

# SENATE BILL NO. 763

January 30, 2020, Introduced by Senators CHANG, BAYER, GEISS, WOJNO, POLEHANKI, IRWIN, ALEXANDER, BULLOCK, MOSS and HOLLIER and referred to the Committee on Energy and Technology.

A bill to amend 2008 PA 295, entitled "Clean and renewable energy and energy waste reduction act," by amending sections 22, 28, and 45 (MCL 460.1022, 460.1028, and 460.1045), sections 22 and 28 as added and section 45 as amended by 2016 PA 342, and by adding section 32.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 22. (1) Renewable energy plans and associated revenue  
2 recovery mechanisms filed by an electric provider, approved under  
3 former section 21 or 23 or found to comply with this act under  
4 former section 25 and in effect on ~~the effective date of the 2016~~

1 ~~amendatory act that added this section, April 20, 2017,~~ remain in  
2 effect, subject to amendments as provided for under subsections (3)  
3 and (4).

4 (2) For an electric provider whose rates are regulated by the  
5 commission, amended renewable energy plans shall establish a  
6 nonvolumetric mechanism for the recovery of the incremental costs  
7 of compliance within the electric provider's customer rates. The  
8 revenue recovery mechanism shall not result in rate impacts that  
9 exceed the monthly maximum retail rate impacts specified under  
10 section 45. The revenue recovery mechanism is subject to adjustment  
11 under sections 47(4) and 49.

12 ~~Within 1 year after the effective date of the 2016~~  
13 ~~amendatory act that added this section, By April 20, 2021 and every~~  
14 **2 years thereafter,** the commission shall review each electric  
15 provider's plan pursuant to a filing schedule established by the  
16 commission. **For the review required by April 20, 2021, the provider**  
17 **shall propose plan amendments to conform to increases in the**  
18 **renewable energy credit standards provided for by the amendatory**  
19 **act that added section 28(1)(d) to (g).** For an electric provider  
20 whose rates are regulated by the commission, the commission shall  
21 conduct a contested case hearing on the plan pursuant to the  
22 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
23 24.328. After the hearing, the commission shall approve, with any  
24 changes consented to by the electric provider, or reject the plan  
25 and any amendments to the plan. For all other electric providers,  
26 the commission shall provide an opportunity for public comment on  
27 the plan. After the applicable opportunity for public comment, the  
28 commission shall determine whether any amendment to the plan  
29 proposed by the provider complies with this act. For alternative

1 electric suppliers, the commission shall approve, with any changes  
2 consented to by the electric provider, or reject any proposed  
3 amendments to the plan. For cooperative electric utilities and  
4 municipally owned utilities, the proposed amendment is adopted if  
5 the commission determines that it complies with this act.

6 (4) If an electric provider proposes to amend its plan ~~after~~  
7 ~~the~~**at a time other than a scheduled** review process under  
8 subsection (3), the electric provider shall file the proposed  
9 amendment with the commission. For an electric provider whose rates  
10 are regulated by the commission, if the proposed amendment would  
11 modify the revenue recovery mechanism, the commission shall conduct  
12 a contested case hearing on the amendment pursuant to the  
13 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
14 24.328. After the hearing and within 90 days after the amendment is  
15 filed, the commission shall approve, with any changes consented to  
16 by the electric provider, or reject the plan and the proposed  
17 amendment or amendments to the plan. For all other electric  
18 providers, the commission shall provide an opportunity for public  
19 comment on the amendment. After the applicable opportunity for  
20 public comment and within 90 days after the amendment is filed, the  
21 commission shall determine whether the proposed amendment to the  
22 plan complies with this act. For alternative electric suppliers,  
23 the commission shall approve, with any changes consented to by the  
24 electric provider, or reject any proposed amendments to the plan.  
25 For cooperative electric utilities and municipally owned utilities,  
26 the proposed amendment is adopted if the commission determines that  
27 it complies with this act.

28 (5) For an electric provider whose rates are regulated by the  
29 commission, the commission shall approve the plan or amendments to

1 the plan if the commission determines **the following:**

2 (a) That the plan is reasonable and prudent. In making this  
3 determination, the commission shall take into consideration  
4 projected costs and whether or not projected costs in prior plans  
5 were exceeded.

6 (b) That the plan is consistent with the purpose and goal set  
7 forth in section 1(2) and (3) and meets the renewable energy credit  
8 standard through ~~2021~~.**2050**.

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

12 Sec. 28. (1) An electric provider shall achieve a renewable  
13 energy credit portfolio ~~as follows:~~**of at least the following:**

14 (a) In 2016 through 2018, ~~a renewable energy credit portfolio~~  
15 ~~that consists of at least~~ the same number of renewable energy  
16 credits as were required under former section 27.

17 (b) In 2019 and 2020, ~~a renewable energy credit portfolio of~~  
18 ~~at least 12.5%, as calculated under subsection (2)~~.**12.5%**.

19 (c) In 2021 **and each year thereafter through 2024**, ~~a renewable~~  
20 ~~energy credit portfolio of at least 15%.~~ ~~, as calculated under~~  
21 ~~subsection (2)~~.

22 (d) **In 2025 and each year thereafter through 2031, 25%.**

23 (e) **In 2032 and each year thereafter through 2039, 50%.**

24 (f) **In 2040 and each year thereafter through 2049, 75%.**

25 (g) **In 2050 and each year thereafter, 100%.**

26 (2) An electric provider's renewable energy credit portfolio  
27 **under subsection (1) (b) to (g)** shall be calculated as follows:

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

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

3 (i) The number of weather normalized megawatt hours of  
4 electricity sold by the electric provider during the previous year  
5 to retail customers in this state.

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

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

10 (3) Subject to subsection (5), each electric provider shall  
11 meet the renewable energy credit standards with renewable energy  
12 credits obtained by 1 or more of the following means:

13 (a) Generating electricity from renewable energy systems for  
14 sale to retail customers.

15 (b) Purchasing or otherwise acquiring renewable energy credits  
16 with or without the associated renewable energy.

17 (4) For an electric provider whose rates are regulated by the  
18 commission, the electric provider shall submit a contract entered  
19 into for the purposes of subsection (3) to the commission for  
20 review and approval. If the commission approves the contract, it  
21 shall be considered consistent with the electric provider's  
22 renewable energy plan. The commission shall not approve a contract  
23 based on an unsolicited proposal unless the commission determines  
24 that the unsolicited proposal provides opportunities that may not  
25 otherwise be available or commercially practical through a  
26 competitive bid process.

27 (5) An electric provider may substitute energy waste reduction  
28 credits for renewable energy credits otherwise required to meet the  
29 renewable energy credit standards if the substitution is approved

1 by the commission. Under this subsection, energy waste reduction  
2 credits shall not be used by a provider to meet more than 10% of  
3 the renewable energy credit standard. One renewable energy credit  
4 shall be awarded per 1 energy waste reduction credit.

5       **Sec. 32. (1) Upon petition by an electric provider, the**  
6 **commission may for good cause grant an extension of a renewable**  
7 **energy standard deadline under section 28. For any specific**  
8 **deadline, the commission shall not grant more than 2 extensions.**  
9 **Each extension shall not exceed 1 year. An extension of a deadline**  
10 **does not affect a subsequent deadline.**

11       (2) An electric provider that makes a good-faith effort to  
12 spend the full amount of costs authorized for recovery under  
13 section 47 and that complies with its approved plan, subject to any  
14 approved extensions, is considered to be in compliance with this  
15 subpart.

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

21       (a) Renewable energy system site requirements; zoning, siting,  
22 or land use issues; permits, including environmental permits; any  
23 certificate of necessity process under section 6s of 1939 PA 3, MCL  
24 460.6s; or any other necessary governmental approvals that  
25 effectively limit availability of renewable energy systems, if the  
26 electric provider exercised reasonable diligence in attempting to  
27 secure the necessary governmental approvals. For purposes of this  
28 subdivision, "reasonable diligence" includes, but is not limited  
29 to, submitting timely applications for the necessary governmental

1 approvals and making good-faith efforts to ensure that the  
2 applications are administratively complete and technically  
3 sufficient.

4 (b) High costs of or shortages of renewable energy system  
5 components or electrical equipment if the high costs or shortages  
6 effectively limit availability of renewable energy systems.

7 (c) Cost, availability, or time requirements for electric  
8 transmission and interconnection.

9 (d) Projected or actual unfavorable electric system  
10 reliability or operational impacts.

11 (e) Labor shortages that effectively limit availability of  
12 renewable energy systems.

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

15 Sec. 45. (1) For an electric provider whose rates are  
16 regulated by the commission, the commission shall determine the  
17 appropriate charges for the electric provider's tariffs that permit  
18 recovery of the ~~incremental cost of compliance~~ **costs authorized for**  
19 **recovery under section 47** subject to the retail rate impact limits  
20 set forth in subsection (2).

21 (2) ~~An electric provider shall recover the incremental cost of~~  
22 ~~compliance with the renewable energy standards.~~ An electric  
23 provider shall not comply with the renewable energy standards to  
24 the extent that, as determined by the commission, recovery of the  
25 ~~incremental cost of compliance~~ **costs authorized for recovery under**  
26 **section 47** will have a retail rate impact that exceeds any of the  
27 following:

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

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

1 (c) \$187.50 per month per commercial primary or industrial  
2 customer meter.

3 (3) The retail rate impact limits of subsection (2) apply only  
4 to the ~~incremental costs of compliance~~ **costs authorized for**  
5 **recovery under section 47** and do not apply to costs approved for  
6 recovery by the commission other than as provided in this act.

7 (4) The incremental cost of compliance shall be calculated for  
8 a 20-year period beginning with approval of the renewable energy  
9 plan and shall be recovered on a levelized basis.

10 Enacting section 1. This amendatory act takes effect 90 days  
11 after the date it is enacted into law.