Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

House Bill 5902 (Substitute H-1 as passed by the House)
Sponsor: Representative Dan Lauwers
House Committee: Energy Policy
Senate Committee: Energy and Technology

Date Completed: 9-5-18

CONTENT

The bill would add a section to the Public Act 3 of 1939, which created the Michigan Public Service Commission (MPSC), and regulates public and certain private utilities, to do the following:

- **Allow the MPSC to establish long-term electricity rates for industrial customers.**
- **Allow an electric utility to propose a long-term industrial load rate.**
- **Require the MPSC to approve the proposed long-term industrial rate, if the MPSC found that certain requirements were met.**
- **Require the MPSC to approve a contract for a term proposed by an electric utility under a long-term industrialized load rate, if there was a net benefit to the utility's customers.**
- **Allow an electric utility to submit a proposal for a rate and a proposed contract for term under the proposed rate in the same proceeding.**
- **Prohibit customers from aggregating load from multiple sites to meet the bill's requirements.**

Proposal For Long-Term Industrial Load Rate

The Act prohibits a gas or electric utility from increasing its rates and charges or altering, changing, or amending any rate or rate schedules that would result in the increase of the costs of its services without first receiving MPSC approval.

Notwithstanding any other provision of the Act, the bill would allow the MPSC to establish long-term electricity rates for industrial customers. An electric utility could propose a long-term industrial load rate in a general rate case filing or in a stand-alone proceeding. The MPSC would have to approve the proposed rate if it found all of the following:

- The cost of service for the capacity needed to serve the industrial customer under the proposed rate was based on one or more designated power supply resources.
- The proposed rate required the industrial customer to enter into a contract for a term equal to either of the following: 1) the term of an electric utility power purchase agreement or agreements, that would have to be at least 15 years, for one or more designated power supply resources if the resources were an electric power purchase agreement or agreements; or 2) the expected remaining life of one or more designated power supply resources if the resources were utility-owned.
- The proposed rate was available only to the industrial customer for service at a site where the industrial customer's annual average electric demand was at least 200 megawatts at

the time the contract for a term, which would have to be for a minimum of 100 megawatts of firm contract capacity, was entered into.

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

"Contract for a term" would mean an agreement executed between an electric utility and industrial customer under an authorized long-term industrial load rate.

"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.

"Site" would mean an industrial site or contiguous industrial site or single commercial establishment. A site that was divided by an inland body of water or by a public highway, road, or street but that otherwise met the above definition would meet the continuous requirement.

The MPSC also would have to find that the proposed rate required that the industrial customer had an annual average electric demand of at least 200 megawatts at one site at the time a contract for a term was entered into, had an annual load factor of at least 75% at the time the contract for a term was entered into, and demonstrated that the industrial customer would not purchase standard tariff service from the electric utility except under the rate. The industrial customer would have to demonstrate that it would not purchase standard tariff service from the electric utility except under the rate if any of the following conditions existed:

-- The customer had available self-service power in a quantity equal to the contract demand level.

-- The customer, or an entity acting on its behalf, had entered the applicable regional transmissions 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.

"Annual load factor" would mean a load factor calculated as an average of the prior 12 monthly load factors. Each monthly load factor would have to 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 services approved by the MPSC for service to customers who do not purchase power under the long-term industrial load rate.

"Self-service power" would mean that term as defined in Section 10a(4) of the Act:

-- Electricity generated and consumed at an industrial site or contiguous industrial site or single commercial establishment or single residence without the use of an electric utility's transmission and distribution system.

- -- Electricity generated primarily by the use of by-product fuels, including waste water solids, which electricity is consumed as part of a contiguous facility, with the use of an electric utility's transmission and distribution system, but only if the point or points of receipt of the power within the facility are not greater than three miles distant from the point of generation.
- -- A site or facility with load existing on June 5, 2000, that is divided by an inland body of water or by a public highway, road, or street but that otherwise meets this definition meets the contiguous requirement regardless of whether self-service power was being generated on June 5, 2000.
- -- A commercial or industrial facility or single residence that meets the requirements of either of the above provisions regarding electricity generation meets this definition whether or not the generation facility is owned by an entity different from the owner of the commercial or industrial site or single residence.

Additionally, the MPSC would have to find that if the resource designated in a contract executed under the rate were a utility-owned resource, then the proposed rate was based on all of the following:

- -- The electric 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 was executed.
- -- The electric 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 electric 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 was 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.

A long-term industrial load rate could contain other terms and conditions proposed by an electric utility.

<u>Contract For Proposed Rate</u>

The bill would require the MPSC to approve any contract for a term proposed by an electric utility under a long-term industrial load rate if there was a net benefit to the utility's customers resulting from the industrial customer taking service under the rate compared to the industrial customer not purchasing standard tariff service from the utility. In determining whether a net benefit existed, the MPSC could consider any benefit, including 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.

If the customer taking service under a long-term industrial load rate would contribute to the electric utility's fixed distribution or transmission costs that otherwise would have been recovered from its other customers as compared to the customer not purchasing standard tariff service from the utility, then the MPSC would have to determined that a net benefit existed.

A contract for a term executed under a long-term industrial load rate would be considered reasonable and prudent for the contract's entire term.

Proceeding

The bill would allow an electric utility to submit a proposal for a long-term industrial load rate and a proposed contract for a term under the proposed rate in the same proceeding.

If an electric utility proposed a long-term industrial load rate in a stand-alone proceeding, it would have to be conducted as a contested case under Chapter 4 of the Administrative Procedures Act, and 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 filed under the bill could not be expanded to result in any changes to the electric utility's overall revenue requirement. The MPSC would have to issue a final order in a stand-alone proceeding within 270 days after an electric utility filed an application requesting approval of a rate.

Other Provisions

Under the bill, a designated power supply resource that was an electric utility purchase agreement or agreement could be a power purchase agreement or agreements with an affiliate of the utility.

A single customer or multiple customers could not aggregate load from multiple sites to meet the bill's requirements.

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

The bill would not have a significant fiscal impact on State or local government. The bill would create additional responsibilities for the Public Service Commission within the Department of Licensing and Regulatory Affairs, but these functions would be performed and funded by existing staff and appropriations.

Fiscal Analyst: Elizabeth Raczkowski