

SENATE BILL No. 385

March 29, 2007, Introduced by Senators BARCIA, THOMAS, OLSHOVE, HUNTER, PRUSI, ANDERSON, JACOBS, SCOTT, CHERRY, BASHAM, CLARKE, WHITMER, SCHAUER, BRATER, SWITALSKI, CLARK-COLEMAN and GLEASON and referred to the Committee on Energy Policy and Public Utilities.

A bill to require certain providers of electric service to comply with a portfolio standard for renewable energy; to prescribe the powers and duties of certain state agencies and officials; to create a fund; and to provide for penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 1. As used in this act:

(a) "Biomass" means cellulosic organic material from a plant that is planted to produce energy or nonhazardous plant matter waste material that is segregated from other waste materials and is derived from any of the following:

(i) An agricultural crop, crop by-product, or residue resource.

(ii) Waste such as landscape or right-of-way tree trimmings, but not including the following:

(A) Municipal solid waste.

(B) Recyclable postconsumer waste paper.

1 (C) Painted, treated, or pressurized wood.

2 (D) Construction debris.

3 (E) Wood contaminated with plastic or metals.

4 (F) Tires.

5 (iii) Gasified animal wastes.

6 (iv) Landfill methane.

7 (b) "Commission" means the Michigan public service commission
8 in the department of labor and economic growth.

9 (c) "Portfolio standard" means a portfolio standard for
10 renewable energy established by the commission under this act.

11 (d) "Provider" means any person or entity that is in the
12 business of selling electricity to retail customers in this state.

13 (e) "Renewable energy" means any of the following:

14 (i) Biomass.

15 (ii) Geothermal energy.

16 (iii) Solar thermal energy.

17 (iv) Wind energy.

18 (f) "Renewable energy system" means any of the following:

19 (i) A facility or energy system that uses renewable energy to
20 generate electricity and transmits or distributes the electricity
21 that it generates from renewable energy.

22 (ii) A solar thermal energy system that reduces the consumption
23 of electricity.

24 Sec. 2. (1) For each provider, the commission shall establish
25 a portfolio standard for renewable energy. The portfolio standard
26 shall require the provider to generate or acquire electricity from
27 renewable energy systems in the following amounts:

1 (a) By December 31, 2009, not less than 7% of the total amount
2 of electricity sold by the provider to its retail customers in this
3 state during the calendar year.

4 (b) By December 31, 2012, not less than 9% of the total amount
5 of electricity sold by the provider to its retail customers in this
6 state during the calendar year.

7 (c) By December 31, 2015, not less than 13% of the total
8 amount of electricity sold by the provider to its retail customers
9 in this state during the calendar year.

10 (d) By December 31, 2018, not less than 16% of the total
11 amount of electricity sold by the provider to its retail customers
12 in this state during the calendar year.

13 (e) By December 31, 2020, not less than 20% of the total
14 amount of electricity sold by the provider to its retail customers
15 in this state during the calendar year.

16 (2) In addition to the requirements under subsection (1), the
17 portfolio standard for each provider shall require all of the
18 following:

19 (a) That of the total amount of electricity that the provider
20 is required to generate or acquire from renewable energy systems
21 during each calendar year, not less than 5% of that amount must be
22 generated or acquired from solar renewable energy systems.

23 (b) If the provider acquires electricity from a renewable
24 energy system under a renewable energy contract with another party,
25 the contract shall provide both of the following:

26 (i) That the term of the renewable energy contract shall be not
27 less than 10 years, unless the other party agrees to a renewable

1 energy contract with a shorter term.

2 (ii) That the terms and conditions of the renewable energy
3 contract are just and reasonable, as determined by the commission.

4 (c) Any biomass combustion the provider uses to meet the
5 requirements of subsection (1) must meet the best available control
6 technologies for emissions. Preference should be given for gasified
7 biomass technologies.

8 (3) If, for the benefit of 1 or more of its retail customers
9 in this state, the provider has subsidized, in whole or in part,
10 the acquisition or installation of a solar thermal energy system
11 that qualifies as a renewable energy system and that reduces the
12 consumption of electricity, the total reduction in the consumption
13 of electricity during each calendar year that results from the
14 solar thermal energy system is considered to be electricity that
15 the provider generated or acquired from a renewable energy system
16 for the purposes of complying with its portfolio standard.

17 (4) The commission may establish a system of renewable energy
18 credits that may be used by a provider to comply with its portfolio
19 standard.

20 (5) If a provider is unable to comply with its portfolio
21 standard through the generation of electricity from its own
22 renewable energy systems or the use of renewable energy credits,
23 the provider shall acquire electricity under 1 or more renewable
24 energy contracts.

25 (6) If the commission determines that there is not or will not
26 be a sufficient supply of electricity made available to a provider
27 under renewable energy contracts with just and reasonable terms and

1 conditions, the commission shall exempt the provider, for that
2 calendar year, from the remaining requirements of its portfolio
3 standard or from any appropriate portion of the standard.

4 (7) The commission shall determine whether the terms and
5 conditions of a renewable energy contract are just and reasonable.

6 (8) As used in this section:

7 (a) "Renewable energy contract" means a contract to acquire
8 electricity from 1 or more renewable energy systems owned,
9 operated, or controlled by third parties.

10 (b) "Terms and conditions" includes the price that a provider
11 of electric service is to pay to acquire electricity under a
12 renewable energy contract.

13 Sec. 3. (1) Each provider of electric service shall submit to
14 the commission an annual report that provides information relating
15 to the actions taken by the provider to comply with its portfolio
16 standard.

17 (2) Each provider shall submit the annual report to the
18 commission after the end of each calendar year and within the time
19 prescribed by the commission. The report shall be submitted in a
20 format approved by the commission.

21 (3) Each annual report shall include all of the following
22 information:

23 (a) The amount of electricity that the provider generated or
24 acquired from renewable energy systems during the reporting period
25 and the amount of renewable energy credits that the provider
26 acquired, sold, or traded during the reporting period to comply
27 with its portfolio standard.

1 (b) The capacity of each renewable energy system owned,
2 operated, or controlled by the provider, the total amount of
3 electricity generated by each system during the reporting period
4 and the percentage of that total amount that was generated directly
5 from renewable energy.

6 (c) Whether, during the reporting period, the provider began
7 construction on, acquired, or placed into operation any renewable
8 energy system.

9 (d) Any other information that the commission may require.

10 Sec. 4. (1) If a utility does not meet its portfolio standard
11 as required under section 2, the commission shall impose on the
12 provider a fine of \$55.00 per megawatt hour for each renewable
13 energy credit that the provider does not generate or acquire from a
14 renewable energy system during a calendar year in violation of its
15 portfolio standard.

16 (2) The commission shall annually adjust the fines that will
17 be imposed for each calendar year using the prevailing consumer
18 price index for the Detroit region.

19 (3) If the commission imposes a fine under subsection (1)
20 against a provider, then all of the following apply:

21 (a) The fine is not a cost of service of the provider.

22 (b) The provider shall not include any portion of the fine in
23 any application for a rate adjustment or rate increase.

24 (c) The commission shall not allow the provider to recover any
25 portion of the fine from its retail customers.

26 (d) Money resulting from any fines imposed on a provider shall
27 go into a public benefits fund which is hereby created within the

1 state treasury. Money in the fund at the close of the fiscal year
2 shall remain in the fund and shall not lapse to the general fund.
3 The commission shall expend money from the fund, upon
4 appropriation, to promote and grow renewable energy generation in
5 this state.