

**MICHIGAN PUBLIC SERVICE COMMISSION (EXCERPT)**  
**Act 3 of 1939**

**460.6v Proceeding to reevaluate procedures and rates schedules; report; definitions.**

Sec. 6v. (1) Notwithstanding any existing power purchase agreement, the commission shall, at least every 5 years, conduct a proceeding, as a contested case pursuant to chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287, to reevaluate the procedures and rates schedules including avoided cost rates, as originally established by the commission in an order dated March 17, 1981 in case no. U-6798, to implement title II, section 210, of the public utility regulatory policies act of 1978, as it relates to qualifying facilities from which utilities in this state have an obligation to purchase energy and capacity. Nothing in this section supersedes the provisions of PURPA or the Federal Energy Regulatory Commission's regulations and orders implementing PURPA.

(2) In setting rates for avoided costs, the commission shall take into consideration the factors regarding avoided costs set forth in PURPA and the Federal Energy Regulatory Commission's regulations and orders implementing PURPA.

(3) After an initial contested case under subsection (1), for a utility serving less than 1,000,000 electric customers in this state, the commission may conduct any periodic reevaluations of the procedures, rate schedules, and avoided cost rates for that utility using notice and comment procedures instead of a full contested case. The commission shall conduct the periodic reevaluation in a contested case under chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287, if a qualifying facility files a comment disputing the utility filing and requesting a contested case.

(4) An order issued by the commission under subsection (1) shall do all of the following:

(a) Ensure that the rates for purchases by an electric utility from, and rates for sales to, a qualifying facility shall, over the term of a contract, be just and reasonable and in the public interest, as defined by PURPA.

(b) Ensure that an electric utility does not discriminate against a qualifying facility with respect to the conditions or price for provision of maintenance power, backup power, interruptible power, and supplementary power or for any other service.

(c) Require that any prices charged by an electric utility for maintenance power, backup power, interruptible power, and supplementary power and all other such services are cost-based and just and reasonable.

(d) Establish a schedule of avoided cost price updates for each electric utility.

(e) Require electric utilities to publish on their websites template contracts for power purchase agreements for qualifying facilities of less than 3 megawatts that need not include terms for either price or duration of the contract. The terms of a template contract published under this subsection are not binding on either an electric utility or a qualifying facility and may be negotiated and altered upon agreement between an electric utility and a qualifying facility.

(5) Within 1 year after the effective date of the amendatory act that added this section, and every 2 years thereafter, the commission shall issue a report to the Michigan agency for energy and the standing committees of the senate and house of representatives with primary responsibility for energy and environmental issues. The report shall provide a description and status of qualifying facilities in this state, the current status of power purchase agreements of each qualifying facility, and the commission's efforts to comply with the requirements of PURPA.

(6) As used in this section:

(a) "Avoided costs" means that term as defined in 18 CFR 292.101.

(b) "Backup power" means electric energy or capacity supplied by an electric utility to replace electric energy ordinarily generated by a qualifying facility's own electric generation equipment during an unscheduled outage of the qualifying facility.

(c) "Maintenance power" means electric energy or capacity supplied by an electric utility during scheduled outages of the qualifying facility.

(d) "PURPA" means title II, section 210, of the public utility regulatory policies act of 1978.

(e) "Qualifying facility" or "facilities" means qualifying cogeneration facilities or qualifying small power production facilities from which an electric utility within this state has an obligation to purchase energy and capacity within the meaning of sections 201 and 210 of PURPA, 16 USC 796 and 824a-3, and associated federal regulations and orders.

(f) "Supplementary power" means electric energy or capacity supplied by an electric utility, regularly used by a qualifying facility in addition to the electric energy or capacity that the qualifying facility generates.

**History:** Add. 2016, Act 341, Eff. Apr. 20, 2017.