

HOUSE BILL No. 5872

October 1, 2014, Introduced by Reps. McMillin, Goike and Franz and referred to the Committee on Energy and Technology.

A bill to amend 2008 PA 295, entitled "Clean, renewable, and efficient energy act," by amending section 47 (MCL 460.1047); and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 47. (1) Subject to the retail rate impact limits under
2 section 45, the commission shall consider all actual costs
3 reasonably and prudently incurred in good faith **BEFORE THE**
4 **EFFECTIVE DATE OF THE AMENDATORY ACT THAT REPEALED SECTION 27** to
5 implement a commission-approved renewable energy plan by an
6 electric provider whose rates are regulated by the commission to be
7 a cost of service to be recovered by the electric provider. Subject
8 to the retail rate impact limits under section 45, an electric
9 provider whose rates are regulated by the commission shall recover

1 through its retail electric rates all of the electric provider's
2 incremental costs of compliance during the 20-year period beginning
3 when the electric provider's plan is approved by the commission and
4 all reasonable and prudent ongoing costs of compliance during and
5 after that period. The recovery shall include, but is not limited
6 to, the electric provider's authorized rate of return on equity for
7 costs approved under this section, which shall remain fixed at the
8 rate of return and debt to equity ratio that was in effect in the
9 electric provider's base rates when the electric provider's
10 renewable energy plan was approved.

11 (2) Incremental costs of compliance shall be calculated as
12 follows:

13 (a) Determine the sum of the following costs to the extent
14 those costs are reasonable and prudent, **INCURRED BEFORE THE**
15 **EFFECTIVE DATE OF THE AMENDATORY ACT THAT REPEALED SECTION 27**, and
16 not already approved for recovery in electric rates as of ~~the~~
17 ~~effective date of this act:~~ **OCTOBER 6, 2008:**

18 (i) Capital, operating, and maintenance costs of renewable
19 energy systems or advanced cleaner energy systems, including
20 property taxes, insurance, and return on equity associated with an
21 electric provider's renewable energy systems or advanced cleaner
22 energy systems, including the electric provider's renewable energy
23 portfolio established to achieve compliance with the renewable
24 energy standards and any additional renewable energy systems or
25 advanced cleaner energy systems, that are built or acquired by the
26 electric provider to maintain compliance with the renewable energy
27 standards during the 20-year period beginning when the electric

1 provider's plan is approved by the commission.

2 (ii) Financing costs attributable to capital, operating, and
3 maintenance costs of capital facilities associated with renewable
4 energy systems or advanced cleaner energy systems used to meet the
5 renewable energy standard.

6 (iii) Costs that are not otherwise recoverable in rates approved
7 by the federal energy regulatory commission and that are related to
8 the infrastructure required to bring renewable energy systems or
9 advanced cleaner energy systems used to achieve compliance with the
10 renewable energy standards on to the transmission system, including
11 interconnection and substation costs for renewable energy systems
12 or advanced cleaner energy systems used to meet the renewable
13 energy standard.

14 (iv) Ancillary service costs determined by the commission to be
15 necessarily incurred to ensure the quality and reliability of
16 renewable energy or advanced cleaner energy used to meet the
17 renewable energy standards, regardless of the ownership of a
18 renewable energy system or advanced cleaner energy technology.

19 (v) Except to the extent the costs are allocated under a
20 different subparagraph, all of the following:

21 (A) The costs of renewable energy credits purchased under this
22 act.

23 (B) The costs of contracts described in section 33(1).

24 (vi) Expenses incurred as a result of state or federal
25 governmental actions related to renewable energy systems or
26 advanced cleaner energy systems attributable to the renewable
27 energy standards, including changes in tax or other law.

1 (vii) Any additional electric provider costs determined by the
2 commission to be necessarily incurred to ensure the quality and
3 reliability of renewable energy or advanced cleaner energy used to
4 meet the renewable energy standards.

5 (b) Subtract from the sum of costs not already included in
6 electric rates determined under subdivision (a) the sum of the
7 following revenues:

8 (i) Revenue derived from the sale of environmental attributes
9 associated with the generation of renewable energy or advanced
10 cleaner energy ~~systems~~ attributable to the renewable energy
11 standards. ~~Such~~ **THAT** revenue shall not be considered in determining
12 power supply cost recovery factors under section 6j of 1939 PA 3,
13 MCL 460.6j.

14 (ii) Interest on regulatory liabilities.

15 (iii) Tax credits specifically designed to promote renewable
16 energy or advanced cleaner energy.

17 (iv) Revenue derived from the provision of renewable energy or
18 advanced cleaner energy to retail electric customers subject to a
19 power supply cost recovery clause under section 6j of 1939 PA 3,
20 MCL 460.6j, of an electric provider whose rates are regulated by
21 the commission. After providing an opportunity for a contested case
22 hearing for an electric provider whose rates are regulated by the
23 commission, the commission shall annually establish a price per
24 megawatt hour. ~~In addition, an~~ **AN** electric provider whose rates are
25 regulated by the commission may at any time petition the commission
26 to revise the price. In setting the price per megawatt hour under
27 this subparagraph, the commission shall consider factors including,

1 but not limited to, projected capacity, energy, maintenance, and
2 operating costs; information filed under section 6j of 1939 PA 3,
3 MCL 460.6j; and information from wholesale markets, including, but
4 not limited to, locational marginal pricing. This price shall be
5 multiplied by the sum of the number of megawatt hours of renewable
6 energy and the number of megawatt hours of advanced cleaner energy
7 used to maintain compliance with the renewable energy standard. The
8 product shall be considered a booked cost of purchased and net
9 interchanged power transactions under section 6j of 1939 PA 3, MCL
10 460.6j. For energy purchased by such an electric provider under a
11 renewable energy contract or advanced cleaner energy contract, the
12 price shall be the lower of the amount established by the
13 commission or the actual price paid and shall be multiplied by the
14 number of megawatt hours of renewable energy or advanced cleaner
15 energy purchased. The resulting value shall be considered a booked
16 cost of purchased and net interchanged power under section 6j of
17 1939 PA 3, MCL 460.6j.

18 (v) Revenue from wholesale renewable energy sales and advanced
19 cleaner energy sales. ~~Such~~**THAT** revenue shall not be considered in
20 determining power supply cost recovery factors under section 6j of
21 1939 PA 3, MCL 460.6j.

22 (vi) Any additional electric provider revenue considered by the
23 commission to be attributable to the renewable energy standards.

24 (vii) Any revenues recovered in rates for renewable energy
25 costs that are included under subdivision (a).

26 (3) The commission shall authorize an electric provider whose
27 rates are regulated by the commission to spend in any given month

1 more to comply with this act and implement an approved renewable
2 energy plan than the revenue actually generated by the revenue
3 recovery mechanism. An electric provider whose rates are regulated
4 by the commission shall recover its commission approved pre-tax
5 rate of return on regulatory assets during the appropriate period.
6 An electric provider whose rates are regulated by the commission
7 shall record interest on regulatory liabilities at the average
8 short-term borrowing rate available to the electric provider during
9 the appropriate period. Any regulatory assets or liabilities
10 resulting from the recovery **OF** costs of renewable energy or
11 advanced cleaner energy attributable to renewable energy standards
12 through the power supply cost recovery clause under section 6j of
13 1939 PA 3, MCL 460.6j, shall continue to be reconciled under that
14 section.

15 (4) If an electric provider's incremental costs of compliance
16 in any given month during the 20-year period beginning when the
17 electric provider's plan is approved by the commission are in
18 excess of the revenue recovery mechanism as adjusted under section
19 49 and in excess of the balance of any accumulated reserve funds,
20 subject to the minimum balance established under section 21, the
21 electric provider shall immediately notify the commission. The
22 commission shall promptly commence a contested case hearing
23 pursuant to the administrative procedures act of 1969, 1969 PA 306,
24 MCL 24.201 to 24.328, and modify the revenue recovery mechanism so
25 that the minimum balance is restored. However, if the commission
26 determines that recovery of the incremental costs of compliance
27 would otherwise exceed the maximum retail rate impacts specified

1 under section 45, it shall set the revenue recovery mechanism for
2 that electric provider to correspond to the maximum retail rate
3 impacts. Excess costs shall be accrued and deferred for recovery.
4 Not later than the expiration of the 20-year period beginning when
5 the electric provider's plan is approved by the commission, for an
6 electric provider whose rates are regulated by the commission, the
7 commission shall determine the amount of deferred costs to be
8 recovered under the revenue recovery mechanism and the recovery
9 period, which shall not extend more than 5 years beyond the
10 expiration of the 20-year period beginning when the electric
11 provider's plan is approved by the commission. The recovery of
12 excess costs shall be proportional to the retail rate impact limits
13 in section 45 for each customer class. The recovery of excess costs
14 alone, or, if begun before the expiration of the 20-year period, in
15 combination with the recovery of incremental costs of compliance
16 under the revenue recovery mechanism, shall not exceed the retail
17 rate impact limits of section 45 for each customer class.

18 (5) If, at the expiration of the 20-year period beginning when
19 the electric provider's plan is approved by the commission, an
20 electric provider whose rates are regulated by the commission has a
21 regulatory liability, the refund to customer classes shall be
22 proportional to the amounts paid by those customer classes under
23 the revenue recovery mechanism.

24 ~~—— (6) After achieving compliance with the renewable energy~~
25 ~~standard for 2015, the actual costs reasonably and prudently~~
26 ~~incurred to continue to comply with this subpart both during and~~
27 ~~after the conclusion of the 20-year period beginning when the~~

1 ~~electric provider's plan is approved by the commission shall be~~
2 ~~considered costs of service. The commission shall determine a~~
3 ~~mechanism for an electric provider whose rates are regulated by the~~
4 ~~commission to recover these costs in its retail electric rates,~~
5 ~~subject to the retail rate impact limits in section 45. Remaining~~
6 ~~and future regulatory assets shall be recovered consistent with~~
7 ~~subsections (2) and (3) and section 49.~~

8 Enacting section 1. Section 27 of the clean, renewable, and
9 efficient energy act, 2008 PA 295, MCL 460.1027, is repealed.