

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

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."