CLEAN AND RENEWABLE ENERGY AND ENERGY WASTE REDUCTION ACT (EXCERPT)
Act 295 of 2008

SUBPART A
RENEWABLE AND CLEAN ENERGY

460.1021 Repealed. 2016, Act 342, Eff. Apr. 20, 2017.

Compiler's note: The repealed section pertained to filing of proposed renewable energy plan by electric provider and approval of commission.

460.1022 Electric provider whose rates are regulated by commission; establishment of revenue recovery mechanism; review of electric provider's amended renewable energy plan pursuant to filing schedule; contested case hearing; approval or rejection of plan and proposed amendments to plan.

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, remain in effect, subject to amendments under subsection (3) or (4).

(2) For an electric provider whose rates are regulated by the commission, amended renewable energy plans shall establish a mechanism for the recovery of the incremental costs of compliance within the electric provider's customer rates. The revenue recovery mechanism is subject to adjustment in amended renewable energy plans under subsection (3) or (4) or as provided in section 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 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. 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. 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 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 days after the amendment is filed, the commission shall approve, with any changes consented to by the electric provider, or reject 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 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 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 set forth in section 1(2) and meets the renewable energy credit standard.

(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.

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

History: Add. 2016, Act 342, Eff. Apr. 20, 2017;—Am. 2023, Act 235, Eff. Feb. 27, 2024.

460.1023 Repealed. 2016, Act 342, Eff. Apr. 20, 2017.

Compiler's note: The repealed section pertained to filing of proposed renewable energy plan by alternative electric supplier or cooperative electric utility and approval by commission.

460.1025 Repealed. 2016, Act 342, Eff. Apr. 20, 2017.

Compiler's note: The repealed section pertained to filing of proposed renewable energy plan by municipally-owned electric utility and approval by commission.

460.1027 Repealed. 2016, Act 342, Eff. Apr. 20, 2017.

Compiler's note: The repealed section pertained to electric provider's renewable energy capacity portfolio.

460.1028 Renewable energy credit portfolio; meeting renewable energy credit standards with renewable energy credits; means; submission and approval of contract; substitution of energy waste reduction credits for renewable energy credits; purchase power agreement; "cooperative electric provider" defined.

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

(a) Through 2029, 15%.

(b) In 2030 through 2034, 50%.

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

(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.

(5) Each electric provider shall meet the renewable energy credit standard, subject to subsection (3), with renewable energy credits obtained by any 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.

(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) 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.

(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.

History: Add. 2016, Act 342, Eff. Apr. 20, 2017;—Am. 2023, Act 235, Eff. Feb. 27, 2024.

460.1029 Renewable energy system location; applicability; use of renewable energy credits.

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

(a) Anywhere in this state.

(b) 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.

(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.

(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.

(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.

History: 2008, Act 295, Imd. Eff. Oct. 6, 2008;—Am. 2016, Act 342, Eff. Apr. 20, 2017;—Am. 2023, Act 235, Eff. Feb. 27, 2024.

Compiler's note: Enacting section 1 of Act 295 of 2008 provides: "Enacting section 1. As provided in section 5 of 1846 RS 1, MCL 8.5, this act is severable."

460.1031 Repealed. 2016, Act 342, Eff. Apr. 20, 2017.

Compiler's note: The repealed section pertained to extensions of 2015 renewable energy standard deadline.

460.1032 Extension of renewable energy credit portfolio deadline; petition; notification to legislature.

Sec. 32. (1) Upon petition by an electric provider, the commission may, upon a showing of good cause, grant an extension of a renewable energy credit portfolio deadline under section 28. Each extension shall not exceed 2 years. An extension of a deadline does not affect a subsequent deadline.

(2) In a petition under subsection (1), an electric provider must include a plan for resolving the barrier to compliance and must make a showing of good cause by demonstrating any of the following:

(a) Despite all commercially reasonable efforts by the electric provider to comply with the deadline,

compliance is not practically feasible for reasons that may include, but are not limited to, zoning, siting, permitting, supply chains, transmission interconnection, labor shortages, delays in project deliverability from developers, or unanticipated load growth. Issuing a request for proposals to purchase renewable energy and not receiving a commercially viable offer creates a rebuttable presumption that compliance with the deadline is not practically feasible.

(b) Compliance would be excessively costly to customers despite commercially reasonable efforts by the electric provider to contain costs.

(c) Compliance would result in a deficiency in meeting resource adequacy requirements in the electric provider's service territory.

(d) Compliance would result in a local grid reliability issue.

(3) Upon granting an additional extension for a particular renewable energy credit portfolio deadline beyond the first 2 extensions, the commission shall notify the speaker of the house, the majority leader of the senate, and the chairpersons of the committees of the legislature having jurisdiction over energy issues that it has granted an additional extension to the electric provider and the reasons for the extension.

History: Add. 2023, Act 235, Eff. Feb. 27, 2024.

460.1033 Repealed. 2016, Act 342, Eff. Apr. 20, 2017.

Compiler's note: The repealed section pertained to renewable energy credits to be obtained by electric provider with 1,000,000 or more retail customers.

460.1035 Resale of renewable energy under PURPA; investor-owned electric utility with less than 20,000 customers, a municipally-owned electric utility, or cooperative electric utility; resale under power purchase agreement or existing agreements; determination of number of renewable energy credits.

Sec. 35. (1) If an electric provider obtains renewable energy for resale to retail or wholesale customers under an agreement under PURPA, ownership of the associated renewable energy credits shall be as provided by the PURPA agreement. If the PURPA agreement does not provide for ownership of the renewable energy credits, then:

(a) Except to the extent that a separate agreement governs under subdivision (b), for the duration of the PURPA agreement, for every 5 renewable energy credits associated with the renewable energy, ownership of 4 of the renewable energy credits is transferred to the electric provider with the renewable energy, and ownership of 1 renewable energy credit remains with the qualifying small power production facility.

(b) If a separate agreement in effect on January 1, 2008 provides for the ownership of the renewable attributes of the generated electricity, the separate agreement shall govern until January 1, 2013 or until expiration of the separate agreement, whichever occurs first.

(2) If an investor-owned electric utility with less than 20,000 customers, a municipally-owned electric utility, or cooperative electric utility obtains all or substantially all of its electricity for resale under a power purchase agreement or agreements in existence on the effective date of this act, ownership of any associated renewable energy credits shall be considered to be transferred to the electric provider purchasing the electricity. The number of renewable energy credits associated with the purchased electricity shall be determined by multiplying the total number of renewable energy credits associated with the total power supply of the seller during the term of the agreement by a fraction, the numerator of which is the amount of energy purchased under the agreement or agreements and the denominator of which is the total power supply of the seller during the term of the agreement. This subsection does not apply unless 1 or more of the following occur:

(a) The seller and the electric provider purchasing the electricity agree that this subsection applies.

(b) For a seller that is an investor-owned electric utility whose rates are regulated by the commission, the commission reduces the number of renewable energy credits required under the renewable energy credit standard for the seller by the number of renewable energy credits to be transferred to the electric provider purchasing the electricity under this subsection.

History: 2008, Act 295, Imd. Eff. Oct. 6, 2008.

Compiler's note: Enacting section 1 of Act 295 of 2008 provides: "Enacting section 1. As provided in section 5 of 1846 RS 1, MCL 8.5, this act is severable."

460.1037 Repealed. 2016, Act 342, Eff. Apr. 20, 2017.

Compiler's note: The repealed section pertained to renewable energy contract without associated renewable energy.

460.1039 Granting 1 renewable energy credit for each megawatt hour of electricity generated

from renewable energy system; conditions; granting Michigan incentive renewable energy credits; expiration.

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 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 or fill the pumped storage facility, not the number of megawatt hours actually discharged or generated by discharge from the energy storage system 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) Five years after the end of the month in which the renewable energy credit was generated.

History: 2008, Act 295, Imd. Eff. Oct. 6, 2008;—Am. 2016, Act 342, Eff. Apr. 20, 2017;—Am. 2023, Act 235, Eff. Feb. 27, 2024.

Compiler's note: Enacting section 1 of Act 295 of 2008 provides: "Enacting section 1. As provided in section 5 of 1846 RS 1, MCL 8.5, this act is severable."

460.1041 Renewable energy credits; trade, sale, or transfer; demonstration of compliance; establishment of renewable energy credit certification and tracking program; use not required in state.

Sec. 41. (1) Renewable energy credits may be traded, sold, or otherwise transferred.

(2) An electric provider is responsible for demonstrating that a renewable energy credit used to comply with a renewable energy credit standard is derived from a renewable energy source and that the electric provider has not previously used or traded, sold, or otherwise transferred the renewable energy credit.

(3) The same renewable energy credit may be used by an electric provider to comply with both a federal standard for renewable energy and the renewable energy standard under this subpart. An electric provider that uses a renewable energy credit to comply with another state's standard for renewable energy shall not use the same renewable energy credit to comply with the renewable energy credit standard under this subpart.

(4) The commission shall establish a renewable energy credit certification and tracking program. The certification and tracking program may be contracted to and performed by a third party through a system of competitive bidding. The program shall include all of the following:

(a) A process to certify renewable energy systems, including all existing renewable energy systems operating on October 6, 2008 as eligible to receive renewable energy credits.

(b) A process for verifying that the operator of a renewable energy system is in compliance with state and federal law applicable to the operation of the renewable energy system when certification is granted. If a renewable energy system becomes noncompliant with state or federal law, renewable energy credits shall not be granted for renewable energy generated by that renewable energy system during the period of noncompliance.

(c) A method for determining the date on which a renewable energy credit is generated and valid for transfer.

(d) A method for transferring renewable energy credits.

(e) A method for ensuring that each renewable energy credit transferred under this act is properly accounted for under this act.

(f) If the system is established by the commission, allowance for issuance, transfer, and use of renewable energy credits in electronic form.

(5) A renewable energy credit purchased from a renewable energy system in this state is not required to be used in this state.

History: 2008, Act 295, Imd. Eff. Oct. 6, 2008;—Am. 2016, Act 342, Eff. Apr. 20, 2017.

Compiler's note: Enacting section 1 of Act 295 of 2008 provides: "Enacting section 1. As provided in section 5 of 1846 RS 1, MCL 8.5, this act is severable."

460.1043 Repealed. 2016, Act 342, Eff. Apr. 20, 2017.

Compiler's note: The repealed section pertained to granting advanced cleaner energy credit for each megawatt hour of electricity generated from advanced cleaner energy system and establishment of advanced cleaner energy credit certification and tracking program.

460.1045 Charges for electric provider's tariffs that permit recovery of incremental costs of compliance; calculation.

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, 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.

(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.

History: 2008, Act 295, Imd. Eff. Oct. 6, 2008;—Am. 2016, Act 342, Eff. Apr. 20, 2017;—Am. 2023, Act 235, Eff. Feb. 27, 2024.

Compiler's note: Enacting section 1 of Act 295 of 2008 provides: "Enacting section 1. As provided in section 5 of 1846 RS 1, MCL 8.5, this act is severable."

460.1047 Cost of service to be recovered by electric provider; recovery of incremental costs of compliance; calculation.

Sec. 47. (1) The commission shall consider all actual costs reasonably and prudently incurred in good faith to implement an amended 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 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 beginning when the electric provider's amended renewable energy plan is approved by the commission. 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.

(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, including property taxes, insurance, and return on equity associated with an electric provider's renewable 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 that are built or acquired by the electric provider to maintain compliance with the renewable energy standards.

(*ii*) Financing costs attributable to capital, operating, and maintenance costs of capital facilities associated with renewable 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 used to achieve compliance with the renewable energy standards on to the transmission system, including interconnection and substation costs for renewable 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 used to meet the renewable energy standards, regardless of the ownership of a renewable energy system.

(*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 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 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 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.

(*iv*) Revenue derived from the provision of renewable 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 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, 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 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. 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 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 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.

History: 2008, Act 295, Imd. Eff. Oct. 6, 2008;—Am. 2016, Act 342, Eff. Apr. 20, 2017;—Am. 2023, Act 235, Eff. Feb. 27, 2024.

Compiler's note: Enacting section 1 of Act 295 of 2008 provides: "Enacting section 1. As provided in section 5 of 1846 RS 1, MCL 8.5, this act is severable."

460.1049 Renewable cost reconciliation; commencement; contested case proceeding; discovery; modifications of revenue recovery mechanism; reconciliation of revenues with amounts actually expensed and projected; duties of commission; adjustment revenue recovery mechanism; final order.

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 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.

(c) Establish the price per megawatt hour for renewable energy capacity and for renewable 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.

History: 2008, Act 295, Imd. Eff. Oct. 6, 2008;—Am. 2016, Act 342, Eff. Apr. 20, 2017;—Am. 2023, Act 235, Eff. Feb. 27, 2024.

Compiler's note: Enacting section 1 of Act 295 of 2008 provides: "Enacting section 1. As provided in section 5 of 1846 RS 1, MCL 8.5, this act is severable."

460.1051 Clean energy portfolio requirements; member-regulated requirements; municipally owned electric utility requirements; written report to legislature.

Sec. 51. (1) As a clean energy standard, an electric provider shall achieve a clean energy portfolio of at least the following:

(a) In 2035 through 2039, 80%.

(b) In 2040 and each year thereafter, 100%.

(2) All of the following apply to an electric provider whose rates are regulated by the commission:

(a) The electric provider shall submit a plan to comply with the clean energy standard as part of that electric provider's integrated resource plans filed under section 6t of 1939 PA 3, MCL 460.6t. The costs of compliance with the clean energy standard are a cost of service and may be recovered as provided by 1939

PA 3, MCL 460.1 to 460.11.

(b) The commission may, upon a showing of good cause based on a factor listed in section 32(2), grant the electric provider an extension of a clean energy standard deadline. Each extension shall not exceed 2 years. An extension of a deadline does not affect a subsequent deadline. Upon granting an additional extension for a particular clean energy standard deadline beyond the first 2 extensions, the commission shall notify the speaker of the house, the majority leader of the senate, and the chairpersons of the committees of the legislature having jurisdiction over energy issues that it has granted an additional extension and the reasons for the extension.

(c) The electric provider qualifies for a financial incentive for a clean energy contract under section 28(8).

(3) All of the following apply to an alternative electric supplier or a cooperative electric utility that has elected to become member-regulated under the electric cooperative member-regulation act, 2008 PA 167, MCL 460.31 to 460.39:

(a) An electric provider described in this subsection shall file a proposed clean energy plan with the commission by January 1, 2028. The proposed clean energy plan shall meet all of the following requirements:

(*i*) Describe how the electric provider will meet the clean energy standard.

(*ii*) Specify whether the number of megawatt hours of electricity used in the calculation of the clean energy portfolio will be weather-normalized or based on the average 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 plan is approved by the commission, this option shall not be changed.

(b) The commission shall provide an opportunity for public comment on the proposed clean energy plan filed under subdivision (a). After the opportunity for public comment and within 150 days after the proposed clean energy plan is filed with the commission, the commission shall approve, with any changes consented to by the electric provider, or reject the clean energy plan.

(c) Every 4 years after initial approval of a clean energy plan under subdivision (b), the commission shall review the clean energy plan. The commission shall provide an opportunity for public comment on the clean energy plan. After the opportunity for public comment, the commission shall approve, with any changes consented to by the electric provider described in this subsection, or reject any proposed amendments to the clean energy plan.

(d) If an electric provider described in this subsection proposes to amend its clean energy plan at a time other than during the review process under subdivision (c), the electric provider shall file the proposed amendment with the commission. The commission shall provide an opportunity for public comment on the amendment. After the opportunity for public comment and within 150 days after the amendment is filed, the commission shall approve, with any changes consented to by the electric provider, or reject the amendment.

(e) If the commission rejects a proposed clean energy plan or amendment under this subsection, the commission shall explain in writing the reasons for its determination.

(f) The commission may, upon a showing of good cause based on a factor listed in section 32(2), grant an alternative electric supplier an extension of a clean energy standard deadline. Each extension shall not exceed 2 years. An extension of a deadline does not affect a subsequent deadline. Upon granting an additional extension for a particular clean energy standard deadline beyond the first 2 extensions, the commission shall notify the speaker of the house, the majority leader of the senate, and the chairpersons of the committees of the legislature having jurisdiction over energy issues that it has granted an additional extension and the reasons for the extension.

(g) The governing board of a cooperative electric utility may, upon a demonstration of good cause based on a factor listed in section 32(2), grant an extension of a clean energy standard deadline. Each extension shall not exceed 2 years. An extension of a deadline does not affect a subsequent deadline. Upon granting an additional extension for a particular clean energy standard deadline beyond the first 2 extensions, the governing board of a cooperative electric utility shall notify the commission that it has granted an additional extension and the reasons for the extension.

(4) All of the following apply to a municipally owned electric utility:

(a) Each municipally owned electric utility shall file a proposed clean energy plan with the commission by July 1, 2028. Two or more municipally owned electric utilities may file jointly for the purposes of compliance with the requirements of this subsection. The proposed clean energy plan shall meet all of the following requirements:

(*i*) Describe how the municipally owned electric utility or a joint filing of municipally owned electric utilities will meet the clean energy standard.

(*ii*) Specify whether the number of megawatt hours of electricity used in the calculation of the clean energy portfolio will be weather-normalized or based on the average number of megawatt hours of electricity sold by the municipally owned electric utility annually during the previous 3 years to retail customers in this state.

Once the commission determines that the proposed plan complies with this act, this option shall not be changed.

(b) Subject to subdivision (e), the commission shall provide an opportunity for public comment on the proposed clean energy plan filed under subdivision (a). After the applicable opportunity for public comment and within 150 days after the proposed clean energy plan is filed with the commission, the commission shall determine whether the proposed clean energy plan complies with this act.

(c) Every 4 years after the commission initially determines under subdivision (b) that a clean energy plan complies with this act, the commission shall review the clean energy plan. Subject to subdivision (e), the commission shall provide an opportunity for public comment on the clean energy plan. After the opportunity for public comment, the commission shall determine whether any amendment to the clean energy plan proposed by the municipally owned electric utility complies with this act. The proposed amendment is adopted if the commission determines that it complies with this act.

(d) If a municipally owned electric utility proposes to amend its clean energy plan at a time other than during the review process under subdivision (c), the municipally owned electric utility shall file the proposed amendment with the commission. Subject to subdivision (e), the commission shall provide an opportunity for public comment on the amendment. After the applicable opportunity for public comment and within 150 days after the amendment is filed, the commission shall determine whether the proposed amendment to the clean energy plan complies with this act. The proposed amendment is adopted if the commission determines that it complies with this act.

(e) The commission need not provide an opportunity for public comment under subdivision (b), (c), or (d) if the governing body of the municipally owned electric utility has already provided an opportunity for public comment and filed the comments with the commission.

(f) If the commission determines that a proposed clean energy plan or amendment under this subsection does not comply with this act, the commission shall explain in writing the reasons for its determination.

(g) The governing board of a municipally owned electric utility may, upon a demonstration of good cause based on a factor listed in section 32(2), grant an extension of a clean energy standard deadline. Each extension shall not exceed 2 years. An extension of a deadline does not affect a subsequent deadline. Upon granting an additional extension for a particular clean energy standard deadline beyond the first 2 extensions, the governing board of a municipally owned electric utility shall notify the commission that it has granted an additional extension and the reasons for the extension.

(5) By December 1, 2024, the commission shall deliver to the governor, the senate majority leader, the senate minority leader, the speaker of the house of representatives, the minority leader of the house of representatives, and the chairpersons of the senate and house of representatives standing committees with primary responsibility for energy issues a written report detailing all of the following:

(a) The unique conditions influencing electric generation, transmission, and demand in the Upper Peninsula.

(b) The unique role of the reciprocating internal combustion units placed in service to facilitate the retirement of coal-fired generation located in the Upper Peninsula after the regional transmission organization imposed system support resource charges.

(c) Changes in electric demand, including changes from mining-related economic development projects, that may influence the utilization of the reciprocating internal combustion units described in subdivision (b).

(d) Options to reduce the carbon intensity of the existing reciprocating internal combustion units described in subdivision (c), with particular focus on how the unique geological conditions within the Upper Peninsula influence the feasibility of deploying clean energy systems.

(e) Any other information the commission determines may be relevant to the development of strategies to satisfy the clean energy standard for an electric provider whose rates are regulated by the commission and that owns and operates reciprocating internal commission engine units in the Upper Peninsula.

History: Add. 2023, Act 235, Eff. Feb. 27, 2024.

Compiler's note: Former MCL 460.1051, which pertained to required reports, was repealed by Act 342 of 2016, Eff. Jan. 1, 2023.

460.1053 Failure to meet requirements; civil action.

Sec. 53. The attorney general or any customer of a municipally owned electric utility or a cooperative electric utility that is member-regulated under the electric cooperative member-regulation act, 2008 PA 167, MCL 460.31 to 460.39, may commence a civil action for injunctive relief against that municipally owned electric utility or cooperative electric utility if the municipally owned electric utility or cooperative electric utility fails to meet the applicable requirements of this subpart or an order issued or rule promulgated under this subpart. The attorney general or customer shall commence an action under this section in the circuit court for the circuit in which the principal office of the municipally owned electric utility or cooperative electric

utility is located. The attorney general or customer shall not file an action under this section unless the attorney general or customer has given the municipally owned electric utility or cooperative electric utility at least 60 days' written notice of the intent to sue, the basis for the suit, and the relief sought. Within 30 days after the municipally owned electric utility or cooperative electric utility receives written notice of the intent to sue, the municipally owned electric utility or cooperative electric utility and the attorney general or customer shall meet and make a good-faith attempt to determine if there is a credible basis for the action. The municipally owned electric utility or cooperative electric utility shall take all reasonable and prudent steps necessary to comply with the applicable requirements of this subpart or an order issued or rule promulgated under this subpart within 90 days after the meeting if there is a credible basis for the action. If the parties do not agree as to whether there is a credible basis for the action, the attorney general or customer may proceed to file the suit. When making a determination of whether a credible basis for the action exists, the attorney general or customer shall consider the factors listed in section 32(2).

History: Add. 2023, Act 235, Eff. Feb. 27, 2024.

Compiler's note: Former MCL 460.1053, which pertained to failure to meet renewable energy credit standard by deadline, was repealed by Act 342 of 2016, Eff. Apr. 20, 2017.

460.1054 Powers of local units of government under MCL 125.3101 to 125.3702.

Sec. 54. Nothing in this subpart abrogates the powers granted to local units of government under the Michigan zoning enabling act, 2006 PA 110, MCL 125.3101 to 125.3702.

History: Add. 2016, Act 342, Eff. Apr. 20, 2017.