HOUSE BILL No. 5967

November 13, 2014, Introduced by Reps. Schmidt, Hobbs, Singh and Cavanagh 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 the title, sections 7, 71, 73, 75, 77, 83, 89, 91, 95, 191, 193, and 195, and the title to part 6 (MCL 460.1007, 460.1071, 460.1073, 460.1075, 460.1077, 460.1083, 460.1089, 460.1091, 460.1095, 460.1191, 460.1193, and 460.1195) and by adding part 7.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An act to require certain providers of electric service to establish renewable energy programs; to require certain providers of electric or natural gas service to establish energy optimization programs; to authorize the use of certain energy systems to meet

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the requirements of those programs; to provide for the approval of energy optimization service companies; to provide for certain charges on electric and natural gas bills; **TO PROVIDE FOR ON-BILL FINANCING OF CUSTOMER ENERGY EFFICIENCY MEASURES AND FOR FUNDING OF THAT PROGRAM BY THE SALE OF SECURITIES, ISSUANCE OF DEBT OBLIGATIONS, AND OTHER MEANS;** to promote energy conservation by state agencies and the public; to create a wind energy resource zone board and provide for its power and duties; to authorize the creation and implementation of wind energy resource zones; to provide for expedited transmission line siting certificates; to provide for a net metering program and the responsibilities of certain providers of electric service and customers with respect to net metering; to provide for fees; to prescribe the powers and duties of certain state agencies and officials; to require the promulgation of rules and the issuance of orders; and to provide for civil sanctions, remedies, and penalties.

Sec. 7. As used in this act:

(a) "Gasification facility" means a facility located in this state that uses a thermochemical process that does not involve direct combustion to produce synthesis gas, composed of carbon monoxide and hydrogen, from carbon-based feedstocks (such as coal, petroleum coke, wood, biomass, hazardous waste, medical waste, industrial waste, and solid waste, including, but not limited to, municipal solid waste, electronic waste, and waste described in section 11514 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11514) and that uses the synthesis gas or a mixture of the synthesis gas and methane to generate electricity

for commercial use. Gasification facility includes the transmission lines, gas transportation lines and facilities, and associated property and equipment specifically attributable to such a facility. Gasification facility includes, but is not limited to, an integrated gasification combined cycle facility and a plasma arc gasification facility.

(b) "Incremental costs of compliance" means the net revenue required by an electric provider to comply with the renewable energy standard, calculated as provided under section 47.

(c) "Independent transmission company" means that term as defined in section 2 of the electric transmission line certification act, 1995 PA 30, MCL 460.562.

(d) "Industrial cogeneration facility" means a facility that generates electricity using industrial thermal energy or industrial waste energy.

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

(f) "Industrial waste energy" means exhaust gas or flue gas that is a by-product of an industrial or manufacturing process and that would otherwise be wasted. For the purposes of this subdivision, industrial or manufacturing process does not include the generation of electricity.

(g) "Integrated gasification combined cycle facility" means a gasification facility that uses a thermochemical process, including

high temperatures and controlled amounts of air and oxygen, to break substances down into their molecular structures and that uses exhaust heat to generate electricity.

(h) "LEED" means the leadership in energy and environmental design green building rating system developed by the United States green building council.

(i) "Load management" means measures or programs that target equipment or devices to result in decreased peak electricity demand such as by shifting demand from a peak to an off-peak period. **LOAD MANAGEMENT INCLUDES, BUT IS NOT LIMITED TO, AUTOMATED ENERGY MANAGEMENT SYSTEMS RESPONSIVE TO TIME-SPECIFIC PRICING OR DEMAND RESPONSE REQUESTS FROM AN ELECTRIC PROVIDER, CUSTOMER-PREMISE THERMAL STORAGE, CUSTOMER-PREMISE ELECTROCHEMICAL STORAGE, ELECTRIC VEHICLE CHARGING CONTROL, AND CONSERVATION VOLTAGE REGULATION.**

(j) "Modified net metering" means a utility billing method that applies the power supply component of the full retail rate to the net of the bidirectional flow of kilowatt hours across the customer interconnection with the utility distribution system, during a billing period or time-of-use pricing period. A negative net metered quantity during the billing period or during each time-of-use pricing period within the billing period reflects net excess generation for which the customer is entitled to receive credit under section 177(4). Standby charges for modified net metering customers on an energy rate schedule shall be equal to the retail distribution charge applied to the imputed customer usage during the billing period. The imputed customer usage is calculated as the sum of the metered on-site generation and the net of the

bidirectional flow of power across the customer interconnection during the billing period. The commission shall establish standby charges for modified net metering customers on demand-based rate schedules that provide an equivalent contribution to utility system costs.

Sec. 71. (1) A provider shall file a proposed energy optimization plan with the commission within the following time period:

(a) For a provider whose rates are regulated by the commission, ~~90 days after the commission enters a temporary order under section 171.~~ **BY MARCH 3, 2009.**

(b) For a cooperative electric utility that has elected to become member-regulated under the electric cooperative member regulation act, 2008 PA 167, MCL 460.31 to 460.39, or a municipally-owned electric utility, ~~120 days after the commission enters a temporary order under section 171.~~ **BY APRIL 2, 2009.**

(2) The overall goal of an energy optimization plan shall be to reduce the future costs of provider service to customers **AND ELIMINATE THE WASTE OF ENERGY**. In particular, an EO plan shall be designed to delay the need for constructing new electric generating facilities and thereby protect consumers from incurring the costs of ~~such~~ **THAT** construction. The proposed energy optimization plan ~~shall be~~ **IS** subject to approval in the same manner as an electric provider's renewable energy plan under subpart A. ~~A provider may combine its energy optimization plan with its renewable energy plan.~~

(3) An energy optimization plan shall do all of the following:

(a) Propose a set of energy optimization programs that include offerings for each customer class, including low income residential. The commission shall allow providers flexibility to tailor the relative amount of effort devoted to each customer class based on the specific characteristics of their service territory. **THE SET OF ENERGY OPTIMIZATION PROGRAMS SHALL BE DESIGNED TO DO ALL OF THE FOLLOWING:**

(*i*) ENCOURAGE AND ASSIST CUSTOMERS TO ADOPT ALL AVAILABLE COST-EFFECTIVE ENERGY EFFICIENCY MEASURES.

(*ii*) INCORPORATE ALL AVAILABLE COST-EFFECTIVE PROVIDER LOAD MANAGEMENT MEASURES.

(*iii*) ENCOURAGE AND ASSIST CUSTOMERS TO ADOPT ALL AVAILABLE COST-EFFECTIVE CUSTOMER LOAD MANAGEMENT.

(b) Specify necessary funding levels.

(c) Describe how energy optimization program costs will be recovered as provided in section ~~89(2).~~**89.**

(d) Ensure, to the extent feasible, that charges collected from a particular customer rate class are spent on energy optimization programs for that rate class.

(e) Demonstrate that the proposed energy optimization programs and funding are sufficient to ensure the achievement of applicable energy optimization standards.

(f) Specify whether the number of megawatt hours of electricity or decatherms or MCFs of natural gas used in the calculation of incremental energy savings under section 77 will be weather-normalized or based on the average number of megawatt hours of electricity or decatherms or MCFs of natural gas sold by the

provider annually during the previous 3 years to retail customers in this state. Once the plan is approved by the commission, this option shall not be changed.

(g) Demonstrate that the provider's energy optimization programs, excluding program offerings to low income residential customers, will collectively be cost-effective.

(h) Provide for the practical and effective administration of the proposed energy optimization programs. The commission shall allow providers flexibility in designing their energy optimization programs and administrative approach. A provider's energy optimization programs or any part thereof ~~,~~ may be administered, at the provider's option, by the provider, alone or jointly with other providers, by a state agency, or by an appropriate experienced nonprofit organization selected after a competitive bid process.

(i) Include a process for obtaining an independent expert evaluation of the actual energy optimization programs to verify the incremental energy savings from each energy optimization program for purposes of section 77. All such evaluations ~~shall be~~ **ARE** subject to public review and commission oversight.

(J) ALLOCATE 1% OF ENERGY OPTIMIZATION FUNDING TO ANY OF THE FOLLOWING:

(*i*) INNOVATION IN ENERGY EFFICIENCY THROUGH RESEARCH AND DEVELOPMENT GRANTS TO UNIVERSITIES, TO NONPROFIT RESEARCH AND DEVELOPMENT ORGANIZATIONS, OR TO SMALL BUSINESSES RECEIVING FUNDS FROM INNOVATION FUNDS OF THE UNITED STATES OR THIS STATE.

(*ii*) COMMERCIALIZATION OF INNOVATION IN ENERGY EFFICIENCY THROUGH GRANTS, JOINT VENTURES, OR INVESTMENTS.

(4) Subject to subsection (5), an energy optimization plan may do 1 or more of the following:

(a) Utilize educational programs designed to alter consumer behavior or any other measures that can reasonably be used to meet the goals set forth in subsection (2).

(b) Propose to the commission measures that are designed to meet the goals set forth in subsection ~~(1)~~ **(2)** and that provide additional customer benefits.

(5) Expenditures under subsection (4) shall not exceed 3% of the costs of implementing the energy optimization plan.

(6) BY JANUARY 1, 2017, AN ENERGY OPTIMIZATION PLAN SHALL INCLUDE PROGRAMS FOR ON-BILL FINANCING OF ENERGY EFFICIENCY MEASURES. AN ON-BILL FINANCING PROGRAM SHALL MEET ALL OF THE FOLLOWING REQUIREMENTS:

(A) BE DESIGNED SO THAT SAVINGS IN ELECTRICITY OR NATURAL GAS BILLS FROM THE ENERGY EFFICIENCY MEASURES ARE GREATER THAN THE COST OF DEBT SERVICE, ON AN ANNUAL BASIS.

(B) LIMIT THE PERIOD OF REPAYMENT FOR A FINANCED ENERGY EFFICIENCY MEASURE TO A TIME NOT GREATER THAN 80% OF ITS EXPECTED USEFUL LIFE.

(C) PROVIDE THAT ANY ARREARAGE IN BILL PAYMENT BE PROPORTIONALLY ALLOCATED TO CURRENT ELECTRICITY OR NATURAL GAS SERVICE CHARGES AND CURRENT DEBT SERVICE CHARGES.

(D) BE OFFERED ON EQUAL TERMS FOR OWNER-OCCUPIED AND RENTED PROPERTY.

(E) PROVIDE THAT THE DEBT SERVICE OBLIGATION REMAINS WITH THE METERED PREMISES THROUGH CHANGES OF CUSTOMERS AND FOR THE PROVIDER

TO GIVE NOTICE OF THE ON-BILL FINANCING OBLIGATIONS TO A NEW CUSTOMER BEFORE THE ACCOUNT IS TRANSFERRED.

(F) OFFER CUSTOMERS FINANCIAL TERMS THAT ARE SUPERIOR TO THOSE GENERALLY AVAILABLE FOR UNSECURED DEBT TO MEMBERS OF THE CUSTOMER CLASS.

(G) PROVIDE FOR FUNDING THROUGH 1 OR MORE OF THE FOLLOWING:

(*i*) PARTICIPATION IN A PROGRAM UNDER THE PROPERTY ASSESSED CLEAN ENERGY ACT, 2010 PA 270, MCL 460.931 TO 460.949.

(*ii*) DEBT PLACEMENT THROUGH A NONPROFIT ORGANIZATION ESTABLISHED FOR THE PURPOSE OF FINANCING ENERGY EFFICIENCY MEASURES OR OTHER LENDING INSTITUTION TO WHICH THE PROVIDER PROVIDES FUNDING FOR A LOAN-LOSS RESERVE OR LETTER OF CREDIT OF AT LEAST 20% OF THE DEBT BALANCE.

(*iii*) SALE OF SECURITIES BACKED BY THE AGGREGATED ON-BILL REPAYMENT OBLIGATIONS OF THE PARTICIPATING CUSTOMERS.

(*iv*) SHORT-TERM DEBT OBLIGATIONS OF THE PROVIDER.

Sec. 73. (1) A provider's energy optimization plan shall be filed, reviewed, and approved or rejected by the commission and enforced subject to the same procedures that apply to a renewable energy plan.

(2) The commission shall not approve a proposed energy optimization plan unless the commission determines that the EO plan meets the utility system resource cost test and is reasonable and prudent. In determining whether the EO plan is reasonable and prudent, the commission shall review each element and consider whether it would reduce the future cost of service for the provider's customers. In addition, the commission shall consider at

least all of the following:

(a) The specific changes in customers' consumption patterns that the proposed EO plan is attempting to influence.

(b) The cost and benefit analysis and other justification for specific programs and measures included in a proposed EO plan.

(C) WHETHER THE PROPOSED EO PLAN INCLUDES ALL ACHIEVABLE COST-EFFECTIVE ENERGY OPTIMIZATION MEASURES.

(D) ~~(c)~~ Whether the proposed EO plan is consistent with any long-range resource plan filed by the provider with the commission.

(E) ~~(d)~~ Whether the proposed EO plan will result in any unreasonable prejudice or disadvantage to any class of customers.

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

Sec. 75. An energy optimization plan of a provider whose rates are regulated by the commission may authorize a commensurate financial incentive for the provider for exceeding the energy optimization performance standard. Payment of any financial incentive authorized in the EO plan is subject to the approval of the commission. The total amount of a financial incentive shall not exceed the lesser of the following amounts:

(a) 25% of the net cost reductions experienced by the provider's customers as a result of implementation of the energy optimization plan.

(b) ~~15% percent~~ **20%** of the provider's actual energy efficiency program expenditures for the year.

Sec. 77. (1) Except as provided in section 81, ~~and subject to the sales revenue expenditure limits in section 89,~~ an electric

provider's energy optimization programs under this subpart shall collectively achieve the following minimum energy savings:

(a) Biennial incremental energy savings in 2008-2009 equivalent to 0.3% of total annual retail electricity sales in megawatt hours in 2007.

(b) Annual incremental energy savings in 2010 equivalent to 0.5% of total annual retail electricity sales in megawatt hours in 2009.

(c) Annual incremental energy savings in 2011 equivalent to 0.75% of total annual retail electricity sales in megawatt hours in 2010.

(d) Annual incremental energy savings in 2012, 2013, 2014, and 2015 ~~and, subject to section 97, each year thereafter~~ equivalent to 1.0% of total annual retail electricity sales in megawatt hours in the preceding year.

(E) ANNUAL INCREMENTAL SAVINGS IN 2016 EQUIVALENT TO 1.1% OF TOTAL ANNUAL RETAIL ELECTRICITY SALES IN MEGAWATT HOURS IN 2015.

(F) ANNUAL INCREMENTAL SAVINGS IN 2017 EQUIVALENT TO 1.3% OF TOTAL ANNUAL RETAIL ELECTRICITY SALES IN MEGAWATT HOURS IN 2016.

(G) ANNUAL INCREMENTAL SAVINGS IN 2018 AND EACH YEAR THEREAFTER EQUIVALENT TO 1.5% OF TOTAL ANNUAL RETAIL ELECTRICITY SALES IN MEGAWATT HOURS IN THE PRECEDING YEAR.

(2) If an electric provider uses load management to achieve energy savings under its energy optimization plan, the minimum energy savings required under subsection (1) shall be adjusted by an amount such that the ratio of the minimum energy savings to the sum of maximum expenditures under section 89 and the load

management expenditures remains constant.

(3) A natural gas provider shall meet the following minimum energy optimization standards using energy efficiency programs under this subpart:

(a) Biennial incremental energy savings in 2008-2009 equivalent to 0.1% of total annual retail natural gas sales in decatherms or equivalent MCFs in 2007.

(b) Annual incremental energy savings in 2010 equivalent to 0.25% of total annual retail natural gas sales in decatherms or equivalent MCFs in 2009.

(c) Annual incremental energy savings in 2011 equivalent to 0.5% of total annual retail natural gas sales in decatherms or equivalent MCFs in 2010.

(d) Annual incremental energy savings in 2012, 2013, 2014, and 2015 ~~and, subject to section 97, each year thereafter~~ equivalent to 0.75% of total annual retail natural gas sales in decatherms or equivalent MCFs in the preceding year.

(E) ANNUAL INCREMENTAL SAVINGS IN 2016 EQUIVALENT TO 0.85% OF TOTAL ANNUAL RETAIL NATURAL GAS SALES IN DECATHERMS OR EQUIVALENT MCFS IN 2015.

(F) ANNUAL INCREMENTAL SAVINGS IN 2017 EQUIVALENT TO 0.95% OF TOTAL ANNUAL RETAIL NATURAL GAS SALES IN DECATHERMS OR EQUIVALENT MCFS IN 2016.

(G) ANNUAL INCREMENTAL SAVINGS IN 2018 AND EACH YEAR THEREAFTER EQUIVALENT TO 1.0% OF TOTAL ANNUAL RETAIL NATURAL GAS SALES IN DECATHERMS OR EQUIVALENT MCFS IN THE PRECEDING YEAR.

(4) Incremental energy savings under subsection (1) or (3) for

the 2008-2009 biennium or any year thereafter shall be determined for a provider by adding the energy savings expected to be achieved during a 1-year period by energy optimization measures implemented during the 2008-2009 biennium or any year thereafter under any energy efficiency programs consistent with the provider's energy efficiency plan.

(5) For purposes of calculations under subsection (1) or (3), total annual retail electricity or natural gas sales in a year shall be based on 1 of the following at the option of the provider as specified in its energy optimization plan:

(a) The number of weather-normalized megawatt hours or decatherms or equivalent MCFs sold by the provider to retail customers in this state during the year preceding the biennium or year for which incremental energy savings are being calculated.

(b) The average number of megawatt hours or decatherms or equivalent MCFs sold by the provider during the 3 years preceding the biennium or year for which incremental energy savings are being calculated.

(6) For any year after 2012, an electric provider may substitute renewable energy credits associated with renewable energy generated that year from a renewable energy system constructed after ~~the effective date of this act,~~ **OCTOBER 6, 2008,** advanced cleaner energy credits other than credits from industrial cogeneration using industrial waste energy, load management that reduces overall energy usage, or a combination thereof for energy optimization credits otherwise required to meet the energy optimization performance standard, if the substitution is approved

by the commission. The commission shall not approve a substitution unless the commission determines that the substitution is cost-effective and, if the substitution involves advanced cleaner energy credits, that the advanced cleaner energy system provides carbon dioxide emissions benefits. In determining whether the substitution of advanced cleaner energy credits is cost-effective compared to other available energy optimization measures, the commission shall consider the environmental costs related to the advanced cleaner energy system, including the costs of environmental control equipment or greenhouse gas constraints or taxes. The commission's determinations shall be made after a contested case hearing that includes consultation with the department of environmental quality on the issue of carbon dioxide emissions benefits, if relevant, and environmental costs.

(7) Renewable energy credits, advanced cleaner energy credits, load management that reduces overall energy usage, or a combination thereof shall not be used by a provider to meet more than 10% of the energy optimization standard. Substitutions for energy optimization credits shall be made at the following rates per energy optimization credit:

(a) 1 renewable energy credit.

(b) 1 advanced cleaner energy credit from plasma arc gasification.

(c) 4 advanced cleaner energy credits other than from plasma arc gasification.

Sec. 83. (1) One energy optimization credit shall be granted to a provider for each megawatt hour of annual incremental energy

savings achieved through energy optimization. **IF AN ELECTRIC PROVIDER ACCEPTS ELECTRICITY FROM THE COGENERATION SYSTEM OF A RESIDENTIAL OR COMMERCIAL CUSTOMER PURSUANT TO A FAIR-VALUE TARIFF OR STANDARD-OFFER CONTRACT PURSUANT TO SECTION 173, ENERGY OPTIMIZATION CREDITS SHALL BE GRANTED ONLY FOR THAT PORTION OF ELECTRICITY GENERATED WITH FUEL EQUIVALENT TO THE FUEL THAT WOULD HAVE BEEN USED FOR THE PURPOSE OF HEATING OR COOLING IF THE COGENERATION SYSTEM WERE NOT CAPTURING WASTE HEAT FOR THAT PURPOSE.**

(2) An energy optimization credit expires as follows:

(a) When used by a provider to comply with its energy optimization performance standard.

(b) When substituted for a renewable energy credit under section 27.

(c) As provided in subsection (3).

(3) If a provider's incremental energy savings in the 2008-2009 biennium or any year thereafter exceed the applicable energy optimization standard, the associated energy optimization credits may be carried forward and applied to the next year's energy optimization standard. However, all of the following apply:

(a) The number of energy optimization credits carried forward shall not exceed 1/3 of the next year's standard. Any energy optimization credits carried forward to the next year shall expire that year. Any remaining energy optimization credits shall expire at the end of the year in which the incremental energy savings were achieved, unless substituted, by an electric provider, for renewable energy credits under section 27.

(b) Energy optimization credits shall not be carried forward

if, for its performance during the same biennium or year, the provider accepts a financial incentive under section 75. The excess energy optimization credits shall expire at the end of the year in which the incremental energy savings were achieved, unless substituted, by an electric provider, for renewable energy credits under section 27.

Sec. 89. (1) The commission shall allow a provider whose rates are regulated by the commission to recover the actual costs of implementing its approved energy optimization plan. However, costs exceeding the overall funding levels specified in the energy optimization plan are not recoverable unless those costs are reasonable and prudent and meet the utility system resource cost test. Furthermore, costs for load management undertaken pursuant to an energy optimization plan are not recoverable as energy optimization program costs under this section, but may be recovered as described in section 95.

(2) Under subsection (1), costs shall be recovered from all natural gas customers and from residential electric customers by volumetric charges, from all other metered electric customers by per-meter charges, and from unmetered electric customers by an appropriate charge, applied to utility bills as an itemized charge.

(3) For the electric primary customer rate class customers of electric providers and customers of natural gas providers with an aggregate annual natural gas billing demand of more than 100,000 decatherms or equivalent MCFs for all sites in the natural gas utility's service territory, the cost recovery under subsection (1) shall not exceed 1.7% of total retail sales revenue for that

customer class. For electric secondary customers and for residential customers, the cost recovery shall not exceed 2.2% of total retail sales revenue for those customer classes. **THIS SUBSECTION DOES NOT APPLY TO COST RECOVERY FOR ENERGY OPTIMIZATION PROGRAMS CONDUCTED AFTER 2015.**

(4) Upon petition by a provider whose rates are regulated by the commission, the commission shall authorize the provider to capitalize all energy efficiency and energy conservation equipment, materials, and installation costs with an expected economic life greater than 1 year incurred in implementing its energy optimization plan, including such costs paid to third parties, such as customer rebates and customer incentives. The provider shall also propose depreciation treatment with respect to its capitalized costs in its energy optimization plan, and the commission shall order reasonable depreciation treatment related to these capitalized costs. A provider shall not capitalize payments made to an independent energy optimization program administrator under section 91.

(5) The ~~established~~ funding **AT THE** level **ESTABLISHED** for low income residential programs shall be provided from each customer rate class in proportion to that customer rate class's funding of the provider's total energy optimization programs. Charges shall be applied to distribution customers regardless of the source of their electricity or natural gas supply.

(6) The commission shall authorize a ~~natural gas~~ provider that spends a minimum of 0.5% of total ~~natural gas~~ retail sales revenues, including**, FOR A NATURAL GAS PROVIDER,** natural gas

commodity costs, in a year on commission-approved energy optimization programs to implement a symmetrical revenue decoupling true-up mechanism that adjusts for sales volumes that are above or below the projected levels that were used to determine the revenue requirement authorized in the ~~natural gas~~ provider's most recent rate case. In determining the symmetrical revenue decoupling true-up mechanism utilized for each provider, the commission shall give deference to the proposed mechanism submitted by the provider. The commission may approve an alternative mechanism if the commission determines that the alternative mechanism is reasonable and prudent. The commission shall authorize the ~~natural gas~~ provider to decouple rates regardless of whether the ~~natural gas~~ provider's energy optimization programs are administered by the provider or an independent energy optimization program administrator under section 91.

(7) A natural gas provider or an electric provider shall not spend more than the following percentage of total utility retail sales revenues, including electricity or natural gas commodity costs, in any year to comply with the energy optimization performance standard without specific approval from the commission:

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

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

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

(d) In 2012**,** ~~and each year thereafter,~~ **2013, 2014, AND 2015,** 2.0% of total retail sales revenues for the 2 years preceding.

Sec. 91. (1) Except for section 89(6), sections 71 to 89 do not apply to a provider that pays the following percentage of total

utility sales revenues, including electricity or natural gas commodity costs, each year to an independent energy optimization program administrator selected by the commission:

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

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

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

(d) In 2012, ~~and each year thereafter,~~ **2013, 2014, AND 2015,** 2.0% of total retail sales revenues for the ~~2 years~~ **SECOND YEAR** preceding.

(E) IN 2016 AND EACH YEAR THEREAFTER, A PERCENTAGE OF TOTAL RETAIL SALES REVENUES FOR THE SECOND YEAR PRECEDING DETERMINED BY THE COMMISSION AS NECESSARY FOR THE INDEPENDENT ENERGY OPTIMIZATION PROGRAM ADMINISTRATOR TO MEET THE STANDARDS FOR AN APPROVABLE ENERGY OPTIMIZATION PLAN.

(2) An alternative compliance payment received from a provider by the energy optimization program administrator under subsection (1) shall be used to administer energy efficiency programs for the provider. Money unspent in a year shall be carried forward to be spent in the subsequent year.

(3) The commission shall allow a provider to recover an alternative compliance payment under subsection (1). This cost shall be recovered from residential customers by volumetric charges, from all other metered customers by per-meter charges, and from unmetered customers by an appropriate charge, applied to utility bills.

(4) ~~An~~ **A PROVIDER'S** alternative compliance payment under subsection (1) shall only be used to fund energy optimization

programs for that provider's customers. To the extent feasible, charges collected from a particular customer rate class and paid to the energy optimization program administrator under subsection (1) shall be ~~devoted to~~ **USED FOR** energy optimization programs and services for that rate class.

(5) Money paid to the energy optimization program administrator under subsection (1) and not spent by the administrator that year shall remain available for expenditure the following year, subject to the requirements of subsection (4).

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

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

Sec. 95. (1) The commission shall do all of the following:

(a) Promote load management in appropriate circumstances.

(b) Actively pursue increasing public awareness of load management techniques.

(c) Engage in regional load management efforts to reduce the annual demand for energy whenever possible.

(d) Work with residential, commercial, and industrial customers to reduce annual demand and conserve energy through load management techniques and other activities it considers appropriate. ~~The commission shall file a report with the legislature by December 31, 2010 on the effort to reduce peak demand. The report shall also include any recommendations for~~

~~legislative action concerning load management that the commission considers necessary.~~

(2) The commission may allow a provider whose rates are regulated by the commission to recover costs for load management undertaken pursuant to an energy optimization plan through base rates as part of a proceeding under section 6 of 1939 PA 3, MCL 460.6, if the costs are reasonable and prudent and meet the utility systems resource cost test.

(3) The commission shall do all of the following:

(a) Promote energy efficiency and energy conservation.

(b) Actively pursue increasing public awareness of energy conservation and energy efficiency.

(c) Actively engage in energy conservation and energy efficiency efforts with providers.

(d) Engage in regional efforts to reduce demand for energy through energy conservation and energy efficiency.

(e) By November 30, 2009, and each year thereafter, submit to the standing committees of the senate and house of representatives with primary responsibility for energy and environmental issues a report on the effort to implement energy conservation and energy efficiency programs or measures. The report may include any recommendations of the commission for energy conservation legislation.

(4) This subpart does not limit the authority of the commission, following an integrated resource plan proceeding and as part of a rate-making process, to allow a provider whose rates are regulated by the commission to recover for additional prudent

energy efficiency and energy conservation measures not included in the provider's energy optimization plan if the provider has met the requirements of the energy optimization program.

(5) THE COMMISSION SHALL ESTABLISH AND MAINTAIN A WEBSITE REFERRED TO AS THE MICHIGAN ENERGY OPTIMIZATION PORTAL. THE MICHIGAN ENERGY OPTIMIZATION PORTAL SHALL ALLOW PROVIDER CUSTOMERS IN THIS STATE TO OBTAIN ALL OF THE FOLLOWING, AFTER PROVIDING APPROPRIATE CREDENTIALS:

(A) ELECTRIC AND NATURAL GAS METERING DATA FOR THEIR PROPERTY.

(B) RELIABLE ENERGY OPTIMIZATION GUIDANCE USING THE DATA UNDER SUBDIVISION (A).

(C) A BUILDING ENERGY RATING SHOWING THE RELATIONSHIP BETWEEN WEATHER AND BUILDING ENERGY CONSUMPTION.

(D) MEASUREMENT AND VERIFICATION OF ENERGY SAVINGS SUITABLE FOR USE AS PERFORMANCE STANDARDS IN ENERGY EFFICIENCY PERFORMANCE CONTRACTS.

(6) THE COMMISSION, IN COLLABORATION AND CONSULTATION WITH THE UTILITIES AND STATEWIDE ORGANIZATIONS REPRESENTING LOCAL GOVERNMENTS AND SCHOOL DISTRICTS, SHALL DEVELOP A UNIFORM STATEWIDE ENERGY OPTIMIZATION PROGRAM FOR PUBLIC INFRASTRUCTURE, INCLUDING WATER AND SEWER SYSTEMS, STREET LIGHTING, TRAFFIC SIGNALS, PARKING GARAGE LIGHTING, PUBLIC SAFETY COMMUNICATIONS SYSTEMS, AND BUILDINGS. THE PROGRAM SHALL BE FUNDED BY UTILITY ENERGY OPTIMIZATION PROGRAMS BEGINNING JANUARY 1, 2017. THE PROGRAM SHALL INCORPORATE THE USE OF PERFORMANCE CONTRACTING TO THE EXTENT POSSIBLE.

(7) WITHIN 2 YEARS AFTER THE EFFECTIVE DATE OF THE AMENDATORY

ACT THAT ADDED THIS SUBSECTION, THE COMMISSION, IN COLLABORATION AND CONSULTATION WITH THE DEPARTMENT OF COMMUNITY HEALTH, THE DEPARTMENT OF HUMAN SERVICES, THE MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY, THE MICHIGAN ECONOMIC DEVELOPMENT CORPORATION, AND REPRESENTATIVES OF LOW INCOME WEATHERIZATION PROVIDERS, LOW INCOME HOUSING PROVIDERS, AND LOW INCOME INDIVIDUALS, SHALL SUBMIT TO THE LEGISLATURE A COMPREHENSIVE AND DETAILED REPORT ON LOW INCOME HOUSEHOLD ENERGY ASSISTANCE AND ENERGY EFFICIENCY PROGRAMS. THE REPORT SHALL RECOMMEND THE MOST EFFECTIVE WAYS TO DO ALL OF THE FOLLOWING:

(A) ENSURE THAT RESIDENTIAL CUSTOMERS PARTICIPATE IN ENERGY EFFICIENCY PROGRAMS IF THE CUSTOMERS ARE SUBJECT TO LOW INCOME OR SENIOR ELECTRIC OR NATURAL GAS RATES OR THE CUSTOMERS PARTICIPATE IN LOW INCOME ELECTRIC OR NATURAL GAS BILL PAYMENT ASSISTANCE PROGRAMS.

(B) INTEGRATE UTILITY LOW INCOME ENERGY OPTIMIZATION PROGRAMS WITH OTHER HOUSING AND HEALTH PROGRAMS FOR MAXIMUM EFFECTIVENESS IN PROVIDING HEALTHY, AFFORDABLE LOW INCOME HOUSING.

(8) BY OCTOBER 1, 2018, THE COMMISSION SHALL SUBMIT TO THE LEGISLATURE A REPORT ON THE POTENTIAL FOR GREATER ENERGY EFFICIENCY IN THIS STATE, INCLUDING RECOMMENDATIONS ON WHETHER THE MINIMUM ANNUAL INCREMENTAL ENERGY SAVINGS REQUIREMENTS FOR PROVIDERS IN SECTION 77 SHOULD BE INCREASED.

PART 6.

~~MISCELLANEOUS COMMISSION PROVISIONS~~ **METERING AND INFORMATION SERVICES**

Sec. 191. ~~(1) Within 60 days after the effective date of this~~

~~act, the commission shall issue a temporary order implementing this act, including, but not limited to, all of the following:~~

~~(a) Formats of renewable energy plans for various categories of electric providers.~~

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

~~(2) Within 1 year after the effective date of this act, the commission shall promulgate rules to implement this act pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Upon promulgation of the rules, the order under subsection (1) is rescinded.~~**ALL ELECTRICITY AND NATURAL GAS DELIVERY IN THIS STATE SHALL BE METERED BY THE DISTRIBUTION UTILITY, UNLESS UNMETERED SERVICE IS AUTHORIZED BY THE COMMISSION. METERS SHALL MEET TECHNICAL SPECIFICATIONS ADOPTED BY THE COMMISSION. ALL ELECTRIC METERS INSTALLED ON OR AFTER JANUARY 1, 2018 SHALL BE ABLE TO RECORD AND REPORT ELECTRICITY USAGE IN INTERVALS OF 1 HOUR OR LESS. ALL ELECTRIC METERS IN USE BY ELECTRIC PROVIDERS SUBJECT TO REGULATION BY THE COMMISSION ON OR AFTER JANUARY 1, 2021 SHALL RECORD AND REPORT ELECTRICITY USAGE IN INTERVALS OF 1 HOUR OR LESS, THE START AND END TIMES OF ELECTRICAL OUTAGES, AND POWER QUALITY PARAMETERS AS SPECIFIED BY THE COMMISSION.**

Sec. 193. ~~(1) Any interested party may intervene in a contested case proceeding under this act as provided in general rules of the commission.~~

~~(2) The commission and a provider shall handle confidential business information under this act in a manner consistent with state law and general rules of the commission.~~

(1) ELECTRIC OR NATURAL GAS METERING DATA ARE OWNED BY THE CURRENT CUSTOMER OF RECORD FOR THE PROPERTY TO WHICH THE DATA APPLY. THE DISTRIBUTION UTILITY PROVIDING METERING SERVICE TO THE PROPERTY IS THE CUSTODIAN OF THAT METERING DATA AND MAY USE THE METERING DATA FOR BILLING, OPERATIONS, AND OTHER INTERNAL PURPOSES. HOWEVER, THE DISTRIBUTION UTILITY SHALL NOT CONVEY THE METERING DATA TO THIRD PARTIES WITHOUT PERMISSION OF THE CURRENT CUSTOMER OF RECORD FOR THE PROPERTY, EXCEPT AS OTHERWISE PROVIDED BY LAW. THE DISTRIBUTION UTILITY SHALL RETAIN METERING DATA FOR AT LEAST 5 YEARS BUT NOT MORE THAN 7 YEARS. SUBJECT TO THIS SUBSECTION, THE DISTRIBUTION UTILITY SHALL PROMPTLY MAKE METERING DATA AVAILABLE THROUGH THE UTILITY'S WEBSITE.

(2) ANNUALLY, UPON ACCOUNT TRANSFER TO A NEW PARTY, AND UPON CUSTOMER REQUEST, THE DISTRIBUTION UTILITY PROVIDING METERING SERVICES TO A PROPERTY SHALL PROVIDE TO THE CUSTOMER A REPORT IN A FORMAT SPECIFIED BY THE COMMISSION SHOWING ELECTRICITY OR NATURAL GAS USAGE AT THE PROPERTY IN TOTAL AND IN RELATION TO WEATHER, TIME OF DAY, AND SUCH OTHER FACTORS AS THE COMMISSION DETERMINES USEFUL TO CUSTOMERS.

Sec. 195. ~~This act does not limit any authority of the commission otherwise provided by law.~~**FOR DISTRIBUTION UTILITIES WHOSE RATES ARE REGULATED BY THE COMMISSION, CHARGES FOR METERING, BILLING, AND INFORMATION SERVICES SHALL BE UNIFORM BY METER CLASS. HOWEVER, CUSTOMERS WHO OPT OUT OF REMOTE METER READING MAY BE CHARGED AN ADDITIONAL FEE TO RECOVER THE EXTRA COSTS OF METERING SERVICE. A DISTRIBUTION UTILITY MAY PROVIDE TO CUSTOMERS METERING SERVICES FOR PURPOSES OTHER THAN BILLING ON THE SAME TERMS AND**

CHARGES AS METERING SERVICES FOR BILLING PURPOSES.

PART 7.

MISCELLANEOUS COMMISSION PROVISIONS

SEC. 221. TO IMPLEMENT THIS ACT, THE COMMISSION MAY ISSUE ORDERS OR, PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328, PROMULGATE RULES.

SEC. 223. (1) ANY INTERESTED PARTY MAY INTERVENE IN A CONTESTED CASE PROCEEDING UNDER THIS ACT AS PROVIDED IN GENERAL RULES OF THE COMMISSION.

(2) THE COMMISSION AND A PROVIDER SHALL HANDLE CONFIDENTIAL BUSINESS INFORMATION UNDER THIS ACT IN A MANNER CONSISTENT WITH STATE LAW AND GENERAL RULES OF THE COMMISSION.

SEC. 225. THIS ACT DOES NOT LIMIT ANY AUTHORITY OF THE COMMISSION OTHERWISE PROVIDED BY LAW.