

SENATE BILL No. 322

April 17, 2013, Introduced by Senators HOPGOOD, WHITMER, JOHNSON, YOUNG, WARREN, GREGORY and HOOD 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 sections 21, 27, 31, 45, 47, and 49 (MCL 460.1021,
460.1027, 460.1031, 460.1045, 460.1047, and 460.1049).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 21. (1) This section applies only to electric providers
2 whose rates are regulated by the commission.

3 (2) Each electric provider shall file a proposed renewable
4 energy plan with the commission within 90 days after the commission
5 issues a temporary order under section ~~171.~~191. The proposed plan
6 shall meet all of the following requirements:

7 (a) Describe how the electric provider will meet the renewable
8 energy standards.

9 (b) Specify whether the number of megawatt hours of

1 electricity used in the calculation of the renewable energy credit
2 portfolio will be weather-normalized or based on the average number
3 of megawatt hours of electricity sold by the electric provider
4 annually during the previous 3 years to retail customers in this
5 state. Once the plan is approved by the commission, this option
6 shall not be changed.

7 (c) Include the expected incremental cost of compliance with
8 the renewable energy standards for a ~~20-year~~ **27-YEAR** period
9 beginning when the plan is approved by the commission. **NOT LATER**
10 **THAN 1 YEAR AFTER THE EFFECTIVE DATE OF THE 2013 AMENDATORY ACT**
11 **THAT AMENDED THIS SECTION, EACH ELECTRIC PROVIDER SHALL FILE WITH**
12 **THE COMMISSION A PLAN AMENDMENT TO COMPLY WITH THE REQUIREMENTS OF**
13 **THIS SUBDIVISION.**

14 (d) For an electric provider that had 1,000,000 or more retail
15 customers in this state on January 1, 2008, describe the bidding
16 process to be used by the electric provider under section 33. The
17 description shall include measures to be employed in the
18 preparation of requests for proposals and the handling and
19 evaluation of proposals received to ensure that any bidder that is
20 an affiliate of the electric ~~utility~~ **PROVIDER** is not afforded a
21 competitive advantage over any other bidder and that each bidder,
22 including any bidder that is an affiliate of the electric provider,
23 is treated in a fair and nondiscriminatory manner.

24 (3) The proposed plan shall establish a nonvolumetric
25 mechanism for the recovery of the incremental costs of compliance
26 within the electric provider's customer rates. The revenue recovery
27 mechanism shall not result in rate impacts that exceed the monthly

1 maximum retail rate impacts specified under section 45. The revenue
2 recovery mechanism is subject to adjustment under sections 47(4)
3 and 49. A customer participating in a commission-approved voluntary
4 renewable energy program under an agreement in effect on ~~the~~
5 ~~effective date of this act~~ **OCTOBER 6, 2008** shall not incur charges
6 under the revenue recovery mechanism ~~unless~~ **EXCEPT TO THE EXTENT**
7 **THAT** the charges under the revenue recovery mechanism exceed the
8 charges the customer is incurring for the voluntary renewable
9 energy program. ~~In that case, the customer shall only incur the~~
10 ~~difference between the charge assessed under the revenue recovery~~
11 ~~mechanism and the charges the customer is incurring for the~~
12 ~~voluntary renewable energy program.~~ The limitation on charges
13 applies only during the term of the agreement, not including
14 automatic agreement renewals, or until ~~1 year after the effective~~
15 ~~date of this act,~~ **OCTOBER 6, 2009**, whichever is later. Before
16 entering an agreement with a customer to participate in a
17 commission-approved voluntary renewable energy program and before
18 the last automatic monthly renewal of such an agreement that will
19 ~~occur less than 1 year after the effective date of this act,~~ **BEFORE**
20 **OCTOBER 6, 2009**, an electric provider shall notify the customer
21 that the customer will be responsible for the full applicable
22 charges under the revenue recovery mechanism and under the
23 voluntary renewable energy program as provided under this
24 subsection.

25 (4) If proposed by the electric provider in its proposed plan,
26 the revenue recovery mechanism shall result in an accumulation of
27 reserve funds in advance of expenditure and the creation of a

1 regulatory liability that accrues interest at the average short-
2 term borrowing rate available to the electric provider during the
3 appropriate period. If proposed by the electric provider in its
4 proposed plan, the commission shall establish a minimum balance of
5 accumulated reserve funds for the purposes of section 47(4).

6 (5) The commission shall conduct a contested case hearing on
7 the proposed plan filed under subsection (2), pursuant to the
8 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
9 24.328. If a renewable energy generator files a petition to
10 intervene in the contested case in the manner prescribed by the
11 commission's rules for interventions generally, the commission
12 shall grant the petition. Subject to subsections (6) and (10),
13 after the hearing and within 90 days after the proposed plan is
14 filed with the commission, the commission shall approve, with any
15 changes consented to by the electric provider, or reject the plan.

16 (6) The commission shall not approve an electric provider's
17 plan unless the commission determines both of the following:

18 (a) That the plan is reasonable and prudent. In making this
19 determination, the commission shall take into consideration
20 projected costs and whether or not projected costs included in
21 prior plans were exceeded.

22 (b) That the life-cycle cost of renewable energy acquired or
23 generated under the plan less the projected life-cycle net savings
24 associated with the provider's energy optimization plan does not
25 exceed the expected life-cycle cost of electricity generated by a
26 new conventional coal-fired facility. In ~~determining the expected~~
27 ~~life cycle cost of electricity generated by a new conventional~~

1 ~~coal-fired facility,~~ **MAKING THIS DETERMINATION,** the commission
2 shall consider data from this state and the states of Ohio,
3 Indiana, Illinois, Wisconsin, and Minnesota, including ~~, if~~
4 ~~applicable,~~ the life-cycle costs of the renewable energy system and
5 new conventional coal-fired facilities. When determining the life-
6 cycle costs of the renewable energy system and new conventional
7 coal-fired facilities, the commission shall use a methodology that
8 includes, but is not limited to, consideration of the value of
9 energy, capacity, and ancillary services. The commission shall also
10 consider other costs such as transmission, economic benefits, and
11 environmental costs, including, but not limited to, greenhouse gas
12 constraints or taxes. In performing its assessment, the commission
13 may utilize other available data, including national or regional
14 reports and data published by federal or state governmental
15 agencies, industry associations, and consumer groups.

16 (7) An electric provider shall not begin recovery of the
17 incremental costs of compliance within its rates until the
18 commission has approved its proposed plan.

19 (8) Every 2 years after initial approval of a plan under
20 subsection (5), the commission shall review the plan. The
21 commission shall conduct a contested case hearing on the plan
22 pursuant to the administrative procedures act of 1969, 1969 PA 306,
23 MCL 24.201 to 24.328. The annual renewable cost reconciliation
24 under section 49 for that year may be joined with the overall plan
25 review in the same contested case hearing. Subject to subsections
26 (6) and (10), after the hearing, the commission shall approve, with
27 any changes consented to by the electric provider, or reject the

1 plan and any proposed amendments to the plan.

2 (9) If an electric provider proposes to amend its plan at a
3 time other than during the biennial review process under subsection
4 (8), the electric provider shall file the proposed amendment with
5 the commission. If the proposed amendment would modify the revenue
6 recovery mechanism, the commission shall conduct a contested case
7 hearing on the amendment pursuant to the administrative procedures
8 act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The annual
9 renewable cost reconciliation under section 49 may be joined with
10 the plan amendment in the same contested case proceeding. Subject
11 to subsections (6) and (10), after the hearing and within 90 days
12 after the amendment is filed, the commission shall approve, with
13 any changes consented to by the electric provider, or reject the
14 plan and the proposed amendment or amendments to the plan.

15 (10) If the commission rejects a proposed plan or amendment
16 under this section, the commission shall explain in writing the
17 reasons for its determination.

18 Sec. 27. (1) Subject to sections 31 and 45, and in addition to
19 the requirements of subsection (3), an electric provider that is an
20 electric utility with 1,000,000 or more retail customers in this
21 state as of January 1, 2008 shall achieve a renewable energy
22 capacity portfolio of not less than the following:

23 (a) For an electric provider with more than 1,000,000 but less
24 than 2,000,000 retail electric customers in this state on January
25 1, 2008, a renewable energy capacity portfolio of 200 megawatts by
26 December 31, 2013 and 500 megawatts by December 31, 2015.

27 (b) For an electric provider with more than 2,000,000 retail

1 electric customers in this state on January 1, 2008, a renewable
2 energy capacity portfolio of 300 megawatts by December 31, 2013 and
3 600 megawatts by December 31, 2015.

4 (2) An electric provider's renewable energy capacity portfolio
5 shall be calculated by adding the following:

6 (a) The nameplate capacity in megawatts of renewable energy
7 systems owned by the electric provider that were not in commercial
8 operation before ~~the effective date of this act~~ **OCTOBER 6, 2008**.

9 (b) The capacity in megawatts of renewable energy that the
10 electric provider is entitled to purchase under contracts that were
11 not in effect before ~~the effective date of this act~~ **OCTOBER 6,**
12 **2008**.

13 (3) Subject to sections 31 and 45, an electric provider shall
14 achieve a renewable energy credit portfolio as follows:

15 (a) In 2012, 2013, 2014, and 2015, a renewable energy credit
16 portfolio based on the sum of the following:

17 (i) The number of renewable energy credits from electricity
18 generated in the 1-year period preceding ~~the effective date of this~~
19 ~~act~~ **OCTOBER 6, 2008** that would have been transferred to the
20 electric provider pursuant to section 35(1), if this act had been
21 in effect during that 1-year period.

22 (ii) The number of renewable energy credits equal to the number
23 of megawatt hours of electricity produced or obtained by the
24 electric provider in the 1-year period preceding ~~the effective date~~
25 ~~of this act~~ **OCTOBER 6, 2008** from renewable energy systems for which
26 recovery in electric rates was approved ~~on the effective date of~~
27 ~~this act~~ **AS OF OCTOBER 6, 2008**.

1 (iii) Renewable energy credits in an amount calculated as
2 follows:

3 (A) Taking into account the number of renewable energy credits
4 under subparagraphs (i) and (ii), determine the number of additional
5 renewable energy credits that the electric provider would need to
6 reach a ~~10%~~renewable energy **CREDIT** portfolio in that year **EQUAL TO**
7 **10% OF THE NUMBER OF MEGAWATT HOURS PROVIDED BY THE ELECTRIC**
8 **PROVIDER AS DETERMINED FOR THAT YEAR SUBJECT TO SECTION 21(2)(B).**

9 (B) Multiply the number under sub-subparagraph (A) by 20% for
10 2012, 33% for 2013, 50% for 2014, and 100% for 2015.

11 (b) In 2016 and each year thereafter **THROUGH 2021**, maintain a
12 renewable energy credit portfolio that consists of at least the
13 same number of renewable energy credits as were required in 2015
14 under subdivision (a).

15 (C) **IN 2022, A RENEWABLE ENERGY CREDIT PORTFOLIO BASED ON THE**
16 **SUM OF THE FOLLOWING:**

17 (i) **THE TOTAL NUMBER OF RENEWABLE ENERGY CREDITS UNDER**
18 **SUBDIVISION (A) (i) AND (ii).**

19 (ii) **TAKING INTO ACCOUNT THE NUMBER OF RENEWABLE ENERGY CREDITS**
20 **UNDER SUBPARAGRAPH (i), THE NUMBER OF ADDITIONAL RENEWABLE ENERGY**
21 **CREDITS THAT THE ELECTRIC PROVIDER NEEDS TO REACH A RENEWABLE**
22 **ENERGY CREDIT PORTFOLIO IN THAT YEAR EQUAL TO 22% OF THE NUMBER OF**
23 **MEGAWATT HOURS OF ELECTRICITY PROVIDED BY THE ELECTRIC PROVIDER AS**
24 **DETERMINED FOR THAT YEAR SUBJECT TO SECTION 21(2)(B).**

25 (D) **IN 2023 AND EACH YEAR THEREAFTER, MAINTAIN A RENEWABLE**
26 **ENERGY CREDIT PORTFOLIO THAT CONSISTS OF AT LEAST THE SAME NUMBER**
27 **OF RENEWABLE ENERGY CREDITS AS WERE REQUIRED IN 2022 UNDER**

1 **SUBDIVISION (C).**

2 (4) An electric provider's renewable energy credit portfolio
3 shall be calculated as follows:

4 (a) Determine the number of renewable energy credits used to
5 comply with this subpart during the applicable year.

6 (b) Divide by 1 of the following at the option of the electric
7 provider as specified in its renewable energy plan:

8 (i) The number of weather-normalized megawatt hours of
9 electricity sold by the electric provider during the previous year
10 to retail customers in this state.

11 (ii) The average number of megawatt hours of electricity sold
12 by the electric provider annually during the previous 3 years to
13 retail customers in this state.

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

15 (5) Subject to subsection (6), each electric provider shall
16 meet the renewable energy credit standards with renewable energy
17 credits obtained by 1 or more of the following means:

18 (a) Generating electricity from renewable energy systems for
19 sale to retail customers.

20 (b) Purchasing or otherwise acquiring renewable energy credits
21 with or without the associated renewable energy.

22 (6) An electric provider may substitute energy optimization
23 credits, advanced cleaner energy credits with or without the
24 associated advanced cleaner energy, or a combination thereof for
25 renewable energy credits otherwise required to meet the renewable
26 energy credit standards if the substitution is approved by the
27 commission. However, commission approval is not required to

1 substitute advanced cleaner energy from industrial cogeneration for
2 renewable energy credits. The commission shall not approve a
3 substitution unless the commission determines that the substitution
4 is cost-effective compared to other sources of renewable energy
5 credits and, if the substitution involves advanced cleaner energy
6 credits, that the advanced cleaner energy system provides carbon
7 dioxide emissions benefits. In determining whether the substitution
8 of advanced cleaner energy credits is cost-effective, the
9 commission shall include as part of the costs of the system the
10 environmental costs attributed to the advanced cleaner energy
11 system, including the costs of environmental control equipment or
12 greenhouse gas constraints or taxes. The commission's
13 determinations shall be made after a contested case hearing that
14 includes consultation with the department of environmental quality
15 on the issue of carbon dioxide emissions benefits, if relevant, and
16 environmental costs.

17 (7) Under subsection (6), energy optimization credits,
18 advanced cleaner energy credits, or a combination thereof shall not
19 be used by a provider to meet more than 10% of the renewable energy
20 credit standards. Advanced cleaner energy from advanced cleaner
21 energy systems in existence on January 1, 2008 shall not be used by
22 a provider to meet more than 70% of this 10% limit. This 10% limit
23 does not apply to advanced cleaner energy credits from plasma arc
24 gasification.

25 (8) Substitutions under subsection (6) shall be made at the
26 following rates per renewable energy credit:

27 (a) One energy optimization credit.

1 (b) One advanced cleaner energy credit from plasma arc
2 gasification or industrial cogeneration.

3 (c) Ten advanced cleaner energy credits other than from plasma
4 arc gasification or industrial cogeneration.

5 Sec. 31. (1) Upon petition by an electric provider, the
6 commission may for good cause grant 2 extensions of the 2015 **AND 2**
7 **EXTENSIONS OF THE 2022** renewable energy standard deadline under
8 section 27. Each extension shall be for up to 1 year.

9 (2) If 2 extensions of the 2015 **OR 2 EXTENSIONS OF THE 2022**
10 renewable energy standard deadline have been granted to an electric
11 provider under subsection (1), upon subsequent petition by the
12 electric provider at least 3 months before the expiration of the
13 second ~~extended~~ **EXTENSION OF THAT** deadline, the commission shall,
14 after consideration of prior extension requests under this section
15 and for good cause, establish a revised renewable energy standard
16 attainable by the electric provider. If the electric provider
17 achieves the revised renewable energy standard, the provider is
18 considered to be in compliance with **THE RENEWABLE ENERGY STANDARD**
19 **OTHERWISE REQUIRED TO BE ACHIEVED UNDER** this subpart **BY THAT**
20 **DEADLINE.**

21 (3) An electric provider that ~~makes a good faith effort to~~
22 ~~spend the full amount of incremental costs of compliance as~~
23 ~~outlined in its approved renewable energy plan and that complies~~
24 with its approved plan, subject to any approved extensions or
25 revisions, **AND, IF THE PROVIDER'S RATES ARE REGULATED BY THE**
26 **COMMISSION, MAKES A GOOD-FAITH EFFORT TO SPEND THE FULL AMOUNT OF**
27 **THE EXPECTED INCREMENTAL COSTS OF COMPLIANCE AS SET FORTH IN THE**

1 **PLAN** shall be considered to be in compliance with this subpart.

2 (4) As used in this section, "good cause" includes, but is not
3 limited to, the electric provider's inability, as determined by the
4 commission, to meet a renewable energy standard because of a
5 renewable energy system feasibility limitation including, but not
6 limited to, any of the following:

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

19 ~~(b) Equipment cost or availability issues including electrical~~
20 ~~equipment or renewable energy system component shortages or high~~
21 ~~costs that~~ **HIGH COSTS OF OR SHORTAGES OF RENEWABLE ENERGY SYSTEM**
22 **COMPONENTS OR ELECTRICAL EQUIPMENT IF THE HIGH COSTS OR SHORTAGES**
23 effectively limit availability of renewable energy systems.

24 (c) Cost, availability, or time requirements for electric
25 transmission and interconnection.

26 (d) Projected or actual unfavorable electric system
27 reliability or operational impacts.

1 (e) Labor shortages that effectively limit availability of
2 renewable energy systems.

3 (f) An order of a court of competent jurisdiction that
4 effectively limits the availability of renewable energy systems.

5 Sec. 45. (1) For an electric provider whose rates are
6 regulated by the commission, the commission shall determine the
7 appropriate charges for the electric provider's tariffs that permit
8 recovery of the incremental cost of compliance subject to the
9 retail rate impact limits set forth in subsection (2).

10 (2) An electric provider shall recover the incremental cost of
11 compliance with the renewable energy standards by an itemized
12 charge on the customer's bill for billing periods beginning not
13 earlier than 90 days after the commission approves the electric
14 provider's renewable energy plan under section 21 or 23 or
15 determines under section 25 that the plan complies with this act.
16 An electric provider shall not comply with the renewable energy
17 standards to the extent that, as determined by the commission,
18 recovery of the incremental cost of compliance will have a retail
19 rate impact that exceeds any of the following:

20 (a) \$3.00 per month per residential customer meter.

21 (b) \$16.58 per month per commercial secondary customer meter.

22 (c) \$187.50 per month per commercial primary or industrial
23 customer meter.

24 (3) The retail rate impact limits of subsection (2) apply only
25 to the incremental costs of compliance and do not apply to costs
26 approved for recovery by the commission other than as provided in
27 this act.

1 (4) The incremental cost of compliance shall be calculated for
2 a ~~20-year~~ **27-YEAR** period beginning with approval of the renewable
3 energy plan and shall be recovered on a levelized basis.

4 (5) In its billing statements for a residential customer, each
5 **ELECTRIC** provider shall report to the residential customer all of
6 the following in a format consistent with other information on the
7 customer bill:

8 (a) An itemized monthly charge, expressed in dollars and
9 cents, collected from the customer for implementing the renewable
10 energy program requirements of this act. In the first bill issued
11 after the close of the previous year, an electric provider shall
12 notify each residential customer that the customer may be entitled
13 to an income tax credit to offset some of the annual amounts
14 collected for the renewable energy program.

15 (b) An itemized monthly charge, expressed in dollars and
16 cents, collected from the customer for implementing the energy
17 optimization program requirements of this act.

18 (c) An estimated monthly savings, expressed in dollars and
19 cents, for that customer to reflect the reductions in the monthly
20 energy bill produced by the energy optimization program under this
21 act.

22 (d) An estimated monthly savings, expressed in dollars and
23 cents, for that customer to reflect the long-term, life-cycle,
24 levelized costs of building and operating new conventional coal-
25 fired electric generating power plants avoided under this act as
26 determined by the commission.

27 (e) The website address at which the commission's annual

1 report under section 51 is posted.

2 (6) For the first year of the programs under this part, the
3 values reported under subsection (5) shall be estimates by the
4 commission. The values in following years shall be based on the
5 **ELECTRIC** provider's actual customer experiences. If the **ELECTRIC**
6 provider is unable to provide customer-specific information under
7 subsection (5)(b) or (c), it shall instead specify the state
8 average itemized charge or savings, as applicable, for residential
9 customers. The **ELECTRIC** provider shall make this calculation based
10 on a method approved by the commission.

11 (7) In determining long-term, life-cycle, levelized costs of
12 building and operating and acquiring nonrenewable electric
13 generating capacity and energy for the purpose of subsection
14 (5)(d), the commission shall consider historic and predicted costs
15 of financing, construction, operation, maintenance, fuel supplies,
16 environmental protection, and other appropriate elements of energy
17 production. For purposes of this comparison, the capacity of
18 avoided new conventional coal-fired electric generating facilities
19 shall be expressed in megawatts and avoided new conventional coal-
20 fired electricity generation shall be expressed in megawatt hours.
21 Avoided costs shall be measured in cents per kilowatt hour.

22 Sec. 47. (1) Subject to the retail rate impact limits under
23 section 45, the commission shall consider all actual costs
24 reasonably and prudently incurred in good faith to implement a
25 commission-approved renewable energy plan by an electric provider
26 whose rates are regulated by the commission to be a cost of service
27 to be recovered by the electric provider. Subject to the retail

1 rate impact limits under section 45, an electric provider whose
2 rates are regulated by the commission shall recover through its
3 retail electric rates all of the electric provider's incremental
4 costs of compliance during the ~~20-year~~ **27-YEAR** period beginning
5 when the electric provider's plan is approved by the commission and
6 all reasonable and prudent ongoing costs of compliance during and
7 after that period. The recovery shall include, but is not limited
8 to, the electric provider's authorized rate of return on equity for
9 costs approved under this section, which shall remain fixed at the
10 rate of return and debt to equity ratio that was in effect in the
11 electric provider's base rates when the electric provider's
12 renewable energy plan was approved.

13 (2) Incremental costs of compliance shall be calculated as
14 follows:

15 (a) Determine the sum of the following costs to the extent
16 those costs are reasonable and prudent and not already approved for
17 recovery in electric rates as of ~~the effective date of this act~~
18 **OCTOBER 6, 2008:**

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

standards during the ~~20-year~~ **27-YEAR** period beginning when the electric provider's plan is approved by the commission.

(ii) Financing costs attributable to capital, operating, and maintenance costs of capital facilities associated with renewable energy systems or advanced cleaner energy systems used to ~~meet~~ **COMPLY WITH** the renewable energy standard.

(iii) Costs that are not otherwise recoverable in rates approved by the federal energy regulatory commission and that are related to the infrastructure required to bring renewable energy systems or advanced cleaner energy systems used to achieve compliance with the renewable energy standards on to the transmission system, including interconnection and substation costs for renewable energy systems or advanced cleaner energy systems used to ~~meet~~ **COMPLY WITH** the renewable energy standard.

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

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

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

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

(vi) Expenses incurred as a result of state or federal governmental actions related to renewable energy systems or advanced cleaner energy systems attributable to the renewable

1 energy standards, including changes in tax or other law.

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

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

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

15 (ii) Interest on regulatory liabilities.

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

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

1 this subparagraph, the commission shall consider factors including,
2 but not limited to, projected capacity, energy, maintenance, and
3 operating costs; information filed under section 6j of 1939 PA 3,
4 MCL 460.6j; and information from wholesale markets, including, but
5 not limited to, locational marginal pricing. This price shall be
6 multiplied by the sum of the number of megawatt hours of renewable
7 energy and the number of megawatt hours of advanced cleaner energy
8 used to maintain compliance with the renewable energy standard. The
9 product shall be considered a booked cost of purchased and net
10 interchanged power transactions under section 6j of 1939 PA 3, MCL
11 460.6j. For energy purchased by such an electric provider under a
12 renewable energy contract or advanced cleaner energy contract, the
13 price shall be the lower of the amount established by the
14 commission or the actual price paid and shall be multiplied by the
15 number of megawatt hours of renewable energy or advanced cleaner
16 energy purchased. The resulting value shall be considered a booked
17 cost of purchased and net interchanged power under section 6j of
18 1939 PA 3, MCL 460.6j.

19 (v) Revenue from wholesale renewable energy sales and advanced
20 cleaner energy sales. ~~Such~~**THAT** revenue shall not be considered in
21 determining power supply cost recovery factors under section 6j of
22 1939 PA 3, MCL 460.6j.

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

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

27 (3) The commission shall authorize an electric provider whose

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

15 (4) If an electric provider's incremental costs of compliance
16 in any given month during the ~~20-year~~ **27-YEAR** period beginning when
17 the 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~~ **27-YEAR** period
5 beginning when the electric provider's plan is approved by the
6 commission, for an electric provider whose rates are regulated by
7 the commission, the commission shall determine the amount of
8 deferred costs to be recovered under the revenue recovery mechanism
9 and the recovery period, which shall not extend more than 5 years
10 beyond the expiration of the ~~20-year~~ **27-YEAR** period beginning when
11 the electric provider's plan is approved by the commission. The
12 recovery of excess costs shall be proportional to the retail rate
13 impact limits in section 45 for each customer class. The recovery
14 of excess costs alone, or, if begun before the expiration of the
15 ~~20-year~~ **27-YEAR** period, in combination with the recovery of
16 incremental costs of compliance under the revenue recovery
17 mechanism, shall not exceed the retail rate impact limits of
18 section 45 for each customer class.

19 (5) If, at the expiration of the ~~20-year~~ **27-YEAR** period
20 beginning when the electric provider's plan is approved by the
21 commission, an electric provider whose rates are regulated by the
22 commission has a regulatory liability, the refund to customer
23 classes shall be proportional to the amounts paid by those customer
24 classes under the revenue recovery mechanism.

25 (6) After achieving compliance with the renewable energy
26 standard for ~~2015~~ **2022**, the actual costs reasonably and prudently
27 incurred to continue to comply with this subpart both during and

1 after the conclusion of the ~~20-year~~ **27-YEAR** period beginning when
2 the electric provider's plan is approved by the commission shall be
3 considered costs of service. The commission shall determine a
4 mechanism for an electric provider whose rates are regulated by the
5 commission to recover these costs in its retail electric rates,
6 subject to the retail rate impact limits in section 45. Remaining
7 and future regulatory assets shall be recovered consistent with
8 subsections ~~(2)–(3)~~ and ~~(3)–(4)~~ and section 49.

9 Sec. 49. (1) This section applies only to an electric provider
10 whose rates are regulated by the commission. Concurrent with the
11 submission of each report under section ~~51,~~ **51(1)**, the commission
12 shall commence an annual proceeding, to be known as a renewable
13 cost reconciliation, for each electric provider whose rates are
14 regulated by the commission. The renewable cost reconciliation
15 proceeding shall be conducted as a contested case pursuant to the
16 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
17 24.328. Reasonable discovery shall be permitted before and during
18 the reconciliation proceeding to assist in obtaining evidence
19 concerning reconciliation issues including, but not limited to, the
20 reasonableness and prudence of expenditures and the amounts
21 collected pursuant to the revenue recovery mechanism.

22 (2) At the renewable cost reconciliation, an electric provider
23 may propose any necessary modifications of the revenue recovery
24 mechanism to ensure the electric provider's recovery of its
25 incremental cost of compliance with the renewable energy standards.

26 (3) The commission shall reconcile the pertinent revenues
27 recorded and the allowance for the nonvolumetric revenue recovery

1 mechanism with the amounts actually expensed and projected
2 according to the electric provider's **RENEWABLE ENERGY** plan. ~~for~~
3 ~~compliance.~~ The commission shall consider any issue regarding the
4 reasonableness and prudence of expenses for which customers were
5 charged in the relevant reconciliation period. In its order, the
6 commission shall do all of the following:

7 (a) Make a determination of an electric provider's compliance
8 with the renewable energy standards, subject to section 31.

9 (b) Adjust the revenue recovery mechanism for the incremental
10 costs of compliance. The commission shall ensure that the retail
11 rate impacts under this renewable cost reconciliation revenue
12 recovery mechanism do not exceed the maximum retail rate impacts
13 specified under section 45. The commission shall ensure that the
14 recovery mechanism is projected to maintain a minimum balance of
15 accumulated reserve so that a regulatory asset does not accrue.

16 (c) Establish the price per megawatt hour for renewable energy
17 and advanced cleaner energy capacity and for renewable energy and
18 advanced cleaner energy to be recovered through the power supply
19 cost recovery clause under section 6j of 1939 PA 3, MCL 460.6j, as
20 outlined in section 47(2) (b) (iv).

21 (d) Adjust, if needed, the minimum balance of accumulated
22 reserve funds established under section 21.

23 (4) If an electric provider has recorded a regulatory
24 liability in any given month during the ~~20-year~~ **27-YEAR** period
25 beginning when the electric provider's plan is approved by the
26 commission, interest on the regulatory liability balance shall be
27 accrued at the average short-term borrowing rate available to the

1 electric provider during the appropriate period, and shall be used
2 to fund incremental costs of compliance incurred in subsequent
3 periods within the ~~20-year~~**27-YEAR** period beginning when the
4 electric provider's plan is approved by the commission.