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
An act to require certain providers of electric service to establish renewable clean energy programs; to require certain providers of electric or natural gas service to establish energy optimization waste reduction programs; to authorize the use of certain energy systems to meet the requirements of those programs; to provide for the approval of energy optimization waste reduction service companies; to provide for certain charges on electric and natural gas bills; to promote energy conservation to reduce energy waste by state agencies and the public; to create a wind energy resource zone board and provide for its power and duties; to authorize the creation and implementation of wind energy resource zones; to provide for expedited transmission line siting certificates; to provide for a customer generation and net metering program programs and the responsibilities of certain providers of electric service and customers with respect to customer generation and net metering; to provide for fees; to prescribe the powers and duties of certain state agencies and officials; to require the promulgation of rules and the issuance of orders; to authorize the establishment of residential energy improvement programs by providers of electric or natural gas service; and to provide for civil sanctions, remedies, and penalties.

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

(2) The purpose of this act is to promote the development of clean energy, renewable energy, and energy optimization through the implementation of a clean, renewable, and energy efficient standard and use of clean energy resources and the reduction of energy waste.
THROUGH PROGRAMS that will cost-effectively do all of the following:

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

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

(c) Encourage private investment in renewable—CLEAN energy and energy efficiency—WASTE REDUCTION.

(d) Coordinate with federal regulations to provide improved air quality and other benefits to energy consumers and citizens of this state.

Sec. 3. As used in this act:

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

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

(B) (c) "Advanced cleaner energy system" means any of the following:

(i) A gasification facility.

(ii) An industrial cogeneration facility.

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

(iv) A HYDROELECTRIC PUMPED STORAGE FACILITY.

(v) An electric generating facility or system that uses
technologies not in commercial operation on the effective date of this act, OCTOBER 6, 2008, AND THAT THE COMMISSION DETERMINES HAS CARBON DIOXIDE EMISSIONS BENEFITS OR WILL SIGNIFICANTLY REDUCE OTHER REGULATED AIR EMISSIONS.

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

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

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

(i) Agricultural crops and crop wastes.

(ii) Short-rotation energy crops.

(iii) Herbaceous plants.

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

(v) Paper and pulp products.

(vi) Precommercial wood thinning waste, brush, or yard waste.
(vii) Wood wastes and residues from the processing of wood products or paper.

(viii) Animal wastes.

(ix) Wastewater sludge or sewage.

(x) Aquatic plants.

(xi) Food production and processing waste.

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

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

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

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

(H) "CLEAN ENERGY RESOURCE" MEANS AN ELECTRIC GENERATION TECHNOLOGY THAT MEETS ALL CURRENT STATE AND FEDERAL AIR EMISSIONS REGULATIONS OR QUALIFIES UNDER UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGULATIONS AS BEING CARBON NEUTRAL. CLEAN ENERGY RESOURCE INCLUDES, BUT IS NOT LIMITED TO, A FOSSIL FUEL GENERATION TECHNOLOGY IN WHICH AT LEAST 85% OF THE CARBON DIOXIDE EMISSIONS ARE CAPTURED AND PERMANENTLY SEQUESTERED OR USED FOR OTHER COMMERCIAL OR INDUSTRIAL PURPOSES THAT DO NOT RESULT IN THE RELEASE OF CARBON DIOXIDE INTO THE ATMOSPHERE.
(I) "CLEAN ENERGY SYSTEM" MEANS A FACILITY, ELECTRICITY GENERATION SYSTEM, OR SET OF ELECTRICITY GENERATION SYSTEMS THAT USE 1 OR MORE CLEAN ENERGY RESOURCES TO GENERATE ELECTRICITY.

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

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

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

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

Sec. 5. As used in this act:

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

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

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

(iii) A cooperative electric utility in this state.

(iv) Except as used in subpart B–C of part 2, an alternative electric supplier licensed under section 10a of 1939 PA 3, MCL
460.10a.
(b) "Eligible electric generator" means that a methane digester or renewable CLEAN energy system with a generation capacity limited to the customer's electric need and that does not exceed the following:

(i) For a renewable CLEAN energy system, 150 kilowatts of aggregate generation at a single site.

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

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

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

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

(F) (e) "Energy optimization", WASTE REDUCTION", subject to subdivision (f), (G), means all of the following:
(i) Energy efficiency.

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

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

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

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

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

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

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

(k) "Federal approval" means approval by the applicable regional transmission organization or other federal energy
regulatory commission approved transmission planning process of a transmission project that includes the transmission line. Federal approval may be evidenced in any of the following manners:

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

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

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

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

Sec. 7. As used in this act:

(a) "Gasification facility" means a facility located in this state that, using a thermochemical process that does not involve direct combustion, produces synthesis gas,
composed of carbon monoxide and hydrogen, from carbon-based feedstocks (such as coal, petroleum coke, wood, biomass, hazardous waste, medical waste, industrial waste, and solid waste, including, but not limited to, municipal solid waste, electronic waste, and waste described in section 11514 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11514) and that uses the synthesis gas or a mixture of the synthesis gas and methane to generate electricity for commercial use. Gasification facility includes the transmission lines, gas transportation lines and facilities, and associated property and equipment specifically attributable to such a facility. Gasification facility includes, but is not limited to, an integrated gasification combined cycle facility and a plasma arc gasification facility.

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

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

(d) "Industrial cogeneration facility" means a facility that generates electricity using industrial thermal energy or industrial waste energy.

e) "Industrial thermal energy" means thermal energy that is a by-product of an industrial or manufacturing process and that would otherwise be wasted. For the purposes of this subdivision,
industrial or manufacturing process does not include the generation of electricity.

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

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

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

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

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

(j) "Modified net metering" means a utility billing method that applies the power supply component of the full retail rate to the net of the bidirectional flow of kilowatt hours across the customer interconnection with the utility distribution system, during a billing period or time-of-use pricing period. A negative
net metered quantity during the billing period or during each time-of-use pricing period within the billing period reflects net excess generation for which the customer is entitled to receive credit under section 177(4). Standby charges for modified net metering customers on an energy rate schedule shall be equal to the retail distribution charge applied to the imputed customer usage during the billing period. The imputed customer usage is calculated as the sum of the metered on-site generation and the net of the bidirectional flow of power across the customer interconnection during the billing period. The commission shall establish standby charges for modified net metering customers on demand-based rate schedules that provide an equivalent contribution to utility system costs.

Sec. 9. As used in this act:

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

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

(C) "OUTFLOW" MEANS THE NUMBER OF METERED KILOWATT HOURS DELIVERED INTO THE ELECTRIC UTILITY'S DISTRIBUTION SYSTEM FROM CUSTOMERS PARTICIPATING IN THE DISTRIBUTED GENERATION PROGRAM.
DURING A BILLING PERIOD.

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

(E) (e) "Provider" means an electric provider or a natural gas provider.

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

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

Sec. 11. As used in this act:

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

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

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

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

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

(f) "Renewable energy credit standard" means a minimum renewable energy portfolio required under section 27.
(g) "Renewable energy generator" means a person that, together with its affiliates, has constructed or has owned and operated 1 or more renewable energy systems with combined gross generating capacity of at least 10 megawatts.

(F) "Renewable energy plan" or "plan"—means a plan approved under FORMER section 21 or FORMER SECTION 23 or found to comply with this act under FORMER section 25, with any amendments adopted under this act.

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

(i) Biomass.
(ii) Solar and solar thermal energy.
(iii) Wind energy.
(iv) Kinetic energy of moving water, including all of the following:
(A) Waves, tides, or currents.
(B) Water released through a dam.
(v) Geothermal energy.
(vi) Municipal solid waste.
(vii) Landfill gas produced by municipal solid waste.

(H) "Renewable energy standard" means the minimum
renewable energy capacity portfolio, if applicable, and the renewable energy credit portfolio **THAT WAS** required to be achieved under FORMER section 27.

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

(i) A hydroelectric pumped storage facility.

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

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

(A) Any upgrade of such an incinerator that increases energy efficiency.

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

(C) Any expansion of such an incinerator on or after the effective date of this act, **OCTOBER 6, 2008** to an approximate design rated capacity of not more than 950 tons per day pursuant to the terms of a final request for proposals issued on or before October...
1, 1986.

[J] (J) "Revenue recovery mechanism" means the mechanism for recovery of incremental costs of compliance established under FORMER section 21.

Sec. 13. As used in this act:

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

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

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

(C) (d) "Utility system resource cost test" means a standard that is met for an investment in energy optimization WASTE REDUCTION if, on a life cycle basis, the total avoided supply-side costs to the provider, including representative values for electricity or natural gas supply, transmission, distribution, and other associated costs OR, BEFORE JANUARY 1, 2019, ELECTRICITY SUPPLY, TRANSMISSION, DISTRIBUTION, AND OTHER ASSOCIATED COSTS, are
greater than the total costs to the provider of administering and delivering the energy optimization WASTE REDUCTION program, including net costs for any provider incentives paid by customers and capitalized costs recovered under section 89.

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

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

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

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

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

(4) The commission shall establish a renewable energy credit certification and tracking program. The certification and tracking program may be contracted to and performed by a third party through a system of competitive bidding. The program shall
include all of the following:

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

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

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

(d) A method for transferring renewable energy credits.

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

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

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

(5) A renewable energy credit purchased from a renewable energy system in this state is not required to be used in this state.
Sec. 47. (1) Subject to the retail rate impact limits under section 45, FOR AN ELECTRIC PROVIDER WHOSE RATES ARE REGULATED BY THE COMMISSION, THE COMMISSION SHALL DETERMINE THE APPROPRIATE CHARGES, WHICH SHALL BE INCLUDED IN THE ELECTRIC PROVIDER'S TARIFFS, TO PERMIT RECOVERY OF THE INCREMENTAL COST OF COMPLIANCE. THE commission shall consider all actual costs reasonably and prudently incurred in good faith to implement a commission-approved renewable energy plan by an electric provider whose rates are regulated by the commission to be a cost of service to be recovered by the electric provider. Subject to the retail rate impact limits under section 45, AN electric provider whose rates are regulated by the commission shall recover through its retail electric rates all of the electric provider's incremental costs of compliance during the 20-year period beginning when the electric provider's plan is approved by the commission and all reasonable and prudent ongoing costs of compliance during and after that period. The recovery shall include, but is not limited to, THE FOLLOWING:

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

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

(2) Incremental costs of compliance shall be calculated as
follows:

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

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

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

(iii) Costs that are not otherwise recoverable in rates approved by the Federal Energy Regulatory Commission and that are related to the infrastructure required to bring renewable energy systems or advanced cleaner energy systems used to achieve compliance with the renewable energy standards on to the transmission system, including interconnection and substation costs for renewable energy systems or advanced
cleaner energy systems used to meet the renewable energy standard.

(iv) Ancillary service costs determined by the commission to be necessarily incurred to ensure the quality and reliability of renewable energy or advanced cleaner energy used to meet the renewable energy standards, regardless of the ownership of a renewable energy system or advanced cleaner energy technology.

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

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

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

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

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

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

(i) Revenue derived from the sale of environmental attributes associated with the generation of renewable energy or advanced cleaner energy systems attributable to the renewable energy standards. Such revenue shall not be considered in determining
power supply cost recovery factors under section 6j of 1939 PA 3, MCL 460.6j.

(ii) Interest on regulatory liabilities.

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

(iv) Revenue derived from the provision of renewable energy or advanced cleaner energy to retail electric customers subject to a power supply cost recovery clause under section 6j of 1939 PA 3, MCL 460.6j, of an electric provider whose rates are regulated by the commission. After providing an opportunity for a contested case hearing for an electric provider whose rates are regulated by the commission, the commission shall annually establish a price per megawatt hour. In addition, an electric provider whose rates are regulated by the commission may at any time petition the commission to revise the price. In setting the price per megawatt hour under this subparagraph, the commission shall consider factors including, but not limited to, projected capacity, energy, maintenance, and operating costs; information filed under section 6j of 1939 PA 3, MCL 460.6j; and information from wholesale markets, including, but not limited to, locational marginal pricing. This price shall be multiplied by the sum of the number of megawatt hours of renewable energy and the number of megawatt hours of advanced cleaner energy used to maintain compliance with the renewable energy standard. The product shall be considered a booked cost of purchased and net interchanged power transactions under section 6j of 1939 PA 3, MCL 460.6j. For energy purchased by such an electric provider under a renewable energy contract or advanced cleaner energy contract, the
price shall be the lower of the amount established by the commission or the actual price paid and shall be multiplied by the number of megawatt hours of renewable energy or advanced cleaner energy purchased. The resulting value shall be considered a booked cost of purchased and net interchanged power under section 6j of 1939 PA 3, MCL 460.6j.

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

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

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

(3) The commission shall authorize—IF, BEFORE THE EFFECTIVE DATE OF THE 2015 AMENDATORY ACT THAT AMENDED THIS SECTION, THE COMMISSION AUTHORIZED an electric provider whose rates are regulated by the commission to spend in any given month more to comply with this act and implement an approved renewable energy plan than the revenue actually generated by the FORMER revenue recovery mechanism, An electric provider whose rates are regulated by the commission THE PROVIDER shall recover its commission approved pre-tax rate of return on regulatory assets during the appropriate period. An electric provider whose rates are regulated by the commission shall record interest on regulatory liabilities at the average short-term borrowing rate available to
the electric provider during the appropriate period. Any regulatory assets or liabilities resulting from the recovery costs of renewable energy or advanced cleaner energy attributable to THE FORMER renewable energy standards through the power supply cost recovery clause under section 6j of 1939 PA 3, MCL 460.6j, shall continue to be reconciled under that section.

(4) If an electric provider's incremental costs of compliance in any given month during the 20-year period beginning when the electric provider's plan is approved by the commission are in excess of the revenue recovery mechanism as adjusted under section 49 and in excess of the balance of any accumulated reserve funds, subject to the minimum balance established under section 21, the electric provider shall immediately notify the commission. The commission shall promptly commence a contested case hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, and modify the revenue recovery mechanism so that the minimum balance is restored. However, if the commission determines that recovery of the incremental costs of compliance would otherwise exceed the maximum retail rate impacts specified under section 45, it shall set the revenue recovery mechanism for that electric provider to correspond to the maximum retail rate impacts. Excess costs shall be accrued and deferred for recovery. Not later than the expiration of the 20-year period beginning when the electric provider's plan is approved by the commission, for an electric provider whose rates are regulated by the commission, the commission shall determine the amount of deferred costs to be recovered under the revenue recovery mechanism and the recovery
period, which shall not extend more than 5 years beyond the expiration of the 20-year period beginning when the electric provider's plan is approved by the commission. The recovery of excess costs shall be proportional to the retail rate impact limits in section 45 for each customer class. The recovery of excess costs alone, or, if begun before the expiration of the 20-year period, in combination with the recovery of incremental costs of compliance under the revenue recovery mechanism, shall not exceed the retail rate impact limits of section 45 for each customer class.

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

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

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

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

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

SUBPART B.—C. ENERGY OPTIMIZATION—WASTE REDUCTION

Sec. 71. (1) A provider shall file a proposed energy optimization plan with the commission within the following time
(a) For a provider whose rates are regulated by the commission, 90 days after the commission enters a temporary order under section 171—BY MARCH 3, 2009.

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

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

(3) (2) The overall goal of an energy optimization—WASTE REDUCTION plan shall be to reduce the future costs of provider service to customers. In particular, an ENERGY WASTE REDUCTION plan shall be designed to delay the need for constructing new electric generating facilities and thereby protect consumers from incurring the costs of such construction. The proposed energy optimization plan shall be subject to approval in the same manner as an electric provider’s renewable energy plan under subpart A. A provider may combine its energy optimization plan with its renewable energy plan.

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

(a) Propose a set of energy optimization—WASTE REDUCTION programs that include offerings for each customer class, including low-income—LOW-INCOME residential. The commission shall allow
A PROVIDER flexibility to tailor the relative amount of effort devoted to each customer class based on the specific characteristics of their service territory.

(b) Specify necessary funding levels.

(c) Describe how energy optimization program costs will be recovered as provided in section 89(2).

(d) Ensure, to the extent feasible, that charges collected from a particular customer rate class are spent on energy optimization programs for that rate class.

(e) Demonstrate that the proposed energy optimization programs and funding are sufficient to ensure the achievement of applicable energy optimization standards.

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

(g) Demonstrate that the provider's energy optimization programs, excluding program offerings to low income residential customers, will collectively be cost-effective.

(h) Provide for the practical and effective administration of the proposed energy optimization programs. The commission shall allow providers flexibility in designing their energy optimization programs and administrative
approach. A provider's energy optimization WASTE REDUCTION programs or any part thereof, may be administered, at the provider's option, by the provider, alone or jointly with other providers, by a state agency, or by an appropriate experienced nonprofit organization selected after a competitive bid process.

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

   (5) Subject to subsection (5), (6), an energy optimization WASTE REDUCTION plan may do 1 or more of the following:

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

   (b) Propose to the commission measures that are designed to meet the goals set forth in subsection (4)-(5) and that provide additional customer benefits.

   (6) Expenditures under subsection (4)-(5) shall not exceed 3% of the costs of implementing the energy optimization WASTE REDUCTION plan.

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

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

SEC. 72. (1) A NATURAL GAS PROVIDER WAS REQUIRED TO FILE A
PROPOSED ENERGY OPTIMIZATION PLAN WITH THE COMMISSION BY MARCH 3, 2009. THOSE PLANS REMAIN IN EFFECT, SUBJECT TO ANY AMENDMENTS, AS ENERGY WASTE REDUCTION PLANS.

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

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

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

(B) SPECIFY NECESSARY FUNDING LEVELS.

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

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

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

(F) SPECIFY WHETHER THE NUMBER OF DECATHERMS OR MCFS OF NATURAL GAS USED IN THE CALCULATION OF INCREMENTAL ENERGY SAVINGS
UNDER SECTION 77A WILL BE WEATHER-NORMALIZED OR BASED ON THE AVERAGE NUMBER OF DECATHERMS OR MCFS OF NATURAL GAS SOLD BY THE PROVIDER ANNUALLY DURING THE PREVIOUS 3 YEARS TO RETAIL CUSTOMERS IN THIS STATE. ONCE THE PLAN IS APPROVED BY THE COMMISSION, THIS OPTION SHALL NOT BE CHANGED.

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

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

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

(4) SUBJECT TO SUBSECTION (5), AN ENERGY WASTE REDUCTION PLAN MAY DO 1 OR MORE OF THE FOLLOWING:
(A) UTILIZE EDUCATIONAL PROGRAMS DESIGNED TO ALTER CONSUMER BEHAVIOR OR ANY OTHER MEASURES THAT CAN REASONABLY BE USED TO MEET THE GOAL SET FORTH IN SUBSECTION (2).

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

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

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

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

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

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

(b) The cost and benefit analysis and other justification for
specific programs and measures included in a proposed ENERGY WASTE REDUCTION plan.

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

(d) Whether the proposed ENERGY WASTE REDUCTION plan will result in any unreasonable prejudice or disadvantage to any class of customers.

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


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

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

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

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

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

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

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

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

(D) WHETHER THE PROPOSED ENERGY WASTE REDUCTION PLAN WILL RESULT IN ANY UNREASONABLE PREJUDICE OR DISADVANTAGE TO ANY CLASS OF CUSTOMERS.
(E) THE EXTENT TO WHICH THE ENERGY WASTE REDUCTION PLAN PROVIDES PROGRAMS THAT ARE AVAILABLE, AFFORDABLE, AND USEFUL TO ALL CUSTOMERS.


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

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

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

(7) THIS SECTION TAKES EFFECT 90 DAYS AFTER THE EFFECTIVE DATE
OF THE 2015 AMENDATORY ACT THAT ADDED THIS SECTION.

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

Sec. 75. (1) An energy optimization—WASTE REDUCTION plan of a provider whose rates are regulated by the commission may authorize a commensurate financial incentive for the provider for exceeding the energy optimization—WASTE REDUCTION performance standard. Payment of any financial incentive authorized in the energy optimization—WASTE REDUCTION plan is subject to the approval of the commission. The total amount of a financial incentive shall not exceed the lesser of the following amounts:

____ (a) 25% of the net cost reductions experienced by the provider's customers as a result of implementation of the energy optimization plan.

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

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

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

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

____ (b) Annual incremental energy savings in 2010 equivalent to
(c) Annual incremental energy savings in 2011 equivalent to 0.75% of total annual retail electricity sales in megawatt hours in 2010.

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

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

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

(a) Biennial incremental energy savings in 2008-2009 equivalent to 0.1% of total annual retail natural gas sales in deatherms or equivalent MCFs in 2007.

(b) Annual incremental energy savings in 2010 equivalent to 0.25% of total annual retail natural gas sales in deatherms or equivalent MCFs in 2009.

(c) Annual incremental energy savings in 2011 equivalent to 0.5% of total annual retail natural gas sales in deatherms or equivalent MCFs in 2010.
(3) (d) Annual SUBJECT TO THE SALES REVENUE EXPENDITURE LIMITS IN SECTION 89, A NATURAL GAS PROVIDER'S ENERGY WASTE REDUCTION PROGRAM UNDER THIS SUBPART SHALL ACHIEVE ANNUAL incremental energy savings in 2012, 2013, 2014, and 2015 and, subject to section 97, each year thereafter equivalent to 0.75% of total annual retail natural gas sales in decatherms or equivalent MCFs in the preceding year.

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

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

(a) The number of weather-normalized megawatt hours or decatherms or equivalent MCFs sold by the provider to retail customers in this state during the year preceding the biennium or year for which incremental energy savings are being calculated.
(b) The average number of megawatt hours or decatherms or equivalent MCFs sold by the provider during the 3 years preceding the biennium or year for which incremental energy savings are being calculated.

(6) For any year after 2012, an electric provider may substitute renewable energy credits associated with renewable energy generated that year from a renewable energy system constructed after the effective date of this act, advanced cleaner energy credits other than credits from industrial cogeneration using industrial waste energy, load management that reduces overall energy usage, or a combination thereof for energy optimization credits otherwise required to meet the energy optimization performance standard, if the substitution is approved by the commission. The commission shall not approve a substitution unless the commission determines that the substitution is cost-effective and, if the substitution involves advanced cleaner energy credits, that the advanced cleaner energy system provides carbon dioxide emissions benefits. In determining whether the substitution of advanced cleaner energy credits is cost-effective compared to other available energy optimization measures, the commission shall consider the environmental costs related to the advanced cleaner energy system, including the costs of environmental control equipment or greenhouse gas constraints or taxes. The commission's determinations shall be made after a contested case hearing that includes consultation with the department of environmental quality on the issue of carbon dioxide emissions benefits, if relevant, and environmental costs.
(7) Renewable energy credits, advanced cleaner energy credits, load management that reduces overall energy usage, or a combination thereof shall not be used by a provider to meet more than 10% of the energy optimization standard. Substitutions for energy optimization credits shall be made at the following rates per energy optimization credit:

(a) 1 renewable energy credit.
(b) 1 advanced cleaner energy credit from plasma arc gasification.
(c) 4 advanced cleaner energy credits other than from plasma arc gasification.

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

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

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

(2) INCREMENTAL ENERGY SAVINGS UNDER SUBSECTION (1) FOR A YEAR SHALL BE DETERMINED FOR A NATURAL GAS PROVIDER BY ADDING THE ENERGY SAVINGS EXPECTED TO BE ACHIEVED BY ENERGY WASTE REDUCTION MEASURES IMPLEMENTED DURING THAT YEAR UNDER ANY ENERGY EFFICIENCY PROGRAMS CONSISTENT WITH THE PROVIDER'S ENERGY WASTE REDUCTION PLAN. THE ENERGY SAVINGS EXPECTED TO BE ACHIEVED SHALL BE DETERMINED USING
THE 2015 "MICHIGAN ENERGY MEASURES DATABASE" SUPPLIED BY MORGAN MARKETING PARTNERS, SUBJECT TO ANY UPDATES THAT THE COMMISSION APPROVES AS BEING REASONABLE AND CONSISTENT WITH THE PURPOSES OF THIS SUBPART.

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

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

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

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

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

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

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

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

(C) PROPOSE A REVISED ENERGY WASTE REDUCTION TO BE ACHIEVED BY
THE NATURAL GAS PROVIDER.

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

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

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

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

(b) Had average electric rates for residential customers using 1,000 kilowatt hours per month that were less than 75% of the average electric rates for residential customers using 1,000 kilowatt hours per month for all electric utilities in this state, according to the January 1, 2007, "comparison of average rates for MPSC-regulated electric utilities in Michigan" compiled by the commission.

(2) Beginning 2 years after a provider described in subsection (1) begins implementation of its energy optimization WASTE REDUCTION plan, the provider may petition the commission to establish alternative energy optimization WASTE REDUCTION standards. The petition shall identify the efforts taken by the provider to meet the electric provider energy optimization WASTE REDUCTION standards and demonstrate why the energy optimization
WASTE REDUCTION standards cannot reasonably be met with energy optimization programs that are collectively cost-effective. If the commission finds that the petition meets the requirements of this subsection, the commission shall revise the energy optimization standards as applied to that electric provider to a level that can reasonably be met with energy optimization programs that are collectively cost-effective.

(3) This section as amended by the 2015 amendatory act that added this subsection takes effect 90 days after the date that act is enacted into law.

(4) This section is repealed effective January 1, 2019.

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

(2) An energy optimization credit expires as follows:

(a) When used by a provider to comply with its energy optimization performance standard.

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

(c) As provided in subsection (3).

(3) If a provider's incremental energy savings in the 2008-2009 biennium or any year thereafter exceed the applicable energy optimization standard, the associated energy optimization credits may be carried forward and
applied to the next year's energy optimization \textsc{Waste Reduction} standard. However, all of the following apply:

(a) The number of energy optimization \textsc{Waste Reduction} credits carried forward shall not exceed 1/3 of the next year's standard. Any energy optimization \textsc{Waste Reduction} credits carried forward to the next year shall expire that year. Any remaining energy optimization credits shall expire at the end of the year in which the incremental energy savings were achieved, unless substituted, by an electric provider, for renewable energy credits under section 27.

(b) Energy optimization \textsc{Waste Reduction} credits shall not be carried forward if, for its performance during the same biennium or year, the provider accepts a financial incentive under section 75. The excess energy optimization \textsc{Waste Reduction} credits shall expire at the end of the year in which the incremental energy savings were achieved, unless substituted, by an electric provider, for renewable energy credits under section 27.

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

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

Sec. 85. (1) An energy optimization \textsc{Waste Reduction} credit is not transferable to another entity.

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

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

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

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

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

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

(B) (c) If the system is established by the commission, allowance for issuance and use of energy optimization WASTE REDUCTION credits in electronic form.

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

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

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

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

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

(4) Upon petition by a provider whose rates are regulated by
the commission, the commission shall authorize the provider to
capitalize all energy efficiency and energy conservation equipment,
materials, and installation costs with an expected economic life
greater than 1 year incurred in implementing its energy
optimization WASTE REDUCTION plan, including such costs paid to
third parties, such as customer rebates and customer incentives.
The provider shall also propose depreciation treatment with respect
to its capitalized costs in its energy optimization WASTE REDUCTION
plan, and the commission shall order reasonable depreciation
treatment related to these capitalized costs. A provider shall not
capitalize payments made to an independent energy optimization
WASTE REDUCTION program administrator under section 91.

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

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

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

(a) In 2009, 0.75% of total retail sales revenues for 2007.
(b) In 2010, 1.0% of total retail sales revenues for 2008.
(c) In 2011, 1.5% of total retail sales revenues for 2009.
(d) In 2012 and each year thereafter, 2.0% of total retail sales revenues for the 2 years preceding.

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

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

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

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

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

(4) UPON PETITION BY A NATURAL GAS PROVIDER WHOSE RATES ARE REGULATED BY THE COMMISSION, THE COMMISSION SHALL AUTHORIZE THE PROVIDER TO CAPITALIZE ALL ENERGY EFFICIENCY AND ENERGY CONSERVATION EQUIPMENT, MATERIALS, AND INSTALLATION COSTS WITH AN EXPECTED ECONOMIC LIFE GREATER THAN 1 YEAR INCURRED IN IMPLEMENTING ITS ENERGY WASTE REDUCTION PLAN, INCLUDING SUCH COSTS PAID TO THIRD PARTIES, SUCH AS CUSTOMER REBATES AND CUSTOMER INCENTIVES. THE PROVIDER SHALL ALSO PROPOSE DEPRECIATION TREATMENT WITH RESPECT TO ITS CAPITALIZED COSTS IN ITS ENERGY WASTE REDUCTION PLAN, AND THE COMMISSION SHALL ORDER REASONABLE DEPRECIATION TREATMENT RELATED TO THESE CAPITALIZED COSTS. A NATURAL GAS PROVIDER SHALL NOT CAPITALIZE PAYMENTS MADE TO AN INDEPENDENT ENERGY WASTE REDUCTION PROGRAM ADMINISTRATOR UNDER SECTION 91A.
(5) The established funding level for low-income residential programs shall be provided from each customer rate class in proportion to that customer rate class's funding of the natural gas provider's total energy waste reduction programs. Charges shall be applied to distribution customers regardless of the source of their natural gas supply.

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

(7) A natural gas provider shall not spend in any year more than 2.0% of total utility retail sales revenues, including natural gas commodity costs, for the second year preceding to comply with
THE ENERGY WASTE REDUCTION PERFORMANCE STANDARD WITHOUT SPECIFIC APPROVAL FROM THE COMMISSION.

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

Sec. 91. (1) Except for section 89(6), sections 71 to 89 do not apply to a provider that pays the following percentage of total utility sales revenues, including electricity or natural gas commodity costs, each year to an independent energy optimization program administrator selected by the commission:

(a) In 2009, 0.75% of total retail sales revenues for 2007.
(b) In 2010, 1.0% of total retail sales revenues for 2008.
(c) In 2011, 1.5% of total retail sales revenues for 2009.
(d) In 2012 and each year thereafter, 2.0% of total retail sales revenues for the 2 years preceding.

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

(B) FOR AN ELECTRIC PROVIDER, AS FOLLOWS:

(i) FOR EACH YEAR THROUGH 2016, 2.0% OF TOTAL RETAIL SALES REVENUES FOR 2014.
(ii) FOR 2017, 1.0% OF TOTAL RETAIL SALES REVENUES FOR 2015.
(iii) FOR 2018, 1.0% OF TOTAL RETAIL SALES REVENUES FOR 2016.

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

(3) The commission shall allow a provider to recover an alternative compliance payment under subsection (1). This cost
shall be recovered from residential customers by volumetric charges, from all other metered customers by per-meter charges, and from unmetered customers by an appropriate charge, applied to OR FIXED, PER-METER CHARGES. FIXED, PER-METER CHARGES UNDER THIS SUBSECTION MAY VARY BY RATE CLASS. CHARGES UNDER THIS SUBSECTION SHALL NOT BE ITEMIZED ON utility bills.

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

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

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

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

(8) THIS SECTION AS AMENDED BY THE 2015 AMENDATORY ACT THAT ADDED THIS SUBSECTION TAKES EFFECT 90 DAYS AFTER THE DATE THAT ACT IS ENACTED INTO LAW.
(9) THIS SECTION IS REPEALED EFFECTIVE JANUARY 1, 2019.

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

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

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

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

(5) MONEY PAID TO THE ENERGY WASTE REDUCTION PROGRAM
ADMINISTRATOR UNDER SUBSECTION (1) AND NOT SPENT BY THE
ADMINISTRATOR THAT YEAR SHALL REMAIN AVAILABLE FOR EXPENDITURE THE
FOLLOWING YEAR, SUBJECT TO SUBSECTION (4).

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

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

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

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

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

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

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

_____ (c) In 2014 or any year thereafter, the customer or customers
must have had an annual peak demand in the preceding year of at
least 1 megawatt in the aggregate at all sites to be covered by the self-directed plan.

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

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

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

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

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

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

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

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

(b) The self-directed plan shall provide for aggregate energy
savings that each year meet or exceed the energy optimization—WASTE REDUCTION standards based on the electricity purchases in the previous year for the site or sites covered by the self-directed plan.

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

(i) Changes in electricity usage because of changes in business activity levels not attributable to energy optimization—WASTE REDUCTION.

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

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

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

(7) A self-directed energy optimization—WASTE REDUCTION plan shall be incorporated into the relevant electric provider's energy optimization—WASTE REDUCTION plan. The self-directed plan and information submitted by the customer under subsection (10) are
confidential and exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. Projected energy savings from measures implemented under a self-directed plan shall be attributed to the relevant provider's energy optimization programs for the purposes of determining annual incremental energy savings achieved by the provider under section 77 or 81, as applicable.

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

(9) A customer implementing a self-directed energy optimization plan under this section shall annually submit to the customer's electric provider a brief report documenting the energy efficiency measures taken under the self-directed plan during the previous year, and the corresponding energy savings that will result. The report shall provide sufficient information for the provider and the commission to monitor progress toward the goals in the self-directed plan and to develop reliable estimates of the energy savings that are being achieved from self-directed plans. The customer report shall indicate the level of incremental energy savings achieved for the year covered by the report and whether that level of incremental energy savings meets the goal set forth in the customer's self-directed plan. If a customer submitting a report under this subsection wishes to amend its self-directed plan, the customer
shall submit with the report an amended self-directed plan. A report under this subsection shall be accompanied by an affidavit from a knowledgeable official of the customer that the information in the report is true and correct to the best of the official's knowledge and belief. If the customer has retained an independent energy optimization service company, the requirements of this subsection shall be met by the energy optimization service company.

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

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

(a) Determine the proportion of the shortfall in achieving the minimum energy optimization goals under subsection (6)(b).

(b) Multiply the figure under subdivision (a) by the energy optimization charges from which the customer or
customers collectively were exempt under subsection (1).

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

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

(13) By September 1, 2010, following a public hearing, the commission shall establish an approval process for energy optimization WASTE REDUCTION service companies. The approval process shall ensure that energy optimization WASTE REDUCTION service companies have the expertise, resources, and business practices to reliably provide energy optimization WASTE REDUCTION services that meet the requirements of this section. The commission may adopt by reference the past or current standards of a national or regional certification or licensing program for energy optimization WASTE REDUCTION service companies. However, the approval process shall also provide an opportunity for energy optimization WASTE REDUCTION service companies that are not recognized by such a program to be approved by posting a bond in an amount determined by the commission and meeting any other requirements adopted by the commission for the purposes of this subsection. The approval process for energy optimization WASTE REDUCTION service companies shall require adherence to a code of
conduct governing the relationship between energy optimization and waste reduction service companies and electric providers.

(14) The department of energy, labor, and economic growth licensing and regulatory affairs shall maintain on the department's website a list of energy optimization waste reduction service companies approved under subsection (13).

(15) This section as amended by the 2015 amendatory act that added this subsection takes effect 90 days after the date that act is enacted into law.

(16) This section is repealed effective January 1, 2019.

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

(a) Promote load management in appropriate circumstances, including encouraging the establishment of load management programs in which an electric provider may remotely shut down air conditioning or other energy intensive systems of participating customers. Electric provider participation and customer enrollment in such programs shall be voluntary. The programs may provide incentives for customer participation and shall include customer protection provisions as required by the commission.

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

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

(d) Work with residential, commercial, and industrial customers to reduce annual demand and conserve energy through load management techniques and other activities it considers appropriate. The commission shall file a report with the
legislature by December 31, 2010 on the effort to reduce peak
demand. The report shall also include any recommendations for
legislative action concerning load management that the commission
considers necessary.

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

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

(a) Promote energy efficiency and energy conservation.

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) By October 1, 2010, the commission shall submit to the committees described in subsection (4) any recommendations for legislative action to increase energy conservation and energy efficiency based on reports under subsection (1), the energy optimization plans approved under section 89, and the commission's own investigation. By March 1, 2013, the commission shall submit to those committees a report on the progress of electric providers in
achieving reductions in energy use. The commission may use an
independent evaluator to review the submissions by electric
providers.

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

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

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

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

(c) For each provider, whether that provider's program under
(5) If the commission determines in its report required by September 30, 2015 under subsection (6) or determines subsequently that a provider's energy optimization program under this subpart has not been cost-effective, the provider's program is suspended beginning 180 days after the date of the report or subsequent determination. If a provider's energy optimization program is suspended under this subsection, both of the following apply:

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

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

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

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

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

(A) THE AMOUNT OF ENERGY WASTE REDUCTION ACHIEVED DURING THE REPORTING PERIOD.
(B) EXPENDITURES MADE IN THE PAST YEAR AND ANTICIPATED FUTURE EXPENDITURES TO COMPLY WITH THIS SUBPART.

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

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

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

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

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

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

SEC. 99. (1) THE ATTORNEY GENERAL OR ANY CUSTOMER OF A
A cooperative electric utility that has elected to become member-regulated under the electric cooperative member-regulation act, 2008 PA 167, MCL 460.31 to 460.39, may commence a civil action for injunctive relief against such a cooperative electric utility if the electric provider fails to meet the applicable requirements of this subpart or an order issued or rule promulgated under this subpart.

(2) An action under subsection (1) shall be commenced in the circuit court for the circuit in which the principal office of the cooperative electric utility that has elected to become member-regulated is located. An action shall not be filed under subsection (1) unless the prospective plaintiff has given the prospective defendant and the commission at least 60 days' written notice of the prospective plaintiff's intent to sue, the basis for the suit, and the relief sought. Within 30 days after the prospective defendant receives written notice of the prospective plaintiff's intent to sue, the prospective defendant and plaintiff shall meet and make a good faith attempt to determine if there is a credible basis for the action. If both parties agree that there is a credible basis for the action, the prospective defendant shall take all reasonable and prudent steps necessary to comply with the applicable requirements of this subpart within 90 days of the meeting.

(3) In issuing a final order in an action brought under subsection (1), the court may award costs of litigation, including reasonable attorney and expert witness fees, to the prevailing or substantially prevailing party.

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

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

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

SUBPART C-D.

MISCELLANEOUS

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

(2) THIS SECTION, AS AMENDED BY THE 2015 AMENDATORY ACT THAT
DISTRIBUTED GENERATION AND NET METERING

Sec. 173. (1) The commission shall establish a statewide net metering program by order issued not later than 180 days after the effective date of this act. No later than 180 days after the effective date of this act, the commission shall promulgate rules regarding any time limits on the submission of net metering applications or inspections of net metering equipment and any other matters the commission considers necessary to implement this part. The 2015 Amendatory Act that amended this section. The commission may promulgate rules the commission considers necessary to implement this program. Any rules adopted regarding time limits for approval of parallel operation shall recognize reliability and safety complications including those arising from equipment saturation, use of multiple technologies, and proximity to synchronous motor loads. The program shall apply to all electric utilities and alternative electric suppliers in this state.

(2) Except as otherwise provided under this part, customers of any class are eligible to interconnect an eligible electric generator with the customer's local electric utility and operate the generator in parallel with the distribution system. The program shall be designed for a period of not less than 10 years and limit each customer to generation capacity designed to meet only the customer's electric needs, up to 110% of the customer's average...
ANNUAL ELECTRICITY CONSUMPTION. The commission may waive the application, interconnection, and installation requirements of this part for customers participating in the net metering program under the commission's March 29, 2005 order in case no. U-14346 OR THE DISTRIBUTED GENERATION PROGRAM UNDER THIS PART.

(3) An electric utility or alternative electric supplier is not required to allow for net metering DISTRIBUTED GENERATION that is greater than 1%–10% of its AVERAGE in-state peak load for the preceding 5 calendar years. The ELECTRIC utility or ALTERNATIVE ELECTRIC supplier shall notify the commission if its net metering DISTRIBUTED GENERATION program reaches the 1%–10% LIMIT under this subsection. The 1%–10% limit under this subsection shall be allocated as follows:

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

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

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

(4) Selection of customers for participation in the net metering DISTRIBUTED GENERATION program shall be based on the order in which the applications for participation in the net metering program are received by the electric utility or alternative electric supplier.
An electric utility or alternative electric supplier shall not DISCONTINUE OR refuse to provide or discontinue electric service to a customer solely for the reason that BECAUSE the customer participates in the net-metering DISTRIBUTED GENERATION program.

The DISTRIBUTED GENERATION program created under subsection (1) shall include all of the following:

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

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

INVERTERS THAT INTERCONNECT DISTRIBUTED GENERATION RESOURCES MAY BE
OWNED AND OPERATED BY ELECTRIC UTILITIES. Utility testing and
approval of the interconnection and execution of a parallel
operating agreement must be completed prior to the equipment
operating in parallel with the distribution system of the utility.

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

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

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

Sec. 175. (1) An electric utility or alternative electric
supplier may charge a fee not to exceed $100.00–$50.00 to process
an application for net metering. A customer with a system capable
of generating more than 20 kilowatts TO PARTICIPATE IN THE
DISTRIBUTED GENERATION PROGRAM. THE CUSTOMER shall pay all
interconnection costs. A customer with a system capable of
generating more than 150 kilowatts shall pay standby costs. The
commission shall recognize the reasonable cost for each electric
utility and alternative electric supplier to operate a net metering
DISTRIBUTED GENERATION program. For an electric utility with
1,000,000 or more retail customers in this state, the commission
shall include in that ELECTRIC utility's nonfuel base rates all
costs of meeting all program requirements except that all energy
costs of the program shall be recovered through the utility's power
supply cost recovery mechanism under sections SECTION 6j and 6k of
1939 PA 3, MCL 460.6j, and 460.6k. For an electric utility with
less FEWER than 1,000,000 base distribution customers in this
state, the commission shall allow that ELECTRIC utility to recover
all energy costs of the program through the power supply cost
recovery mechanism under sections SECTION 6j and 6k of 1939 PA 3,
MCL 460.6j, and 460.6k, and shall develop a cost recovery mechanism
for that utility to contemporaneously recover all other costs of
meeting the program requirements.

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

(3) The interconnection requirements shall require all
eligible electric generators, alternative electric suppliers, and electric utilities to comply with all applicable federal, state, and local laws, rules, or regulations, and any national standards as determined by the commission.

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

(2) An electric utility serving over 1,000,000 customers in this state may provide its customers participating in the net metering program, at no additional charge, a meter or meters capable of measuring the flow of energy in both directions.

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

(4) If the quantity of electricity generated and delivered
to the utility distribution system by an eligible electric generator during a billing period exceeds the quantity of electricity supplied from the electric utility or alternative electric supplier during the billing period, the eligible customer shall be credited by their supplier of electric generation service for the excess kilowatt-hours generated during the billing period. The credit shall appear on the bill for the following billing period and shall be limited to the total power supply charges on that bill. Any excess kilowatt-hours not used to offset electric generation charges in the next billing period will be carried forward to subsequent billing periods. A customer participating in the distributed generation program shall purchase all of the electricity the customer consumes from the electric utility or alternative electric supplier at the applicable retail electricity rates and charges. If participating in net metering, the customer shall receive a bill credit for all electricity produced by the eligible electric generator on the customer's site. The bill credit shall be the value of the energy avoided by the electric utility or alternative electric supplier as a result of the customer's participation. The value of the energy avoided by the electric utility or alternative electric supplier shall be determined by applying the day-ahead wholesale energy market clearing price at the appropriate pricing node for each kilowatt-hour produced by the eligible electric generator. The value of the energy avoided shall be determined by applying the relevant independent system operator's monthly capacity auction clearing price for each kilowatt per month, discounted for variable generating units.
ACCORDING TO THE METHODOLOGY USED BY THE INDEPENDENT SYSTEM OPERATOR. IF THE BILL CREDIT EXCEEDS THE CHARGES FOR THE CUSTOMER'S ELECTRIC CONSUMPTION, THE BILL CREDIT SHALL CARRY OVER TO SUBSEQUENT BILLING PERIODS INDEFINITELY UNTIL FULLY UTILIZED TO OFFSET CHARGES FOR THE CUSTOMER'S ELECTRIC CONSUMPTION. THE ELECTRIC UTILITY OR ALTERNATIVE ELECTRIC SUPPLIER MAY, UPON APPROVAL BY THE COMMISSION, CHARGE A MINIMUM BILL AMOUNT TO SUPPORT THE CUSTOMER'S USE OF THE ELECTRIC GRID FOR ANY MONTH IN WHICH A CUSTOMER'S MONTHLY BILL CREDIT EXCEEDS THE CHARGES FOR THE CUSTOMER'S CONSUMPTION. Notwithstanding any law or regulation, net metering DISTRIBUTED GENERATION PROGRAM customers shall not receive credits for electric utility transmission or distribution charges. The credit per kilowatt hour for kilowatt hours delivered into the utility's distribution system shall be either of the following:

(a) The monthly average real-time locational marginal price for energy at the commercial pricing node within the electric utility's distribution service territory, or for net metering customers on a time-based rate schedule, the monthly average real-time locational marginal price for energy at the commercial pricing node within the electric utility's distribution service territory during the time-of-use pricing period.

(b) The electric utility's or alternative electric supplier's power supply component of the full retail rate during the billing period or time-of-use pricing period.

(4) A CUSTOMER PARTICIPATING IN THE DISTRIBUTED GENERATION PROGRAM SHALL BE CHARGED THE ELECTRIC UTILITY'S OR ALTERNATIVE ELECTRIC SUPPLIER'S FULL RETAIL RATE FOR ALL INFLOW. FOR TOTAL

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

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

PART 7.

RESIDENTIAL ENERGY IMPROVEMENTS

SEC. 201. AS USED IN THIS PART:

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

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

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

(iii) AUTOMATED ENERGY CONTROL SYSTEMS.

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

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

(vi) LIGHTING FIXTURES THAT REDUCE THE ENERGY USE OF THE
LIGHTING SYSTEM.

(vii) ENERGY RECOVERY SYSTEMS.

(viii) DAY LIGHTING SYSTEMS.

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

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

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

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

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

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

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

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

(E) "RECORD OWNER" MEANS THE PERSON OR PERSONS POSSESSED OF THE MOST RECENT FEE TITLE OR LAND CONTRACT VENDEE'S INTEREST IN
PROPERTY AS SHOWN BY THE RECORDS OF THE COUNTY REGISTER OF DEEDS.

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

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

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

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

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

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

(B) WHETHER THE RESIDENTIAL ENERGY PROJECTS PROGRAM WILL BE ADMINISTERED BY A THIRD PARTY.
(C) An application process and eligibility requirements for a record owner to participate in the residential energy projects program.

(D) An application form governing the terms and conditions for a record owner's participation in the program, including an explanation of billing under subdivision (F) and of the provisions of section 207.

(E) A description of any fees to cover application, administration, or other program costs to be charged to a record owner participating in the program, including the amount of each fee, if known, or procedures to determine the amount. A fee shall not exceed the costs incurred by the provider for the activity for which the fees are charged.

(F) Provisions for billing customers of the provider any fees under subdivision (E) and the monthly installment payments as a per-meter charge on the bill for electric or natural gas services.

(G) Provisions for marketing and participant education.

(3) The commission shall not approve a provider's proposed residential energy projects plan unless the commission determines that the plan is reasonable and prudent.

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

(5) Every 4 years after initial approval of a plan under subsection (1), the commission shall review the plan.

Sec. 207. (1) A baseline home energy audit shall be conducted before an energy project is undertaken. After the energy project is
COMPLETED, THE PROVIDER SHALL OBTAIN VERIFICATION THAT THE ENERGY PROJECT WAS PROPERLY INSTALLED AND IS OPERATING AS INTENDED.

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

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

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

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

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

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


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