

SENATE BILL No. 438

July 1, 2015, Introduced by Senator PROOS and referred to the Committee on Energy and Technology.

A bill to amend 2008 PA 295, entitled "Clean, renewable, and efficient energy act," by amending the title, the headings of subparts B and C of part 2 and part 5, and sections 1, 3, 5, 7, 9, 11, 13, 41, 47, 71, 73, 75, 77, 81, 83, 85, 87, 89, 91, 93, 95, 97, 113, 173, 175, 177, and 179 (MCL 460.1001, 460.1003, 460.1005, 460.1007, 460.1009, 460.1011, 460.1013, 460.1041, 460.1047, 460.1071, 460.1073, 460.1075, 460.1077, 460.1081, 460.1083, 460.1085, 460.1087, 460.1089, 460.1091, 460.1093, 460.1095, 460.1097, 460.1113, 460.1173, 460.1175, 460.1177, and 460.1179), section 93 as amended by 2010 PA 269, and by adding subpart B to part 2, sections 72, 74, 77a, 78, 89a, 91a, 98, and 99, and part 7; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

1 An act to require certain providers of electric service to
 2 establish ~~renewable~~ **CLEAN** energy programs; to require certain
 3 providers of electric or natural gas service to establish energy
 4 ~~optimization~~ **WASTE REDUCTION** programs; to authorize the use of
 5 certain energy systems to meet the requirements of those programs;
 6 to provide for the approval of energy ~~optimization~~ **WASTE REDUCTION**
 7 service companies; ~~to provide for certain charges on electric and~~
 8 ~~natural gas bills; to promote energy conservation~~ **TO REDUCE ENERGY**
 9 **WASTE** by state agencies and the public; to create a wind energy
 10 resource zone board and provide for its power and duties; to
 11 authorize the creation and implementation of wind energy resource
 12 zones; to provide for expedited transmission line siting
 13 certificates; to provide for a **CUSTOMER GENERATION AND** net metering
 14 ~~program~~ **PROGRAMS** and the responsibilities of certain providers of
 15 electric service and customers with respect to **CUSTOMER GENERATION**
 16 **AND** net metering; to provide for fees; to prescribe the powers and
 17 duties of certain state agencies and officials; to require the
 18 promulgation of rules and the issuance of orders; **TO AUTHORIZE THE**
 19 **ESTABLISHMENT OF RESIDENTIAL ENERGY IMPROVEMENT PROGRAMS BY**
 20 **PROVIDERS OF ELECTRIC OR NATURAL GAS SERVICE;** and to provide for
 21 civil sanctions, remedies, and penalties.

22 Sec. 1. (1) This act shall be known and may be cited as the
 23 "clean ~~, renewable,~~ and efficient energy act".

24 (2) The purpose of this act is to promote the development of
 25 ~~clean energy, renewable energy, and energy optimization through the~~
 26 ~~implementation of a clean, renewable, and energy efficient standard~~
 27 **AND USE OF CLEAN ENERGY RESOURCES AND THE REDUCTION OF ENERGY WASTE**

1 **THROUGH PROGRAMS** that will cost-effectively do all of the
2 following:

3 (a) Diversify the resources used to reliably meet the energy
4 needs of consumers in this state.

5 (b) Provide greater energy security through the use of
6 indigenous energy resources available within the state.

7 (c) Encourage private investment in ~~renewable~~ **CLEAN** energy and
8 energy efficiency. **WASTE REDUCTION.**

9 (d) ~~Provide~~ **COORDINATE WITH FEDERAL REGULATIONS TO PROVIDE**
10 improved air quality and other benefits to energy consumers and
11 citizens of this state.

12 Sec. 3. As used in this act:

13 (a) "Advanced cleaner energy" means electricity generated
14 using an advanced cleaner energy system.

15 ~~— (b) "Advanced cleaner energy credit" means a credit certified~~
16 ~~under section 43 that represents generated advanced cleaner energy.~~

17 **(B)** ~~(c)~~ "Advanced cleaner energy system" means any of the
18 following:

19 (i) A gasification facility.

20 (ii) ~~An industrial~~ **A** cogeneration facility.

21 (iii) A coal-fired electric generating facility if 85% or more
22 of the carbon dioxide emissions are captured and permanently
23 geologically sequestered **OR USED FOR OTHER COMMERCIAL OR INDUSTRIAL**
24 **PURPOSES THAT DO NOT RESULT IN RELEASE OF CARBON DIOXIDE TO THE**
25 **ATMOSPHERE.**

26 (iv) **A HYDROELECTRIC PUMPED STORAGE FACILITY.**

27 (v) ~~(iv)~~ An electric generating facility or system that uses

1 technologies not in commercial operation on ~~the effective date of~~
2 ~~this act.~~ **OCTOBER 6, 2008, AND THAT THE COMMISSION DETERMINES HAS**
3 **CARBON DIOXIDE EMISSIONS BENEFITS OR WILL SIGNIFICANTLY REDUCE**
4 **OTHER REGULATED AIR EMISSIONS.**

5 (C) ~~(d)~~-"Affiliated transmission company" means that term as
6 defined in **SECTION 2 OF** the electric transmission line
7 certification act, 1995 PA 30, MCL 460.562.

8 (D) ~~(e)~~-"Applicable regional transmission organization" means
9 a nonprofit, member-based organization governed by an independent
10 board of directors that serves as the ~~federal energy regulatory~~
11 ~~commission approved~~ regional transmission organization **APPROVED BY**
12 **THE FEDERAL ENERGY REGULATORY COMMISSION** with oversight
13 responsibility for the region that includes the provider's service
14 territory.

15 (E) ~~(f)~~-"Biomass" means any organic matter that is not derived
16 from fossil fuels, that can be converted to usable fuel for the
17 production of energy, and that replenishes over a human, not a
18 geological, time frame, including, but not limited to, all of the
19 following:

20 (i) Agricultural crops and crop wastes.

21 (ii) Short-rotation energy crops.

22 (iii) Herbaceous plants.

23 (iv) Trees and wood, but only if derived from sustainably
24 managed forests or procurement systems, as defined in section 261c
25 of the management and budget act, 1984 PA 431, MCL 18.1261c.

26 (v) Paper and pulp products.

27 (vi) Precommercial wood thinning waste, brush, or yard waste.

1 (vii) Wood wastes and residues from the processing of wood
2 products or paper.

3 (viii) Animal wastes.

4 (ix) Wastewater sludge or sewage.

5 (x) Aquatic plants.

6 (xi) Food production and processing waste.

7 (xii) Organic by-products from the production of biofuels.

8 (F) ~~(g)~~ "Board" means the wind energy resource zone board
9 created under section 143.

10 ~~—— (h) "Carbon dioxide emissions benefits" means that the carbon~~
11 ~~dioxide emissions per megawatt hour of electricity generated by the~~
12 ~~advanced cleaner energy system are at least 85% less or, for an~~
13 ~~integrated gasification combined cycle facility, 70% less than the~~
14 ~~average carbon dioxide emissions per megawatt hour of electricity~~
15 ~~generated from all coal-fired electric generating facilities~~
16 ~~operating in this state on January 1, 2008.~~

17 (G) "CLEAN ENERGY" MEANS ELECTRICITY GENERATED USING A CLEAN
18 ENERGY RESOURCE.

19 (H) "CLEAN ENERGY RESOURCE" MEANS AN ELECTRIC GENERATION
20 TECHNOLOGY THAT MEETS ALL CURRENT STATE AND FEDERAL AIR EMISSIONS
21 REGULATIONS OR QUALIFIES UNDER UNITED STATES ENVIRONMENTAL
22 PROTECTION AGENCY REGULATIONS AS BEING CARBON NEUTRAL. CLEAN ENERGY
23 RESOURCE INCLUDES, BUT IS NOT LIMITED TO, A FOSSIL FUEL GENERATION
24 TECHNOLOGY IN WHICH AT LEAST 85% OF THE CARBON DIOXIDE EMISSIONS
25 ARE CAPTURED AND PERMANENTLY SEQUESTERED OR USED FOR OTHER
26 COMMERCIAL OR INDUSTRIAL PURPOSES THAT DO NOT RESULT IN THE RELEASE
27 OF CARBON DIOXIDE INTO THE ATMOSPHERE.

1 (I) "CLEAN ENERGY SYSTEM" MEANS A FACILITY, ELECTRICITY
2 GENERATION SYSTEM, OR SET OF ELECTRICITY GENERATION SYSTEMS THAT
3 USE 1 OR MORE CLEAN ENERGY RESOURCES TO GENERATE ELECTRICITY.

4 (J) "COGENERATION FACILITY" MEANS A FACILITY THAT PRODUCES
5 BOTH ELECTRICITY AND ANOTHER FORM OF USEFUL THERMAL ENERGY, SUCH AS
6 HEAT OR STEAM, IN A WAY THAT IS MORE EFFICIENT THAN THE SEPARATE
7 PRODUCTION OF THOSE FORMS OF ENERGY.

8 (K) ~~(i)~~ "Commission" means the Michigan public service
9 commission.

10 (L) ~~(j)~~ "Customer meter" means an electric meter of a
11 provider's retail customer. Customer meter does not include a
12 municipal water pumping meter or additional meters at a single site
13 that were installed specifically to support interruptible air
14 conditioning, interruptible water heating, net metering, or time-
15 of-day tariffs.

16 (M) "DISTRIBUTED GENERATION PROGRAM" MEANS THE PROGRAM
17 ESTABLISHED BY THE COMMISSION UNDER SECTION 173.

18 Sec. 5. As used in this act:

19 (a) "Electric provider", ~~subject to sections 21(1), 23(1), and~~
20 ~~25(1),~~ **EXCEPT AS USED IN PART 7**, means any of the following:

21 (i) Any person or entity that is regulated by the commission
22 for the purpose of selling electricity to retail customers in this
23 state.

24 (ii) A municipally-owned electric utility in this state.

25 (iii) A cooperative electric utility in this state.

26 (iv) Except as used in subpart ~~B-C~~ of part 2, an alternative
27 electric supplier licensed under section 10a of 1939 PA 3, MCL

1 460.10a.

2 (b) "Eligible electric generator" means ~~that~~ a methane
3 digester or ~~renewable~~-**CLEAN** energy system with a generation
4 capacity ~~limited to the customer's electric need and~~ that does not
5 exceed the following:

6 (i) For a ~~renewable~~-**CLEAN** energy system, 150 kilowatts of
7 aggregate generation at a single site.

8 (ii) For a methane digester, 550 kilowatts of aggregate
9 generation at a single site.

10 (c) "Energy conservation" means the reduction of customer
11 energy use through the installation of measures or changes in
12 energy usage behavior. Energy conservation does not include the use
13 of advanced cleaner energy systems.

14 (d) "Energy efficiency" means a decrease in customer
15 consumption of electricity or natural gas achieved through measures
16 or programs **INCLUDING PREPAY ENERGY PROGRAMS** that target customer
17 behavior, equipment, devices, or materials without reducing the
18 quality of energy services.

19 **(E) "ENERGY STAR" MEANS THE VOLUNTARY PARTNERSHIP AMONG THE**
20 **UNITED STATES DEPARTMENT OF ENERGY, THE UNITED STATES ENVIRONMENTAL**
21 **PROTECTION AGENCY, PRODUCT MANUFACTURERS, LOCAL UTILITIES, AND**
22 **RETAILERS TO HELP PROMOTE ENERGY EFFICIENT PRODUCTS BY LABELING**
23 **WITH THE ENERGY STAR LOGO, EDUCATE CONSUMERS ABOUT THE BENEFITS OF**
24 **ENERGY EFFICIENCY, AND HELP PROMOTE ENERGY EFFICIENCY IN BUILDINGS**
25 **BY BENCHMARKING AND RATING ENERGY PERFORMANCE.**

26 **(F)** ~~(e)~~-"Energy optimization", **WASTE REDUCTION**", subject to
27 subdivision ~~(f)~~, **(G)**, means all of the following:

1 (i) Energy efficiency.

2 (ii) Load management, to the extent that the load management
3 reduces overall energy usage.

4 (iii) Energy conservation, but only to the extent that the
5 decreases in the consumption of electricity produced by energy
6 conservation are objectively measurable and attributable to an
7 energy ~~optimization~~ **WASTE REDUCTION** plan.

8 (G) ~~(f)~~ Energy ~~optimization~~ **WASTE REDUCTION** does not include
9 electric provider infrastructure projects that are approved for
10 cost recovery by the commission other than as provided in this act.

11 (H) ~~(g)~~ "Energy ~~optimization~~ **WASTE REDUCTION** credit" means a
12 credit certified pursuant to section 87 that represents achieved
13 energy ~~optimization~~ **WASTE REDUCTION**.

14 (I) ~~(h)~~ "Energy ~~optimization~~ **WASTE REDUCTION** plan" or "~~EO~~
15 ~~plan~~" means a plan under section 71 **OR 72, AS APPLICABLE**.

16 (J) ~~(i)~~ "Energy ~~optimization~~ **WASTE REDUCTION** standard" means
17 the minimum energy savings required to be achieved under section 77
18 **OR 77A, AS APPLICABLE**.

19 ~~—— (j) "Energy star" means the voluntary partnership among the~~
20 ~~United States department of energy, the United States environmental~~
21 ~~protection agency, product manufacturers, local utilities, and~~
22 ~~retailers to help promote energy efficient products by labeling~~
23 ~~with the energy star logo, educate consumers about the benefits of~~
24 ~~energy efficiency, and help promote energy efficiency in buildings~~
25 ~~by benchmarking and rating energy performance.~~

26 (k) "Federal approval" means approval by the applicable
27 regional transmission organization or other federal energy

1 regulatory commission approved transmission planning process of a
2 transmission project that includes the transmission line. Federal
3 approval may be evidenced in any of the following manners:

4 (i) The proposed transmission line is part of a transmission
5 project included in the applicable regional transmission
6 organization's board-approved transmission expansion plan.

7 (ii) The applicable regional transmission organization has
8 informed the electric utility, affiliated transmission company, or
9 independent transmission company that a transmission project
10 submitted for an out-of-cycle project review has been approved by
11 the applicable regional transmission organization, and the approved
12 transmission project includes the proposed transmission line.

13 (iii) If, after ~~the effective date of this act,~~ **OCTOBER 6,**
14 **2008,** the applicable regional transmission organization utilizes
15 another approval process for transmission projects proposed by an
16 electric utility, affiliated transmission company, or independent
17 transmission company, the proposed transmission line is included in
18 a transmission project approved by the applicable regional
19 transmission organization through the approval process developed
20 after ~~the effective date of this act.~~ **OCTOBER 6, 2008.**

21 (iv) Any other ~~federal energy regulatory commission approved~~
22 **FEDERAL ENERGY REGULATORY COMMISSION-APPROVED** transmission planning
23 process for a transmission project.

24 Sec. 7. As used in this act:

25 (a) "Gasification facility" means a facility located in this
26 state that, ~~uses~~ **USING** a thermochemical process that does not
27 involve direct combustion, ~~to produce~~ **PRODUCES** synthesis gas,

1 composed of carbon monoxide and hydrogen, from carbon-based
2 feedstocks (such as coal, petroleum coke, wood, biomass, hazardous
3 waste, medical waste, industrial waste, and solid waste, including,
4 but not limited to, municipal solid waste, electronic waste, and
5 waste described in section 11514 of the natural resources and
6 environmental protection act, 1994 PA 451, MCL 324.11514) and that
7 uses the synthesis gas or a mixture of the synthesis gas and
8 methane to generate electricity for commercial use. Gasification
9 facility includes the transmission lines, gas transportation lines
10 and facilities, and associated property and equipment specifically
11 attributable to such a facility. Gasification facility includes,
12 but is not limited to, an integrated gasification combined cycle
13 facility and a plasma arc gasification facility.

14 (b) "Incremental costs of compliance" means the net revenue
15 required by an electric provider to comply, **BEFORE THE EFFECTIVE**
16 **DATE OF THE 2015 AMENDATORY ACT THAT AMENDED THIS SECTION**, with the
17 **FORMER** renewable energy standard, calculated as provided under
18 section 47.

19 (c) "Independent transmission company" means that term as
20 defined in section 2 of the electric transmission line
21 certification act, 1995 PA 30, MCL 460.562.

22 ~~—— (d) "Industrial cogeneration facility" means a facility that~~
23 ~~generates electricity using industrial thermal energy or industrial~~
24 ~~waste energy.~~

25 ~~—— (e) "Industrial thermal energy" means thermal energy that is a~~
26 ~~by product of an industrial or manufacturing process and that would~~
27 ~~otherwise be wasted. For the purposes of this subdivision,~~

1 ~~industrial or manufacturing process does not include the generation~~
2 ~~of electricity.~~

3 ~~—— (f) "Industrial waste energy" means exhaust gas or flue gas~~
4 ~~that is a by product of an industrial or manufacturing process and~~
5 ~~that would otherwise be wasted. For the purposes of this~~
6 ~~subdivision, industrial or manufacturing process does not include~~
7 ~~the generation of electricity.~~

8 (D) "INFLOW" MEANS THE NUMBER OF METERED KILOWATT HOURS THAT A
9 CUSTOMER PARTICIPATING IN THE DISTRIBUTED GENERATION PROGRAM
10 RECEIVES FROM AN ELECTRIC UTILITY DURING A BILLING PERIOD.

11 (E) ~~(g)~~ "Integrated gasification combined cycle facility"
12 means a gasification facility that uses a thermochemical process,
13 including high temperatures and controlled amounts of air and
14 oxygen, to break substances down into their molecular structures
15 and that uses exhaust heat to generate electricity.

16 (F) ~~(h)~~ "LEED" means the leadership in energy and
17 environmental design green building rating system developed by the
18 United States ~~green building council.~~ **GREEN BUILDING COUNCIL.**

19 (G) ~~(i)~~ "Load management" means measures or programs that
20 target equipment or devices to result in decreased peak electricity
21 demand such as by shifting demand from a peak to an off-peak
22 period.

23 ~~—— (j) "Modified net metering" means a utility billing method~~
24 ~~that applies the power supply component of the full retail rate to~~
25 ~~the net of the bidirectional flow of kilowatt hours across the~~
26 ~~customer interconnection with the utility distribution system,~~
27 ~~during a billing period or time of use pricing period. A negative~~

1 ~~net metered quantity during the billing period or during each time~~
2 ~~of use pricing period within the billing period reflects net excess~~
3 ~~generation for which the customer is entitled to receive credit~~
4 ~~under section 177(4). Standby charges for modified net metering~~
5 ~~customers on an energy rate schedule shall be equal to the retail~~
6 ~~distribution charge applied to the imputed customer usage during~~
7 ~~the billing period. The imputed customer usage is calculated as the~~
8 ~~sum of the metered on-site generation and the net of the~~
9 ~~bidirectional flow of power across the customer interconnection~~
10 ~~during the billing period. The commission shall establish standby~~
11 ~~charges for modified net metering customers on demand based rate~~
12 ~~schedules that provide an equivalent contribution to utility system~~
13 ~~costs.~~

14 Sec. 9. As used in this act:

15 (a) "Natural gas provider" means an investor-owned business
16 engaged in the sale and distribution **AT RETAIL** of natural gas
17 within this state whose rates are regulated by the commission.
18 ~~However, as used in subpart B of part 2, natural gas provider does~~
19 ~~not include an alternative gas supplier licensed under section 9b~~
20 ~~of 1939 PA 3, MCL 460.9b.~~

21 **(B) "NET METERING" MEANS AN ELECTRIC UTILITY BILLING METHOD**
22 **THAT APPLIES TO CUSTOMERS WITH AN ON-SITE CLEAN ENERGY SYSTEM THAT**
23 **IS INTERCONNECTED WITH THE UTILITY'S DISTRIBUTION SYSTEM AND THAT**
24 **IS ENROLLED IN AN ELECTRIC UTILITY'S NET METERING PROGRAM.**

25 **(C) "OUTFLOW" MEANS THE NUMBER OF METERED KILOWATT HOURS**
26 **DELIVERED INTO THE ELECTRIC UTILITY'S DISTRIBUTION SYSTEM FROM**
27 **CUSTOMERS PARTICIPATING IN THE DISTRIBUTED GENERATION PROGRAM**

1 **DURING A BILLING PERIOD.**

2 (D) ~~(b)~~—"Plasma arc gasification facility" means a
3 gasification facility that uses a plasma torch to break substances
4 down into their molecular structures.

5 (E) ~~(e)~~—"Provider" means an electric provider or a natural gas
6 provider.

7 (F) ~~(d)~~—"PURPA" means the public utility regulatory policies
8 act of 1978, Public Law 95-617.

9 (G) ~~(e)~~—"Qualifying small power production facility" means
10 that term as defined in 16 USC 824a-3.

11 Sec. 11. As used in this act:

12 (a) "Renewable energy" means electricity generated using a
13 renewable energy system.

14 (b) "Renewable energy capacity portfolio" means the number of
15 megawatts calculated under **FORMER** section 27(2) for a particular
16 year.

17 (c) "Renewable energy contract" means a contract to acquire
18 renewable energy and the associated renewable energy credits from 1
19 or more renewable energy systems.

20 (d) "Renewable energy credit" means a credit granted pursuant
21 ~~to~~ **UNDER A CERTIFICATION AND TRACKING PROGRAM ESTABLISHED UNDER**
22 section 41, ~~that~~ **WHICH** represents generated renewable energy.

23 (e) "Renewable energy credit portfolio" means the sum of the
24 renewable energy credits achieved by a provider for a particular
25 year.

26 ~~—— (f) "Renewable energy credit standard" means a minimum~~
27 ~~renewable energy portfolio required under section 27.~~

1 ~~(g) "Renewable energy generator" means a person that, together~~
2 ~~with its affiliates, has constructed or has owned and operated 1 or~~
3 ~~more renewable energy systems with combined gross generating~~
4 ~~capacity of at least 10 megawatts.~~

5 (F) ~~(h)~~ "Renewable energy plan" or "plan" ~~,~~ means a plan
6 approved under **FORMER** section 21 or **FORMER SECTION** 23 or found to
7 comply with this act under **FORMER** section 25, with any amendments
8 adopted under this act.

9 (G) ~~(i)~~ "Renewable energy resource" means a resource that
10 naturally replenishes over a human, not a geological, time frame
11 and that is ultimately derived from solar power, water power, or
12 wind power. Renewable energy resource does not include petroleum,
13 nuclear, natural gas, or coal. A renewable energy resource comes
14 from the sun or from thermal inertia of the earth and minimizes the
15 output of toxic material in the conversion of the energy and
16 includes, but is not limited to, all of the following:

17 (i) Biomass.

18 (ii) Solar and solar thermal energy.

19 (iii) Wind energy.

20 (iv) Kinetic energy of moving water, including all of the
21 following:

22 (A) Waves, tides, or currents.

23 (B) Water released through a dam.

24 (v) Geothermal energy.

25 (vi) Municipal solid waste.

26 (vii) Landfill gas produced by municipal solid waste.

27 (H) ~~(j)~~ "Renewable energy standard" means the minimum

1 renewable energy capacity portfolio, if applicable, and the
 2 renewable energy credit portfolio **THAT WAS** required to be achieved
 3 under **FORMER** section 27.

4 (I) ~~(k)~~ "Renewable energy system" means a facility,
 5 electricity generation system, or set of electricity generation
 6 systems that use 1 or more renewable energy resources to generate
 7 electricity. Renewable energy system does not include ~~any of the~~
 8 ~~following:~~

9 ~~—— (i) A hydroelectric pumped storage facility.~~

10 ~~—— (ii) A hydroelectric facility that uses a dam constructed~~
 11 ~~after the effective date of this act unless the dam is a repair or~~
 12 ~~replacement of a dam in existence on the effective date of this act~~
 13 ~~or an upgrade of a dam in existence on the effective date of this~~
 14 ~~act that increases its energy efficiency.~~

15 ~~—— (iii) An~~ **AN** incinerator unless the incinerator is a municipal
 16 solid waste incinerator as defined in section 11504 of the natural
 17 resources and environmental protection act, 1994 PA 451, MCL
 18 324.11504, that was brought into service before ~~the effective date~~
 19 ~~of this act,~~ **OCTOBER 6, 2008**, including any of the following:

20 (i) ~~(A)~~ Any upgrade of such an incinerator that increases
 21 energy efficiency.

22 (ii) ~~(B)~~ Any expansion of such an incinerator before ~~the~~
 23 ~~effective date of this act.~~ **OCTOBER 6, 2008.**

24 (iii) ~~(C)~~ Any expansion of such an incinerator ~~on or~~ after the
 25 ~~effective date of this act~~ **OCTOBER 6, 2008** to an approximate design
 26 rated capacity of not more than 950 tons per day pursuant to the
 27 terms of a final request for proposals issued on or before October

1 1, 1986.

2 (J) ~~(I)~~ "Revenue recovery mechanism" means the mechanism for
 3 recovery of incremental costs of compliance established under
 4 **FORMER** section 21.

5 Sec. 13. As used in this act:

6 (a) "Site" means a contiguous site, regardless of the number
 7 of meters at that site. A site that would be contiguous but for the
 8 presence of a street, road, or highway ~~shall be~~ **IS** considered to be
 9 contiguous for the purposes of this subdivision.

10 (b) "Transmission line" means all structures, equipment, and
 11 real property necessary to transfer electricity at system bulk
 12 supply voltage of 100 kilovolts or more.

13 ~~—— (c) "True net metering" means a utility billing method that
 14 applies the full retail rate to the net of the bidirectional flow
 15 of kilowatt hours across the customer interconnection with the
 16 utility distribution system, during a billing period or time of use
 17 pricing period. A negative net metered quantity during the billing
 18 period or during each time of use pricing period within the billing
 19 period reflects net excess generation for which the customer is
 20 entitled to receive credit under section 177(4).~~

21 (C) ~~(d)~~ "Utility system resource cost test" means a standard
 22 that is met for an investment in energy ~~optimization~~ **WASTE**
 23 **REDUCTION** if, on a life cycle basis, the total avoided supply-side
 24 costs to the provider, including representative values for
 25 ~~electricity or natural gas supply, transmission, distribution, and~~
 26 other associated costs **OR, BEFORE JANUARY 1, 2019, ELECTRICITY**
 27 **SUPPLY, TRANSMISSION, DISTRIBUTION, AND OTHER ASSOCIATED COSTS,** are

1 greater than the total costs to the provider of administering and
2 delivering the energy ~~optimization~~ **WASTE REDUCTION** program,
3 including net costs for any provider incentives paid by customers
4 and capitalized costs recovered under section 89.

5 (D) ~~(e)~~—"Wind energy conversion system" means a ~~renewable~~
6 ~~energy~~ system that uses 1 or more wind turbines to generate
7 electricity and has a nameplate capacity of 100 kilowatts or more.

8 (E) ~~(f)~~—"Wind energy resource zone" or "wind zone" means an
9 area designated by the commission under section 147.

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

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

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

24 (2) ~~(4)~~—The commission shall establish a renewable energy
25 credit certification and tracking program. The certification and
26 tracking program may be contracted to and performed by a third
27 party through a system of competitive bidding. The program shall

1 include all of the following:

2 (a) A process to certify renewable energy systems, including
3 all existing renewable energy systems operating on ~~the effective~~
4 ~~date of this act, OCTOBER 6, 2008~~ as eligible to receive renewable
5 energy credits.

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

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

15 (d) A method for transferring renewable energy credits.

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

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

22 ~~— (g) A method for ensuring that both a renewable energy credit~~
23 ~~and an advanced cleaner energy credit are not awarded for the same~~
24 ~~megawatt hour of energy.~~

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

1 Sec. 47. (1) ~~Subject to the retail rate impact limits under~~
2 ~~section 45, the~~ **FOR AN ELECTRIC PROVIDER WHOSE RATES ARE REGULATED**
3 **BY THE COMMISSION, THE COMMISSION SHALL DETERMINE THE APPROPRIATE**
4 **CHARGES, WHICH SHALL BE INCLUDED IN THE ELECTRIC PROVIDER'S**
5 **TARIFFS, TO PERMIT RECOVERY OF THE INCREMENTAL COST OF COMPLIANCE.**
6 **THE** commission shall consider all actual costs reasonably and
7 prudently incurred in good faith to implement a commission-approved
8 renewable energy plan by an electric provider whose rates are
9 regulated by the commission to be a cost of service to be recovered
10 by the electric provider. ~~Subject to the retail rate impact limits~~
11 ~~under section 45, an~~ **AN** electric provider whose rates are regulated
12 by the commission shall recover through its retail electric rates
13 all of the electric provider's incremental costs of compliance
14 during the 20-year period beginning when the electric provider's
15 plan is approved by the commission and all reasonable and prudent
16 ongoing costs of compliance during and after that period. The
17 recovery shall include, but is not limited to, ~~the~~ **BOTH OF THE**
18 **FOLLOWING:**

19 **(A) THE** electric provider's authorized rate of return on
20 equity for costs approved under this section, which shall remain
21 fixed at the rate of return and debt to equity ratio that was in
22 effect in the electric provider's base rates when the electric
23 provider's renewable energy plan was approved.

24 **(B) COSTS ASSOCIATED WITH A FACILITY APPROVED FOR COST**
25 **RECOVERY BEFORE THE EFFECTIVE DATE OF THE 2015 AMENDATORY ACT THAT**
26 **AMENDED THIS SECTION.**

27 (2) Incremental costs of compliance shall be calculated as

1 follows:

2 (a) Determine the sum of the following costs to the extent
3 those costs are reasonable and prudent and not already approved for
4 recovery in electric rates as of ~~the effective date of this~~
5 ~~act~~**OCTOBER 6, 2008:**

6 (i) Capital, operating, and maintenance costs of renewable
7 energy systems or advanced cleaner energy systems, including
8 property taxes, insurance, and return on equity associated with an
9 electric provider's renewable energy systems or advanced cleaner
10 energy systems, including the electric provider's renewable energy
11 portfolio established to achieve compliance with the renewable
12 energy standards and any additional renewable energy systems or
13 advanced cleaner energy systems, that are built or acquired by the
14 electric provider to maintain compliance with the renewable energy
15 standards during the 20-year period beginning when the electric
16 provider's plan is approved by the commission.

17 (ii) Financing costs attributable to capital, operating, and
18 maintenance costs of capital facilities associated with renewable
19 energy systems or advanced cleaner energy systems used to meet the
20 renewable energy standard.

21 (iii) Costs that are not otherwise recoverable in rates
22 approved by the ~~federal energy regulatory commission~~**FEDERAL ENERGY**
23 **REGULATORY COMMISSION** and that are related to the infrastructure
24 required to bring renewable energy systems or advanced cleaner
25 energy systems used to achieve compliance with the renewable energy
26 standards on to the transmission system, including interconnection
27 and substation costs for renewable energy systems or advanced

1 cleaner energy systems used to meet the renewable energy standard.

2 (iv) Ancillary service costs determined by the commission to
3 be necessarily incurred to ensure the quality and reliability of
4 renewable energy or advanced cleaner energy used to meet the
5 renewable energy standards, regardless of the ownership of a
6 renewable energy system or advanced cleaner energy
7 ~~technology~~. **SYSTEM.**

8 (v) Except to the extent the costs are allocated under a
9 different subparagraph, all of the following:

10 (A) The costs of renewable energy credits purchased under this
11 act.

12 (B) The costs of contracts described in **FORMER** section 33(1).

13 (vi) Expenses incurred as a result of state or federal
14 governmental actions related to renewable energy systems or
15 advanced cleaner energy systems attributable to the renewable
16 energy standards, including changes in tax or other law.

17 (vii) Any additional electric provider costs determined by the
18 commission to be necessarily incurred to ensure the quality and
19 reliability of renewable energy or advanced cleaner energy used to
20 meet the renewable energy standards.

21 (b) Subtract from the sum of costs not already included in
22 electric rates determined under subdivision (a) the sum of the
23 following revenues:

24 (i) Revenue derived from the sale of environmental attributes
25 associated with the generation of renewable energy or advanced
26 cleaner energy systems attributable to the renewable energy
27 standards. Such revenue shall not be considered in determining

1 power supply cost recovery factors under section 6j of 1939 PA 3,
2 MCL 460.6j.

3 (ii) Interest on regulatory liabilities.

4 (iii) Tax credits specifically designed to promote renewable
5 energy or advanced cleaner energy.

6 (iv) Revenue derived from the provision of renewable energy or
7 advanced cleaner energy to retail electric customers subject to a
8 power supply cost recovery clause under section 6j of 1939 PA 3,
9 MCL 460.6j, of an electric provider whose rates are regulated by
10 the commission. After providing an opportunity for a contested case
11 hearing for an electric provider whose rates are regulated by the
12 commission, the commission shall annually establish a price per
13 megawatt hour. In addition, an electric provider whose rates are
14 regulated by the commission may at any time petition the commission
15 to revise the price. In setting the price per megawatt hour under
16 this subparagraph, the commission shall consider factors including,
17 but not limited to, projected capacity, energy, maintenance, and
18 operating costs; information filed under section 6j of 1939 PA 3,
19 MCL 460.6j; and information from wholesale markets, including, but
20 not limited to, locational marginal pricing. This price shall be
21 multiplied by the sum of the number of megawatt hours of renewable
22 energy and the number of megawatt hours of advanced cleaner energy
23 used to maintain compliance with the renewable energy standard. The
24 product shall be considered a booked cost of purchased and net
25 interchanged power transactions under section 6j of 1939 PA 3, MCL
26 460.6j. For energy purchased by such an electric provider under a
27 renewable energy contract or advanced cleaner energy contract, the

1 price shall be the lower of the amount established by the
2 commission or the actual price paid and shall be multiplied by the
3 number of megawatt hours of renewable energy or advanced cleaner
4 energy purchased. The resulting value shall be considered a booked
5 cost of purchased and net interchanged power under section 6j of
6 1939 PA 3, MCL 460.6j.

7 (v) Revenue from wholesale renewable energy sales and advanced
8 cleaner energy sales. Such revenue shall not be considered in
9 determining power supply cost recovery factors under section 6j of
10 1939 PA 3, MCL 460.6j.

11 (vi) Any additional electric provider revenue considered by
12 the commission to be attributable to the renewable energy
13 standards.

14 (vii) Any revenues recovered in rates for renewable energy
15 costs that are included under subdivision (a).

16 (3) ~~The commission shall authorize~~ **IF, BEFORE THE EFFECTIVE**
17 **DATE OF THE 2015 AMENDATORY ACT THAT AMENDED THIS SECTION, THE**
18 **COMMISSION AUTHORIZED** an electric provider whose rates are
19 regulated by the commission to spend in any given month more to
20 comply with this act and implement an approved renewable energy
21 plan than the revenue actually generated by the **FORMER** revenue
22 recovery mechanism, ~~An electric provider whose rates are~~
23 ~~regulated by the commission~~ **THE PROVIDER** shall recover its
24 commission approved pre-tax rate of return on regulatory assets
25 during the appropriate period. An electric provider whose rates are
26 regulated by the commission shall record interest on regulatory
27 liabilities at the average short-term borrowing rate available to

1 the electric provider during the appropriate period. Any regulatory
2 assets or liabilities resulting from the recovery costs of
3 renewable energy or advanced cleaner energy attributable to **THE**
4 **FORMER** renewable energy standards through the power supply cost
5 recovery clause under section 6j of 1939 PA 3, MCL 460.6j, shall
6 continue to be reconciled under that section.

7 ~~—— (4) If an electric provider's incremental costs of compliance~~
8 ~~in any given month during the 20-year period beginning when the~~
9 ~~electric provider's plan is approved by the commission are in~~
10 ~~excess of the revenue recovery mechanism as adjusted under section~~
11 ~~49 and in excess of the balance of any accumulated reserve funds,~~
12 ~~subject to the minimum balance established under section 21, the~~
13 ~~electric provider shall immediately notify the commission. The~~
14 ~~commission shall promptly commence a contested case hearing~~
15 ~~pursuant to the administrative procedures act of 1969, 1969 PA 306,~~
16 ~~MCL 24.201 to 24.328, and modify the revenue recovery mechanism so~~
17 ~~that the minimum balance is restored. However, if the commission~~
18 ~~determines that recovery of the incremental costs of compliance~~
19 ~~would otherwise exceed the maximum retail rate impacts specified~~
20 ~~under section 45, it shall set the revenue recovery mechanism for~~
21 ~~that electric provider to correspond to the maximum retail rate~~
22 ~~impacts. Excess costs shall be accrued and deferred for recovery.~~
23 ~~Not later than the expiration of the 20-year period beginning when~~
24 ~~the electric provider's plan is approved by the commission, for an~~
25 ~~electric provider whose rates are regulated by the commission, the~~
26 ~~commission shall determine the amount of deferred costs to be~~
27 ~~recovered under the revenue recovery mechanism and the recovery~~

1 ~~period, which shall not extend more than 5 years beyond the~~
2 ~~expiration of the 20 year period beginning when the electric~~
3 ~~provider's plan is approved by the commission. The recovery of~~
4 ~~excess costs shall be proportional to the retail rate impact limits~~
5 ~~in section 45 for each customer class. The recovery of excess costs~~
6 ~~alone, or, if begun before the expiration of the 20 year period, in~~
7 ~~combination with the recovery of incremental costs of compliance~~
8 ~~under the revenue recovery mechanism, shall not exceed the retail~~
9 ~~rate impact limits of section 45 for each customer class.~~

10 (4) ~~(5)~~ If, at the expiration of the 20-year period beginning
11 when the electric provider's plan is approved by the commission, an
12 electric provider whose rates are regulated by the commission has a
13 regulatory liability, the refund to customer classes shall be
14 proportional to the amounts paid by those customer classes under
15 the **FORMER** revenue recovery mechanism.

16 (5) ~~(6)~~ After achieving compliance with the renewable energy
17 standard for 2015, the actual costs reasonably and prudently
18 incurred to continue to comply with this subpart both during and
19 after the conclusion of the 20-year period beginning when the
20 electric provider's plan ~~is~~ **WAS** approved by the commission shall be
21 considered costs of service. The commission shall determine a
22 mechanism for an electric provider whose rates are regulated by the
23 commission to recover these costs in its retail electric rates. ~~7~~
24 ~~subject to the retail rate impact limits in section 45. Remaining~~
25 and future regulatory assets shall be recovered consistent with
26 subsections (2) and (3). ~~and section 49.~~

27 **SUBPART B. CUSTOMER-REQUESTED RENEWABLE ENERGY**

1 SEC. 61. AN ELECTRIC PROVIDER SHALL OFFER TO ITS CUSTOMERS THE
2 OPPORTUNITY TO PARTICIPATE IN A VOLUNTARY GREEN PRICING PROGRAM
3 UNDER WHICH THE CUSTOMER MAY SPECIFY, FROM THE OPTIONS MADE
4 AVAILABLE BY THE ELECTRIC PROVIDER, THE PERCENTAGE OF ELECTRICITY
5 PROVIDED TO THE CUSTOMER THAT WILL BE RENEWABLE ENERGY. THE
6 PROGRAM, INCLUDING THE RATES PAID FOR RENEWABLE ENERGY, MUST BE
7 APPROVED BY THE COMMISSION. THE CUSTOMER IS RESPONSIBLE FOR ANY
8 ADDITIONAL COSTS INCURRED AND ACCRUES ANY ADDITIONAL SAVINGS
9 REALIZED BY THE ELECTRIC PROVIDER AS A RESULT OF PROVIDING THE
10 CUSTOMER WITH A HIGHER PERCENTAGE OF RENEWABLE ENERGY THAN IS
11 PROVIDED TO CUSTOMERS THAT DO NOT PARTICIPATE IN THE PROGRAM. IF AN
12 ELECTRIC PROVIDER HAS NOT YET FULLY RECOVERED THE INCREMENTAL COSTS
13 OF COMPLIANCE, BOTH OF THE FOLLOWING APPLY:

14 (A) A CUSTOMER THAT RECEIVES AT LEAST 50% OF THE CUSTOMER'S
15 AVERAGE MONTHLY ELECTRICITY CONSUMPTION THROUGH THE PROGRAM IS
16 EXEMPT FROM PAYING CHARGES FOR INCREMENTAL COSTS OF COMPLIANCE.

17 (B) BEFORE ENTERING AN AGREEMENT WITH A CUSTOMER TO
18 PARTICIPATE IN A COMMISSION-APPROVED VOLUNTARY GREEN PRICING
19 PROGRAM WITH A CUSTOMER THAT WILL NOT RECEIVE AT LEAST 50% OF THE
20 CUSTOMER'S AVERAGE MONTHLY ELECTRICITY CONSUMPTION THROUGH THE
21 PROGRAM, THE ELECTRIC PROVIDER SHALL NOTIFY THE CUSTOMER THAT THE
22 CUSTOMER WILL BE RESPONSIBLE FOR THE FULL APPLICABLE CHARGES UNDER
23 THE REVENUE RECOVERY MECHANISM AND UNDER THE VOLUNTARY RENEWABLE
24 ENERGY PROGRAM AS PROVIDED UNDER THIS SECTION.

25 SUBPART B.—C. ENERGY OPTIMIZATION—WASTE REDUCTION

26 Sec. 71. (1) A provider shall file a proposed energy
27 optimization plan with the commission within the following time

1 period:

2 (a) For a provider whose rates are regulated by the
3 commission, ~~90 days after the commission enters a temporary order~~
4 ~~under section 171.~~ **BY MARCH 3, 2009.**

5 (b) For a cooperative electric utility that has elected to
6 become member-regulated under the electric cooperative member
7 regulation act, 2008 PA 167, MCL 460.31 to 460.39, or a
8 municipally-owned electric utility, ~~120 days after the commission~~
9 ~~enters a temporary order under section 171.~~ **BY APRIL 2, 2009.**

10 (2) **ENERGY OPTIMIZATION PLANS FILED UNDER SUBSECTION (1)**
11 **REMAIN IN EFFECT, SUBJECT TO ANY AMENDMENTS, AS ENERGY WASTE**
12 **REDUCTION PLANS.**

13 (3) ~~(2)~~ The overall goal of an energy optimization ~~WASTE~~
14 **REDUCTION** plan shall be to reduce the future costs of provider
15 service to customers. In particular, an ~~EO~~ **ENERGY WASTE REDUCTION**
16 plan shall be designed to delay the need for constructing new
17 electric generating facilities and thereby protect consumers from
18 incurring the costs of such construction. ~~The proposed energy~~
19 ~~optimization plan shall be subject to approval in the same manner~~
20 ~~as an electric provider's renewable energy plan under subpart A. A~~
21 ~~provider may combine its energy optimization plan with its~~
22 ~~renewable energy plan.~~

23 (4) ~~(3)~~ An energy optimization ~~WASTE REDUCTION~~ plan shall do
24 all of the following:

25 (a) Propose a set of energy optimization ~~WASTE REDUCTION~~
26 programs that include offerings for each customer class, including
27 ~~low income~~ **LOW-INCOME** residential. The commission shall allow

1 ~~providers~~ **A PROVIDER** flexibility to tailor the relative amount of
2 effort devoted to each customer class based on the specific
3 characteristics of ~~their~~ **THE PROVIDER'S** service territory.

4 (b) Specify necessary funding levels.

5 (c) Describe how energy ~~optimization~~ **WASTE REDUCTION** program
6 costs will be recovered as provided in section 89(2).

7 (d) Ensure, to the extent feasible, that charges collected
8 from a particular customer rate class are spent on energy
9 ~~optimization~~ **WASTE REDUCTION** programs for that rate class.

10 (e) Demonstrate that the proposed energy optimization programs
11 and funding are sufficient to ensure the achievement of applicable
12 energy ~~optimization~~ **WASTE REDUCTION** standards.

13 (f) Specify whether the number of megawatt hours of
14 electricity or decatherms or MCFs of natural gas used in the
15 calculation of incremental energy savings under section 77 will be
16 weather-normalized or based on the average number of megawatt hours
17 of electricity or decatherms or MCFs of natural gas sold by the
18 provider annually during the previous 3 years to retail customers
19 in this state. Once the plan is approved by the commission, this
20 option shall not be changed.

21 (g) Demonstrate that the provider's energy ~~optimization~~ **WASTE**
22 **REDUCTION** programs, excluding program offerings to ~~low income~~ **LOW-**
23 **INCOME** residential customers, will collectively be cost-effective.

24 (h) Provide for the practical and effective administration of
25 the proposed energy ~~optimization~~ **WASTE REDUCTION** programs. The
26 commission shall allow providers flexibility in designing their
27 energy ~~optimization~~ **WASTE REDUCTION** programs and administrative

1 approach. A provider's energy ~~optimization~~ **WASTE REDUCTION** programs
 2 or any part thereof, may be administered, at the provider's option,
 3 by the provider, alone or jointly with other providers, by a state
 4 agency, or by an appropriate experienced nonprofit organization
 5 selected after a competitive bid process.

6 (i) Include a process for obtaining an independent expert
 7 evaluation of the actual energy ~~optimization~~ **WASTE REDUCTION**
 8 programs to verify the incremental energy savings from each energy
 9 ~~optimization~~ **WASTE REDUCTION** program for purposes of section 77.
 10 All such evaluations shall be subject to public review and
 11 commission oversight.

12 (5) ~~(4)~~—Subject to subsection ~~(5)~~, ~~(6)~~, an energy ~~optimization~~
 13 **WASTE REDUCTION** plan may do 1 or more of the following:

14 (a) Utilize educational programs designed to alter consumer
 15 behavior or any other measures that can reasonably be used to meet
 16 the goals set forth in subsection ~~(2)~~ ~~(3)~~.

17 (b) Propose to the commission measures that are designed to
 18 meet the goals set forth in subsection ~~(1)~~ ~~(3)~~ and that provide
 19 additional customer benefits.

20 (6) ~~(5)~~—Expenditures under subsection ~~(4)~~ ~~(5)~~ shall not exceed
 21 3% of the costs of implementing the energy ~~optimization~~ **WASTE**
 22 **REDUCTION** plan.

23 (7) **THIS SECTION AS AMENDED BY THE 2015 AMENDATORY ACT THAT**
 24 **ADDED THIS SUBSECTION TAKES EFFECT 90 DAYS AFTER THE DATE THAT ACT**
 25 **IS ENACTED INTO LAW.**

26 (8) **THIS SECTION IS REPEALED EFFECTIVE JANUARY 1, 2019.**

27 **SEC. 72. (1) A NATURAL GAS PROVIDER WAS REQUIRED TO FILE A**

1 PROPOSED ENERGY OPTIMIZATION PLAN WITH THE COMMISSION BY MARCH 3,
2 2009. THOSE PLANS REMAIN IN EFFECT, SUBJECT TO ANY AMENDMENTS, AS
3 ENERGY WASTE REDUCTION PLANS.

4 (2) THE OVERALL GOAL OF AN ENERGY WASTE REDUCTION PLAN SHALL
5 BE TO REDUCE THE FUTURE COSTS OF NATURAL GAS PROVIDER SERVICE TO
6 CUSTOMERS.

7 (3) AN ENERGY WASTE REDUCTION PLAN SHALL DO ALL OF THE
8 FOLLOWING:

9 (A) PROPOSE A SET OF ENERGY WASTE REDUCTION PROGRAMS THAT
10 INCLUDE OFFERINGS FOR EACH CUSTOMER CLASS, INCLUDING LOW-INCOME
11 RESIDENTIAL. THE COMMISSION SHALL ALLOW A PROVIDER FLEXIBILITY TO
12 TAILOR THE RELATIVE AMOUNT OF EFFORT DEVOTED TO EACH CUSTOMER CLASS
13 BASED ON THE SPECIFIC CHARACTERISTICS OF THE PROVIDER'S SERVICE
14 TERRITORY.

15 (B) SPECIFY NECESSARY FUNDING LEVELS.

16 (C) DESCRIBE HOW ENERGY WASTE REDUCTION PROGRAM COSTS WILL BE
17 RECOVERED AS PROVIDED IN SECTION 89A(2), INCLUDING SPECIFYING
18 WHETHER THE CHARGES TO RECOVER COSTS UNDER SECTION 89A(2) WILL BE
19 VOLUMETRIC OR FIXED PER-METER CHARGES.

20 (D) ENSURE, TO THE EXTENT FEASIBLE, THAT CHARGES COLLECTED
21 FROM A PARTICULAR CUSTOMER RATE CLASS ARE SPENT ON ENERGY WASTE
22 REDUCTION PROGRAMS FOR THAT RATE CLASS.

23 (E) DEMONSTRATE THAT THE PROPOSED ENERGY WASTE REDUCTION
24 PROGRAMS AND FUNDING ARE SUFFICIENT TO ENSURE THE ACHIEVEMENT OF
25 APPLICABLE ENERGY WASTE REDUCTION STANDARDS.

26 (F) SPECIFY WHETHER THE NUMBER OF DECATHERMS OR MCFS OF
27 NATURAL GAS USED IN THE CALCULATION OF INCREMENTAL ENERGY SAVINGS

1 UNDER SECTION 77A WILL BE WEATHER-NORMALIZED OR BASED ON THE
2 AVERAGE NUMBER OF DECATHERMS OR MCFS OF NATURAL GAS SOLD BY THE
3 PROVIDER ANNUALLY DURING THE PREVIOUS 3 YEARS TO RETAIL CUSTOMERS
4 IN THIS STATE. ONCE THE PLAN IS APPROVED BY THE COMMISSION, THIS
5 OPTION SHALL NOT BE CHANGED.

6 (G) DEMONSTRATE THAT THE PROVIDER'S ENERGY WASTE REDUCTION
7 PROGRAMS, EXCLUDING PROGRAM OFFERINGS TO LOW-INCOME RESIDENTIAL
8 CUSTOMERS, WILL COLLECTIVELY BE COST-EFFECTIVE.

9 (H) PROVIDE FOR THE PRACTICAL AND EFFECTIVE ADMINISTRATION OF
10 THE PROPOSED ENERGY WASTE REDUCTION PROGRAMS. THE COMMISSION SHALL
11 ALLOW NATURAL GAS PROVIDERS FLEXIBILITY IN DESIGNING THEIR ENERGY
12 WASTE REDUCTION PROGRAMS AND ADMINISTRATIVE APPROACH, INCLUDING THE
13 FLEXIBILITY TO DETERMINE THE RELATIVE AMOUNT OF EFFORT TO BE
14 DEVOTED TO EACH CUSTOMER CLASS BASED ON THE SPECIFIC
15 CHARACTERISTICS OF THE NATURAL GAS PROVIDER'S SERVICE TERRITORY. A
16 NATURAL GAS PROVIDER'S ENERGY WASTE REDUCTION PROGRAMS OR ANY PART
17 THEREOF MAY BE ADMINISTERED, AT THE NATURAL GAS PROVIDER'S OPTION,
18 BY THE PROVIDER, ALONE OR JOINTLY WITH OTHER NATURAL GAS PROVIDERS,
19 BY A STATE AGENCY, OR BY AN APPROPRIATE EXPERIENCED NONPROFIT
20 ORGANIZATION SELECTED AFTER A COMPETITIVE BID PROCESS.

21 (I) INCLUDE A PROCESS FOR OBTAINING AN INDEPENDENT EXPERT
22 EVALUATION OF THE ACTUAL ENERGY WASTE REDUCTION PROGRAMS TO VERIFY
23 THE INCREMENTAL ENERGY SAVINGS FROM EACH ENERGY WASTE REDUCTION
24 PROGRAM FOR PURPOSES OF SECTION 77A. ALL SUCH EVALUATIONS SHALL BE
25 SUBJECT TO PUBLIC REVIEW AND COMMISSION OVERSIGHT.

26 (4) SUBJECT TO SUBSECTION (5), AN ENERGY WASTE REDUCTION PLAN
27 MAY DO 1 OR MORE OF THE FOLLOWING:

1 (A) UTILIZE EDUCATIONAL PROGRAMS DESIGNED TO ALTER CONSUMER
2 BEHAVIOR OR ANY OTHER MEASURES THAT CAN REASONABLY BE USED TO MEET
3 THE GOAL SET FORTH IN SUBSECTION (2).

4 (B) PROPOSE TO THE COMMISSION MEASURES THAT ARE DESIGNED TO
5 MEET THE GOAL SET FORTH IN SUBSECTION (2) AND THAT PROVIDE
6 ADDITIONAL CUSTOMER BENEFITS.

7 (5) EXPENDITURES UNDER SUBSECTION (4) SHALL NOT EXCEED 3% OF
8 THE COSTS OF IMPLEMENTING THE ENERGY WASTE REDUCTION PLAN.

9 (6) THIS SECTION TAKES EFFECT JANUARY 1, 2019.

10 Sec. 73. (1) A **NATURAL GAS** provider's energy optimization
11 **WASTE REDUCTION** plan shall be filed ~~WITH AND~~ reviewed, and
12 approved or rejected, **AND ENFORCED** by the commission. ~~and enforced~~
13 ~~subject to the same procedures that apply to a renewable energy~~
14 ~~plan.~~

15 (2) The commission shall not approve a proposed energy
16 ~~optimization~~ **WASTE REDUCTION** plan unless the commission determines
17 that the EO plan meets the utility system resource cost test and is
18 reasonable and prudent. In determining whether the ~~EO~~ **ENERGY WASTE**
19 **REDUCTION** plan is reasonable and prudent, the commission shall
20 review each element and consider whether it would reduce the future
21 cost of service for the **NATURAL GAS** provider's customers. In
22 addition, the commission shall consider at least all of the
23 following:

24 (a) The specific changes in customers' consumption patterns
25 that the proposed ~~EO~~ **ENERGY WASTE REDUCTION** plan is attempting to
26 influence.

27 (b) The cost and benefit analysis and other justification for

1 specific programs and measures included in a proposed ~~EO-ENERGY~~
2 **WASTE REDUCTION** plan.

3 (c) Whether the proposed ~~EO-ENERGY WASTE REDUCTION~~ plan is
4 consistent with any long-range resource plan filed by the provider
5 with the commission.

6 (d) Whether the proposed ~~EO-ENERGY WASTE REDUCTION~~ plan will
7 result in any unreasonable prejudice or disadvantage to any class
8 of customers.

9 (e) The extent to which the ~~EO-ENERGY WASTE REDUCTION~~ plan
10 provides programs that are available, affordable, and useful to all
11 customers.

12 (3) **EVERY 2 YEARS AFTER INITIAL APPROVAL OF AN ENERGY WASTE**
13 **REDUCTION PLAN UNDER SUBSECTION (2), THE COMMISSION SHALL REVIEW**
14 **THE PLAN. THE COMMISSION SHALL CONDUCT A CONTESTED CASE HEARING ON**
15 **THE PLAN PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969,**
16 **1969 PA 306, MCL 24.201 TO 24.328. AFTER THE HEARING, THE**
17 **COMMISSION SHALL APPROVE, WITH ANY CHANGES CONSENTED TO BY THE**
18 **NATURAL GAS PROVIDER, OR REJECT THE PLAN AND ANY PROPOSED**
19 **AMENDMENTS TO THE PLAN.**

20 (4) **IF A NATURAL GAS PROVIDER PROPOSES TO AMEND ITS PLAN AT A**
21 **TIME OTHER THAN DURING THE BIENNIAL REVIEW PROCESS UNDER SUBSECTION**
22 **(3), THE PROVIDER SHALL FILE THE PROPOSED AMENDMENT WITH THE**
23 **COMMISSION. AFTER THE HEARING AND WITHIN 90 DAYS AFTER THE**
24 **AMENDMENT IS FILED, THE COMMISSION SHALL APPROVE, WITH ANY CHANGES**
25 **CONSENTED TO BY THE PROVIDER, OR REJECT THE PLAN AND THE PROPOSED**
26 **AMENDMENT OR AMENDMENTS TO THE PLAN.**

27 (5) **IF THE COMMISSION REJECTS A PROPOSED PLAN OR AMENDMENT**

1 UNDER THIS SECTION, THE COMMISSION SHALL EXPLAIN IN WRITING THE
2 REASONS FOR ITS DETERMINATION.

3 (6) THIS SECTION, AS AMENDED BY THE 2015 AMENDATORY ACT THAT
4 ADDED THIS SUBSECTION, TAKES EFFECT JANUARY 1, 2019.

5 SEC. 74. (1) A PROVIDER'S ENERGY WASTE REDUCTION PLAN SHALL BE
6 FILED WITH AND REVIEWED, APPROVED OR REJECTED, AND ENFORCED BY THE
7 COMMISSION.

8 (2) THE COMMISSION SHALL NOT APPROVE A PROPOSED ENERGY WASTE
9 REDUCTION PLAN UNLESS THE COMMISSION DETERMINES THAT THE ENERGY
10 WASTE REDUCTION PLAN MEETS THE UTILITY SYSTEM RESOURCE COST TEST
11 AND IS REASONABLE AND PRUDENT. IN DETERMINING WHETHER THE ENERGY
12 WASTE REDUCTION PLAN IS REASONABLE AND PRUDENT, THE COMMISSION
13 SHALL REVIEW EACH ELEMENT AND CONSIDER WHETHER IT WOULD REDUCE THE
14 FUTURE COST OF SERVICE FOR THE PROVIDER'S CUSTOMERS. IN ADDITION,
15 THE COMMISSION SHALL CONSIDER AT LEAST ALL OF THE FOLLOWING:

16 (A) THE SPECIFIC CHANGES IN CUSTOMERS' CONSUMPTION PATTERNS
17 THAT THE PROPOSED ENERGY WASTE REDUCTION PLAN IS ATTEMPTING TO
18 INFLUENCE.

19 (B) THE COST AND BENEFIT ANALYSIS AND OTHER JUSTIFICATION FOR
20 SPECIFIC PROGRAMS AND MEASURES INCLUDED IN A PROPOSED ENERGY WASTE
21 REDUCTION PLAN.

22 (C) WHETHER THE PROPOSED ENERGY WASTE REDUCTION PLAN IS
23 CONSISTENT WITH ANY LONG-RANGE RESOURCE PLAN FILED BY THE PROVIDER
24 WITH THE COMMISSION.

25 (D) WHETHER THE PROPOSED ENERGY WASTE REDUCTION PLAN WILL
26 RESULT IN ANY UNREASONABLE PREJUDICE OR DISADVANTAGE TO ANY CLASS
27 OF CUSTOMERS.

1 (E) THE EXTENT TO WHICH THE ENERGY WASTE REDUCTION PLAN
2 PROVIDES PROGRAMS THAT ARE AVAILABLE, AFFORDABLE, AND USEFUL TO ALL
3 CUSTOMERS.

4 (3) EVERY 2 YEARS AFTER INITIAL APPROVAL OF AN ENERGY WASTE
5 REDUCTION PLAN UNDER SUBSECTION (2), THE COMMISSION SHALL REVIEW
6 THE PLAN. THE COMMISSION SHALL CONDUCT A CONTESTED CASE HEARING ON
7 THE PLAN PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969,
8 1969 PA 306, MCL 24.201 TO 24.328. AFTER THE HEARING, THE
9 COMMISSION SHALL APPROVE, WITH ANY CHANGES CONSENTED TO BY THE
10 PROVIDER, OR REJECT THE PLAN AND ANY PROPOSED AMENDMENTS TO THE
11 PLAN.

12 (4) IF A PROVIDER PROPOSES TO AMEND ITS PLAN AT A TIME OTHER
13 THAN DURING THE BIENNIAL REVIEW PROCESS UNDER SUBSECTION (3), THE
14 PROVIDER SHALL FILE THE PROPOSED AMENDMENT WITH THE COMMISSION.
15 AFTER THE HEARING AND WITHIN 90 DAYS AFTER THE AMENDMENT IS FILED,
16 THE COMMISSION SHALL APPROVE, WITH ANY CHANGES CONSENTED TO BY THE
17 PROVIDER, OR REJECT THE PLAN AND THE PROPOSED AMENDMENT OR
18 AMENDMENTS TO THE PLAN.

19 (5) BY 270 DAYS AFTER THE EFFECTIVE DATE OF THE 2015
20 AMENDATORY ACT THAT ADDED THIS SECTION, AN ELECTRIC PROVIDER SHALL
21 FILE WITH THE COMMISSION A PROPOSED PLAN AMENDMENT UNDER SUBSECTION
22 (3) OR (4) TO REFLECT THE PHASEOUT OF THE ENERGY WASTE REDUCTION
23 STANDARD UNDER SECTION 77.

24 (6) IF THE COMMISSION REJECTS A PROPOSED PLAN OR AMENDMENT
25 UNDER THIS SECTION, THE COMMISSION SHALL EXPLAIN IN WRITING THE
26 REASONS FOR ITS DETERMINATION.

27 (7) THIS SECTION TAKES EFFECT 90 DAYS AFTER THE EFFECTIVE DATE

1 OF THE 2015 AMENDATORY ACT THAT ADDED THIS SECTION.

2 (8) THIS SECTION IS REPEALED EFFECTIVE JANUARY 1, 2019.

3 Sec. 75. (1) An energy ~~optimization~~ **WASTE REDUCTION** plan of a
4 provider whose rates are regulated by the commission may authorize
5 a commensurate financial incentive for the provider for exceeding
6 the energy ~~optimization~~ **WASTE REDUCTION** performance standard.

7 Payment of any financial incentive authorized in the ~~EO~~ **ENERGY**
8 **WASTE REDUCTION** plan is subject to the approval of the commission.

9 The total amount of a financial incentive shall not exceed the
10 lesser of the following amounts:

11 ~~—— (a) 25% of the net cost reductions experienced by the~~
12 ~~provider's customers as a result of implementation of the energy~~
13 ~~optimization plan.~~

14 ~~—— (b) 15% percent~~ **20%** of the provider's actual energy efficiency
15 **WASTE REDUCTION** program expenditures for the year.

16 (2) THIS SECTION AS AMENDED BY THE 2015 AMENDATORY ACT THAT
17 ADDED THIS SUBSECTION TAKES EFFECT 90 DAYS AFTER THE DATE THAT ACT
18 IS ENACTED INTO LAW.

19 Sec. 77. (1) Except as provided in section 81 and subject to
20 the sales revenue expenditure limits in section 89, an electric
21 provider's energy ~~optimization~~ **WASTE REDUCTION** programs under this
22 subpart shall collectively achieve the following minimum energy
23 savings:

24 ~~—— (a) Biennial incremental energy savings in 2008-2009~~
25 ~~equivalent to 0.3% of total annual retail electricity sales in~~
26 ~~megawatt hours in 2007.~~

27 ~~—— (b) Annual incremental energy savings in 2010 equivalent to~~

1 ~~0.5% of total annual retail electricity sales in megawatt hours in~~
2 ~~2009.~~

3 ~~—— (c) Annual incremental energy savings in 2011 equivalent to~~
4 ~~0.75% of total annual retail electricity sales in megawatt hours in~~
5 ~~2010.~~

6 ~~(d) Annual **ANNUAL** incremental energy savings in 2012, 2013,~~
7 ~~2014, and 2015 and, subject to section 97, each year thereafter~~
8 ~~2016, 2017, AND 2018 equivalent to 1.0% of total annual retail~~
9 ~~electricity sales in megawatt hours in the preceding year.~~

10 (2) If an electric provider uses load management to achieve
11 energy savings under its energy ~~optimization~~ **WASTE REDUCTION** plan,
12 the minimum energy savings required under subsection (1) shall be
13 adjusted by an amount such that the ratio of the minimum energy
14 savings to the sum of maximum expenditures under section 89 and the
15 load management expenditures remains constant.

16 ~~—— (3) A natural gas provider shall meet the following minimum~~
17 ~~energy optimization standards using energy efficiency programs~~
18 ~~under this subpart:~~

19 ~~—— (a) Biennial incremental energy savings in 2008-2009~~
20 ~~equivalent to 0.1% of total annual retail natural gas sales in~~
21 ~~decatherms or equivalent MCFs in 2007.~~

22 ~~—— (b) Annual incremental energy savings in 2010 equivalent to~~
23 ~~0.25% of total annual retail natural gas sales in decatherms or~~
24 ~~equivalent MCFs in 2009.~~

25 ~~—— (c) Annual incremental energy savings in 2011 equivalent to~~
26 ~~0.5% of total annual retail natural gas sales in decatherms or~~
27 ~~equivalent MCFs in 2010.~~

1 (3) ~~(d) Annual~~ **SUBJECT TO THE SALES REVENUE EXPENDITURE LIMITS**
2 **IN SECTION 89, A NATURAL GAS PROVIDER'S ENERGY WASTE REDUCTION**
3 **PROGRAM UNDER THIS SUBPART SHALL ACHIEVE ANNUAL** incremental energy
4 savings in ~~2012, 2013, 2014, and 2015~~ and, subject to section 97,
5 each year thereafter equivalent to 0.75% of total annual retail
6 natural gas sales in decatherms or equivalent MCFs in the preceding
7 year.

8 (4) Incremental energy savings under subsection (1) or (3) for
9 ~~the 2008-2009 biennium or any year thereafter~~ **A YEAR** shall be
10 determined for a provider by adding the energy savings expected to
11 be achieved ~~during a 1-year period by energy optimization~~ **WASTE**
12 **REDUCTION** measures implemented during ~~the 2008-2009 biennium or any~~
13 ~~year thereafter~~ **THAT YEAR** under any energy efficiency programs
14 consistent with the provider's energy ~~efficiency~~ **WASTE REDUCTION**
15 plan. **THE ENERGY SAVINGS EXPECTED TO BE ACHIEVED SHALL BE**
16 **DETERMINED USING THE 2015 "MICHIGAN ENERGY MEASURES DATABASE"**
17 **SUPPLIED BY MORGAN MARKETING PARTNERS, SUBJECT TO ANY UPDATES THAT**
18 **THE COMMISSION APPROVES AS BEING REASONABLE AND CONSISTENT WITH THE**
19 **PURPOSES OF THIS SUBPART.**

20 (5) For purposes of calculations under subsection (1) or (3),
21 total annual retail electricity or natural gas sales in a year
22 shall be based on 1 of the following at the option of the provider
23 as specified in its energy ~~optimization~~ **WASTE REDUCTION** plan:

24 (a) The number of weather-normalized megawatt hours or
25 decatherms or equivalent MCFs sold by the provider to retail
26 customers in this state during the year preceding the ~~biennium or~~
27 year for which incremental energy savings are being calculated.

1 (b) The average number of megawatt hours or decatherms or
2 equivalent MCFs sold by the provider during the 3 years preceding
3 the ~~biennium~~ or year for which incremental energy savings are being
4 calculated.

5 ~~—— (6) For any year after 2012, an electric provider may~~
6 ~~substitute renewable energy credits associated with renewable~~
7 ~~energy generated that year from a renewable energy system~~
8 ~~constructed after the effective date of this act, advanced cleaner~~
9 ~~energy credits other than credits from industrial cogeneration~~
10 ~~using industrial waste energy, load management that reduces overall~~
11 ~~energy usage, or a combination thereof for energy optimization~~
12 ~~credits otherwise required to meet the energy optimization~~
13 ~~performance standard, if the substitution is approved by the~~
14 ~~commission. The commission shall not approve a substitution unless~~
15 ~~the commission determines that the substitution is cost effective~~
16 ~~and, if the substitution involves advanced cleaner energy credits,~~
17 ~~that the advanced cleaner energy system provides carbon dioxide~~
18 ~~emissions benefits. In determining whether the substitution of~~
19 ~~advanced cleaner energy credits is cost effective compared to other~~
20 ~~available energy optimization measures, the commission shall~~
21 ~~consider the environmental costs related to the advanced cleaner~~
22 ~~energy system, including the costs of environmental control~~
23 ~~equipment or greenhouse gas constraints or taxes. The commission's~~
24 ~~determinations shall be made after a contested case hearing that~~
25 ~~includes consultation with the department of environmental quality~~
26 ~~on the issue of carbon dioxide emissions benefits, if relevant, and~~
27 ~~environmental costs.~~

~~1 (7) Renewable energy credits, advanced cleaner energy credits,
2 load management that reduces overall energy usage, or a combination
3 thereof shall not be used by a provider to meet more than 10% of
4 the energy optimization standard. Substitutions for energy
5 optimization credits shall be made at the following rates per
6 energy optimization credit:~~

~~7 (a) 1 renewable energy credit.~~

~~8 (b) 1 advanced cleaner energy credit from plasma arc
9 gasification.~~

~~10 (c) 4 advanced cleaner energy credits other than from plasma
11 arc gasification.~~

**12 (6) THIS SECTION AS AMENDED BY THE 2015 AMENDATORY ACT THAT
13 ADDED THIS SUBSECTION TAKES EFFECT 90 DAYS AFTER THE DATE THAT ACT
14 IS ENACTED INTO LAW.**

15 (7) THIS SECTION IS REPEALED EFFECTIVE JANUARY 1, 2019.

**16 SEC. 77A. (1) SUBJECT TO THE SALES REVENUE EXPENDITURE LIMITS
17 IN SECTION 89, A NATURAL GAS PROVIDER'S ENERGY WASTE REDUCTION
18 PROGRAM UNDER THIS SUBPART SHALL ACHIEVE ANNUAL INCREMENTAL ENERGY
19 SAVINGS IN 2019 AND, SUBJECT TO SECTION 97, EACH YEAR THEREAFTER
20 EQUIVALENT TO 0.75% OF TOTAL ANNUAL RETAIL NATURAL GAS SALES IN
21 DECATHERMS OR EQUIVALENT MCFS IN THE PRECEDING YEAR.**

**22 (2) INCREMENTAL ENERGY SAVINGS UNDER SUBSECTION (1) FOR A YEAR
23 SHALL BE DETERMINED FOR A NATURAL GAS PROVIDER BY ADDING THE ENERGY
24 SAVINGS EXPECTED TO BE ACHIEVED BY ENERGY WASTE REDUCTION MEASURES
25 IMPLEMENTED DURING THAT YEAR UNDER ANY ENERGY EFFICIENCY PROGRAMS
26 CONSISTENT WITH THE PROVIDER'S ENERGY WASTE REDUCTION PLAN. THE
27 ENERGY SAVINGS EXPECTED TO BE ACHIEVED SHALL BE DETERMINED USING**

1 THE 2015 "MICHIGAN ENERGY MEASURES DATABASE" SUPPLIED BY MORGAN
2 MARKETING PARTNERS, SUBJECT TO ANY UPDATES THAT THE COMMISSION
3 APPROVES AS BEING REASONABLE AND CONSISTENT WITH THE PURPOSES OF
4 THIS SUBPART.

5 (3) FOR PURPOSES OF CALCULATIONS UNDER SUBSECTION (1), TOTAL
6 ANNUAL RETAIL NATURAL GAS SALES IN A YEAR SHALL BE BASED ON 1 OF
7 THE FOLLOWING AT THE OPTION OF THE NATURAL GAS PROVIDER AS
8 SPECIFIED IN ITS ENERGY WASTE REDUCTION PLAN:

9 (A) THE NUMBER OF WEATHER-NORMALIZED DECATHERMS OR EQUIVALENT
10 MCFS SOLD BY THE PROVIDER TO RETAIL CUSTOMERS IN THIS STATE DURING
11 THE YEAR PRECEDING THE YEAR FOR WHICH INCREMENTAL ENERGY SAVINGS
12 ARE BEING CALCULATED.

13 (B) THE AVERAGE NUMBER OF DECATHERMS OR EQUIVALENT MCFS SOLD
14 BY THE PROVIDER DURING THE 3 YEARS PRECEDING THE YEAR FOR WHICH
15 INCREMENTAL ENERGY SAVINGS ARE BEING CALCULATED.

16 (4) THIS SECTION TAKES EFFECT JANUARY 1, 2019.

17 SEC. 78. (1) IF OVER A 2-YEAR PERIOD A NATURAL GAS PROVIDER
18 CANNOT ACHIEVE THE ENERGY WASTE REDUCTION STANDARD IN A COST-
19 EFFECTIVE MANNER, THE NATURAL GAS PROVIDER MAY PETITION THE
20 COMMISSION TO ESTABLISH ALTERNATIVE ENERGY WASTE REDUCTION
21 STANDARDS.

22 (2) A PETITION FILED PURSUANT TO THIS SECTION SHALL:

23 (A) IDENTIFY THE EFFORTS TAKEN BY THE NATURAL GAS PROVIDER TO
24 MEET THE ENERGY WASTE REDUCTION STANDARD.

25 (B) EXPLAIN WHY THE ENERGY WASTE REDUCTION STANDARD CANNOT
26 REASONABLY AND COST-EFFECTIVELY BE ACHIEVED.

27 (C) PROPOSE A REVISED ENERGY WASTE REDUCTION TO BE ACHIEVED BY

1 THE NATURAL GAS PROVIDER.

2 (3) IF, BASED ON A REVIEW OF THE PETITION FILED UNDER THIS
 3 SECTION, THE COMMISSION DETERMINES THAT THE NATURAL GAS PROVIDER
 4 HAS BEEN UNABLE TO REASONABLY AND COST-EFFECTIVELY ACHIEVE THE
 5 ENERGY WASTE REDUCTION STANDARD, THE COMMISSION SHALL REVISE THE
 6 ENERGY WASTE REDUCTION STANDARD AS APPLIED TO THE NATURAL GAS
 7 PROVIDER TO A LEVEL THAT CAN REASONABLY AND COST-EFFECTIVELY BE
 8 ACHIEVED.

9 (4) THIS SECTION TAKES EFFECT 90 DAYS AFTER THE DATE THE 2015
 10 AMENDATORY ACT THAT ADDED THIS SECTION IS ENACTED INTO LAW.

11 Sec. 81. (1) This section applies to electric providers that
 12 meet both of the following requirements:

13 (a) Serve not more than 200,000 customers in this state.

14 (b) Had average electric rates for residential customers using
 15 1,000 kilowatt hours per month that ~~are~~**WERE** less than 75% of the
 16 average electric rates for residential customers using 1,000
 17 kilowatt hours per month for all electric utilities in this state,
 18 according to the January 1, 2007, "comparison of average rates for
 19 MPSC-regulated electric utilities in Michigan" compiled by the
 20 commission.

21 (2) Beginning 2 years after a provider described in subsection
 22 (1) begins implementation of its energy ~~optimization~~**WASTE**
 23 **REDUCTION** plan, the provider may petition the commission to
 24 establish alternative energy ~~optimization~~**WASTE REDUCTION**
 25 standards. The petition shall identify the efforts taken by the
 26 provider to meet the electric provider energy ~~optimization~~**WASTE**
 27 **REDUCTION** standards and demonstrate why the energy ~~optimization~~

1 **WASTE REDUCTION** standards cannot reasonably be met with energy
 2 ~~optimization~~ **WASTE REDUCTION** programs that are collectively cost-
 3 effective. If the commission finds that the petition meets the
 4 requirements of this subsection, the commission shall revise the
 5 energy ~~optimization~~ **WASTE REDUCTION** standards as applied to that
 6 electric provider to a level that can reasonably be met with energy
 7 ~~optimization~~ **WASTE REDUCTION** programs that are collectively cost-
 8 effective.

9 (3) **THIS SECTION AS AMENDED BY THE 2015 AMENDATORY ACT THAT**
 10 **ADDED THIS SUBSECTION TAKES EFFECT 90 DAYS AFTER THE DATE THAT ACT**
 11 **IS ENACTED INTO LAW.**

12 (4) **THIS SECTION IS REPEALED EFFECTIVE JANUARY 1, 2019.**

13 Sec. 83. (1) One energy ~~optimization~~ **WASTE REDUCTION** credit
 14 shall be granted to a ~~an~~ **ELECTRIC** provider for each megawatt hour
 15 of annual incremental energy savings achieved through energy
 16 ~~optimization~~ **WASTE REDUCTION**.

17 (2) An energy ~~optimization~~ **WASTE REDUCTION** credit expires as
 18 follows:

19 (a) When used by a provider to comply with its energy
 20 ~~optimization~~ **WASTE REDUCTION** performance standard.

21 ~~(b) When substituted for a renewable energy credit under~~
 22 ~~section 27.~~

23 **(B)** ~~(c)~~ As provided in subsection (3).

24 (3) If a provider's incremental energy savings in the 2008-
 25 2009 biennium or any year thereafter exceed the applicable energy
 26 ~~optimization~~ **WASTE REDUCTION** standard, the associated energy
 27 ~~optimization~~ **WASTE REDUCTION** credits may be carried forward and

1 applied to the next year's energy ~~optimization~~ **WASTE REDUCTION**
2 standard. However, all of the following apply:

3 (a) The number of energy ~~optimization~~ **WASTE REDUCTION** credits
4 carried forward shall not exceed 1/3 of the next year's standard.
5 Any energy ~~optimization~~ **WASTE REDUCTION** credits carried forward to
6 the next year shall expire that year. ~~Any remaining energy~~
7 ~~optimization credits shall expire at the end of the year in which~~
8 ~~the incremental energy savings were achieved, unless substituted,~~
9 ~~by an electric provider, for renewable energy credits under section~~
10 ~~27.~~

11 (b) Energy ~~optimization~~ **WASTE REDUCTION** credits shall not be
12 carried forward if, for its performance during the same biennium or
13 year, the provider accepts a financial incentive under section 75.
14 The excess energy ~~optimization~~ **WASTE REDUCTION** credits shall expire
15 at the end of the year in which the incremental energy savings were
16 achieved. ~~, unless substituted, by an electric provider, for~~
17 ~~renewable energy credits under section 27.~~

18 (4) **THIS SECTION AS AMENDED BY THE 2015 AMENDATORY ACT THAT**
19 **ADDED THIS SUBSECTION TAKES EFFECT 90 DAYS AFTER THE DATE THAT ACT**
20 **IS ENACTED INTO LAW.**

21 (5) **THIS SECTION IS REPEALED EFFECTIVE JANUARY 1, 2019.**

22 Sec. 85. (1) An energy ~~optimization~~ **WASTE REDUCTION** credit is
23 not transferable to another entity.

24 ~~— (2) The commission, in the 2011 report under section 97, shall~~
25 ~~make recommendations concerning a program for transferability of~~
26 ~~energy optimization credits.~~

27 (2) **THIS SECTION AS AMENDED BY THE 2015 AMENDATORY ACT THAT**

1 ADDED THIS SUBSECTION TAKES EFFECT 90 DAYS AFTER THE DATE THAT ACT
2 IS ENACTED INTO LAW.

3 (3) THIS SECTION IS REPEALED EFFECTIVE JANUARY 1, 2019.

4 Sec. 87. (1) The commission shall establish an energy
5 ~~optimization~~ **WASTE REDUCTION** credit certification and tracking
6 program. The certification and tracking program may be contracted
7 to and performed by a third party through a system of competitive
8 bidding. The program shall include all of the following:

9 (a) A determination of the date after which energy
10 ~~optimization~~ **WASTE REDUCTION** must be achieved to be eligible for an
11 energy ~~optimization~~ **WASTE REDUCTION** credit.

12 ~~— (b) A method for ensuring that each energy optimization credit~~
13 ~~substituted for a renewable energy credit under section 27 or~~
14 ~~carried forward under section 83 is properly accounted for.~~

15 (B) ~~(e)~~ If the system is established by the commission,
16 allowance for issuance and use of energy ~~optimization~~ **WASTE**
17 **REDUCTION** credits in electronic form.

18 (2) THIS SECTION AS AMENDED BY THE 2015 AMENDATORY ACT THAT
19 ADDED THIS SUBSECTION TAKES EFFECT 90 DAYS AFTER THE DATE THAT ACT
20 IS ENACTED INTO LAW.

21 (3) THIS SECTION IS REPEALED EFFECTIVE JANUARY 1, 2019.

22 Sec. 89. (1) The commission shall allow a provider whose rates
23 are regulated by the commission to recover the actual costs of
24 implementing its approved energy ~~optimization~~ **WASTE REDUCTION** plan.
25 However, costs exceeding the overall funding levels specified in
26 the energy ~~optimization~~ **WASTE REDUCTION** plan are not recoverable
27 unless those costs are reasonable and prudent and meet the utility

1 system resource cost test. Furthermore, costs for load management
2 undertaken pursuant to an energy ~~optimization~~ **WASTE REDUCTION** plan
3 are not recoverable as energy ~~optimization~~ **WASTE REDUCTION** program
4 costs under this section, but may be recovered as described in
5 section 95.

6 (2) Under subsection (1), costs shall be recovered from all
7 ~~natural gas customers and from residential electric customers by~~
8 ~~volumetric charges, from all other metered electric customers by~~
9 ~~per meter charges, and from unmetered electric customers by an~~
10 ~~appropriate charge, applied to utility bills as an itemized~~
11 ~~charge.~~ **OR FIXED, PER-METER CHARGES. FIXED, PER-METER CHARGES UNDER**
12 **THIS SUBSECTION MAY VARY BY RATE CLASS. CHARGES UNDER THIS**
13 **SUBSECTION SHALL NOT BE ITEMIZED ON UTILITY BILLS.**

14 (3) For the electric primary customer rate class customers of
15 electric providers and customers of natural gas providers with an
16 aggregate annual natural gas billing demand of more than 100,000
17 decatherms or equivalent MCFs for all sites in the natural gas
18 utility's service territory, the cost recovery under subsection (1)
19 shall not exceed 1.7% of total retail sales revenue for that
20 customer class. For electric secondary customers and for
21 residential customers, the cost recovery shall not exceed 2.2% of
22 total retail sales revenue for those customer classes.

23 (4) Upon petition by a provider whose rates are regulated by
24 the commission, the commission shall authorize the provider to
25 capitalize all energy efficiency and energy conservation equipment,
26 materials, and installation costs with an expected economic life
27 greater than 1 year incurred in implementing its energy

1 ~~optimization~~ **WASTE REDUCTION** plan, including such costs paid to
2 third parties, such as customer rebates and customer incentives.
3 The provider shall also propose depreciation treatment with respect
4 to its capitalized costs in its energy ~~optimization~~ **WASTE REDUCTION**
5 plan, and the commission shall order reasonable depreciation
6 treatment related to these capitalized costs. A provider shall not
7 capitalize payments made to an independent energy ~~optimization~~
8 **WASTE REDUCTION** program administrator under section 91.

9 (5) The established funding level for low income residential
10 programs shall be provided from each customer rate class in
11 proportion to that customer rate class's funding of the provider's
12 total energy ~~optimization~~ **WASTE REDUCTION** programs. Charges shall
13 be applied to distribution customers regardless of the source of
14 their electricity or natural gas supply.

15 (6) The commission shall authorize a natural gas provider that
16 spends a minimum of 0.5% of total natural gas retail sales
17 revenues, including natural gas commodity costs, in a year on
18 commission-approved energy ~~optimization~~ **WASTE REDUCTION** programs to
19 implement a symmetrical revenue decoupling true-up mechanism that
20 adjusts for sales volumes that are above or below the projected
21 levels that were used to determine the revenue requirement
22 authorized in the natural gas provider's most recent rate case. In
23 determining the symmetrical revenue decoupling true-up mechanism
24 utilized for each provider, the commission shall give deference to
25 the proposed mechanism submitted by the provider. The commission
26 may approve an alternative mechanism if the commission determines
27 that the alternative mechanism is reasonable and prudent. The

1 commission shall authorize the natural gas provider to decouple
2 rates regardless of whether the natural gas provider's energy
3 ~~optimization~~ **WASTE REDUCTION** programs are administered by the
4 provider or an independent energy ~~optimization~~ **WASTE REDUCTION**
5 program administrator under section 91.

6 (7) ~~A TO COMPLY WITH THE ENERGY WASTE REDUCTION STANDARD IN~~
7 **ANY YEAR, A** natural gas provider or an electric provider shall not
8 spend more than ~~the following percentage~~ **2.0%** of total utility
9 retail sales revenues, including electricity or natural gas
10 commodity costs, ~~in any year to comply with the energy optimization~~
11 ~~performance standard without specific approval from the~~
12 ~~commission.~~ **FOR THE SECOND YEAR PRECEDING.**

13 ~~—— (a) In 2009, 0.75% of total retail sales revenues for 2007.~~

14 ~~—— (b) In 2010, 1.0% of total retail sales revenues for 2008.~~

15 ~~—— (c) In 2011, 1.5% of total retail sales revenues for 2009.~~

16 ~~—— (d) In 2012 and each year thereafter, 2.0% of total retail~~
17 ~~sales revenues for the 2 years preceding.~~

18 (8) **THIS SECTION AS AMENDED BY THE 2015 AMENDATORY ACT THAT**
19 **ADDED THIS SUBSECTION TAKES EFFECT 90 DAYS AFTER THE DATE THAT ACT**
20 **IS ENACTED INTO LAW.**

21 (9) **THIS SECTION IS REPEALED EFFECTIVE JANUARY 1, 2019.**

22 **SEC. 89A. (1) THE COMMISSION SHALL ALLOW A NATURAL GAS**
23 **PROVIDER WHOSE RATES ARE REGULATED BY THE COMMISSION TO RECOVER THE**
24 **ACTUAL COSTS OF IMPLEMENTING ITS APPROVED ENERGY WASTE REDUCTION**
25 **PLAN. HOWEVER, COSTS EXCEEDING THE OVERALL FUNDING LEVELS SPECIFIED**
26 **IN THE ENERGY WASTE REDUCTION PLAN ARE NOT RECOVERABLE UNLESS THOSE**
27 **COSTS ARE REASONABLE AND PRUDENT AND MEET THE UTILITY SYSTEM**

1 RESOURCE COST TEST.

2 (2) UNDER SUBSECTION (1), COSTS SHALL BE RECOVERED FROM ALL
3 NATURAL GAS CUSTOMERS BY VOLUMETRIC CHARGES OR FIXED, PER-METER
4 CHARGES AS SPECIFIED IN THE ENERGY WASTE REDUCTION PLAN. FIXED,
5 PER-METER CHARGES UNDER THIS SUBSECTION MAY VARY BY RATE CLASS.
6 CHARGES UNDER THIS SUBSECTION SHALL NOT BE ITEMIZED ON UTILITY
7 BILLS.

8 (3) FOR CUSTOMERS OF NATURAL GAS PROVIDERS WITH AN AGGREGATE
9 ANNUAL NATURAL GAS BILLING DEMAND OF MORE THAN 100,000 DECATHERMS
10 OR EQUIVALENT MCFS FOR ALL SITES IN THE NATURAL GAS UTILITY'S
11 SERVICE TERRITORY, THE COST RECOVERY UNDER SUBSECTION (1) SHALL NOT
12 EXCEED 1.7% OF TOTAL RETAIL SALES REVENUE FOR THAT CUSTOMER CLASS.
13 FOR RESIDENTIAL CUSTOMERS, THE COST RECOVERY SHALL NOT EXCEED 2.2%
14 OF TOTAL RETAIL SALES REVENUE FOR THAT CUSTOMER CLASS.

15 (4) UPON PETITION BY A NATURAL GAS PROVIDER WHOSE RATES ARE
16 REGULATED BY THE COMMISSION, THE COMMISSION SHALL AUTHORIZE THE
17 PROVIDER TO CAPITALIZE ALL ENERGY EFFICIENCY AND ENERGY
18 CONSERVATION EQUIPMENT, MATERIALS, AND INSTALLATION COSTS WITH AN
19 EXPECTED ECONOMIC LIFE GREATER THAN 1 YEAR INCURRED IN IMPLEMENTING
20 ITS ENERGY WASTE REDUCTION PLAN, INCLUDING SUCH COSTS PAID TO THIRD
21 PARTIES, SUCH AS CUSTOMER REBATES AND CUSTOMER INCENTIVES. THE
22 PROVIDER SHALL ALSO PROPOSE DEPRECIATION TREATMENT WITH RESPECT TO
23 ITS CAPITALIZED COSTS IN ITS ENERGY WASTE REDUCTION PLAN, AND THE
24 COMMISSION SHALL ORDER REASONABLE DEPRECIATION TREATMENT RELATED TO
25 THESE CAPITALIZED COSTS. A NATURAL GAS PROVIDER SHALL NOT
26 CAPITALIZE PAYMENTS MADE TO AN INDEPENDENT ENERGY WASTE REDUCTION
27 PROGRAM ADMINISTRATOR UNDER SECTION 91A.

1 (5) THE ESTABLISHED FUNDING LEVEL FOR LOW-INCOME RESIDENTIAL
2 PROGRAMS SHALL BE PROVIDED FROM EACH CUSTOMER RATE CLASS IN
3 PROPORTION TO THAT CUSTOMER RATE CLASS'S FUNDING OF THE NATURAL GAS
4 PROVIDER'S TOTAL ENERGY WASTE REDUCTION PROGRAMS. CHARGES SHALL BE
5 APPLIED TO DISTRIBUTION CUSTOMERS REGARDLESS OF THE SOURCE OF THEIR
6 NATURAL GAS SUPPLY.

7 (6) THE COMMISSION SHALL AUTHORIZE A NATURAL GAS PROVIDER THAT
8 SPENDS A MINIMUM OF 0.5% OF TOTAL NATURAL GAS RETAIL SALES
9 REVENUES, INCLUDING NATURAL GAS COMMODITY COSTS, IN A YEAR ON
10 COMMISSION-APPROVED ENERGY WASTE REDUCTION PROGRAMS TO IMPLEMENT A
11 SYMMETRICAL REVENUE DECOUPLING TRUE-UP MECHANISM THAT ADJUSTS FOR
12 SALES VOLUMES THAT ARE ABOVE OR BELOW THE PROJECTED LEVELS THAT
13 WERE USED TO DETERMINE THE REVENUE REQUIREMENT AUTHORIZED IN THE
14 NATURAL GAS PROVIDER'S MOST RECENT RATE CASE. IN DETERMINING THE
15 SYMMETRICAL REVENUE DECOUPLING TRUE-UP MECHANISM UTILIZED FOR EACH
16 NATURAL GAS PROVIDER, THE COMMISSION SHALL GIVE DEFERENCE TO THE
17 PROPOSED MECHANISM SUBMITTED BY THE NATURAL GAS PROVIDER. THE
18 COMMISSION MAY APPROVE AN ALTERNATIVE MECHANISM IF THE COMMISSION
19 DETERMINES THAT THE ALTERNATIVE MECHANISM IS REASONABLE AND
20 PRUDENT. THE COMMISSION SHALL AUTHORIZE THE NATURAL GAS PROVIDER TO
21 DECOUPLE RATES REGARDLESS OF WHETHER THE NATURAL GAS PROVIDER'S
22 ENERGY WASTE REDUCTION PROGRAMS ARE ADMINISTERED BY THE PROVIDER OR
23 AN INDEPENDENT ENERGY WASTE REDUCTION PROGRAM ADMINISTRATOR UNDER
24 SECTION 91A.

25 (7) A NATURAL GAS PROVIDER SHALL NOT SPEND IN ANY YEAR MORE
26 THAN 2.0% OF TOTAL UTILITY RETAIL SALES REVENUES, INCLUDING NATURAL
27 GAS COMMODITY COSTS, FOR THE SECOND YEAR PRECEDING TO COMPLY WITH

1 THE ENERGY WASTE REDUCTION PERFORMANCE STANDARD WITHOUT SPECIFIC
2 APPROVAL FROM THE COMMISSION.

3 (8) THIS SECTION TAKES EFFECT JANUARY 1, 2019.

4 Sec. 91. (1) Except for section 89(6), sections 71 to 89 do
5 not apply to a provider that pays the following percentage of total
6 utility sales revenues, including electricity or natural gas

7 commodity costs, each year to an independent energy optimization
8 WASTE REDUCTION program administrator selected by the commission:

9 ~~(a) In 2009, 0.75% of total retail sales revenues for 2007.~~

10 ~~(b) In 2010, 1.0% of total retail sales revenues for 2008.~~

11 ~~(c) In 2011, 1.5% of total retail sales revenues for 2009.~~

12 ~~(d) In 2012 and each year thereafter, 2.0% of total retail
13 sales revenues for the 2 years preceding.~~

14 (A) FOR A NATURAL GAS PROVIDER, 2.0% OF TOTAL RETAIL SALES
15 REVENUES FOR THE SECOND YEAR PRECEDING.

16 (B) FOR AN ELECTRIC PROVIDER, AS FOLLOWS:

17 (i) FOR EACH YEAR THROUGH 2016, 2.0% OF TOTAL RETAIL SALES
18 REVENUES FOR 2014.

19 (ii) FOR 2017, 1.0% OF TOTAL RETAIL SALES REVENUES FOR 2015.

20 (iii) FOR 2018, 1.0% OF TOTAL RETAIL SALES REVENUES FOR 2016.

21 (2) An alternative compliance payment received from a provider
22 by the energy optimization ~~WASTE REDUCTION~~ program administrator
23 under subsection (1) shall be used to administer energy efficiency
24 programs for the provider. Money unspent in a year shall be carried
25 forward to be spent in the subsequent year.

26 (3) The commission shall allow a provider to recover an
27 alternative compliance payment under subsection (1). This cost

1 shall be recovered from ~~residential~~ customers by volumetric charges
2 ~~, from all other metered customers by per meter charges, and from~~
3 ~~unmetered customers by an appropriate charge, applied to~~ **OR FIXED,**
4 **PER-METER CHARGES. FIXED, PER-METER CHARGES UNDER THIS SUBSECTION**
5 **MAY VARY BY RATE CLASS. CHARGES UNDER THIS SUBSECTION SHALL NOT BE**
6 **ITEMIZED ON** utility bills.

7 (4) An alternative compliance payment under subsection (1)
8 shall only be used to fund energy ~~optimization~~ **WASTE REDUCTION**
9 programs for that provider's customers. To the extent feasible,
10 charges collected from a particular customer rate class and paid to
11 the energy ~~optimization~~ **WASTE REDUCTION** program administrator under
12 subsection (1) shall be devoted to energy ~~optimization~~ **WASTE**
13 **REDUCTION** programs and services for that rate class.

14 (5) Money paid to the energy ~~optimization~~ **WASTE REDUCTION**
15 program administrator under subsection (1) and not spent by the
16 administrator that year shall remain available for expenditure the
17 following year, subject to the requirements of subsection (4).

18 (6) The commission shall select a qualified nonprofit
19 organization to serve as an energy ~~optimization~~ **WASTE REDUCTION**
20 program administrator under this section, through a competitive bid
21 process.

22 (7) The commission shall arrange for a biennial independent
23 audit of the energy ~~optimization~~ **WASTE REDUCTION** program
24 administrator.

25 (8) **THIS SECTION AS AMENDED BY THE 2015 AMENDATORY ACT THAT**
26 **ADDED THIS SUBSECTION TAKES EFFECT 90 DAYS AFTER THE DATE THAT ACT**
27 **IS ENACTED INTO LAW.**

1 (9) THIS SECTION IS REPEALED EFFECTIVE JANUARY 1, 2019.
2 SEC. 91A. (1) EXCEPT FOR SECTION 89A(6), SECTIONS 71 TO 89A DO
3 NOT APPLY TO A NATURAL GAS PROVIDER THAT EACH YEAR PAYS 2.0% OF
4 TOTAL UTILITY SALES REVENUES, INCLUDING ELECTRICITY OR NATURAL GAS
5 COMMODITY COSTS, FOR THE SECOND YEAR PRECEDING TO AN INDEPENDENT
6 ENERGY WASTE REDUCTION PROGRAM ADMINISTRATOR SELECTED BY THE
7 COMMISSION.

8 (2) AN ALTERNATIVE COMPLIANCE PAYMENT RECEIVED FROM A NATURAL
9 GAS PROVIDER BY THE ENERGY WASTE REDUCTION PROGRAM ADMINISTRATOR
10 UNDER SUBSECTION (1) SHALL BE USED TO ADMINISTER ENERGY WASTE
11 REDUCTION PROGRAMS FOR THE PROVIDER. MONEY UNSPENT IN A YEAR SHALL
12 BE CARRIED FORWARD TO BE SPENT IN THE SUBSEQUENT YEAR.

13 (3) THE COMMISSION SHALL ALLOW A NATURAL GAS PROVIDER TO
14 RECOVER AN ALTERNATIVE COMPLIANCE PAYMENT UNDER SUBSECTION (1).
15 THIS COST SHALL BE RECOVERED FROM CUSTOMERS BY VOLUMETRIC CHARGES
16 OR FIXED, PER-METER CHARGES. FIXED, PER-METER CHARGES UNDER THIS
17 SUBSECTION MAY VARY BY RATE CLASS. CHARGES UNDER THIS SUBSECTION
18 SHALL NOT BE ITEMIZED ON UTILITY BILLS.

19 (4) AN ALTERNATIVE COMPLIANCE PAYMENT UNDER SUBSECTION (1)
20 SHALL ONLY BE USED TO FUND ENERGY WASTE REDUCTION PROGRAMS FOR THAT
21 PROVIDER'S CUSTOMERS. TO THE EXTENT FEASIBLE, CHARGES COLLECTED
22 FROM A PARTICULAR CUSTOMER RATE CLASS AND PAID TO THE ENERGY WASTE
23 REDUCTION PROGRAM ADMINISTRATOR UNDER SUBSECTION (1) SHALL BE
24 DEVOTED TO ENERGY WASTE REDUCTION PROGRAMS AND SERVICES FOR THAT
25 RATE CLASS.

26 (5) MONEY PAID TO THE ENERGY WASTE REDUCTION PROGRAM
27 ADMINISTRATOR UNDER SUBSECTION (1) AND NOT SPENT BY THE

1 ADMINISTRATOR THAT YEAR SHALL REMAIN AVAILABLE FOR EXPENDITURE THE
2 FOLLOWING YEAR, SUBJECT TO SUBSECTION (4).

3 (6) THE COMMISSION SHALL SELECT A QUALIFIED NONPROFIT
4 ORGANIZATION TO SERVE AS AN ENERGY WASTE REDUCTION PROGRAM
5 ADMINISTRATOR UNDER THIS SECTION THROUGH A COMPETITIVE BID PROCESS.

6 (7) THE COMMISSION SHALL ARRANGE FOR A BIENNIAL INDEPENDENT
7 AUDIT OF THE ENERGY WASTE REDUCTION PROGRAM ADMINISTRATOR.

8 (8) THIS SECTION TAKES EFFECT JANUARY 1, 2019.

9 Sec. 93. (1) An eligible electric customer is exempt from
10 charges the customer would otherwise incur as an electric customer
11 under section 89 or 91 if the customer files with its electric
12 provider and implements a self-directed energy optimization ~~WASTE~~
13 REDUCTION plan as provided in this section.

14 (2) Subject to subsection (3), an electric customer is not
15 eligible under subsection (1) unless it is a commercial or
16 industrial electric customer and ~~meets all of the following~~
17 ~~requirements:~~

18 ~~—— (a) In 2009 or 2010, the customer must have had an annual peak~~
19 ~~demand in the preceding year of at least 2 megawatts at each site~~
20 ~~to be covered by the self directed plan or 10 megawatts in the~~
21 ~~aggregate at all sites to be covered by the plan.~~

22 ~~—— (b) In 2011, 2012, or 2013, the customer or customers must~~
23 ~~have had an annual peak demand in the preceding year of at least 1~~
24 ~~megawatt at each site to be covered by the self directed plan or 5~~
25 ~~megawatts in the aggregate at all sites to be covered by the plan.~~

26 ~~—— (c) In 2014 or any year thereafter, the customer or customers~~
27 ~~must have had an annual peak demand in the preceding year of at~~

1 least 1 megawatt in the aggregate at all sites to be covered by the
2 self-directed plan.

3 (3) The eligibility requirements of subsection (2) do not
4 apply to a commercial or industrial customer that installs or
5 modifies an electric energy efficiency improvement under a property
6 assessed clean energy program pursuant to the property assessed
7 clean energy act, **2010 PA 270, MCL 460.931 TO 460.949**.

8 (4) The commission shall by order establish the rates, terms,
9 and conditions of service for customers related to this subpart.

10 (5) The commission shall by order do all of the following:

11 (a) Require a customer to utilize the services of an energy
12 ~~optimization~~**WASTE REDUCTION** service company to develop and
13 implement a self-directed plan. This subdivision does not apply to
14 a customer that had an annual peak demand in the preceding year of
15 at least 2 megawatts at each site to be covered by the self-
16 directed plan or 10 megawatts in the aggregate at all sites to be
17 covered by the self-directed plan.

18 (b) Provide a mechanism to recover from customers under
19 subdivision (a) the costs for provider level review and evaluation.

20 (c) Provide a mechanism to cover the costs of the ~~low-income~~
21 **LOW-INCOME** energy ~~optimization~~**WASTE REDUCTION** program under
22 section 89.

23 (6) All of the following apply to a self-directed energy
24 ~~optimization~~**WASTE REDUCTION** plan under subsection (1):

25 (a) The self-directed plan shall be a multiyear plan for an
26 ongoing energy ~~optimization~~**WASTE REDUCTION** program.

27 (b) The self-directed plan shall provide for aggregate energy

1 savings that each year meet or exceed the energy ~~optimization~~-**WASTE**
2 **REDUCTION** standards based on the electricity purchases in the
3 previous year for the site or sites covered by the self-directed
4 plan.

5 (c) Under the self-directed plan, energy ~~optimization~~-**WASTE**
6 **REDUCTION** shall be calculated based on annual electricity usage.
7 Annual electricity usage shall be normalized so that none of the
8 following are included in the calculation of the percentage of
9 incremental energy savings:

10 (i) Changes in electricity usage because of changes in
11 business activity levels not attributable to energy
12 ~~optimization~~-**WASTE REDUCTION**.

13 (ii) Changes in electricity usage because of the installation,
14 operation, or testing of pollution control equipment.

15 (d) The self-directed plan shall specify whether electricity
16 usage will be weather-normalized or based on the average number of
17 megawatt hours of electricity sold by the electric provider
18 annually during the previous 3 years to retail customers in this
19 state. Once the self-directed plan is submitted to the provider,
20 this option shall not be changed.

21 (e) The self-directed plan shall outline how the customer
22 intends to achieve the incremental energy savings specified in the
23 self-directed plan.

24 (7) A self-directed energy ~~optimization~~-**WASTE REDUCTION** plan
25 shall be incorporated into the relevant electric provider's energy
26 ~~optimization~~-**WASTE REDUCTION** plan. The self-directed plan and
27 information submitted by the customer under subsection (10) are

1 confidential and exempt from disclosure under the freedom of
2 information act, 1976 PA 442, MCL 15.231 to 15.246. Projected
3 energy savings from measures implemented under a self-directed plan
4 shall be attributed to the relevant provider's energy ~~optimization~~
5 **WASTE REDUCTION** programs for the purposes of determining annual
6 incremental energy savings achieved by the provider under section
7 77 or 81, as applicable.

8 (8) Once a customer begins to implement a self-directed plan
9 at a site covered by the self-directed plan, that site is exempt
10 from energy ~~optimization~~**WASTE REDUCTION** program charges under
11 section 89 or 91 and is not eligible to participate in the relevant
12 electric provider's energy ~~optimization~~**WASTE REDUCTION** programs.

13 (9) A customer implementing a self-directed energy
14 ~~optimization~~**WASTE REDUCTION** plan under this section shall annually
15 submit to the customer's electric provider a brief report
16 documenting the energy efficiency measures taken under the self-
17 directed plan during the previous year, and the corresponding
18 energy savings that will result. The report shall provide
19 sufficient information for the provider and the commission to
20 monitor progress toward the goals in the self-directed plan and to
21 develop reliable estimates of the energy savings that are being
22 achieved from self-directed plans. The customer report shall
23 indicate the level of incremental energy savings achieved for the
24 year covered by the report and whether that level of incremental
25 energy savings meets the goal set forth in the customer's self-
26 directed plan. If a customer submitting a report under this
27 subsection wishes to amend its self-directed plan, the customer

1 shall submit with the report an amended self-directed plan. A
2 report under this subsection shall be accompanied by an affidavit
3 from a knowledgeable official of the customer that the information
4 in the report is true and correct to the best of the official's
5 knowledge and belief. If the customer has retained an independent
6 energy ~~optimization~~**WASTE REDUCTION** service company, the
7 requirements of this subsection shall be met by the energy
8 ~~optimization~~**WASTE REDUCTION** service company.

9 (10) An electric provider shall provide an annual report to
10 the commission that identifies customers implementing self-directed
11 energy ~~optimization~~**WASTE REDUCTION** plans and summarizes the
12 results achieved cumulatively under those self-directed plans. The
13 commission may request additional information from the electric
14 provider. If the commission has sufficient reason to believe the
15 information is inaccurate or incomplete, it may request additional
16 information from the customer to ensure accuracy of the report.

17 (11) If the commission determines after a contested case
18 hearing that the minimum energy ~~optimization~~**WASTE REDUCTION** goals
19 under subsection (6) (b) have not been achieved at the sites covered
20 by a self-directed plan, in aggregate, the commission shall order
21 the customer or customers collectively to pay to this state an
22 amount calculated as follows:

23 (a) Determine the proportion of the shortfall in achieving the
24 minimum energy ~~optimization~~**WASTE REDUCTION** goals under subsection
25 (6) (b).

26 (b) Multiply the figure under subdivision (a) by the energy
27 ~~optimization~~**WASTE REDUCTION** charges from which the customer or

1 customers collectively were exempt under subsection (1).

2 (c) Multiply the product under subdivision (b) by a number not
3 less than 1 or greater than 2, as determined by the commission
4 based on the reasons for failure to meet the minimum energy
5 ~~optimization~~ **WASTE REDUCTION** goals.

6 (12) If a customer has submitted a self-directed plan to an
7 electric provider, the customer, the customer's energy ~~optimization~~
8 **WASTE REDUCTION** service company, if applicable, or the electric
9 provider shall provide a copy of the self-directed plan to the
10 commission upon request.

11 (13) By September 1, 2010, following a public hearing, the
12 commission shall establish an approval process for energy
13 ~~optimization~~ **WASTE REDUCTION** service companies. The approval
14 process shall ensure that energy ~~optimization~~ **WASTE REDUCTION**
15 service companies have the expertise, resources, and business
16 practices to reliably provide energy ~~optimization~~ **WASTE REDUCTION**
17 services that meet the requirements of this section. The commission
18 may adopt by reference the past or current standards of a national
19 or regional certification or licensing program for energy
20 ~~optimization~~ **WASTE REDUCTION** service companies. However, the
21 approval process shall also provide an opportunity for energy
22 ~~optimization~~ **WASTE REDUCTION** service companies that are not
23 recognized by such a program to be approved by posting a bond in an
24 amount determined by the commission and meeting any other
25 requirements adopted by the commission for the purposes of this
26 subsection. The approval process for energy ~~optimization~~ **WASTE**
27 **REDUCTION** service companies shall require adherence to a code of

1 conduct governing the relationship between energy ~~optimization~~
2 **WASTE REDUCTION** service companies and electric providers.

3 (14) The department of ~~energy, labor, and economic growth~~
4 **LICENSING AND REGULATORY AFFAIRS** shall maintain on the department's
5 website a list of energy ~~optimization~~ **WASTE REDUCTION** service
6 companies approved under subsection (13).

7 (15) **THIS SECTION AS AMENDED BY THE 2015 AMENDATORY ACT THAT**
8 **ADDED THIS SUBSECTION TAKES EFFECT 90 DAYS AFTER THE DATE THAT ACT**
9 **IS ENACTED INTO LAW.**

10 (16) **THIS SECTION IS REPEALED EFFECTIVE JANUARY 1, 2019.**

11 Sec. 95. (1) The commission shall do all of the following:

12 (a) Promote load management in appropriate circumstances,
13 **INCLUDING ENCOURAGING THE ESTABLISHMENT OF LOAD MANAGEMENT PROGRAMS**
14 **IN WHICH AN ELECTRIC PROVIDER MAY REMOTELY SHUT DOWN AIR**
15 **CONDITIONING OR OTHER ENERGY INTENSIVE SYSTEMS OF PARTICIPATING**
16 **CUSTOMERS. ELECTRIC PROVIDER PARTICIPATION AND CUSTOMER ENROLLMENT**
17 **IN SUCH PROGRAMS SHALL BE VOLUNTARY. THE PROGRAMS MAY PROVIDE**
18 **INCENTIVES FOR CUSTOMER PARTICIPATION AND SHALL INCLUDE CUSTOMER**
19 **PROTECTION PROVISIONS AS REQUIRED BY THE COMMISSION.**

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

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

24 (d) Work with residential, commercial, and industrial
25 customers to reduce annual demand and conserve energy through load
26 management techniques and other activities it considers
27 appropriate. ~~The commission shall file a report with the~~

1 ~~legislature by December 31, 2010 on the effort to reduce peak~~
2 ~~demand. The report shall also include any recommendations for~~
3 ~~legislative action concerning load management that the commission~~
4 ~~considers necessary.~~

5 (2) The commission may allow a provider whose rates are
6 regulated by the commission to recover costs for load management
7 ~~undertaken pursuant to an energy optimization plan through base~~
8 rates as part of a proceeding under section 6 of 1939 PA 3, MCL
9 460.6, if the costs are reasonable and prudent and meet the utility
10 systems resource cost test.

11 ~~—— (3) The commission shall do all of the following:~~

12 ~~—— (a) Promote energy efficiency and energy conservation.~~

13 ~~—— (b) Actively pursue increasing public awareness of energy~~
14 ~~conservation and energy efficiency.~~

15 ~~—— (c) Actively engage in energy conservation and energy~~
16 ~~efficiency efforts with providers.~~

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

19 ~~—— (e) By November 30, 2009, and each year thereafter, submit to~~
20 ~~the standing committees of the senate and house of representatives~~
21 ~~with primary responsibility for energy and environmental issues a~~
22 ~~report on the effort to implement energy conservation and energy~~
23 ~~efficiency programs or measures. The report may include any~~
24 ~~recommendations of the commission for energy conservation~~
25 ~~legislation.~~

26 (3) ~~(4)~~ This subpart does not limit the authority of the
27 commission, following an integrated resource plan proceeding and as

1 part of a rate-making process, to allow a provider whose rates are
2 regulated by the commission to recover for additional prudent
3 energy efficiency and energy conservation measures not included in
4 the provider's energy ~~optimization~~ **WASTE REDUCTION** plan if the
5 provider has met the requirements of the energy ~~optimization~~ **WASTE**
6 **REDUCTION** program.

7 (4) **THIS SECTION AS AMENDED BY THE 2015 AMENDATORY ACT THAT**
8 **ADDED THIS SUBSECTION TAKES EFFECT 90 DAYS AFTER THE DATE THAT ACT**
9 **IS ENACTED INTO LAW.**

10 Sec. 97. (1) By a time determined by the commission, each
11 provider shall submit to the commission an annual report that
12 provides information relating to the actions taken by the provider
13 to comply with the energy ~~optimization~~ **WASTE REDUCTION** standards.
14 By that same time, a municipally-owned electric utility shall
15 submit a copy of the report to the governing body of the
16 municipally-owned electric utility, and a cooperative electric
17 utility shall submit a copy of the report to its board of
18 directors.

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

21 (a) The number of energy ~~optimization~~ **WASTE REDUCTION** credits
22 that the provider generated during the reporting period.

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

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

27 (3) Concurrent with the submission of each report under

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

12 ~~—— (4) Not later than 1 year after the effective date of this~~
13 ~~act, the commission shall submit a report on the potential rate~~
14 ~~impacts on all classes of customers if the electric providers whose~~
15 ~~rates are regulated by the commission decouple rates. The report~~
16 ~~shall be submitted to the standing committees of the senate and~~
17 ~~house of representatives with primary responsibility for energy and~~
18 ~~environmental issues. The commission's report shall review whether~~
19 ~~decoupling would be cost effective and would reduce the overall~~
20 ~~consumption of fossil fuels in this state.~~

21 ~~—— (5) By October 1, 2010, the commission shall submit to the~~
22 ~~committees described in subsection (4) any recommendations for~~
23 ~~legislative action to increase energy conservation and energy~~
24 ~~efficiency based on reports under subsection (1), the energy~~
25 ~~optimization plans approved under section 89, and the commission's~~
26 ~~own investigation. By March 1, 2013, the commission shall submit to~~
27 ~~those committees a report on the progress of electric providers in~~

1 ~~achieving reductions in energy use. The commission may use an~~
2 ~~independent evaluator to review the submissions by electric~~
3 ~~providers.~~

4 (4) ~~(6) By February 15, 2011 and each year thereafter and by~~
5 ~~September 30, 2015, the~~ **THE** commission shall submit to the **STANDING**
6 ~~committees described in subsection (4)~~ **OF THE SENATE AND HOUSE OF**
7 **REPRESENTATIVES WITH PRIMARY RESPONSIBILITY FOR ENERGY ISSUES** a
8 report that evaluates and determines whether this subpart ~~and~~
9 ~~subpart A have each~~ **HAS** been cost-effective and makes
10 recommendations to the legislature. The report ~~shall~~ **MAY** be
11 combined with any concurrent report by the commission under section
12 ~~51.~~ **THE ANNUAL REPORT UNDER SECTION 5A OF 1939 PA 3, MCL 460.5A.**

13 ~~—— (7) The report required by September 30, 2015 under subsection~~
14 ~~(6) shall also review the opportunities for additional cost-~~
15 ~~effective energy optimization programs and make any recommendations~~
16 ~~the commission may have for legislation providing for the~~
17 ~~continuation, expansion, or reduction of energy optimization~~
18 ~~standards. That report shall also include the commission's~~
19 ~~determinations of all of the following:~~

20 ~~—— (a) The percentage of total energy savings required by the~~
21 ~~energy optimization standards that have actually been achieved by~~
22 ~~each electric provider and by all electric providers cumulatively.~~

23 ~~—— (b) The percentage of total energy savings required by the~~
24 ~~energy optimization standards that have actually been achieved by~~
25 ~~each natural gas provider and by all natural gas providers~~
26 ~~cumulatively.~~

27 ~~—— (c) For each provider, whether that provider's program under~~

1 ~~this subpart has been cost effective.~~

2 (5) ~~(8)~~ If the commission determines ~~in its report required by~~
3 ~~September 30, 2015 under subsection (6) or determines subsequently~~
4 that a provider's energy ~~optimization~~ **WASTE REDUCTION** program under
5 this subpart has not been cost-effective, the provider's program is
6 suspended beginning 180 days after the date of the ~~report or~~
7 ~~subsequent~~ determination. If a provider's energy ~~optimization~~ **WASTE**
8 **REDUCTION** program is suspended under this subsection, both of the
9 following apply:

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

14 (b) The provider shall not impose energy ~~optimization~~ **WASTE**
15 **REDUCTION** charges in subsequent years except to the extent
16 necessary to recover unrecovered energy ~~optimization~~ **WASTE**
17 **REDUCTION** expenses incurred under this subpart before suspension of
18 the provider's program.

19 (6) **THIS SECTION IS REPEALED EFFECTIVE JANUARY 1, 2019.**

20 **SEC. 98. (1) BY A TIME DETERMINED BY THE COMMISSION, EACH**
21 **NATURAL GAS PROVIDER SHALL SUBMIT TO THE COMMISSION AN ANNUAL**
22 **REPORT THAT PROVIDES INFORMATION RELATING TO THE ACTIONS TAKEN BY**
23 **THE PROVIDER TO COMPLY WITH THE ENERGY WASTE REDUCTION STANDARDS.**

24 (2) **AN ANNUAL REPORT UNDER SUBSECTION (1) SHALL INCLUDE ALL OF**
25 **THE FOLLOWING INFORMATION:**

26 (A) **THE AMOUNT OF ENERGY WASTE REDUCTION ACHIEVED DURING THE**
27 **REPORTING PERIOD.**

1 (B) EXPENDITURES MADE IN THE PAST YEAR AND ANTICIPATED FUTURE
2 EXPENDITURES TO COMPLY WITH THIS SUBPART.

3 (C) ANY OTHER INFORMATION THAT THE COMMISSION DETERMINES
4 NECESSARY.

5 (3) THE COMMISSION SHALL SUBMIT TO THE STANDING COMMITTEES OF
6 THE SENATE AND HOUSE OF REPRESENTATIVES WITH PRIMARY RESPONSIBILITY
7 FOR ENERGY AND ENVIRONMENTAL ISSUES A REPORT THAT EVALUATES AND
8 DETERMINES WHETHER THIS SUBPART HAS BEEN COST-EFFECTIVE AND MAKES
9 RECOMMENDATIONS TO THE LEGISLATURE. THE REPORT SHALL BE COMBINED
10 WITH THE ANNUAL REPORT UNDER SECTION 5A OF 1939 PA 3, MCL 460.5A.

11 (4) IF THE COMMISSION DETERMINES THAT A NATURAL GAS PROVIDER'S
12 ENERGY WASTE REDUCTION PROGRAM UNDER THIS SUBPART HAS NOT BEEN
13 COST-EFFECTIVE, THE NATURAL GAS PROVIDER'S PROGRAM IS SUSPENDED
14 BEGINNING 180 DAYS AFTER THE DATE OF THE SUBSEQUENT DETERMINATION.
15 IF A PROVIDER'S ENERGY WASTE REDUCTION PROGRAM IS SUSPENDED UNDER
16 THIS SUBSECTION, BOTH OF THE FOLLOWING APPLY:

17 (A) THE NATURAL GAS PROVIDER SHALL MAINTAIN CUMULATIVE
18 INCREMENTAL ENERGY SAVINGS IN DECATHERMS OR EQUIVALENT MCFS IN
19 SUBSEQUENT YEARS AT THE LEVEL ACTUALLY ACHIEVED DURING THE YEAR
20 PRECEDING THE YEAR IN WHICH THE COMMISSION'S DETERMINATION IS MADE.

21 (B) THE NATURAL GAS PROVIDER SHALL NOT IMPOSE ENERGY WASTE
22 REDUCTION CHARGES IN SUBSEQUENT YEARS EXCEPT TO THE EXTENT
23 NECESSARY TO RECOVER UNRECOVERED ENERGY WASTE REDUCTION EXPENSES
24 INCURRED UNDER THIS SUBPART BEFORE SUSPENSION OF THE PROVIDER'S
25 PROGRAM.

26 (5) THIS SECTION TAKES EFFECT JANUARY 1, 2019.

27 SEC. 99. (1) THE ATTORNEY GENERAL OR ANY CUSTOMER OF A

1 COOPERATIVE ELECTRIC UTILITY THAT HAS ELECTED TO BECOME MEMBER-
2 REGULATED UNDER THE ELECTRIC COOPERATIVE MEMBER-REGULATION ACT,
3 2008 PA 167, MCL 460.31 TO 460.39, MAY COMMENCE A CIVIL ACTION FOR
4 INJUNCTIVE RELIEF AGAINST SUCH A COOPERATIVE ELECTRIC UTILITY IF
5 THE ELECTRIC PROVIDER FAILS TO MEET THE APPLICABLE REQUIREMENTS OF
6 THIS SUBPART OR AN ORDER ISSUED OR RULE PROMULGATED UNDER THIS
7 SUBPART.

8 (2) AN ACTION UNDER SUBSECTION (1) SHALL BE COMMENCED IN THE
9 CIRCUIT COURT FOR THE CIRCUIT IN WHICH THE PRINCIPAL OFFICE OF THE
10 COOPERATIVE ELECTRIC UTILITY THAT HAS ELECTED TO BECOME MEMBER-
11 REGULATED IS LOCATED. AN ACTION SHALL NOT BE FILED UNDER SUBSECTION
12 (1) UNLESS THE PROSPECTIVE PLAINTIFF HAS GIVEN THE PROSPECTIVE
13 DEFENDANT AND THE COMMISSION AT LEAST 60 DAYS' WRITTEN NOTICE OF
14 THE PROSPECTIVE PLAINTIFF'S INTENT TO SUE, THE BASIS FOR THE SUIT,
15 AND THE RELIEF SOUGHT. WITHIN 30 DAYS AFTER THE PROSPECTIVE
16 DEFENDANT RECEIVES WRITTEN NOTICE OF THE PROSPECTIVE PLAINTIFF'S
17 INTENT TO SUE, THE PROSPECTIVE DEFENDANT AND PLAINTIFF SHALL MEET
18 AND MAKE A GOOD FAITH ATTEMPT TO DETERMINE IF THERE IS A CREDIBLE
19 BASIS FOR THE ACTION. IF BOTH PARTIES AGREE THAT THERE IS A
20 CREDIBLE BASIS FOR THE ACTION, THE PROSPECTIVE DEFENDANT SHALL TAKE
21 ALL REASONABLE AND PRUDENT STEPS NECESSARY TO COMPLY WITH THE
22 APPLICABLE REQUIREMENTS OF THIS SUBPART WITHIN 90 DAYS OF THE
23 MEETING.

24 (3) IN ISSUING A FINAL ORDER IN AN ACTION BROUGHT UNDER
25 SUBSECTION (1), THE COURT MAY AWARD COSTS OF LITIGATION, INCLUDING
26 REASONABLE ATTORNEY AND EXPERT WITNESS FEES, TO THE PREVAILING OR
27 SUBSTANTIALLY PREVAILING PARTY.

1 (4) UPON RECEIPT OF A COMPLAINT BY ANY CUSTOMER OF A
2 MUNICIPALLY-OWNED ELECTRIC UTILITY OR UPON THE COMMISSION'S OWN
3 MOTION, THE COMMISSION MAY REVIEW ALLEGATIONS THAT THE MUNICIPALLY-
4 OWNED ELECTRIC UTILITY HAS VIOLATED THIS SUBPART OR AN ORDER ISSUED
5 OR RULE PROMULGATED UNDER THIS SUBPART. IF THE COMMISSION FINDS,
6 AFTER NOTICE AND HEARING, THAT A MUNICIPALLY-OWNED ELECTRIC UTILITY
7 HAS VIOLATED THIS SUBPART OR AN ORDER ISSUED OR RULE PROMULGATED
8 UNDER THIS SUBPART, THE COMMISSION SHALL ADVISE THE ATTORNEY
9 GENERAL. THE ATTORNEY GENERAL MAY COMMENCE A CIVIL ACTION FOR
10 INJUNCTIVE RELIEF AGAINST THE MUNICIPALLY-OWNED ELECTRIC UTILITY IN
11 THE CIRCUIT COURT FOR THE CIRCUIT IN WHICH THE PRINCIPAL OFFICE OF
12 THE MUNICIPALLY-OWNED ELECTRIC UTILITY IS LOCATED.

13 (5) IN ISSUING A FINAL ORDER IN AN ACTION BROUGHT UNDER
14 SUBSECTION (4), THE COURT MAY AWARD COSTS OF LITIGATION, INCLUDING
15 REASONABLE ATTORNEY AND EXPERT WITNESS FEES, TO THE PREVAILING OR
16 SUBSTANTIALLY PREVAILING PARTY.

17 (6) THIS SECTION TAKES EFFECT 90 DAYS AFTER THE DATE THE 2015
18 AMENDATORY ACT THAT ADDED THIS SECTION IS ENACTED INTO LAW.

19 (7) THIS SECTION IS REPEALED EFFECTIVE JANUARY 1, 2019.

20 SUBPART ~~C~~-D.

21 MISCELLANEOUS

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

27 (2) THIS SECTION, AS AMENDED BY THE 2015 AMENDATORY ACT THAT

1 ADDED THIS SUBSECTION, TAKES EFFECT JANUARY 1, 2019.

2 PART 5.

3 **DISTRIBUTED GENERATION AND NET METERING**

4 Sec. 173. (1) The commission shall establish a ~~statewide net~~
 5 ~~metering~~ **DISTRIBUTED GENERATION** program by order issued not later
 6 than ~~180~~ **90** days after the effective date of this act. ~~No later~~
 7 ~~than 180 days after the effective date of this act, the commission~~
 8 ~~shall promulgate rules regarding any time limits on the submission~~
 9 ~~of net metering applications or inspections of net metering~~
 10 ~~equipment and any other matters the commission considers necessary~~
 11 ~~to implement this part.~~ **THE 2015 AMENDATORY ACT THAT AMENDED THIS**
 12 **SECTION. THE COMMISSION MAY PROMULGATE RULES THE COMMISSION**
 13 **CONSIDERS NECESSARY TO IMPLEMENT THIS PROGRAM.** Any rules adopted
 14 regarding time limits for approval of parallel operation shall
 15 recognize reliability and safety complications including those
 16 arising from equipment saturation, use of multiple technologies,
 17 and proximity to synchronous motor loads. The program shall apply
 18 to all electric utilities and alternative electric suppliers in
 19 this state.

20 (2) Except as otherwise provided under this part, ~~customers~~ **A**
 21 **CUSTOMER** of any class ~~are~~ **IS** eligible to interconnect **AN** eligible
 22 electric ~~generators~~ **GENERATOR** with the customer's local electric
 23 utility and operate the ~~generators~~ **ELIGIBLE ELECTRIC GENERATOR** in
 24 parallel with the distribution system. The program shall be
 25 designed for a period of not less than 10 years and limit each
 26 customer to generation capacity designed to meet ~~only the~~
 27 ~~customer's electric needs.~~ **UP TO 110% OF THE CUSTOMER'S AVERAGE**

1 **ANNUAL ELECTRICITY CONSUMPTION.** The commission may waive the
2 application, interconnection, and installation requirements of this
3 part for customers participating in the net metering program under
4 the commission's March 29, 2005 order in case no. U-14346 **OR THE**
5 **DISTRIBUTED GENERATION PROGRAM UNDER THIS PART.**

6 (3) ~~(2)~~—An electric utility or alternative electric supplier
7 is not required to allow for ~~net metering~~ **DISTRIBUTED GENERATION**
8 that is greater than ~~1%~~ **10%** of its **AVERAGE** in-state peak load for
9 the preceding 5 calendar ~~year~~ **YEARS**. The **ELECTRIC** utility or
10 **ALTERNATIVE ELECTRIC** supplier shall notify the commission if its
11 ~~net metering~~ **DISTRIBUTED GENERATION** program reaches the ~~1%~~
12 ~~requirement~~ **10% LIMIT** under this subsection. The ~~1%~~ **10%** limit under
13 this subsection shall be allocated as follows:

14 (a) No more than ~~0.5%~~ **5%** for customers with a ~~system~~ **AN**
15 **ELIGIBLE ELECTRIC GENERATOR** capable of generating 20 kilowatts or
16 less.

17 (b) No more than ~~0.25%~~ **2.5%** for customers with a ~~system~~ **AN**
18 **ELIGIBLE ELECTRIC GENERATOR** capable of generating more than 20
19 kilowatts but not more than 150 kilowatts.

20 (c) No more than ~~0.25%~~ **2.5%** for customers with a ~~system~~ **AN**
21 **ELIGIBLE ELECTRIC GENERATOR** capable of generating more than 150
22 kilowatts.

23 (4) ~~(3)~~—Selection of customers for participation in the ~~net~~
24 ~~metering~~ **DISTRIBUTED GENERATION** program shall be based on the order
25 in which the applications for participation in the ~~net metering~~
26 program are received by the electric utility or alternative
27 electric supplier.

1 (5) ~~(4)~~—An electric utility or alternative electric supplier
2 shall not **DISCONTINUE OR** refuse to provide ~~or discontinue~~ electric
3 service to a customer solely ~~for the reason that~~ **BECAUSE** the
4 customer participates in the ~~net metering~~ **DISTRIBUTED GENERATION**
5 program.

6 (6) ~~(5)~~—The **DISTRIBUTED GENERATION** program created under
7 subsection (1) shall include all of the following:

8 (a) Statewide uniform interconnection requirements for all
9 eligible electric generators. The interconnection requirements
10 shall be designed to protect electric utility workers and equipment
11 and the general public.

12 (b) ~~Net metering~~ **DISTRIBUTED GENERATION** equipment and its
13 installation ~~must~~ **SHALL** meet all current local and state electric
14 and construction code requirements. ~~Any equipment that is certified~~
15 ~~by a nationally recognized testing laboratory to IEEE 1547.1~~
16 ~~testing standards and in compliance with UL 1741 scope 1.1A,~~
17 ~~effective May 7, 2007, and installed in compliance with this part~~
18 ~~is considered to be eligible equipment.~~ Within the time provided by
19 the commission in rules promulgated under subsection (1) and
20 consistent with good utility practice, **AND THE** protection of
21 electric utility workers, ~~protection of~~ electric utility equipment,
22 and ~~protection of~~ the general public, an electric utility may
23 study, confirm, and ensure that an eligible electric generator
24 installation at the customer's site meets the IEEE 1547 anti-
25 islanding requirements. **IF NECESSARY TO PROMOTE RELIABILITY OR**
26 **SAFETY, THE COMMISSION MAY PROMULGATE RULES THAT REQUIRE THE USE OF**
27 **INVERTERS THAT PERFORM SPECIFIC AUTOMATED GRID-BALANCING FUNCTIONS**

1 TO INTEGRATE DISTRIBUTED GENERATION ONTO THE ELECTRIC GRID.
2 INVERTERS THAT INTERCONNECT DISTRIBUTED GENERATION RESOURCES MAY BE
3 OWNED AND OPERATED BY ELECTRIC UTILITIES. Utility testing and
4 approval of the interconnection and execution of a parallel
5 operating agreement must be completed prior to the equipment
6 operating in parallel with the distribution system of the utility.

7 (c) A uniform application form and process to be used by all
8 electric utilities and alternative electric suppliers in this
9 state. Customers who are served by an alternative electric supplier
10 shall submit a copy of the application to the electric utility for
11 the customer's service area.

12 ~~—— (d) Net metering customers with a system capable of generating~~
13 ~~20 kilowatts or less qualify for true net metering.~~

14 ~~—— (e) Net metering customers with a system capable of generating~~
15 ~~more than 20 kilowatts qualify for modified net metering.~~

16 (7) ~~(6)~~ Each electric utility and alternative electric
17 supplier shall maintain records of all applications and up-to-date
18 records of all active eligible electric generators located within
19 their service area.

20 Sec. 175. (1) An electric utility or alternative electric
21 supplier may charge a fee not to exceed ~~\$100.00~~ **\$50.00** to process
22 an application ~~for net metering. A customer with a system capable~~
23 ~~of generating more than 20 kilowatts~~ **TO PARTICIPATE IN THE**
24 **DISTRIBUTED GENERATION PROGRAM. THE CUSTOMER** shall pay all
25 interconnection costs. ~~A customer with a system capable of~~
26 ~~generating more than 150 kilowatts shall pay standby costs.~~ The
27 commission shall recognize the reasonable cost for each electric

1 utility and alternative electric supplier to operate a ~~net metering~~
2 **DISTRIBUTED GENERATION** program. For an electric utility with
3 1,000,000 or more retail customers in this state, the commission
4 shall include in that **ELECTRIC** utility's nonfuel base rates all
5 costs of meeting all program requirements except that all energy
6 costs of the program shall be recovered through the utility's power
7 supply cost recovery mechanism under ~~sections~~ **SECTION 6j and 6k** of
8 1939 PA 3, MCL 460.6j. ~~and 460.6k.~~ For an electric utility with
9 ~~less~~ **FEWER** than 1,000,000 base distribution customers in this
10 state, the commission shall allow that **ELECTRIC** utility to recover
11 all energy costs of the program through the power supply cost
12 recovery mechanism under ~~sections~~ **SECTION 6j and 6k** of 1939 PA 3,
13 MCL 460.6j, ~~and 460.6k,~~ and shall develop a cost recovery mechanism
14 for that utility to contemporaneously recover all other costs of
15 meeting the program requirements.

16 (2) The interconnection requirements of the ~~net metering~~
17 **DISTRIBUTED GENERATION** program shall provide that an electric
18 utility or alternative electric supplier shall, subject to any time
19 requirements imposed by the commission and upon reasonable written
20 notice to the ~~net metering~~ **DISTRIBUTED GENERATION** customer, perform
21 testing and inspection of an interconnected eligible electric
22 generator as is necessary to determine that the system complies
23 with all applicable electric safety, power quality, and
24 interconnection requirements. The costs of testing and inspection
25 are considered a cost of operating a ~~net metering~~ **DISTRIBUTED**
26 **GENERATION** program and shall be recovered under subsection (1).

27 (3) The interconnection requirements shall require all

1 eligible electric generators, alternative electric suppliers, and
2 electric utilities to comply with all applicable federal, state,
3 and local laws, rules, or regulations, and any national standards
4 as determined by the commission.

5 Sec. 177. (1) Electric meters shall be used to determine the
6 amount of the customer's energy ~~energy~~ **ELECTRICITY** use in each billing
7 period ~~, net of any excess energy the customer's generator delivers~~
8 ~~to the utility distribution system during that same billing period.~~
9 ~~For a customer with a generation system capable of generating more~~
10 ~~than 20 kilowatts, the utility shall install and utilize a~~
11 ~~generation meter and a meter or meters capable of measuring the~~
12 ~~flow of energy in both directions. A customer with a system capable~~
13 ~~of generating more than 150 kilowatts shall pay the costs of~~
14 ~~installing any new meters.~~ **AND THE AMOUNT OF ELECTRICITY PRODUCED BY**
15 **THE ELIGIBLE ELECTRIC GENERATOR ON THE CUSTOMER'S SITE.**

16 (2) An electric utility ~~serving over 1,000,000 customers in~~
17 ~~this state may~~ **SHALL** provide its customers participating in the ~~net~~
18 ~~metering~~ **DISTRIBUTED GENERATION** program, at no ~~additional charge,~~
19 **COST**, a meter or meters capable of measuring the flow of energy in
20 both directions.

21 ~~—— (3) An electric utility serving fewer than 1,000,000 customers~~
22 ~~in this state shall provide a meter or meters described in~~
23 ~~subsection (2) to customers participating in the net metering~~
24 ~~program at cost. Only the incremental cost above that for meters~~
25 ~~provided by the electric utility to similarly situated~~
26 ~~nongenerating customers shall be paid by the eligible customer.~~

27 (3) ~~(4) If the quantity of electricity generated and delivered~~

1 ~~to the utility distribution system by an eligible electric~~
2 ~~generator during a billing period exceeds the quantity of~~
3 ~~electricity supplied from the electric utility or alternative~~
4 ~~electric supplier during the billing period, the eligible customer~~
5 ~~shall be credited by their supplier of electric generation service~~
6 ~~for the excess kilowatt hours generated during the billing period.~~
7 ~~The credit shall appear on the bill for the following billing~~
8 ~~period and shall be limited to the total power supply charges on~~
9 ~~that bill. Any excess kilowatt hours not used to offset electric~~
10 ~~generation charges in the next billing period will be carried~~
11 ~~forward to subsequent billing periods.~~ A CUSTOMER PARTICIPATING IN
12 THE DISTRIBUTED GENERATION PROGRAM SHALL PURCHASE ALL OF THE
13 ELECTRICITY THE CUSTOMER CONSUMES FROM THE ELECTRIC UTILITY OR
14 ALTERNATIVE ELECTRIC SUPPLIER AT THE APPLICABLE RETAIL ELECTRICITY
15 RATES AND CHARGES. IF PARTICIPATING IN NET METERING, THE CUSTOMER
16 SHALL RECEIVE A BILL CREDIT FOR ALL ELECTRICITY PRODUCED BY THE
17 ELIGIBLE ELECTRIC GENERATOR ON THE CUSTOMER'S SITE. THE BILL CREDIT
18 SHALL BE THE VALUE OF THE ENERGY AVOIDED BY THE ELECTRIC UTILITY OR
19 ALTERNATIVE ELECTRIC SUPPLIER AS A RESULT OF THE CUSTOMER'S
20 PARTICIPATION. THE VALUE OF THE ENERGY AVOIDED BY THE ELECTRIC
21 UTILITY OR ALTERNATIVE ELECTRIC SUPPLIER SHALL BE DETERMINED BY
22 APPLYING THE DAY-AHEAD WHOLESALE ENERGY MARKET CLEARING PRICE AT
23 THE APPROPRIATE PRICING NODE FOR EACH KILOWATT-HOUR PRODUCED BY THE
24 ELIGIBLE ELECTRIC GENERATOR. THE VALUE OF THE ENERGY AVOIDED SHALL
25 BE DETERMINED BY APPLYING THE RELEVANT INDEPENDENT SYSTEM
26 OPERATOR'S MONTHLY CAPACITY AUCTION CLEARING PRICE FOR EACH
27 KILOWATT PER MONTH, DISCOUNTED FOR VARIABLE GENERATING UNITS

1 ACCORDING TO THE METHODOLOGY USED BY THE INDEPENDENT SYSTEM
2 OPERATOR. IF THE BILL CREDIT EXCEEDS THE CHARGES FOR THE CUSTOMER'S
3 ELECTRIC CONSUMPTION, THE BILL CREDIT SHALL CARRY OVER TO
4 SUBSEQUENT BILLING PERIODS INDEFINITELY UNTIL FULLY UTILIZED TO
5 OFFSET CHARGES FOR THE CUSTOMER'S ELECTRIC CONSUMPTION. THE
6 ELECTRIC UTILITY OR ALTERNATIVE ELECTRIC SUPPLIER MAY, UPON
7 APPROVAL BY THE COMMISSION, CHARGE A MINIMUM BILL AMOUNT TO SUPPORT
8 THE CUSTOMER'S USE OF THE ELECTRIC GRID FOR ANY MONTH IN WHICH A
9 CUSTOMER'S MONTHLY BILL CREDIT EXCEEDS THE CHARGES FOR THE
10 CUSTOMER'S CONSUMPTION. Notwithstanding any law or regulation, ~~net~~
11 ~~metering~~-DISTRIBUTED GENERATION PROGRAM customers shall not receive
12 credits for electric utility transmission or distribution charges.
13 ~~The credit per kilowatt hour for kilowatt hours delivered into the~~
14 ~~utility's distribution system shall be either of the following:~~
15 ~~—— (a) The monthly average real-time locational marginal price~~
16 ~~for energy at the commercial pricing node within the electric~~
17 ~~utility's distribution service territory, or for net metering~~
18 ~~customers on a time-based rate schedule, the monthly average real-~~
19 ~~time locational marginal price for energy at the commercial pricing~~
20 ~~node within the electric utility's distribution service territory~~
21 ~~during the time-of-use pricing period.~~
22 ~~—— (b) The electric utility's or alternative electric supplier's~~
23 ~~power supply component of the full retail rate during the billing~~
24 ~~period or time-of-use pricing period.~~
25 (4) A CUSTOMER PARTICIPATING IN THE DISTRIBUTED GENERATION
26 PROGRAM SHALL BE CHARGED THE ELECTRIC UTILITY'S OR ALTERNATIVE
27 ELECTRIC SUPPLIER'S FULL RETAIL RATE FOR ALL INFLOW. FOR TOTAL

1 CUSTOMER GENERATION MINUS OUTFLOW, THE CUSTOMER SHALL PAY ALL
2 DELIVERY CHARGES APPLICABLE TO THE ELECTRIC UTILITY'S OR
3 ALTERNATIVE ELECTRIC SUPPLIER'S RETAIL RATE, PLUS THE NONFUEL
4 PORTION OF THE ELECTRIC UTILITY'S OR ALTERNATIVE ELECTRIC
5 SUPPLIER'S POWER SUPPLY RATES.

6 Sec. 179. ~~An eligible electric generator~~ A CUSTOMER shall own
7 any renewable energy credits granted for electricity generated ON
8 THE CUSTOMER'S SITE under the ~~net metering~~ DISTRIBUTED GENERATION
9 program created in this part.

10 PART 7.

11 RESIDENTIAL ENERGY IMPROVEMENTS

12 SEC. 201. AS USED IN THIS PART:

13 (A) "ENERGY WASTE REDUCTION IMPROVEMENT" MEANS EQUIPMENT,
14 DEVICES, OR MATERIALS INTENDED TO DECREASE ENERGY CONSUMPTION,
15 INCLUDING, BUT NOT LIMITED TO, ALL OF THE FOLLOWING:

16 (i) INSULATION IN WALLS, ROOFS, FLOORS, FOUNDATIONS, OR
17 HEATING AND COOLING DISTRIBUTION SYSTEMS.

18 (ii) STORM WINDOWS AND DOORS; MULTI-GLAZED WINDOWS AND DOORS;
19 HEAT-ABSORBING OR HEAT-REFLECTIVE GLAZED AND COATED WINDOW AND DOOR
20 SYSTEMS; AND ADDITIONAL GLAZING, REDUCTIONS IN GLASS AREA, AND
21 OTHER WINDOW AND DOOR SYSTEM MODIFICATIONS THAT REDUCE ENERGY
22 CONSUMPTION.

23 (iii) AUTOMATED ENERGY CONTROL SYSTEMS.

24 (iv) HEATING, VENTILATING, OR AIR-CONDITIONING AND
25 DISTRIBUTION SYSTEM MODIFICATIONS OR REPLACEMENTS.

26 (v) AIR SEALING, CAULKING, AND WEATHER-STRIPPING.

27 (vi) LIGHTING FIXTURES THAT REDUCE THE ENERGY USE OF THE

1 LIGHTING SYSTEM.

2 (vii) ENERGY RECOVERY SYSTEMS.

3 (viii) DAY LIGHTING SYSTEMS.

4 (ix) ELECTRICAL WIRING OR OUTLETS TO CHARGE A MOTOR VEHICLE
5 THAT IS FULLY OR PARTIALLY POWERED BY ELECTRICITY.

6 (x) MEASURES TO REDUCE THE USAGE OF WATER OR INCREASE THE
7 EFFICIENCY OF WATER USAGE.

8 (xi) ANY OTHER INSTALLATION OR MODIFICATION OF EQUIPMENT,
9 DEVICES, OR MATERIALS APPROVED AS A UTILITY COST-SAVINGS MEASURE BY
10 THE GOVERNING BODY.

11 (B) "ENERGY PROJECT" MEANS THE INSTALLATION OR MODIFICATION OF
12 AN ENERGY WASTE REDUCTION IMPROVEMENT OR THE ACQUISITION,
13 INSTALLATION, OR IMPROVEMENT OF A CLEAN ENERGY SYSTEM.

14 (C) "HOME ENERGY AUDIT" MEANS AN EVALUATION OF THE ENERGY
15 PERFORMANCE OF A RESIDENTIAL STRUCTURE, BY A QUALIFIED PERSON USING
16 BUILDING-PERFORMANCE DIAGNOSTIC EQUIPMENT AND COMPLYING WITH
17 AMERICAN NATIONAL STANDARDS INSTITUTE-APPROVED HOME ENERGY AUDIT
18 STANDARDS, THAT MEETS BOTH OF THE FOLLOWING REQUIREMENTS:

19 (i) DETERMINES HOW BEST TO OPTIMIZE ENERGY PERFORMANCE WHILE
20 MAINTAINING OR IMPROVING HUMAN COMFORT, HEALTH, AND SAFETY AND THE
21 DURABILITY OF THE STRUCTURE.

22 (ii) INCLUDES A BASELINE ENERGY MODEL AND COST-BENEFIT
23 ANALYSIS FOR RECOMMENDED ENERGY WASTE REDUCTION IMPROVEMENTS.

24 (D) "PROPERTY" MEANS PRIVATELY OWNED RESIDENTIAL REAL
25 PROPERTY.

26 (E) "RECORD OWNER" MEANS THE PERSON OR PERSONS POSSESSED OF
27 THE MOST RECENT FEE TITLE OR LAND CONTRACT VENDEE'S INTEREST IN

1 PROPERTY AS SHOWN BY THE RECORDS OF THE COUNTY REGISTER OF DEEDS.

2 (F) "RESIDENTIAL ENERGY PROJECTS PROGRAM" OR "PROGRAM" MEANS A
3 PROGRAM AS DESCRIBED IN SECTION 203(2).

4 SEC. 203. (1) PURSUANT TO SECTION 205, A PROVIDER MAY
5 ESTABLISH A RESIDENTIAL ENERGY PROJECTS PROGRAM.

6 (2) UNDER A RESIDENTIAL ENERGY PROJECTS PROGRAM, IF A RECORD
7 OWNER OF PROPERTY IN THE PROVIDER'S SERVICE TERRITORY OBTAINS
8 FINANCING OR REFINANCING OF AN ENERGY PROJECT ON THE PROPERTY FROM
9 A COMMERCIAL LENDER OR OTHER LEGAL ENTITY, INCLUDING AN INDEPENDENT
10 SUBSIDIARY OF THE PROVIDER, THE LOAN IS REPAYED THROUGH ITEMIZED
11 CHARGES ON THE PROVIDER'S UTILITY BILL FOR THAT PROPERTY. THE
12 ITEMIZED CHARGES MAY COVER THE COST OF MATERIALS AND LABOR
13 NECESSARY FOR INSTALLATION, HOME ENERGY AUDIT COSTS, PERMIT FEES,
14 INSPECTION FEES, APPLICATION AND ADMINISTRATIVE FEES, BANK FEES,
15 AND ALL OTHER FEES THAT MAY BE INCURRED BY THE RECORD OWNER FOR THE
16 INSTALLATION ON A SPECIFIC OR PRO RATA BASIS, AS DETERMINED BY THE
17 PROVIDER.

18 SEC. 205. (1) A RESIDENTIAL ENERGY PROJECTS PROGRAM SHALL BE
19 ESTABLISHED AND IMPLEMENTED PURSUANT TO A PLAN APPROVED BY THE
20 COMMISSION. A PROVIDER SEEKING TO ESTABLISH A RESIDENTIAL ENERGY
21 PROJECTS PROGRAM SHALL FILE A PROPOSED PLAN WITH THE COMMISSION.

22 (2) A PLAN UNDER SUBSECTION (1) SHALL INCLUDE ALL OF THE
23 FOLLOWING:

24 (A) THE ESTIMATED COSTS OF ADMINISTRATION OF THE RESIDENTIAL
25 ENERGY PROJECTS PROGRAM.

26 (B) WHETHER THE RESIDENTIAL ENERGY PROJECTS PROGRAM WILL BE
27 ADMINISTERED BY A THIRD PARTY.

1 (C) AN APPLICATION PROCESS AND ELIGIBILITY REQUIREMENTS FOR A
2 RECORD OWNER TO PARTICIPATE IN THE RESIDENTIAL ENERGY PROJECTS
3 PROGRAM.

4 (D) AN APPLICATION FORM GOVERNING THE TERMS AND CONDITIONS FOR
5 A RECORD OWNER'S PARTICIPATION IN THE PROGRAM, INCLUDING AN
6 EXPLANATION OF BILLING UNDER SUBDIVISION (F) AND OF THE PROVISIONS
7 OF SECTION 207.

8 (E) A DESCRIPTION OF ANY FEES TO COVER APPLICATION,
9 ADMINISTRATION, OR OTHER PROGRAM COSTS TO BE CHARGED TO A RECORD
10 OWNER PARTICIPATING IN THE PROGRAM, INCLUDING THE AMOUNT OF EACH
11 FEE, IF KNOWN, OR PROCEDURES TO DETERMINE THE AMOUNT. A FEE SHALL
12 NOT EXCEED THE COSTS INCURRED BY THE PROVIDER FOR THE ACTIVITY FOR
13 WHICH THE FEES ARE CHARGED.

14 (F) PROVISIONS FOR BILLING CUSTOMERS OF THE PROVIDER ANY FEES
15 UNDER SUBDIVISION (E) AND THE MONTHLY INSTALLMENT PAYMENTS AS A
16 PER-METER CHARGE ON THE BILL FOR ELECTRIC OR NATURAL GAS SERVICES.

17 (G) PROVISIONS FOR MARKETING AND PARTICIPANT EDUCATION.

18 (3) THE COMMISSION SHALL NOT APPROVE A PROVIDER'S PROPOSED
19 RESIDENTIAL ENERGY PROJECTS PLAN UNLESS THE COMMISSION DETERMINES
20 THAT THE PLAN IS REASONABLE AND PRUDENT.

21 (4) IF THE COMMISSION REJECTS A PROPOSED PLAN OR AMENDMENT
22 UNDER THIS SECTION, THE COMMISSION SHALL EXPLAIN IN WRITING THE
23 REASONS FOR ITS DETERMINATION.

24 (5) EVERY 4 YEARS AFTER INITIAL APPROVAL OF A PLAN UNDER
25 SUBSECTION (1), THE COMMISSION SHALL REVIEW THE PLAN.

26 SEC. 207. (1) A BASELINE HOME ENERGY AUDIT SHALL BE CONDUCTED
27 BEFORE AN ENERGY PROJECT IS UNDERTAKEN. AFTER THE ENERGY PROJECT IS

1 COMPLETED, THE PROVIDER SHALL OBTAIN VERIFICATION THAT THE ENERGY
2 PROJECT WAS PROPERLY INSTALLED AND IS OPERATING AS INTENDED.

3 (2) ELECTRIC OR NATURAL GAS SERVICE MAY BE SHUT OFF FOR
4 NONPAYMENT OF THE PER-METER CHARGE DESCRIBED UNDER SECTION 205 IN
5 THE SAME MANNER AND PURSUANT TO THE SAME PROCEDURES AS USED TO
6 ENFORCE NONPAYMENT OF OTHER CHARGES FOR THE PROVIDER'S ELECTRIC OR
7 NATURAL GAS SERVICE. IF NOTICE OF A LOAN UNDER THE PROGRAM IS
8 RECORDED WITH THE REGISTER OF DEEDS FOR THE COUNTY IN WHICH THE
9 PROPERTY IS LOCATED, THE OBLIGATION TO PAY THE PER-METER CHARGE
10 SHALL RUN WITH THE LAND AND BE BINDING ON FUTURE CUSTOMERS
11 CONTRACTING FOR ELECTRIC SERVICE OR NATURAL GAS SERVICE, AS
12 APPLICABLE, TO THE PROPERTY.

13 SEC. 209. (1) THE TERM OF A LOAN PAID THROUGH A RESIDENTIAL
14 ENERGY PROJECTS PROGRAM SHALL NOT EXCEED THE ANTICIPATED USEFUL
15 LIFE OF THE ENERGY PROJECT FINANCED BY THE LOAN OR 180 MONTHS,
16 WHICHEVER IS LESS. THE LOAN SHALL BE REPAID IN MONTHLY
17 INSTALLMENTS.

18 (2) THE LENDER SHALL COMPLY WITH ALL STATE AND FEDERAL LAWS
19 APPLICABLE TO THE EXTENSION OF CREDIT FOR HOME IMPROVEMENTS.

20 (3) IF A NONPROFIT CORPORATION MAKES LOANS TO OWNERS OF
21 PROPERTY TO BE REPAID UNDER A RESIDENTIAL ENERGY PROJECT PROGRAM,
22 INTEREST SHALL BE CHARGED ON THE UNPAID BALANCE AT A RATE OF NOT
23 MORE THAN THE ADJUSTED PRIME RATE AS DETERMINED UNDER SECTION 23 OF
24 1941 PA 122, MCL 205.23, PLUS 4%.

25 SEC. 211. (1) PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF
26 1969, 1969 PA 306, MCL 24.201 TO 24.328, THE COMMISSION SHALL
27 PROMULGATE RULES TO IMPLEMENT THIS PART WITHIN 1 YEAR AFTER THE

1 EFFECTIVE DATE OF THIS SECTION.

2 (2) EVERY 5 YEARS AFTER THE PROMULGATION OF RULES UNDER
3 SUBSECTION (1), THE COMMISSION SHALL SUBMIT A REPORT TO THE
4 STANDING COMMITTEES OF THE SENATE AND HOUSE OF REPRESENTATIVES WITH
5 PRIMARY RESPONSIBILITY FOR ENERGY ISSUES ON THE IMPLEMENTATION OF
6 THIS PART AND ANY RECOMMENDATIONS FOR LEGISLATION TO AMEND THIS
7 PART. THE REPORT MAY BE COMBINED WITH THE ANNUAL REPORT UNDER
8 SECTION 5A OF 1939 PA 3, MCL 460.5A.

9 Enacting section 1. Sections 21, 23, 25, 27, 29, 31, 33, 35,
10 37, 39, 43, 45, 49, 51, 53, and 79 of the clean, renewable, and
11 efficient energy act, 2008 PA 295, MCL 460.1021, 460.1023,
12 460.1025, 460.1027, 460.1029, 460.1031, 460.1033, 460.1035,
13 460.1037, 460.1039, 460.1043, 460.1045, 460.1049, 460.1051,
14 460.1053, and 460.1079, are repealed.

15 Enacting section 2. Except as otherwise provided in this
16 amendatory act, this amendatory act takes effect 90 days after the
17 date it is enacted into law.