

SENATE BILL NO. 273

April 19, 2023, Introduced by Senators SINGH, MCMORROW, CAVANAGH, IRWIN, SANTANA, SHINK, GEISS, CHANG, CAMILLERI, HERTEL, MOSS, BAYER, BRINKS and ANTHONY and referred to the Committee on Energy and Environment.

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.

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

1 commission, the plan shall be enforced by the commission. For a
2 provider whose rates are not regulated by the commission, the plan
3 shall be enforced as provided in section 99. Notwithstanding any
4 other provision of this subpart, the commission shall allow
5 municipally owned electric utilities to design and administer
6 energy waste reduction plans in a manner consistent with the
7 administrative changes approved in the commission's April 17, 2012
8 order in case nos. U-16688 to U-16728 and U-17008.

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

18 (a) The specific changes in customers' consumption patterns
19 that the proposed energy waste reduction plan is attempting to
20 influence.

21 (b) The cost and benefit analysis and other justification for
22 specific programs and measures included in a proposed energy waste
23 reduction plan.

24 (c) Whether the proposed energy waste reduction plan is
25 consistent with any long-range resource plan filed by the provider
26 with the commission.

27 (d) Whether the proposed energy waste reduction plan will
28 result in any unreasonable prejudice or disadvantage to any class
29 of customers.

1 (e) The extent to which the energy waste reduction plan
2 provides programs that are available, affordable, and useful to all
3 customers.

4 (3) Every 2 years after initial approval of an energy waste
5 reduction plan under subsection (2) **until 2025, and every 3 years**
6 **after 2025**, the commission shall review the plan. For a provider
7 whose rates are regulated by the commission, the commission shall
8 conduct a contested case hearing on the plan pursuant to the
9 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
10 24.328. After the hearing, the commission shall approve, with any
11 changes consented to by the provider, or reject the plan and any
12 proposed amendments to the plan.

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

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

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

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

1 approval of the commission.

2 (2) The total amount of a financial incentive for an electric
3 provider that achieves annual incremental savings of greater than
4 ~~1.5%~~**2%** of its total annual retail electricity sales in megawatt
5 hours in the preceding year or a natural gas provider that achieves
6 annual incremental savings of greater than 1% of its total annual
7 retail natural gas sales in decatherms in the preceding year shall
8 not exceed the lesser of the following amounts:

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

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

15 (3) The total amount of the financial incentive for an
16 electric provider that achieves annual incremental savings of
17 greater than ~~1.25%~~**1.5%** but not greater than ~~1.5%~~**2%** of its total
18 annual retail electricity sales in megawatt hours in the preceding
19 year or a natural gas provider that achieves annual incremental
20 savings of greater than 0.875% but not greater than 1% of its total
21 annual retail natural gas sales in decatherms in the preceding year
22 shall not exceed the lesser of the following amounts:

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

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

29 (4) The total amount of a financial incentive for an electric

1 provider that achieves annual incremental savings of at least ~~1.0%~~
 2 **1%** but not greater than ~~1.25%~~**1.5%** of its total annual retail
 3 electricity sales in megawatt hours in the preceding year or a
 4 natural gas provider that achieves annual incremental savings of at
 5 least 0.75% but not greater than 0.875% of its total annual retail
 6 natural gas sales in decatherms in the preceding year shall not
 7 exceed the lesser of the following amounts:

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

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

14 Sec. 77. (1) Except as provided in section 81 and subject to
 15 section 97, an electric provider's energy waste reduction programs
 16 under this subpart shall collectively achieve ~~incremental energy~~
 17 ~~savings each~~ **the following:**

18 (a) **Each** year through 2021, **incremental energy savings**
 19 equivalent to ~~1.0%~~**1%** of total annual retail electricity sales in
 20 megawatt hours in the preceding year.

21 (b) **Each year beginning 2026, incremental energy savings**
 22 **equivalent to 2% of total annual retail electricity sales in**
 23 **megawatt hours in the preceding year.**

24 (2) If an electric provider uses load management to achieve
 25 energy savings under its energy waste reduction plan, the minimum
 26 energy savings required under subsection (1) shall be adjusted by
 27 an amount such that the ratio of the minimum energy savings to the
 28 sum of actual expenditures for implementing its approved energy
 29 waste reduction plan and the load management expenditures remains

1 constant.

2 (3) Subject to section 97, a natural gas provider's energy
3 waste reduction program under this subpart shall achieve annual
4 incremental energy savings ~~each year~~ equivalent to 0.75% of total
5 annual retail natural gas sales in decatherms or equivalent MCFs in
6 the preceding year.

7 (4) Incremental energy savings under subsection (1) or (3) for
8 a year shall be determined for a provider by adding the energy
9 savings expected to be achieved by energy waste reduction measures
10 implemented during that year under any energy waste reduction
11 programs consistent with the provider's energy waste reduction
12 plan. The energy savings expected to be achieved shall be
13 determined using a savings database or other savings measurement
14 approach as determined reasonable by the commission.

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

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

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

26 (6) For any year after 2012, an electric provider may
27 substitute renewable energy credits associated with renewable
28 energy generated that year from a renewable energy system
29 constructed after October 6, 2008, load management that reduces

1 overall energy usage, or a combination thereof for energy waste
2 reduction credits otherwise required to meet the energy waste
3 reduction standard, if the substitution is approved by the
4 commission. The commission shall not approve a substitution unless
5 the commission determines that the substitution is cost-effective.

6 (7) Renewable energy credits, load management that reduces
7 overall energy usage, or a combination thereof shall not be used by
8 a provider to meet more than 10% of the energy waste reduction
9 standard. Substitutions for energy waste reduction credits shall be
10 made at the rate of 1 renewable energy credit per energy waste
11 reduction credit.

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

1 ~~reasonable and prudent, the level of energy waste reduction to be~~
2 ~~achieved by the electric provider whose rates are regulated by the~~
3 ~~commission for the succeeding 2-year period under the energy waste~~
4 ~~reduction plan shall be the same as the level specified in the~~
5 ~~provider's current energy waste reduction plan.~~

6 (1) ~~(2)~~—If over a 2-year period an electric provider whose
7 rates are regulated by the commission cannot achieve the ~~level of~~
8 energy waste reduction ~~provided for in the energy waste reduction~~
9 ~~plan pursuant to subsection (1)~~ **standard** in a cost-effective
10 manner, the provider may petition the commission in a contested
11 case hearing under section 73 to establish an alternative energy
12 waste reduction level for that provider.

13 (2) ~~(3)~~—If over a 2-year period a natural gas provider cannot
14 achieve the energy waste reduction standard in a cost-effective
15 manner, the natural gas provider may petition the commission to
16 establish an alternative energy waste reduction standard for that
17 provider.

18 (3) ~~(4)~~—A petition filed pursuant to subsection ~~(3)~~ **(2)** shall
19 do all of the following:

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

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

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

26 (4) ~~(5)~~—If, based on a review of the petition filed under
27 subsection ~~(3)~~, **(2)**, the commission determines that the natural gas
28 provider has been unable to reasonably and cost-effectively achieve
29 the energy waste reduction standard, the commission shall revise

- 1 the energy waste reduction standard as applied to the natural gas
- 2 provider to a level that can reasonably and cost-effectively be
- 3 achieved.