

# HOUSE BILL No. 4791

June 20, 2017, Introduced by Reps. Lasinski, Hoadley, Pagan, Sowerby, Hertel, Hammoud, Yanez, Green, Sabo, Zemke, Ellison, Sneller, LaGrand, Rabhi, Faris, Brinks, Dianda, Chang, Garrett, Love, Geiss, Peterson, Chirkun and Cochran and referred to the Committee on Energy Policy.

A bill to amend 2008 PA 295, entitled  
"Clean and renewable energy and energy waste reduction act,"  
by amending sections 73, 75, 77, and 78 (MCL 460.1073, 460.1075,  
460.1077, and 460.1078), sections 73, 75, and 77 as amended and  
section 78 as added by 2016 PA 342; and to repeal acts and parts of  
acts.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 73. (1) A provider's energy waste reduction plan shall be  
2       filed with, reviewed by, and approved or rejected by the  
3       commission. For a provider whose rates are regulated by the  
4       commission, the plan shall be enforced by the commission. For a  
5       provider whose rates are not regulated by the commission, the plan  
6       shall be enforced as provided in section 99. Notwithstanding any

1 other provision of this subpart, the commission shall allow  
2 municipally owned electric utilities to design and administer  
3 energy waste reduction plans in a manner consistent with the  
4 administrative changes approved in the commission's April 17, 2012  
5 order in case nos. U-16688 to U-16728 and U-17008.

6 (2) The commission shall not approve a proposed energy waste  
7 reduction plan unless the commission determines that the energy  
8 waste reduction plan meets the utility system resource cost test  
9 and ~~, subject to section 78,~~ is reasonable and prudent. In  
10 determining whether the energy waste reduction plan is reasonable  
11 and prudent, the commission shall review each element and consider  
12 whether it would reduce the future cost of service for the  
13 provider's customers. In addition, the commission shall consider at  
14 least all of the following:

15 (a) The specific changes in customers' consumption patterns  
16 that the proposed energy waste reduction plan is attempting to  
17 influence.

18 (b) The cost and benefit analysis and other justification for  
19 specific programs and measures included in a proposed energy waste  
20 reduction plan.

21 (c) Whether the proposed energy waste reduction plan is  
22 consistent with any long-range resource plan filed by the provider  
23 with the commission.

24 (d) Whether the proposed energy waste reduction plan will  
25 result in any unreasonable prejudice or disadvantage to any class  
26 of customers.

27 (e) The extent to which the energy waste reduction plan

1 provides programs that are available, affordable, and useful to all  
2 customers.

3 (3) Every 2 years after initial approval of an energy waste  
4 reduction plan under subsection (2), the commission shall review  
5 the plan. For a provider whose rates are regulated by the  
6 commission, the commission shall conduct a contested case hearing  
7 on the plan pursuant to the administrative procedures act of 1969,  
8 1969 PA 306, MCL 24.201 to 24.328. After the hearing, the  
9 commission shall approve, with any changes consented to by the  
10 provider, or reject the plan and any proposed amendments to the  
11 plan.

12 (4) If a provider proposes to amend its plan at a time other  
13 than during the biennial review process under subsection (3), the  
14 provider shall file the proposed amendment with the commission.  
15 After the hearing and within 90 days after the amendment is filed,  
16 the commission shall approve, with any changes consented to by the  
17 provider, or reject the plan and the proposed amendment or  
18 amendments to the plan.

19 (5) If the commission rejects a proposed plan or amendment  
20 under this section, the commission shall explain in writing the  
21 reasons for its determination.

22 ~~— (6) After December 31, 2021, this section does not apply to an~~  
23 ~~electric provider whose rates are not regulated by the commission.~~

24 Sec. 75. (1) An energy waste reduction plan of a provider  
25 whose rates are regulated by the commission may authorize a  
26 commensurate financial incentive for the provider for exceeding the  
27 energy waste reduction standard. Payment of any financial incentive

1 authorized in the energy waste reduction plan is subject to the  
2 approval of the commission.

3 (2) The total amount of a financial incentive for an electric  
4 provider that achieves annual incremental savings **IN ANY YEAR**  
5 **THROUGH 2021** of greater than 1.5% of its total annual retail  
6 electricity sales in megawatt hours in the preceding year **OR ANNUAL**  
7 **INCREMENTAL SAVINGS IN 2022 OR ANY YEAR THEREAFTER OF GREATER**  
8 **THAN 2.5% OF ITS TOTAL ANNUAL RETAIL ELECTRICITY SALES IN MEGAWATT**  
9 **HOURS IN THE PRECEDING YEAR** or **FOR** a natural gas provider that  
10 achieves annual incremental savings of greater than 1% of its total  
11 annual retail natural gas sales in decatherms in the preceding year  
12 shall not exceed the lesser of the following amounts:

13 (a) 30% of the net present value of life-cycle cost reductions  
14 experienced by the provider's customers as a result of  
15 implementation, during the year for which the financial incentive  
16 is paid, of the energy waste reduction plan.

17 (b) 20% of the provider's actual energy waste reduction  
18 program expenditures for the year.

19 (3) The total amount of the financial incentive for an  
20 electric provider that achieves annual incremental savings **IN ANY**  
21 **YEAR THROUGH 2021** of greater than 1.25% but not greater than 1.5%  
22 of its total annual retail electricity sales in megawatt hours in  
23 the preceding year **OR ACHIEVES ANNUAL INCREMENTAL ENERGY SAVINGS IN**  
24 **2022 OR ANY YEAR THEREAFTER GREATER THAN 2.0% BUT NOT GREATER THAN**  
25 **2.5% OF ITS TOTAL ANNUAL RETAIL ELECTRICITY SALES IN MEGAWATT HOURS**  
26 **IN THE PRECEDING YEAR** or **FOR** a natural gas provider that achieves  
27 annual incremental savings of greater than 0.875% but not greater

1 than 1% of its total annual retail natural gas sales in decatherms  
2 in the preceding year shall not exceed the lesser of the following  
3 amounts:

4 (a) 27.5% of the net present value of life-cycle cost  
5 reductions experienced by the provider's customers as a result of  
6 implementation, during the year for which the financial incentive  
7 is paid, of the energy waste reduction plan.

8 (b) 17.5% of the provider's actual energy waste reduction  
9 program expenditures for the year.

10 (4) The total amount of a financial incentive for an electric  
11 provider that achieves annual incremental savings **IN ANY YEAR**  
12 **THROUGH 2021** of at least 1.0% but not greater than 1.25% of its  
13 total annual retail electricity sales in megawatt hours in the  
14 preceding year **OR ACHIEVES ANNUAL INCREMENTAL ENERGY SAVINGS IN**  
15 **2022 OR ANY YEAR THEREAFTER GREATER THAN 1.5% BUT NOT GREATER THAN**  
16 **2.0% OF ITS TOTAL ANNUAL RETAIL ELECTRICITY SALES IN MEGAWATT HOURS**  
17 **IN THE PRECEDING YEAR** or **FOR** a natural gas provider that achieves  
18 annual incremental savings of at least 0.75% but not greater than  
19 0.875% of its total annual retail natural gas sales in decatherms  
20 in the preceding year shall not exceed the lesser of the following  
21 amounts:

22 (a) 25% of the net present value of life-cycle cost reductions  
23 experienced by the provider's customers as a result of  
24 implementation, during the year for which the financial incentive  
25 is paid, of the energy waste reduction plan.

26 (b) 15% of the provider's actual energy waste reduction  
27 program expenditures for the year.

1       Sec. 77. (1) ~~Except as provided in section 81 and subject to~~  
2 ~~section 97, SUBJECT TO SECTIONS 78 AND 97,~~ an electric provider's  
3 energy waste reduction programs under this subpart shall  
4 collectively achieve incremental energy savings ~~each~~ **AS FOLLOWS:**

5       **(A) EACH** year through 2021, **SAVINGS** equivalent to 1.0% of  
6 total annual retail electricity sales in megawatt hours in the  
7 preceding year.

8       **(B) EACH YEAR AFTER 2021, SAVINGS EQUIVALENT TO 2.0% OF TOTAL**  
9 **ANNUAL RETAIL ELECTRICITY SALES IN MEGAWATT HOURS IN THE PRECEDING**  
10 **YEAR.**

11       (2) If an electric provider uses load management to achieve  
12 energy savings under its energy waste reduction plan, the minimum  
13 energy savings required under subsection (1) shall be adjusted by  
14 an amount such that the ratio of the minimum energy savings to the  
15 sum of actual expenditures for implementing its approved energy  
16 waste reduction plan and the load management expenditures remains  
17 constant.

18       (3) Subject to ~~section~~ **SECTIONS 78 AND 97,** a natural gas  
19 provider's energy waste reduction program under this subpart shall  
20 achieve annual incremental energy savings each year equivalent to  
21 0.75% of total annual retail natural gas sales in decatherms or  
22 equivalent MCFs in the preceding year.

23       (4) Incremental energy savings under subsection (1) or (3) for  
24 a year shall be determined for a provider by adding the energy  
25 savings expected to be achieved by energy waste reduction measures  
26 implemented during that year under any energy waste reduction  
27 programs consistent with the provider's energy waste reduction

1 plan. The energy savings expected to be achieved shall be  
2 determined using a savings database or other savings measurement  
3 approach as determined reasonable by the commission.

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

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

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

15 (6) For any year, ~~after 2012,~~ an electric provider may  
16 substitute renewable energy credits associated with renewable  
17 energy generated that year from a renewable energy system  
18 constructed after October 6, 2008, load management that reduces  
19 overall energy usage, or a combination thereof for energy waste  
20 reduction credits otherwise required to meet the energy waste  
21 reduction standard, if the substitution is approved by the  
22 commission. The commission shall not approve a substitution unless  
23 the commission determines that the substitution is cost-effective.

24 (7) Renewable energy credits, load management that reduces  
25 overall energy usage, or a combination thereof shall not be used by  
26 a provider to meet more than 10% of the energy waste reduction  
27 standard. Substitutions for energy waste reduction credits shall be

1 made at the rate of 1 renewable energy credit per energy waste  
2 reduction credit.

3       Sec. 78. ~~(1) By January 1, 2022, and every 2 years thereafter,~~  
4 ~~an electric provider whose rates are regulated by the commission~~  
5 ~~shall file an energy waste reduction plan amendment with the~~  
6 ~~commission under section 73 pursuant to a filing schedule~~  
7 ~~established by the commission. The amendment shall detail the~~  
8 ~~amount of energy waste reduction the electric provider proposes to~~  
9 ~~achieve for the succeeding 2-year period. If the electric provider~~  
10 ~~whose rates are regulated by the commission proposes a level of~~  
11 ~~energy waste reduction that is higher than the level specified in~~  
12 ~~the provider's current energy waste reduction plan, the commission~~  
13 ~~may approve the proposed higher level if the commission finds that~~  
14 ~~it is the most reasonable and prudent. If the electric provider~~  
15 ~~whose rates are regulated by the commission proposes a level of~~  
16 ~~energy waste reduction that is lower than the level specified in~~  
17 ~~the provider's current energy waste reduction plan, the commission~~  
18 ~~may approve the proposed lower level if the commission finds that~~  
19 ~~it is the most reasonable and prudent. If the commission finds that~~  
20 ~~the proposed lower level of energy waste reduction is not the most~~  
21 ~~reasonable and prudent, the level of energy waste reduction to be~~  
22 ~~achieved by the electric provider whose rates are regulated by the~~  
23 ~~commission for the succeeding 2-year period under the energy waste~~  
24 ~~reduction plan shall be the same as the level specified in the~~  
25 ~~provider's current energy waste reduction plan.~~

26 ~~—— (2) If over a 2-year period an electric provider whose rates~~  
27 ~~are regulated by the commission cannot achieve the level of energy~~



~~waste reduction provided for in the energy waste reduction plan pursuant to subsection (1) in a cost-effective manner, the provider may petition the commission in a contested case hearing under section 73 to establish an alternative energy waste reduction level for that provider.~~

(1) ~~(3)~~—If over a 2-year period **AN ELECTRIC PROVIDER WHOSE RATES ARE REGULATED BY THE COMMISSION OR** a natural gas provider cannot achieve the energy waste reduction standard in a cost-effective manner, the ~~natural gas~~ provider may petition the commission to establish an alternative energy waste reduction standard for that provider.

(2) ~~(4)~~—A petition filed pursuant to subsection ~~(3)~~—(1) shall do all of the following:

(a) Identify the efforts taken by the ~~natural gas~~ provider to meet the energy waste reduction standard.

(b) Explain why the energy waste reduction standard cannot reasonably and cost-effectively be achieved.

(c) Propose a revised energy waste reduction standard to be achieved by the ~~natural gas~~ provider.

(3) ~~(5)~~—If, based on a review of the petition filed under subsection ~~(3)~~,—(1), the commission determines that the ~~natural gas~~ provider has been unable to reasonably and cost-effectively achieve the energy waste reduction standard, the commission shall revise the energy waste reduction standard as applied to the ~~natural gas~~ provider to a level that can reasonably and cost-effectively be achieved.

Enacting section 1. Section 81 of the clean and renewable

1 energy and energy waste reduction act, 2008 PA 295, MCL 460.1081,  
2 is repealed.

3 Enacting section 2. This amendatory act takes effect 90 days  
4 after the date it is enacted into law.