) All of the following apply to an electric provider whose rates are regulated by the commission:

(a) The electric utility shall submit a plan to comply with the clean energy standard as part of that electric utility's integrated resource plans filed under section 6t of 1939 PA 3, MCL 460.6t. The costs of compliance with the clean energy standard are a cost of service and may be recovered as provided by 1939 PA 3, MCL 460.1 to 460.11.

(b) The commission may, upon a showing of good cause based on a factor listed in section 32(2), grant the electric utility an extension of a clean energy portfolio deadline under subsection (1). Each extension shall not exceed 2 years. An extension of a deadline does not affect a subsequent deadline. Upon granting an additional extension for a particular clean energy credit portfolio deadline beyond the first 2 extensions, the commission shall notify the speaker of the house, the majority leader of the senate, and the chairpersons of the committees of the legislature having jurisdiction over energy issues that it has granted an additional extension and the reasons for the extension.

(c) The electric provider may qualify for a financial incentive for a clean energy contract under section 28(8).

(3) All of the following apply to an alternative electric supplier or a cooperative electric utility that has elected to become member-regulated under the electric cooperative member-regulation act, 2008 PA 167, MCL 460.31 to 460.39:

(a) An electric provider described in this subsection shall file a proposed clean energy plan with the commission by January 1, 2028. The proposed clean energy plan shall meet all of the following requirements:

(*i*) Describe how the electric provider will meet the clean energy portfolio requirements of subsection (1).

(*ii*) Specify whether the number of megawatt hours of electricity used in the calculation of the clean energy 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.

(b) The commission shall provide an opportunity for public comment on the proposed clean energy plan filed under subdivision (a). After the opportunity for public comment and within 150 days after the proposed clean energy plan is filed with the commission, the commission shall approve, with any changes consented to by the electric provider, or reject the clean energy plan.

(c) Every 4 years after initial approval of a clean energy plan under subdivision (b), the commission shall review the clean energy plan. The commission shall provide an opportunity for public comment on the clean energy plan. After the opportunity for public comment, the commission shall approve, with any changes consented to by the electric provider described in this subsection, or reject

any proposed amendments to the clean energy plan.

(d) If an electric provider described in this subsection proposes to amend its clean energy plan at a time other than during the review process under subdivision (c), the electric provider shall file the proposed amendment with the commission. The commission shall provide an opportunity for public comment on the amendment. After the opportunity for public comment and within 150 days after the amendment is filed, the commission shall approve, with any changes consented to by the electric provider, or reject the amendment.

(e) If the commission rejects a proposed clean energy plan or amendment under this subsection, the commission shall explain in writing the reasons for its determination.

(f) The commission may, upon a showing of good cause based on a factor listed in section 32(2), grant an alternative electric supplier an extension of a clean energy portfolio deadline under subsection (1). Each extension shall not exceed 2 years. An extension of a deadline does not affect a subsequent deadline. Upon granting an additional extension for a particular clean energy credit portfolio deadline beyond the first 2 extensions, the commission shall notify the speaker of the house, the majority leader of the senate, and the chairpersons of the committees of the legislature having jurisdiction over energy issues that it has granted an additional extension and the reasons for the extension.

(g) The governing board of a cooperative electric utility may, upon a demonstration of good cause based on a factor listed in section 32(2), grant an extension of a clean energy portfolio deadline under subsection (1). Each extension shall not exceed 2 years. An extension of a deadline does not affect a subsequent

deadline. Upon granting an additional extension for a particular clean energy credit portfolio deadline beyond the first 2 extensions, the governing board of a cooperative electric utility shall notify the commission that it has granted an additional extension and the reasons for the extension.

(4) All of the following apply to a municipally owned electric utility:

(a) Each municipally owned electric utility shall file a proposed clean energy plan with the commission by July 1, 2028. Two or more municipally owned electric utilities that each serve fewer than 15,000 customers may file jointly. The proposed clean energy plan shall meet all of the following requirements:

(*i*) Describe how the municipally owned electric utility or a joint filing of a municipally owned electric utility will meet the clean energy requirement of subsection (1).

(*ii*) Specify whether the number of megawatt hours of electricity used in the calculation of the clean energy portfolio will be weather-normalized or based on the average number of megawatt hours of electricity sold by the municipally owned electric utility annually during the previous 3 years to retail customers in this state. Once the commission determines that the proposed plan complies with this act, this option shall not be changed.

(b) Subject to subdivision (e), the commission shall provide an opportunity for public comment on the proposed clean energy plan filed under subdivision (a). After the applicable opportunity for public comment and within 150 days after the proposed clean energy plan is filed with the commission, the commission shall determine whether the proposed clean energy plan complies with this act.

(c) Every 4 years after the commission initially determines under subdivision (b) that a clean energy plan complies with this act, the commission shall review the clean energy plan. Subject to subdivision (e), the commission shall provide an opportunity for public comment on the clean energy plan. After the opportunity for public comment, the commission shall determine whether any amendment to the clean energy plan proposed by the municipally owned electric utility complies with this act. The proposed amendment is adopted if the commission determines that it complies with this act.

(d) If a municipally owned electric utility proposes to amend its clean energy plan at a time other than during the review process under subdivision (c), the municipally owned electric utility shall file the proposed amendment with the commission. Subject to subdivision (e), the commission shall provide an opportunity for public comment on the amendment. After the applicable opportunity for public comment and within 150 days after the amendment is filed, the commission shall determine whether the proposed amendment to the clean energy plan complies with this act. The proposed amendment is adopted if the commission determines that it complies with this act.

(e) The commission need not provide an opportunity for public comment under subdivision (b), (c), or (d) if the governing body of the municipally owned electric utility has already provided an opportunity for public comment and filed the comments with the commission.

(f) If the commission determines that a proposed clean energy plan or amendment under this subsection does not comply with this act, the commission shall explain in writing the reasons for its

determination.

(g) The governing board of a municipally owned electric utility may, upon a demonstration of good cause based on a factor listed in section 32(2), grant an extension of a clean energy portfolio deadline under subsection (1). Each extension shall not exceed 2 years. An extension of a deadline does not affect a subsequent deadline. Upon granting an additional extension for a particular clean energy credit portfolio deadline beyond the first 2 extensions, the governing board of a municipally owned electric utility shall notify the commission that it has granted an additional extension and the reasons for the extension.

Sec. 53. The attorney general or any customer of a municipally owned electric utility or a cooperative electric utility that is member-regulated under the electric cooperative member-regulation act, 2008 PA 167, MCL 460.31 to 460.39, may commence a civil action for injunctive relief against that municipally owned electric utility or cooperative electric utility if the municipally owned electric utility or cooperative electric utility fails to meet the applicable requirements of this subpart or an order issued or rule promulgated under this subpart. The attorney general or customer shall commence an action under this section in the circuit court for the circuit in which the principal office of the municipally owned electric utility or cooperative electric utility is located. The attorney general or customer shall not file an action under this section unless the attorney general or customer has given the municipally owned electric utility or cooperative electric utility at least 60 days' written notice of the intent to sue, the basis for the suit, and the relief sought. Within 30 days after the municipally owned electric utility or cooperative electric utility

receives written notice of the intent to sue, the municipally owned electric utility or cooperative electric utility and the attorney general or customer shall meet and make a good-faith attempt to determine if there is a credible basis for the action. The municipally owned electric utility or cooperative electric utility shall take all reasonable and prudent steps necessary to comply with the applicable requirements of this subpart or an order issued or rule promulgated under this subpart within 90 days after the meeting if there is a credible basis for the action. If the parties do not agree as to whether there is a credible basis for the action, the attorney general or customer may proceed to file the suit. When making a determination of whether a credible basis for the action exists, the attorney general or customer shall consider the provisions of section 32(2).

Sec. 101. (1) By December 31, 2029, each electric provider whose rates are regulated by the commission and each alternative electric supplier shall submit a plan to the commission to construct or acquire eligible energy storage systems or enter into eligible energy storage contracts to meet its share of a statewide energy storage target of a combined capacity of at least 2,500 megawatts. An electric provider's share of the statewide energy storage target shall be apportioned based on the electric provider's annual average contribution to in-state retail electric load for the 5-year period immediately preceding the filing of the electric provider's plan under this subsection.

(2) An electric provider whose rates are regulated by the commission shall demonstrate compliance with its plan under subsection (1) as part of the electric provider's integrated resource plan filed under section 6t of 1939 PA 3, MCL 460.6t. An

alternative electric supplier shall demonstrate compliance with its plan under subsection (1) in the demonstration required under section 6w(8)(b) of 1939 PA 3, MCL 460.6w.

(3) An alternative electric supplier may contract with an electric provider whose rates are regulated by the commission to construct the eligible energy storage systems necessary to fulfil the alternative electric supplier's portion of the statewide energy storage target that is attributable to the alternative electric supplier's load within the service territory of the electric provider whose rates are regulated by the commission. An eligible energy storage contract under this subsection shall be filed with the commission.

(4) An electric provider whose rates are regulated by the commission shall submit to the commission for review and approval eligible energy storage contracts entered into to meet its share of the statewide storage target under subsection (1). If the commission approves an eligible energy storage contract, the commission shall authorize the electric provider to recover the costs of the contract in the electric provider's base rates. An electric provider whose rates are regulated by the commission shall conduct a competitive bidding process before entering an eligible energy storage contract to meet its share of the statewide target under subsection (1).

(5) An electric provider whose rates are regulated by the commission may qualify for a financial incentive under section 28(8) for an eligible energy storage contract.

(6) This act does not limit the amount of energy storage capacity an electric provider may procure.

(7) Within 1 year after the effective date of the amendatory

act that added this section, the commission shall complete a study on long-term energy storage systems and multiday energy storage systems.

(8) For purposes of this subsection, an energy storage system must have been placed in service on or after the effective date of the amendatory act that added this section.

(9) As used in this section:

(a) "Eligible energy storage contract" means a contract to construct, acquire, or use the services of an eligible energy storage system.

(b) "Eligible energy storage system" means an energy storage system that is located within the local resource zone or the locational deliverability area, as defined by the appropriate independent system operator or regional transmission organization, in which the electric provider is subject to capacity demonstration obligations pursuant to section 6w(8)(b) of 1939 PA 3, MCL 460.6w.

Sec. 103. By December 31, 2024, and each year thereafter, an electric provider whose rates are regulated by the commission shall submit a report to the commission documenting the centralized and distributed electricity storage systems in its service territory.

Sec. 173. (1) The commission shall establish a distributed generation program by order issued ~~not later than 90 days after the effective date of the 2016 act that amended this section.~~ **by July 19, 2017.** The commission may promulgate rules the commission considers necessary to implement this program. Any rules adopted regarding time limits for approval of parallel operation ~~shall~~ **must** recognize reliability and safety complications including those arising from equipment saturation, use of multiple technologies, and proximity to synchronous motor loads. The program ~~shall~~ **must**

apply to all electric utilities whose rates are regulated by the commission and alternative electric suppliers in this state.

(2) Except as otherwise provided under this part, an electric customer of any class is eligible to interconnect an eligible electric generator with the customer's local electric utility and operate the eligible electric generator in parallel with the distribution system. The program ~~shall be designed for a period of not less than 10 years and~~ **must** limit each customer to generation capacity designed to meet up to ~~100%~~ **110%** of the customer's **reasonably anticipated** electricity consumption for the ~~previous~~ **next** 12 months. The commission may waive the application, interconnection, and installation requirements of this part for customers participating in the net metering program under the commission's March 29, 2005 order in case no. U-14346.

(3) An electric utility or alternative electric supplier is not required to allow for a distributed generation program that is greater than ~~1%~~ **10%** of its average in-state peak load for the preceding 5 calendar years. The electric utility or alternative electric supplier shall notify the commission if its distributed generation program reaches the ~~1%~~ **10%** limit under this subsection. The ~~1%~~ **10%** limit under this subsection shall be allocated as follows:

(a) ~~No more~~ **Not less** than ~~0.5%~~ **50%** for customers with an eligible electric generator capable of generating 20 kilowatts or less.

(b) ~~No more than 0.25%~~ **Not more than 50%** for customers with an eligible electric generator capable of generating more than 20 kilowatts but not more than ~~150~~ **550** kilowatts.

~~(c) No more than 0.25% for customers with a methane digester~~

~~capable of generating more than 150 kilowatts.~~

(4) Selection of customers for participation in the distributed generation program ~~shall~~ **must** be based on the order in which the applications for participation in the program are received by the electric utility or alternative electric supplier.

(5) An electric utility or alternative electric supplier shall not discontinue or refuse to provide electric service to a customer solely because the customer participates in the distributed generation program. **An electric utility or alternative electric supplier shall not limit the rate schedule under which a customer is served solely because the customer participates in the distributed generation program.**

(6) The distributed generation program created under subsection (1) ~~shall~~ **must** include all of the following:

(a) Statewide uniform interconnection requirements for all eligible electric generators. The interconnection requirements ~~shall~~ **must** be designed to protect electric utility workers and equipment and the general public.

(b) Distributed generation equipment and its installation shall meet all current local and state electric and construction code requirements. Any equipment that is certified by a nationally recognized testing laboratory to IEEE ~~1547.1~~ **1547.1-2020** testing standards and in compliance with UL 1741 scope 1.1A ~~, effective May 7, 2007,~~ and installed in compliance with this part is considered to be compliant. **The commission may adopt successor requirements by promulgating rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, if the commission determines the successor requirements are reasonable and consistent with the purposes of this subdivision.** Within the time provided by the

commission in rules promulgated under subsection (1) and consistent with good utility practice, and the protection of electric utility workers, electric utility equipment, and the general public, an electric utility may study, confirm, and ensure that an eligible electric generator installation at the customer's site meets the IEEE ~~1547 anti-islanding~~ **1547.1-2020** requirements or any applicable successor ~~anti-islanding~~ requirements ~~determined~~ **adopted** by the commission. ~~to be reasonable and consistent with the purposes of this subdivision.~~ If necessary to promote reliability or safety, the commission may promulgate rules that require the use of inverters that perform specific automated grid-balancing functions to integrate distributed generation onto the electric grid. Inverters that interconnect distributed generation resources may be owned and operated by electric utilities. Both of the following must be completed before the equipment is operated in parallel with the distribution system of the utility:

(*i*) Utility testing and approval of the interconnection, including all metering.

(*ii*) Execution of a parallel operating agreement.

(c) A uniform application form and process to be used by all electric utilities and alternative electric suppliers in this state. Customers who are served by an alternative electric supplier shall submit a copy of the application to the electric utility for the customer's service area.

(d) Distributed generation customers ~~with a system capable of generating 20 kilowatts or less qualify for true net metering.~~

~~(e) Distributed generation customers with a system capable of generating more than 20 kilowatts qualify for modified net metering.~~**shall pay the retail rates for electricity inflow under**

the rate schedule under which the customer is served.

(7) Distributed generation customers shall receive a monthly bill credit for outflow as determined by the commission. Credits for outflow must reflect cost of service.

(8) ~~(7)~~ Each electric utility and alternative electric supplier shall maintain records of all applications and up-to-date records of all active eligible electric generators located within their service area.

Sec. 177. (1) ~~Electric meters shall~~ **An electric meter provided by a utility must** be used to determine the amount of the customer's ~~energy use~~ **inflow and outflow electricity** in each ~~billing~~ **pricing** period. ~~, net of any excess energy the customer's generator delivers to the utility distribution system during that same billing period. For a customer with a generation system capable of generating more than 20 kilowatts, the utility shall install and utilize a generation meter and a meter or meters capable of measuring the flow of energy in both directions. A customer with a system capable of generating more than 150 kilowatts shall pay the costs of installing any new meters.~~

~~(2) An electric utility serving over 1,000,000 customers in this state may provide its customers participating in the distributed generation program, at no additional charge, a meter or meters capable of measuring the flow of energy in both directions.~~

~~(3) An electric utility serving fewer than 1,000,000 customers in this state shall provide a meter or meters described in subsection (2) to customers participating in the distributed generation program at cost. Only the incremental cost above that for meters provided by the electric utility to similarly situated nongenerating customers shall be paid by the eligible customer.~~

~~(4) If the quantity of electricity generated and delivered to the utility distribution system by an eligible electric generator during a billing period exceeds the quantity of electricity supplied from the electric utility or alternative electric supplier during the billing period, the eligible~~ **Eligible customers shall pay only the incremental cost above that for meters provided by the electric utility to similarly situated, nongenerating customers.**

(2) A distributed generation customer shall be credited by ~~their~~ **the customer's** supplier of electric generation service for the ~~excess kilowatt hours generated~~ **outflow** during the billing period. The credit ~~shall~~ **must** appear on the bill for the following billing period and ~~shall~~ be limited to the total ~~power supply~~ charges on that bill. Any excess ~~kilowatt hours~~ **bill credits** not used to offset ~~electric generation~~ **inflow** charges in the next billing period will be carried forward to subsequent billing periods. ~~Notwithstanding any law or regulation, distributed generation customers shall not receive credits for electric utility transmission or distribution charges. The credit per kilowatt hour for kilowatt hours delivered into the utility's distribution system shall be either of the following:~~

~~(a) The monthly average real-time locational marginal price for energy at the commercial pricing node within the electric utility's distribution service territory, or for distributed generation customers on a time-based rate schedule, the monthly average real-time locational marginal price for energy at the commercial pricing node within the electric utility's distribution service territory during the time-of-use pricing period.~~

~~(b) The electric utility's or alternative electric supplier's power supply component, excluding transmission charges, of the full~~

~~retail rate during the billing period or time-of-use pricing period.~~

~~(5) A charge for net metering and distributed generation customers established pursuant to section 6a of 1939 PA 3, MCL 460.6a, shall not be reduced by any credit or other ratemaking mechanism for distributed generation under this section.~~

Sec. 191. (1) ~~Within 60 days after the effective date of this act, the commission shall issue a temporary order implementing this act, including, but not limited to, all of the following:~~

~~(a) Formats of renewable energy plans for various categories of electric providers.~~

~~(b) Guidelines for requests for proposals under this act.~~

~~(2) Within 1 year after the effective date of this act, the commission shall promulgate rules to~~ **Subject to subsection (2), to** implement this act, **the commission shall issue orders or promulgate rules** pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. ~~Upon promulgation of the rules, the order under subsection (1) is rescinded.~~

(2) By January 1, 2026, the commission shall issue an order providing formats and guidelines for an electric provider to submit a clean energy plan pursuant to section 51.

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