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

PART 2.

ENERGY STANDARDS

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### 460.1021 Repealed. 2016, Act 342, Eff.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**Compiler's note:** The repealed section pertained to filing of proposed renewable energy plan by electric provider and approval of commission.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.

## SUBPART B.
## CUSTOMER-REQUESTED RENEWABLE ENERGY

### 460.1061 Voluntary green pricing program.

Sec. 61. An electric provider shall offer to its customers the opportunity to participate in a voluntary green pricing program under which the customer may specify, from the options made available by the electric provider, the amount of electricity attributable to the customer that will be renewable energy. If the electric provider's rates are regulated by the commission, the program, including the rates paid for renewable energy, must be approved by the commission. The customer is responsible for any additional costs incurred and shall accrue any additional savings realized by the electric provider as a result of the customer's participation in the program. If an electric provider has not yet fully recovered the incremental costs of compliance, both of the following apply:

(a) A customer that receives at least 50% of the customer's average monthly electricity consumption through the program is exempt from paying surcharges for incremental costs of compliance.

(b) Before entering into an agreement to participate in a commission-approved voluntary green pricing program with a customer that will not receive at least 50% of the customer's average monthly electricity consumption through the program, the electric provider shall notify the customer that the customer will be responsible for the full applicable charges for the incremental costs of compliance and for participation in the voluntary renewable energy program as provided under this section.

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

## SUBPART C.
## ENERGY WASTE REDUCTION

### 460.1071 Energy waste reduction plan; goal; provisions; limitation on expenditures; customer energy optimization plan.

Sec. 71. (1) Each provider shall have an energy waste reduction plan that has been approved as provided under section 73.

(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.

(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.

(4) Subject to subsection (5), 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).

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

(5) Expenditures under subsection (4) 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.

**History:** 2008, Act 295, Imd. Eff. Oct. 6, 2008;—Am. 2016, Act 342, Eff. Apr. 20, 2017;—Am. 2023, Act 229, Eff. Feb. 13, 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."

### 460.1072 Efficient electrification measures plan; health and safety benefits; calculation of reduction of energy consumption; recovery of costs.

Sec. 72. (1) Beginning January 1, 2025, an electric provider may implement an efficient electrification measures plan under section 71(6). The efficient electrification measures under the efficient electrification measures plan shall provide health and safety benefits to occupants of the premises or satisfy all of the following:

(a) Reduce total energy consumption at the premises.

(b) Reduce greenhouse gas emissions due to energy use over the life of the electrification measure.

(c) For residential and commercial customers interconnected at secondary voltage, provide annual average energy cost savings.

(2) For the purposes of subsection (1)(a), reduction of energy consumption at the customer premises shall be calculated as the amount by which A exceeds B, where:

(a) A equals the reduction in Btu consumption of fossil fuels as a result of electrification, converted to kilowatt-hour equivalents by dividing by 3,412 Btus per kilowatt hour.

(b) B equals the increase in kilowatt hours of electricity consumption resulting from the displacement of fossil fuel consumption as a result of electrification.

(3) An efficient electrification measures program under subsection (1) shall not have the effect of increasing electric rates for customers that do not participate in the program.

(4) An electric provider may recover the costs of an efficient electrification measures program.

**History:** Add. 2023, Act 229, Eff. Feb. 13, 2024.

### 460.1073 Waste reduction plan; approval by commission; review; contested case hearing; proposed amendment; rejection of plan and amendments; applicability of section after December 31, 2024.

Sec. 73. (1) For a provider whose rates are regulated by the commission, the provider's energy waste reduction plan shall be filed with and reviewed, approved or rejected, and 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 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 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 December 31, 2024, this section does not apply to an electric provider whose rates are not regulated by the commission.

**History:** 2008, Act 295, Imd. Eff. Oct. 6, 2008;—Am. 2016, Act 342, Eff. Apr. 20, 2017;—Am. 2023, Act 229, Eff. Feb. 13, 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."

### 460.1074 Energy waste reduction cost reconciliation.

Sec. 74. (1) This section applies only to a provider whose rates are regulated by the commission. Concurrent with the submission of each report under section 97, the commission shall commence an annual proceeding, to be known as an energy waste reduction cost reconciliation, for each provider whose rates are regulated by the commission. The energy waste reduction cost reconciliation 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 energy waste reduction cost reconciliation 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 energy waste reduction charges set by the commission.

(2) At the energy waste reduction cost reconciliation, a provider may propose any necessary modifications of the energy waste reduction charges previously set by the commission to ensure the provider's recovery of its costs to comply with the energy waste reduction standards.

(3) The commission shall reconcile the pertinent revenues recorded with the amounts actually expensed and projected according to the provider's plan for compliance. 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 both of the following:

(a) Make a determination of a provider's compliance with the energy waste reduction standards.

(b) Adjust, if necessary, the energy waste reduction charges previously set by the commission.

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

### 460.1075 Energy waste reduction plan; exceeding standard; authorization for commensurate financial incentive; payment; limitations; "life cycle cost reductions" defined.

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 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.

**History:** 2008, Act 295, Imd. Eff. Oct. 6, 2008;—Am. 2016, Act 342, Eff. Apr. 20, 2017;—Am. 2023, Act 229, Eff. Feb. 13, 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."

### 460.1077 Incremental energy savings; goals; determination; calculations; basis; substitution.

Sec. 77. (1) 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.

(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.

(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, incremental energy savings equivalent to 0.75% of total 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.

(8) Incremental energy savings under subsection (1) or (7) 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.

(9) For purposes of calculations under subsection (1) or (7), total 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.

(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.

(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.

**History:** 2008, Act 295, Imd. Eff. Oct. 6, 2008;—Am. 2016, Act 342, Eff. Apr. 20, 2017;—Am. 2023, Act 229, Eff. Feb. 13, 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."

### 460.1078 Petition by electric provider to establish alternative energy waste reduction level; petition by natural gas provider to establish alternative energy waste reduction standard; determination.

Sec. 78. (1) If over a 2-year period an electric provider whose rates are regulated by the commission cannot achieve the energy waste reduction standard in a cost-effective manner, the provider may petition the commission in a contested case hearing under section 73(3) to establish an alternative energy waste reduction level for that provider.

(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.

(3) A petition filed pursuant to subsection (2) 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.

(4) If, based on a review of the petition filed under subsection (2), 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.

**History:** Add. 2016, Act 342, Eff. Apr. 20, 2017;—Am. 2023, Act 229, Eff. Feb. 13, 2024.

### 460.1079 Repealed. 2016, Act 342, Eff. Apr. 20, 2017.

**Compiler's note:** The repealed section pertained to location of advanced cleaner energy systems.

## 460.1080 Low-income energy waste reduction programs; annual expenditures; minimization of barriers to participation.

Sec. 80. (1) Electric providers and natural gas providers shall offer low-income energy waste reduction programs to assist low-income residential customers in both single-family and multifamily households.

(2) A low-income energy waste reduction program shall be designed and funded with the goal that low-income residential customers achieve levels of energy waste reduction similar to or greater than the levels of energy waste reduction of other residential customers. Low-income energy waste reduction programs shall include investments in health and safety measures appropriate and necessary to address health and safety conditions that are impediments to implementing energy waste reduction measures for low-income residential customers. Providers shall work to deliver and coordinate low-income energy waste reduction programs and other offerings that serve and maximize the benefits to low-income residential customers. Energy savings shall be attributed to health and safety measure spending at the average energy waste reduction program savings level and in proportion to the amount of health and safety measure spending relative to overall energy waste reduction program spending.

(3) An electric provider's annual expenditures to implement the low-income energy waste reduction programs and measures shall be at least 25% of total energy waste reduction program spending. If an electric provider's expenditures on the effective date of the amendatory act that added this section are below this level, the electric provider shall annually increase expenditures to equal or exceed this level by January 1, 2029.

(4) A natural gas provider's annual expenditures to implement the low-income energy waste reduction programs and measures shall be at least 35% of total energy waste reduction program spending. If a natural gas provider's expenditures on the effective date of the amendatory act that added this section are below this level, the natural gas provider shall annually increase expenditures to equal or exceed this level by January 1, 2029.

(5) Providers shall minimize barriers to participation in low-income energy waste reduction programs and reduce overly burdensome verification processes. Any of the following constitute eligible income verification:

(a) Proof of participation in other low-income qualified programs.

(b) Location in a low-income census tract.

(c) Other methods to be determined by the commission.

**History:** Add. 2023, Act 229, Eff. Feb. 13, 2024.

## 460.1080a Hiring of diverse energy waste reduction workforce and contractors; annual report.

Sec. 80a. (1) To the extent practicable, a provider that serves more than 50,000 customers shall invest in hiring and developing a diverse energy waste reduction workforce and contractors capable of delivering energy waste reduction measures such as building envelopes, heat pumps, health and safety measures, and other advanced efficiency and related measures.

(2) Workforce and contractor development efforts shall focus on hiring and developing, for work in energy waste reduction and related careers, workers in or from low-income and environmental justice communities and workers formerly employed in transition-impacted industries such as fossil fuel energy workers who have employment tied to generation, transportation, and refinement, internal combustion engine vehicle workers, workers in the supply chain for internal combustion engines vehicles, and workers in the building and trades as well as any other affected workers. The development efforts shall follow generally recognized best practices, including apprenticeship programs registered and certified with the United States Secretary of Labor under the national apprenticeship act, 29 USC 50 to 50c.

(3) Each provider shall annually report to the commission on its workforce and contractor development efforts described under subsection (2).

**History:** Add. 2023, Act 229, Eff. Feb. 13, 2024.

## 460.1081 Repealed. 2016, Act 342, Eff. Jan. 1, 2022.

**Compiler's note:** The repealed section pertained to petition identifying efforts by provider to meet energy waste reduction standards.

## 460.1083 Energy waste reduction credit; grant; expiration; carrying forward excess credits.

Sec. 83. (1) One energy waste reduction credit shall be granted to a provider for each megawatt hour of annual incremental energy savings achieved through energy waste reduction.

(2) An energy waste reduction credit expires as follows:

(a) When used by a provider to comply with its energy waste reduction standard.

(b) When substituted for a renewable energy credit under section 28.

(c) As provided in subsection (3).

(3) If a provider's incremental energy savings in any year exceed the applicable energy waste reduction standard, the associated energy waste reduction credits may be carried forward and applied to the next year's energy waste reduction standard. However, all of the following apply:

(a) The number of energy waste reduction credits carried forward shall not exceed 1/3 of the next year's standard. Any energy waste reduction credits carried forward to the next year shall expire that year. Any remaining energy waste reduction credits shall expire at the end of the year in which the incremental energy savings were achieved, unless substituted, by an electric provider, for renewable energy credits under section 28.

(b) Energy waste reduction credits shall not be carried forward if, for its performance during the same year, the provider accepts a financial incentive under section 75. The excess energy waste reduction credits shall expire at the end of the year in which the incremental energy savings were achieved, unless substituted, by an electric provider, for renewable energy credits under section 28.

**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."

### 460.1085 Energy waste reduction credit; transfer prohibited.

Sec. 85. An energy waste reduction credit is not transferable to another entity.

**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."

### 460.1087 Certification and tracking program; credit.

Sec. 87. (1) The commission shall establish an energy waste reduction 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 determination of the date after which energy waste reduction must be achieved to be eligible for an energy waste reduction credit.

(b) A method for ensuring that each energy waste reduction credit substituted for a renewable energy credit under section 28 or carried forward under section 83 is properly accounted for.

(c) If the system is established by the commission, allowance for issuance and use of energy waste reduction credits in electronic form.

(2) One energy waste reduction credit shall be granted to an electric provider for each megawatt hour of annual incremental energy savings achieved through energy waste reduction.

**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."

### 460.1089 Recovery of costs; limitation; capitalization costs; funding level for low income residential programs; authorization of natural gas provider to implement revenue decoupling mechanism.

Sec. 89. (1) The commission shall allow a provider whose rates are regulated by the commission to recover the actual costs of implementing its approved energy waste reduction plan. However, costs exceeding the overall funding levels specified in the energy waste reduction plan are not recoverable unless those costs are reasonable and prudent and meet the utility system resource cost test. Furthermore, costs for load management undertaken by an electric provider pursuant to an energy waste reduction plan are not recoverable as energy waste reduction program costs under this section, but may be recovered as described in section 95.

(2) Under subsection (1), costs shall be recovered from all natural gas customers and from residential electric customers by volumetric charges, from all other metered electric customers by per-meter charges, and from unmetered electric 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.

(3) Upon petition by a provider whose rates are regulated by the commission, the commission shall authorize the provider to capitalize all energy efficiency and energy conservation equipment, materials, and installation costs with an expected economic life greater than 1 year incurred in implementing its energy waste reduction plan, including such costs paid to third parties, such as customer rebates and customer incentives. The provider shall also propose depreciation treatment with respect to its capitalized costs in its

energy waste reduction plan, and the commission shall order reasonable depreciation treatment related to these capitalized costs. A provider shall not capitalize payments made to an independent energy waste reduction program administrator under section 91.

(4) The established funding level for low income residential programs shall be provided from each customer rate class in proportion to that customer rate class's funding of the provider's total energy waste reduction programs. Charges shall be applied to distribution customers regardless of the source of their electricity or natural gas supply.

(5) The commission shall authorize a natural gas provider that spends a minimum of 0.5% of total natural gas retail sales revenues, including natural gas commodity costs, in a year on commission-approved energy waste reduction programs to implement a symmetrical revenue decoupling true-up mechanism that adjusts for sales that are above or below the projected levels that were used to determine the revenue requirement authorized in the natural gas provider's most recent rate case. In determining the symmetrical revenue decoupling true-up mechanism utilized for each provider, the commission shall give deference to the proposed mechanism submitted by the provider. The commission may approve an alternative mechanism if the commission determines that the alternative mechanism is reasonable and prudent. The commission shall authorize the natural gas provider to decouple rates regardless of whether the natural gas provider's energy waste reduction programs are administered by the provider or an independent energy waste reduction program administrator under section 91.

**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."

### 460.1091 Alternative compliance payment.

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 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.

(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.

(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.

(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.

(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).

(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.

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

**History:** 2008, Act 295, Imd. Eff. Oct. 6, 2008;—Am. 2016, Act 342, Eff. Apr. 20, 2017;—Am. 2023, Act 229, Eff. Feb. 13, 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."

## 460.1093 Self-directed energy waste reduction plan.

Sec. 93. (1) An eligible electric customer is exempt from charges the customer would otherwise incur as an electric customer under sections 72, 89, and 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.

(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, 89, and 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).

**History:** 2008, Act 295, Imd. Eff. Oct. 6, 2008;—Am. 2010, Act 269, Imd. Eff. Dec. 14, 2010;—Am. 2016, Act 342, Eff. Apr. 20, 2017;—Am. 2023, Act 229, Eff. Feb. 13, 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."

### 460.1095 Duties and authority of commission; duties of Michigan agency for energy.

Sec. 95. (1) Subject to subsection (2), the commission shall do all of the following:

(a) Promote load management in appropriate circumstances, including expansion of existing and establishment of new load management programs in which an electric provider may manage the operation of energy consuming devices and remotely shut down air conditioning or other energy intensive systems of participating customers, demand response programs that use time of day pricing and dynamic rate pricing, and similar programs, for utility customers that have advanced metering infrastructure. Electric provider participation and customer enrollment in such programs are voluntary. However, electric providers whose rates are regulated by the commission and whose rates include the cost of advanced metering infrastructure shall offer commission-approved demand response programs. The programs may provide incentives for customer participation and shall include customer protection provisions as required by the commission. To participate in a program, a customer shall agree to remain in the program for at least 1 year.

(b) Actively pursue increasing public awareness of load management techniques.

(c) Engage in regional load management efforts to reduce the annual demand for energy whenever possible.

(d) Work with residential, commercial, and industrial customers to reduce annual demand and conserve energy through load management techniques and other activities it considers appropriate.

(2) Subsection (1) shall not be construed to prevent an electric utility from doing any of the following:

(a) Recovering the full cost associated with providing electric service and load management programs.

(b) Installing metering and retrieving metering data necessary to properly, accurately, and efficiently bill for the electric utility's services without manual intervention or manual calculation.

(3) The commission may allow a provider whose rates are regulated by the commission to recover costs for load management through base rates as part of a proceeding under section 6a of 1939 PA 3, MCL 460.6a, if the costs are reasonable and prudent and meet the utility systems resource cost test.

(4) The Michigan agency for energy shall do all of the following:

(a) Promote energy efficiency and energy conservation.

(b) Actively pursue increasing public awareness of energy conservation and energy efficiency.

(c) Actively engage in energy conservation and energy efficiency efforts with providers.

(d) Engage in regional efforts to reduce demand for energy through energy conservation and energy efficiency.

(5) This subpart does not limit the authority of the commission, following an integrated resource plan proceeding and as part of a rate-making process, to allow a provider whose rates are regulated by the commission to recover for additional prudent energy efficiency and energy conservation measures not included in the provider's energy waste reduction plan if the provider has met the requirements of the energy waste reduction program.

**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."

For the transfer of powers and duties of the Michigan agency for energy and abolishment of the Michigan agency for energy, see E.R.O. 2019-1, compiled at MCL 324.99923.

### 460.1097 Compliance with energy waste reduction standards; reports; applicability of subsection (5).

Sec. 97. (1) By a time determined by the commission, each provider shall submit to the commission an annual report that provides information relating to the actions taken by the provider to comply with the energy waste reduction standards. By that same time, a municipally owned electric utility shall submit a copy of the report to the governing body of the municipally owned electric utility, and a cooperative electric utility shall submit a copy of the report to its board of directors.

(2) An annual report under subsection (1) shall include all of the following information:

(a) The amount of energy waste reduction achieved during the reporting period.

(b) Expenditures made in the past year and anticipated future expenditures to comply with this subpart.

(c) Any other information that the commission determines necessary.

(3) Concurrent with the submission of each report under subsection (1), a municipally owned electric utility shall submit a summary of the report to its customers in their bills with a bill insert and to its governing body. Concurrent with the submission of each report under subsection (1), a cooperative electric utility shall submit a summary of the report to its members in a periodical issued by an association of rural electric cooperatives and to its board of directors. A municipally owned electric utility or cooperative electric provider shall make a copy of the report available at its office and shall post a copy of the report on its website. A summary under this section shall indicate that a copy of the report is available at the office or website.

(4) The commission shall submit to the standing committees of the senate and house of representatives with primary responsibility for energy issues an annual report that evaluates and determines whether this subpart has been cost-effective and makes recommendations to the legislature. The report may be combined with the annual report under section 5a of 1939 PA 3, MCL 460.5a.

(5) Subject to subsection (6), if the commission determines that a provider's energy waste reduction program under this subpart has not been cost-effective, the provider's program is suspended beginning 180 days after the date of the determination. If a provider's energy waste reduction program is suspended under this subsection, both of the following apply:

(a) The provider shall maintain cumulative incremental energy savings in megawatt hours or decatherms or equivalent MCFs in subsequent years at the level actually achieved during the year preceding the year in which the commission's determination is made.

(b) The provider shall not impose energy waste reduction charges in subsequent years except to the extent necessary to recover unrecovered energy waste reduction expenses incurred under this subpart before suspension of the provider's program.

(6) Subsection (5) does not apply to an electric provider on or after January 1, 2022.

**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."

### 460.1099 Civil action against municipally owned electric utility or cooperative electric utility.

Sec. 99. 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 subsection 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 subsection 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.

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

### 460.1101 Statewide energy storage target; compliance; contracts; review and approval; long-term energy storage systems and multiday energy storage systems study; placed in service; definitions.

Sec. 101. (1) By December 31, 2029, each electric provider whose rates are regulated by the commission shall petition the commission for any necessary approvals, and each alternative electric supplier shall submit a plan to the commission, to construct or acquire eligible energy storage systems or enter into eligible energy storage contracts to meet its share of a statewide energy storage target of a combined capacity of at least 2,500 megawatts. An electric provider's share of the statewide energy storage target shall be apportioned based on the electric provider's annual average contribution to in-state retail electric peak load for the 5-year period immediately preceding the filing of the electric provider's plan under this subsection.

(2) An electric provider whose rates are regulated by the commission shall demonstrate compliance with its plan under subsection (1) as part of the electric provider's integrated resource plan filed under section 6t of 1939 PA 3, MCL 460.6t. An alternative electric supplier shall demonstrate compliance with its plan under subsection (1) in the demonstration required under section 6w(8)(b) of 1939 PA 3, MCL 460.6w.

(3) An alternative electric supplier may contract with an electric provider whose rates are regulated by the commission to construct the eligible energy storage systems necessary to fulfil the alternative electric supplier's portion of the statewide energy storage target that is attributable to the alternative electric supplier's load within the service territory of the electric provider whose rates are regulated by the commission. An eligible energy storage contract under this subsection shall be filed with the commission. The contract prices may not exceed the cost plus the applicable rate of return for the electric provider whose rates are regulated by the commission.

(4) An electric provider whose rates are regulated by the commission shall submit to the commission for review and approval eligible energy storage contracts entered into to meet its share of the statewide storage target under subsection (1). If the commission approves an eligible energy storage contract, the commission shall authorize the electric provider to recover the costs of the contract in the electric provider's base rates. An electric provider whose rates are regulated by the commission shall conduct a competitive bidding process before entering an eligible energy storage contract to meet its share of the statewide target under subsection (1).

(5) An electric provider whose rates are regulated by the commission qualifies for a financial incentive under section 28(8) for an eligible energy storage contract.

(6) This act does not limit the amount of energy storage capacity an electric provider may procure.

(7) Within 1 year after the effective date of the amendatory act that added this section, the commission shall complete a study on long-term energy storage systems and multiday energy storage systems.

(8) For purposes of this subsection, an energy storage system must have been placed in service on or after the effective date of the amendatory act that added this section.

(9) As used in this section:

(a) "Eligible energy storage contract" means a contract to construct, acquire, or use the services of an eligible energy storage system.

(b) "Eligible energy storage system" means an energy storage system that is located within the local resource zone or the locational deliverability area, as defined by the appropriate independent system operator or regional transmission organization, in which the electric provider is subject to capacity demonstration obligations pursuant to section 6w(8)(b) of 1939 PA 3, MCL 460.6w.

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

### 460.1103 Report to commission on centralized and distributed electricity storage systems.

Sec. 103. By December 31, 2024, and each year thereafter, an electric provider whose rates are regulated by the commission shall submit a report to the commission documenting the centralized and distributed electricity storage systems in its service territory.

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

## SUBPART D.
## MISCELLANEOUS

### 460.1111 Municipally-owned electric utilities; new authority not granted to commission.

Sec. 111. This part does not provide the commission with new authority with respect to municipally-owned electric utilities except to the extent expressly provided in this act.

**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."

### 460.1113 Pollution control equipment; use of natural gas in installation, operation, or testing; exemption; effective date of section.

Sec. 113. (1) Notwithstanding any other provision of this part, natural gas used in the installation, operation, or testing of any pollution control equipment is exempt from the requirements of, and calculations of compliance required under, this part.

(2) This section, as amended by the act that added this subsection, takes effect January 1, 2021.

**History:** 2008, Act 295, Imd. Eff. Oct. 6, 2008;—Am. 2016, Act 342, Eff. Jan. 1, 2021.

**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."