

HOUSE BILL No. 6062

September 16, 1992, Introduced by Reps. Richard A. Young, Kosteva, Middaugh, Alley and Stallworth and referred to the Committee on Conservation, Recreation and Environment.

A bill to amend section 60 of Act No. 3 of the Public Acts of 1939, entitled as amended

"An act to provide for the regulation and control of public utilities and other services affected with a public interest within this state; to create a public service commission and to prescribe and define its powers and duties; to abolish the Michigan public utilities commission and to confer the powers and duties vested by law therein on the public service commission; to provide for the continuance, transfer, and completion of certain matters and proceedings; to abolish automatic adjustment clauses; to prohibit rate increases without notice and hearing; to qualify residential energy conservation programs permitted under state law for certain federal exemption; to provide for a restructuring of rates for certain utilities; to encourage the utilization of resource recovery facilities; to provide for appeals; to provide appropriations; to declare the effect of this act; to prescribe penalties; and to repeal all acts contrary to this act,"

as amended by Act No. 323 of the Public Acts of 1990, being section 460.60 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 60 of Act No. 3 of the Public Acts of
2 1939, as amended by Act No. 323 of the Public Acts of 1990, being

1 section 460.60 of the Michigan Compiled Laws, is amended to read
2 as follows:

3 Sec. 60. (1) As used in this section:

4 (a) "Resource recovery facility" means a facility that meets
5 all of the following requirements:

6 (i) Has machinery, equipment, and structures installed for
7 the primary purpose of recovering energy through the incineration
8 of qualified solid waste, landfill gas, or scrap tires.

9 (ii) Utilizes at least 80% of its total annual fuel input in
10 the form of qualified solid waste, at least 90% of its total
11 annual fuel input in the form of landfill gas, or 90% of its
12 total annual fuel input in the form of scrap tires, exclusive of
13 fuel used for normal start-up and shutdown.

14 (iii) Is a qualifying facility as defined by the federal
15 energy regulatory commission pursuant to the public utility regu-
16 latory policies act of 1978, Public Law 95-617, 92 Stat. 3117.

17 (b) "Qualified solid waste" means solid waste that may be
18 lawfully disposed of in a type II landfill as defined by
19 R 299.4105 of the Michigan administrative code, and ~~which~~ THAT
20 is generated within this state.

21 (c) "Scrap tire", "scrap tire hauler", and "scrap tire
22 processor" mean those terms as ~~they are~~ defined in the scrap
23 tire regulatory act, Act No. 133 of the Public Acts of 1990,
24 being sections 299.561 to 299.572 of the Michigan Compiled Laws.

25 (2) Public utilities with more than 500,000 customers in
26 this state shall enter into power purchase agreements for the
27 purchase of capacity and energy from resource recovery facilities

1 that will process qualified solid waste, at least 50.1% of which
2 is generated within the service areas of the public utility, ~~or~~
3 or, subject to the provisions of this section, scrap tires, under
4 rates, charges, terms, and conditions of service that, for these
5 facilities, may differ from those negotiated, authorized, or pre-
6 scribed for purchases from qualifying facilities that are not
7 resource recovery facilities. If a resource recovery facility
8 incinerates scrap tires, or any other tires that are obtained
9 from outside the state, or if more than 50.1% of the scrap tires
10 or other tires are obtained outside the public utility service
11 area, the public utility may in partial satisfaction of its obli-
12 gation under this subsection purchase capacity and energy from
13 the facility but shall not be obligated by this act to purchase
14 the facility's capacity and energy. A resource recovery facility
15 that incinerates at least 90% of its total annual fuel input in
16 the form of scrap tires shall accept all scrap tires that first
17 became scrap tires in the state and that are delivered to the
18 facility by a scrap tire processor or a scrap tire hauler. The
19 first 6,000,000 of these scrap tires delivered to the resource
20 recovery facility each year shall be charged a rate not greater
21 than an amount equal to \$34.50 per ton, increased each calendar
22 quarter beginning July 1, 1990, by an amount equal to the
23 increase in the all items version of the consumer price index for
24 urban wage earners and clerical workers during the prior calendar
25 quarter. Including power purchase agreements executed ~~prior to~~
26 BEFORE June 30, 1989, this section shall not apply after 120
27 megawatts of electric resource recovery facility capacity in a

1 utility's service territory have been contracted and entered in
2 commercial operation. HOWEVER, AN ADDITIONAL 40 MEGAWATTS OF
3 ELECTRIC RESOURCE RECOVERY FACILITY CAPACITY SHALL BE PURCHASED
4 FROM RESOURCE RECOVERY FACILITIES THAT DERIVE ENERGY FROM FACILI-
5 TIES OWNED BY AUTHORITIES CREATED UNDER ACT NO. 179 OF THE PUBLIC
6 ACTS OF 1947, BEING SECTIONS 123.301 TO 123.310 OF THE MICHIGAN
7 COMPILED LAWS, THAT HAVE QUALIFIED SOLID WASTE INCINERATION
8 FACILITIES OPERATING AT THE EFFECTIVE DATE OF THE AMENDATORY ACT
9 THAT ADDED THIS SENTENCE. Further, the provisions of this section
10 shall not apply to more than the first 30 megawatts of scrap tire
11 fueled resource recovery facility capacity in the state that has
12 been contracted and entered in commercial operation. Excluding
13 rate provisions, if a provision or provisions of a purchase
14 agreement remain in dispute, each party shall submit to the com-
15 mission all of the purchase agreement provisions of their last
16 best offer and a supporting brief. On each disputed provision,
17 the commission shall within 60 days either select or reject with
18 recommendation the offers submitted by either party.

19 (3) A power purchase agreement entered into by a public
20 utility for the purchase of capacity and energy from a resource
21 recovery facility shall be filed with the commission and a con-
22 tested case proceeding shall commence immediately pursuant to
23 chapter 4 of the administrative procedures act of 1969, Act
24 No. 306 of the Public Acts of 1969, being sections 24.271 to
25 24.287 of the Michigan Compiled Laws. Notwithstanding
26 section 6j, a power purchase agreement ~~shall be~~ IS considered
27 approved if the commission does not approve or disapprove the

1 agreement within 6 months of the date of the filing of the
2 agreement, or April 3, 1989, whichever is later. Approval pursu-
3 ant to this subsection ~~shall constitute~~ CONSTITUTES prior
4 approval under section 6j(13)(b).

5 (4) The energy rate component of all power sales contracts
6 for resource recovery facilities ~~shall be~~ IS equal to the
7 avoided energy cost of the purchasing utility.

8 (5) When averaged over the term of the contract, the capac-
9 ity rate component of all power sales contracts for resource
10 recovery facilities may be equal to but not less than the full
11 avoided cost of the utility as determined by the commission. In
12 determining the capacity rate, the commission may assume that the
13 utility needs capacity.

14 (6) Capacity purchased by a utility prior to January 1, 2000
15 under a power sales contract with a resource recovery facility
16 shall not be considered directly or indirectly in determining the
17 utility's reserve margin, reserve capacity, or other resource
18 capability measurement. The legislature and the Michigan public
19 service commission shall receive an annual accounting from a
20 resource recovery facility ~~which~~ THAT incinerates scrap tires
21 to insure compliance with the provisions of this act. The annual
22 accounting shall include the total amount of scrap tires inciner-
23 ated at the resource recovery facility and the percentage of
24 those scrap tires that ~~prior to~~ BEFORE incineration were used
25 within this state for their original intended purpose.