



HOUSE BILL No. 5028

September 21, 1993, Introduced by Reps. Richard A. Young, Barns and Keith and referred to the Committee on Conservation, Environment and Great Lakes.

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~~
20 THAT 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, ~~—~~
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 THAT PROCESSES QUALIFIED SOLID WASTE ENTERS INTO A POWER PURCHASE
9 AGREEMENT WITH A PUBLIC UTILITY UNDER THIS SECTION ON OR AFTER
10 THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SEN-
11 TENCE, 90% OR MORE OF THE QUALIFIED SOLID WASTE PROCESSED BY THE
12 FACILITY SHALL BE GENERATED BY THE UTILITY'S CUSTOMERS. If a
13 resource recovery facility incinerates scrap tires ~~—~~ or any
14 other tires ~~that are~~ obtained from outside the state, or if
15 more than 50.1% of the scrap tires or other tires are obtained
16 outside the public ~~utility~~ UTILITY'S service area, the public
17 utility may in partial satisfaction of its obligation under this
18 subsection purchase capacity and energy from the facility but
19 ~~shall~~ IS not ~~be~~ obligated by this act to purchase the
20 facility's capacity and energy. A resource recovery facility
21 that incinerates at least 90% of its total annual fuel input in
22 the form of scrap tires shall accept all scrap tires that first
23 became scrap tires in the state and that are delivered to the
24 facility by a scrap tire processor or a scrap tire hauler. The
25 first 6,000,000 of these scrap tires delivered to the resource
26 recovery facility each year shall be charged a rate not greater
27 than an amount equal to \$34.50 per ton, increased each calendar

1 quarter beginning July 1, 1990, by an amount equal to the
2 increase in the all items version of the consumer price index for
3 urban wage earners and clerical workers during the prior calendar
4 quarter. Including power purchase agreements executed ~~prior to~~
5 BEFORE June 30, 1989, this section ~~shall~~ DOES not apply after
6 120 megawatts of electric resource recovery facility capacity in
7 a utility's service territory have been contracted and entered in
8 commercial operation EXCEPT THAT A PUBLIC UTILITY MAY CONTRACT
9 FOR AN ADDITIONAL 40 MEGAWATTS OF ELECTRIC RESOURCE RECOVERY
10 FACILITY CAPACITY IF ADDITIONAL QUALIFYING RESOURCE RECOVERY
11 FACILITY CAPACITY COULD BE DEVELOPED WITHIN THE UTILITY'S SERVICE
12 AREA. Further, the provisions of this section ~~shall~~ DO not
13 apply to more than the first 30 megawatts of scrap tire fueled
14 resource recovery facility capacity in the state that has been
15 contracted and entered in commercial operation. Excluding rate
16 provisions, if a provision ~~or provisions~~ of a purchase agree-
17 ment ~~remain~~ REMAINS in dispute, each party shall submit to the
18 commission all of the purchase agreement provisions of their last
19 best offer and a supporting brief. On each disputed provision,
20 the commission shall within 60 days either select or reject with
21 recommendation the offers submitted by either party.

22 (3) A power purchase agreement entered into by a public
23 utility for the purchase of capacity and energy from a resource
24 recovery facility shall be filed with the commission and a con-
25 tested case proceeding shall commence immediately pursuant to
26 chapter 4 of the administrative procedures act of 1969, Act
27 No. 306 of the Public Acts of 1969, being sections 24.271 to

1 24.287 of the Michigan Compiled Laws. Notwithstanding
2 section 6j, a power purchase agreement ~~shall be~~ IS considered
3 approved if the commission does not approve or disapprove the
4 agreement within 6 months of the date of the filing of the agree-
5 ment, or April 3, 1989, whichever is later. Approval pursuant to
6 this subsection ~~shall constitute~~ CONSTITUTES prior approval
7 under section 6j(13)(b).

8 (4) IN A PUBLIC UTILITY'S POWER SUPPLY COST RECOVERY PRO-
9 CEEDING UNDER SECTION 6J, THE COMMISSION SHALL AUTHORIZE RECOVERY
10 OF ALL COSTS INCURRED BY THE UTILITY FOR RESOURCE RECOVERY FACIL-
11 ITY CAPACITY AND ENERGY PROPORTIONATELY BY CUSTOMER CLASS TO
12 REFLECT THE SOURCE OF THE WASTE FUEL STREAM.

13 (5) ~~(4)~~ The energy rate component of all power sales con-
14 tracts for resource recovery facilities shall be equal to the
15 avoided energy cost of the purchasing utility.

16 (6) ~~(5)~~ When averaged over the term of the contract, the
17 capacity rate component of all power sales contracts for resource
18 recovery facilities may be equal to but not less than the full
19 avoided cost of the utility as determined by the commission. In
20 determining the capacity rate, the commission may assume that the
21 utility needs capacity.

22 (7) ~~(6)~~ Capacity purchased by a utility ~~prior to~~ BEFORE
23 January 1, 2000 under a power sales contract with a resource
24 recovery facility shall not be considered directly or indirectly
25 in determining the utility's reserve margin, reserve capacity, or
26 other resource capability measurement. The legislature and the
27 Michigan public service commission shall receive an annual

1 accounting from a resource recovery facility ~~which~~ THAT
2 incinerates scrap tires to insure compliance with the provisions
3 of this act. The annual accounting shall include the total
4 amount of scrap tires incinerated at the resource recovery facil-
5 ity and the percentage of those scrap tires that ~~prior to~~
6 BEFORE incineration were used within this state for their origi-
7 nal intended purpose.