

CLEAN AND RENEWABLE ENERGY STANDARDS

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Senate Bill 271 (S-3) as passed by the Senate

Sponsor: Sen. Erika Geiss

House Committee: Energy, Communications, and Technology

Senate Committee: Energy and Environment

Revised 11-1-23

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

SUMMARY:

Senate Bill 271 would amend the Clean and Renewable Energy and Energy Waste Reduction Act, primarily to add or change provisions related to clean and renewable energy requirements under the act's Part 2 (Energy Standards), as described below, and make related changes to defined terms or other substantive provisions. The bill also would include provisions related to energy storage and increase the cap on distributed generation.

Renewable energy credit portfolio requirements

The bill would require an electric provider to achieve a *renewable energy credit portfolio* of at least the following (the act currently requires 15% beginning in 2021.):

- 15% through 2029.
- 50% in 2030 through 2034.
- 60% beginning in 2035.

The bill would require electricity sales to customers participating in an electric provider's voluntary green pricing program and the outflow from distributed generation customers to be subtracted from the number of megawatt hours of the provider that are used to calculate the renewable energy credit portfolio under the standard determination in the act.

Except as described below, each electric provider would have to meet the renewable energy standards with *renewable energy credits* obtained by any of the following means:

- Generating electricity from *renewable energy systems* for sale to retail customers.
- Purchasing or otherwise acquiring *renewable energy* and capacity.
- Purchasing or otherwise acquiring renewable energy credits without the associated renewable energy or capacity. Renewable energy credits acquired under this provision could not exceed 5% of an electric provider's renewable energy credits annually used to comply with the renewable energy standard, unless, for a municipally owned electric utility, the credits are produced in the territory of the regional transmission organization the utility is a member of. The credits could not be used to comply with the renewable energy standard after 2035. Renewable energy credits acquired under this provision would not be subject to the siting requirements described below.

Renewable energy credit portfolio means the sum of the *renewable energy credits* achieved by a provider for a particular year.

Renewable energy credit means a credit granted under the certification and tracking program established under the act, which represents generated *renewable energy*.

Renewable energy means electricity or steam generated using a **renewable energy system**.

Renewable energy system would mean a facility, electricity generation system, or set of electricity generation systems that use one or more **renewable energy resources** to generate electricity or steam. Renewable energy system would include the following:

- A landfill gas recovery and electricity generation facility located in a landfill whose operator employs best practices for methane gas collection and control and emissions monitoring, as determined by the Department of Environment, Great Lakes, and Energy (EGLE).
- A methane digester, if it processes only one or more of the following:
 - Municipal wastewater treatment sludge, wastewater, or sewage.
 - Food waste or food production and processing waste.
 - Animal manure.

Renewable energy system would *not* include any of the following:

- A hydroelectric pumped storage facility.
- A hydroelectric facility that uses a dam constructed after October 6, 2008, unless the dam is a repair or replacement of a dam in existence on October 6, 2008, or an upgrade of a dam in existence on October 6, 2008 that increases its energy efficiency.
- An incinerator, unless the incinerator is a municipal solid waste incinerator that was generating power before January 1, 2023.
- A gasification facility.
- A facility that co-fires biomass with tires or tire-derived fuel.

Renewable energy resource would mean a resource that naturally replenishes over a human, not a geological, time frame and that is ultimately derived from solar power, water power, or wind power. Renewable energy resource would not include petroleum, nuclear, natural gas, industrial waste, post-use polymers, tires, tire-derived fuel, plastic, or coal, but would be a resource that comes from the sun or from thermal inertia of the earth and minimizes the output of toxic material in the conversion of the energy.

Renewable energy resource would include all of the following:

- Biomass, as described in any of the following:
 - Landfill gas as described below.
 - Gas from a methane digester using only feedstock as described below.
 - Biomass used by renewable energy systems that are in commercial operation on the effective date of the bill.
 - Trees and wood used in renewable energy systems placed in commercial operation after the effective date of the bill, if the trees and wood are derived from sustainably managed forests or procurement systems, as defined in section 261c of the Management and Budget Act.¹
- Solar and solar thermal energy.
- Wind energy.

¹ <http://legislature.mi.gov/doc.aspx?mcl-18-1261c>

- Kinetic energy of moving water, including waves, tides, currents, or water released through a dam.
- Geothermal energy.
- Thermal energy produced from a geothermal heat pump.
- Landfill gas produced from solid waste facilities.
- Any of the following if used as feedstock in a methane digester:
 - Municipal wastewater treatment sludge, wastewater, and sewage.
 - Food waste and food production and processing waste.
 - Animal manure.

Cooperative or multistate electric providers

A **cooperative electric provider** or multistate electric provider could calculate its maximum renewable energy credit portfolio requirement in any years as follows:

- Determine the number of megawatt hours of electricity sold by the electric provider to retail customers in this state using the provider’s option of a weather-normalized or three-year-average basis, as described in the standard determination.
- Subtract the number of megawatt hours of nuclear energy that the electric provider obtained from a system located in Michigan that the electric provider owned or had contracted to receive nuclear energy from on or before January 1, 2024.

Cooperative electric provider would mean an entity that is a member of, or purchases energy from, an entity that is either of the following:

- Organized as a cooperative corporation under sections 98 to 109 of 1931 PA 327.²
- A cooperative corporation in the business of generating or transmitting electricity.

A cooperative electric provider or multistate electric provider would have to achieve a renewable energy credit portfolio equal only to the provider’s maximum renewable energy credit portfolio requirement if the provider’s maximum requirement is less than the number of renewable energy credits required to comply with the applicable standard described above. If the electric provider is a multistate electric provider, and the electric provider’s maximum renewable energy credit portfolio requirement is less than the number of renewable energy credits required to comply with the applicable standard, the electric provider would be required to achieve a renewable energy credit portfolio equal only to the electric provider’s maximum renewable energy credit portfolio requirement if all of the following requirements are met:

- The electric provider’s electricity generation systems located in Michigan produce energy exceeding the electric provider’s electricity sales in Michigan.
- All of the electric provider’s electricity generation systems located in Michigan are clean energy systems.
- All of the renewable energy credits generated in Michigan are used by the electric provider toward compliance with the renewable energy credit portfolio calculated under the standard determination.
- Renewable energy and clean energy generated in Michigan equal to or exceeding the provider’s electricity sales in Michigan are not used by the provider or any other provider to comply with any similar standards.

² <http://legislature.mi.gov/doc.aspx?mcl-act-327-of-1931>

Location requirements

The bill would provide that a renewable energy system that is the source of renewable energy credits used to satisfy the renewable energy standards must be located in Michigan or, if located outside of Michigan, the electric provider must include the capacity from the renewable energy system toward meeting its *resource adequacy* obligations to the applicable regional transmission organization. However, this provision does not require an electric provider to procure firm transmission rights to ensure deliverability to the resource adequacy zone where the load is served. In addition, the provision does not apply if electricity generated from the renewable energy system is sold by a not-for-profit entity located in Indiana, Ohio, or Wisconsin to a municipally owned electric utility in this state or cooperative electric utility in this state, and the electricity is not being used to meet another state's standard for renewable energy.

Resource adequacy would mean having sufficient resources to provide customers with a continuous supply of electricity at the proper voltage and frequency, virtually always and across a range of reasonably foreseeable conditions.

Renewable energy credits produced in the continental United States and owned by a *customer* of an electric provider could be utilized by the electric provider to meet the renewable energy credit standards if the electric customer chooses to report renewable energy credits to its electric provider as attributable to the customer's electric load. Any renewable energy credits reported by an electric customer for use by its electric provider would have to be applied to the electric customer's proportional share of a renewable energy credit portfolio requirement for the year in which renewable energy credits are used to comply with the renewable energy credit standard. On an annual basis, not later than December 1, the electric customer would have to provide the electric provider with an update on its five-year forecast and notify the electric provider of the expected amount of renewable energy credits to be used toward compliance in the coming year. If the projected amount of renewable energy credits available for compliance will be less than what the electric customer projected in its five-year forecast, the electric customer would have to notify the electric provider at least five years before the compliance year in which a projected reduction in renewable energy credits will occur. If the electric provider's rates are regulated by the Michigan Public Service Commission (MPSC) and the electric provider uses the reported renewable energy credits to comply with the renewable energy credit portfolio standard, the electric provider would have to grant the customer an appropriate cost-based rate credit against the cost of compliance under the act.

For purposes of the above paragraph, *customer* would mean either of the following:

- A customer taking service under a rate approved by the MPSC under section 10gg of 1939 PA 3, the MPSC enabling act.³
- A customer whose manufacturing complex is described in section 10a(4)(c) of the MPSC enabling act and that takes service for a portion of its load from an alternative electric supplier licensed under section 10a on the bill's effective date.⁴

The bill would remove several location requirements that now apply to wind energy systems.

³ <http://legislature.mi.gov/doc.aspx?mcl-460-10gg>

⁴ <http://legislature.mi.gov/doc.aspx?mcl-460-10a>

Extensions for good cause shown

Upon petition by an electric provider, the MPSC could, upon a showing of good cause, grant an extension of a renewable energy credit portfolio deadline. Each extension could not exceed two years. An extension of a deadline would not affect a subsequent deadline. Upon granting an additional extension for a particular renewable energy credit portfolio deadline beyond the first two extensions, the MPSC would have to notify specified legislative leaders that it has done so and the reasons.

In such a petition, an electric provider would have to include a plan for resolving the barrier to compliance and make a showing of good cause by demonstrating any of the following:

- Despite all commercially reasonable efforts by the electric provider to comply with the deadline, compliance is not practically feasible for reasons such as zoning, siting, permitting, supply chains, transmission interconnection, labor shortages, delays in project deliverability from developers, or unanticipated load growth. Issuing a request for proposals to purchase renewable energy and not receiving a commercially viable offer would create a rebuttable presumption that compliance with the deadline is not practically feasible.
- Compliance would be excessively costly to customers despite commercially reasonable efforts by the electric provider to contain costs.
- Compliance would result in a deficiency in meeting resource adequacy requirements in the electric provider's service territory.
- Compliance would result in a local **grid reliability** issue.

Grid reliability would mean the ability of the bulk power system, as defined by the regional transmission organization, to withstand sudden, unexpected disturbances, such as short circuits or unanticipated loss of system elements because of natural causes.

Energy waste reduction credit substitution

The bill would require an electric provider to have achieved annual incremental energy savings of greater than 2% under an energy waste reduction plan in order to be able to substitute energy waste reduction credits for renewable energy credits to meet the renewable energy standards if approved by the MPSC.

Financial incentive

If an electric provider subject to MPSC rate regulation enters into a purchase power agreement for renewable energy resources or a third-party contract for an energy storage system or clean energy system with an entity that is not an affiliate, the MPSC would have to authorize an annual financial incentive for the electric provider. The financial incentive would have to be calculated as the product of contract payments in that year multiplied by the electric provider's pre-tax weighted average cost of permanent capital consisting of long-term debt obligations and equity of the electric provider's total capital structure as determined by the MPSC's final order in the electric provider's most recent general rate case. The pre-tax weighted average cost of permanent capital used to calculate the financial incentive could not be fixed throughout the entire term of the contract at the pre-tax weighted average cost of capital applicable in the first year, but would have to be updated based on the MPSC's final order in each succeeding general rate case for the electric provider. The financial incentive would apply to each contract described in these provisions from the date the contract is executed for the entire term of the

contract. These provisions would apply to any contract entered into after June 30, 2024, to implement amended renewable energy plans or amended integrated resource plans under section 6t of the MPSC enabling act.⁵

Amended renewable energy plans

Within one year after the bill's effective date, and within two years after the MPSC issues an order approving the electric provider's last amended renewable energy plan, an electric provider would have to file an amended renewable energy plan that includes a forecast of the renewable energy resources needed to comply with the renewable energy credit standard under a filing schedule established by the MPSC. As with current renewable energy plans, the amended plan would be subject to hearings, public comment, and MPSC review and an approval or compliance determination as applicable. For the first amended renewable energy plan filed by each electric provider after the bill's effective date, the MPSC would have to issue a final order within 300 days after the date the amended plan is filed. For each subsequent amended renewable energy plan, the MPSC would have to issue a final order within 180 days after the date the amended plan was filed.

For an electric provider whose rates are regulated by the MPSC, the MPSC would have to review the projected costs of the renewable energy plan and approve, in whole or in part, the projected costs if it finds those projected costs, in whole or in part, to be reasonable and prudent. In making this determination, the MPSC would have to consider whether projected costs in prior renewable energy plans were exceeded.

Cost of compliance revisions

The bill would revise current provisions regarding recovery of the incremental cost of compliance with renewable energy standards to provide that, for an electric provider subject to MPSC rate regulation, the MPSC must determine a revenue recovery mechanism for the electric provider's tariffs that allow recovery of the incremental cost of compliance to implement the amended renewable energy plan. The incremental cost of compliance would have to be recovered through a revenue recovery mechanism that is designed consistent with the production allocation approved in the provider's most recent general rate case under section 6a of the MPSC enabling act.⁶ An electric provider could propose a revenue recovery mechanism in an amended renewable energy plan to include all or a portion of the provider's incremental cost of compliance in base rates. If an electric provider proposes to include all or a portion of the incremental cost of compliance in base rates, the MPSC would have to review and approve, approve with modifications, or deny the revenue recovery mechanism proposed by the electric provider.

The incremental cost of compliance would have to be calculated for the period required to demonstrate compliance with the renewable energy credit standard and could be recovered on a levelized basis.

The MPSC would have to consider all actual costs reasonably and prudently incurred in good faith to implement an amended renewable energy plan by an electric provider subject to MPSC rate regulation to be a cost of service to be recovered by the electric provider. An electric provider subject to MPSC rate regulation would have to recover through its retail electric rates

⁵ <http://legislature.mi.gov/doc.aspx?mcl-460-6t>

⁶ <http://legislature.mi.gov/doc.aspx?mcl-460-6a>

all of the electric provider's incremental costs of compliance beginning when the provider's amended plan is approved by the MPSC. The recovery would include at least the electric provider's authorized rate of return on equity for costs approved under the act. The authorized rate of return on equity for costs of any renewable energy system approved through the electric provider's amended renewable energy plan to comply with the renewable energy standard in effect before the bill's effective date would remain fixed at the rate of return and debt-to-equity ratio that was in effect when the electric provider's amended renewable energy plan that first included the renewable energy system was approved by the MPSC.

The bill would add the financial compensation mechanism for all renewable energy contracts to the calculation of the incremental costs of compliance.

Renewable cost reconciliation

The bill would amend current provisions regarding renewable cost reconciliations to limit their application to electric providers subject to MPSC rate regulation that have recorded a regulatory asset or regulatory liability under the act for the last 12 months. The bill would require an MPSC order under these provisions that adjusts the revenue recovery mechanism for the incremental costs of compliance to use any regulatory asset or regulatory liability accrued during the reconciliation period to adjust the revenue mechanism. That asset or liability would also have to be reflected in the incremental cost of compliance for the following calendar year. In addition, the MPSC order would have to require an electric provider to adjust the revenue recovery mechanism by any difference between the net amount determined to have been recovered and the net amount needed to recover the electric provider's incremental cost of compliance. The MPSC would have to determine the appropriate charges for an electric provider's tariffs that allow recovery of the cost of compliance and issue a final order in a renewable energy reconciliation proceeding within 270 days from the date an application is filed by an electric provider.

Clean energy portfolio requirements

The bill would require an electric provider to achieve a clean energy portfolio of at least the following:

- 80% in 2035 through 2039.
- 100% beginning in 2040.

Clean energy portfolio would mean the percentage of an electric provider's total retail electric sales consisting of ***clean energy*** or renewable energy.

Clean energy would mean electricity or steam generated using a ***clean energy system***.

Clean energy system would mean an electricity generation facility or system or set of electricity generation systems that meets any of the following requirements:

- Generates electricity or steam without emitting ***greenhouse gas***, including nuclear generation.
- Is fueled by natural gas and uses ***carbon capture and storage*** that is at least 90% effective in capturing and permanently storing carbon dioxide. If EGLE determines, through a facility-specific major source permitting analysis consistent with applicable U.S. Environmental Protection Agency (EPA) rules, that a capture rate higher than 90% meets the best available control technology

standard, as applicable, that higher percentage shall be used instead of 90% for facilities permitted after the bill's effective date. Using carbon dioxide for enhanced oil recovery would not be considered permanent storage for the purposes of this provision.

- Is defined as a clean energy system in rules adopted by the MPSC consistent with the purposes of this definition.

Carbon capture and storage would mean a process that involves collecting carbon dioxide at its source and storing, or sequestering, it to prevent its release into the atmosphere.

Greenhouse gas would mean carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, or sulfur hexafluoride.

Providers and utilities

All of the following would apply to an electric provider subject to MPSC rate regulation:

- The electric utility would have to submit a plan to comply with the clean energy standard as part of its integrated resource plans filed under the MPSC enabling act. The costs of compliance with the clean energy standard would be a cost of service and could be recovered as provided in that act.
- The MPSC could, upon a showing of good cause based on a factor as listed for renewable energy credit portfolios, grant the electric utility an extension of a clean energy portfolio deadline. Each extension could not exceed two years. An extension would not affect a subsequent deadline. Upon granting an additional extension beyond the first two extensions, the MPSC would have to notify specified legislative leaders that it has done so and the reasons.
- The electric provider could qualify for a financial incentive for a clean energy contract as described above.

All of the following would apply to an alternative electric supplier or a cooperative electric utility that has elected to become member-regulated under the Electric Cooperative Member-Regulation Act:

- The electric provider would have to file a proposed clean energy plan with the MPSC by January 1, 2028, that does both of the following:
 - Describes how the electric provider will meet the clean energy requirements.
 - Specifies whether the number of megawatt hours of electricity used in the calculation of the clean energy portfolio will be weather-normalized or based on the average annual number of megawatt hours of electricity sold to Michigan retail customers during the previous three years. This option could not be changed after the plan is approved by the MPSC.
- The MPSC would have to provide an opportunity for public comment on the proposed plan. After that and within 150 days after the proposed plan is filed with the MPSC, the MPSC would have to approve (with any changes consented to by the electric provider) or reject the plan.
- Every four years after initial approval, the MPSC would have to review the plan, provide an opportunity for public comment, and approve (with any changes consented to by the electric provider) or reject any proposed amendments to the plan.

- If an electric provider proposes to amend its plan other than during the review process, the provider would have to file the proposed amendment with the MPSC, which would have to provide an opportunity for public comment. After that and within 150 days after the amendment is filed, the MPSC would have to approve (with any changes consented to by the electric provider) or reject the amendment.
- If the MPSC rejects a proposed clean energy plan or amendment, it would have to explain the reasons in writing.
- The MPSC could, upon a showing of good cause based on a factor as listed for renewable energy credit portfolios, grant an extension of a clean energy portfolio deadline. Each extension could not exceed two years. An extension would not affect a subsequent deadline. Upon granting an additional extension beyond the first two extensions, the MPSC would have to notify specified legislative leaders that it has done so and the reasons.
- In addition, the governing board of a cooperative electric utility could, upon a demonstration of good cause based on a factor as listed for renewable energy credit portfolios, grant an extension of a clean energy portfolio deadline described above. Each extension could not exceed two years. An extension would not affect a subsequent deadline. Upon granting an additional extension beyond the first two extensions, the governing board would have to notify the MPSC that it done so and the reasons.

All of the following would apply to a municipally owned electric utility:

- Each municipally owned electric utility would have to file a proposed clean energy plan with the MPSC by July 1, 2028. (Two or more municipally owned electric utilities that each serve fewer than 15,000 customers could file jointly.) The proposed plan would have to do both of the following:
 - Describe how the municipally owned electric utility will meet the clean energy requirements.
 - Specify whether the number of megawatt hours of electricity used in the calculation of the clean energy portfolio will be weather-normalized or based on the average annual number of megawatt hours of electricity sold to Michigan retail customers during the previous three years. This option could not be changed after the MPSC determines the plan complies with the act.
- The MPSC would have to provide an opportunity for public comment on the proposed plan. After that and within 150 days after the proposed plan is filed with the MPSC, the MPSC would have to determine whether the proposed plan complies with the act.
- Every four years after the MPSC's initial determination of a plan's compliance, the MPSC would have to review the plan, provide an opportunity for public comment, and determine whether any amendment proposed by the utility complies with the act. The proposed amendment would be adopted if the MPSC determines that it does comply.
- If a municipally owned electric utility proposes to amend its clean energy plan other than during the review process, the utility would have to file the proposed amendment with the MPSC, which would have to provide an opportunity for public comment. After that and within 150 days after the amendment is filed, the MPSC would have to determine whether the proposed amendment complies with the act. The proposed amendment would be adopted if the MPSC determines that it does comply.
- For purposes of the above, the MPSC would not have to provide an opportunity for public comment if the governing body of the municipally owned electric utility has already done so and filed the comments with the MPSC.

- If the MPSC determines that a proposed clean energy plan or amendment does not comply with the act, the MPSC would have to explain the reasons in writing.
- The governing body of a municipally owned electric utility could, upon a demonstration of good cause based on a factor as listed for renewable energy credit portfolios, grant an extension of a clean energy portfolio deadline described above. Each extension could not exceed two years. An extension would not affect a subsequent deadline. Upon granting an additional extension for a particular deadline beyond the first two extensions, the governing body would have to notify the MPSC that it has done so and the reasons.

Injunctive actions

The attorney general or a customer of a municipally owned electric utility or a cooperative electric utility described above could commence a civil action for injunctive relief against that utility if the utility fails to meet applicable renewable and clean energy requirements or an order issued or rule promulgated related to those requirements. The attorney general or customer would have to commence such an action in the circuit court where the principal office of the electric utility is located. The attorney general or customer could not file an action without first giving the utility at least 60 days' written notice of the intent to sue, basis for the suit, and relief sought. Within 30 days after the utility receives written notice of the intent to sue, the utility and the attorney general or customer would have to meet and make a good-faith attempt to determine whether the action has a credible basis. If there is a credible basis for the action, the utility would have to take all reasonable and prudent steps necessary to comply with the applicable energy standard requirements or order or rule within 90 days after the meeting. If the parties do not agree as to whether there is a credible basis, the attorney general or customer could file the suit. When making a determination of whether a credible basis for the action exists, the attorney general or customer would have to consider the good-cause factors as listed for renewable energy credit portfolios.

Energy storage

By December 31, 2029, each electric provider subject to MPSC rate regulation would have to petition the MPSC for any necessary approvals, and each alternative electric supplier would have to submit a plan to the MPSC, to construct or acquire ***eligible energy storage systems*** or enter into ***eligible energy storage contracts*** to meet its share of a statewide energy storage target of a combined capacity of at least 2,500 megawatts. An electric provider's share of the statewide energy storage target would have to be apportioned based on the provider's annual average contribution to in-state retail electric load for the five-year period immediately preceding the filing of the plan.

Eligible energy storage system would mean an ***energy storage system*** located in the local resource zone or locational deliverability area, as defined by the appropriate independent system operator or regional transmission organization, in which the electric provider is subject to capacity demonstration obligations under section 6w(8)(b) of the MPSC enabling act.⁷

Eligible energy storage contract would mean a contract to construct, acquire, or use the services of an eligible energy storage system.

⁷ <http://legislature.mi.gov/doc.aspx?mcl-460-6w>

Energy storage system would mean any technology that is capable of absorbing energy, storing the energy for a period of time, and redelivering the energy. Energy storage system would not include either fossil fuel storage or power-to-gas storage that directly uses fossil fuel inputs.

An electric provider subject to MPSC rate regulation would have to demonstrate compliance with its plan as part of its integrated resource plan filed under section 6t of the MPSC enabling act.⁸ An alternative electric supplier would have to demonstrate compliance with its plan in the demonstration required under section 6w(8)(b) of that act.⁹

An alternative electric supplier could contract with an electric provider subject to MPSC rate regulation to construct the eligible energy storage systems necessary to fulfill the alternative electric supplier's portion of the statewide energy storage target attributable to the supplier's load within the service territory of the electric provider subject to MPSC rate regulation. Such an eligible energy storage contract would have to be filed with the MPSC. The contract prices could not exceed the cost plus the applicable rate of return for the electric provider subject to MPSC rate regulation.

An electric provider subject to MPSC rate regulation would have to submit eligible energy storage contracts entered into to meet its share of the statewide storage target to the MPSC for review and approval. If the MPSC approves a contract, it would have to authorize the provider to recover the costs of the contract in the provider's base rates. An electric provider subject to MPSC rate regulation would have to conduct a competitive bidding process before entering an eligible energy storage contract to meet its share of the statewide target.

An electric provider subject to MPSC rate regulation could qualify for a financial incentive for an eligible energy storage contract as described above.

The bill states that the act does not limit the amount of energy storage capacity an electric provider may procure.

Within one year after the bill takes effect, the MPSC would have to complete a study on **long-term energy storage systems**¹⁰ and **multiday energy storage systems**.

Long-duration energy storage system would mean an energy storage system capable of continuously discharging electricity at its full rated capacity for more than 10 hours.

Multiday energy storage system would mean an energy storage system capable of continuously discharging electricity at its full rated capacity for more than 24 hours.

For purposes of the above provisions, an energy storage system would have to have been placed in service on or after the bill's effective date.

⁸ <http://legislature.mi.gov/doc.aspx?mcl-460-6t>

⁹ <http://legislature.mi.gov/doc.aspx?mcl-460-6w>

¹⁰ As can be seen, the term as defined ("long-duration") does not match the term as used in the substantive provisions ("long-term").

Distributed generation

The bill would amend caps and other provisions for distributed generation (generally speaking, electricity generated where it will be used, most commonly through solar panels). Under the bill, the distributed generation program would have to limit each customer to generation capacity designed to meet up to 110% (currently 100%) of the customer's electricity consumption for the previous 12 months. In addition, an electric utility or alternative electric supplier would not have to allow for a distributed generation program that is greater than 10% (currently 1%) of its average in-state peak load for the preceding five calendar years. The limit would be allocated as follows:

- At least 50% (currently *not more than 50%*) for customers with an eligible electric generator capable of generating 20 kilowatts or less.
- Not more than 50% (currently *not more than 25%*) for customers with an eligible electric generator capable of generating more than 20 kilowatts but not more than 550 kilowatts (currently this maximum is 150 kilowatts).

As now, the utility or supplier would have to notify the MPSC if its distributed generation program reaches the prescribed limit.

Under the bill, an electric utility or alternative electric supplier could not limit the rate schedule under which a customer is served solely because the customer participates in the distributed generation program. Distributed generation customers would have to pay the retail rates for electricity inflow under the rate schedule under which they are served. Those customers would have to receive a monthly bill credit for outflow, reflecting cost of service, as determined by the MPSC.

The bill would authorize the MPSC to adopt successor requirements for distributed generation equipment and its installation if it determines them to be reasonable and consistent with the purposes of the act. The bill would remove some current provisions concerning metering requirements and provide that an electric meter provided by a utility would have to be used to determine the amount of the customer's inflow and outflow electricity in each pricing period. Eligible customers would have to pay only the incremental cost above the cost for meters provided by the electric utility to similarly situated, nongenerating customers.

Other provisions

The bill would remove a provision describing the removal of burdens on the use of solid waste as a clean energy source as a purpose of the act, and add as a purpose the provision of more reliable and resilient energy supplies during periods of extreme weather.

The bill would require the MPSC, under the reconciliation processes provided for in the act, to determine the costs and savings resulting from compliance with the renewable energy, clean energy, and energy waste reduction programs required under the act and include those costs and savings in the determination of rates charged to customers of electric and natural gas providers. However, this provision would not prohibit the MPSC from authorizing shared savings or incentive programs as provided for in the act.

Report

By December 31, 2024, and each year thereafter, an electric provider whose rates are regulated by the MPSC would have to submit a report to the MPSC documenting the centralized and distributed electricity storage systems in its service territory.

Orders and rules

Finally, the bill would require the MPSC to issue orders or promulgate rules to implement the act. By January 1, 2026, the MPSC would have to issue an order providing formats and guidelines for an electric provider to submit a clean energy plan as described above.

The bill would take effect 90 days after it is enacted.

MCL 460.1001 et seq.

FISCAL IMPACT:

Senate Bill 271 would have significant fiscal implications for the Michigan Public Service Commission (housed within the Department of Licensing and Regulatory Affairs) and for municipally owned electric utilities. The bill would create additional costs for both the MPSC and municipally owned electric utilities, although the MPSC's costs would likely be offset by increased fee assessments.

The MPSC would have expanded regulatory responsibilities under the bill, mainly for requirements pertaining to renewable energy plans and clean energy plans. The MPSC anticipates that additional staffing and financial resources would be necessary to comply with the bill's provisions, though the magnitudes of the projected increases are currently indeterminate. Based on average FTE costs (as outlined in Michigan Civil Service Commission's Forty-Third Annual Workforce Report), in the event that the MPSC requires additional staff, each additional FTE would cost approximately \$120,000. The MPSC is financed primarily by public utility assessments levied on the utilities, so any additional costs that the MPSC incurs would likely be factored into the assessment levels and sufficiently offset.

Municipally owned electric utilities would incur costs related to renewable and clean energy requirements. Costs would likely be incurred for both plan creation and for compliance with portfolio requirements established within the bill. The magnitude of these potential costs is currently indeterminate.

The Department of the Attorney General (AG) may experience an increase of cases related to the bill to the extent that it takes civil action against a municipally owned or cooperative electric utility. The AG would likely be able to absorb any increased caseload resulting from the bill with ongoing staff and funding. If existing AG staff were insufficient to comply with the bill, additional employees may be hired. The annual costs for an additional attorney FTE position is approximately \$200,000, and the annual cost for a support staff position is approximately \$100,000.

Municipalities could likewise incur costs of litigation and lawsuit settlements if their municipally owned electric utility becomes the subject of a lawsuit. Any costs related to this would vary and depend on the nature of the case and lawsuit.

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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.