

LONG-TERM INDUSTRIAL LOAD RATES

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House Bill 5902 (H-1) as reported from committee

Sponsor: Rep. Dan Lauwers

Committee: Energy Policy

Complete to 5-17-18

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 5902 would amend Public Act 3 of 1939 (the Michigan Public Service Commission enabling act) to regulate the establishment of long-term electricity rates for industrial customers.

Under the act, a gas or electric utility is prohibited from increasing its rates and charges or altering, changing, or amending any rate or rate schedules that would result in the increase of the cost of its services without first receiving Public Service Commission (PSC) approval as provided in the act. (Municipally owned electric utilities are not subject to PSC regulation, with the exception of the filing of a renewable energy plan as required by the Clean and Renewable Energy and Energy Waste Reduction Act. The PSC does not regulate the retail rates of electric cooperatives whose rates are member-regulated.)

The bill would add Section 10gg to allow the PSC to establish long-term electricity rates for industrial customers, as long as certain conditions are met and certain contractual parameters are followed.

Proposal of a long-term industrial load rate

Under the bill, an electric utility may propose a *long-term industrial load rate* in a general rate case filing or in a stand-alone proceeding. The PSC would have to approve the rate proposed by the utility if the PSC found *all* of the following:

- The cost of service for the capacity needed to serve the customer under the proposed rate is based on one or more designated power supply resources.
- The proposed rate requires the customer to enter into a *contract for a term* equal to either of the following (*contract for a term* would mean an agreement executed between an electric utility and industrial customer under a long-term industrial load rate authorized by this section):
 - The term of the electric utility power purchase agreement or agreements for one or more designated power supply resources if the resources are an *electric utility power purchase agreement*. The agreement could not be less than 15 years. *Electric utility power purchase agreement* would mean an agreement executed between an electric utility and an electric generation facility not owned by the electric utility for the purchase of energy and capacity.
 - The expected remaining life of one or more designated power supply resources if the resources are utility-owned resources.

- The rate requires that the customer have an annual average electric demand of at least 200 megawatts at one site at the time the contract for a term is entered into, have an ***annual load factor*** of at least 75% at the time the contract for a term is entered into, and must demonstrate that the customer would not purchase ***standard tariff service*** from the utility except under the rate. (***Annual load factor*** would mean a load factor calculated as an average of the prior 12 monthly load factors. Each monthly load factor would be determined by dividing the customer's actual monthly kilowatt hours consumption by the product of the customer's monthly maximum demand and the number of hours in the month. ***Standard tariff service*** would mean the retail rates, terms, and conditions of service approved by the commission for service to customers that do not purchase power under the long-term industrial load rate). The customer would demonstrate that it would not purchase standard tariff service from the utility except under the rate if *any* of the following conditions exist:
 - The customer has available ***self-service power*** in a quantity equal to the contract demand level. (***Self-service power*** would mean electricity generated and consumed at an industrial site or contiguous industrial site without the use of an electric utility's transmission and distribution system. Section 10a of the act includes other conditions under which power would qualify as self-service power.)
 - The customer, or an entity acting on the customer's behalf, has entered the applicable regional transmission organization's generation interconnection queue for a new generation resource that, if constructed, would qualify as self-service power in a quantity equal to the contract demand level. Entering the regional transmission organization's interconnection queue would mean compliance with all applicable interconnection application requirements, such as payment of the application fee, disclosure of the technical requirements, payment of the definitive planning phase studying funding deposit, demonstration of site control, and payment of all other applicable per-megawatt fees or deposits, as required by the regional transmission organization.
- The rate is only available to the customer for service at a site where the customer's annual average electric demand is at least 200 megawatts at the time the contract for a term is entered into. The contract would have to be for a minimum of 100 megawatts of firm contracted capacity.
- If the resource designated in a contract executed under the rate is a utility-owned resource, the rate is based on *all* of the following:
 - The utility's levelized cost of capacity, including fixed operation and maintenance expense, associated with the designated power supply resource at the time the customer contract is executed.
 - The utility's actual variable fuel and actual variable operation and maintenance expense based on the customer's actual energy consumption and associated with the designated power supply resource.
 - The utility's actual energy and capacity market purchases, if any, based on the customer's actual consumption. The amount of capacity needed to serve a qualifying long-term industrial load is based on the capacity

needed by the electric utility to comply with its regional transmission organization's load-serving resource requirement based on the amount of contractual firm and interruptible capacity supplied to the industrial customer.

- If the designated resource associated with a contract executed under the rate is an electric utility power purchase agreement, the proposed rate is based on recovering all costs associated with the designated power purchase agreement or agreements.

A rate may contain other terms and conditions proposed by the utility, but the PSC would have to at least find all of the above in the proposal.

Contract of a proposed long-term industrial load rate

The PSC also would have to approve any contract for a term proposed by a utility under a long-term industrial load rate authorized under this new section *if* there is a net benefit to the utility's customers resulting from the industrial customer's taking service under the rate compared to the industrial customer's not purchasing standard tariff service from the utility. In determining whether a net benefit exists, the PSC may consider any benefit, including, but not limited to, benefits to customers as a result of the following:

- System peak demand reduction due to ability to curtail, engage in demand response, or participate in federal load management programs.
- Avoidance of new production capacity costs and risks for other ratepayers.
- Ability to reduce system costs, such as by contributing to volt/VAR control.

The bill would require that, if the customer's taking service under a long-term industrial rate will contribute to the utility's fixed distribution or transmission costs that otherwise would have been recovered from the utility's other customers, the PSC would have to determine that a net benefit exists.

A contract for a term executed under a rate approved under the proposed section would be considered reasonable and prudent for the contract's entire term.

Other provisions

A utility could submit a proposal for a rate and a proposed contract for a term under the rate in the same proceeding.

If a utility proposes a rate in a stand-alone proceeding, the proceeding would have to be conducted as a contested case under Chapter 4 of the Administrative Procedures Act (MCL 24.271 to 24.287). The case would have to be supported by a complete cost of service study, rate design, and proposed tariffs reflecting the impact of the rate on other customer rates. A stand-alone proceeding could not be expanded to result in any changes to the utility's overall revenue requirement. Additionally, the PSC would have to issue a final order in a stand-alone proceeding no later than 270 days after a utility files an application requesting approval of a rate.

A designated power supply resource that is an electric utility power purchase agreement may be a power purchase agreement or agreements with an affiliate of the utility.

A single customer could not aggregate load from multiple sites to meet the requirements of this section. Multiple customers also could not aggregate load to meet the requirements of this section.

FISCAL IMPACT:

House Bill 5902 would not have a significant fiscal impact on any unit of state or local government. The Department of Licensing and Regulatory Affairs anticipates that there will be costs associated with conducting rate cases or stand-alone proceedings due to the provisions of the bill, but these costs would be sufficiently covered by existing funding mechanisms.

POSITIONS:

Representatives of the following organizations testified in support of the bill (5-8-18):

- Consumers Energy
- Hemlock Semiconductor

The following organizations indicated support for the bill (5-8-18):

- Midland Business Alliance
- Dow Chemical Company
- Michigan Energy Innovation Business Council

A representative of the Michigan Environmental Council testified in opposition to the bill. (5-8-18)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.