

1 implementation of a clean, renewable, and energy efficient
2 portfolio standard that will cost effectively do all of the
3 following:

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

6 (b) Provide greater energy security through the use of
7 indigenous energy resources available within the state.

8 (c) Encourage private investment in renewable energy and
9 energy efficiency.

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

12 PART 2. INTEGRATED RENEWABLE ENERGY PORTFOLIO STANDARD

13 Sec. 3. As used in this part:

14 (a) "Applicable regional transmission organization" means a
15 nonprofit, member-based organization governed by an independent
16 board of directors that serves as the federal energy regulatory
17 commission-approved regional transmission organization with
18 oversight responsibility for the region that includes the
19 provider's service territory

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

25 (i) Agricultural crops and crop wastes.

26 (ii) Short-rotation energy crops.

27 (iii) Herbaceous plants.

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

4 (v) Paper and pulp products.

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

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

8 (viii) Animal wastes.

9 (ix) Wastewater sludge or sewage.

10 (x) Aquatic plants.

11 (xi) Food production and processing waste.

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

13 (c) "Bundled renewable energy credit" means a renewable energy
14 credit that is acquired under 1 of the following circumstances:

15 (i) By an electric utility or alternative electric supplier in
16 conjunction with a trade, purchase, or other transfer of renewable
17 energy.

18 (ii) By an electric utility by the generation of renewable
19 energy.

20 (d) "Cleaner energy" means electricity generated using a
21 cleaner energy system.

22 (e) "Cleaner energy system" means both of the following:

23 (i) An IGCC facility.

24 (ii) Other technologies for generating electricity as approved
25 by the commission by rule based on standards established by the
26 commission in consultation with the departments of natural
27 resources and environmental quality, to ensure that the

1 technologies reduce or produce no carbon emissions, are reliable
2 and cost effective, comply with applicable federal and state
3 environmental and natural resource laws, do not harm the public
4 health, safety, and welfare, and do not reduce property values.

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

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

11 (h) "Energy optimization" means energy efficiency, load
12 management, and conservation.

13 (i) "IGCC facility" means an integrated gasification combined
14 cycle plant located in this state that produces synthetic or
15 methanized synthetic gas from carbon-based feedstock, including,
16 but not limited to, coal, petroleum coke, wood, biomass, and other
17 agricultural products, and uses that synthetic gas to generate
18 electricity for commercial use. An IGCC facility includes the
19 transmission lines and facilities, gas transportation lines and
20 facilities, and associated property and equipment employed
21 specifically to serve that facility.

22 (j) "Incremental costs of compliance" means the net revenue
23 required by a provider to comply with the integrated renewable
24 energy portfolio standard, calculated as provided under section
25 27(2).

26 (k) "Industrial cogeneration" means the generation of
27 electricity using industrial thermal energy.

1 (l) "Industrial thermal energy" means thermal energy that is a
2 by-product of an industrial or manufacturing process and that would
3 otherwise be wasted. For the purposes of this subdivision,
4 industrial or manufacturing process does not include the generation
5 of electricity.

6 (m) "Integrated renewable energy portfolio" means the
7 percentage determined under section 13.

8 (n) "Integrated renewable energy portfolio plan" or "plan"
9 means a plan approved under section 7 or 9.

10 (o) "Integrated renewable energy portfolio standard" means the
11 minimum renewable energy portfolio required to be achieved under
12 section 13.

13 (p) "Load management" means measures or programs that target
14 equipment or devices to result in decreased peak electricity demand
15 or shift demand from peak to off-peak periods.

16 (q) "Provider", subject to sections 7(1) and 9(1), means any
17 of the following:

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

21 (ii) A municipally owned electric utility in this state.

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

23 (iv) An alternative electric supplier licensed in this state.

24 (r) "PURPA" means the public utility regulatory policies act
25 of 1978, Public Law 95-617.

26 (s) "Qualifying cogeneration facility" means that term as
27 defined in 16 USC 824a-3.

1 (t) "Qualifying small power production facility" means that
2 term as defined in 16 USC 824a-3.

3 Sec. 5. As used in this part:

4 (a) "Renewable energy" means electricity generated using a
5 renewable energy system.

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

9 (c) "Renewable energy credit" means a credit certified under
10 this act that represents generated renewable energy.

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

19 (i) Biomass.

20 (ii) Solar and solar thermal energy.

21 (iii) Wind energy.

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

24 (A) Waves, tides, or currents.

25 (B) Water released through a dam.

26 (C) Water released from a pumped storage facility to the
27 extent that the water was pumped into the storage facility using

Senate Bill No. 213 as amended June 27, 2008

1 renewable energy.

2 (v) Geothermal energy.

3 (vi) Municipal solid waste, including, but not limited to,
4 landfilled municipal solid waste that produces landfill gas.

5 (e) "Renewable energy system" means a facility, electricity
6 generation system, or integrated set of electricity generation
7 systems that use 1 or more renewable energy resources to generate
8 electricity. Renewable energy system does not include any of the
9 following:

10 (i) A hydroelectric facility that uses a dam constructed after
11 the effective date of this act unless the dam is a repair or
12 replacement of a dam in existence on the effective date of this act
13 or an upgrade of a dam in existence on the effective date of this
14 act that increases its energy efficiency.

15 (ii) An incinerator unless the incinerator is a municipal solid
16 waste incinerator as defined in section 11504 of the natural
17 resources and environmental protection act, 1994 PA 451, MCL
18 324.11504, and <<(1)>> was brought into service before the effective date
19 of this act, including any subsequent upgrade of such an
20 incinerator that increases energy efficiency <<or (2) is an expansion
of an incinerator to an approximate continuous design rated capacity of not
more than 950 tons per day pursuant to the terms of a final request for
proposals requested not later than October 1, 1986.>>

21 (f) "Revenue recovery mechanism" means the mechanism for
22 recovery of incremental costs of compliance established under
23 section 7(4).

24 (g) "Unbundled renewable energy credit" means a renewable
25 energy credit that is acquired by trade, purchase, or other
26 transfer without acquiring the renewable energy for the generation
27 of which the renewable energy credit was issued.

1 Sec. 7. (1) This section applies to providers whose rates are
2 regulated by the commission.

3 (2) Within 90 days after the commission issues a temporary
4 order under section 37, each provider shall file a proposed
5 integrated renewable energy portfolio plan with the commission. The
6 proposed plan shall meet all of the following requirements:

7 (a) Describe how the provider will meet the integrated
8 renewable energy portfolio standards as determined under this act.

9 (b) Specify whether the number of megawatt hours of
10 electricity used in the calculation of the integrated renewable
11 energy portfolio will be weather-normalized or based on a 3-year
12 running average. Once the plan is approved by the commission, this
13 option shall not be changed.

14 (c) Include the expected incremental cost of compliance with
15 the integrated renewable portfolio standard for the duration of the
16 time that the plan is approved by the commission.

17 (d) For a provider that is an electric utility with 1,000,000
18 or more retail customers in this state as of January 1, 2008,
19 describe the bidding process to be used by the provider under
20 section 17. The description shall include measures to be employed
21 in the preparation of requests for proposals and the handling and
22 evaluation of proposals received to ensure that any bidder that is
23 an affiliate of the electric utility is not afforded a competitive
24 advantage over any other bidder and that each bidder, including any
25 bidder that is an affiliate of the provider, is treated in a fair
26 and nondiscriminatory manner.

27 (3) The commission shall conduct a contested case hearing on

1 the proposed plan filed under subsection (2), pursuant to the
2 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
3 24.328. If a renewable energy generator files a petition to
4 intervene in the contested case in the manner prescribed by the
5 commission's rules for interventions generally, the commission
6 shall grant the petition. After the hearing and within 90 days
7 after the proposed plan is filed with the commission, the
8 commission shall approve, with any changes consented to by the
9 provider, or reject the plan. A provider shall not begin recovery
10 of the incremental costs of compliance within its rates until the
11 commission has approved its proposed plan.

12 (4) The plan, as approved by the commission, shall establish a
13 nonvolumetric mechanism for the recovery of the incremental costs
14 of compliance within the provider's customer rates. The revenue
15 recovery mechanism shall not result in rate impacts that exceed the
16 monthly maximum retail rate impacts specified under section 13. A
17 customer participating in a commission-approved voluntary renewable
18 energy program under an agreement in effect on the effective date
19 of this act shall not incur charges under the revenue recovery
20 mechanism unless the charges under the revenue recovery mechanism
21 exceed the charges the customer is incurring for the voluntary
22 renewable energy program. In that case, the customer shall only
23 incur the incremental difference between the charge assessed under
24 the revenue recovery mechanism and the charges the customer is
25 incurring for the voluntary renewable energy program. The
26 limitation on charges applies only during the term of the
27 agreement, not including automatic agreement renewals, or until 1

1 year after the effective date of this act, whichever is later.
2 Before entering an agreement with a customer to participate in a
3 commission-approved voluntary renewable energy program and before
4 the last automatic monthly renewal of such an agreement that will
5 occur less than 1 year after the effective date of this act, a
6 provider shall notify the customer that the customer will be
7 responsible for the full applicable charges under the revenue
8 recovery mechanism as well as under the voluntary renewable energy
9 program as provided under this subsection.

10 (5) If proposed by the provider in its proposed plan, the
11 revenue recovery mechanism shall result in an accumulation of
12 reserve funds in advance of expenditure and the creation of a
13 regulatory liability that accrues interest at the average short-
14 term borrowing rate available to the provider during the
15 appropriate period. If proposed by the provider in its proposed
16 plan, the commission shall establish a minimum balance of
17 accumulated reserve funds for the purposes of section 27(4).

18 (6) A revenue recovery mechanism is subject to adjustment
19 under sections 27(4) and 29.

20 (7) Every 2 years after initial approval of a plan under
21 subsection (3), the commission shall review the plan. The
22 commission shall conduct a contested case hearing on the plan
23 pursuant to the administrative procedures act of 1969, 1969 PA 306,
24 MCL 24.201 to 24.328. Any interested party may intervene in the
25 contested case as provided in subsection (3). The annual renewable
26 cost reconciliation under section 29 for that year may be joined
27 with the overall plan review in the same contested case hearing.

1 After the hearing, the commission shall approve, with any changes
2 consented to by the provider, or reject any proposed amendments to
3 the plan.

4 (8) If a provider proposes to amend its plan at a time other
5 than during the biennial review process under subsection (7), the
6 provider shall file the proposed amendment with the commission. If
7 the proposed amendment would modify the revenue recovery mechanism,
8 the commission shall conduct a contested case hearing on the
9 amendment pursuant to the administrative procedures act of 1969,
10 1969 PA 306, MCL 24.201 to 24.328. Any interested party may
11 intervene in the contested case as generally provided in the rules
12 of the commission. The annual renewable cost reconciliation under
13 section 29 may be joined with the plan amendment in the same
14 contested case proceeding. After the hearing and within 90 days
15 after the amendment is filed, the commission shall approve, with
16 any changes consented to by the provider, or reject the amendment.

17 Sec. 9. (1) This section applies only to providers whose rates
18 are not regulated by the commission.

19 (2) Within 90 days after the commission issues a temporary
20 order under section 37, each provider shall file a proposed
21 integrated renewable energy portfolio plan with the commission. The
22 proposed plan shall meet all of the following requirements:

23 (a) Describe how the provider will meet the integrated
24 renewable energy portfolio standards.

25 (b) Specify whether the number of megawatt hours of
26 electricity used in the calculation of the renewable energy
27 portfolio will be weather-normalized or based on a 3-year running

1 average. Once the plan is approved by the commission, this option
2 shall not be changed.

3 (3) The commission shall provide an opportunity for public
4 comment on the proposed plan filed under subsection (2). However,
5 the commission need not provide an opportunity for public comment
6 if the provider is a municipally owned electric utility and the
7 governing body of the provider has already provided an opportunity
8 for public comment and filed the comments with the commission along
9 with the plan. After the applicable opportunity for public comment
10 and within 90 days after the proposed plan is filed with the
11 commission, the commission shall approve, with any changes
12 consented to by the provider, or reject the plan. The provider
13 shall not begin recovery of the incremental costs of compliance
14 within its rates until the commission has approved its proposed
15 plan. However, if the provider is a municipally owned electric
16 utility, the provider may begin recovery of the incremental costs
17 of compliance upon approval of its proposed plan by the governing
18 body of the municipally owned electric utility.

19 (4) Every 2 years after initial approval of a plan under
20 subsection (3), the commission shall review the plan. The
21 commission shall provide an opportunity for public comment on the
22 plan. However, the commission need not provide an opportunity for
23 public comment if the provider is a municipally owned electric
24 utility and the governing body of the provider has already provided
25 an opportunity for public comment and filed the comments with the
26 commission. After the applicable opportunity for public comment,
27 the commission shall approve, with any changes consented to by the

1 provider, or reject any proposed amendments to the plan.

2 (5) If a provider proposes to amend its plan at a time other
3 than during the biennial review process under subsection (4), the
4 provider shall file the proposed amendment with the commission. The
5 commission shall provide an opportunity for public comment on the
6 amendment. However, the commission need not provide an opportunity
7 for public comment if the provider is a municipally owned electric
8 utility and the governing body of the provider has already provided
9 an opportunity for public comment and filed the comments with the
10 commission. After the opportunity for public comment and within 90
11 days after the amendment is filed, the commission shall approve,
12 with any changes consented to by the provider, or reject the
13 amendment.

14 Sec. 11. The commission shall ensure that integrated renewable
15 energy portfolio plans submitted by providers serving customers in
16 the same distribution territory do not create an unfair competitive
17 advantage for any of those providers.

18 Sec. 13. (1) Subject to section 15, each provider shall meet
19 the following integrated renewable energy portfolio standard
20 calculated as provided under subsection (4):

21 (a) Not less than 2% of the total number of kilowatt hours of
22 electricity sold by the provider to its retail customers in this
23 state for the 2011 calendar year.

24 (b) Not less than 4% of the total number of kilowatt hours of
25 electricity sold by the provider to its retail customers in this
26 state for the 2012 calendar year.

27 (c) Not less than 6% of the total number of kilowatt hours of

1 electricity sold by the provider to its retail customers in this
2 state for the 2014 calendar year.

3 (d) Not less than 7% of the total number of kilowatt hours of
4 electricity sold by the provider to its retail customers in this
5 state for the 2015 calendar year and succeeding years.

6 (2) If a provider's integrated renewable energy portfolio in
7 any period specified in subsection (1) exceeds the integrated
8 renewable energy portfolio standard for that period, the excess may
9 be carried forward and credited to a subsequent period.

10 (3) Each provider shall meet the integrated renewable energy
11 portfolio standard by 1 or more of the following means:

12 (a) Generating electricity from renewable energy systems for
13 sale to retail customers in this state.

14 (b) Purchasing or otherwise acquiring unbundled renewable
15 energy credits if, subject to section 17, the renewable energy
16 system that generated the electricity for which the renewable
17 energy credit was issued is located within the geographic boundary
18 of the applicable regional transmission organization.

19 (c) Purchasing bundled renewable energy credits if, subject to
20 section 17, 1 or more of the following requirements are met:

21 (i) The renewable energy system that generated the electricity
22 for which each renewable energy credit was issued is located in the
23 United States and within the geographic boundary of the applicable
24 regional transmission organization.

25 (ii) The electricity for which each renewable energy credit was
26 issued is delivered to the applicable regional transmission
27 organization, to the transmission system of an electric utility, or

1 to another delivery point designated by an electric utility for the
2 purpose of subsequent delivery to the electric utility.

3 (d) Energy optimization under part 3. However, a provider
4 shall not meet more than 30% of the requirements of subsection (1)
5 through the means authorized under this subdivision.

6 (e) Generating or acquiring electricity from cleaner energy
7 systems for sale to retail customers in this state. However, a
8 provider shall not use more than 20% of the electricity generated
9 or acquired from clean energy systems for sale to retail customers
10 in this state to meet the energy portfolio standard authorized
11 under this subdivision.

12 (f) Acquiring electricity generated by net metering customers
13 subject to section 10dd of 1939 PA 3, MCL 460.10dd.

14 (g) Making alternative compliance payments under section 20.

15 (4) A provider's integrated renewable energy portfolio shall
16 be calculated as follows:

17 (a) Add all of the following:

18 (i) The number of renewable energy credits used to comply with
19 this act during that year.

20 (ii) The number of megawatt hours of electricity generated or
21 acquired by the provider from cleaner energy systems during that
22 year.

23 (iii) The number of megawatt hours of demand reduction through
24 energy optimization under part 3.

25 (iv) The number of megawatt hours of electricity acquired from
26 net metering customers by the provider during that year.

27 (v) The number of megawatt hours represented by alternative

1 compliance payments.

2 (b) Divide the sum under subdivision (a) by 1 of the following
3 at the option of the provider as specified in its integrated
4 renewable energy portfolio plan:

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

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

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

12 (5) Each provider shall annually file a report with the
13 commission regarding the status of the provider in meeting the
14 integrated renewable energy portfolio standard established under
15 this section.

16 (6) Beginning in 2010, the commission shall annually evaluate
17 the state renewable energy purchasing requirements under section
18 257 of the management and budget act, 1984 PA 431, MCL 18.1257,
19 including, but not limited to, the cost of purchasing renewable
20 energy compared to energy from a new coal-fired power plant. In
21 determining costs, the commission shall consider and quantify the
22 transmission costs and capacity reliability of both renewable
23 energy and electricity generated by a new coal-fired facility.

24 (7) A provider shall recover the incremental cost of
25 compliance with the integrated renewable energy portfolio standard
26 by an itemized charge on the customer's bill for billing periods
27 beginning more than 90 days after commission approval of the

1 provider's integrated renewable energy portfolio plan under section
2 7 or 9. In its billing statement for a residential customer
3 covering the end of a calendar year or as an insert to that billing
4 statement, each provider shall report to the residential customer
5 the sum of the charges imposed on the customer during that year
6 under this part and part 3 and advise that the sum of such charges
7 paid by the residential customer is eligible for a state income tax
8 credit. A provider shall not comply with the integrated renewable
9 portfolio standard to the extent that, as determined by the
10 commission, recovery of the incremental cost of compliance and
11 capacity reliability and transmission costs quantified under
12 subsection (6) pursuant to the integrated renewable energy
13 portfolio plan, subject to annual revision, will have a retail rate
14 impact that exceeds any of the following:

15 (a) \$2.00 per month per residential customer meter.

16 (b) \$11.05 per month per commercial secondary customer meter.

17 (c) \$125.00 per month per commercial primary or industrial
18 customer meter.

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

23 Sec. 15. (1) Upon petition by a provider, the commission may
24 for good cause grant 2 extensions of renewable energy portfolio
25 standard deadlines under section 13. Each extension shall be for up
26 to 1 year. Good cause includes, but is not limited to, the
27 provider's inability, as determined by the commission, to meet the

1 renewable energy portfolio standard because of a renewable energy
2 system feasibility limitation including, but not limited to, any of
3 the following:

4 (a) Renewable energy system site requirements, zoning, siting,
5 land use issues, permits, including environmental permits, any
6 certificate of need process under section 6r of 1939 PA 3, MCL
7 460.6r, or any other necessary governmental approvals that
8 effectively limit availability of renewable energy systems, if the
9 provider exercised reasonable diligence in attempting to secure the
10 necessary governmental approvals. For purposes of this subdivision,
11 "reasonable diligence" includes, but is not limited to, submitting
12 timely applications for the necessary governmental approvals and
13 making good faith efforts to ensure that the applications are
14 administratively complete and technically sufficient.

15 (b) Equipment cost or availability issues including electrical
16 equipment or renewable energy system component shortages or high
17 costs that effectively limit availability of renewable energy
18 systems.

19 (c) Cost, availability, or time requirements for electric
20 transmission and interconnection.

21 (d) Projected or actual unfavorable electric system
22 reliability or operational impacts.

23 (e) Labor shortages that effectively limit availability of
24 renewable energy systems.

25 (2) If 2 extensions of the 2015 renewable energy portfolio
26 standard deadline have been granted under subsection (1), upon
27 subsequent petition by a provider at least 3 months before the

1 expiration of the second extended deadline, the provider shall be
2 considered to be in compliance with this act at an integrated
3 renewable energy portfolio standard determined by the commission to
4 be attainable by that provider.

5 (3) Any provider that makes a good faith effort to spend the
6 full amount of incremental costs of compliance as outlined in its
7 approved integrated renewable energy portfolio plan, subject to any
8 approved extensions or revisions, shall be considered to be in
9 compliance with this act.

10 Sec. 16. (1) Renewable energy credits may be traded, sold, or
11 otherwise transferred.

12 (2) Renewable energy credits that are not used by a provider
13 to comply with an integrated renewable portfolio standard in a
14 calendar year may be banked and carried forward indefinitely for
15 the purpose of complying with an integrated renewable energy
16 portfolio standard in a subsequent year. For the purpose of
17 complying with an integrated renewable portfolio standard in any
18 calendar year, both of the following apply:

19 (a) Banked unbundled renewable energy credits shall be used,
20 up to the limit imposed by section 16a, before other renewable
21 energy credits are used.

22 (b) Banked renewable energy credits with the oldest issuance
23 date shall be used to comply with the standard before banked
24 renewable energy credits with more recent issuance dates are used.

25 (3) A provider is responsible for demonstrating that a
26 renewable energy credit used to comply with an integrated renewable
27 energy portfolio standard is derived from a renewable energy source

1 and that the provider has not previously used, traded, sold, or
2 otherwise transferred the renewable energy credit.

3 (4) The same renewable energy credit may be used by a provider
4 to comply with both a federal renewable portfolio standard and an
5 integrated renewable energy portfolio standard established under
6 this act. A provider that uses a renewable energy credit to comply
7 with a renewable portfolio standard imposed by any other state
8 shall not use the same renewable energy credit to comply with an
9 integrated renewable portfolio standard established under this act.

10 Sec. 16a. (1) Except as provided in this section, unbundled
11 renewable energy credits, including banked unbundled renewable
12 energy credits, may not be used to meet more than 20% of the
13 requirements of the integrated renewable portfolio standard for any
14 year.

15 (2) The limitation imposed by subsection (1) does not apply to
16 renewable energy credits issued for electricity generated in this
17 state by a net metering facility, or another generating facility
18 that is not directly connected to a distribution or transmission
19 system.

20 (3) The limitation imposed by subsection (1) does not apply to
21 any of the following:

22 (a) Renewable energy credits issued for electricity generated
23 in this state.

24 (b) Renewable energy credits used by an alternative electric
25 supplier.

26 Sec. 17. (1) Subject to subsection (2), a provider that is an
27 electric utility with 1,000,000 or more retail customers in this

1 state as of January 1, 2008 shall obtain the renewable energy
2 credits that are necessary to meet the renewable portfolio standard
3 under section 13(b) and (c) as follows:

4 (a) At the provider's option, up to but no more than 50% of
5 such renewable energy credits shall be from any of the following:

6 (i) Renewable energy systems that were developed by and are
7 owned by the provider. A provider shall competitively bid any
8 contract for engineering, procurement, or construction of any new
9 renewable energy systems described in this subdivision.

10 (ii) Renewable energy systems that were developed by 1 or more
11 third parties pursuant to a contract with the provider under which
12 the ownership of the renewable energy system may be transferred to
13 the provider, but not before the renewable energy system begins
14 commercial operation. A transfer of ownership resulting from such a
15 contract does not count toward the new renewable energy systems
16 ownership limit under subparagraph (i). Any such contract shall be
17 executed after a competitive bidding process conducted pursuant to
18 guidelines issued by the commission. An affiliate of the provider
19 may submit a proposal in response to a request for proposals,
20 subject to the code of conduct under section 10a(4) of 1939 PA 3,
21 MCL 460.10a, and the sanctions for violation thereof under section
22 10c of 1939 PA 3, MCL 460.10c.

23 (b) At least 50% of such renewable energy credits shall be
24 from renewable energy contracts that do not require transfer of
25 ownership of the applicable renewable energy system to the provider
26 or from contracts for the purchase of renewable energy credits
27 alone. A renewable energy contract or contract for the purchase of

1 renewable energy credits under this subdivision shall be executed
2 after a competitive bidding process conducted pursuant to
3 guidelines issued by the commission. An affiliate of the provider
4 may submit a proposal in response to a request for proposals,
5 subject to the code of conduct under section 10a(4) of 1939 PA 3,
6 MCL 460.10a, and the sanctions for violation thereof under section
7 10c of 1939 PA 3, MCL 460.10c. Ownership of renewable energy
8 systems by affiliates of the provider resulting from renewable
9 energy contracts executed under this subdivision do not count
10 toward the provider's new renewable energy systems ownership limit
11 under subdivision (a). If a provider selects a bid other than the
12 least price conforming bid from a qualified bidder, the provider
13 shall promptly notify the commission. The commission shall
14 determine under section 21 whether the provider had good cause for
15 selecting that bid. If the commission determines that the provider
16 did not have good cause, the commission shall disapprove the
17 contract.

18 (2) Subsection (1) does not apply to either of the following:

19 (a) Renewable energy credits that are transferred to the
20 provider pursuant to section 19(4).

21 (b) Renewable energy credits that are produced or obtained by
22 the provider from renewable energy systems for which recovery in
23 electric rates was approved as of the effective date of this act,
24 including renewable energy credits resulting from biomass co-firing
25 of, or use of industrial thermal energy in, electric generation
26 facilities in existence on the effective date of this act, except
27 to the extent the number of megawatt hours of electricity annually

1 generated by biomass co-firing or industrial thermal energy exceeds
2 the number of megawatt hours generated during the 1-year period
3 immediately preceding the effective date of this act.

4 (3) For purposes of subsection (1), the method of procuring
5 the renewable energy credits generated from a renewable energy
6 system that uses water released from a pumped storage facility
7 shall be considered to be the method of procuring the renewable
8 energy used to pump the water into the facility.

9 (4) A provider may submit a contract entered into pursuant to
10 subsection (1) to the commission for review and approval. If the
11 commission approves the contract, it shall be considered to be
12 consistent with the provider's renewable energy portfolio plan.

13 Sec. 19. (1) The locational requirements of section 13 do not
14 apply if 1 or more of the following requirements are met:

15 (a) The renewable energy system is a wind turbine or wind farm
16 and the electricity generated from the wind, or the renewable
17 energy credits associated with that electricity, is being purchased
18 under a contract in effect on January 1, 2008. If electricity and
19 associated renewable energy credits purchased under such a contract
20 are used by a provider to meet renewable energy portfolio
21 requirements established after January 1, 2008 by the legislature
22 of the state in which the wind turbine or wind farm is located, the
23 provider may, for the purpose of meeting the renewable energy
24 portfolio standard under this act, obtain, by any means authorized
25 under section 13, up to the same number of replacement renewable
26 energy credits from any other wind farm or wind farms located in
27 that state.

1 (b) The renewable energy system is a wind turbine or wind farm
2 that was under construction or operational and owned by a provider
3 on January 1, 2008.

4 (c) The renewable energy system is a wind farm, at least 1 of
5 the wind turbines meets the requirements of subsection (1), and the
6 remaining wind turbines are within 15 miles of a wind turbine that
7 is part of that wind farm and that meets the requirements of
8 subsection (1).

9 (d) Before January 1, 2008, a provider that serves not more
10 than 75,000 retail electric customers in this state filed an
11 application for a certificate of authority for the renewable energy
12 system with a state regulatory commission in another state that is
13 also served by that provider. However, renewable energy credits
14 shall not be granted for electricity generated using more than 10.0
15 megawatts of nameplate capacity of the renewable energy system.

16 (e) Electricity generated from the renewable energy system is
17 sold by a not-for-profit entity located in Indiana or Wisconsin to
18 a municipally owned electric utility in this state or cooperative
19 electric utility in this state under a contract in effect on
20 January 1, 2008, and the electricity is not being used to meet
21 another state's portfolio standard for renewable energy.

22 (f) Electricity generated from the renewable energy system is
23 sold by a not-for-profit entity located in Ohio to a municipally
24 owned electric utility in this state under a contract approved by
25 resolution of the governing body of the municipally owned electric
26 utility by January 1, 2008, and the electricity is not being used
27 to meet another state's portfolio standard for renewable energy.

1 However, renewable energy credits shall not be granted for
2 electricity generated using more than 13.4 megawatts of nameplate
3 capacity of the renewable energy system.

4 (2) If a provider obtains renewable energy for resale to
5 retail or wholesale customers under an agreement under PURPA,
6 ownership of the associated renewable energy credits shall be as
7 provided by the PURPA agreement. If the PURPA agreement does not
8 provide for ownership of the renewable energy credits, then:

9 (a) Except to the extent that a separate agreement governs
10 under subdivision (b), for the duration of the PURPA agreement, for
11 every 5 renewable energy credits associated with the renewable
12 energy, ownership of 4 of the renewable energy credits shall be
13 considered to be transferred to the provider with the renewable
14 energy, and ownership of 1 renewable energy credit shall be
15 considered to remain with the qualifying cogeneration facility or
16 qualifying small power production facility.

17 (b) If a separate agreement in effect on January 1, 2008
18 provides for the ownership of the renewable attributes of the
19 generated electricity, the separate agreement shall govern until
20 January 1, 2013 or until expiration of the separate agreement,
21 whichever occurs first.

22 (3) If an investor-owned electric utility with less than
23 20,000 customers, a municipally owned electric utility, or
24 cooperative electric utility obtains all or substantially all of
25 its electricity for resale under a power purchase agreement or
26 agreements in existence on the effective date of this act,
27 ownership of any associated renewable energy credits shall be

1 considered to be transferred to the provider purchasing the
2 electricity. The number of renewable energy credits associated with
3 the purchased electricity shall be determined by multiplying the
4 total number of renewable energy credits associated with the total
5 power supply of the seller during the term of the agreement by a
6 fraction, the numerator of which is the amount of energy purchased
7 under the agreement or agreements and the denominator of which is
8 the total power supply of the seller during the term of the
9 agreement. This subsection does not apply unless 1 or more of the
10 following occur:

11 (a) The seller and the provider purchasing the electricity
12 agree that this subsection applies.

13 (b) For a seller that is an independent investor-owned
14 electric utility whose retail electric rates are regulated by the
15 commission, the commission reduces the number of renewable energy
16 credits required under the renewable energy portfolio standard for
17 the seller by the number of renewable energy credits to be
18 transferred to the provider purchasing the electricity under this
19 subsection.

20 Sec. 21. If, after the effective date of this act, a provider
21 whose rates are regulated by the commission enters a renewable
22 energy contract or a contract to purchase unbundled renewable
23 energy credits, the commission shall determine whether the contract
24 provides reasonable terms and conditions that will ensure a
25 favorable economic outcome for the provider and its customers and
26 comply with the retail rate impact limits under section 13. In
27 making this determination, the commission shall consider the

1 contract price and term. If the contract is a renewable energy
2 contract, the commission shall also consider at least all of the
3 following:

4 (a) The cost to the provider and its customers of the impacts
5 of accounting treatment of debt and associated equity requirements
6 imputed by credit rating agencies and lenders attributable to the
7 renewable energy contract. The commission shall use standard rating
8 agency, lender, and accounting practices for electric utilities in
9 determining these costs, unless the impacts for the provider are
10 known.

11 (b) The life-cycle cost of the renewable energy contract to
12 the provider and customers including costs, after expiration of the
13 renewable energy contract, of maintaining the same renewable energy
14 output in megawatt hours, whether by purchases from the
15 marketplace, by extension or renewal of the renewable energy
16 contract, or by the provider purchasing the renewable energy system
17 and continuing its operation.

18 (c) Provider and customer price and cost risks if the
19 renewable energy systems supporting the renewable energy contract
20 move from contracted pricing to market-based pricing after
21 expiration of the renewable energy contract.

22 Sec. 23. (1) The commission shall establish a renewable energy
23 credit certification and tracking program or rely upon the use of
24 the existing GATS tracking and certification systems of the
25 regional transmission organizations whose boundaries include
26 territory in this state. The certification and tracking program may
27 be contracted to and performed by a third party through a system of

1 competitive bidding. The renewable energy credit certification and
2 tracking program shall include all of the following:

3 (a) A process to certify renewable energy systems, including
4 all existing renewable energy systems operating on the effective
5 date of this act, as eligible to receive renewable energy credits.

6 (b) Certification that the operator of a renewable energy
7 system is in compliance with state and federal law applicable to
8 the operation of the renewable energy system when certification is
9 granted. If a renewable energy system becomes noncompliant with
10 state or federal law, renewable energy credits shall not be granted
11 for renewable energy generated by that renewable energy system
12 during the period of noncompliance.

13 (c) A method for the transferability of credits.

14 (d) Determining the date that a renewable energy credit is
15 valid for transfer under this act.

16 (e) A method for ensuring that each renewable energy credit
17 traded and sold under this act is properly accounted for under this
18 act.

19 (f) If the system is established by the commission, allowance
20 for issuance, transfer, and use of renewable energy credits in
21 electronic form.

22 (2) A renewable energy credit purchased from a renewable
23 energy system in this state is not required to be used in this
24 state.

25 (3) Except as otherwise provided in section 19(2), 1 renewable
26 energy credit shall be granted to the owner of a renewable energy
27 system for each megawatt hour of electricity generated from the

1 renewable energy system, subject to all of the following:

2 (a) If a renewable energy system uses both a renewable energy
3 resource and a nonrenewable energy resource to generate
4 electricity, the number of renewable energy credits granted shall
5 be based on the percentage of the electricity generated from the
6 renewable energy resource.

7 (b) Renewable energy credits shall not be granted for
8 renewable energy generated from a municipal solid waste incinerator
9 to the extent that the renewable energy was generated by operating
10 the incinerator in excess of its boilerplate capacity rating
11 effective on January 1, 2008.

12 (c) Renewable energy credits shall not be granted for the
13 generation of renewable energy, such as wind energy, used to pump
14 water into a pumped storage facility or to fill other energy
15 storage facilities, but shall be granted for renewable energy
16 generated upon release from a pumped storage facility or other
17 energy storage facility. However, the number of renewable energy
18 credits shall be calculated based on the number of megawatt hours
19 of renewable energy used to fill the pumped storage facility or
20 other energy storage facility, not the number of megawatt hours
21 actually generated by discharge from the energy storage facility.

22 (d) Renewable energy credits shall not be granted for
23 renewable energy whose renewable attributes are used by a provider
24 in a commission-approved voluntary renewable energy program.

25 (4) Subject to subsection (3), the following additional
26 renewable energy credits, to be known as Michigan incentive
27 renewable energy credits, shall be granted under the following

1 circumstances:

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

4 (b) 1/5 renewable energy credit for each megawatt hour of
5 electricity generated from a renewable energy system, other than
6 wind, at peak demand time as determined by the commission.

7 (c) 1/5 renewable energy credit for each megawatt hour of
8 electricity generated from a renewable energy system during off-
9 peak hours, stored using advanced electric storage technology, and
10 used during peak hours.

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

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

23 (5) A renewable energy credit expires when used by a provider
24 to comply with its renewable energy portfolio standard. A renewable
25 energy credit associated with the generation of electricity within
26 120 days after the start of a calendar year may be used to satisfy
27 the prior year's renewable energy portfolio standard and expires

1 when so used.

2 Sec. 24. (1) The commission shall establish an alternative
3 compliance rate for each compliance year for each provider that is
4 subject to an integrated renewable portfolio standard. The rate
5 shall be expressed in dollars per megawatt hour.

6 (2) The commission shall establish an alternative compliance
7 rate based on the cost of qualifying electricity, contracts that
8 the provider has acquired for future delivery of qualifying
9 electricity, and the number of unbundled renewable energy credits
10 that the provider anticipates using in the compliance year to meet
11 the integrated renewable portfolio standard applicable to the
12 provider. In establishing an alternative compliance rate, the
13 commission shall set the rate to provide adequate incentive for the
14 provider to purchase or generate qualifying electricity in lieu of
15 using alternative compliance payments to meet the integrated
16 renewable energy portfolio standard applicable to the provider.

17 (3) A provider may make voluntary alternative compliance
18 payments to comply with the integrated renewable portfolio standard
19 applicable to the provider. Voluntary alternative compliance
20 payments shall be recovered in the rates of the provider, subject
21 to the retail rate impact limits in section 13.

22 (4) Each provider shall deposit any amounts recovered in the
23 rates of the provider for alternative compliance payments in a
24 holding account established by the provider. Amounts in the holding
25 account shall accrue interest at the rate of return authorized by
26 the commission for the provider. This subsection and subsection (5)
27 do not apply to an alternative electric supplier.

1 (5) Amounts in holding accounts established under subsection
2 (4) may be expended by a provider only for costs of acquiring new
3 generating capacity from renewable energy sources, investments in
4 efficiency upgrades to electricity generating facilities owned by
5 the provider, and energy optimization programs within the
6 provider's service area. The commission must approve expenditures
7 by a provider from a holding account established under subsection
8 (4).

9 (6) The commission shall require alternative electric
10 suppliers to establish holding accounts and make payments to those
11 accounts on a substantially similar basis as provided for electric
12 utilities. The commission must approve expenditures by an
13 alternative electric supplier from a holding account established
14 under this subsection. The commission may approve expenditures only
15 for energy conservation programs for customers of the alternative
16 electric supplier.

17 (7) The commission shall establish initial alternative
18 compliance rates as required by this section no later than July 1,
19 2009.

20 Sec. 25. (1) If a provider whose rates are regulated by the
21 commission fails to meet the renewable energy portfolio standard by
22 the applicable deadline under section 13, subject to section 15,
23 both of the following apply:

24 (a) The provider shall purchase sufficient renewable energy
25 credits necessary to meet the integrated renewable energy standard
26 or make mandatory alternative compliance payments at the rate
27 established under section 24 to meet the integrated renewable

1 energy portfolio standard.

2 (b) The provider shall not recover from its ratepayers the
3 cost of purchasing renewable energy credits or making mandatory
4 alternative compliance payments under subdivision (a) if the
5 commission finds that the provider did not make a good faith effort
6 to meet the goals of section 13, subject to section 15.

7 (2) The attorney general or any customer of a municipally
8 owned electric utility or a cooperative electric utility that has
9 elected to become member-regulated under the electric cooperative
10 member-regulation act may commence a civil action for injunctive
11 relief against a municipally owned electric utility or such a
12 cooperative electric utility if the provider fails to meet the
13 applicable requirements of this act.

14 (3) An action under subsection (2) shall be commenced in the
15 circuit court for the circuit in which the principal office of the
16 provider is located. An action shall not be filed under subsection
17 (2) unless the prospective plaintiff has given the prospective
18 defendant and the commission at least 60 days' written notice of
19 the prospective plaintiff's intent to sue, the basis for the suit,
20 and the relief sought. Within 30 days after the prospective
21 defendant receives written notice of the prospective plaintiff's
22 intent to sue, the prospective defendant and plaintiff shall meet
23 and make a good faith attempt to determine if there is a credible
24 basis for the action. If both parties agree that there is a
25 credible basis for the action, the prospective defendant shall take
26 all reasonable steps necessary to comply with applicable
27 requirements of this act within 90 days of the meeting.

1 (4) In issuing a final order in an action brought under
2 subsection (2), the court may award costs of litigation, including
3 reasonable attorney and expert witness fees, to the prevailing or
4 substantially prevailing party.

5 (5) Upon a complaint of an alternative electric supplier's
6 customer or on the commission's own motion, the commission may
7 conduct a contested case to review allegations that the alternative
8 electric supplier has violated this act, including an order issued
9 or rule promulgated under this act. If the commission finds, after
10 notice and hearing, that an alternative electric supplier has
11 violated this act, the commission shall do 1 or more of the
12 following:

13 (a) Revoke the license of the alternative electric supplier.

14 (b) Issue a cease and desist order.

15 (c) Order the alternative electric supplier to pay a civil
16 fine of not less than \$5,000.00 or more than \$50,000.00 for each
17 violation.

18 Sec. 26. For a provider whose rates are regulated by the
19 commission, the commission shall determine the appropriate charges
20 for the provider's tariffs that permit recovery of the incremental
21 cost of compliance subject to the retail rate impact limits set
22 forth in section 13.

23 Sec. 27. (1) Notwithstanding any other provision of law, the
24 commission shall consider all actual costs reasonably and prudently
25 incurred in good faith to implement a commission-approved
26 integrated renewable energy portfolio plan by a provider whose
27 rates are regulated by the commission to be a cost of service to be

1 recovered by the provider, whether or not those costs are
2 incremental costs of compliance. Notwithstanding any other
3 provision of law, a provider whose rates are regulated by the
4 commission shall recover through its retail electric rates all of
5 the provider's incremental costs of compliance and all reasonable
6 and prudent ongoing costs of compliance, subject to the retail rate
7 impact limits in section 13. The recovery shall include, but is not
8 limited to, the provider's authorized rate of return on equity,
9 which shall remain fixed at the rate of return and debt to equity
10 ratio that was in effect in a provider's base rates when the
11 provider's renewable energy portfolio plan was approved. The costs
12 of purchasing renewable energy credits or alternative compliance
13 payments may not be recovered under this subdivision if recovery is
14 not allowed under section 25.

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

17 (a) Determine the sum of the following costs to the extent
18 those costs are reasonable and prudent and not already approved for
19 recovery in electric rates as of the effective date of this act:

20 (i) Capital, operating, and maintenance costs of renewable
21 energy systems, cleaner energy systems, and energy optimization,
22 including property taxes, insurance, and return on equity
23 associated with a provider's renewable energy systems, cleaner
24 energy systems, and energy optimization, including the provider's
25 integrated renewable energy portfolio initially established to
26 achieve compliance with the integrated renewable energy portfolio
27 standard and any additional renewable energy systems, cleaner

1 energy systems, and energy optimization that are built, acquired,
2 or implemented by the provider to maintain compliance with the
3 renewable energy portfolio standard beginning when the provider's
4 plan is approved by the commission.

5 (ii) Financing costs attributable to capital, operating, and
6 maintenance costs of capital facilities associated with renewable
7 energy systems, cleaner energy systems, and energy optimization.

8 (iii) Transmission, interconnection, and substation costs
9 associated with renewable energy systems, cleaner energy systems,
10 and energy optimization.

11 (iv) Except to the extent the costs are allocated under a
12 different subparagraph, all of the following:

13 (A) The costs of renewable energy credits purchased or
14 alternative compliance payments under this act other than those for
15 which a provider is denied recovery under section 25.

16 (B) The costs of contracts described in section 17(2).

17 (v) Expenses incurred as a result of state or federal
18 governmental actions related to renewable energy systems, cleaner
19 energy systems, or energy optimization, including, but not limited
20 to, changes in tax or other law.

21 (vi) Any additional provider costs considered relevant by the
22 commission.

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

26 (i) Revenue derived from the sale of environmental attributes
27 associated with the generation of renewable energy or cleaner

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

4 (ii) Interest on regulatory liabilities.

5 (iii) Tax credits specifically designed to promote renewable
6 energy systems, cleaner energy systems, or energy optimization.

7 (iv) Revenue derived from the provision of renewable energy or
8 cleaner energy to retail electric customers subject to a power
9 supply cost recovery clause under section 6j of 1939 PA 3, MCL
10 460.6j, of a provider whose retail electric rates are regulated by
11 the commission. Beginning in 2008, after providing an opportunity
12 for a contested case hearing for a provider whose rates are
13 regulated by the commission, the commission shall annually
14 establish a price per megawatt hour. In addition, a provider whose
15 retail electric rates are regulated by the commission may at any
16 time petition the commission to revise the price. In setting the
17 price per megawatt hour under this subparagraph, the commission
18 shall consider factors including, but not limited to, projected
19 capacity, energy, maintenance, and operating costs; information
20 filed under section 6j of 1939 PA 3, MCL 460.6j; and information
21 from wholesale markets, including, but not limited to, locational
22 marginal pricing. This price shall be multiplied by the number of
23 megawatt hours of renewable energy. The resulting value shall be
24 considered a booked cost of purchased and net interchanged power
25 transactions under section 6j of 1939 PA 3, MCL 460.6j. For energy
26 purchased by such a provider under a renewable energy agreement,
27 the price shall be the lower of the amount established by the

1 commission or the actual price paid and shall be multiplied by the
2 number of megawatt hours of renewable energy purchased. The
3 resulting value shall be considered a booked cost of purchased and
4 net interchanged power under section 6j of 1939 PA 3, MCL 460.6j.

5 (v) Revenue from wholesale renewable energy or cleaner energy
6 sales. Such revenue shall not be considered in determining power
7 supply cost recovery factors under section 6j of 1939 PA 3, MCL
8 460.6j.

9 (vi) Any additional provider revenue considered relevant by the
10 commission.

11 (3) The commission shall authorize a provider whose rates are
12 regulated by the commission to spend in any given month more to
13 comply with this act and implement an approved integrated renewable
14 energy portfolio plan than the revenue actually generated by the
15 revenue recovery mechanism. A provider whose rates are regulated by
16 the commission shall recover its commission approved pre-tax rate
17 of return on regulatory assets during the appropriate period. A
18 provider whose rates are regulated by the commission shall record
19 interest on regulatory liabilities at the average short-term
20 borrowing rate available to the provider during the appropriate
21 period. Any regulatory assets or liabilities resulting from the
22 recovery of renewable energy or cleaner energy costs through the
23 power supply cost recovery clause under section 6j of 1939 PA 3,
24 MCL 460.6j, shall continue to be reconciled under that section.

25 (4) If a provider's incremental costs of compliance in any
26 given month are in excess of the revenue recovery mechanism as
27 adjusted under section 29 and in excess of the balance of any

1 accumulated reserve funds, subject to the minimum balance
2 established under section 7(5), the provider shall immediately
3 notify the commission. The commission shall promptly commence a
4 contested case hearing pursuant to the administrative procedures
5 act of 1969, 1969 PA 306, MCL 24.201 to 24.328, and modify the
6 revenue recovery mechanism so that the minimum balance is restored.

7 (5) If a provider whose rates are regulated by the commission
8 has a regulatory liability, the refund to customer classes shall be
9 proportional to the amounts paid by those customer classes under
10 the revenue recovery mechanism.

11 Sec. 29. (1) This section applies only to a provider whose
12 rates are regulated by the commission. Concurrent with the
13 submission of each report under section 33, the commission shall
14 commence an annual proceeding, to be known as a renewable cost
15 reconciliation, for each provider whose rates are regulated by the
16 commission. The renewable cost reconciliation proceeding shall be
17 conducted as a contested case pursuant to the administrative
18 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.
19 Reasonable discovery shall be permitted before and during the
20 reconciliation proceeding to assist in obtaining evidence
21 concerning reconciliation issues including, but not limited to, the
22 reasonableness and prudence of expenditures and the amounts
23 collected pursuant to the revenue recovery mechanism.

24 (2) At the renewable cost reconciliation, a provider may
25 propose any necessary modifications of the revenue recovery
26 mechanism to ensure the provider's recovery of its incremental cost
27 of compliance with the integrated renewable portfolio standard.

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

9 (a) Make a determination of a provider's compliance with the
10 renewable energy portfolio standard, subject to section 15.

11 (b) Adjust the revenue recovery mechanism for the incremental
12 costs of compliance. The commission shall ensure that the retail
13 rate impacts under this renewable cost reconciliation revenue
14 recovery mechanism do not exceed the maximum retail rate impacts
15 specified under section 13. The commission shall ensure that the
16 recovery mechanism is projected to maintain a minimum balance of
17 accumulated reserve so that a regulatory asset does not accrue.

18 (c) Establish the price per megawatt hour for renewable energy
19 and cleaner energy capacity and for renewable energy and cleaner
20 energy to be recovered through the power supply cost recovery
21 clause under section 6j of 1939 PA 3, MCL 460.6j, as outlined in
22 section 27(2)(b)(iv).

23 (d) Adjust, if needed, the minimum balance of accumulated
24 reserve funds established under section 7(5).

25 (4) If a provider has recorded a regulatory liability in any
26 given month, interest on the regulatory liability balance shall be
27 accrued at the average short-term borrowing rate available to the

1 provider during the appropriate period, and shall be used to fund
2 incremental costs of compliance incurred in subsequent periods.

3 Sec. 33. (1) By a time determined by the commission, each
4 provider shall submit to the commission an annual report that
5 provides information relating to the actions taken by the provider
6 to comply with the integrated renewable energy portfolio standard.
7 By that same time, a municipally owned electric utility shall
8 submit a copy of the report to the governing body of the
9 municipally owned electric utility, and a cooperative electric
10 utility shall submit a copy of the report to its board of
11 directors.

12 (2) Each annual report under subsection (1) shall include all
13 of the following information:

14 (a) The amount of electricity and renewable energy credits
15 that the provider generated or acquired from renewable energy
16 systems during the reporting period and the amount of renewable
17 energy credits that the provider acquired, sold, or traded during
18 the reporting period.

19 (b) The amount of electricity that the provider generated or
20 acquired from cleaner energy systems during the reporting period.

21 (c) The capacity of each renewable energy system and cleaner
22 energy system owned, operated, or controlled by the provider, the
23 total amount of electricity generated by each renewable energy
24 system or cleaner energy system during the reporting period, and
25 the percentage of that total amount of electricity from each
26 renewable energy system that was generated directly from renewable
27 energy.

1 (d) Whether, during the reporting period, the provider began
2 construction on, acquired, or placed into operation a renewable
3 energy system or cleaner energy system.

4 (e) Expenditures made in the past year and anticipated future
5 expenditures to comply with this part and part 3.

6 (f) Any other information that the commission determines
7 necessary.

8 (3) Concurrent with the submission of each report under
9 subsection (1), a municipally owned electric utility shall submit a
10 summary of the report to its customers in their bills with a bill
11 insert and to its governing body. Concurrent with the submission of
12 each report under subsection (1), a cooperative electric utility
13 shall submit a summary of the report to its members in a periodical
14 issued by an association of rural electric cooperatives and to its
15 board of directors. A municipally owned electric utility or
16 cooperative electric provider shall make a copy of the report
17 available at its office and shall post a copy of the report on its
18 website. A summary under this section shall indicate that a copy of
19 the report is available at the office or website.

20 (4) The commission shall monitor reports submitted under
21 subsection (1) and ensure that actions taken under this act by
22 providers serving customers in the same distribution territory do
23 not create an unfair competitive advantage for any of those
24 providers.

25 (5) Biennially, the commission shall submit to the legislature
26 a report that does all of the following:

27 (a) Summarizes data collected under this section.

1 (b) Discusses the status of renewable energy and cleaner
2 energy in this state and the effect of this part and part 3 on
3 electricity prices.

4 (c) For each of the different types of renewable energy sold
5 at retail in this state, specifies the difference between the cost
6 of the renewable energy and the cost of electricity generated from
7 conventional sources.

8 (d) Provides a comparison of the cost effectiveness of the
9 methods of an electric utility with 1,000,000 or more retail
10 customers in this state as of January 1, 2008 obtaining renewable
11 energy credits under the options described in section 13.

12 (e) Discuss how the commission is fulfilling the requirements
13 of subsection (4).

14 (6) Not later than 1 year after the effective date of the
15 amendatory act that added this section, the commission shall report
16 to the legislature on the potential rate impacts on all classes of
17 customers if providers whose rates are regulated by the commission
18 decouple rates. The commission's report shall review whether
19 decoupling would be cost effective and would reduce the overall
20 consumption of fossil fuels in this state.

21 Sec. 35. (1) A person may file commercially or financially
22 sensitive information or trade secrets with the commission or a
23 third party contractor under this act, confidentially. To be filed
24 confidentially, the information shall be accompanied by an
25 affidavit that sets forth both the reasons for the confidentiality
26 and a public synopsis of the information.

27 (2) Information filed confidentially is exempt from the

Senate Bill No. 213 as amended June 27, 2008

1 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and
2 shall remain confidential, except under the terms of a mandatory
3 protective order. If information is disclosed under a mandatory
4 protective order, then the commission may use the information for
5 the purpose for which it is required, but the information shall
6 remain confidential.

7 (3) There is a rebuttable presumption that any information
8 filed confidentially under subsection (1) is commercially or
9 financially sensitive information or trade secrets entitled to
10 protection under subsection (1).

11 Sec. 37. (1) Within 60 days after the effective date of this
12 act, the commission shall issue a temporary order implementing this
13 act, including, but not limited to, all of the following:

14 (a) Formats of integrated renewable energy portfolio plans for
15 various categories of providers.

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

17 (2) Within 1 year after the effective date of this act, the
18 commission shall promulgate rules to implement this act pursuant to
19 the administrative procedures act of 1969, 1969 PA 306, MCL 24.201
20 to 24.328.

21 Sec. 39. (1) If, on or before January 1, 2008, ~~<<an alternative~~
22 ~~electric supplier a merchant plant>>~~ entered into a contract with an
initial term of

23 20 years or more to sell electricity to a provider whose rates are
24 regulated by the commission with 1,000,000 or more retail customers
25 in this state and if the ~~<<alternative electric supplier merchant~~
26 ~~plant>>~~ generated

27 electricity under that contract, in whole or in part, from a
renewable energy resource, wood, wood wastes, or landfill gas, then

Senate Bill No. 213 as amended June 27, 2008

1 the ~~<<alternative electric supplier merchant plant>>~~ ~~<<may shall>>~~
 2 recover the amount, if any,
 3 by which the ~~<<alternative electric supplier's merchant plant's>>~~ actual
 4 ~~<<and reasonably incurred>>~~ fuel and
 5 variable operation and maintenance costs exceed the amount that the
 6 alternative electric supplier is paid under the contract for those
 7 costs.

8 (2) The commission shall issue orders to permit the recovery
 9 authorized under subsection (1) through the power supply cost
 10 recovery process of the provider whose rates are regulated by the
 11 commission upon petition of the ~~<<alternative electric supplier
 12 merchant plant>>~~. The
 13 ~~<<alternative electric supplier merchant plant>>~~ shall not be required
 14 to alter or
 15 amend the existing contract with the electric utility in order to
 16 obtain the recovery under subsection (1). The commission shall
 17 permit or require the provider whose rates are regulated by the
 18 commission to recover from its ratepayers fuel and variable
 19 operation and maintenance costs under the contract as reasonably
 20 and prudently incurred costs.

21 Sec. 40. (1) This act does not provide the commission with new
 22 authority with respect to municipally owned electric utilities
 23 except to the extent explicitly provided in this act.

24 (2) Notwithstanding any other provision of this part,
 25 electricity or natural gas used in the operation or testing of any
 26 environmental control equipment authorized, permitted, or required
 27 by this state, any federal agency, or any court order is exempt
 from the requirements of, and calculations of compliance required
 under, this part.

PART 3. ENERGY OPTIMIZATION

Sec. 41. As used in this part:

1 (a) "Commission" means that term as defined in section 3.

2 (b) "Electric provider" means a provider as defined in section
3 3.

4 (c) "Energy optimization" means that term as defined in
5 section 3.

6 (d) "Integrated renewable energy portfolio plan" means that
7 term as defined in section 3.

8 (e) "Load management" means that term as defined in section 3.

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

12 (g) "Provider" means an electric provider or a natural gas
13 provider.

14 Sec. 42. (1) Within 90 days after the commission enters a
15 temporary order under section 37, each provider shall file a
16 proposed energy optimization plan with the commission. For an
17 electric provider, the proposed energy optimization plan shall be
18 prepared and subject to approval as a subpart of the integrated
19 renewable energy portfolio plan. For a natural gas provider, the
20 proposed energy optimization plan shall be subject to approval in
21 the same manner as an electric provider's integrated renewable
22 energy portfolio plan under part 2.

23 (2) An energy optimization plan may utilize energy efficiency,
24 load management, and conservation programs.

25 (3) An energy optimization plan may utilize educational
26 programs designed to alter consumer behavior or any other measures
27 that can reasonably be used to meet the goals set forth in section

1 43.

2 (4) A provider may, as a part of an energy optimization plan
3 filing, propose to the commission measures designed to meet the
4 goals set forth in section 43, which provide additional customer
5 benefits.

6 (5) An energy optimization plan shall provide for the
7 practical and effective administration of the proposed energy
8 optimization programs. The commission shall allow providers
9 flexibility in designing their energy optimization programs and
10 administrative approach. A provider's energy optimization programs
11 may be administered, at the provider's option, by the provider,
12 alone or jointly with other providers, by a state agency, or by an
13 appropriate experienced nonprofit organization selected after a
14 competitive bid process.

15 Sec. 43. The overall goal of an energy optimization plan shall
16 be to reduce the future costs of provider service to customers. In
17 particular, energy optimization plans shall be designed to protect
18 consumers from the higher costs that would follow the construction
19 of new electric generating plants, by delaying the need for their
20 construction.

21 Sec. 44. (1) A provider's energy optimization plan shall be
22 filed, reviewed, and approved or rejected by the commission as part
23 of the same procedures that apply to the integrated renewable
24 energy portfolio plan.

25 (2) The commission shall not approve an integrated renewable
26 energy portfolio plan unless the commission determines that the
27 energy optimization plan is reasonable. In determining whether the

1 energy optimization plan is reasonable, the commission shall review
2 each element and consider whether it would reduce the future cost
3 of service for the provider's customers. In addition, the
4 commission shall consider at least all of the following:

5 (a) The specific changes in customers' consumption patterns
6 that the proposed energy optimization plan is attempting to
7 influence.

8 (b) The cost and benefit analysis and other justification for
9 specific programs and measures included in a public utility's
10 proposed energy optimization plan.

11 (c) Whether the proposed energy optimization plan is
12 consistent with any long-range integrated resource plan filed by
13 the public utility with the commission.

14 (d) Whether the proposed energy optimization plan will result
15 in any unreasonable prejudice or disadvantage to any class of
16 customers.

17 (e) The extent to which the plan provides programs that are
18 available, affordable, and useful to all customers.

19 Sec. 45. A provider may request and the commission may
20 approve, as a part of an energy optimization plan, the payment of a
21 financial incentive to the provider designed to commensurately
22 reward the provider for positive performance. However, the total
23 amount of a financial incentive shall not exceed 50% of the net
24 cost reductions enjoyed by the provider's customers as a result of
25 implementation of the energy optimization plan.

26 Sec. 46. (1) The incremental costs of a provider's energy
27 optimization programs include both of the following:

1 (a) The full costs incurred pursuant to the provider's energy
2 optimization plan.

3 (b) Revenues that represent contributions to the provider's
4 fixed costs that were lost because of the implementation of the
5 energy optimization plan.

6 (2) The incremental costs of a provider's energy optimization
7 programs, including, but not limited to, costs under section 47,
8 shall be quantified on a per meter basis and included in the
9 incremental costs of compliance subject to the retail rate impact
10 limits in section 13.

11 (3) The commission shall assign and charge for the costs of
12 various energy optimization educational programs only to the class
13 or classes of customers that benefit from those programs.

14 Sec. 47. (1) Sections 42 to 45 do not apply to a provider that
15 pays the following minimum percentage of total utility sales
16 revenues, including electricity or natural gas commodity costs,
17 each year to an independent energy efficiency program administrator
18 selected by the commission:

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

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

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

22 (d) In 2012 and each year thereafter, 2.0% of total utility
23 sales revenues for the preceding year.

24 (2) Money received from a provider by the energy efficiency
25 program administrator under subsection (1) shall be used to
26 administer energy efficiency programs for the provider. Money
27 unspent in any given year shall be carried forward to be spent in

1 the subsequent year.

2 (3) The commission shall allow a provider that complies with
3 subsection (1) to recover the amount of money transferred. This
4 cost shall be recovered from residential customers by volumetric
5 charges, from all other metered customers by per-meter charges, and
6 from unmetered customers by an appropriate charge, applied to
7 utility bills.

8 (4) Money paid by a provider to the energy efficiency program
9 administrator under subsection (1) shall only be used to fund
10 energy efficiency programs in that provider's service territory. To
11 the extent feasible, charges collected from a particular customer
12 rate class and paid to the energy efficiency program administrator
13 under subsection (1) shall be devoted to energy efficiency programs
14 and services for that rate class. The energy efficiency program
15 administrator shall report to the commission the demand reduction
16 achieved for the provider through energy optimization for the
17 purpose of calculating the integrated renewable energy portfolio
18 under section 13.

19 (5) Money paid to the energy efficiency program administrator
20 and not spent by the administrator that year shall remain available
21 for expenditure the following year, subject to the requirements of
22 subsection (4).

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

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

Senate Bill No. 213 as amended June 27, 2008

1 Sec. 48. ~~<<Upon petition of a natural gas provider whose rates~~
 2 ~~are regulated by the commission~~(1) A natural gas utility regulated by
 the commission shall be allowed to decouple rates for residential and
 small commercial customers by implementing, at the election of the
 utility, 1 of the following decoupling options:

(a) A single per customer class fixed monthly service charge to
 recover the revenue requirement authorized in its most recent base rate
 case in place of the customer charges and volumetric distribution charges
 for those classes.

(b) A symmetrical volumetric decoupling mechanism to recover from
 or return to customers the difference between the monthly revenue
 requirements authorized in its most recent base rate case to the actual
 revenue recovered from each customer class. The overrecovery or
 underrecovery shall be collected from or returned to customers in the
 second month following the overcollection or undercollection.

(2) On an annual basis, a natural gas utility using either
 decoupling mechanism described in subsection (1) shall implement a true-
 up mechanism in a manner determined by commission order to adjust for
 variable costs incurred by the utility that are above or below the costs
 used to determine the revenue requirement authorized in its most recent
 base rate case>>, the commission shall authorize the

3 natural gas provider to decouple rates, regardless of whether,
 4 under section 43, the natural gas provider's energy optimization
 5 programs are administered by the provider, a state agency, or a
 6 nonprofit organization.

7 PART 4. STATE GOVERNMENT ENERGY EFFICIENCY AND CONSERVATION

8 Sec. 51. As used in this part:

9 (a) "Commission" means the Michigan public service commission.

10 (b) "Load management" means that term as defined in section 3.

11 Sec. 53. (1) The energy office in the department of labor and
 12 economic growth shall do all of the following:

13 (a) Assist the department of management and budget in
 14 conducting energy audits to improve the energy performance of
 15 facilities owned or leased by the state and implementing the
 16 recommendations of the audits if the recommendations will save

17 money. If building or facility modifications are allowed under the

18 terms of a lease, the state shall undertake any recommendations

19 resulting from an energy audit to those facilities if the

20 recommendations will save money. The energy audits shall be

21 conducted by December 31, 2009 and every 5 years thereafter. Any

22 money saved by the energy audits shall be deposited into the energy

23 conservation fund created in subsection (5).

24 (b) Assist the department of management and budget in

25 examining the cost and benefit of using LEED building code

26 standards when constructing or remodeling a state building.

27 (c) Assist the department of management and budget before the

1 state leases a building in examining the cost and benefit of
2 leasing a building that meets LEED building codes standards. This
3 subsection does not apply if there are no such buildings available
4 that meet the state's functional or physical needs, or if the state
5 is already leasing a building that has historical, architectural,
6 or cultural significance that could be harmed by a lease not being
7 renewed solely based on the building's failure to meet LEED
8 criteria.

9 (d) Assist each state department in appointing an energy
10 manager to work with the energy office and that department to
11 reduce state energy use.

12 (e) Assist the department of management and budget in ensuring
13 that, during any renovation or construction of a state building,
14 energy efficient products are used whenever possible and that the
15 state purchases energy efficient products whenever possible.

16 (f) Assist the department of management and budget in
17 implementing a program to educate state employees on how to
18 conserve energy. The energy office and the department of management
19 and budget shall update the program every 3 years.

20 (g) Assist the commission and the department of management and
21 budget in using more cost-effective lighting technologies,
22 geothermal heat pumps, and other cost-effective technologies to
23 conserve energy.

24 (h) By March 31, 2010, assist the department of management and
25 budget in reducing the state's energy use during peak summer energy
26 use seasons with the goal of achieving reductions beginning in
27 2010.

1 (i) Assist the department of management and budget in creating
2 a web-based system for tracking energy efficiency and energy
3 conservation projects occurring within state government.

4 (j) With the commission, review and increase efforts to
5 provide customers information on energy efficiency and
6 conservation, particularly residential customers. By December 31,
7 2009, the energy office shall prepare a report to the legislature
8 on what steps have been taken to increase awareness of energy
9 efficiency and energy conservation methods.

10 (2) The commission shall do all of the following:

11 (a) Undertake activities to increase public awareness of load
12 management techniques. As used in this subdivision, "load
13 management" means measures or programs that target equipment or
14 devices to result in decreased peak electricity demand or shift
15 demand from peak to off-peak periods.

16 (b) Engage in regional efforts to reduce the demand for energy
17 whenever possible.

18 (c) Work with large commercial and industrial customers to
19 reduce demand and conserve energy through load management
20 techniques and other activities it considers appropriate. The
21 commission shall file a report with the legislature by December 31,
22 2010 on the effort to reduce demand. The report shall also include
23 any recommendations for legislative action the commission considers
24 necessary.

25 (3) It is the goal of this state to reduce energy use in this
26 state by 5% by 2015. It shall be the goal of state government to
27 reduce energy use by state government by 20% by 2015. By April 1,

1 2010 and every 2 years thereafter, the commission shall report to
2 the legislature on the progress being made toward these goals.

3 (4) By October 1, 2010, the commission shall report to the
4 legislature any recommendations for legislative action to increase
5 energy conservation and efficiency based on the energy optimization
6 plans approved under section 44 and the commission's own
7 investigation. By March 1, 2013, the commission shall report to the
8 legislature how electric suppliers have progressed with
9 implementing the reductions in energy use. The commission may use
10 an independent evaluator to review the submissions by electric
11 suppliers.

12 (5) The energy conservation fund is created within the state
13 treasury. The state treasurer may receive money or other assets
14 from any source for deposit into the fund. The state treasurer
15 shall direct the investment of the fund. The state treasurer shall
16 credit to the fund interest and earnings from fund investments.
17 Money in the fund at the close of the fiscal year shall remain in
18 the fund and shall not lapse to the general fund. The department of
19 labor and economic growth shall be the administrator of the fund
20 for auditing purposes. The commission shall expend money from the
21 fund, upon appropriation, to fund energy efficiency and
22 conservation efforts. The auditor general shall audit the energy
23 conservation fund by December 31, 2013.

24 PART 5. WIND ENERGY RESOURCE ZONES

25 Sec. 61. As used in this part:

26 (a) "Affiliated transmission company" means a person,
27 partnership, corporation, association, or other legal entity, or

1 its successors or assigns, which has fully satisfied the
2 requirements to join a regional transmission organization as
3 determined by the federal energy regulatory commission, is engaged
4 in this state in the transmission of electricity using facilities
5 it owns that were transferred to the entity by an electric utility
6 that was engaged in the generation, transmission, and distribution
7 of electricity in this state on December 31, 2000, and is not
8 independent of an electric utility or an affiliate of the utility,
9 generating or distributing electricity to retail customers in this
10 state.

11 (b) "Applicable regional transmission organization" means a
12 nonprofit, member-based organization governed by an independent
13 board of directors that serves as the regional transmission
14 organization with oversight responsibility for the region that
15 includes the electric utility's, affiliated transmission company's,
16 or independent transmission company's service territory.

17 (c) "Board" means the wind energy resource board created under
18 section 63.

19 (d) "Commission" means the Michigan public service commission.

20 (e) "Electric utility" means a person, partnership,
21 corporation, association, or other legal entity whose transmission
22 or distribution of electricity the commission regulates under 1909
23 PA 106, MCL 460.551 to 460.559, or 1939 PA 3, MCL 460.1 to
24 460.10cc. Electric utility does not include a municipal utility,
25 affiliated transmission company, or independent transmission
26 company.

27 (f) "Expedited siting certificate" means a certificate

1 authorized under section 69, granted to electric utilities,
2 affiliated transmission companies, and independent transmission
3 companies.

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

9 (i) The proposed transmission line is part of a transmission
10 project included in the applicable regional transmission
11 organization's board-approved transmission expansion plan.

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

18 (iii) If, after the effective date of this act, the applicable
19 regional transmission organization utilizes another approval method
20 for transmission projects proposed by an electric utility,
21 affiliated transmission company, or independent transmission
22 company, the proposed transmission line is included in a
23 transmission project approved by the applicable regional
24 transmission organization through the process developed after the
25 effective date of this act.

26 (iv) Any other federal energy regulatory commission approved
27 transmission planning process of a transmission project.

Senate Bill No. 213 as amended June 27, 2008

1 (h) "Independent transmission company" means a person,
2 partnership, corporation, association, or other legal entity, or
3 its successors or assigns, engaged in this state in the
4 transmission of electricity using facilities it owns that have been
5 divested to the entity by an electric utility that was engaged in
6 the generation, transmission, and distribution of electricity in
7 this state on December 31, 2000, and is independent of an electric
8 utility or an affiliate of the utility, generating or distributing
9 electricity to retail customers in this state.

10 (i) "Municipality" means a city, township, or village.

11 (j) "Purchase power agreement" means an agreement negotiated
12 between an electric utility and the owner of a wind energy
13 conversion facility to purchase wind energy from the wind energy
14 conversion facility.

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

18 (l) "Wind energy conversion facility" means a wind energy
19 conversion system in this state that collects and converts wind
20 into energy to generate electricity.

21 (m) "Wind energy resource zone" or "zone" means an area
22 approved as a wind resource zone by the commission as provided in
23 section 67.

24 Sec. 63. Within 60 days after the effective date of this act,
25 the commission shall create the wind energy resource zone board.
26 The board shall consist of 9 members, as follows:

27 ~~<<(a) A member representing commission staff.~~

Senate Bill No. 213 as amended June 27, 2008

~~1 (b) A member representing the Michigan electric cooperative
2 association, a Michigan nonprofit corporation, or a successor
3 organization.~~

~~4 (c) Two members representing the electric utility industry.~~

~~(a) 1 member representing the commission.~~

~~(b) 2 members representing the electric utility industry.~~

~~(c) 1 member representing alternative electric suppliers.~~

~~(d) 1 member representing the attorney general.~~

~~(e) 1 member representing the renewable energy industry.~~

~~(f) 1 member representing municipalities.~~

~~(g) 1 member representing the electric transmission industry.~~

~~(h) 1 member representing the public at large.>>~~

5 Sec. 65. (1) The wind energy resource zone board shall
6 exercise its powers, duties, and decision-making authority under
7 this part independently of the commission.

8 (2) The board shall do all of the following:

9 (a) Study wind energy production potential and the viability
10 of wind as a source of commercial energy generation in this state.

11 (b) Study availability of land in this state for potential
12 utilization by wind energy conversion facilities.

13 (c) Conduct modeling and other studies related to wind energy,
14 including studying existing wind energy conversion facilities,
15 estimates for additional wind energy conversion facility
16 development, and average annual recorded wind velocity levels. The
17 board's studies should include examination of wind energy
18 conversion facility requests currently in the applicable regional
19 transmission organization's generator interconnection queue.

20 (3) Within 240 days after the effective date of this act,
21 provide a report detailing its findings. The board's report shall
22 include the following:

23 (a) A list of regions in the state with the highest level of
24 wind energy harvest potential.

25 (b) A description of the estimated maximum and minimum cost
26 effective generating capacity in megawatts that can be installed in
27 each identified region of the state.

Senate Bill No. 213 as amended June 27, 2008

1 (c) An estimate of the annual maximum and minimum cost
2 effective energy production potential for each identified region of
3 the state.

4 (d) An estimate of the maximum wind generation capacity
5 already in service in each identified region of the state.

6 (4) After the board issues its report as provided in this
7 section, electric utilities, affiliated transmission companies and
8 independent transmission companies with transmission facilities
9 within or adjacent to regions of the state identified in the
10 board's report shall identify existing or new transmission
11 infrastructure necessary to deliver maximum and minimum wind energy
12 production potential for each of those regions, and shall submit
13 this information to the board for its review.

14 Sec. 67. (1) Based on the board's findings as reported under
15 section 65, the commission shall, through a final order, designate
16 the area of this state likely to be most productive of wind energy
17 as the primary wind energy resource zone and may designate
18 additional wind energy resource zones.

19 (2) A wind energy resource zone shall be created on land that
20 is entirely within the boundaries of this state.

21 (3) A zone created by the commission shall encompass a natural
22 geographical area or region of the state as identified by the board
23 in its report issued under section 65.

24 (4) <<In determining the location of a zone, the commission shall
ensure that there are not adverse impacts on the public health, safety,
or welfare and that any adverse impacts on private property values are
minimal.>> In determining the location of a zone, the commission
25 shall consider all of the following factors pursuant to the
26 findings of the board:

27 (a) Average annual wind velocity levels in the region.

1 (b) Availability of land in the region that may be utilized by
2 wind energy conversion facilities.

3 (c) Existing wind energy conversion facilities in the region.

4 (d) Potential for megawatt output of combined wind energy
5 conversion facilities in the region.

6 (e) Received transmission request forms.

7 (5) In conjunction with the issuance of its order under
8 subsection (1), the commission shall submit to the legislature a
9 report on the effect that setback requirements and noise
10 limitations under local zoning or other ordinances may have on wind
11 energy development in wind resource zones. The report shall include
12 any recommendations the commission may have for legislation
13 addressing these issues. Before preparing the report, the
14 commission shall conduct hearings in various areas of the state to
15 receive public comment on the subject of the report.

16 Sec. 69. (1) To facilitate transmission of electricity
17 generated by wind energy conversion facilities located in wind
18 resource zones, the commission shall issue expedited siting
19 certificates to an electric utility, affiliated transmission
20 company, or independent transmission company as provided in this
21 part. A wind energy conversion facility that is issued an expedited
22 siting certificate is exempt from any local zoning ordinance except
23 for provisions regulating setbacks and noise.

24 (2) An electric utility, affiliated transmission company, or
25 independent transmission company shall apply to the commission for
26 an expedited siting certificate. An applicant may withdraw an
27 application at any time.

1 (3) Before filing an application for an expedited siting
2 certificate for a proposed transmission line under this part, an
3 electric utility, affiliated transmission company, or independent
4 transmission company must receive any required approvals from the
5 applicable regional transmission organization for the proposed
6 transmission line.

7 (4) Sixty days before seeking approval from the applicable
8 regional transmission organization for a transmission line as
9 described in subsection (3), an electric utility, affiliated
10 transmission company, or independent transmission company shall
11 notify the commission in writing that it will seek such approval.

12 (5) The commission shall represent the state's interests in
13 all proceedings before the applicable regional transmission
14 organization for which the commission receives notice under
15 subsection (4).

16 Sec. 71. An application for an expedited siting certificate
17 shall contain all of the following:

18 (a) Evidence that the proposed transmission line received any
19 required approvals from the applicable regional transmission
20 organization.

21 (b) The planned date for beginning construction of the
22 proposed transmission line.

23 (c) A detailed description of the proposed transmission line,
24 its route, and its expected configuration and use.

25 (d) Information addressing potential effects of the proposed
26 transmission line on public health and safety.

27 (e) Information indicating that the proposed transmission line

1 will comply with all applicable state and federal environmental
2 standards, laws, and rules.

3 (f) A copy of the board's report evidencing cost-effective
4 wind potential in the zone, and an explanation of how the proposed
5 line will enable that potential.

6 (g) Other information reasonably required by the commission
7 pursuant to rule.

8 Sec. 73. (1) Upon applying for a certificate, an electric
9 utility, affiliated transmission company, or independent
10 transmission company shall give public notice in the manner and
11 form the commission prescribes of an opportunity to comment on the
12 application. Notice shall be published in a newspaper of general
13 circulation in the relevant zone within a reasonable time period
14 after an application is provided to the commission, and shall be
15 sent to each affected municipality and each affected landowner on
16 whose property a portion of the proposed transmission line will be
17 constructed. The notice shall be written in plain, nontechnical,
18 and easily understood terms and shall contain a title that includes
19 the name of the electric utility, affiliated transmission company,
20 or independent transmission company and the words "Notice of Intent
21 to Construct a Transmission Line in a Wind Energy Resource Zone".

22 (2) The commission shall conduct a proceeding on the
23 application for an expedited siting certificate as a contested case
24 under the administrative procedures act of 1969, 1969 PA 306, MCL
25 24.201 to 24.328.

26 (3) The commission shall grant an expedited siting certificate
27 if it determines all of the following:

Senate Bill No. 213 as amended June 27, 2008

1 (a) The proposed transmission line received any required
2 approvals from the applicable regional transmission organization.

3 (b) The proposed transmission line ~~<<does not present an
4 unreasonable threat to public health or safety. will not result in an
adverse impact on the public health, safety, or welfare and that any
adverse impacts on private property values will be minimal.>>~~

5 (c) The proposed transmission line will comply with all
6 applicable state and federal environmental laws.

7 (4) If the commission grants an expedited siting certificate
8 under this part, the certificate shall take precedence over a
9 conflicting local ordinance, law, rule, regulation, policy, or
10 practice that prohibits or regulates the location or construction
11 of a transmission line for which the commission has issued a
12 certificate.

13 (5) In an eminent domain or other related proceeding arising
14 out of or related to a transmission line for which expedited siting
15 authority is issued, a certificate approved under this part is
16 conclusive and binding as to the necessity for that transmission
17 line and its compatibility with the public health and safety.

18 (6) The commission has a maximum of 180 days to grant or deny
19 an expedited siting certificate under this section.

20 Sec. 75. (1) A person who plans to construct a wind energy
21 conversion facility within a wind energy resource zone may apply to
22 the commission for certification of the wind energy conversion
23 facility.

24 (2) An application under subsection (1) shall contain the
25 following information:

26 (a) The location of the wind energy conversion facility,
27 including a detailed description of the land.

1 (b) A certification that the applicant will own the wind
2 energy conversion facility.

3 (c) The planned date for beginning construction of the wind
4 energy conversion facility.

5 (d) If a zoning ordinance prohibits or regulates the location,
6 development, or construction of the wind generation facility, a
7 description of the manner in which that zoning ordinance prohibits
8 or regulates the location, development, or construction of the
9 proposed wind energy conversion facility.

10 (e) The estimated amount of the wind energy conversion
11 facility's annual energy production potential.

12 (f) Any other information reasonably required by the
13 commission pursuant to rule.

14 Sec. 77. Within 30 days of receiving an application under
15 section 75, the commission shall approve the application and
16 certify the wind energy conversion facility if the commission
17 determines all of the following:

18 (a) Construction has not begun on the wind energy conversion
19 facility.

20 (b) The wind energy conversion facility will be located within
21 a wind energy resource zone.

22 (c) The wind energy conversion facility will cost effectively
23 optimize benefits from wind energy by meeting a minimal capacity
24 factor.

25 Sec. 83. The commission may revoke the certification of a wind
26 energy conversion facility for any of the following reasons:

27 (a) The wind energy conversion facility is no longer in

Senate Bill No. 213 as amended June 27, 2008

1 operation.

2 (b) The wind energy conversion facility does not begin
3 construction or become operational within 36 months from the date
4 the certificate is granted and becomes final, and the commission
5 determines that an extension of time is unreasonable.

6 Sec. 85. The commission shall make an annual report,
7 summarizing the impact of establishing wind energy resource zones,
8 wind energy generation, expedited transmission line siting
9 applications, estimates for future wind generation within wind
10 energy resource zones, and recommendations for program enhancements
11 or expansion, to the governor and the legislature on or before the
12 first Monday of March of each year.

13 Sec. 87. This part does not prohibit an electric utility,
14 affiliated transmission company, or independent transmission
15 company from constructing a transmission line without obtaining an
16 expedited siting certificate.

17 Sec. 89. The commission may promulgate rules to implement this
18 part pursuant to the administrative procedures act of 1969, 1969 PA
19 306, MCL 24.201 to 24.328.

20 Sec. 91. (1) A commission order relating to any matter
21 provided for under this part is subject to review as provided in
22 section 26 of 1909 PA 300, MCL 462.26.

23 (2) In administering this part, the commission shall have only
24 those powers and duties granted to the commission under this part.

25 Sec. 93. This part shall control in any conflict between this
26 part and any other law of this state.

<<Sec. 95. This part does not confer the power of eminent
domain.>>

27 Enacting section 1. As provided in section 5 of 1846 RS 1, MCL

1 8.5, this act is severable.

2 Enacting section 2. This act does not take effect unless all
3 of the following bills of the 94th Legislature are enacted into
4 law:

5 (a) Senate Bill No. 1000.

6 (b) Senate Bill No. 1040.

7 (c) Senate Bill No. 1041.

8 (d) Senate Bill No. 1048.