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BILL ANALYSIS

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Senate Fiscal Agency

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House Bill 4219

Sponsor: Representative James A. Kosteva

House Committee: Public Utilities

Senate Committee: Commerce and Technology

Date Completed: 3-14-89

SUMMARY OF HOUSE BILL 4219 as passed by the House:

The bill would amend the Public Service Commission Act to require public utilities to buy electricity from resource recovery facilities and to require in some circumstances that contracts between utilities and resource recovery facilities be granted automatically. The bill also would provide an informal procedure for resolving disputes between utilities and facilities. A resource recovery facility would be a facility that met all of the following requirements:

- Had machinery, equipment, and structures installed for the primary purpose of recovering energy through the incineration of landfill gas or qualified solid waste (i.e., solid waste that may be lawfully disposed of in a Type II land fill).
- Utilized at least 80% of its total annual fuel input in the form of qualified solid waste, or at least 90% of its total annual fuel input in the form of landfill gas.
- Was a qualifying facility under the Federal Public Utilities Regulatory Policies Act.

Power Purchase Agreements

The bill would require public utilities with more than 500,000 customers in Michigan to enter into power purchase agreements with resource recovery facilities that burn qualified solid waste, some of which would be generated under terms different from those prescribed for power purchases from qualifying facilities that are not resource recovery facilities. Capacity rates could not be less than a utility's full avoided costs (that is, the costs the utility avoids by buying the electricity from the resource recovery facility rather than building a new generating facility itself); energy rates would have to be equal to the utility's avoided energy cost. Capacity bought by a utility from a resource recovery facility could not be considered by the Commission in determining the amount of capacity that the utility had in reserve before January 1, 2000.

All such agreements would have to be reviewed by the Public Service Commission under contested case proceedings, though an agreement would be granted automatic approval if the Commission did not act within six months after the agreement was filed (or within six months of the effective date of the bill, whichever was later).

### Dispute Resolution

Disputes over provisions in an agreement, other than those related to rates, could be brought before the Commission by either a utility or a facility. Each party to the dispute would be required to submit to the Commission all of the purchase agreement provisions of its last best offer and a supporting brief. The Commission would have 60 days to select or reject the offers submitted by either party on any disputed provision.

### Exemptions

If the amount of energy purchased by a utility from a resource recovery facility reached 120 megawatts, the bill's provisions no longer would apply.

Proposed MCL 460.60

Legislative Analyst: L. Burghardt

### FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State and local government.

The bill would require the Michigan Public Service Commission to conduct an expedited review of power purchase agreements between utility companies and waste-to-energy incinerators. The number of reviews required, the cost of those reviews, and the additional cost of the expedited process (if any) cannot be determined.

The number of municipalities that would establish waste-to-energy incinerators cannot be determined. The amount of revenue these facilities would generate for the municipality would depend on whether the municipality paid a private developer a flat fee to run the facility or whether the municipality received a percentage of the profits.

Both State and local governments would receive additional tax revenues due to the creation of jobs, the increase in property tax base, and the generation of Single Business Tax revenues. The amount of these revenues and whether they would be higher than they would have been if the public utility had provided the additional power cannot be determined.

Note: The bill could cause utilities to increase their rates to consumers to absorb the cost of paying for the excess energy generated by the waste-to-energy incinerators if that cost were higher than the utility's current cost. Two recent PSC rate cases had the cost of a small coal-fired cogeneration facility at 3.99 cents per megawatt versus a waste-to-energy facility at 4.89 cents per megawatt, a difference of 22.6%. The bill would limit the amount of power to be purchased under its provisions to 120 megawatts, which would limit the effect of the higher costs on the overall rate.

Fiscal Analyst: J. Schultz

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.