SUBSTITUTE FOR

HOUSE BILL NO. 5710

A bill to amend 1939 PA 3, entitled

"An act to provide for the regulation and control of public and certain private utilities and other services affected with a public interest within this state; to provide for alternative energy suppliers and certain providers of electric vehicle charging services; to provide for licensing; to include municipally owned utilities and other providers of energy under certain provisions of this act; to create a public service commission and to prescribe and define its powers and duties; to abolish the Michigan public utilities commission and to confer the powers and duties vested by law on the public service commission; to provide for the powers and duties of certain state governmental officers and entities; to provide for the continuance, transfer, and completion of certain matters and proceedings; to abolish automatic adjustment clauses; to prohibit certain rate increases without notice and hearing; to qualify residential energy conservation programs permitted under state law for certain federal exemption; to create a fund; to encourage the utilization of resource recovery facilities; to prohibit certain acts and practices of providers of energy; to

allow for the securitization of stranded costs; to reduce rates; to provide for appeals; to provide appropriations; to declare the effect and purpose of this act; to prescribe remedies and penalties; and to repeal acts and parts of acts,"

by amending sections 6a, 6*l*, 6m, and 6t (MCL 460.6a, 460.6*l*, 460.6m, and 460.6t), sections 6a, 6m, and 6t as amended by 2023 PA 231 and section 6*l* as amended by 2016 PA 341; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 6a. (1) A gas utility, electric utility, or steam utility shall not increase its rates and charges or alter, change, or amend any rate or rate schedules, the effect of which will be to increase the cost of services to its customers, without first receiving commission approval as provided in this section. A utility shall coordinate with the commission staff in advance of filing its general rate case application under this section to avoid resource challenges with applications being filed at the same time as applications filed under this section by other utilities. In the case of electric utilities serving more than 1,000,000 customers in this state, the commission may, if necessary, order a delay in filing an application to establish a 21-day spacing between filings of electric utilities serving more than 1,000,000 customers in this state. The utility shall place in evidence facts relied upon to support the utility's petition or application to increase its rates and charges, or to alter, change, or amend any rate or rate schedules. The commission shall require notice to be given to all interested parties ~~within~~ **in** the service area to be affected, and allow interested parties a reasonable opportunity for a full and complete hearing. A utility may use projected costs and revenues for a future consecutive 12-month period in developing its

requested rates and charges. The commission shall notify the utility ~~within~~ **not later than** 30 days after filing, whether the utility's petition or application is complete. A petition or application is considered complete if it complies with the rate application filing forms and instructions adopted under subsection (8). If the application is not complete, the commission shall notify the utility of all information necessary to make that filing complete. If the commission has not notified the utility within 30 days of whether the utility's petition or application is complete, the application is considered complete. Concurrently with filing a complete application, or at any time after filing a complete application, a gas utility serving fewer than 1,000,000 customers in this state may file a motion seeking partial and immediate rate relief. After providing notice to the interested parties ~~within~~ **in** the service area to be affected and affording interested parties a reasonable opportunity to present written evidence and written arguments relevant to the motion seeking partial and immediate rate relief, the commission shall make a finding and enter an order granting or denying partial and immediate relief ~~within~~ **not later than** 180 days after the motion seeking partial and immediate rate relief was submitted. The commission has 12 months to issue a final order in a case in which a gas utility has filed a motion seeking partial and immediate rate relief.

(2) If the commission has not issued an order within 180 days after the filing of a complete application, the utility may implement up to the amount of the proposed annual rate request through equal percentage increases or decreases applied to all base rates. If the utility uses projected costs and revenues for a future period in developing its requested rates and charges, the

utility may not implement the equal percentage increases or decreases before the calendar date corresponding to the start of the projected 12-month period. For good cause, the commission may issue a temporary order preventing or delaying a utility from implementing its proposed rates or charges. If a utility implements increased rates or charges under this subsection before the commission issues a final order, that utility shall refund to customers, with interest, any portion of the total revenues collected through application of the equal percentage increase that exceed the total that would have been produced by the rates or charges subsequently ordered by the commission in its final order. The commission shall allocate any refund required by this subsection among primary customers based ~~upon~~ **on** their pro rata share of the total revenue collected through the applicable increase, and among secondary and residential customers in a manner to be determined by the commission. The rate of interest for refunds is 5% plus the London interbank offered rate (LIBOR) for the appropriate time period. For any portion of the refund that, exclusive of interest, exceeds 25% of the annual revenue increase awarded by the commission in its final order, the rate of interest is the authorized rate of return on the common stock of the utility during the appropriate period. Any refund or interest awarded under this subsection must not be included, in whole or in part, in any application for a rate increase by a utility. This subsection only applies to completed applications filed with the commission before April 20, 2017.

(3) This section does not impair the commission's ability to issue a show cause order as part of its rate-making authority. An alteration or amendment in rates or rate schedules applied for by a

public utility that will not result in an increase in the cost of service to its customers may be authorized and approved without notice or hearing. There shall be no increase in rates based upon changes in cost of fuel, purchased gas, or purchased steam unless notice has been given ~~within~~ **in** the service area to be affected, and there has been an opportunity for a full and complete hearing on the cost of fuel, purchased gas, or purchased steam. The rates charged by any utility under an automatic fuel, purchased gas, or purchased steam adjustment clause ~~shall~~ **must** not be altered, changed, or amended unless notice has been given ~~within~~ **in** the service area to be affected, and there has been an opportunity for a full and complete hearing on the cost of the fuel, purchased gas, or purchased steam.

(4) The commission shall adopt rules and procedures for the filing, investigation, and hearing of petitions or applications to increase or decrease utility rates and charges as the commission finds necessary or appropriate to enable it to reach a final decision with respect to petitions or applications within a period of time allotted by law to issue a final order after the filing of the complete petitions or applications. The commission shall not authorize or approve adjustment clauses that operate without notice and an opportunity for a full and complete hearing, and all such clauses are abolished. The commission may hold a full and complete hearing to determine the cost of fuel, purchased gas, purchased steam, or purchased power separately from a full and complete hearing on a general rate case and may hold that hearing concurrently with the general rate case. The commission shall authorize a utility to recover the cost of fuel, purchased gas, purchased steam, or purchased power only to the extent that the

purchases are reasonable and prudent.

(5) Except as otherwise provided in this subsection and subsection (1), if the commission fails to reach a final decision with respect to a completed petition or application to increase or decrease utility rates within the 10-month period following the filing of the completed petition or application, the petition or application is considered approved. If a utility makes any significant amendment to its filing, the commission has an additional 10 months after the date of the amendment to reach a final decision on the petition or application. If the utility files for an extension of time, the commission shall extend the 10-month period by the amount of additional time requested by the utility.

(6) A utility shall not file a general rate case application for an increase in rates earlier than 12 months after the date of the filing of a complete prior general rate case application. A utility may not file a new general rate case application until the commission has issued a final order on a prior general rate case or until the rates are approved under subsection (5).

(7) The commission shall, if requested by a gas utility, establish load retention transportation rate schedules or approve gas transportation contracts as required for the purpose of serving industrial or commercial customers whose individual annual transportation volumes exceed 500,000 decatherms on the gas utility's system. The commission shall approve these rate schedules or approve transportation contracts entered into by the utility in good faith if the industrial or commercial customer has the installed capability to use an alternative fuel or otherwise has a viable alternative to receiving natural gas transportation service from the utility, the customer can obtain the alternative fuel or

gas transportation from an alternative source at a price that would cause them not to use the gas utility's system, and the customer, as a result of their use of the system and receipt of transportation service, makes a significant contribution to the utility's fixed costs. The commission shall adopt accounting and rate-making policies to ensure that the discounts associated with the transportation rate schedules and contracts are recovered by the gas utility through charges applicable to other customers if the incremental costs related to the discounts are no greater than the costs that would be passed on to those customers as the result of a loss of the industrial or commercial customer's contribution to a utility's fixed costs.

(8) The commission shall adopt standard rate application filing forms and instructions for use in all general rate cases filed by utilities whose rates are regulated by the commission. For cooperative electric utilities whose rates are regulated by the commission, in addition to rate applications filed under this section, the commission shall continue to allow for rate filings based on the cooperative's times interest earned ratio. The commission may modify the standard rate application forms and instructions adopted under this subsection.

(9) If, on or before January 1, 2008, a merchant plant entered into a contract with an initial term of 20 years or more to sell electricity to an electric utility whose rates are regulated by the commission with 1,000,000 or more retail customers in this state and if, before January 1, 2008, the merchant plant generated electricity under that contract, in whole or in part, from wood or solid wood wastes, then the merchant plant shall, ~~upon~~ **on** petition by the merchant plant, and subject to the limitation set forth in

subsection (10), recover the amount, if any, by which the merchant plant's reasonably and prudently incurred actual fuel and variable operation and maintenance costs exceed the amount that the merchant plant is paid under the contract for those costs. This subsection does not apply to landfill gas plants, hydro plants, municipal solid waste plants, or to merchant plants engaged in litigation against an electric utility seeking higher payments for power delivered pursuant to contract.

(10) The total aggregate additional amounts recoverable by merchant plants under subsection (9) in excess of the amounts paid under the contracts must not exceed $1,000,000.00 per month for each affected electric utility. The $1,000,000.00 per month limit specified in this subsection must be reviewed by the commission ~~upon~~ **on** petition of the merchant plant filed no more than once per year and may be adjusted if the commission finds that the eligible merchant plants reasonably and prudently incurred actual fuel and variable operation and maintenance costs exceed the amount that those merchant plants are paid under the contract by more than $1,000,000.00 per month. The annual amount of the adjustments must not exceed a rate equal to the United States Consumer Price Index. The commission shall not make an adjustment unless each affected merchant plant files a petition with the commission. If the total aggregate amount by which the eligible merchant plants reasonably and prudently incurred actual fuel and variable operation and maintenance costs determined by the commission exceed the amount that the merchant plants are paid under the contract by more than $1,000,000.00 per month, the commission shall allocate the additional $1,000,000.00 per month payment among the eligible merchant plants based ~~upon~~ **on** the relationship of excess costs

among the eligible merchant plants. The $1,000,000.00 limit specified in this subsection, as adjusted, does not apply to actual fuel and variable operation and maintenance costs that are incurred due to changes in federal or state environmental laws or regulations that are implemented after October 6, 2008. The $1,000,000.00 per month payment limit under this subsection does not apply to merchant plants eligible under subsection (9) whose electricity is purchased by a utility that is using wood or wood waste or fuels derived from those materials for fuel in ~~their~~ **its** power plants. As used in this subsection, "United States Consumer Price Index" means the United States Consumer Price Index for all urban consumers as defined and reported by the United States Department of Labor, Bureau of Labor Statistics.

(11) The commission shall issue orders to permit the recovery authorized under subsections (9) and (10) ~~upon~~ **on** petition of the merchant plant. The merchant plant is not required to alter or amend the existing contract with the electric utility ~~in order~~ to obtain the recovery under subsections (9) and (10). The commission shall permit or require the electric utility whose rates are regulated by the commission to recover from its ratepayers all fuel and variable operation and maintenance costs that the electric utility is required to pay to the merchant plant as reasonably and prudently incurred costs.

~~(12) Subject to subsection (13), if requested by an electric utility with less than 200,000 customers in this state, the commission shall approve an appropriate revenue decoupling mechanism that adjusts for decreases in actual sales compared to the projected levels used in that utility's most recent rate case that are the result of implemented energy waste reduction,~~

~~conservation, demand-side programs, and other waste reduction measures, if the utility first demonstrates the following to the commission:~~

~~(a) That the projected sales forecast in the utility's most recent rate case is reasonable.~~

~~(b) That the electric utility has achieved annual incremental energy savings at least equal to the lesser of the following:~~

~~(*i*) The incremental energy savings requirement of section 77(1) of the clean and renewable energy and energy waste reduction act, 2008 PA 295, MCL 460.1077.~~

~~(*ii*) The amount of any incremental savings yielded by energy waste reduction, conservation, demand-side programs, and other waste reduction measures approved by the commission in that utility's most recent integrated resource plan.~~

(12) ~~(13)~~ The commission shall consider the aggregate revenues attributable to revenue decoupling mechanisms, financial incentives, and shared savings mechanisms the commission has approved for an electric utility relative to energy waste reduction, conservation, demand-side programs, peak load reduction, and other waste reduction measures. The commission may approve an alternative methodology for a revenue decoupling mechanism ~~authorized under subsection (12)~~ or a financial incentive ~~authorized under section 75 of the clean and renewable energy and energy waste reduction act, 2008 PA 295, MCL 460.1075,~~ if the commission determines that the resulting aggregate revenues from those mechanisms would not result in a reasonable and cost-effective method to ensure that investments in energy waste reduction, demand-side programs, peak load reduction, and other waste reduction measures are not disfavored when compared to

utility supply-side investments. The commission's consideration of an alternative methodology under this subsection must be conducted as a contested case in accordance with chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.288.

(13) ~~(14)~~ By April 20, 2018, the commission shall conduct a study on an appropriate tariff reflecting equitable cost of service for utility revenue requirements for customers who participate in a net metering program or distributed generation program under the clean and renewable energy and energy waste reduction act, 2008 PA 295, MCL 460.1001 to ~~460.1211.~~ **460.1232.** In any rate case filed after June 1, 2018, the commission shall ~~, subject to section 173(7) of the clean and renewable energy and energy waste reduction act, 2008 PA 295, MCL 460.1173,~~ approve such a tariff for inclusion in the rates of all customers participating in a net metering or distributed generation program under the clean and renewable energy and energy waste reduction act, 2008 PA 295, MCL 460.1001 to ~~460.1211.~~ **460.1232.** A tariff established under this subsection does not apply to customers participating in a net metering program under the clean and renewable energy and energy waste reduction act, 2008 PA 295, MCL 460.1001 to ~~460.1211,~~ **460.1232**, before the date that the commission establishes a tariff under this subsection, who continues to participate in the program at their current site or facility.

(14) ~~(15)~~ Except as otherwise provided in this act, "utility" and "electric utility" do not include a municipally owned electric utility.

(15) ~~(16)~~ As used in this section:

(a) "Full and complete hearing" means a hearing that provides

interested parties a reasonable opportunity to present and cross-examine evidence and present arguments relevant to the specific element or elements of the request that are the subject of the hearing.

(b) "General rate case" means a proceeding initiated by a utility in an application filed with the commission that alleges a revenue deficiency and requests an increase in the schedule of rates or charges based on the utility's total cost of providing service.

(c) "Steam utility" means a steam distribution company regulated by the commission.

Sec. 6*l*. (1) For purposes of implementing sections 6a, 6h, 6j, 6s, and 6t, this section and section 6m provide a means of insuring equitable representation of the interests of energy utility customers.

(2) As used in this section and section 6m:

(a) "Annual receipts" means the payments received by the fund under section 6m(2)(a) ~~, and~~ **and** (b) ~~, (c), and (d)~~ during a calendar year.

(b) "Board" means the utility consumer participation board created under subsection (3).

(c) "Commission" means the Michigan public service commission.

(d) "Department" means the department of licensing and regulatory affairs.

(e) "Energy cost recovery proceeding" means any proceeding to establish or implement a gas cost recovery clause or a power supply cost recovery clause as provided in section 6h or 6j, to set gas cost recovery factors under section 6h(17), or to set power supply cost recovery factors under section 6j(18).

(f) "Energy utility" means each electric or gas company regulated by the commission.

(g) "Fund" means the utility consumer representation fund created in section 6m.

(h) "Household" means a single-family home, duplex, mobile home, seasonal dwelling, farm home, cooperative, condominium, or apartment that has normal household facilities such as a bathroom, individual cooking facilities, and kitchen sink facilities. Household does not include a penal or corrective institution, or a motel, hotel, or other similar structure if used as a transient dwelling.

(i) "Jurisdictional" means subject to rate regulation by the commission.

~~(j) "Net grant proceeds" means the annual receipts of the fund less the amounts reserved for the attorney general's use and the amounts expended for board expenses and operation.~~

(j) ~~(k)~~ "Residential energy utility consumer" or "consumer" means a customer of an energy utility who receives utility service for use within an individual household or an improvement reasonably appurtenant to and normally associated with an individual household.

(k) ~~(*l*)~~ "Residential tariff sales" means those sales by an energy utility that are subject to residential tariffs on file with the commission.

(*l*) ~~(m)~~ "Utility consuming industry" means a person, sole proprietorship, partnership, association, corporation, or other entity that receives utility service ordinarily and primarily for use in connection with the manufacture, sale, or distribution of goods or the provision of services, but does not include a

nonprofit organization representing residential utility customers.

(3) The utility consumer participation board is created ~~within~~ **in** the department and shall exercise its powers and duties under this act independently of the department. The procurement and related management functions of the board ~~shall~~ **must** be performed under the direction and supervision of the department. The board ~~shall consist~~ **consists** of 5 members appointed by the governor, 1 of whom ~~shall~~ **must** be chosen from 1 or more lists of qualified persons submitted by the attorney general.

(4) For the purposes of subsection (5) only, "utility" means an electric or gas company located in or outside of this state.

(5) Each member of the board shall meet the following requirements:

(a) Shall be an advocate for the interests of residential utility consumers, as demonstrated by the member's knowledge of and support for consumer interests and concerns in general or specifically related to utility matters.

(b) Shall not be, or shall not have been within the 5 years preceding appointment, a member of a governing body of, or employed in a managerial or professional or consulting capacity by a utility or an association representing utilities; an enterprise or professional practice that received over $1,500.00 in the year preceding the appointment as a supplier of goods or services to a utility or association representing utilities; or an organization representing employees of such a utility, association, enterprise, or professional practice, or an association that represents such an organization.

(c) Shall not have, or shall not have had within 1 year preceding appointment, a financial interest exceeding $1,500.00 in

a utility, an association representing utilities, or an enterprise or professional practice that received over $1,500.00 in the year preceding the appointment as a supplier of goods or services to a utility or association representing utilities.

~~(d) Shall not be an officer or director of an applicant for a grant under section 6m.~~

(d) ~~(e)~~ Shall not be a member of the immediate family of an individual who would be ineligible under subdivision (a), (b), **or** (c). ~~, or (d).~~

(6) The members of the board ~~shall~~ **must** be appointed for 2-year terms beginning with the first day of a legislative session in an odd-numbered year and ending on the day before the first day of the legislative session in the next odd-numbered year or when the members' successors are appointed, whichever occurs later. The governor shall not appoint a member to the board for a term commencing after the governor's term of office has ended. A vacancy ~~shall~~ **must** be filled in the same manner as the original appointment. If the vacancy is created other than by expiration of a term, the member ~~shall~~ **must** be appointed for the balance of the unexpired term of the member to be succeeded.

(7) The governor shall remove a member of the board if that member is absent for any reason from either 3 consecutive board meetings or more than 50% of the meetings held by the board in a calendar year. However, an individual who is removed due to absenteeism is eligible for reappointment to fill a vacancy that occurs in the board membership. The governor also shall remove a member of the board if the member is subsequently determined to be ineligible under subsection (5).

(8) The board shall hold bimonthly meetings and additional

meetings as necessary. A quorum consists of 3 members. A majority vote of the members appointed and serving is necessary for a decision. At its first meeting following the appointment of new members, or as soon as possible after the first meeting, the board shall elect biennially from its membership a chairperson and a vice-chairperson.

(9) The board shall not act directly to represent the interests of residential utility consumers except through administration of the fund and grant program under this section.

(10) The business that the board may perform ~~shall~~ **must** be conducted at a public meeting of the board held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting ~~shall~~ **must** be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(11) A writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function ~~shall~~ **must** be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(12) A member of the board may be reimbursed for actual and necessary expenses, including travel expenses to and from each meeting held by the board, incurred in discharging the member's duties under this section and section 6m. In addition to expense reimbursement, a board member may receive remuneration from the board of $100.00 per meeting attended, not to exceed $1,000.00 in a calendar year. These limits shall be adjusted proportionately to an adjustment in the remittance amounts under section 6m(4) to allow for changes in the cost of living.

Sec. 6m. (1) The utility consumer representation fund is

created as a special fund. The state treasurer is the custodian of the fund and shall maintain a separate account of the money in the fund. The money in the fund must be invested in the bonds, notes, and other evidences of indebtedness issued or insured by the United States government and its agencies, and in prime commercial paper. The state treasurer shall release money from the fund, including interest earned, in the manner and at the time directed by the board.

(2) Except as provided in subsection (5), each energy utility that has applied to the commission for the initiation of an energy cost recovery proceeding shall remit to the fund before or ~~upon~~ **on** filing its initial application for that proceeding, and on or before the first anniversary of that application, an amount of money determined by the board in the following manner:

(a) In the case of an energy utility company serving at least 100,000 customers in this state, its proportional share of ~~$1,800,000.00~~ **$2,500,000.00** adjusted annually by a factor as provided in subsection (4). This adjusted amount is the new base amount to which the factor provided in subsection (4) is applied in the succeeding year. A utility's proportional share must be calculated by dividing the company's jurisdictional total operating revenues for the preceding year, as stated in its annual report, by the total operating revenues for the preceding year of all energy utility companies serving at least 100,000 customers in this state. The board shall make this amount available for use by the attorney general for the purposes described in subsection (16).

~~(b) In the case of an energy utility company serving at least 100,000 residential customers in this state, its proportional share of $2,000,000.00 adjusted annually by a factor as provided in~~

~~subsection (4). This adjusted amount is the new base amount to which the factor provided in subsection (4) is applied in the succeeding year. A utility's proportional share must be calculated by dividing the company's jurisdictional gross revenues from residential tariff sales for the preceding year by the gross revenues from residential tariff sales for the preceding year of all energy utility companies serving at least 100,000 residential customers in this state. This amount must be used for grants under subsection (10).~~

(b) ~~(c)~~ In the case of an energy utility company serving fewer than 100,000 customers in this state, its proportional share of ~~$100,000.00~~ **$150,000.00** adjusted annually by a factor as provided in subsection (4). This adjusted amount is the new base amount to which the factor provided in subsection (4) is applied in the succeeding year. A utility's proportional share must be calculated by dividing the company's jurisdictional total operating revenues for the preceding year, as stated in its annual report, by the total operating revenues for the preceding year of all energy utility companies serving fewer than 100,000 customers in this state. The board shall make this amount available for use by the attorney general for the purposes described in subsection (16).

~~(d) In the case of an energy utility company serving fewer than 100,000 residential customers in this state, its proportional share of $100,000.00 adjusted annually by a factor as provided in subsection (4). This adjusted amount is the new base amount to which the factor provided in subsection (4) is applied in the succeeding year. A utility's proportional share must be calculated by dividing the company's jurisdictional gross revenues from residential tariff sales for the preceding year by the gross~~

~~revenues from residential tariff sales for the preceding year of all energy utility companies serving fewer than 100,000 residential customers in this state. This amount must be used for grants under subsection (10).~~

(3) Payments made by an energy utility under subsection (2)(a) or ~~(c)~~ **(b)** are operating expenses of the utility that the commission shall permit the utility to charge to its customers. ~~Payments made by a utility under subsection (2)(b) or (d) are operating expenses of the utility that the commission shall permit the utility to charge to its residential customers.~~

(4) For purposes of subsection (2), the board shall set the factor at a level not to exceed the percentage increase in the index known as the Consumer Price Index for urban wage earners and clerical workers, select areas, all items indexed, for the Detroit standard metropolitan statistical area, compiled by the Bureau of Labor Statistics of the United States Department of Labor, or any successor agency, that has occurred between January of the preceding year and January of the year in which the payment is required to be made. In the event that more than 1 such index is compiled, the index yielding the largest payment is the maximum allowable factor. The board shall advise utilities of the factor.

(5) The remittance requirements of this section do not apply to an energy utility organized as a cooperative corporation under sections 98 to 109 of 1931 PA 327, MCL 450.98 to 450.109. ~~, and grants from the fund must not be used to participate in an energy cost recovery proceeding primarily affecting such a utility.~~

(6) In the event of a dispute between the board and an energy utility about the amount of payment due, the utility shall pay the undisputed amount and, if the utility and the board cannot agree,

the board may initiate civil action in the circuit court for Ingham County for recovery of the disputed amount. The commission shall not accept or take action on an application for an energy cost recovery proceeding from an energy utility subject to this section that has not fully paid undisputed remittances required by this section.

(7) The commission shall not accept or take action on an application for an energy cost recovery proceeding from an energy utility subject to this section until 30 days after it has been notified by the board that the board ~~is ready to process grant applications,~~ will transfer funds payable to the attorney general immediately ~~upon~~ **on** the receipt of those funds. ~~, and will within 30 days approve grants and remit funds to qualified grant applicants.~~

(8) The board may accept a gift or grant from any source to be deposited in the fund if the conditions or purposes of the gift or grant are consistent with this section.

(9) The costs of operation and expenses incurred by the board in performing its duties under this section and section 6*l*, including remuneration to board members, must be paid from the fund. A maximum of 5% of the annual receipts of the fund may be budgeted and used to pay expenses. ~~other than grants made under subsection (10).~~

~~(10) The net grant proceeds must finance a grant program from which the board may award to an applicant an amount that the board determines shall be used for the purposes set forth in this section.~~

~~(11) The board shall create and make available to applicants an application form. Each applicant shall indicate on the~~

~~application how the applicant meets the eligibility requirements provided for in this section and how the applicant proposes to use a grant from the fund to participate in 1 or more proceedings as authorized in subsection (16) that have been or are expected to be filed. Each applicant shall also identify on the application any additional funds or resources, other than the grant funds being requested, that are to be used to participate in the proceeding for which the grant is being requested and how those funds or resources will be utilized. The board shall receive an application requesting a grant from the fund only from a nonprofit organization or a unit of local government in this state. The board shall consider only applications for grants containing proposals that are consistent with subsections (16) and (17) and that serve the interests of residential utility consumers. The interest of residential consumers includes, but is not limited to, considerations of utility service in this state; the reduction of greenhouse gas emissions from the utility sector; and the protection of public health, equitable access to energy efficiency, weatherization, efficient electrification measures, programs and services, and clean energy technologies. For purposes of making grants, the board may consider energy conservation, energy waste reduction, demand response, and rate design options to encourage energy conservation, energy waste reduction, and demand response, as well as the maintenance of adequate energy resources. The board shall not consider an application that primarily benefits the applicant or a service provided or administered by the applicant. The board shall not consider an application from a nonprofit organization if 1 of the organization's principal interests or unifying principles is the welfare of a utility or its investors or employees, or the~~

~~welfare of 1 or more businesses or industries, other than farms not owned or operated by a corporation, that receive utility service ordinarily and primarily for use in connection with the profit-seeking manufacture, sale, or distribution of goods or services. Mere ownership of securities by a nonprofit organization or its members does not disqualify an application submitted by that organization.~~

~~(12) The board shall encourage grant making to nonprofits representing environmental justice communities and communities with the highest energy burdens. The board shall also encourage the interests of identifiable types of residential utility consumers whose interests may differ, including various social and economic classes and areas of the state, and if necessary, may make grants to more than 1 applicant whose applications are related to a similar issue to achieve this type of representation. In addition, the board shall consider and balance the following criteria in determining whether to make a grant to an applicant:~~

~~(a) Evidence of the applicant's competence, experience, and commitment to advancing the interests of residential utility consumers.~~

~~(b) The anticipated involvement of the attorney general in a proceeding and whether activities of the applicant will be duplicative or supplemental to those of the attorney general.~~

~~(c) In the case of a nongovernmental applicant, the extent to which the applicant is representative of or has a previous history of advocating the interests of citizens, especially residential utility consumers.~~

~~(d) The anticipated effect of the proposal contained in the application on residential utility consumers, including the~~

~~immediate and long-term impacts of the proposal.~~

~~(e) Evidence demonstrating the potential for continuity of effort and the development of expertise in relation to the proposal contained in the application.~~

~~(f) The uniqueness or innovativeness of an applicant's position or point of view as it relates to advocating for residential utility consumers concerning energy costs or rates, and the probability and desirability of that position or point of view prevailing.~~

~~(13) As an alternative to choosing between 2 or more applications that have similar proposals, the board may invite 2 or more of the applicants to file jointly and award a grant to be managed cooperatively.~~

~~(14) The board shall make disbursements pursuant to a grant in advance of an applicant's proposed actions as set forth in the application if necessary to enable the applicant to initiate, continue, or complete the proposed actions.~~

~~(15) Any notice to utility customers and the general public of hearings or other state proceedings in which grants from the fund may be used must contain a notice of the availability of the fund and the address of the board.~~

(10) ~~(16)~~ The annual receipts and interest earned, less administrative costs, may be used only for participation in administrative and judicial proceedings under sections 6a, 6h, 6j, 6s, **and** 6t, ~~6w, and 10i, and the clean and renewable energy and energy waste reduction act, 2008 PA 295, MCL 460.1001 to 460.1211,~~ and in federal administrative and judicial proceedings that directly affect the energy costs or rates paid by energy utility customers in this state. Amounts that have been in the fund more

than 12 months may be retained in the fund for future proceedings and any unexpended money in the fund is reserved to fulfill the purposes for which it was appropriated or may be returned to energy utility companies or used to offset their future remittances in proportion to their previous remittances to the fund, as the board and attorney general determine will best serve the interests of consumers.

~~(17) The following conditions apply to all grants from the fund:~~

~~(a) Disbursements from the fund may be used only to advocate the interests of residential energy utility customers concerning energy costs or rates and not for representation of merely individual interests.~~

~~(b) The board shall attempt to maintain a reasonable relationship between the payments from a particular energy utility and the benefits to consumers of that utility.~~

~~(c) The board shall coordinate the funded activities of grant recipients with those of the attorney general to avoid duplication of effort, particularly as it relates to the hiring of expert witnesses, to promote supplementation of effort, and to maximize the number of hearings and proceedings with intervenor participation.~~

~~(18) A recipient of a grant under subsection (10) may use the grant only for the advancement of the proposed action approved by the board, including, but not limited to, costs of staff, hired consultants and counsel, and research.~~

~~(19) A recipient of a grant under subsection (10) shall prepare for and participate in all discussions among the parties designed to facilitate settlement or narrowing of the contested~~

~~issues before a hearing in order to minimize litigation costs for all parties.~~

~~(20) A recipient of a grant under subsection (10) shall file a report with the board not later than 90 days following the end of the year or a shorter period for which the grant is made. The report must be made in a form prescribed by the board and is subject to audit by the board. The board shall include each report received under this subsection as part of the board's annual report required under subsection (22). The report under this subsection must include the following information:~~

~~(a) An account of all grant expenditures made by the grant recipient. Expenditures must be reported within the following categories:~~

~~(*i*) Employee and contract for services costs.~~

~~(*ii*) Costs of materials and supplies.~~

~~(*iii*) Filing fees and other costs required to effectively represent residential utility consumers as provided in this section.~~

~~(b) A detailed list of the regulatory issues raised by the grant recipient and how each issue was determined by the commission, court, or other tribunal.~~

~~(c) Any additional information concerning uses of the grant required by the board.~~

(11) ~~(21)~~ On or before July 1 of each year, the attorney general shall file a report with the house and senate committees on appropriations and the house and senate committees with jurisdiction over energy and utility policy issues. The report must include the following information:

(a) An account of all expenditures made by the attorney

general of money received under this section. Expenditures must be reported in the following categories:

(*i*) Employee and contract for services costs.

(*ii*) Costs of materials and supplies.

(*iii*) Filing fees and other costs required to effectively represent utility consumers as provided in this section.

(b) Any additional information concerning uses of the money received under this section required by the committees.

(12) ~~(22)~~ On or before July 1 of each calendar year, the board shall submit a detailed report to the house and senate committees with jurisdiction over energy and utility policy issues regarding the discharge of duties and responsibilities under this section and section 6*l* during the preceding calendar year.

Sec. 6t. (1) The commission shall, by August 31, 2025, and every ~~4~~ **5** years thereafter, commence a proceeding and, in consultation with the department of environment, Great Lakes, and energy, and other interested parties, do all of the following as part of the proceeding:

~~(a) Conduct an assessment of the potential for energy waste reduction in this state.~~

(a) ~~(b)~~ Conduct an assessment for the use of demand response programs in this state, based on what is economically and technologically feasible, as well as what is reasonably achievable. The assessment must expressly account for advanced metering infrastructure that has already been installed in this state and seek to fully maximize potential benefits to ratepayers in lowering utility bills.

(b) ~~(c)~~ Identify significant state or federal environmental regulations, laws, or rules and how each regulation, law, or rule

would affect electric utilities in this state.

(c) ~~(d)~~ Identify any formally proposed state or federal environmental regulation, law, or rule that has been published in the Michigan Register or the Federal Register and how the proposed regulation, law, or rule would affect electric utilities in this state.

(d) ~~(e)~~ Identify any required planning reserve margins and local clearing requirements in areas of this state.

(e) ~~(f)~~ Establish the modeling scenarios and assumptions each electric utility should include in addition to its own scenarios and assumptions in developing its integrated resource plan filed under subsection (3), including, but not limited to, all of the following:

(*i*) Any required planning reserve margins and local clearing requirements.

(*ii*) All applicable state and federal environmental regulations, laws, and rules identified in this subsection.

(*iii*) Any supply-side and demand-side resources that reasonably could address any need for additional generation capacity, including, but not limited to, the type of generation technology for any proposed generation facility ~~, projected energy waste reduction savings, projected load impact due to electrification,~~ and projected load management and demand response savings.

(*iv*) Any regional infrastructure limitations in this state.

(*v*) The projected costs of different types of ~~technologies and~~ fuel used for electric generation.

(f) ~~(g)~~ Allow other state agencies to provide input regarding any other regulatory requirements that should be included in modeling scenarios or assumptions.

(g) ~~(h)~~ Publish a copy of the proposed modeling scenarios and assumptions to be used in integrated resource plans on the commission's website.

(h) ~~(i)~~ Before issuing the final modeling scenarios and assumptions each electric utility should include in developing its integrated resource plan, receive written comments and hold hearings to solicit public input regarding the proposed modeling scenarios and assumptions.

~~(j) Conduct an assessment of the potential for electrification of transportation, buildings, and industries consistent with economy-wide elimination of greenhouse gas emissions in this state, based on what is economically and technically feasible, as well as what is reasonably achievable.~~

~~(k) Identify environmental justice communities.~~

(2) A proceeding commenced under subsection (1) must be completed within 120 days, and is not a contested case under chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.288. The determination of the modeling assumptions for integrated resource plans made under subsection (1) is not considered a final order for purposes of judicial review. The determinations made under subsection (1) are only subject to judicial review as part of the final commission order approving an integrated resource plan under this section.

(3) Not later than April 20, 2019, each electric utility whose rates are regulated by the commission shall file with the commission an integrated resource plan that provides a 5-year, 10-year, and 15-year projection of the utility's load obligations and a plan to meet those obligations, to meet the utility's requirements to provide generation reliability, including meeting

planning reserve margin and local clearing requirements determined by the commission or the appropriate independent system operator, and to meet all applicable state and federal reliability and environmental regulations over the ensuing term of the plan. The commission shall issue an order establishing filing requirements, including application forms and instructions, and filing deadlines for an integrated resource plan filed by an electric utility whose rates are regulated by the commission. The electric utility's plan may include alternative modeling scenarios and assumptions in addition to those identified under subsection (1).

(4) For an electric utility with fewer than 1,000,000 customers in this state whose rates are regulated by the commission, the commission may issue an order implementing separate filing requirements, review criteria, and approval standards that differ from those established under subsection (3). An electric utility providing electric tariff service to customers both in this state and in at least 1 other state may design its integrated resource plan to cover all its customers on that multistate basis. If an electric utility has filed a multistate integrated resource plan that includes its service area in this state with the relevant utility regulatory commission in another state in which it provides tariff service to retail customers, the commission shall accept that integrated resource plan filing for filing purposes in this state. However, the commission may require supplemental information if necessary as part of its evaluation and determination of whether to approve the plan. ~~Upon~~ **On** request of an electric utility, the commission may adjust the filing dates for a multistate integrated resource plan filing in this state to place its review on the same timeline as other relevant state reviews.

(5) An integrated resource plan must include all of the following:

(a) A long-term forecast of the electric utility's sales and peak demand under various reasonable scenarios.

(b) The type of generation technology proposed for a generation facility contained in the plan and the proposed capacity of the generation facility, including projected fuel costs under various reasonable scenarios.

(c) Projected energy purchased or produced by the electric utility from a renewable energy resource. ~~If the level of renewable energy purchased or produced is projected to drop over the planning periods set forth in subsection (3), the electric utility must demonstrate why the reduction is in the best interest of ratepayers.~~

(d) An analysis of how the electric utility's plan complies with ~~the renewable energy plan requirements and goals of section 28 of the clean and renewable energy and energy waste reduction act, 2008 PA 295, MCL 460.1028, the clean energy requirements of section 51 of the clean and renewable energy and energy waste reduction act, 2008 PA 295, MCL 460.1051, the energy waste reduction measures in section 77 of the clean and renewable energy and energy waste reduction act, 2008 PA 295, MCL 460.1077, and~~ the energy storage target of section 101 of the clean and renewable energy and energy waste reduction act, 2008 PA 295, MCL 460.1101.

(e) Projected load management and demand response savings for the electric utility and the projected costs for those programs.

(f) Projected energy and capacity purchased or produced by the electric utility from a cogeneration resource.

(g) An analysis of potential new or upgraded electric

transmission options for the electric utility.

(h) Data regarding the utility's current generation portfolio, including the age, capacity factor, licensing status, and remaining estimated time of operation for each facility in the portfolio.

(i) Plans for meeting current and future capacity needs with the cost estimates for all proposed construction and major investments, including any transmission or distribution infrastructure that would be required to support the proposed construction or investment, and power purchase agreements.

(j) An analysis of the cost, capacity factor, and viability of all reasonable options available to meet projected energy and capacity needs, including, but not limited to, existing electric generation facilities in this state.

(k) Projected rate ~~and affordability~~ impact for the periods covered by the plan.

(*l*) How the utility will comply with all applicable state and federal environmental regulations, laws, and rules, and the projected costs of complying with those regulations, laws, and rules.

(m) A forecast of the utility's peak demand and details regarding the amount of peak demand reduction the utility expects to achieve and the actions the utility proposes to take in order to achieve that peak demand reduction.

(n) The projected long-term firm gas transportation contracts or natural gas storage the electric utility will hold to provide an adequate supply of natural gas to any new generation facility.

~~(o) The projected long-term forecast of greenhouse gas emissions and other pollutants from power generated or purchased by the electric utility. The electric utility may include details on~~

~~the broader emissions impact of shifting to electrification of transportation, buildings, and industries.~~

~~(p) An environmental justice impact analysis that includes a review of the reasonably anticipated environmental justice impacts for any plan that includes the construction of a new natural-gas-fired generation facility and an analysis of whether the facility complies with the requirements for clean energy systems established in the clean and renewable energy and energy waste reduction act, 2008 PA 295, MCL 460.1001 to 460.1211. If a plan proposes retiring or retaining 1 or more fossil fuel peaking plants, in an environmental justice community, a review of the reasonably anticipated environmental justice impacts for each generation facility.~~

(6) Before filing an integrated resource plan under this section, each electric utility whose rates are regulated by the commission shall issue a request for proposals to provide any new supply-side generation capacity resources needed to serve the utility's reasonably projected electric load, applicable planning reserve margin, and local clearing requirement for its customers in this state and customers the utility serves in other states during the initial 3-year planning period to be considered in each integrated resource plan to be filed under this section. An electric utility shall define qualifying performance standards, contract terms, technical competence, capability, reliability, creditworthiness, past performance, and other criteria that responses and respondents to the request for proposals must meet in order to be considered by the utility in its integrated resource plan to be filed under this section. Respondents to a request for proposals may request that certain proprietary information be

exempt from public disclosure as allowed by the commission. A utility that issues a request for proposals under this subsection shall use the resulting proposals to inform its integrated resource plan filed under this section and include all of the submitted proposals as attachments to its integrated resource plan filing regardless of whether the proposals met the qualifying performance standards, contract terms, technical competence, capability, reliability, creditworthiness, past performance, or other criteria specified for the utility's request for proposals under this section. An existing supplier of electric generation capacity currently producing at least 200 megawatts of firm electric generation capacity resources located in the independent system operator's zone in which the utility's load is served that seeks to provide electric generation capacity resources to the utility may submit a written proposal directly to the commission as an alternative to any supply-side generation capacity resource included in the electric utility's integrated resource plan submitted under this section, and has standing to intervene in the contested case proceeding conducted under this section. This subsection does not require an entity that submits an alternative under this subsection to submit an integrated resource plan. This subsection does not limit the ability of any other person to submit to the commission an alternative proposal to any supply-side generation capacity resource included in the electric utility's integrated resource plan submitted under this section and to petition for and be granted leave to intervene in the contested case proceeding conducted under this section under the rules of practice and procedure of the commission. The commission shall only consider an alternative proposal submitted under this subsection as

part of its approval process under subsection (8). The electric utility submitting an integrated resource plan under this section is not required to adopt any proposals submitted under this subsection. To the extent practicable, each electric utility is encouraged, but not required, to partner with other electric providers in the same local resource zone as the utility's load is served in the development of any new supply-side generation capacity resources included as part of its integrated resource plan.

(7) Not later than 300 days after an electric utility files an integrated resource plan under this section, the commission shall state if the commission has any recommended changes, and if so, describe them in sufficient detail to allow their incorporation in the integrated resource plan. If the commission does not recommend changes, it shall issue a final, appealable order approving or denying the plan filed by the electric utility. If the commission recommends changes, the commission shall set a schedule allowing parties at least 15 days after that recommendation to file comments regarding those recommendations, and allowing the electric utility at least 30 days to consider the recommended changes and submit a revised integrated resource plan that incorporates 1 or more of the recommended changes. If the electric utility submits a revised integrated resource plan under this section, the commission shall issue a final, appealable order approving the plan as revised by the electric utility or denying the plan. The commission shall issue a final, appealable order no later than 360 days after an electric utility files an integrated resource plan under this section. Up to 150 days after an electric utility makes its initial filing, the electric utility may file to update its cost estimates

if those cost estimates have materially changed. A utility shall not modify any other aspect of the initial filing unless the utility withdraws and refiles the application. A utility's filing updating its cost estimates does not extend the period for the commission to issue an order approving or denying the integrated resource plan. The following are applicable to an integrated resource plan filed under this section:

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

(*i*) Review the integrated resource plan in a contested case proceeding conducted in accordance with chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.288.

(*ii*) Allow intervention by interested persons including electric customers of the utility, respondents to the utility's request for proposals under this section, or other parties approved by the commission.

(*iii*) Request an advisory opinion from the department of environment, Great Lakes, and energy regarding ~~all of the following:~~**whether the integrated resource plan can reasonably be expected to achieve compliance with the regulations, laws, or rules identified in subsection (1).**

~~(A) Whether any potential decrease in emissions of sulfur dioxide, oxides of nitrogen, mercury, and particulate matter would reasonably be expected to result if the integrated resource plan proposed by the electric utility under subsection (3) was approved.~~

~~(B) Whether the integrated resource plan can reasonably be expected to achieve compliance with the regulations, laws, or rules identified in subsection (1).~~

~~(C) The potential impacts of proposed energy generation~~

~~resources and of any prudent and feasible alternatives identified by the department on whether the plan makes adequate progress toward achieving the clean energy standard established in section 51 of the clean and renewable energy and energy waste reduction act, 2008 PA 295, MCL 460.1051.~~

~~(D) The potential impacts of the plan and of any prudent and feasible alternatives identified by the department on whether the plan makes adequate progress toward the economy-wide virtual elimination of greenhouse gas emissions in this state by 2050.~~

~~(E) Whether the plan in comparison to any prudent and feasible alternatives makes adequate progress toward the elimination of adverse effects on human health due to power generation in this state.~~

~~(F) Whether the plan in comparison to any prudent and feasible alternatives adequately reduces harms to the health, safety, and welfare of individuals in environmental justice communities.~~

(b) The commission may do 1 or both of the following:

(*i*) Take official notice of the opinion issued by the department of environment, Great Lakes, and energy under this subsection pursuant to R 792.10428 of the Michigan Administrative Code. Information submitted by the department of environment, Great Lakes, and energy under this subsection is advisory and is not binding on future determinations by the department of environment, Great Lakes, and energy or the commission in any proceeding or permitting process. This section does not prevent an electric utility from applying for, or receiving, any necessary permits from the department of environment, Great Lakes, and energy.

(*ii*) Invite other state agencies to provide testimony regarding other relevant regulatory requirements related to the integrated

resource plan. The commission shall permit reasonable discovery after an integrated resource plan is filed and during the hearing in order to assist parties and interested persons in obtaining evidence concerning the integrated resource plan, including, but not limited to, the reasonableness and prudence of the plan and alternatives to the plan raised by intervening parties.

(8) The commission shall approve the integrated resource plan under subsection (7) if the commission determines all of the following:

(a) The proposed integrated resource plan represents the most reasonable and prudent means of meeting the electric utility's energy and capacity needs. To determine whether the integrated resource plan is the most reasonable and prudent means of meeting energy and capacity needs, the commission shall consider whether the plan ~~appropriately balances all of the following factors:~~**prioritizes reliability and affordability while minimizing the net cost to ratepayers. The commission may consider other factors only to the extent that those factors do not materially compromise reliability or impose higher total costs on ratepayers. In making a determination under this subdivision, the commission shall evaluate all of the following:**

(*i*) Resource adequacy and capacity to serve anticipated peak electric load, applicable planning reserve margin, and local clearing requirement.

(*ii*) Compliance with applicable state and federal environmental regulations.

(*iii*) ~~Competitive pricing.~~**Projected costs. In evaluating projected costs, the commission shall consider whether a generation resource or resource portfolio is capable of providing electricity**

at the lowest net system cost to ratepayers over the expected useful life of the resource. The commission's determination of cost is subject to all of the following:

(A) The commission shall deduct the projected value of any federal tax incentives, carbon reduction credits, or production credits that directly reduce the revenue requirement charged to ratepayers. This sub-subparagraph applies only to a resource that constitutes a dispatchable resource capable of providing firm capacity during resource adequacy hours as determined by the Midcontinent Independent System Operator or the applicable regional transmission organization. As used in this sub-subparagraph, "firm capacity" means capacity that is accredited to meet the utility's planning reserve margin requirement during periods of highest loss of load risk.

(B) For a resource that is not a dispatchable resource described in sub-subparagraph (A), the commission shall add the associated integration costs required to maintain system reliability. The commission shall calculate associated integration costs based on the cost of new entry for a comparable firm, dispatchable resource required to provide equivalent reliability services. As used in this sub-subparagraph, "associated integration costs" includes, but is not limited to, the cost of firming capacity, transmission upgrades, and ancillary services required to manage resource intermittency.

(C) The determination of cost must exclude theoretical costs based on social policy models, social costs of carbon not established by state statute, or other imputed cost mechanisms that do not reflect actual monetary costs incurred by the electric utility.

(D) The commission shall base its determination on transparent, consistent, and economically sound modeling assumptions that reflect actual system needs, including the cost of ensuring reliability during periods of peak demand and grid stress. In evaluating projected costs, the commission shall give appropriate weight to resources that provide dispatchable power and contribute to long-term rate stability.

(*iv*) Reliability. **In evaluating reliability, the commission shall consider operational availability, dispatchability, fuel security, and performance under a range of operating conditions. As used in this subparagraph, "reliability" means the capacity of a generation resource or portfolio to deliver uninterrupted electricity to meet system demand, including during peak usage, severe weather, or system stress.**

(*v*) Commodity price risks. **In evaluating commodity price risks, the commission shall prioritize long-term rate stability for customers. The commission shall conduct a sensitivity analysis that complies with both of the following:**

(A) Except as provided in sub-subparagraph (B), the commission shall apply a risk premium to any generation resource dependent on a fuel source that has demonstrated historical price volatility exceeding 15% over any 5-year period in the preceding 20 years.

(B) The commission shall waive the volatility risk premium required under sub-subparagraph (A) for a resource if both of the following occur:

(I) The electric utility secures a long-term firm fuel transportation contract or fixed-price fuel hedging instrument for the resource for a period of not less than 5 years, the resource is capable of maintaining a minimum of 18 months of on-site fuel

supply, or, for a natural gas resource, the electric utility has access to firm underground storage capacity sufficient to maintain continuous full-load output for a period of not less than 30 days.

(II) The commission determines that the projected total cost of the firm fuel contract, hedging instrument, or storage agreement is lower than the sum of the projected market cost of equivalent spot market procurement and the volatility risk premium required under sub-subparagraph (A).

(*vi*) Diversity of generation supply. **In evaluating diversity of generation supply, the commission shall consider whether the proposed resource portfolio enhances overall system reliability, affordability, and fuel security. The commission shall not favor or disfavor any particular energy resource or technology solely on the basis of environmental attributes or policy goals not established by statute. A resource shall not be excluded from consideration for purposes of diversity if it is cost-effective, dispatchable, or contributes to grid stability. As used in this subparagraph, "diversity of generation supply" means the inclusion of a balanced mix of electricity generation resources utilizing different fuel types, technologies, and operational characteristics for the purpose of reducing reliance on any single energy source or supply chain.**

(*vii*) Whether the proposed levels of peak load reduction ~~and energy waste reduction~~ are reasonable and cost-effective. **In evaluating whether the proposed levels of peak load reduction are reasonable and cost-effective, the commission shall consider the expected impact of those measures on system capacity needs, resource adequacy, and overall electric system performance, the total cost of implementing the measures compared to the avoided**

costs of energy and capacity, and the effect of the measures on customer bills and rate stability. As used in this subparagraph, "cost-effective" means that the projected benefits of the proposed measures exceed their total costs over the expected duration of the program, and that the measures can be implemented in a manner that does not compromise electric system reliability or materially increase costs to ratepayers.

(*viii*) Affordability. **In evaluating affordability, the commission shall consider capital, fuel, operation and maintenance, and decommissioning costs, levelized cost of energy or capacity, projected impacts on customer bills and overall rate stability, and long-term cost escalations, contingencies, and revenue requirements. As used in this subparagraph, "affordability" means the capacity of a generation resource or portfolio to deliver electricity at a cost that minimizes the total financial burden on ratepayers over the resource's expected operational life.**

~~(*ix*) Overall cost-effectiveness in providing utility service.~~

(b) To the extent practicable, the construction or investment in a new or existing capacity resource in this state is completed using a workforce composed of residents of this state as determined by the commission. This subdivision does not apply to a capacity resource that is located in a county that lies on the border with another state.

~~(c) The construction and construction maintenance of new or the rehabilitation of existing capacity resources in this state includes using an apprenticeship program registered and certified with the United States Secretary of Labor under the national apprenticeship act, 29 USC 50 to 50c, and the workers employed for the construction or construction maintenance of the energy facility~~

~~are paid a minimum wage standard not less than the wage and fringe benefit rates prevailing in the locality in which the work is to be performed as determined under 2023 PA 10, MCL 408.1101 to 408.1126, or 40 USC 3141 to 3148, whichever provides the higher wage and fringe benefit rates, and, to the extent permitted by law, the entities performing the construction or construction maintenance work shall enter into a project labor agreement or operate under a collective bargaining agreement for the work to be performed. This subdivision does not apply to an independent power producer supplying power under a contract or agreement entered into in accordance with the public utility regulatory policies act of 1978, Public Law 95-617, as of the effective date of the amendatory act that added this subdivision. As used in this subdivision, "project labor agreement" means a prehire collective bargaining agreement with 1 or more labor organizations that establishes the terms and conditions of employment for a specific construction project and does all of the following:~~

~~(*i*) Binds all contractors and subcontractors on the construction project through the inclusion of appropriate specifications in all relevant solicitation provisions and contract documents.~~

~~(*ii*) Allows all contractors and subcontractors on the construction project to compete for contracts and subcontracts without regard to whether they are otherwise parties to collective bargaining agreements.~~

~~(*iii*) Contains guarantees against strikes, lockouts, and similar job disruptions.~~

~~(*iv*) Sets forth effective, prompt, and mutually binding procedures for resolving labor disputes arising during the term of~~

~~the project labor agreement.~~

~~(*v*) Provides other mechanisms for labor-management cooperation on matters of mutual interest and concern, including productivity, quality of work, safety, and health.~~

~~(*vi*) Complies with all state and federal laws, rules, and regulations.~~

(c) ~~(d)~~ The plan is consistent with ~~the renewable energy plan requirements and goals of section 28 of the clean and renewable energy and energy waste reduction act, 2008 PA 295, MCL 460.1028, the clean energy requirements of section 51 of the clean and renewable energy and energy waste reduction act, 2008 PA 295, MCL 460.1051, the energy waste reduction measures in section 77 of the clean and renewable energy and energy waste reduction act, 2008 PA 295, MCL 460.1077, and~~ the energy storage target of section 101 of the clean and renewable energy and energy waste reduction act, 2008 PA 295, MCL 460.1101.

~~(e) The plan promotes environmental quality and public health and reasonably mitigates adverse effects on human health due to power generation, with a priority on mitigating impacts and prioritizing benefits to communities disproportionately impacted by pollution and other environmental harms.~~

(d) ~~(f)~~ The plan meets the requirements of subsection (5).

(9) If the commission denies a utility's integrated resource plan, the utility, ~~within~~ **not later than** 60 days after the date of the final order denying the integrated resource plan, may submit revisions to the integrated resource plan to the commission for approval. The commission shall commence a new contested case hearing under chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.288. Not later than 90 days

after the date that the utility submits the revised integrated resource plan to the commission under this subsection, the commission shall issue an order approving or denying, with recommendations, the revised integrated resource plan if the revisions are not substantial or inconsistent with the original integrated resource plan filed under this section. If the revisions are substantial or inconsistent with the original integrated resource plan, the commission has up to 150 days to issue an order approving or denying, with recommendations, the revised integrated resource plan.

(10) If the commission denies an electric utility's integrated resource plan, the electric utility may proceed with a proposed construction, purchase, investment, or power purchase agreement contained in the integrated resource plan without the assurances granted under this section.

(11) In approving an integrated resource plan under this section, the commission shall specify the costs approved for the construction of or significant investment in an electric generation or energy storage facility, the purchase of an existing electric generation or energy storage facility, the purchase of power under the terms of the power purchase or energy storage agreement, or other investments or resources used to meet energy and capacity needs that are included in the approved integrated resource plan. The costs for specifically identified investments, including the costs for facilities under subsection (12), included in an approved integrated resource plan that are commenced within 3 years after the commission's order approving the initial plan, amended plan, or plan review are considered reasonable and prudent for cost recovery purposes. **Any investment included in an approved integrated**

resource plan that is directly related to the hardening or modernization of the electric distribution or transmission system to improve reliability and resilience is presumed to be reasonable and prudent for cost recovery purposes if the actual costs incurred are consistent with the approved plan or have been otherwise approved by the commission.

(12) Except as otherwise provided in subsection (13), for a new electric generation or energy storage facility approved in an integrated resource plan that is to be owned by the electric utility and that is commenced within 3 years after the commission's order approving the plan, the commission shall finalize the approved costs for the electric generation or energy storage facility only after the utility has done all of the following and filed the results, analysis, and recommendations with the commission:

(a) Implemented a competitive bidding process for all major engineering, procurement, and construction contracts associated with the construction of the electric generation or energy storage facility.

(b) Implemented a competitive bidding process that allows third parties to submit firm and binding bids for the construction of an electric generation or energy storage facility on behalf of the utility that would meet all of the technical, commercial, and other specifications required by the utility for the **electric** generation or energy storage facility, such that ownership of the electric generation or energy storage facility vests with the utility no later than the date the electric generation or energy storage facility becomes commercially available.

(c) Demonstrated to the commission that the finalized costs

for the new electric generation or energy storage facility are not significantly higher than the initially approved costs under subsection (11). If the finalized costs are found to be significantly higher than the initially approved costs, the commission shall review and approve the proposed costs if the commission determines those costs are reasonable and prudent.

(13) If the capacity resource under subsection (12) is for the construction of an electric generation facility of 225 megawatts or more or for the construction of an additional generating unit or units totaling 225 megawatts or more at an existing electric generation facility, the utility shall submit an application to the commission seeking a certificate of necessity under section 6s.

(14) An electric utility shall annually, or more frequently if required by the commission, file reports to the commission regarding the status of any projects included in the initial 3-year period of an integrated resource plan approved under subsection (7).

(15) ~~If an electric provider whose rates are regulated by the commission enters into a purchase power agreement for renewable energy resources or a third-party contract for energy storage systems or clean energy systems~~ **For power purchase agreements that a utility enters into after April 20, 2017** with an entity that is not affiliated with that utility, the commission shall authorize a financial incentive for that utility calculated as the product of contract payments in that year multiplied by the electric provider's pretax weighted average cost of permanent capital comprised of long-term debt obligations and equity of the electric provider's total capital structure as determined by the commission's final order in the electric provider's most recent

general rate case. The pretax weighted average cost of permanent capital used to calculate the financial incentive must not be fixed throughout the entire term of the contract at the pretax weighted average cost of capital applicable in the first year and must be updated based on the commission's final order in each succeeding general rate case for the electric provider. The financial incentive applies to each contract described in this subsection from the date the contract is executed for the entire term of the contract. ~~This subsection applies to any contract entered into after June 30, 2024.~~

(16) Notwithstanding any other provision of law, an order by the commission approving an integrated resource plan may be reviewed by the court of appeals ~~upon~~ **on** a filing by a party to the commission proceeding ~~within~~ **not later than** 30 days after the order is issued. All appeals of the order must be heard and determined as expeditiously as possible with lawful precedence over other matters. Review on appeal is based solely on the record before the commission and briefs to the court and is limited to whether the order conforms to the constitution and laws of this state and the United States and is within the authority of the commission under this act.

(17) The commission shall include in an electric utility's retail rates all reasonable and prudent costs specified under subsections (11) and (12) that have been incurred to implement an integrated resource plan approved by the commission. The commission shall not disallow recovery of costs an electric utility incurs in implementing an approved integrated resource plan, if the costs do not exceed the costs approved by the commission under subsections (11) and (12). If the actual costs incurred by the electric utility

exceed the costs approved by the commission, the electric utility has the burden of proving by a preponderance of the evidence that the costs are reasonable and prudent. The portion of the cost of a plant, facility, power purchase agreement, or other investment in a resource that meets a demonstrated need for capacity that exceeds the cost approved by the commission is presumed to have been incurred due to a lack of prudence. The commission may include any or all of the portion of the cost in excess of the cost approved by the commission if the commission finds by a preponderance of the evidence that the costs are reasonable and prudent. The commission shall disallow costs the commission finds have been incurred as the result of fraud, concealment, gross mismanagement, or lack of quality controls amounting to gross mismanagement. The commission shall also require refunds with interest to ratepayers of any of these costs already recovered through the electric utility's rates and charges. If the assumptions underlying an approved integrated resource plan materially change, or if the commission believes it is unlikely that a project or program will become commercially operational, an electric utility may request, or the commission on its own motion may initiate, a proceeding to review whether it is reasonable and prudent to complete an unfinished project or program included in an approved integrated resource plan. If the commission finds that completion of the project or program is no longer reasonable and prudent, the commission may modify or cancel approval of the project or program and unincurred costs in the electric utility's integrated resource plan. Except for costs the commission finds an electric utility has incurred as the result of fraud, concealment, gross mismanagement, or lack of quality controls amounting to gross mismanagement, if commission approval

is modified or canceled, the commission shall not disallow reasonable and prudent costs already incurred or committed to by contract by an electric utility. Once the commission finds that completion of the project or program is no longer reasonable and prudent, the commission may limit future cost recovery to those costs that could not be reasonably avoided.

(18) The commission may allow financing interest cost recovery in an electric utility's base rates on construction work in progress for capital improvements approved under this section prior to the assets' being considered used and useful. Regardless of whether or not the commission authorizes base rate treatment for construction work in progress financing interest expense, an electric utility may recognize, accrue, and defer the allowance for funds used during construction.

(19) An electric utility may seek to amend an approved integrated resource plan. Except as otherwise provided under this subsection, the commission shall consider the amendments under the same process and standards that govern the review and approval of a revised integrated resource plan under subsection (9). The commission may order an electric utility that seeks to amend an approved integrated resource plan under this subsection to file a plan review under subsection (21).

(20) An electric utility shall file an application for review of its integrated resource plan not later than 5 years after the effective date of the most recent commission order approving a plan, a plan amendment, or a plan review. The commission shall consider a plan review under the same process and standards established in this section for review and approval of an integrated resource plan. A commission order approving a plan

review has the same effect as an order approving an integrated resource plan.

(21) The commission may, on its own motion or at the request of the electric utility, order an electric utility to file a plan review. The department of environment, Great Lakes, and energy may request the commission to order a plan review to address material changes in environmental regulations and requirements that occur after the commission's approval of an integrated resource plan. An electric utility must file a plan review ~~within~~ **not later than** 270 days after the commission orders the utility to file a plan review.

(22) As used in this section, "long-term firm gas transportation" means a binding agreement entered into between the electric utility and a natural gas transmission provider for a set period of time to provide firm delivery of natural gas to an electric generation facility.

Enacting section 1. Section 6aa of 1939 PA 3, MCL 460.6aa, is repealed.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 5711 of the 103rd Legislature is enacted into law.