

CLEAN, RENEWABLE, AND EFFICIENT ENERGY ACT (EXCERPT)
Act 295 of 2008

***** 460.1021 THIS SECTION IS REPEALED BY ACT 342 OF 2016 EFFECTIVE APRIL 20, 2017 *****

460.1021 Electric providers; regulation of rates by commission; applicability of section; filing of proposed renewable energy plan; requirements; establishment of nonvolumetric mechanism; revenue recovery mechanism; agreement with customer to participate in commission-approved voluntary renewable energy program; reserve funds; contested case hearing on proposed plan; approval; determination; initial approval; review; amendment; rejection of proposed plan or amendment.

Sec. 21. (1) This section applies only to electric providers whose rates are regulated by the commission.

(2) Each electric provider shall file a proposed renewable energy plan with the commission within 90 days after the commission issues a temporary order under section 171. The proposed plan shall meet all of the following requirements:

(a) Describe how the electric provider will meet the renewable energy standards.

(b) Specify whether the number of megawatt hours of electricity used in the calculation of the renewable energy credit 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.

(c) Include the expected incremental cost of compliance with the renewable energy standards for a 20-year period beginning when the plan is approved by the commission.

(d) For an electric provider that had 1,000,000 or more retail customers in this state on January 1, 2008, describe the bidding process to be used by the electric provider under section 33. The description shall include measures to be employed in the preparation of requests for proposals and the handling and evaluation of proposals received to ensure that any bidder that is an affiliate of the electric utility is not afforded a competitive advantage over any other bidder and that each bidder, including any bidder that is an affiliate of the electric provider, is treated in a fair and nondiscriminatory manner.

(3) The proposed plan shall establish a nonvolumetric mechanism for the recovery of the incremental costs of compliance within the electric provider's customer rates. The revenue recovery mechanism shall not result in rate impacts that exceed the monthly maximum retail rate impacts specified under section 45. The revenue recovery mechanism is subject to adjustment under sections 47(4) and 49. A customer participating in a commission-approved voluntary renewable energy program under an agreement in effect on the effective date of this act shall not incur charges under the revenue recovery mechanism unless the charges under the revenue recovery mechanism exceed the charges the customer is incurring for the voluntary renewable energy program. In that case, the customer shall only incur the difference between the charge assessed under the revenue recovery mechanism and the charges the customer is incurring for the voluntary renewable energy program. The limitation on charges applies only during the term of the agreement, not including automatic agreement renewals, or until 1 year after the effective date of this act, whichever is later. Before entering an agreement with a customer to participate in a commission-approved voluntary renewable energy program and before the last automatic monthly renewal of such an agreement that will occur less than 1 year after the effective date of this act, an electric provider shall notify the customer that the customer will be responsible for the full applicable charges under the revenue recovery mechanism and under the voluntary renewable energy program as provided under this subsection.

(4) If proposed by the electric provider in its proposed plan, the revenue recovery mechanism shall result in an accumulation of reserve funds in advance of expenditure and the creation of a regulatory liability that accrues interest at the average short-term borrowing rate available to the electric provider during the appropriate period. If proposed by the electric provider in its proposed plan, the commission shall establish a minimum balance of accumulated reserve funds for the purposes of section 47(4).

(5) The commission shall conduct a contested case hearing on the proposed plan filed under subsection (2), pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. If a renewable energy generator files a petition to intervene in the contested case in the manner prescribed by the commission's rules for interventions generally, the commission shall grant the petition. Subject to subsections (6) and (10), after the hearing and within 90 days after the proposed plan is filed with the commission, the commission shall approve, with any changes consented to by the electric provider, or reject the plan.

(6) The commission shall not approve an electric provider's plan unless the commission determines both of the following:

(a) That the plan is reasonable and prudent. In making this determination, the commission shall take into

consideration projected costs and whether or not projected costs included in prior plans were exceeded.

(b) That the life-cycle cost of renewable energy acquired or generated under the plan less the projected life-cycle net savings associated with the provider's energy optimization plan does not exceed the expected life-cycle cost of electricity generated by a new conventional coal-fired facility. In determining the expected life-cycle cost of electricity generated by a new conventional coal-fired facility, the commission shall consider data from this state and the states of Ohio, Indiana, Illinois, Wisconsin, and Minnesota, including, if applicable, the life-cycle costs of the renewable energy system and new conventional coal-fired facilities. When determining the life-cycle costs of the renewable energy system and new conventional coal-fired facilities, the commission shall use a methodology that includes, but is not limited to, consideration of the value of energy, capacity, and ancillary services. The commission shall also consider other costs such as transmission, economic benefits, and environmental costs, including, but not limited to, greenhouse gas constraints or taxes. In performing its assessment, the commission may utilize other available data, including national or regional reports and data published by federal or state governmental agencies, industry associations, and consumer groups.

(7) An electric provider shall not begin recovery of the incremental costs of compliance within its rates until the commission has approved its proposed plan.

(8) Every 2 years after initial approval of a plan under subsection (5), the commission shall review the plan. The commission shall conduct a contested case hearing on the plan pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The annual renewable cost reconciliation under section 49 for that year may be joined with the overall plan review in the same contested case hearing. Subject to subsections (6) and (10), after the hearing, the commission shall approve, with any changes consented to by the electric provider, or reject the plan and any proposed amendments to the plan.

(9) If an electric provider proposes to amend its plan at a time other than during the biennial review process under subsection (8), the electric provider shall file the proposed amendment with 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. The annual renewable cost reconciliation under section 49 may be joined with the plan amendment in the same contested case proceeding. Subject to subsections (6) and (10), after the hearing and within 90 days after the amendment is filed, the commission shall approve, with any changes consented to by the electric provider, or reject the plan and the proposed amendment or amendments to the plan.

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

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."

In subsection (2), the reference to "section 171" evidently should read "section 191".