SENATE BILL NO. 322

May 21, 2025, Introduced by Senators HOITENGA, ALBERT, DALEY, DAMOOSE, BELLINO, THEIS, HAUCK, VICTORY, HUIZENGA, NESBITT, LAUWERS and WEBBER and referred to Committee on Government Operations.

A bill to amend 2008 PA 295, entitled

"Clean and renewable energy and energy waste reduction act,"

by amending the title, the heading of subpart A of part 2, and sections 1, 3, 5, 7, 9, 11, 13, 22, 28, 29, 39, 45, 47, 49, 71, 73, 75, 77, 78, 91, 93, 173, 177, and 191 (MCL 460.1001, 460.1003, 460.1005, 460.1007, 460.1009, 460.1011, 460.1013, 460.1022, 460.1028, 460.1029, 460.1039, 460.1045, 460.1047, 460.1049,

460.1071, 460.1073, 460.1075, 460.1077, 460.1078, 460.1091, 460.1093, 460.1173, 460.1177, and 460.1191), the title, the heading of subpart A of part 2, and sections 1, 3, 5, 7, 9, 11, 13, 22, 28, 29, 39, 45, 47, 49, 173, 177, and 191 as amended by 2023 PA 235 and sections 71, 73, 75, 77, 78, 91, and 93 as amended by 2023 PA 229; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An act to require certain providers of electric service to establish and recover costs for renewable energy ~~and clean energy~~ programs; to require certain providers of electric or natural gas service to establish ~~, and recover costs for,~~ energy waste reduction programs; ~~to ensure that any energy cost savings from renewable energy, clean energy, and energy waste reduction programs are ultimately returned to customers;~~ to authorize the use of certain energy systems to meet the requirements of those programs; to provide for the approval of energy waste reduction service companies; to reduce energy waste by state agencies and the public; to create a wind energy resource zone board and provide for its power and duties; to authorize the creation and implementation of wind energy resource zones; to provide for expedited transmission line siting certificates; to provide for customer generation and net metering programs and the responsibilities of certain providers of electric service and customers with respect to customer generation and net metering; to provide for fees; to prescribe the powers and duties of certain state agencies and officials; to require the promulgation of rules and the issuance of orders; to authorize the establishment of residential energy improvement programs by providers of electric or natural gas service; ~~to~~

~~authorize certification by this state before the construction of certain wind and solar energy facilities and energy storage facilities; to regulate certain local ordinances;~~ and to provide for civil sanctions, remedies, and penalties.

Sec. 1. (1) This act may be cited as the "clean and renewable energy and energy waste reduction act".

(2) The purpose of this act is to promote the development and use of clean and renewable energy resources and the reduction of energy waste through programs that will cost-effectively do all of the following:

(a) Diversify the resources used to reliably meet the energy needs of consumers in this state.

(b) Provide greater energy security through the use of indigenous energy resources available within this state.

(c) Encourage private investment in renewable energy and energy waste reduction.

(d) Coordinate with federal regulations to provide improved air quality and other benefits to energy consumers and citizens of this state.

~~(e) Provide more reliable and resilient energy supplies during periods of extreme weather.~~

~~(3) Pursuant to the reconciliation processes provided for in this act, the commission shall determine the costs and savings resulting from compliance with the renewable energy, clean energy, and energy waste reduction programs required under this act and include those costs and savings in the determination of the rates charged to customers of the electric and natural gas providers. This section does not prohibit the commission from authorizing shared savings or incentive programs as provided for in this act.~~

(e) Remove unnecessary burdens on the appropriate use of solid waste as a clean energy source.

(3) As a goal, not less than 35% of this state's electric needs should be met through a combination of energy waste reduction and renewable energy by 2025, if the investments in energy waste reduction and renewable energy are the most reasonable means of meeting an electric utility's energy and capacity needs relative to other resource options. Both of the following count toward achievement of the goal:

(a) All renewable energy, including renewable energy credits purchased or otherwise acquired with or without the associated renewable energy, and any banked renewable energy credits, that counted toward the renewable energy standard on April 20, 2017, as well as renewable energy credits granted as a result of any investments made in renewable energy by the utility or a utility customer after April 20, 2017.

(b) The sum of the annual electricity savings since October 6, 2008, as recognized by the commission through annual reconciliation proceedings, that resulted from energy waste reduction measures implemented under an energy optimization plan or energy waste reduction plan approved under section 73.

Sec. 3. As used in this act:

(a) "Applicable regional transmission organization" means a nonprofit, member-based organization governed by an independent board of directors that serves as the regional transmission organization approved by the Federal Energy Regulatory Commission with oversight responsibility for the region that includes the provider's service territory.

(b) "Biomass" means any organic matter that is not derived

from fossil fuels, that can be converted to usable fuel for the production of energy, and that replenishes over a human, not a geological, time frame, including, but not limited to, all of the following:

(*i*) Agricultural crops and crop wastes.

(*ii*) Short-rotation energy crops.

(*iii*) Herbaceous plants.

(*iv*) Trees and wood, but only if derived from sustainably managed forests or procurement systems, as defined in section 261c of the management and budget act, 1984 PA 431, MCL 18.1261c.

(*v*) Paper and pulp products.

(*vi*) Precommercial wood thinning waste, brush, or yard waste.

(*vii*) Wood wastes and residues from the processing of wood products or paper.

(*viii*) Animal wastes.

(*ix*) Wastewater sludge or sewage.

(*x*) Aquatic plants.

(*xi*) Food production and processing waste.

(*xii*) Organic by-products from the production of biofuels.

(c) "Board" means the wind energy resource zone board created under section 143.

~~(d) "Carbon capture and storage" means a process that involves collecting carbon dioxide at its source and storing, or sequestering, it to prevent its release into the atmosphere.~~

~~(e) "Clean energy" means electricity or steam generated using a clean energy system.~~

~~(f) "Clean energy plan" means an electric provider's plan to meet the clean energy standard approved under section 51.~~

~~(g) "Clean energy portfolio" means the percentage of an~~

~~electric provider's total retail electric sales consisting of clean energy or renewable energy.~~

~~(h) "Clean energy standard" means the clean energy portfolio required under section 51(1).~~

~~(i) "Clean energy system" means an electricity generation facility or system or set of electricity generation systems that meets any of the following requirements:~~

~~(*i*) Generates electricity or steam without emitting greenhouse gas, including nuclear generation.~~

~~(*ii*) 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 the department of environment, Great Lakes, and energy determines, through a facility-specific major source permitting analysis consistent with applicable United States Environmental Protection Agency 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 effective date of the amendatory act that added section 51. Using carbon dioxide for enhanced oil recovery is not considered to be permanent storage for the purposes of this subparagraph.~~

~~(*iii*) Is an independently owned combined cycle power plant fueled by natural gas that has a power purchase agreement with an electric provider as of the effective date of the amendatory act that added this subparagraph and that by 2030 receives approval from the commission for a plan that achieves functional equivalence with the clean energy standard in section 51(1)(b) through reduction of greenhouse gas emissions using carbon capture and sequestration and other available applications, including, but not~~

~~limited to, carbon removal technologies. In reviewing and approving a plan submitted under this subparagraph, the commission shall consider best available technology and applications as well as rate affordability, resource adequacy, and grid reliability.~~

~~(*iv*) Is defined as a clean energy system in rules adopted by the commission consistent with the purposes of this subdivision.~~

(d) "Carbon dioxide emissions benefits" means that the carbon dioxide emissions per megawatt hour of electricity generated by the advanced cleaner energy system are at least 85% less or, for an integrated gasification combined cycle facility or an integrated pyrolysis combined cycle facility, 70% less than the average carbon dioxide emissions per megawatt hour of electricity generated from all coal-fired electric generating facilities operating in this state on January 1, 2008.

(e) "Cogeneration facility" means a facility that produces both electricity and useful thermal energy, such as heat or steam, in a way that is more efficient than the separate production of those forms of energy.

(f) ~~(j)~~ "Commission" means the Michigan public service commission.

(g) ~~(k)~~ "Customer meter" means an electric meter of a provider's retail customer. Customer meter does not include a municipal water pumping meter or additional meters at a single site that were installed specifically to support interruptible air conditioning, interruptible water heating, net metering, or time-of-day tariffs.

~~(*l*) "Distributed generation" means the generation of electricity under the distributed generation program.~~

(h) ~~(m)~~ "Distributed generation program" means the program

established by the commission under section 173.

Sec. 5. As used in this act:

~~(a) "Efficient electrification measure" means an electric appliance or equipment installed in an existing building to electrify, in whole or in part, space heating, water heating, cooling, drying, cooking, industrial processes, or another building or industrial end use that would otherwise be served by combustion of fossil fuel on the premises and that meets best-practice standards for cost-effective energy efficiency as determined by the commission. Efficient electrification measure includes, but is not limited to, any of the following:~~

~~(*i*) A cold-climate air-source heat pump.~~

~~(*ii*) An electric clothes dryer.~~

~~(*iii*) A ground-source heat pump.~~

~~(*iv*) High-efficiency electric cooking equipment.~~

~~(*v*) A heat pump or high-efficiency electric water heater.~~

~~(b) "Efficient electrification measures plan" means a plan to offer and promote efficient electrification measures.~~

~~(c) "Efficient electrification measures program" means a program to implement an efficient electrification measures plan.~~

(a) ~~(d)~~ "Electric provider" means any of the following:

(*i*) Any person or entity that is regulated by the commission for the purpose of selling electricity to retail customers in this state.

(*ii*) A municipally owned electric utility in this state.

(*iii*) A cooperative electric utility in this state.

(*iv*) Except as used in subpart C of part 2, an alternative electric supplier licensed under section 10a of 1939 PA 3, MCL 460.10a.

(b) ~~(c)~~ "Eligible electric generator" means a methane digester or renewable energy system with a generation capacity limited to ~~110% of~~ the customer's ~~electricity consumption for the previous 12 months.~~**electric need and that does not exceed the following:**

(*i*) For a renewable energy system, 150 kilowatts of aggregate generation at a single site.

(*ii*) For a methane digester, 550 kilowatts of aggregate generation at a single site.

(c) ~~(f)~~ "Energy conservation" means the reduction of customer energy use through the installation of measures or changes in energy usage behavior.

(d) ~~(g)~~ "Energy efficiency" means a decrease in customer consumption of electricity or natural gas achieved through measures or programs that target customer behavior, equipment, devices, or materials without reducing the quality of energy services.

(e) ~~(h)~~ "Energy star" means the voluntary partnership among the United States Department of Energy, the United States Environmental Protection Agency, product manufacturers, local utilities, and retailers to help promote energy efficient products by labeling with the energy star logo, educate consumers about the benefits of energy efficiency, and help promote energy efficiency in buildings by benchmarking and rating energy performance.

~~(i) "Energy storage system" means any technology that is capable of absorbing energy, storing the energy for a period of time, and redelivering the energy. Energy storage system does not include either of the following:~~

~~(*i*) Fossil fuel storage.~~

~~(*ii*) Power-to-gas storage that directly uses fossil fuel inputs.~~

(f) ~~(j)~~ "Energy waste reduction", subject to subdivision ~~(k),~~ **(g),** means all of the following:

(*i*) Energy efficiency.

(*ii*) Load management, to the extent that the load management reduces provider costs.

(*iii*) Energy conservation, but only to the extent that the decreases in the consumption of electricity produced by energy conservation are objectively measurable and attributable to an energy waste reduction plan.

(g) ~~(k)~~ Energy waste reduction does not include electric provider infrastructure projects that are approved for cost recovery by the commission other than as provided in this act.

(h) ~~(l)~~ "Energy waste reduction credit" means a credit certified pursuant to section 87 that represents achieved energy waste reduction.

(i) ~~(m)~~ "Energy waste reduction plan" means a plan under section 71.

(j) ~~(n)~~ "Energy waste reduction standard" means the minimum energy savings required to be achieved under section 77 **or 78(1), as applicable.**

(k) ~~(o)~~ "Federal approval" means approval by the applicable regional transmission organization or other Federal Energy Regulatory Commission-approved transmission planning process of a transmission project that includes the transmission line. Federal approval may be evidenced in any of the following manners:

(*i*) The proposed transmission line is part of a transmission project included in the applicable regional transmission organization's board-approved transmission expansion plan.

(*ii*) The applicable regional transmission organization has

informed the electric utility, affiliated transmission company, or independent transmission company that a transmission project submitted for an out-of-cycle project review has been approved by the applicable regional transmission organization, and the approved transmission project includes the proposed transmission line.

(*iii*) If, after October 6, 2008, the applicable regional transmission organization utilizes another approval process for transmission projects proposed by an electric utility, affiliated transmission company, or independent transmission company, the proposed transmission line is included in a transmission project approved by the applicable regional transmission organization through the approval process developed after October 6, 2008.

(*iv*) Any other Federal Energy Regulatory Commission-approved transmission planning process for a transmission project.

Sec. 7. As used in this act:

(a) ~~"Greenhouse gas" means carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, or sulfur hexafluoride.~~**"Gasification facility" means a facility located in this state that, using a thermochemical process that does not involve direct combustion, produces synthesis gas, composed of carbon monoxide and hydrogen, from carbon-based feedstocks (such as coal, petroleum coke, wood, biomass, hazardous waste, medical waste, industrial waste, and solid waste, including, but not limited to, municipal solid waste, electronic waste, and waste described in section 11514 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11514) and that uses the synthesis gas or a mixture of the synthesis gas and methane to generate electricity for commercial use. Gasification facility includes the transmission lines, gas transportation lines**

and facilities, and associated property and equipment specifically attributable to such a facility. Gasification facility includes, but is not limited to, an integrated gasification combined cycle facility and a plasma arc gasification facility.

~~(b) "Grid reliability" means the ability, as defined by the regional transmission organization, of the bulk power system to withstand sudden, unexpected disturbances, such as short circuits or unanticipated loss of system elements because of natural causes.~~

(b) ~~(c)~~ "Incremental costs of compliance" means the net revenue required by an electric provider to comply with the renewable energy standard, calculated as provided under section 47.

(c) ~~(d)~~ "Independent transmission company" means that term as defined in section 2 of the electric transmission line certification act, 1995 PA 30, MCL 460.562.

(d) "Integrated gasification combined cycle facility" means a gasification facility that uses a thermochemical process, including high temperatures and controlled amounts of air and oxygen, to break substances down into their molecular structures and that uses exhaust heat to generate electricity.

(e) "Integrated pyrolysis combined cycle facility" means a pyrolysis facility that uses exhaust heat to generate electricity.

(f) ~~(e)~~ "LEED" means the leadership in energy and environmental design green building rating system developed by the United States Green Building Council.

(g) ~~(f)~~ "Load management" means measures or programs that target equipment or behavior to result in decreased peak electricity demand such as by shifting demand from a peak to an off-peak period.

~~(g) "Long-duration energy storage system" means an energy~~

~~storage system capable of continuously discharging electricity at its full rated capacity for more than 10 hours.~~

~~(h) "Low-income residential customer" means a customer that meets any of the following requirements:~~

~~(*i*) The customer's household income does not exceed 250% of the federal poverty line, as published by the United States Department of Health and Human Services under its authority to revise the poverty line under 42 USC 9902.~~

~~(*ii*) The customer's household income does not exceed 80% of the adjusted median income as determined by the United States Department of Housing and Urban Development.~~

~~(*iii*) The customer is enrolled in a federal, state, or local program with similar income eligibility requirements, including, but not limited to, an emergency relief or food assistance program or Medicaid.~~

(h) ~~(i)~~ "Megawatt", "megawatt hour", or "megawatt hour of electricity", unless the context implies otherwise, includes the steam equivalent of a megawatt or megawatt hour of electricity.

(i) ~~(j)~~ "Modified net metering" means a utility billing method that applies the power supply component of the full retail rate to the net of the bidirectional flow of kilowatt hours across the customer interconnection with the utility distribution system, during a billing period or time-of-use pricing period. A negative net metered quantity during the billing period or during each time-of-use pricing period within the billing period reflects net excess generation for which the customer is entitled to receive credit under section ~~177(2).~~ **177(4).** Under modified net metering, standby charges for distributed generation customers on an energy rate schedule shall be equal to the retail distribution charge applied

to the imputed customer usage during the billing period. The imputed customer usage is calculated as the sum of the metered on-site generation and the net of the bidirectional flow of power across the customer interconnection during the billing period. The commission shall establish standby charges under modified net metering for distributed generation customers on demand-based rate schedules that provide an equivalent contribution to utility system costs. A charge for net metering and distributed generation customers established pursuant to section 6a of 1939 PA 3, MCL 460.6a, shall not be recovered more than once. **This subdivision is subject to section 177(5).**

~~(k) "Multiday energy storage system" means an energy storage system capable of continuously discharging electricity at its full rated capacity for more than 24 hours.~~

Sec. 9. As used in this act:

(a) "Natural gas provider" means an investor-owned business engaged in the sale and distribution at retail of natural gas within this state whose rates are regulated by the commission.

(b) "Pet coke" means a solid carbonaceous residue produced from a coker after cracking and distillation from petroleum refining operations.

(c) "Plasma arc gasification facility" means a gasification facility that uses a plasma torch to break substances down into their molecular structures.

(d) ~~(c)~~ "Provider" means an electric provider or a natural gas provider.

(e) ~~(d)~~ "PURPA" means the public utility regulatory policies act of 1978, Public Law 95-617.

(f) "Pyrolysis facility" means a facility that effects

thermochemical decomposition at elevated temperatures without the participation of oxygen, from carbon-based feedstocks including, but not limited to, coal, wood, biomass, industrial waste, or solid waste, but not including pet coke, hazardous waste, coal waste, or scrap tires. Pyrolysis facility includes the transmission lines, gas transportation lines and facilities, and associated property and equipment specifically attributable to the facility. Pyrolysis facility includes, but is not limited to, an integrated pyrolysis combined cycle facility.

Sec. 11. As used in this act:

(a) "Renewable energy" means electricity or steam generated using a renewable energy system.

(b) "Renewable energy contract" means a contract to acquire renewable energy and the associated renewable energy credits from 1 or more renewable energy systems.

(c) "Renewable energy credit" means a credit granted under a certification and tracking program established under section 41, which represents generated renewable energy.

(d) "Renewable energy credit portfolio" means the sum of the renewable energy credits achieved by a provider for a particular year.

(e) "Renewable energy credit standard" means a minimum renewable energy credit portfolio required under section 28 or former section 27.

(f) "Renewable energy plan" or "plan" means a plan approved under section 22 or former section 21 or 23 or found to comply with this act under former section 25, with any amendments adopted under this act.

(g) "Renewable energy resource" means 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 does not include petroleum, nuclear, natural gas, ~~industrial waste, post-use polymers, tires, tire-derived fuel, plastic,~~ or coal. A renewable energy resource comes from the sun or from thermal inertia of the earth and minimizes the output of toxic material in the conversion of the energy and includes, but is not limited to, all of the following:

(*i*) Biomass. ~~, as described in any of the following:~~

~~(A) Landfill gas as described in subparagraph (*vii*).~~

~~(B) Gas from a methane digester using only feedstock as described in subparagraph (*viii*).~~

~~(C) Biomass used by renewable energy systems that are in commercial operation on the effective date of the amendatory act that added section 51.~~

~~(D) Trees and wood used in renewable energy systems that are placed in commercial operation after the effective date of the amendatory act that added section 51, 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, 1984 PA 431, MCL 18.1261c.~~

(*ii*) Solar and solar thermal energy.

(*iii*) Wind energy.

(*iv*) Kinetic energy of moving water, including all of the following:

(A) Waves, tides, or currents.

(B) Water released through a dam.

(*v*) Geothermal energy.

(*vi*) Thermal energy produced from a geothermal heat pump.

~~*(vii)* Landfill gas produced from solid waste facilities.~~

(*vii*) ~~*(viii)*~~ Any of the following ~~if used as feedstock in a methane digester:~~**cleaner energy resources:**

(A) Municipal ~~wastewater treatment sludge, wastewater, and sewage.~~**solid waste, including the biogenic and anthropogenic factions.**

(B) ~~Food waste and food production and processing~~ **Landfill gas produced by municipal solid** waste.

(C) ~~Animal manure.~~**Fuel that has been manufactured in whole or significant part from waste, including, but not limited to, municipal solid waste. Fuel that meets the requirements of this sub-subparagraph includes, but is not limited to, material that is listed under 40 CFR 241.3(b) or 241.4(a) or for which a nonwaste determination is made by the United States Environmental Protection Agency pursuant to 40 CFR 241.3(c). Pet coke, hazardous waste, coal waste, or scrap tires are not fuel that meets the requirements of this sub-subparagraph.**

~~(D) Organics separated from municipal solid waste.~~

(h) "Renewable energy standard" means the minimum renewable energy capacity portfolio, if applicable, and the renewable energy credit portfolio required to be achieved under section 28 or former section 27.

(i) "Renewable energy system" means a facility, electricity generation system, or set of electricity generation systems that use 1 or more renewable energy resources to generate electricity or steam. Renewable energy system ~~includes the following:~~

~~*(i)* 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.~~

~~(*ii*) A methane digester, if it processes only 1 or more of the following:~~

~~(A) Municipal wastewater treatment sludge, wastewater, or sewage.~~

~~(B) Food waste or food production and processing waste.~~

~~(C) Animal manure.~~

~~(D) Organics separated from municipal solid waste.~~

~~(*iii*) A facility or generation system or set of systems that is placed in commercial operation after the effective date of the amendatory act that added section 51, but only if the facility or generation system or set of systems uses as feedstock trees and wood derived from sustainably managed forests or procurement systems, as defined in section 261c of the management and budget act, 1984 PA 431, MCL 18.1261c.~~

~~(j) Renewable energy system~~ does not include any of the following:

(*i*) A hydroelectric pumped storage facility.

(*ii*) 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.

(*iii*) An incinerator ~~. This subparagraph does not apply before 2040 to an incinerator that was generating power before January 1, 2023, unless the incinerator is expanded.~~

~~(*iv*) A gasification facility.~~

~~(*v*) A facility that cofires biomass with tires or tire-derived fuel.~~

~~(k) "Resource adequacy" describes 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.~~**unless the incinerator is a municipal solid waste incinerator as defined in section 11504 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11504.**

(j) ~~(*l*)~~ "Revenue recovery mechanism" means the mechanism for recovery of incremental costs of compliance provided for under section 22.

Sec. 13. As used in this act:

(a) "Site" means ~~, except as used in part 8,~~ a contiguous site, regardless of the number of meters at that site. A site that would be contiguous but for the presence of a street, road, or highway is considered to be contiguous for the purposes of this subdivision.

(b) "Transmission line" means all structures, equipment, and real property necessary to transfer electricity at system bulk supply voltage of 100 kilovolts or more.

(c) "True net metering" means a utility billing method that applies the full retail rate to the net of the bidirectional flow of kilowatt hours across the customer interconnection with the utility distribution system, during a billing period or time-of-use pricing period. A negative net metered quantity during the billing period or during each time-of-use pricing period within the billing period reflects net excess generation for which the customer is entitled to receive credit under section 177(4). This subdivision is subject to section 177(5).

(d) ~~(c)~~ "Utility system resource cost test" means a standard

that is met for an investment in energy waste reduction if, on a life cycle basis, ~~using a real societal discount rate based on actual long-term United States treasury bond yields,~~ the total avoided supply-side costs to the provider, including representative values for electricity or natural gas supply, transmission, distribution, and other associated costs, are greater than the total costs to the provider of administering and delivering the energy waste reduction program, including net costs for any provider incentives paid by customers and capitalized costs recovered under section 89.

(e) ~~(d)~~ "Wind energy conversion system" means a system that uses 1 or more wind turbines to generate electricity and has a nameplate capacity of 100 kilowatts or more.

(f) ~~(e)~~ "Wind energy resource zone" or "wind zone" means an area designated by the commission under section 147.

PART 2

ENERGY STANDARDS

SUBPART A

RENEWABLE ~~AND CLEAN~~ ENERGY

Sec. 22. (1) Renewable energy plans and associated revenue recovery mechanisms filed by an electric provider, approved under former section 21 or 23 or found to comply with this act under former section 25 and in effect on ~~the effective date of the amendatory act that added section 51,~~ **April 20, 2017,** remain in effect, subject to amendments **as provided for** under ~~subsection~~ **subsections** (3) ~~or~~ **and** (4).

(2) For an electric provider whose rates are regulated by the commission, amended renewable energy plans shall establish a **nonvolumetric** mechanism for the recovery of the incremental costs

of compliance within the electric provider's customer rates. **The revenue recovery mechanism shall not result in rate impacts that exceed the monthly maximum retail rate impacts specified under section 45.** The revenue recovery mechanism is subject to adjustment ~~in amended renewable energy plans under subsection (3) or (4) or as provided in section~~ **under sections 47(4) and** 49.

(3) ~~Within 1 year after the effective date of the amendatory act that added section 51, and within 2 years after the commission issues an order approving the electric provider's last amended renewable energy plan, an electric provider shall file an amended renewable energy plan that includes a forecast of the renewable energy resources needed to comply with the renewable energy credit standard~~ **By April 20, 2018, the commission shall review each electric provider's plan** pursuant to a filing schedule established by the commission. For an electric provider whose rates are regulated by the commission, the commission shall conduct a contested case hearing on the ~~amended renewable energy~~ plan pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. After the hearing, the commission shall approve, with any changes consented to by the electric provider, or reject the ~~amended renewable energy~~ plan **and any amendments to the plan**. For all other electric providers, the commission shall provide an opportunity for public comment on the ~~amended renewable energy~~ plan. After the applicable opportunity for public comment, the commission shall determine whether any amendment to the ~~renewable energy~~ plan proposed by the provider complies with this act. For alternative electric suppliers, the commission shall approve, with any changes consented to by the electric provider, or reject any proposed amendments to the ~~renewable energy plan. For~~

~~each amended renewable energy plan filed by an electric provider, the commission shall issue a final order within 300 days after the date the amended renewable energy plan was filed with the commission.~~ **plan.** For cooperative electric utilities and municipally owned utilities, the proposed amendment is adopted if the commission determines that it complies with this act.

(4) If an electric provider proposes to amend its ~~renewable energy plan at a time other than a scheduled~~ **plan after the** review process under subsection (3), the electric provider shall file the proposed amendment with the commission. For an electric provider whose rates are regulated by the commission, if the proposed amendment would modify the revenue recovery mechanism, the commission shall conduct a contested case hearing on the amendment pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. After the hearing and within ~~180~~ **90** days after the amendment is filed, the commission shall approve, with any changes consented to by the electric provider, or reject **the plan and** the proposed amendment or amendments to the ~~renewable energy~~ plan. For all other electric providers, the commission shall provide an opportunity for public comment on the amendment. After the applicable opportunity for public comment and within ~~180~~ **90** days after the amendment is filed, the commission shall determine whether the proposed amendment to the ~~renewable energy~~ plan complies with this act. For alternative electric suppliers, the commission shall approve, with any changes consented to by the electric provider, or reject any proposed amendments to the ~~renewable energy~~ plan. For cooperative electric utilities and municipally owned utilities, the proposed amendment is adopted if the commission determines that it complies with this act.

(5) For an electric provider whose rates are regulated by the commission, the commission shall approve **the plan or** amendments to the ~~renewable energy~~ plan if the commission determines both of the following:

(a) That the ~~amended renewable energy~~ plan is reasonable and prudent. In making this determination, the commission shall take into consideration projected costs and whether or not projected costs in prior ~~amended renewable energy~~ plans were exceeded.

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

~~(6) For an electric provider whose rates are regulated by the commission, the commission shall review the projected costs of the renewable energy plan and approve, in whole or in part, the projected costs if the commission finds those projected costs, in whole or in part, to be reasonable and prudent. In making this determination, the commission shall consider whether projected costs in prior renewable energy plans were exceeded.~~

(6) ~~(7)~~ If the commission rejects a proposed ~~renewable energy~~ plan ~~, an~~ **or** amendment ~~, or projected costs~~ under this section, the commission shall explain in writing the reasons for its determination.

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

~~(a) Through 2029, 15%.~~

~~(b) In 2030 through 2034, 50%.~~

~~(c) In 2035 and each year thereafter, 60%.~~

(a) In 2016 through 2018, a renewable energy credit portfolio that consists of at least the same number of renewable energy

credits as were required under former section 27.

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

(c) In 2021,a renewable energy credit portfolio of at least 15%, as calculated under subsection (2).

(2) An electric provider's renewable energy credit portfolio shall be calculated as follows:

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

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

(*i*) The number of weather normalized megawatt hours of electricity sold by the electric provider during the previous year to retail customers in this state. ~~, less the amount of sales attributable to customers participating in an electric provider's voluntary green pricing program under section 61 and the outflow from customers participating in the distributed generation program under section 173 for that year.~~

(*ii*) The average number of megawatt hours of electricity sold by the electric provider annually during the previous 3 years to retail customers in this state. ~~, less the amount of sales attributable to customers participating in an electric provider's voluntary green pricing program under section 61 and the outflow from customers participating in the distributed generation program under section 173 for that year.~~

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

~~(3) Notwithstanding subsection (1) and subject to subsection (4), in any year a cooperative electric provider or a multistate electric provider may calculate its maximum renewable energy credit~~

~~portfolio requirement as follows:~~

~~(a) Determine the number of megawatt hours of electricity sold by the electric provider to retail customers in this state using the option the electric provider selected under subsection (2)(b).~~

~~(b) Subtract the number of megawatt hours of nuclear energy that the electric provider obtained from a system located in this state that the electric provider owned or from which the electric provider had contracted to receive nuclear energy on or before January 1, 2024.~~

~~(4) An electric provider described in subsection (3) is required to achieve a renewable energy credit portfolio equal only to the electric provider's maximum renewable energy credit portfolio requirement if 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 in subsection (1). 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 in subsection (1), then the electric provider is 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:~~

~~(a) The electric provider's electricity generation systems located within this state produce energy exceeding the electric provider's electricity sales in this state.~~

~~(b) All of the electric provider's electricity generation systems located within this state are clean energy systems.~~

~~(c) All of the renewable energy credits generated in this~~

~~state are used by the electric provider toward compliance with the renewable energy credit portfolio as calculated under subsection (2).~~

~~(d) Renewable energy and clean energy generated in this state equal to or exceeding the provider's electricity sales in this state are not used by the provider or any other provider to comply with any similar standards.~~

(3) ~~(5) Each~~ **Subject to subsection (5), each** electric provider shall meet the renewable energy credit standard ~~, subject to subsection (3),~~ with renewable energy credits obtained by ~~any~~ **1 or more** of the following means:

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

(b) Purchasing or otherwise acquiring renewable energy ~~and capacity.~~

~~(c) Purchasing or otherwise acquiring renewable energy credits without the associated renewable energy or capacity. Renewable energy credits acquired under this subdivision shall be produced within the territory of the regional transmission organization of which the electric provider is a member, and, except for a municipally owned electric utility, shall not exceed 5% of an electric provider's renewable energy credits annually used to comply with the renewable energy standard. Renewable energy credits acquired under this subdivision are not subject to the requirements of section 29 and shall not be used to comply with the renewable energy standard after 2035.~~**credits with or without the associated renewable energy.**

(4) ~~(6)~~ For an electric provider whose rates are regulated by the commission, the electric provider shall submit a contract

entered into for the purposes of subsection ~~(5)~~ **(3)** to the commission for review and approval. If the commission approves the contract, it is considered consistent with the electric provider's renewable energy plan. The commission shall not approve a contract based on an unsolicited proposal unless the commission determines that the unsolicited proposal provides opportunities that may not otherwise be available or commercially practical through a competitive bid process.

(5) ~~(7)~~ An electric provider ~~that has achieved annual incremental energy savings of greater than 2% under an energy waste reduction plan approved under section 73~~ may substitute energy waste reduction credits for renewable energy credits otherwise required to meet the renewable energy credit standard if the substitution is approved by the commission. Under this subsection, energy waste reduction credits shall not be used by a provider to meet more than 10% of the renewable energy credit standard. One renewable energy credit shall be awarded per 1 energy waste reduction credit.

~~(8) If an electric provider whose rates are regulated by the commission 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 commission shall authorize an annual financial incentive for the electric provider. The financial incentive shall 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 comprised of long-term debt obligations and equity of the electric provider's total capital structure as determined by the commission'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 shall 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 shall be updated based on the commission's final order in each succeeding general rate case for the electric provider. The financial incentive shall apply to each contract described in this subsection from the date the contract is executed for the entire term of the contract. This subsection applies to any contract entered into after June 30, 2024.~~

~~(9) As used in this section, "cooperative electric provider" means an entity that is a member of or that purchases energy from an entity that is either of the following:~~

~~(a) Organized as a cooperative corporation under sections 98 to 109 of 1931 PA 327, MCL 450.98 to 450.109.~~

~~(b) A cooperative corporation in the business of generating or transmitting electricity.~~

Sec. 29. (1) Subject to ~~subsections~~ **subsection** (2), ~~to (4),~~ a renewable energy system that is the source of renewable energy credits used to satisfy the renewable energy standards shall be **either** located ~~as described in either of the following:~~

~~(a) Anywhere in this state.~~

~~(b) Outside~~ **outside** of this state ~~, but only if the electric provider includes the capacity from the renewable energy system toward meeting its resource adequacy obligations to the applicable regional transmission organization.~~**in the retail electric customer service territory of any provider that is not an alternative electric supplier or located anywhere in this state. For the purposes of this subsection, a retail electric customer service**

territory shall be considered to be the territory recognized by the commission on January 1, 2008 and any expansion of retail electric customer service territory recognized by the commission after January 1, 2008 under 1939 PA 3, MCL 460.1 to 460.11. The commission may also expand a service territory for the purposes of this subsection if a lack of transmission lines limits the ability to obtain sufficient renewable energy from renewable energy systems that meet the location requirement of this subsection.

(2) ~~Subsection (1) does not require an electric provider to procure firm transmission rights to ensure deliverability to the resource adequacy zone where the load is served.~~**The renewable energy system location requirements in subsection (1) do not apply if 1 or more of the following requirements are met:**

(a) The renewable energy system is a wind energy conversion system and the electricity generated by the wind energy system, or the renewable energy credits associated with that electricity, is being purchased under a contract in effect on January 1, 2008. If the electricity and associated renewable energy credits purchased under such a contract are used by an electric provider to meet renewable energy requirements established after January 1, 2008 by the legislature of the state in which the wind energy conversion system is located, the electric provider may, for the purpose of meeting the renewable energy credit standard under this act, obtain, by any means authorized under section 28, up to the same number of replacement renewable energy credits from any other wind energy conversion systems located in that state. This subdivision shall not be utilized by an alternative electric supplier unless the alternative electric supplier was licensed in this state on January 1, 2008. Renewable energy credits from a renewable energy

system under a contract with an alternative electric supplier under this subdivision shall not be used by another electric provider to meet its requirements under this part.

(b) The renewable energy system is a wind energy conversion system that was under construction or operational and owned by an electric provider on January 1, 2008. This subdivision shall not be utilized by an alternative electric supplier.

(c) The renewable energy system is a wind energy conversion system that includes multiple wind turbines, at least 1 of the wind turbines meets the location requirements of this section, and the remaining wind turbines are within 15 miles of a wind turbine that is part of that wind energy conversion system and that meets the location requirements of this section.

(d) Before January 1, 2008, an electric provider serving not more than 75,000 retail electric customers in this state filed an application for a certificate of authority for the renewable energy system with a state regulatory commission in another state that is also served by the electric provider. However, renewable energy credits shall not be granted under this subdivision for electricity generated using more than 10.0 megawatts of nameplate capacity of the renewable energy system.

(e) Electricity

~~(3) Subsection (1) 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.

(f) All of the following requirements are met:

(*i*) The renewable energy system is a wind energy system, is interconnected to the electric provider's transmission system, and is located in a state in which the electric provider has service territory.

(*ii*) The electric provider competitively bid any contract for engineering, procurement, or construction of the renewable energy system, if the electric provider owns the renewable energy system, or for purchase of the renewable energy and associated renewable energy credits from the renewable energy system, if the provider does not own the renewable energy system, in a process open to renewable energy systems sited in this state.

(*iii*) The renewable energy credits from the renewable energy system are only used by that electric provider to meet the renewable energy standard.

(*iv*) The electric provider is not an alternative electric supplier.

~~(4) Renewable energy credits produced in the continental United States and owned by a customer of an electric provider may be utilized by the electric provider to meet the renewable energy credit standard 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 shall 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 shall provide the electric provider with an update on its 5-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 5-year forecast, then the electric customer shall notify the electric provider at least 5 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 commission and the electric provider uses the reported renewable energy credits to comply with the renewable energy credit portfolio standard, the electric provider shall grant the customer an appropriate cost-based rate credit against the cost of compliance under section 47. As used in this subsection, "customer of an electric provider" or "customer" means any of the following:~~

~~(a) A customer taking service under a rate approved by the commission under section 10gg of 1939 PA 3, MCL 460.10gg.~~

~~(b) A customer whose manufacturing complex is described in section 10a(4)(c) of 1939 PA 3, MCL 460.10a, and that takes service for a portion of its load from an alternative electric supplier licensed under section 10a of 1939 PA 3, MCL 460.10a, on the effective date of the amendatory act that added section 51.~~

~~(c) A customer of a municipally owned electric utility on the effective date of the amendatory act that added this subsection if the customer represents at least 25% of the municipally owned electric utility's peak load.~~

~~(5) Renewable energy credits that qualify under subsection (1) and are owned by members of a public body corporate established under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, on or before December 1, 2022, if those members~~

~~are part of Michigan's educational community and take service from an alternative electric supplier licensed under section 10a of 1939 PA 3, MCL 460.10a, may be utilized by the members' electric provider to meet the renewable energy credit standards if the members choose to report renewable energy credits to the electric provider as attributable to the electric load of members of the cooperative. Any renewable energy credits reported by a member of the cooperative for use by a provider to the members of the cooperative shall be applied to the member'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.~~

Sec. 39. (1) Except as otherwise provided in section 35(1), 1 renewable energy credit shall be granted to the owner of a renewable energy system for each megawatt hour of electricity generated from the renewable energy system, subject to all of the following:

(a) If a renewable energy system uses both a renewable energy resource and a nonrenewable energy resource to generate electricity or steam, the number of renewable energy credits granted shall be based on the percentage of the electricity or steam, or both, generated from the renewable energy resource.

(b) A renewable energy credit shall not be granted for renewable energy the renewable attributes of which are used by an electric provider in a commission-approved voluntary renewable energy program.

~~(c) For a renewable energy system described in section 11(j)(*iii*), for each megawatt hour of electricity generated from the renewable energy system before 2040, 0.5 renewable energy credits~~

~~shall be granted. No renewable energy credits shall be granted for electricity generated in 2040 or thereafter. A renewable energy system described in section 11(j)(*iii*) shall, by January 1, 2035, file a decommissioning plan with the county in which the facility is located detailing its plans to retire and decommission the facility not later than January 1, 2040.~~

(2) The following additional renewable energy credits, to be known as Michigan incentive renewable energy credits, shall be granted under the following circumstances:

(a) 2 renewable energy credits for each megawatt hour of electricity from solar power generated by a renewable energy system that was approved in a renewable energy plan before April 20, 2017.

(b) 1/5 renewable energy credit for each megawatt hour of electricity generated from a renewable energy system, other than wind, at peak demand time as determined by the commission.

(c) 1/5 renewable energy credit for each megawatt hour of electricity generated from a renewable energy system during off-peak hours, stored using ~~an energy storage system~~ **advanced electric storage technology** or a hydroelectric pumped storage facility, and used during peak hours. However, the number of renewable energy credits shall be calculated based on the number of megawatt hours of renewable energy used to charge the ~~energy storage system~~ **advanced electric storage technology** or fill the pumped storage facility, not the number of megawatt hours actually discharged or generated by discharge from the ~~energy storage system~~ **advanced energy storage facility** or pumped storage facility.

(d) 1/10 renewable energy credit for each megawatt hour of electricity generated from a renewable energy system constructed using equipment made in this state as determined by the commission.

The additional credit under this subdivision is available for the first 3 years after the renewable energy system first produces electricity on a commercial basis.

(e) 1/10 renewable energy credit for each megawatt hour of electricity from a renewable energy system constructed using a workforce composed of residents of this state as determined by the commission. The additional credit under this subdivision is available for the first 3 years after the renewable energy system first produces electricity on a commercial basis.

(3) A renewable energy credit expires at the earliest of the following times:

(a) When used by an electric provider to comply with its renewable energy standard.

(b) When substituted for an energy waste reduction credit under section 77.

(c) When used by an electric provider whose rates are regulated by the commission to contribute to achievement of the goal under section 1(3).

(d) ~~(c)~~ Five years after the end of the month in which the renewable energy credit was generated.

Sec. 45. (1) For an electric provider whose rates are regulated by the commission, the commission shall determine ~~a revenue recovery mechanism, subject to section 47,~~ **the appropriate charges** for the electric provider's tariffs that permit recovery of the incremental cost of compliance ~~to implement the amended renewable energy plan.~~

~~(2) An electric provider's incremental cost of compliance shall 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 1939 PA 3, MCL 460.6a. An electric provider may propose a revenue recovery mechanism in an amended renewable energy plan to include all or a portion of the electric 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 commission shall review and approve, approve with modifications, or deny the revenue recovery mechanism proposed by the electric provider.~~**subject to the retail rate impact limits set forth in subsection (2).**

(2) An electric provider shall recover the incremental cost of compliance with the renewable energy standards. An electric provider shall not comply with the renewable energy standards to the extent that, as determined by the commission, recovery of the incremental cost of compliance will have a retail rate impact that exceeds any of the following:

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

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

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

(3) The retail rate impact limits of subsection (2) apply only to the incremental costs of compliance and do not apply to costs approved for recovery by the commission other than as provided in this act.

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

Sec. 47. (1) ~~The~~ **Subject to the retail rate impact limits under section 45, the** commission shall consider all actual costs

reasonably and prudently incurred in good faith to implement ~~an amended~~ **a commission-approved** renewable energy plan by an electric provider whose rates are regulated by the commission to be a cost of service to be recovered by the electric provider. ~~An~~ **Subject to the retail rate impact limits under section 45, an** electric provider whose rates are regulated by the commission shall recover through its retail electric rates all of the electric provider's incremental costs of compliance **during the 20-year period** beginning when the electric provider's ~~amended renewable energy~~ plan is approved by the commission **and all reasonable and prudent ongoing costs of compliance during and after that period**. The recovery shall include, but is not limited to, the electric provider's authorized rate of return on equity for costs approved under this ~~section. 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 effective date of the amendatory act that added section 51 shall 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 commission.~~**section, which shall remain fixed at the rate of return and debt to equity ratio that was in effect in the electric provider's base rates when the electric provider's renewable energy plan was approved.**

(2) Incremental costs of compliance shall be calculated as follows:

(a) Determine the sum of the following costs to the extent those costs are reasonable and prudent and not already approved for recovery in electric rates as of October 6, 2008:

(*i*) Capital, operating, and maintenance costs of renewable energy systems, **or advanced cleaner energy systems**, including property taxes, insurance, and return on equity associated with an electric provider's renewable energy systems, **or advanced cleaner energy systems**, including the electric provider's renewable energy portfolio established to achieve compliance with the renewable energy standards and any additional renewable energy systems **or advanced cleaner energy systems** that are built or acquired by the electric provider to maintain compliance with the renewable energy standards **during the 20-year period beginning when the electric provider's plan is approved by the commission.**

(*ii*) Financing costs attributable to capital, operating, and maintenance costs of capital facilities associated with renewable energy systems **or advanced cleaner energy systems** used to meet the renewable energy standard.

(*iii*) Costs that are not otherwise recoverable in rates approved by the Federal Energy Regulatory Commission and that are related to the infrastructure required to bring renewable energy systems **or advanced cleaner energy systems** used to achieve compliance with the renewable energy standards on to the transmission system, including interconnection and substation costs for renewable energy systems **or advanced cleaner energy systems** used to meet the renewable energy standard.

(*iv*) Ancillary service costs determined by the commission to be necessarily incurred to ensure the quality and reliability of renewable energy **or advanced cleaner energy** used to meet the renewable energy standards, regardless of the ownership of a renewable energy system **or advanced cleaner energy technology.**

(*v*) Except to the extent the costs are allocated under a

different subparagraph, all of the following:

(A) The costs of renewable energy credits purchased under this act.

(B) The costs of contracts described in former section 33(1).

~~(C) The financial compensation mechanism for all renewable energy contracts established under section 28(8).~~

(*vi*) Expenses incurred as a result of state or federal governmental actions related to renewable energy systems **or advanced cleaner energy systems** attributable to the renewable energy standards, including changes in tax or other law.

(*vii*) Any additional electric provider costs determined by the commission to be necessarily incurred to ensure the quality and reliability of renewable energy **or advanced cleaner energy** used to meet the renewable energy standards.

(b) Subtract from the sum of costs not already included in electric rates determined under subdivision (a) the sum of the following revenues:

(*i*) Revenue derived from the sale of environmental attributes associated with the generation of renewable energy **or advanced cleaner energy systems** attributable to the renewable energy standards. Such revenue shall not be considered in determining power supply cost recovery factors under section 6j of 1939 PA 3, MCL 460.6j.

(*ii*) Interest on regulatory liabilities.

(*iii*) Tax credits specifically designed to promote renewable energy **or advanced cleaner energy**.

(*iv*) Revenue derived from the provision of renewable energy **or advanced cleaner energy** to retail electric customers subject to a power supply cost recovery clause under section 6j of 1939 PA 3,

MCL 460.6j, of an electric provider whose rates are regulated by the commission. After providing an opportunity for a contested case hearing for an electric provider whose rates are regulated by the commission, the commission shall annually establish a price per megawatt hour. An electric provider whose rates are regulated by the commission may at any time petition the commission to revise the price. In setting the price per megawatt hour under this subparagraph, the commission shall consider factors, including, but not limited to, projected capacity, energy, maintenance, and operating costs; information filed under section 6j of 1939 PA 3, MCL 460.6j; and information from wholesale markets, including, but not limited to, locational marginal pricing. This price shall be multiplied by the sum of the number of megawatt hours of renewable energy **and the number of megawatt hours of advanced cleaner energy** used to maintain compliance with the renewable energy standard. The product shall be considered a booked cost of purchased and net interchanged power transactions under section 6j of 1939 PA 3, MCL 460.6j. For energy purchased by such an electric provider under a renewable energy contract, **or advanced cleaner energy contract**, the price shall be the lower of the amount established by the commission or the actual price paid and shall be multiplied by the number of megawatt hours of renewable energy **or advanced cleaner energy** purchased. The resulting value shall be considered a booked cost of purchased and net interchanged power under section 6j of 1939 PA 3, MCL 460.6j.

(*v*) Revenue from wholesale renewable energy sales **and advanced cleaner energy sales**. Such revenue shall not be considered in determining power supply cost recovery factors under section 6j of 1939 PA 3, MCL 460.6j.

(*vi*) Any additional electric provider revenue considered by the commission to be attributable to the renewable energy standards.

(*vii*) Any revenues recovered in rates for renewable energy costs that are included under subdivision (a).

(3) The commission shall authorize an electric provider whose rates are regulated by the commission to spend in any given month more to comply with this act and implement an ~~amended~~ **approved** renewable energy plan than the revenue actually generated by the revenue recovery mechanism. An electric provider whose rates are regulated by the commission shall recover its commission approved pre-tax rate of return on regulatory assets during the appropriate period. An electric provider whose rates are regulated by the commission shall record interest on regulatory liabilities at the average short-term borrowing rate available to the electric provider during the appropriate period. Any regulatory assets or liabilities resulting from the recovery of costs of renewable energy **or advanced cleaner energy** attributable to renewable energy standards through the power supply cost recovery clause under section 6j of 1939 PA 3, MCL 460.6j, shall continue to be reconciled under that section.

(4) ~~The incremental costs of compliance as that term is used in section 61 shall be calculated as provided in this section.~~**If an electric provider's incremental costs of compliance in any given month during the 20-year period beginning when the electric provider's plan is approved by the commission are in excess of the revenue recovery mechanism as adjusted under section 49 and in excess of the balance of any accumulated reserve funds, subject to the minimum balance established under section 49, the electric provider shall immediately notify the commission. The commission**

shall promptly commence a contested case hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, and modify the revenue recovery mechanism so that the minimum balance is restored. However, if the commission determines that recovery of the incremental costs of compliance would otherwise exceed the maximum retail rate impacts specified under section 45, it shall set the revenue recovery mechanism for that electric provider to correspond to the maximum retail rate impacts. Excess costs shall be accrued and deferred for recovery. Not later than the expiration of the 20-year period beginning when the electric provider's plan is approved by the commission, for an electric provider whose rates are regulated by the commission, the commission shall determine the amount of deferred costs to be recovered under the revenue recovery mechanism and the recovery period, which shall not extend more than 5 years beyond the expiration of the 20-year period beginning when the electric provider's plan is approved by the commission. The recovery of excess costs shall be proportional to the retail rate impact limits in section 45 for each customer class. The recovery of excess costs alone, or, if begun before the expiration of the 20-year period, in combination with the recovery of incremental costs of compliance under the revenue recovery mechanism, shall not exceed the retail rate impact limits of section 45 for each customer class.

(5) If, at the expiration of the 20-year period beginning when the electric provider's plan is approved by the commission, an electric provider whose rates are regulated by the commission has a regulatory liability, the refund to customer classes shall be proportional to the amounts paid by those customer classes under the revenue recovery mechanism.

(6) After achieving compliance with the renewable energy standard for 2015, the actual costs reasonably and prudently incurred to continue to comply with this subpart both during and after the conclusion of the 20-year period beginning when the electric provider's plan is approved by the commission shall be considered costs of service. The commission shall determine a mechanism for an electric provider whose rates are regulated by the commission to recover these costs in its retail electric rates, subject to the retail rate impact limits in section 45. Remaining and future regulatory assets shall be recovered consistent with subsections (3) and (4) and section 49.

(7) As used in this section:

(a) "Advanced cleaner energy" means electricity generated using an advanced cleaner energy system.

(b) "Advanced cleaner energy system" means any of the following:

(*i*) A gasification facility.

(*ii*) A cogeneration facility.

(*iii*) A coal-fired electric generating facility if 85% or more of the carbon dioxide emissions are captured and permanently geologically sequestered or used for other commercial or industrial purposes that do not result in release of carbon dioxide to the atmosphere.

(*iv*) A hydroelectric pumped storage facility.

(*v*) An electric generating facility or system that uses technologies not in commercial operation on October 6, 2008 and that the commission determines has carbon dioxide emissions benefits or will significantly reduce other regulated air emissions.

Sec. 49. (1) This section applies only to an electric provider whose rates are regulated by the commission. ~~and that has recorded a regulatory asset or regulatory liability under this subpart for the last 12 months.~~ The commission shall commence an annual proceeding, to be known as a renewable cost reconciliation, for each electric provider whose rates are regulated by the commission. The renewable cost reconciliation proceeding shall be conducted as a contested case pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Reasonable discovery shall be permitted before and during the reconciliation proceeding to assist in obtaining evidence concerning reconciliation issues, including, but not limited to, the reasonableness and prudence of expenditures and the amounts collected pursuant to the revenue recovery mechanism.

(2) At the renewable cost reconciliation, an electric provider may propose any necessary modifications of the revenue recovery mechanism to ensure the electric provider's recovery of its incremental cost of compliance with the renewable energy standards.

(3) The commission shall reconcile the pertinent revenues recorded and the allowance for the **nonvolumetric** revenue recovery mechanism with the amounts actually expensed and projected according to the electric provider's ~~amended~~ renewable energy plan. The commission shall consider any issue regarding the reasonableness and prudence of expenses for which customers were charged in the relevant reconciliation period. In its order, the commission shall do all of the following:

(a) Make a determination of an electric provider's compliance with the renewable energy standards.

(b) Adjust the revenue recovery mechanism for the incremental

costs of compliance. ~~Any regulatory asset or regulatory liability accrued during the reconciliation period shall be used to adjust the revenue recovery mechanism and reflected in the incremental cost of compliance for the following calendar year.~~**The commission shall ensure that the retail rate impacts under this renewable cost reconciliation revenue recovery mechanism do not exceed the maximum retail rate impacts specified under section 45. The commission shall ensure that the recovery mechanism is projected to maintain a minimum balance of accumulated reserve so that a regulatory asset does not accrue.**

(c) Establish the price per megawatt hour for renewable energy **and advanced cleaner energy** capacity and for renewable energy **and advanced cleaner energy** to be recovered through the power supply cost recovery clause under section 6j of 1939 PA 3, MCL 460.6j, as outlined in section 47(2)(b)(*iv*).

~~(4) In its order in a renewable energy cost reconciliation, the commission shall 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.~~

~~(5) The commission shall determine the appropriate charges for an electric provider's tariffs that permit 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.~~

(d) Adjust, if needed, the minimum balance of accumulated reserve funds described in subdivision (b).

(4) If an electric provider has recorded a regulatory liability in any given month during the 20-year period beginning

when the electric provider's renewable energy plan was approved by the commission, interest on the regulatory liability balance shall be accrued at the average short-term borrowing rate available to the electric provider during the appropriate period, and shall be used to fund incremental costs of compliance incurred in subsequent periods within the 20-year period beginning when the electric provider's plan was approved by the commission.

(5) As used in this section, "advanced cleaner energy" means that term as defined in section 47.

Sec. 71. (1) ~~Each provider shall have an~~ **A provider shall file a proposed energy optimization plan with the commission within the following time period:**

(a) For a provider whose rates are regulated by the commission, by March 3, 2009.

(b) For a cooperative electric utility that has elected to become member-regulated under the electric cooperative member-regulation act, 2008 PA 167, MCL 460.31 to 460.39, or a municipally owned electric utility, by April 2, 2009.

(2) Energy optimization plans filed under subsection (1) remain in effect, subject to any amendments, as energy waste reduction ~~plan that has been approved as provided under section 73.~~**plans.**

(3) ~~(2)~~ The overall goal of an energy waste reduction plan is to help the provider's customers reduce energy waste and to reduce the future costs of provider service to customers. In particular, an electric provider's energy waste reduction plan shall be designed to delay the need for constructing new electric generating facilities and thereby protect consumers from incurring the costs of such construction.

(4) ~~(3)~~ An energy waste reduction plan shall do all of the following:

(a) Propose a set of energy waste reduction programs that include offerings for each customer class, including low-income residential. The commission shall allow a provider flexibility to tailor the relative amount of effort devoted to each customer class based on the specific characteristics of the provider's service territory.

(b) Specify necessary funding levels.

(c) Describe how energy waste reduction program costs will be recovered as provided in section 89(2).

(d) Ensure, to the extent feasible, that charges collected from a particular customer rate class are spent on energy waste reduction programs that benefit that rate class.

(e) Demonstrate that the proposed energy waste reduction programs and funding are sufficient to ensure the achievement of applicable energy waste reduction standards.

(f) Specify whether the number of megawatt hours of electricity or decatherms or MCFs of natural gas used in the calculation of incremental energy savings under section 77 will be weather-normalized or based on the average number of megawatt hours of electricity or decatherms or MCFs of natural gas sold by the provider annually during the previous 3 years to retail customers in this state. Once the plan is approved by the commission, this option shall not be changed.

(g) Demonstrate that the provider's energy waste reduction programs, excluding program offerings to low-income residential customers, will collectively be cost-effective.

(h) Provide for the practical and effective administration of

the proposed energy waste reduction programs. The commission shall allow providers flexibility in designing their energy waste reduction programs and administrative approach, including the flexibility to determine the relative amount of effort to be devoted to each customer class based on the specific characteristics of the provider's service territory. A provider's energy waste reduction programs or any part thereof, may be administered, at the provider's option, by the provider, alone or jointly with other providers, by a state agency, or by an appropriate experienced nonprofit organization selected after a competitive bid process.

(i) Include a process for obtaining an independent expert evaluation of the actual energy waste reduction programs to verify the incremental energy savings from each energy waste reduction program for purposes of section 77. All evaluations are subject to public review and commission oversight.

(5) ~~(4)~~ Subject to subsection ~~(5),~~ **(6)**, an energy waste reduction plan may do 1 or more of the following:

(a) Utilize educational programs designed to alter consumer behavior or any other measures that can reasonably be used to meet the goals set forth in subsection ~~(2).~~**(3)**.

(b) Propose to the commission measures that are designed to meet the goals set forth in subsection ~~(2)~~ **(3)** and that provide additional customer benefits.

(6) ~~(5)~~ Expenditures under subsection ~~(4)~~ **(5)** shall not exceed 3% of the costs of implementing the energy waste reduction plan.

~~(6) Beginning January 1, 2025, an electricity provider shall file its energy waste reduction plan as part of a customer energy optimization plan. A customer energy optimization plan shall~~

~~include an energy waste reduction plan and may include an efficient electrification measures plan. This section does not prohibit an electric utility from offering transportation electrification programs as approved by the commission.~~

Sec. 73. (1) ~~For a provider whose rates are regulated by the commission, the~~ **A** provider's energy waste reduction plan shall be filed with, ~~and~~ reviewed **by**, **and** approved or rejected ~~, and enforced~~ by the commission. **For a provider whose rates are regulated by the commission, the plan shall be enforced by the commission.** For a provider whose rates are not regulated by the commission, the ~~provider's energy waste reduction~~ plan shall be ~~filed with and reviewed and approved or rejected by its governing body, and the plan shall be~~ enforced as provided in section 99. Notwithstanding any other provision of this subpart, the commission shall allow municipally owned electric utilities to design and administer energy waste reduction plans in a manner consistent with the administrative changes approved in the commission's April 17, 2012 order in case nos. U-16688 to U-16728 and U-17008. ~~or any subsequent orders adopted by the commission.~~

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

(a) The specific changes in customers' consumption patterns

that the proposed energy waste reduction plan is attempting to influence.

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

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

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

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

(3) Every 2 years after initial approval of an energy waste reduction plan under subsection (2), ~~until 2025,~~ the commission shall review the plan. ~~Subject to subsection (6), a provider whose rates are not regulated by the commission shall adopt a plan in 2025, and shall readopt the plan or adopt a new plan every 4 years thereafter. Pursuant to a filing schedule established by the commission, an electric provider or an electric and natural gas provider whose rates are regulated by the commission shall file a plan in 2025, and, after 2025, shall file a plan not less than 8 months after receiving a final order on an integrated resource plan as provided under section 6t of 1939 PA 3, MCL 460.6t, unless otherwise authorized by the commission. A natural gas provider whose rates are regulated by the commission shall file a plan by 2025, and every 4 years thereafter, pursuant to a filing schedule established by the commission.~~ For a provider whose rates are

regulated by the commission, the commission shall conduct a contested case hearing on the plan in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. After the hearing, the commission shall approve, with any changes consented to by the provider, or reject the plan and any proposed amendments to the plan.

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

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

(6) ~~Until~~ **After** December 31, ~~2024,~~ **2021,** this section does not apply to an electric provider whose rates are not regulated by the commission.

Sec. 75. (1) An energy waste reduction plan of a provider whose rates are regulated by the commission may authorize a commensurate financial incentive for the provider for exceeding the energy waste reduction standard. Payment of any financial incentive authorized in the energy waste reduction plan ~~may be based on performance metrics, if performance metrics are agreed to by a provider, in addition to the savings metrics under subsections (2), (3), and (4). The performance metrics may include, but are not limited to, metrics for delivering low-income programs. Payment of any financial incentive~~ is subject to the approval of the

commission.

(2) The total amount of a financial incentive for an electric provider that achieves ~~the following amount of~~ annual incremental savings ~~, expressed as a percentage~~ **of greater than 1.5%** of its total annual retail electricity sales in megawatt hours in the preceding year ~~, with an average savings life of at least 8 years, shall not exceed the following:~~

~~(a) For savings of greater than 2.17% of sales, an incentive of the lesser of the following:~~

~~(*i*) 35% of customer life cycle cost reductions.~~

~~(*ii*) 25% of the provider's actual energy waste reduction program expenditures for the year.~~

~~(b) For savings of greater than 2% but not greater than 2.17% of sales, an incentive of the lesser of the following:~~

~~(*i*) 32.5% of customer life cycle cost reductions.~~

~~(*ii*) 22.5% of the provider's actual energy waste reduction program expenditures for the year.~~

~~(c) For savings of greater than 1.83% but not greater than 2% of sales, an incentive of the lesser of the following:~~

~~(*i*) 30% of customer life cycle cost reductions.~~

~~(*ii*) 20% of the provider's actual energy waste reduction program expenditures for the year.~~

~~(d) For savings of greater than 1.66% but not greater than 1.83% of sales, an incentive of the lesser of the following:~~

~~(*i*) 27.5% of customer life cycle cost reductions.~~

~~(*ii*) 17.5% of the provider's actual energy waste reduction program expenditures for the year.~~

~~(e) For savings of greater than 1.5% but not greater than 1.66% of sales, an incentive of the lesser of the following:~~

~~(*i*) 25% of customer life cycle cost reductions.~~

~~(*ii*) 15% of the provider's actual energy waste reduction program expenditures for the year.~~

~~(3) The total amount of the financial incentive for a natural gas provider that achieves the following amount of annual incremental savings expressed as a percentage of its total annual retail natural gas sales in decatherms in the preceding year, with an average savings life of at least 10 years, shall not exceed the following:~~

~~(a) For savings of greater than 1.25% of sales, an incentive of the lesser of the following:~~

~~(*i*) 32.5% of customer life cycle cost reductions.~~

~~(*ii*) 22.5% of the provider's actual energy waste reduction program expenditures for the year.~~

~~(b) For savings of greater than 1% but not greater than 1.25% of sales, an incentive of the lesser of the following:~~

~~(*i*) 30% of customer life cycle cost reductions.~~

~~(*ii*) 20% of the provider's actual energy waste reduction program expenditures for the year.~~

~~(c) For savings of greater than 0.875% but not greater than 1% of sales, an incentive of the lesser of the following:~~

~~(*i*) 15% of customer life cycle cost reductions.~~

~~(*ii*) 10% of the provider's actual energy waste reduction program expenditures for the year.~~

~~(4) A natural gas provider that spends at least 67% of its total energy waste reduction budget on measures that reduce space heating loads is eligible for an additional incentive of 2.5% of the provider's actual energy waste reduction program expenditures for the year. As used in this subsection, "measures that reduce~~

~~space heating loads" means improvements to any of the following:~~

~~(a) Building envelopes, such as air sealing, insulation, or efficient windows and doors.~~

~~(b) Heating distribution systems and heating system controls.~~

~~(c) Ventilation systems.~~

~~(5) As used in this section, "life cycle cost reductions" means the net present value of life cycle cost reductions experienced by the provider's customers as a result of implementation, during the year for which the financial incentive is paid, of the energy waste reduction plan.~~**or a natural gas provider that achieves annual incremental savings of greater than 1% of its total annual retail natural gas sales in decatherms in the preceding year shall not exceed the lesser of the following amounts:**

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

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

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

(a) 27.5% of the net present value of life-cycle cost

reductions experienced by the provider's customers as a result of implementation, during the year for which the financial incentive is paid, of the energy waste reduction plan.

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

(4) The total amount of a financial incentive for an electric provider that achieves annual incremental savings of at least 1.0% but not greater than 1.25% of its total annual retail electricity sales in megawatt hours in the preceding year or a natural gas provider that achieves annual incremental savings of at least 0.75% but not greater than 0.875% of its total annual retail natural gas sales in decatherms in the preceding year shall not exceed the lesser of the following amounts:

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

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

Sec. 77. (1) ~~Subject~~ **Except as provided in section 81 and subject** to section 97, ~~each year beginning 2026,~~ an electric provider's energy waste reduction programs under this subpart shall collectively achieve incremental energy savings ~~equivalent to 1.5% of total retail electricity sales in megawatt hours in the preceding year, with an average life of at least 8 years for energy waste reduction measures.~~

~~(2) As a goal, an electric provider's energy waste reduction programs under this subpart should collectively achieve incremental energy savings equivalent to 2% of total retail electricity sales~~

~~in megawatt hours in the preceding year, with an average life of at least 8 years for energy waste reduction measures. This goal should be included in the electric provider's integrated resource plan modeling scenarios under section 6t of 1939 PA 3, MCL 460.6t.~~

~~(3) An electric provider whose rates are regulated by the commission shall not include electrification measures in the calculation of its energy waste reduction savings for purposes of meeting the energy waste reduction standard or for determining eligibility for incentives under section 75. If an electric provider whose rates are not regulated by the commission implements an efficient electrification measures plan as authorized by section 72, any reduction in energy consumption at a customer premises from the conversion of fossil fuel use to electric equipment qualifies as incremental energy savings for the purposes of subsections (1) and (2). The reduction in energy consumption shall be calculated as provided in section 72(2).~~

~~(4) If an electric provider has a program to promote the installation of qualifying cold-climate air-source heat pumps or qualifying ground-source heat pumps and includes incentives to improve building envelope energy efficiency for participating homes, the electric provider may count the savings from the building envelope efficiency improvements toward each year's annual savings requirement, regardless of the original heating fuel source, subject to all of the following:~~

~~(a) Savings from building envelope efficiency improvements for preexisting propane heating shall be credited to electricity savings at a conversion rate of 27 kWh per gallon of propane saved.~~

~~(b) Savings from building envelope efficiency improvements for preexisting oil heating shall be credited to electricity savings at~~

~~a conversion rate of 40 kWh per gallon of fuel oil saved.~~

~~(c) Savings for building envelope efficiency improvements for preexisting natural gas heating shall be credited to electricity savings at a conversion rate of 29 kWh per therm of gas saved.~~**each year through 2021 equivalent to 1.0% of total annual retail electricity sales in megawatt hours in the preceding year.**

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

~~(6) A natural gas provider may claim natural gas savings resulting from investments in qualifying efficient electrification measures, or investments in building envelope efficiency improvements made as part of projects involving qualifying efficient electrification measures, if the savings are not also counted toward an electric utility's savings goals. When a natural gas provider and an electric provider are both involved in a qualifying efficient electrification measures project, including a project that involves both building envelope efficiency and qualifying efficient electrification measures, the providers shall work together to reach an agreement on how savings claims will be allocated between the providers. The commission may adopt standards or default provisions for the allocation of savings claims between providers that apply if the providers are unable to reach an agreement.~~

(3) ~~(7)~~ Subject to section 97, a natural gas provider's energy

waste reduction program under this subpart shall achieve ~~the following:~~

~~(a) Each year through 2025,~~ **annual** incremental energy savings **each year** equivalent to 0.75% of total **annual** retail natural gas sales in decatherms or equivalent MCFs in the preceding year.

~~(b) Each year beginning 2026, incremental energy savings equivalent to 0.875% of total retail natural gas sales in decatherms or equivalent MCFs in the preceding year with an average savings life of at least 10 years.~~

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

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

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

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

(6) ~~(10)~~ For any year after 2012, an electric provider may

substitute renewable energy credits associated with renewable energy generated that year from a renewable energy system constructed after October 6, 2008, load management that reduces overall energy usage, or a combination thereof for energy waste reduction credits otherwise required to meet the energy waste reduction standard, if the substitution is approved by the commission. The commission shall not approve a substitution unless the commission determines that the substitution is cost-effective.

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

Sec. 78. **(1) By January 1, 2022, and every 2 years thereafter, an electric provider whose rates are regulated by the commission shall file an energy waste reduction plan amendment with the commission under section 73 pursuant to a filing schedule established by the commission. The amendment shall detail the amount of energy waste reduction the electric provider proposes to achieve for the succeeding 2-year period. If the electric provider whose rates are regulated by the commission proposes a level of energy waste reduction that is higher than the level specified in the provider's current energy waste reduction plan, the commission may approve the proposed higher level if the commission finds that it is the most reasonable and prudent. If the electric provider whose rates are regulated by the commission proposes a level of energy waste reduction that is lower than the level specified in the provider's current energy waste reduction plan, the commission**

may approve the proposed lower level if the commission finds that it is the most reasonable and prudent. If the commission finds that the proposed lower level of energy waste reduction is not the most reasonable and prudent, the level of energy waste reduction to be achieved by the electric provider whose rates are regulated by the commission for the succeeding 2-year period under the energy waste reduction plan shall be the same as the level specified in the provider's current energy waste reduction plan.

(2) ~~(1)~~ If over a 2-year period an electric provider whose rates are regulated by the commission cannot achieve the **level of** energy waste reduction ~~standard~~ **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(3)~~ **73** to establish an alternative energy waste reduction level for that provider.

(3) ~~(2)~~ If over a 2-year period 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.

(4) ~~(3)~~ A petition filed pursuant to subsection ~~(2)~~ **(3)** 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.

(5) ~~(4)~~ If, based on a review of the petition filed under

subsection ~~(2),~~ **(3),** 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.

Sec. 91. (1) Except for section 89(5), sections 71 to 89 do not apply to a provider that ~~makes an alternative compliance payment in an amount determined, and~~ **each year pays not less than 2.0% of total utility sales revenues for the second year preceding, including electricity or natural gas commodity costs,** to an independent energy waste reduction program administrator selected by the commission. ~~The commission shall determine the amount of an alternative compliance payment under this subsection.~~

~~(2) The commission shall initiate a proceeding by July 1, 2024 to adopt a framework energy waste reduction program that shall be utilized by the independent energy waste reduction program administrator in administering a program on behalf of a provider, and to determine the appropriate amount of alternative compliance payments for effective administration of energy waste reduction programs consistent with that framework. The proceeding shall be conducted as a contested case in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The framework energy waste reduction program and the appropriate amount of alternative compliance payments adopted under this subsection may be periodically revised by the commission after a contested case proceeding.~~

(2) ~~(3)~~ An alternative compliance payment received from a provider by the energy waste reduction program administrator under

subsection (1) shall be used to administer energy efficiency programs for the provider.

(3) ~~(4)~~ The commission shall allow a provider to recover an alternative compliance payment under subsection (1). The alternative compliance payment shall be recovered from residential customers by volumetric charges, from all other metered customers by per-meter charges, and from unmetered customers by an appropriate charge. Fixed, per-meter charges under this subsection may vary by rate class. **Charges under this subsection may be itemized on utility bills, but shall not be itemized on or after January 1, 2021.**

(4) ~~(5)~~ A provider's alternative compliance payment under subsection (1) shall be used only to fund energy waste reduction programs for that provider's customers. To the extent feasible, charges collected from a particular customer rate class and paid to the energy waste reduction program administrator under subsection (1) shall be devoted to energy waste reduction programs and services for that rate class.

(5) ~~(6)~~ Money paid to the energy waste reduction program administrator under subsection (1) and not spent by the administrator that year remains available for expenditure the following year, subject to the requirements of subsection ~~(5).~~**(4).**

(6) ~~(7)~~ The commission shall select a qualified nonprofit organization to serve as an energy waste reduction program administrator under this section, through a competitive bid process.

~~(8) The commission shall require that the energy waste reduction program administrator submit reports, on behalf of each provider that makes an alternative compliance payment, to the~~

~~commission in compliance with section 97.~~

(7) ~~(9)~~ The commission shall arrange for a biennial independent audit of the energy waste reduction program administrator.

Sec. 93. (1) An eligible electric customer is exempt from charges the customer would otherwise incur as an electric customer under ~~sections 72,~~ **section** 89 ~~, and~~ **or** 91 if the customer files with its electric provider and implements a self-directed energy waste reduction plan as provided in this section.

(2) Subject to subsection (3), an electric customer is not eligible under subsection (1) unless it is a commercial or industrial electric customer and had an annual peak demand in the preceding year of at least 1 megawatt in the aggregate at all sites to be covered by the self-directed plan.

(3) The eligibility requirements of subsection (2) do not apply to a commercial or industrial customer that installs or modifies an electric energy efficiency improvement under a property assessed clean energy program pursuant to the property assessed clean energy act, 2010 PA 270, MCL 460.931 to 460.949.

(4) The commission shall by order establish the rates, terms, and conditions of service for customers related to this subpart.

(5) The commission shall by order do all of the following:

(a) Require a customer to utilize the services of an energy waste reduction service company to develop and implement a self-directed plan. This subdivision does not apply to a customer that had an annual peak demand in the preceding year of at least 2 megawatts at each site to be covered by the self-directed plan or 10 megawatts in the aggregate at all sites to be covered by the self-directed plan.

(b) Provide a mechanism to recover from customers under subdivision (a) the costs for provider level review and evaluation.

(c) Provide a mechanism to cover the costs of the low-income energy waste reduction program under section 89.

(6) All of the following apply to a self-directed energy waste reduction plan under subsection (1):

(a) The self-directed plan shall be a multiyear plan for an ongoing energy waste reduction program.

(b) The self-directed plan shall provide for aggregate energy savings that each year meet or exceed the energy waste reduction standards based on the electricity purchases in the previous year for the site or sites covered by the self-directed plan.

(c) Under the self-directed plan, energy waste reduction shall be calculated based on annual electricity usage. Annual electricity usage shall be normalized so that none of the following are included in the calculation of the percentage of incremental energy savings:

(*i*) Changes in electricity usage because of changes in business activity levels not attributable to energy waste reduction.

(*ii*) Changes in electricity usage because of the installation, operation, or testing of pollution control equipment.

(d) The self-directed plan shall specify whether electricity usage will be weather-normalized or based on the average number of megawatt hours of electricity sold by the electric provider annually during the previous 3 years to retail customers in this state. Once the self-directed plan is submitted to the provider, this option shall not be changed.

(e) The self-directed plan shall outline how the customer intends to achieve the incremental energy savings specified in the

self-directed plan.

(7) A self-directed energy waste reduction plan shall be incorporated into the relevant electric provider's energy waste reduction plan. The self-directed plan and information submitted by the customer under subsection (9) are confidential and exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. Projected energy savings from measures implemented under a self-directed plan shall be attributed to the relevant provider's energy waste reduction programs for the purposes of determining annual incremental energy savings achieved by the provider under section 77 **or 81, as applicable.**

(8) Once a customer begins to implement a self-directed plan at a site covered by the self-directed plan, that site is exempt from energy waste reduction program charges under ~~sections 72,~~ **section** 89 ~~, and~~ **or** 91 and is not eligible to participate in the relevant electric provider's energy waste reduction programs.

(9) A customer implementing a self-directed energy waste reduction plan under this section shall annually submit to the customer's electric provider a brief report documenting the energy efficiency measures taken under the self-directed plan during the previous year, and the corresponding energy savings that will result. The report shall provide sufficient information for the provider and the commission to monitor progress toward the goals in the self-directed plan and to develop reliable estimates of the energy savings that are being achieved from self-directed plans. The customer report shall indicate the level of incremental energy savings achieved for the year covered by the report and whether that level of incremental energy savings meets the goal set forth in the customer's self-directed plan. If a customer submitting a

report under this subsection wishes to amend its self-directed plan, the customer shall submit with the report an amended self-directed plan. A report under this subsection shall be accompanied by an affidavit from a knowledgeable official of the customer that the information in the report is true and correct to the best of the official's knowledge and belief. If the customer has retained an independent energy waste reduction service company, the requirements of this subsection shall be met by the energy waste reduction service company.

(10) An electric provider shall provide an annual report to the commission that identifies customers implementing self-directed energy waste reduction plans and summarizes the results achieved cumulatively under those self-directed plans. The commission may request additional information from the electric provider. If the commission has sufficient reason to believe the information is inaccurate or incomplete, it may request additional information from the customer to ensure accuracy of the report.

(11) If the commission determines after a contested case hearing that the minimum energy waste reduction goals under subsection (6)(b) have not been achieved at the sites covered by a self-directed plan, in aggregate, the commission shall order the customer or customers collectively to pay to this state an amount calculated as follows:

(a) Determine the proportion of the shortfall in achieving the minimum energy waste reduction goals under subsection (6)(b).

(b) Multiply the figure under subdivision (a) by the energy waste reduction charges from which the customer or customers collectively were exempt under subsection (1).

(c) Multiply the product under subdivision (b) by a number not

less than 1 or greater than 2, as determined by the commission based on the reasons for failure to meet the minimum energy waste reduction goals.

(12) If a customer has submitted a self-directed plan to an electric provider, the customer, the customer's energy waste reduction service company, if applicable, or the electric provider shall provide a copy of the self-directed plan to the commission upon request.

(13) By September 1, 2010, following a public hearing, the commission shall establish an approval process for energy waste reduction service companies. The approval process shall ensure that energy waste reduction service companies have the expertise, resources, and business practices to reliably provide energy waste reduction services that meet the requirements of this section. The commission may adopt by reference the past or current standards of a national or regional certification or licensing program for energy waste reduction service companies. However, the approval process shall also provide an opportunity for energy waste reduction service companies that are not recognized by such a program to be approved by posting a bond in an amount determined by the commission and meeting any other requirements adopted by the commission for the purposes of this subsection. The approval process for energy waste reduction service companies shall require adherence to a code of conduct governing the relationship between energy waste reduction service companies and electric providers.

(14) The department of licensing and regulatory affairs shall maintain on the department's website a list of energy waste reduction service companies approved under subsection (13).

Sec. 173. (1) The commission shall establish a distributed

generation program by order issued by July 19, 2017. The commission may promulgate rules the commission considers necessary to implement this program. Any rules adopted regarding time limits for approval of parallel operation must recognize ~~grid~~ reliability and safety complications including those arising from equipment saturation, use of multiple technologies, and proximity to synchronous motor loads. The program must apply to all electric utilities whose rates are regulated by the commission and alternative electric suppliers in this state.

(2) Except as otherwise provided under this part, an electric customer of any class is eligible to interconnect an eligible electric generator with the customer's local electric utility and operate the eligible electric generator in parallel with the distribution system. The program must **be designed for a period of not less than 10 years and must** limit each customer to generation capacity designed to meet up to ~~110%~~ **100%** of the customer's electricity consumption for the previous 12 months. The commission may waive the application, interconnection, and installation requirements of this part for customers participating in the net metering program under the commission's March 29, 2005 order in case no. U-14346.

(3) An electric utility or alternative electric supplier is not required to allow for a distributed generation program that is greater than ~~10%~~ **1%** of its average in-state peak load for the preceding 5 calendar years. The electric utility or alternative electric supplier shall notify the commission if its distributed generation program reaches the ~~10%~~ **1%** limit under this subsection. The ~~10%~~ **1%** limit under this subsection shall be allocated as follows:

(a) Not less than ~~50%~~ **0.5%** for customers with an eligible electric generator capable of generating 20 kilowatts or less.

(b) Not more than ~~50%~~ **0.25%** for customers with an eligible electric generator capable of generating more than 20 kilowatts but not more than ~~550~~ **150** kilowatts.

(c) No more than 0.25% for customers with a methane digester capable of generating more than 150 kilowatts.

(4) Selection of customers for participation in the distributed generation program must be based on the order in which the applications for participation in the program are received by the electric utility or alternative electric supplier.

(5) An electric utility or alternative electric supplier shall not discontinue or refuse to provide electric service to a customer solely because the customer participates in the distributed generation program. ~~An electric utility or alternative electric supplier shall not limit the rate schedule under which a customer is served solely because the customer participates in the distributed generation program.~~

(6) The distributed generation program created under subsection (1) must include all of the following:

(a) Statewide uniform interconnection requirements for all eligible electric generators. The interconnection requirements must be designed to protect electric utility workers and equipment and the general public.

(b) Distributed generation equipment and its installation shall meet all current local and state electric and construction code requirements. Any equipment that is certified by a nationally recognized testing laboratory to IEEE ~~1547.1-2020~~ **1547.1** testing standards and in compliance with UL 1741 scope 1.1A, **effective May**

7, 2007, and installed in compliance with this part is considered to be compliant. ~~The commission may adopt successor requirements by promulgating rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, if the commission determines the successor requirements are reasonable and consistent with the purposes of this subdivision.~~ Within the time provided by the commission in rules promulgated under subsection (1) and consistent with good utility practice, and the protection of electric utility workers, electric utility equipment, and the general public, an electric utility may study, confirm, and ensure that an eligible electric generator installation at the customer's site meets the IEEE ~~1547.1-2020~~ **1547 anti-islanding** requirements or any applicable successor **anti-islanding** requirements ~~adopted~~ **determined** by the commission **to be reasonable and consistent with the purposes of this subdivision**. If necessary to promote ~~grid~~ reliability or safety, the commission may promulgate rules that require the use of inverters that perform specific automated grid-balancing functions to integrate distributed generation onto the electric grid. Inverters that interconnect distributed generation resources may be owned and operated by electric utilities. Both of the following must be completed before the equipment is operated in parallel with the distribution system of the utility:

(*i*) Utility testing and approval of the interconnection, including all metering.

(*ii*) Execution of a parallel operating agreement.

(c) A uniform application form and process to be used by all electric utilities and alternative electric suppliers in this state. Customers who are served by an alternative electric supplier shall submit a copy of the application to the electric utility for

the customer's service area.

(d) Distributed generation customers ~~shall pay the retail rates for electricity inflow under the rate schedule under which the customer is served.~~

~~(7) Distributed generation customers shall receive a monthly bill credit for outflow as determined by the commission. Credits for outflow must reflect cost of service.~~**with a system capable of generating 20 kilowatts or less qualify for true net metering.**

(e) Distributed generation customers with a system capable of generating more than 20 kilowatts qualify for modified net metering.

(7) ~~(8)~~ Each electric utility and alternative electric supplier shall maintain records of all applications and up-to-date records of all active eligible electric generators located within their service area.

Sec. 177. (1) ~~An electric meter provided by a utility~~ **Electric meters** must be used to determine the amount of the customer's ~~inflow and outflow electricity~~ **energy use** in each ~~pricing period. Eligible customers shall pay only the incremental cost above that for meters provided by the electric utility to similarly situated, nongenerating customers.~~

~~(2) A distributed generation~~ **billing period, net of any excess energy the customer's generator delivers to the utility distribution system during that same billing period. For a customer with a generation system capable of generating more than 20 kilowatts, the utility shall install and utilize a generation meter and a meter or meters capable of measuring the flow of energy in both directions. A customer with a system capable of generating more than 150 kilowatts shall pay the costs of installing any new**

meters.

(2) An electric utility serving over 1,000,000 customers in this state may provide its customers participating in the distributed generation program, at no additional charge, a meter or meters capable of measuring the flow of energy in both directions.

(3) An electric utility serving fewer than 1,000,000 customers in this state shall provide a meter or meters described in subsection (2) to customers participating in the distributed generation program at cost. Only the incremental cost above that for meters provided by the electric utility to similarly situated nongenerating customers shall be paid by the eligible customer.

(4) If the quantity of electricity generated and delivered to the utility distribution system by an eligible electric generator during a billing period exceeds the quantity of electricity supplied from the electric utility or alternative electric supplier during the billing period, the eligible customer shall be credited by the customer's supplier of electric generation service for the ~~outflow~~ **excess kilowatt hours generated** during the billing period. The credit must appear on the bill for the following billing period and be limited to the total **power supply** charges on that bill. Any excess ~~bill credits~~ **kilowatt hours** not used to offset ~~inflow~~ **electric generation** charges in the next billing period will be carried forward to subsequent billing periods. **Notwithstanding any law or regulation, distributed generation customers shall not receive credits for electric utility transmission or distribution charges. The credit per kilowatt hour for kilowatt hours delivered into the utility's distribution system shall be either of the following:**

(a) The monthly average real-time locational marginal price

for energy at the commercial pricing node within the electric utility's distribution service territory, or for distributed generation customers on a time-based rate schedule, the monthly average real-time locational marginal price for energy at the commercial pricing node within the electric utility's distribution service territory during the time-of-use pricing period.

(b) The electric utility's or alternative electric supplier's power supply component, excluding transmission charges, of the full retail rate during the billing period or time-of-use pricing period.

(5) A charge for net metering and distributed generation customers established pursuant to section 6a of 1939 PA 3, MCL 460.6a, shall not be reduced by any credit or other ratemaking mechanism for distributed generation under this section.

Sec. 191. (1) ~~Subject to subsection (2),~~ **By December 5, 2008, the commission shall issue a temporary order implementing this act, including, but not limited to, all of the following:**

(a) Formats of renewable energy plans for various categories of electric providers.

(b) Guidelines for requests for proposals under this act.

(2) By October 6, 2009, the commission shall promulgate rules to implement this act ~~, the commission shall issue orders or promulgate rules~~ pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. **Upon promulgation of the rules, the order under subsection (1) is rescinded.**

~~(2) By January 1, 2026, the commission shall issue an order providing formats and guidelines for an electric provider to submit a clean energy plan pursuant to section 51.~~

Enacting section 1. Sections 32, 51, 53, 72, 80, 80a, 101, and

103, and part 8 of the clean and renewable energy and energy waste reduction act, 2008 PA 295, MCL 460.1032, 460.1051, 460.1053, 460.1072, 460.1080, 460.1080a, 460.1101, 460.1103, and 460.1221 to 1232, are repealed.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 323 of the 103rd Legislature is enacted into law.